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#### Debt ceiling will be raised now but it’s not certain --- Obama’s ironclad political capital is forcing the GOP to give in

Brian Beutler 10/3/13, “Republicans finally confronting reality: They’re trapped!,” Salon <http://www.salon.com/2013/10/03/republicans_finally_confronting_reality_theyre_trapped/>

After struggling for weeks and weeks in stages one through four, Republicans are finally entering the final stage of grief over the death of their belief that President Obama would begin offering concessions in exchange for an increase in the debt limit.¶ The catalyzing event appears to have been an hour-plus-long meeting between Obama and congressional leaders at the White House on Wednesday. Senior administration officials say that if the meeting accomplished only one thing it was to convey to Republican leaders the extent of Obama’s determination not to negotiate with them over the budget until after they fund the government and increase the debt limit. These officials say his will here is stronger than at any time since he decided to press ahead with healthcare reform after Scott Brown ended the Democrats’ Senate supermajority in 2010.¶ There’s evidence that it sunk in.¶ First, there’s this hot mic moment in which Senate Minority Leader Mitch McConnell tells Sen. Rand Paul, R-Ky., that the president’s position is ironclad.¶ Then we learn that House Speaker John Boehner has told at least one House Republican privately what he and McConnell have hinted at publicly for months, which is that they won’t execute their debt limit hostage. Boehner specifically said, according to a New York Times report, and obliquely confirmed by a House GOP aide, that he would increase the debt limit before defaulting even if he lost more than half his conference on a vote.¶ None of this is to say that Republicans have “folded” exactly, but they’ve pulled the curtain back before the stage has been fully set for the final act, and revealed who’s being fitted with the red dye packet.

#### Reducing war powers will end Obama’s credibility with Congress --- cause stronger GOP pushback on the debt ceiling

Seeking Alpha 9/10/13 (“Syria Could Upend Debt Ceiling Fight”, <http://seekingalpha.com/article/1684082-syria-could-upend-debt-ceiling-fight>)

Unless President Obama can totally change a reluctant public's perception of another Middle-Eastern conflict, it seems unlikely that he can get 218 votes in the House, though he can probably still squeak out 60 votes in the Senate. This defeat would be totally unprecedented as a President has never lost a military authorization vote in American history. To forbid the Commander-in-Chief of his primary power renders him all but impotent. At this point, a rebuff from the House is a 67%-75% probability.¶ I reach this probability by looking within the whip count. I assume the 164 declared "no" votes will stay in the "no" column. To get to 218, Obama needs to win over 193 of the 244 undecided, a gargantuan task. Within the "no" column, there are 137 Republicans. Under a best case scenario, Boehner could corral 50 "yes" votes, which would require Obama to pick up 168 of the 200 Democrats, 84%. Many of these Democrats rode to power because of their opposition to Iraq, which makes it difficult for them to support military conflict. The only way to generate near unanimity among the undecided Democrats is if they choose to support the President (recognizing the political ramifications of a defeat) despite personal misgivings. The idea that all undecided Democrats can be convinced of this argument is relatively slim, especially as there are few votes to lose. In the best case scenario, the House could reach 223-225 votes, barely enough to get it through. Under the worst case, there are only 150 votes. Given the lopsided nature of the breakdown, the chance of House passage is about one in four.¶ While a failure in the House would put action against Syria in limbo, I have felt that the market has overstated the impact of a strike there, which would be limited in nature. Rather, investors should focus on the profound ripple through the power structure in Washington, which would greatly impact impending battles over spending and the debt ceiling.¶ Currently, the government loses spending authority on September 30 while it hits the debt ceiling by the middle of October. Markets have generally felt that Washington will once again strike a last-minute deal and avert total catastrophe. Failure in the Syrian vote could change this. For the Republicans to beat Obama on a President's strength (foreign military action), they will likely be emboldened that they can beat him on domestic spending issues.¶ Until now, consensus has been that the two sides would compromise to fund the government at sequester levels while passing a $1 trillion stand-alone debt ceiling increase. However, the right wing of Boehner's caucus has been pushing for more, including another $1 trillion in spending cuts, defunding of Obamacare, and a one year delay of the individual mandate. Already, Conservative PACs have begun airing advertisements, urging a debt ceiling fight over Obamacare. With the President rendered hapless on Syria, they will become even more vocal about their hardline resolution, setting us up for a showdown that will rival 2011's debt ceiling fight.¶ I currently believe the two sides will pass a short-term continuing resolution to keep the government open, and then the GOP will wage a massive fight over the debt ceiling. While Obama will be weakened, he will be unwilling to undermine his major achievement, his healthcare law. In all likelihood, both sides will dig in their respective trenches, unwilling to strike a deal, essentially in a game of chicken. If the House blocks Syrian action, it will take America as close to a default as it did in 2011. Based on the market action then, we can expect massive volatility in the final days of the showdown with the Dow falling 500 points in one session in 2011.¶ As markets panicked over the potential for a U.S. default, we saw a massive risk-off trade, moving from equities into Treasuries. I think there is a significant chance we see something similar this late September into October. The Syrian vote has major implications on the power of Obama and the far-right when it comes to their willingness to fight over the debt ceiling. If the Syrian resolution fails, the debt ceiling fight will be even worse, which will send equities lower by upwards of 10%. Investors must be prepared for this "black swan" event.¶ Looking back to August 2011, stocks that performed the best were dividend paying, less-cyclical companies like Verizon (VZ), Wal-Mart (WMT), Coca-Cola (KO) and McDonald's (MCD) while high beta names like Netflix (NFLX) and Boeing (BA) were crushed. Investors also flocked into treasuries despite default risk while dumping lower quality bonds as spreads widened. The flight to safety helped treasuries despite U.S. government issues. I think we are likely to see a similar move this time.¶ Assuming there is a Syrian "no" vote, I would begin to roll back my long exposure in the stock market and reallocate funds into treasuries as I believe yields could drop back towards 2.50%. Within the stock market, I think the less-cyclical names should outperform, making utilities and consumer staples more attractive. For more tactical traders, I would consider buying puts against the S&P 500 and look toward shorting higher-beta and defense stocks like Boeing and Lockheed Martin (LMT). I also think lower quality bonds would suffer as spreads widen, making funds like JNK vulnerable. Conversely, gold (GLD) should benefit from the fear trade.¶ I would also like to address the potential that Congress does not vote down the Syrian resolution. First, news has broken that Russia has proposed Syria turn over its chemical stockpile. If Syria were to agree (Syria said it was willing to consider), the U.S. would not have to strike, canceling the congressional vote. The proposal can be found here. I strongly believe this is a delaying tactic rather than a serious effort. In 2005, Libya began to turn over chemical weapons; it has yet to complete the hand-off. Removing and destroying chemical weapons is an exceptionally challenging and dangerous task that would take years, not weeks, making this deal seem unrealistic, especially because a cease-fire would be required around all chemical facilities. The idea that a cease-fire could be maintained for months, essentially allowing Assad to stay in office, is hard to take seriously. I believe this is a delaying tactic, and Congress will have to vote within the next two weeks.¶ The final possibility is that Democrats back their President and barely ram the Syria resolution through. I think the extreme risk of a full-blown debt stand-off to dissipate. However, Boehner has promised a strong fight over the debt limit that the market has largely ignored. I do believe the fight would still be worse than the market anticipates but not outright disastrous. As such, I would not initiate short positions, but I would trim some longs and move into less cyclical stocks as the risk would still be the debt ceiling fight leading to some drama not no drama.¶ Remember, in politics everything is connected. Syria is not a stand-alone issue. Its resolution will impact the power structure in Washington. A failed vote in Congress is likely to make the debt ceiling fight even worse, spooking markets, and threatening default on U.S. obligations unless another last minute deal can be struck.

#### Debt ceiling collapses the global economy --- fast timeframe and no resiliency

Adam Davidson 9/10/13, economy columnist for The New York Times, co-founder of Planet Money, NPR’s team of economics reporters, “Our Debt to Society,” NYT, http://www.nytimes.com/2013/09/15/magazine/our-debt-to-society.html?pagewanted=all&\_r=0

If the debt ceiling isn’t lifted again this fall, some serious financial decisions will have to be made. Perhaps the government can skimp on its foreign aid or furlough all of NASA, but eventually the big-ticket items, like Social Security and Medicare, will have to be cut. At some point, the government won’t be able to pay interest on its bonds and will enter what’s known as sovereign default, the ultimate national financial disaster achieved by countries like Zimbabwe, Ecuador and Argentina (and now Greece). In the case of the United States, though, it won’t be an isolated national crisis. If the American government can’t stand behind the dollar, the world’s benchmark currency, then the global financial system will very likely enter a new era in which there is much less trade and much less economic growth. It would be, by most accounts, the largest self-imposed financial disaster in history.¶ Nearly everyone involved predicts that someone will blink before this disaster occurs. Yet a small number of House Republicans (one political analyst told me it’s no more than 20) appear willing to see what happens if the debt ceiling isn’t raised — at least for a bit. This could be used as leverage to force Democrats to drastically cut government spending and eliminate President Obama’s signature health-care-reform plan. In fact, Representative Tom Price, a Georgia Republican, told me that the whole problem could be avoided if the president agreed to drastically cut spending and lower taxes. Still, it is hard to put this act of game theory into historic context. Plenty of countries — and some cities, like Detroit — have defaulted on their financial obligations, but only because their governments ran out of money to pay their bills. No wealthy country has ever voluntarily decided — in the middle of an economic recovery, no less — to default. And there’s certainly no record of that happening to the country that controls the global reserve currency.¶ Like many, I assumed a self-imposed U.S. debt crisis might unfold like most involuntary ones. If the debt ceiling isn’t raised by X-Day, I figured, the world’s investors would begin to see America as an unstable investment and rush to sell their Treasury bonds. The U.S. government, desperate to hold on to investment, would then raise interest rates far higher, hurtling up rates on credit cards, student loans, mortgages and corporate borrowing — which would effectively put a clamp on all trade and spending. The U.S. economy would collapse far worse than anything we’ve seen in the past several years.¶ Instead, Robert Auwaerter, head of bond investing for Vanguard, the world’s largest mutual-fund company, told me that the collapse might be more insidious. “You know what happens when the market gets upset?” he said. “There’s a flight to quality. Investors buy Treasury bonds. It’s a bit perverse.” In other words, if the U.S. comes within shouting distance of a default (which Auwaerter is confident won’t happen), the world’s investors — absent a safer alternative, given the recent fates of the euro and the yen — might actually buy even more Treasury bonds. Indeed, interest rates would fall and the bond markets would soar.¶ While this possibility might not sound so bad, it’s really far more damaging than the apocalyptic one I imagined. Rather than resulting in a sudden crisis, failure to raise the debt ceiling would lead to a slow bleed. Scott Mather, head of the global portfolio at Pimco, the world’s largest private bond fund, explained that while governments and institutions might go on a U.S.-bond buying frenzy in the wake of a debt-ceiling panic, they would eventually recognize that the U.S. government was not going through an odd, temporary bit of insanity. They would eventually conclude that it had become permanently less reliable. Mather imagines institutional investors and governments turning to a basket of currencies, putting their savings in a mix of U.S., European, Canadian, Australian and Japanese bonds. Over the course of decades, the U.S. would lose its unique role in the global economy.¶ The U.S. benefits enormously from its status as global reserve currency and safe haven. Our interest and mortgage rates are lower; companies are able to borrow money to finance their new products more cheaply. As a result, there is much more economic activity and more wealth in America than there would be otherwise. If that status erodes, the U.S. economy’s peaks will be lower and recessions deeper; future generations will have fewer job opportunities and suffer more when the economy falters. And, Mather points out, no other country would benefit from America’s diminished status. When you make the base risk-free asset more risky, the entire global economy becomes riskier and costlier.

#### Economic collapse causes global nuclear war

Cesare Merlini 11, nonresident senior fellow at the Center on the United States and Europe and chairman of the Board of Trustees of the Italian Institute for International Affairs, May 2011, “A Post-Secular World?”, Survival, Vol. 53, No. 2

Two neatly opposed scenarios for the future of the world order illustrate the range of possibilities, albeit at the risk of oversimplification. The first scenario entails the premature crumbling of the post-Westphalian system. One or more of the acute tensions apparent today evolves into an open and traditional conflict between states, perhaps even involving the use of nuclear weapons. The crisis might be triggered by a collapse of the global economic and financial system, the vulnerability of which we have just experienced, and the prospect of a second Great Depression, with consequences for peace and democracy similar to those of the first. Whatever the trigger, the unlimited exercise of national sovereignty, exclusive self-interest and rejection of outside interference would self-interest and rejection of outside interference would likely be amplified, emptying, perhaps entirely, the half-full glass of multilateralism, including the UN and the European Union. Many of the more likely conflicts, such as between Israel and Iran or India and Pakistan, have potential religious dimensions. Short of war, tensions such as those related to immigration might become unbearable. Familiar issues of creed and identity could be exacerbated. One way or another, the secular rational approach would be sidestepped by a return to theocratic absolutes, competing or converging with secular absolutes such as unbridled nationalism**.**

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#### The plan collapses executive crisis response --- triggers terrorism, rogue state attacks, and wildfire prolif

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The most important of the president’s powers are commander-in-chief and chief executive.¶ As Alexander Hamilton wrote in Federalist 74, “The direction of war implies the direction of the common strength, and the power of directing and employing the common strength forms a usual and essential part in the definition of the executive authority.”¶ Presidents should conduct war, he wrote, because they could act with “decision, activity, secrecy, and dispatch.” In perhaps his most famous words, Hamilton wrote: “Energy in the executive is a leading character in the definition of good government. . . It is essential to the protection of the community against foreign attacks.”¶ The Framers realized the obvious. Foreign affairs are unpredictable and involve the highest of stakes, making them unsuitable to regulation by pre-existing legislation. Instead, they can demand swift, decisive action, sometimes under pressured or even emergency circumstances, that are best carried out by a branch of government that does not suffer from multiple vetoes or is delayed by disagreements. ¶ Congress is too large and unwieldy to take the swift and decisive action required in wartime. ¶ Our Framers replaced the Articles of Confederation, which had failed in the management of foreign relations because it had no single executive, with the Constitution’s single president for precisely this reason. Even when it has access to the same intelligence as the executive branch, Congress’s loose, decentralized structure would paralyze American policy while foreign threats grow. ¶ Congress has no political incentive to mount and see through its own wartime policy. Members of Congress, who are interested in keeping their seats at the next election, do not want to take stands on controversial issues where the future is uncertain. They will avoid like the plague any vote that will anger large segments of the electorate. They prefer that the president take the political risks and be held accountable for failure.¶ Congress's track record when it has opposed presidential leadership has not been a happy one.¶ Perhaps the most telling example was the Senate's rejection of the Treaty of Versailles at the end of World War I. Congress's isolationist urge kept the United States out of Europe at a time when democracies fell and fascism grew in their place. Even as Europe and Asia plunged into war, Congress passed Neutrality Acts designed to keep the United States out of the conflict.¶ President Franklin Roosevelt violated those laws to help the Allies and draw the nation into war against the Axis. While pro-Congress critics worry about a president's foreign adventurism, the real threat to our national security may come from inaction and isolationism.¶ Many point to the Vietnam War as an example of the faults of the “imperial presidency.” Vietnam, however, could not have continued without the consistent support of Congress in raising a large military and paying for hostilities. And Vietnam ushered in a period of congressional dominance that witnessed American setbacks in the Cold War, and the passage of the ineffectual War Powers Resolution. Congress passed the Resolution in 1973 over President Nixon's veto, and no president, Republican or Democrat, George W. Bush or Obama, has ever accepted the constitutionality of its 60-day limit on the use of troops abroad. No federal court has ever upheld the resolution. Even Congress has never enforced it.¶ Despite the record of practice and the Constitution’s institutional design, critics nevertheless argue for a radical remaking of the American way of war. They typically base their claim on Article I, Section 8, of the Constitution, which gives Congress the power to “declare War.” But these observers read the eighteenth-century constitutional text through a modern lens by interpreting “declare War” to mean “start war.” ¶ When the Constitution was written, however, a declaration of war served diplomatic notice about a change in legal relations between nations. It had little to do with launching hostilities. In the century before the Constitution, for example, Great Britain – where the Framers got the idea of the declare-war power – fought numerous major conflicts but declared war only once beforehand.¶ Our Constitution sets out specific procedures for passing laws, appointing officers, and making treaties. There are none for waging war, because the Framers expected the president and Congress to struggle over war through the national political process.¶ In fact, other parts of the Constitution, properly read, support this reading. Article I, Section 10, for example, declares that the states shall not “engage” in war “without the consent of Congress” unless “actually invaded, or in such imminent Danger as will not admit of delay.” ¶ This provision creates exactly the limits desired by anti-war critics, complete with an exception for self-defense. If the Framers had wanted to require congressional permission before the president could wage war, they simply could have repeated this provision and applied it to the executive.¶ Presidents, of course, do not have complete freedom to take the nation to war. Congress has ample powers to control presidential policy, if it wants to. ¶ Only Congress can raise the military, which gives it the power to block, delay, or modify war plans.¶ Before 1945, for example, the United States had such a small peacetime military that presidents who started a war would have to go hat in hand to Congress to build an army to fight it. ¶ Since World War II, it has been Congress that has authorized and funded our large standing military, one primarily designed to conduct offensive, not defensive, operations (as we learned all too tragically on 9/11) and to swiftly project power worldwide. ¶ If Congress wanted to discourage presidential initiative in war, it could build a smaller, less offensive-minded military.¶ Congress’s check on the presidency lies not just in the long-term raising of the military. It can also block any immediate armed conflict through the power of the purse.¶ If Congress feels it has been misled in authorizing war, or it disagrees with the president's decisions, all it need do is cut off funds, either all at once or gradually.¶ It can reduce the size of the military, shrink or eliminate units, or freeze supplies. Using the power of the purse does not even require affirmative congressional action.¶ Congress can just sit on its hands and refuse to pass a law funding the latest presidential adventure, and the war will end quickly. ¶ Even the Kosovo war, which lasted little more than two months and involved no ground troops, required special funding legislation.¶ The Framers expected Congress's power of the purse to serve as the primary check on presidential war. During the 1788 Virginia ratifying convention, Patrick Henry attacked the Constitution for failing to limit executive militarism. James Madison responded: “The sword is in the hands of the British king; the purse is in the hands of the Parliament. It is so in America, as far as any analogy can exist.” Congress ended America’s involvement in Vietnam by cutting off all funds for the war.¶ Our Constitution has succeeded because it favors swift presidential action in war, later checked by Congress’s funding power. If a president continues to wage war without congressional authorization, as in Libya, Kosovo, or Korea, it is only because Congress has chosen not to exercise its easy check.¶ We should not confuse a desire to escape political responsibility for a defect in the Constitution. A radical change in the system for making war might appease critics of presidential power. But it could also seriously threaten American national security.¶ In order to forestall another 9/11 attack, or to take advantage of a window of opportunity to strike terrorists or rogue nations, the executive branch needs flexibility.¶ It is not hard to think of situations where congressional consent cannot be obtained in time to act. Time for congressional deliberation, which leads only to passivity and isolation and not smarter decisions, will come at the price of speed and secrecy.¶ The Constitution creates a presidency that can respond forcefully to prevent serious threats to our national security.¶ Presidents can take the initiative and Congress can use its funding power to check them. Instead of demanding a legalistic process to begin war, the Framers left war to politics.¶ As we confront the new challenges of terrorism, rogue nations and WMD proliferation, now is not the time to introduce sweeping, untested changes in the way we make war.

#### The structure of Congress inherently favors delay and inaction --- that’s awful for crisis response

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In order to weigh the advantages of the Congress-first approach, it is also important to understand its potential costs. The costs may not be obvious, since grounding the use of force in ex ante congressional consent bears a close resemblance to the process for enacting legislation. The legislative process increases the costs of government action. It is heavily slanted against the enactment of legislation by requiring the concurrence not just of the popularly elected House but also the state-representing Senate and the President. This raises decision costs by increasing the delay needed to get legislative concurrence, requiring an effort to coordinate between executive and legislature, and demanding an open, public discussion of potentially sensitive information. Decision costs are not encapsulated merely in the time-worn hypotheticals that ask whether the President must go to Congress for permissions to launch a preemptive strike against a nation about to launch its own nuclear attack. Rather, these decision costs might arise from delay in using force that misses a window of opportunity, or one in which legislative discussion alerts an enemy to a possible attack, or the uncertainty over whether congressional authorization will be forthcoming.

#### Executive flexibility is vital to solve multiple nuclear threats

Li 9 Zheyao, J.D. candidate, Georgetown University Law Center, 2009; B.A., political science and history, Yale University, 2006. This paper is the culmination of work begun in the "Constitutional Interpretation in the Legislative and Executive Branches" seminar, led by Judge Brett Kavanaugh, “War Powers for the Fourth Generation: Constitutional Interpretation in the Age of Asymmetric Warfare,” 7 Geo. J.L. & Pub. Pol'y 373 2009 WAR POWERS IN THE FOURTH GENERATION OF WARFARE

A. The Emergence of Non-State Actors

**Even as the quantity of nation-states in the world has increased dramatically** since the end of World War II**, the** institution **of the nation-state has been in decline over the past few decades.** Much of this decline is the direct result of the waning of major interstate war, which primarily resulted from the introduction of nuclear weapons.122 The **proliferation of nuclear weapons, and their** immense **capacity for absolute destruction,** **has ensured** that conventional wars **remain limited in scope and duration**. Hence, "both the size of the armed forces and the quantity of weapons at their disposal has declined quite sharply" since 1945.123 At the same time, **concurrent with the decline of the nation-state in the second half of the twentieth century**, **non-state actors have increasingly been willing and able to use force to advance their causes**. In contrast to nation-states, who adhere to the Clausewitzian distinction between the ends of policy and the means of war to achieve those ends, **non-state actors** do not necessarily fight as a mere means of advancing any coherent policy. Rather, they **see their fight** as a life-and-death struggle**, wherein the ordinary terminology of war as an instrument of policy breaks down because of this blending of means and ends**.124 It is the existential nature of this struggle and the disappearance of the Clausewitzian distinction between war and policy that has given rise to a new generation of warfare. The concept of fourth-generational warfare was first articulated in an influential article in the Marine Corps Gazette in 1989, which has proven highly prescient. In describing what they saw as the modem trend toward a new phase of warfighting, the authors argued that: In broad terms, fourth generation warfare seems likely to be widely dispersed and largely undefined; the distinction between war and peace will be blurred to the vanishing point. It will be nonlinear, possibly to the point of having no definable battlefields or fronts. The distinction between "civilian" and "military" may disappear. Actions will occur concurrently throughout all participants' depth, including their society as a cultural, not just a physical, entity. Major military facilities, such as airfields, fixed communications sites, and large headquarters will become rarities because of their vulnerability; the same may be true of civilian equivalents, such as seats of government, power plants, and industrial sites (including knowledge as well as manufacturing industries). 125 **It is precisely this blurring of peace and war and the demise of traditionally definable battlefields that provides the impetus for the formulation of a new. theory of war powers**. As evidenced by Part M, supra, **the constitutional allocation of war powers**, and the Framers' commitment of the war power to two co-equal branches, was not designed **to cope with the current international system,** one that is **characterized by the persistent machinations of international terrorist organizations**, the rise of **multilateral alliances,** the **emergence of** rogue states**, and the potentially wide proliferation of easily deployable** w**eapons of** m**ass** d**estruction**, nuclear and otherwise. B. The Framers' World vs. Today's World The Framers crafted the Constitution, and the people ratified it, in a time when everyone understood that the state controlled both the raising of armies and their use. Today, however, **the threat of terrorism is bringing an end to the era of the nation-state's legal monopoly on violence**, and the kind of war that existed before-based on a clear division between government, armed forces, and the people-is on the decline. 126 As states are caught between their decreasing ability to fight each other due to the existence of nuclear weapons and the increasing threat from non-state actors, it is clear that the Westphalian system of nation-states that informed the Framers' allocation of war powers is no longer the order of the day. 127 As seen in Part III, supra, **the rise of the modem nation-state occurred as a result of its military effectiveness and ability to defend its citizens. If nation-states** such as the United States are **unable to adapt to the changing circumstances of fourth-generational warfare-**that is, if they are unable to adequately defend against low-intensity conflict conducted by non-state actors-"then clearly [the modem state] does not have a future in front of it.' 128 The challenge in formulating a new theory of war powers for fourthgenerational warfare that remains legally justifiable lies in the difficulty of adapting to changed circumstances while remaining faithful to the constitutional text and the original meaning. 29 To that end**, it is crucial to remember that the Framers crafted the Constitution in the context of the Westphalian system** of nation-states. The three centuries following the Peace of Westphalia of 1648 witnessed an international system characterized by wars, which, "through the efforts of governments, assumed a more regular, interconnected character."' 130 That period saw the rise of an independent military class and the stabilization of military institutions. Consequently, "warfare became more regular, better organized, and more attuned to the purpose of war-that is, to its political objective."' 1 3' That era is now over. Today, **the stability of the long-existing Westphalian international order has been greatly eroded** in recent years **with the advent of international terrorist organizations**, **which care nothing for the traditional norms of the laws of war.** This new global environment exposes the limitations inherent in the interpretational methods of originalism and textualism and necessitates the adoption of a new method of constitutional interpretation. While one must always be aware of the text of the Constitution and the original understanding of that text, that very awareness identifies the extent to which fourth-generational warfare epitomizes a phenomenon unforeseen by the Framers, a problem the constitutional resolution of which must rely on the good judgment of the present generation. 13 Now, to adapt the constitutional warmarking scheme to the new international order characterized by fourth-generational warfare, one must understand the threat it is being adapted to confront. C. The Jihadist Threat **The erosion of the Westphalian and Clausewitzian model of warfare and the blurring of the distinction between the means of warfare and the ends of policy, which is one characteristic of fourth-generational warfare, apply to al-Qaeda and other adherents of jihadist ideolog**y who view the United States as an enemy. An excellent analysis of jihadist ideology and its implications for the rest of the world are presented by Professor Mary Habeck. 133 Professor Habeck identifies the centrality of the Qur'an, specifically a particular reading of the Qur'an and hadith (traditions about the life of Muhammad), to the jihadist terrorists. 134 The jihadis believe that the scope of the Qur'an is universal, and "that their interpretation of Islam is also intended for the entire world, which must be brought to recognize this fact peacefully if possible and through violence if not."' 135 Along these lines, the jihadis view the United States and her allies as among the greatest enemies of Islam: they believe "that every element of modern Western liberalism is flawed, wrong, and evil" because the basis of liberalism is secularism. 136 The jihadis emphasize the superiority of Islam to all other religions, and they believe that "God does not want differing belief systems to coexist."' 37 For this reason, jihadist groups such as al-Qaeda "recognize that the West will not submit without a fight and believe in fact that the Christians, Jews, and liberals have united against Islam in a war that will end in the complete destruction of the unbelievers.' 138 **Thus, the adherents of this jihadist ideology, be it al-Qaeda or other groups,** **will continue to target the United States until she is destroyed. Their ideology demands it.** 139 To effectively combat terrorist groups such as al-Qaeda, it is necessary to understand not only how they think, but also how they operate. **Al-Qaeda is a transnational organization capable of simultaneously managing multiple operations all over the world**."14 It is both centralized and decentralized: al-Qaeda is centralized in the sense that Osama bin Laden is the unquestioned leader, but it is decentralized in that its operations are carried out locally, by distinct cells."4 AI-Qaeda benefits immensely from this arrangement because it can exercise direct control over high-probability operations, while maintaining a distance from low-probability attacks, only taking the credit for those that succeed. The local terrorist cells benefit by gaining access to al-Qaeda's "worldwide network of assets, people, and expertise."' 42 **Post-September 11 events have highlighted al-Qaeda's resilience. Even as the United States and her allies fought back,** inflicting heavy casualties on al-Qaeda in Afghanistan and destroying dozens of cells worldwide, "**al-Qaeda's networked nature allowed it to absorb the damage and remain a threat."** 14 3 This is a far cry from earlier generations of warfare, where the decimation of the enemy's military forces would generally bring an end to the conflict. D. The Need for Rapid Reaction and Expanded Presidential War Power By now it should be clear just how different this conflict against the extremist terrorists is from the type of warfare that occupied the minds of the Framers at the time of the Founding. Rather than maintaining the geographical and political isolation desired by the Framers for the new country, **today's United States is an international power targeted by individuals and groups that will not rest until seeing her demise.** **The** Global **War on Terrorism is not** truly **a war within the Framers' eighteenth-century conception of the term**, and the normal constitutional provisions regulating the division of war powers between Congress and the President do not apply. Instead, **this "war"** is a struggle for survival and dominance against forces that threaten to destroy the United States and her allies, and the fourth-generational nature of the conflict, highlighted by an indiscernible distinction between wartime and peacetime, necessitates an evolution of America's traditional constitutional warmaking scheme. As first illustrated by the military strategist Colonel John Boyd, constitutional decision-making in the realm of war powers in the fourth generation should consider the implications of the OODA Loop: Observe, Orient, Decide, and Act. 44 **In the era of fourth-generational warfare**, quick reactions, proceeding through the OODA Loop rapidly, **and disrupting the enemy**'s OODA loop **are the keys to victory. "In order to win**," Colonel Boyd suggested, **"we should operate at a** faster tempo **or rhythm than our adversaries**." 145 In the words of Professor Creveld, "[b]oth organizationally and in terms of the equipment at their disposal, the armed forces of the world will have to adjust themselves to this situation by changing their doctrine, doing away with much of their heavy equipment and becoming more like police."1 46 Unfortunately, the existing constitutional understanding, which diffuses war power between two branches of government, necessarily (by the Framers' design) slows down decision- making. In circumstances where war is undesirable (which is, admittedly, most of the time, especially against other nation-states), the deliberativeness of the existing decision-making process is a positive attribute. In America's current situation, however, **in the midst of the conflict with** al-Qaeda and other **international terrorist organizations**, **the** existing **process** **of constitutional decision-making in warfare may prove a** fatal hindrance **to achieving the initiative** necessary **for victory**. **As a** slow-acting, deliberative body, **Congress does not have the ability to a**dequately **deal with** fast-emerging situations in fourth-generational warfare. Thus, **in order to combat transnational threats** such as al-Qaeda, **the executive branch** must **have the ability to operate by taking offensive military action** even **without congressional authorization, because** only the executive branch **is capable of the swift decision-making and action necessary to prevail in fourth-generational conflicts against fourthgenerational opponents.**

### 1NC

#### Iran is looking to compromise on its nuclear program – Obama’s perceived flexibility is key to negotiations

**Benen, 9/20/**13 - producer for "The Rachel Maddow Show," a blogger at Maddow Blog, and an MSNBC political contributor (Steve, “When crises become opportunities,” <http://maddowblog.msnbc.com/_news/2013/09/20/20599445-when-crises-become-opportunities?lite>)

When it comes to the Middle East, progress has never moved in a straight line. There are fits and starts, ebbs and flows. There are heartening breakthroughs and crushing disappointments, occasionally at the same time.

That said, while the domestic political establishment's attention seems focused elsewhere, there's reason to believe new opportunities are materializing in the region in ways that were hard to even imagine up until very recently.

This morning, for example, the Organization for the Prohibition of Chemical Weapons (OPCW) announced that Syria has taken its first steps towards detailing its stockpiles. Michael Luhan, a spokesperson for the Hague-based chemical weapons regulator, said in a statement, "The OPCW has received an initial disclosure from the Syrian Government of its chemical weapons programme, which is now being examined by the Technical Secretariat of the Organisation."

Meanwhile, Iranian President Hasan Rouhani has a new op-ed in the Washington Post arguing that the United States and the rest of the world "must work together to end the unhealthy rivalries and interferences that fuel violence and drive us apart" through a policy of "constructive engagement."

The New York Times added that Iranian leaders, "seizing on perceived flexibility in a private letter from President Obama, have decided to gamble on forging a swift agreement over their nuclear program with the goal of ending crippling sanctions."

David Sanger summarized the bigger picture nicely.

Only two weeks after Washington and the nation were debating a unilateral military strike on Syria that was also intended as a forceful warning to Iran about its nuclear program, President Obama finds himself at the opening stages of two unexpected diplomatic initiatives with America's biggest adversaries in the Middle East, each fraught with opportunity and danger.

Without much warning, diplomacy is suddenly alive again after a decade of debilitating war in the region. After years of increasing tension with Iran, there is talk of finding a way for it to maintain a face-saving capacity to produce a very limited amount of nuclear fuel while allaying fears in the United States and Israel that it could race for a bomb.

The surprising progress has come so suddenly that a senior American diplomat described this week's developments as "head spinning."

So what happens next?

The consensus among many foreign policy observers is that developments in Syria and Iran are linked in ways that may or may not be helpful to the United States. Max Fisher explained well yesterday that President Obama's pragmatism "has sent exactly the right signals to Iran, particularly at this very sensitive moment."

Obama has been consistently clear, even if some members of his administration were not, that his big overriding goal is for Syrian leader Bashar al-Assad to stop using chemical weapons. First he was going to do that with strikes, meant to coerce Assad. Then, in response to the Russian proposal, Obama signaled he would back off the strikes if Assad gave up his chemical weapons, which is exactly what Obama has always said he wants. He's been consistent as well as flexible, which gave Assad big incentives to cooperate when he might have otherwise dug in his heels.

There are some awfully significant -- and promising -- parallels here with the U.S. standoff with Iran. Obama has been clear that he wants Iran to give up its rogue uranium-enrichment program and submit to the kind of rigorous inspections that would guarantee that its nuclear program is peaceful. He's also been clear that the United States is using severe economic sanctions to coerce Tehran to cooperate and that it would use military force if necessary. The implicit (and sometimes explicit) message to Iran has been: If you abandon your enrichment program, we'll make it worth your while by easing off.

Here's where the parallel with Syria is really important: Iranian leaders distrust the United States deeply and fear that Obama would betray them by not holding up his end of the bargain. That's been a major hurdle to any U.S.-Iran nuclear deal. But seeing Assad's deal with Obama work out (so far) sends the message to Iran that it can trust the United States. It also sends the message that making concessions to the United States can pay off. Iran's supreme leader has been talking a lot lately about flexibility and diplomacy toward the West. So it's an ideal moment for Obama to be demonstrating flexibility and diplomacy toward the Middle East.

#### Uncertainty over war powers keeps Iran at the table. Obama needs to be perceived as having independent authority to both strike and back down

**Zeisberg, 9/25/13** - associate professor of political science at the University of Michigan (Mariah, “Debate over War Powers may yield positive outcome”

<http://blog.constitutioncenter.org/2013/09/debate-over-war-powers-resolution-may-yield-positive-outcome/>)

Uncertainty about what the Constitution requires is thick: even as President Obama called for legislative authorization to bolster the legitimacy of strikes, and even as he now appeals to the UN for a resolution authorizing military sanctions if Syria does not comply with the U.S.-Russia agreement for destroying its chemical weapons, the president nevertheless maintains that he has the authority to commit the U.S. to hostilities in Syria without Congressional (or UN) authorization.

Robert Gates criticized the president for running a risk of looking “weak” if Congress did not authorize military action, and agreed with Leon Panetta that the president obviously has all power needed for strikes in Syria.

On the other hand, constitutional scholars Louis Fisher, Stephen Griffin, and Sandy Levinson have argued that Obama’s constitutional grounding for independent strikes is either non-existent or extremely weak. Congress itself has been divided over whether authorization is necessary for a presidential strike in Syria.

While the Constitution tells us that Congress has the power to “declare war,” the text nowhere defines what kinds of hostilities count as war – which has enabled some opportunism in the Obama administration, and in many other presidential administrations too.

Even the War Powers Resolution restricts “hostilities” without defining the term, and there, too, Obama has been willing to press language to (or beyond) its absolute limit.

Constitutional and statutory text that does not define the meaning of the key words that separate one institution’s authority from another necessarily insert some measure of uncertainty into the branches’ war powers regime.

What to make of these tensions and ambiguities? Has the Constitution failed in its task to provide a definitive legal framework that can guide decision-makers about important questions such as which institution has the power to take the country to war? Isn’t the point of a Constitution to resolve this kind of conflict? If it is so pervasively difficult to read our political culture and know which branch has war authority, then does that mean that the Constitution has failed to do its job – or worse, that we are witnessing an epidemic of reckless infidelity to the Constitution’s mandates?

In fact, I think that uncertainty as to the meaning of the Constitution’s war powers regime in Syria is not catastrophic but may actually carry benefits.

As diplomacy around Syria unfolds, I want to draw attention to a few of the intersections between domestic constitutional debates and the conditions for effective international action.

First, it is arguably the threat of intervention which moved Russia into high gear in negotiations with Syria. But President Obama needed a plausible claim of independent presidential empowerment for such a claim to be credible.

At the same time, such a claim, unresisted, raises the specter of undefined aims, mission creep, costly wars without broad public support, unconsidered policy complexities, and troubling bellicose precedent that are a hallmark of presidentialism in war. This is, in part, why congressional mobilization to defend its institutional prerogatives has been so welcomed by some prominent war powers scholars.

Obama’s subsequent willingness to back down, to accommodate claims to legislative empowerment – derided by many as a weak or vacillating choice — seems in turn to have created time and space for a diplomatic process to unfold in the place of a military one.

Recent developments in that process include not only a Russian-brokered plan to confiscate all chemical weapons from the Assad regime but also statements by the Ayatollah Khamenei signaling openness to diplomacy and by President Rouhani that Iran would not develop a nuclear weapon.

And now Obama is moving this technique of vacillating red lines up to the level of global institutions.

On the one hand he is pressing the UN to back up the U.S.-Russia agreement with sanctions, but at the same time says that he reserves the power to act outside the UN, and has argued that “without a credible military threat, the Security Council had demonstrated no inclination to act at all.”

We have yet to see what kind of domestic or international push-back would await him if he tried to translate this rhetorical willingness to act outside the UN into concrete action.

Obama’s constitutional “vacillations” may end up being productive in sundering the Assad regime from its chemical weapons. Only time will tell.

For constitutional scholars, it is worth noting the positive role that uncertainty and textual ambiguity can create in generating good international outcomes.

#### Giving Congress the ability to say no will tank negotiations by emboldening hardliners – this triggers Israeli strikes

**Ross, 9/9/13** - a counselor at the Washington Institute for Near East Policy, was a senior Middle East adviser to President Obama from 2009 to 2011, Director of Policy Planning for the State Department under George H.W. Bush, the Special Middle East coordinator under Clinton (Dennis, “Blocking action on Syria makes an attack on Iran more likely” Washington Post, <http://www.washingtonpost.com/opinions/blocking-action-on-syria-makes-an-attack-on-iran-more-likely/2013/09/09/dd655466-1963-11e3-8685-5021e0c41964_story.html>)

Still, for the opponents of authorization, these arguments are portrayed as abstractions. Only threats that are immediate and directly affect us should produce U.S. military strikes. Leaving aside the argument that when the threats become immediate, we will be far more likely to have to use our military in a bigger way and under worse conditions, there is another argument to consider: should opponents block authorization and should the president then feel he cannot employ military strikes against Syria, this will almost certainly guarantee that there will be no diplomatic outcome to our conflict with Iran over its nuclear weapons.

I say this for two reasons. First, Iran’s President Rouhani, who continues to send signals that he wants to make a deal on the nuclear program, will inevitably be weakened once it becomes clear that the U.S. cannot use force against Syria. At that point, paradoxically, the hard-liners in the Iranian Revolutionary Guard Corps and around the Supreme Leader will be able to claim that there is only an economic cost to pursuing nuclear weapons but no military danger. Their argument will be: Once Iran has nuclear weapons, it will build its leverage in the region; its deterrent will be enhanced; and, most importantly, the rest of the world will see that sanctions have failed, and that it is time to come to terms with Iran.

Under those circumstances, the sanctions will wither. What will Rouhani argue? That the risk is too high? That the economic costs could threaten regime stability? Today, those arguments may have some effect on the Ayatollah Ali Khamenei precisely because there is also the threat that all U.S. options are on the table and the president has said he will not permit Iran to acquire nuclear weapons. Should he be blocked from using force against Syria, it will be clear that all options are not on the table and that regardless of what we say, we are prepared to live with an Iran that has nuclear arms.

Israel, however, is not prepared to accept such an eventuality, and that is the second reason that not authorizing strikes against Syria will likely result in the use of force against Iran. Indeed, Israel will feel that it has no reason to wait, no reason to give diplomacy a chance and no reason to believe that the United States will take care of the problem. Prime Minister Benjamin Netanyahu sees Iran with nuclear weapons as an existential threat and, in his eyes, he must not allow there to be a second Holocaust against the Jewish people. As long as he believes that President Obama is determined to deal with the Iranian threat, he can justify deferring to us. That will soon end if opponents get their way on Syria.

Ironically, if these opponent succeed, they may prevent a conflict that President Obama has been determined to keep limited and has the means to do so. After all, even after Israel acted militarily to enforce its red line and prevent Syria’s transfer of advanced weapons to Hezbollah in Lebanon, Assad, Iran and Hezbollah have been careful to avoid responding. They have little interest in provoking Israeli attacks that would weaken Syrian forces and make them vulnerable to the opposition.

For all the tough talk about what would happen if the United States struck targets in Syria, the Syrian and Iranian interest in an escalation with the United States is also limited. Can the same be said if Israel feels that it has no choice but to attack the Iranian nuclear infrastructure? Maybe the Iranians will seek to keep that conflict limited; maybe they won’t. Maybe an Israeli strike against the Iranian nuclear program will not inevitably involve the United States, but maybe it will — and maybe it should.

#### An Israeli strike fails, but triggers World War 3, collapses heg and the global economy

**Reuveny, 10** – professor in the School of Public and Environmental Affairs at Indiana University (Rafael, “Unilateral strike could trigger World War III, global depression” Gazette Xtra, 8/7, - See more at: <http://gazettextra.com/news/2010/aug/07/con-unilateral-strike-could-trigger-world-war-iii-/#sthash.ec4zqu8o.dpuf>)

A unilateral Israeli strike on Iran’s nuclear facilities would likely have dire consequences, including a regional war, global economic collapse and a major power clash.

For an Israeli campaign to succeed, it must be quick and decisive. This requires an attack that would be so overwhelming that Iran would not dare to respond in full force.

Such an outcome is extremely unlikely since the locations of some of Iran’s nuclear facilities are not fully known and known facilities are buried deep underground.

All of these widely spread facilities are shielded by elaborate air defense systems constructed not only by the Iranians but also the Chinese and, likely, the Russians as well.

By now, Iran has also built redundant command and control systems and nuclear facilities, developed early warning systems, acquired ballistic and cruise missiles and upgraded and enlarged its armed forces.

Because Iran is well-prepared, a single, conventional Israeli strike—or even numerous strikes—could not destroy all of its capabilities, giving Iran time to respond.

Unlike Iraq, whose nuclear program Israel destroyed in 1981, Iran has a second-strike capability comprised of a coalition of Iranian, Syrian, Lebanese, Hezbollah, Hamas, and, perhaps, Turkish forces. Internal pressure might compel Jordan, Egypt and the Palestinian Authority to join the assault, turning a bad situation into a regional war.

During the 1973 Arab-Israeli War, at the apex of its power, Israel was saved from defeat by President Nixon’s shipment of weapons and planes. Today, Israel’s numerical inferiority is greater, and it faces more determined and better-equipped opponents. After years of futilely fighting Palestinian irregular armies, Israel has lost some of its perceived superiority—bolstering its enemies’ resolve.

Despite Israel’s touted defense systems, Iranian coalition missiles, armed forces, and terrorist attacks would likely wreak havoc on its enemy, leading to a prolonged tit-for-tat.

In the absence of massive U.S. assistance, Israel’s military resources may quickly dwindle, forcing it to use its alleged nuclear weapons, as it had reportedly almost done in 1973.

An Israeli nuclear attack would likely destroy most of Iran’s capabilities, but a crippled Iran and its coalition could still attack neighboring oil facilities, unleash global terrorism, plant mines in the Persian Gulf and impair maritime trade in the Mediterranean, Red Sea and Indian Ocean.

Middle Eastern oil shipments would likely slow to a trickle as production declines due to the war and insurance companies decide to drop their risky Middle Eastern clients. Iran and Venezuela would likely stop selling oil to the United States and Europe.

From there, things could deteriorate as they did in the 1930s. The world economy would head into a tailspin; international acrimony would rise; and Iraqi and Afghani citizens might fully turn on the United States, immediately requiring the deployment of more American troops.

Russia, China, Venezuela, and maybe Brazil and Turkey—all of which essentially support Iran—could be tempted to form an alliance and openly challenge the U.S. hegemony.

Russia and China might rearm their injured Iranian protege overnight, just as Nixon rearmed Israel, and threaten to intervene, just as the U.S.S.R. threatened to join Egypt and Syria in 1973. President Obama’s response would likely put U.S. forces on nuclear alert, replaying Nixon’s nightmarish scenario.

Iran may well feel duty-bound to respond to a unilateral attack by its Israeli archenemy, but it knows that it could not take on the United States head-to-head. In contrast, if the United States leads the attack, Iran’s response would likely be muted.

If Iran chooses to absorb an American-led strike, its allies would likely protest and send weapons but would probably not risk using force.

While no one has a crystal ball, leaders should be risk-averse when choosing war as a foreign policy tool. If attacking Iran is deemed necessary, Israel must wait for an American green light. A unilateral Israeli strike could ultimately spark World War III.

### 1NC

#### COUNTERPLAN: The President of the United States should issue an Executive Order committing the executive branch to Solicitor General Representation and advance consultation with the Office of Legal Counsel over decisions to initiate military action, unless to repel attacks on the United States.

#### The Department of Justice officials should counsel against doing so without prior Congressional authorization.

#### The Executive Order should also require written publication of Office of Legal Counsel opinions.

#### Executive pre-commitment to DOJ advice solves the aff

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

V. ENABLING EXECUTIVE CONSTITUTIONALISM

The courts indisputably do not and cannot fully assure our enjoyment of our constitutional rights, and it is equally clear that the federal executive has an independent constitutional duty to fulfill the Constitution's promise. Executive constitutionalism seems ripe with promise. Yet, it is striking how limited and court-centered the executive's normative and institutional approaches to constitutional questions remain.

One conceivable way to avoid the pitfalls of court-centric executive lawyering on one hand and constitutional decisions warped by political expedience on the other would be to make the Solicitor General and Office of Legal Counsel - or perhaps the entire Department of Justice - as structurally independent as an independent counsel or independent agency.207 Making the SG and OLC independent in order to insulate them from politics presumably would alleviate the "majoritarian difficulty" resulting from their service to elected clients. Promoting fuller independence in that sense does not, however, appear to be clearly normatively attractive, constitutionally permissible, nor particularly feasible. In all the criticism of our current constitutionalism, there is little call for an SG or OLC that would act, in effect, as a fully insulated and jurisprudentially autonomous constitutional court within the executive branch, operating with even less transparency and accountability than the Supreme Court. Moreover, as a practical matter it would be complex and problematic to increase the independence of the SG and OLC. The federal government faces Article II obstacles to formally insulating executive lawyers from politics and institutional pressures, and the president and his administration likely would be less amenable to guidance from such unaccountable lawyers.208

The challenge, rather, is to draw forth from the executive a constitutional consciousness and practice that helps the government actively to seek to fulfill the commitments of the Constitution and its Bill of Rights, interpreted by the executive as guiding principles for government. Adjustments to executive branch constitutional process and culture should be favored if they encourage the executive to use its experience and capacities to fulfill its distinctive role in effectuating constitutional guarantees. There is transformative potential in measures that break ingrained executive branch habits of looking to the Constitution only as it is mediated through the courts, and of reflexively seeking, where there is no clear doctrinal answer, to minimize constitutional constraint. It is difficult fully to imagine what kinds of changes would best prompt executive lawyers and officials to pick up constitutional analysis where the courts leave off, and to rely on the Constitution as an affirmative, guiding mandate for government action; what follows are not worked-out proposals, but are meant to be merely suggestive.

A. Correcting the Bias Against Constitutional Constraint

As we have seen, the SG's and OLC's default interpretive approach to individual rights and other forms of constitutional constraints on government is to follow what clear judicial precedents there are and, where precedents are not squarely to the contrary, to favor interpretations that minimize constitutional rights or other constitutional obligations on federal actors. Those court-centered and narrowly self-serving executive traditions produce a systematic skew against individual rights.

1. Encourage Express Presidential Articulation of Commitment to Constitutional Rights

To the extent that a president articulates his own rights-protective constitutional vision with any specificity, he ameliorates the tension his constitutional lawyers otherwise face between advancing individual rights and serving their boss's presumed interest in maximum governing flexibility. Case or controversy requirements and restrictions against courts issuing advisory opinions do not, of course, apply to the executive's internal constitutional decisionmaking, and presidents can better serve individual rights to the extent that they expressly stake out their constitutional commitments in general and in advance of any concrete controversy."° When the president takes a stand for advancing abortion rights, property rights, disability rights, "charitable choice," a right to bear arms, or full remediation of race and sex discrimination, he signals to his lawyers that they should, in those areas, set aside their default bias in favor of preserving executive prerogative, even if it requires extra executive effort or restraint to do so.

If presented in a concrete setting with a choice between interpreting and applying the Constitution in fully rights-protective ways or sparing themselves the effort where Supreme Court precedent can be read not to require it, government officials typically default to the latter course without considering whether they might thereby be giving short shrift to a constitutional duty. A president's stated commitment to protection of particular rights, however, flips the default position with respect to those rights, acting as a spur to executive-branch lawyers and other personnel to work to give effect to constitutional rights even where, for a range of institutional reasons, the courts would not. A president is thus uniquely situated to facilitate full executive-branch constitutional compliance by precommitting himself to a rights-protective constitutional vision, and thereby making clear that respect for constitutional rights is part of the executive's interest, not counter to it.

#### It has the effect of the aff but doesn’t jeopardize crisis flex

**Morrison 2011** – Professor of Law, Columbia University (Trevor W., Harvard Law Review, ““Hostilities,” the Office of Legal Counsel, and the Process of Executive Branch Legal Interpretation”, 124 HARV. L. REV.F. 62, http://web.law.columbia.edu/sites/default/files/microsites/constitutional-governance/files/Libya-Hostilities-Office-of-Legal-Counsel.pdf)

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

#### That's key to Presidential effectiveness—keeping authority is key—the impact is extinction

**Baker, 7 -** Chief Judge to the United States Court of Appeals for the Armed Forces, former Special Assistant to the President and Legal Advisor to the National Security Council (James, IN THE COMMON DEFENSE: NATIONAL SECURITY LAW FOR PERILOUS TIMES, p. 307-309)

This book has considered national security law and process in the context of four security threats. First is the threat of attack by nonstate and statesponsored or supported actors using terrorist means. Overseas, this threat is realized on a daily basis. Within the United States the threat is continuous, but intermittent. The threat of high-explosive attack, like car and truck bombs, targeted suicide bombings, or the sabotage of aircraft, is most likely to materialize. The threat of catastrophic attack with nuclear weapons has the greatest potential impact on our way of life and in terms of human cost. It is in relation to this threat in particular that we need to evaluate and test national security law and process, both because of the potential consequence and because of the focus the enemy has placed on this means of attack. Second, U.S. constitutional values may ebb and wane in an endless conflict against state and nonstate actors engaged in acts of terrorism or posing the threat of terrorism. In light of the interminable nature of this threat, assertions of presidential authority made in extremis may become embedded in U.S. practice and law without a corresponding application of checks and balances. Left outside the reach of effective and independent mechanisms of appraisal, broad assertions of executive authority may in time diminish both the principles of law that define American life as well as the physical security at which they are directed. Third, sincere policy differences, as well as those that are politically inspired, regarding the nature of the terrorist threat and the corresponding measure of response may result in a zero-sum compromise; that is, a diminution of security or a diminution of law, rather than contextual formulas that advance both at once. If the executive needs broad and rapid authority to engage in intelligence collection – as it does – the better course is not to limit the authority, for fear of misuse, but to increase the opportunities for meaningful internal and external appraisal. Such appraisal will deter misuse, but as importantly, encourage effective use. In this enduring conflict we may exhaust our resources or our principles in a manner that leaves us unwilling or unable to effectively address this century’s other certain crises, including the proliferation of weapons of mass destruction to unreliable state actors, the advent of pandemic disease, and environmental degradation and change. This book has focused on the threat of terrorist attack because this is the threat that today drives the legal debate about the president’s constitutional authority. More generally, it drives the purpose and meaning of national security law. It will continue to do so. It is also the threat with the greatest potential to transform U.S. national security, in both a physical and a values sense. The importance of addressing other issues, such as conflict in the Middle East, totalitarian regimes, or pandemic disease, must not be overlooked. Each bears the potential to spiral beyond control resulting in catastrophe at home and overseas. Each of these issues warrants full consideration of the national security instruments and processes described in this book. In each context, law and national security lawyers may contribute to national security in multiple ways. First, the law provides an array of positive or substantive instruments the president may wield to provide for security. Second, the law provides procedural mechanisms offering opportunities to consider, validate, appraise, and improve policy, as well as ensure its lawful execution. These mechanisms include the horizontal separation of constitutional powers at the federal level, and the vertical separation of powers between the federal government and state government. They are found as well in statute and in internal executive directive. The most effective means of appraisal are often found through informal practice. Informal contact allows participants to speak with a freedom not permitted or not often found when bearing the institutional mantle of an office or branch of government. Consider the difference in reaction between the counsel that sits down with the policymaker for a discussion and the counsel who requests the policymaker to put down in a memorandum everything that occurred. With informal practice the role of personality and friendship can serve to facilitate information exchange and the frank exchange of views. Third, in the international context, law provides mechanisms to achieve U.S. national security objectives. This is evident in the context of maritime security, where U.S. law is pegged to an international framework, and effective security requires international as well as domestic participation. In the area of intelligence integration, bilateral and multilateral agreements, like the PSI and bilateral aviation agreements, provide essential mechanisms for identifying intelligence, sharing intelligence, and acting on intelligence. Fourth, the law reflects and projects American values of democracy and liberty. Values are silent force multipliers as well as positive national security tools. As Lawrence Wright, the author of The Looming Tower, and others argue, jihadists like Osama Bin Laden offer no programs or policies for governance, no alternative to Western democracy. They offer only the opportunity for revenge. Rule of law is the West’s alternative to jihadist terrorism. Law, and respect for law, offers the structure of democracy, the opportunity for individual fulfillment regardless of sex, race, or creed, and a process for the impartial administration of justice. Sustained commitment to the rule of law in practice and perception will serve as a positive national security tool in curtailing recruitment of the next wave and generation of jihadists. But law, like homeland security, is an incremental endeavor. It is dependent on sustained action, not rhetoric, and perceptions can be swept aside in a few ill-chosen moments. Law, like this conflict, requires sustained sacrifice and sustained support. Thus, divisive legal arguments should be eschewed, unless they are essential to security and there are no alternative means to accomplish the same necessary security end.

### 1NC

#### The President of the United States should execute a disarming nuclear strike on the Chinese nuclear arsenal if and only if he determines that he has the legal authority to do so.

The United States Federal Government should require Congressional authorization prior to initiating offensive use of conventional force.

#### Taiwan crisis is likely this year---draws in the U.S.

Michael Mazza 13, research fellow in foreign and defense policy at the American Enterprise Institute, 1/3/13, “Four Surprises That Could Rock Asia in 2013,” http://www.foreignpolicy.com/articles/2013/01/03/four\_surprises\_that\_could\_rock\_asia\_in\_2012?page=full

Since President Ma Ying-jeou came to power in 2008, Taipei and Beijing have improved ties and deepened their economic integration: cross-strait trade reached $127.6 billion in 2011, an increase of more than 13 percent from 2010. Some national security experts misinterpret this trend, thinking that growing economic interdependence will overwhelm factors pushing the two sides apart, and that interdependence will provide Beijing with leverage it can use to compel unification. But while Taiwan's businesspeople enjoy closer ties with China, the average Taiwanese voter continues to move toward independence. Over the last 20 years, the portion of citizens of Taiwan identifying as "Taiwanese" has increased from 17.6 percent of those polled in 1992 to a whopping 53.7 percent today; those identifying as "Chinese" has declined over the same period from 25.5 percent to just 3.1 percent today. Support for independence has nearly doubled over the last two decades, from 11.1 percent to 19.6 percent. Support for immediate or eventual unification, meanwhile, has more than halved, from 20 percent in 1992 to 9.8 percent in 2012.

Economic integration is apparently failing to halt what Beijing sees as a troubling trend. With a cross-strait trade agreement and a slew of other, easier deals already on the books, Beijing now expects Ma to discuss political issues. But Ma doesn't have the domestic political support to pursue political talks -- in March 2012, two months after his reelection, 45 percent of those polled said the pace of cross-strait exchanges was "just right," but the share of respondents answering "too fast" had increased to 32.6 percent, from 25.7 percent before the election. Any Chinese shift toward a more strident Taiwan policy could portend a new crisis in the Taiwan Strait sooner than many expect, as a lack of progress on these issues may buttress hawks in the new Xi Jinping administration. And America would surely be dragged in: Even low-level coercive measures against Taiwan -- a top 10 U.S. trading partner and security ally -- could throw U.S.-China relations into a tailspin.

#### Extinction - Taiwan’s an existential issue---they’ll strike U.S. cities

Straits Times 2K [June, 25, No one gains in war over Taiwan]

The US estimates that China possesses about 20 nuclear warheads that can destroy major American cities. Beijing also seems prepared to go for the nuclear option. A Chinese military officer disclosed recently that Beijing was considering a review of its "non first use" principle regarding nuclear weapons. Major-General Pan Zhangqiang, president of the military-funded Institute for Strategic Studies, told a gathering at the Woodrow Wilson International Centre for Scholars in Washington that although the government still abided by that principle, there were strong pressures from the military to drop it. He said military leaders considered the use of nuclear weapons mandatory if the country risked dismemberment as a result of foreign intervention. Gen Ridgeway said that should that come to pass, we would see the destruction of civilisation. There would be no victors in such a war. While the prospect of a nuclear Armaggedon over Taiwan might seem inconceivable, it cannot be ruled out entirely, for China puts sovereignty above everything else. Gen Ridgeway recalled that the biggest mistake the US made during the Korean War was to assess Chinese actions according to the American way of thinking. "

#### China alerting missiles in a crisis causes rapid US preemptive strike

Lieber and Press 7 - Keir A. Lieber, Assistant Professor of Political Science at the University of Notre Dame, and Daryl G. Press, Associate Professor of Political Science at the University of Pennsylvania, Winter 2007, “U.S. Nuclear Primacy and the Future of the Chinese Deterrent,” China Security, Issue No. 5, online: http://www.wsichina.org/cs5\_5.pdf

Ironically, one of the clearest explanations for how the United States may use nuclear primacy in a crisis or war with China appears in an earlier article by Blair. His recent article with Chen labels our suggestion that the United States might use nuclear threats “the zenith of provocation” and “unthinkable.”23 However, in the autumn 2005 issue of China Security, Blair describes exactly the crisis dynamics we envision leading to U.S. nuclear threats and perhaps even a preemptive nuclear attack. He notes that if China were to alert its strategic nuclear forces during a war with the United States over Taiwan, “the United States would likely act to beat China to the punch.” He continues, “Given constant U.S. surveillance of Chinese nuclear launch sites, any major Chinese preparations to fire peremptorily would be detected and countered by a rapid U.S. preemptive strike against the sites by U.S. conventional or nuclear forces… The United States could easily detect and react inside of the lengthy launch cycle time of Chinese forces.”24

#### U.S. first-strike is key to prevent or limit the damage of U.S.-China nuclear war

Lieber and Press 7 – Keir Lieber, Assistant Professor of Political Science at the University of Notre Dame, and Daryl Press, Associate Professor of Government at Dartmouth College, July/August 2007, “Superiority Complex,” The Atlantic, http://www.theatlantic.com/doc/200707/china-nukes

From a military perspective, this modernization has paid off: A U.S. nuclear first strike could quickly destroy China’s strategic nuclear arsenal. Whether launched in peacetime or during a crisis, a preemptive strike would likely leave China with no means of nuclear retaliation against American territory. And given the trends in both arsenals, China may live under the shadow of U.S. nuclear primacy for years to come.

This assessment is based on unclassified information, standard targeting principles, and formulas that defense analysts have used for decades. (And we systematically chose conservative estimates for key unknowns, meaning that our analysis understates U.S. counterforce capabilities.) The simplest version of an American preemptive strike would have nuclear-armed submarines in the Pacific launch Trident II missiles at the Chinese ICBM field in Henan province. The Navy keeps at least two of these submarines on “hard alert” in the Pacific at all times, meaning they’re ready to fire within 15 minutes of a launch order. Since each submarine carries 24 nuclear-tipped missiles with an average of six warheads per missile, commanders have almost 300 warheads ready for immediate use. This is more than enough to assign multiple warheads to each of the 18 Chinese silos. Chinese leaders would have little or no warning of the attack.

During the Cold War, U.S. submarines posed little danger to China’s silos, or to any other hardened targets. Each warhead on the Trident I missiles had little chance—roughly 12 percent—of success. Not only were those missiles inaccurate, their warheads had a relatively small yield. (Similarly, until the late 1980s, U.S. ICBMs lacked the accuracy to carry out a reliable disarming attack against China.) But the Navy’s new warheads and missiles are far more lethal. A Trident II missile is so accurate, and the newer W88 warhead so powerful, that if the warhead and missile function normally, the destruction of the silo is virtually assured (the likelihood is calculated as greater than 99 percent).

In reality, American planners could not assume such near-perfect results. Some missiles or warheads could malfunction: One missile’s rockets might fail to ignite; another’s guidance system might be defective. So a realistic counterforce plan might assign four warheads to each silo. The U.S. would “cross-target” the missiles, meaning that the warheads on each missile would each go to different silos, so that a silo would be spared only if many missiles malfunctioned. Even assuming that 20 percent of missiles malfunctioned—the standard, conservative assumption typically used by nuclear analysts—there is a 97 percent chance that every Chinese DF-5 silo would be destroyed in a 4-on-1 attack. (By comparison, a similar attack using Cold War–era Trident I missiles would have produced less than a 1 percent chance of success. The leap in American counterforce capabilities since the end of the Cold War is staggering.)

Beyond bolstering the ability to conduct a first strike, the improvements to U.S. counterforce weapons also allow war planners to design nuclear options that will make the weapons more “usable” during high-stakes crises. Nuclear planners face many choices when they consider striking a given target. First, they must choose a warhead yield. The American arsenal includes low-yield weapons such as the B-61 bomb, which can detonate with as little explosive force as 0.3 kilotons (one-fiftieth the power of the bomb that destroyed Hiroshima), and high-yield weapons such as the B-83 bomb, which can yield 1,200 kilotons (80 times the strength of the Hiroshima bomb). For a military planner, high-yield weapons are attractive because they’re very likely to destroy the target—even if the weapon misses by some distance. Low-yield warheads, on the other hand, can be more discriminating, if planners want to minimize civilian casualties.

A second key decision for war planners is whether to set the weapon to detonate at ground level or in the air above the target. A groundburst creates enormous overpressure and ground shock, ideal for destroying a hardened target. But groundbursts also create a lot of radioactive fallout. Dirt and other matter is sucked up into the mushroom cloud, mixes with radioactive material, and, after being carried by the wind, falls to earth in the hours after the blast, spreading lethal radiation.

Airbursts create smaller zones of extremely high overpressure, but they also generate very little fallout. If the detonation occurs above a threshold altitude (which depends on the weapon yield), virtually no heavy particles from the ground mix with the radioactive material in the fireball. The radioactive material rises into the high atmosphere and then falls to earth over the course of several weeks in a far less dangerous state and over a very wide area, greatly reducing the harm to civilians.

In the past, a nuclear attack on China’s arsenal would have had horrific humanitarian consequences. The weapons were less accurate, so an effective strike would have required multiple high-yield warheads, detonating on the ground, against each target. The Federation of American Scientists and the Natural Resources Defense Council modeled the consequences of such an attack—similar to the submarine attack described above—and published their findings in 2006. The results were sobering. Although China’s long-range missiles are deployed in a lightly populated region, lethal fallout from an attack would travel hundreds of miles and kill more than 3 million Chinese civilians. American leaders might have contemplated such a strike, but only in the most dire circumstances.

But things are changing radically. Improved accuracy now allows war planners to target hardened sites with low-yield warheads and even airbursts. And the United States is pushing its breakthroughs in accuracy even further. For example, for many years America has used global-positioning systems in conjunction with onboard inertial-guidance systems to improve the accuracy of its conventionally armed (that is, nonnuclear) cruise missiles. Although an adversary may jam the GPS signal near likely targets, the cruise missiles use GPS along their flight route and then—if they lose the signal—use their backup inertial-guidance system for the final few kilometers. This approach has dramatically improved a cruise missile’s accuracy and could be applied to nuclear-armed cruise missiles as well. The United States is deploying jam- resistant GPS receivers on other weapons, experimenting with GPS on its nuclear-armed ballistic missiles, and planning to deploy a new generation of GPS satellites—with higher-powered signals to complicate jamming.

The payoff for equipping cruise missiles (or nuclear bombs) with GPS is clear when one estimates the civilian casualties from a lower-yield, airburst attack. We asked Matthew McKinzie, a scientific consultant to the Natural Resources Defense Council and coauthor of the 2006 study, to rerun the analysis using low-yield detonations compatible with nuclear weapons currently in the U.S. arsenal. Using three warheads per target to increase the odds of destroying every silo, the model predicts fewer than 1,000 Chinese casualties from fallout. In some low-yield scenarios, fewer than 100 Chinese would be killed or injured from fallout. The model is better suited to predicting fallout casualties than to forecasting deaths from the blast and fire, but given the low population in the rural region where the silos are, Chinese fatalities would be fewer than 6,000 in even the most destructive scenario we modeled. And in the future, there may be reliable nonnuclear options for destroying Chinese silos. Freed from the burden of killing millions, a U.S. president staring at the threat of a Chinese nuclear attack on U.S. forces, allies, or territory might be more inclined to choose preemptive action.

Strategic Implications of the Nuclear Imbalance

The most plausible flash point for a serious U.S.-China conflict is Taiwan. Suppose Taiwan declared independence. China has repeatedly warned that such a move would provoke an attack, probably a major air and naval campaign to shatter Taiwan’s defenses and leave the island vulnerable to conquest. If the United States decided to defend Taiwan, American forces would likely thwart China’s offensive, since aerial and naval warfare are strengths of the U.S. military. But looming defeat would place great pressure on China’s leaders. Losing the war might mean permanently losing Taiwan. This would undermine the domestic legitimacy of the Chinese Communist Party, which increasingly relies on the appeal of nationalism to justify its rule. A crippling defeat would also strain relations between political leaders in Beijing and the Chinese military. To stave off a regime-threatening disaster, the political leaders might decide to raise the stakes by placing part of the Chinese nuclear force on alert in hopes of coercing the United States into accepting a negotiated solution (for example, a return to Taiwan’s pre-declaration status).

By putting its nuclear forces on alert, however, China’s leaders would compel a U.S. president to make a very difficult decision: to accede to blackmail (by agreeing to a cease-fire and pressuring the Taiwanese to renounce independence), to assume that the threat is a bluff (a dangerous proposition, given that each Chinese ICBM carries a city-busting 4,000-kiloton warhead), or to strike the Chinese missiles before they could be launched.

How do America’s growing counterforce capabilities affect this scenario? First, American nuclear primacy may prevent such a war in the first place. China’s leaders understand that their military now has little hope of defeating U.S. air and naval forces. If they also recognize that their nuclear arsenal is vulnerable—and that placing it on alert might trigger a preemptive strike—the leaders may conclude that war is a no-win proposition.

Second, if a war over Taiwan started anyway, U.S. nuclear primacy might help contain the fighting at the conventional level. Early in the crisis, Washington could quietly convey to Beijing that the United States would act decisively if China put its vulnerable nuclear arsenal on alert.

Finally, if China threatened to launch nuclear attacks against America’s allies, its territory, or its forces in Asia, nuclear primacy would make a preemptive first strike more palatable to U.S. leaders. Any decision to attack China’s ICBM force, though, would be fraught with danger. A missile silo might have escaped detection. Furthermore, a strike on China’s 18 ICBMs would leave Beijing with roughly 60 shorter-range nuclear missiles with which to retaliate against U.S. forces and allies in the region. However, in the aftermath of a “clean” disarming strike—one that killed relatively few Chinese—American leaders could credibly warn that a Chinese nuclear response would trigger truly devastating consequences, meaning nuclear attacks against a broader target set, including military, government, and possibly even urban centers. In light of warnings from Chinese defense analysts and from within China’s military that it might use nuclear weapons to avoid losing Taiwan, an American president might feel compelled to strike first. In this terrible circumstance, he or she would reap the benefits of the past decade’s counterforce upgrades.

## Solvency

### 1nc solvency

#### Status quo solves and disproves their authors. Even though Obama claimed authority on Syria, the fact that he asked for authorization sets a sufficient precedent

Peter M. Shane 9-2-2013; Author, 'Connecting Democracy' and 'Madison's Nightmare'; Law professor, “Rebalancing War Powers: President Obama's Momentous Decision”

<http://www.huffingtonpost.com/peter-m-shane/rebalancing-war-powers-pr_b_3853232.html>

But seeking authorization for a military strike against Syria marks the first time that a modern-day president has taken the initiative to elicit legislative approval for a military action that, by the President's own reckoning, will neither be a prolonged, nor a boots-on-the-ground operation. In announcing his decision, President Obama, like both Presidents Bush, declared that he possessed the constitutional authority to act unilaterally. He said he does not need Congress' approval in order to proceed. But historical precedents have consequences. Whatever their formal legal views, the Bushes' decisions helped cement a consistent pattern: With the exception of Korea, the United States has never engaged in a massive or prolonged military deployment without some form of explicit congressional sanction. A President acting unilaterally to start what is sometimes called "a real war" henceforth would probably be courting impeachment.

#### Obama will circumvent the plan

Anita Kumar 13, White House correspondent for McClatchy Newspapers, former writer for The Washington Post, covering Virginia politics and government, and spent a decade at the St. Petersburg Times, writing about local, state and federal government both in Florida and Washington, “Obama turning to executive power to get what he wants,” 3/19 <http://www.mcclatchydc.com/2013/03/19/186309/obama-turning-to-executive-power.html#.Ue18CdK1FSE>

Yet Obama’s use of power echoes that of his predecessors. For example, he signed 145 executive orders in his first term, putting him on track to issue as many as the 291 that Bush did in two terms.¶ John Yoo, who wrote the legal opinions that supported an expansion of presidential power after the 2001 terrorist attacks, including harsh interrogation methods that some called torture, said he thought that executive orders were sometimes appropriate – when conducting internal management and implementing power given to the president by Congress or the Constitution – but he thinks that Obama has gone too far.¶ “I think President Obama has been as equally aggressive as President Bush, and in fact he has sometimes used the very same language to suggest that he would not obey congressional laws that intrude on his commander-in-chief power,” said Yoo, who’s now a law professor at the University of California at Berkeley. “This is utterly hypocritical, both when compared to his campaign stances and the position of his supporters in Congress, who have suddenly discovered the virtues of silence.”¶ Most of Obama’s actions are written statements aimed at federal agencies that are published everywhere from the White House website to the Federal Register. Some are classified and hidden from public view.¶ “It seems to be more calculated to prod Congress,” said Phillip J. Cooper, the author of “By Order of the President: The Use and Abuse of Executive Direct Action.” “I can’t remember a president being that consistent, direct and public.”¶ Bush was criticized for many of his actions on surveillance and interrogation techniques, but attention has focused on Obama’s use of actions mostly about domestic issues.¶ In his first two years in the White House, when fellow Democrats controlled Capitol Hill, Obama largely worked through the regular legislative process to try to achieve his domestic agenda. His biggest achievements – including a federal health care overhaul and a stimulus package designed to boost the economy –came about with little or no Republican support.¶ But Republicans took control of the House of Representatives in 2010, making the task of passing legislation all the more difficult for a man with a detached personality who doesn’t relish schmoozing with lawmakers. By the next year, Obama wasn’t shy about his reasons for flexing his presidential power.¶ In fall 2011, he launched the “We Can’t Wait” campaign, unveiling dozens of policies through executive orders – creating jobs for veterans, adopting fuel efficiency standards and stopping drug shortages – that came straight from his jobs bills that faltered in Congress.¶ “We’re not waiting for Congress,” Obama said in Denver that year when he announced a plan to reduce college costs. “I intend to do everything in my power right now to act on behalf of the American people, with or without Congress. We can’t wait for Congress to do its job. So where they won’t act, I will.”¶ When Congress killed legislation aimed at curbing the emissions that cause global warming, Obama directed the Environmental Protection Agency to write regulations on its own incorporating some parts of the bill.¶ When Congress defeated pro-union legislation, he had the National Labor Relations Board and the Labor Department issue rules incorporating some parts of the bill.¶ “The president looks more and more like a king that the Constitution was designed to replace,” Sen. Charles Grassley, R-Iowa, said on the Senate floor last year.¶ While Republicans complain that Obama’s actions cross a line, experts say some of them are less aggressive than they appear.¶ After the mass shooting in Newtown, Conn., in December, the White House boasted of implementing 23 executive actions to curb gun control. In reality, Obama issued a trio of modest directives that instructed federal agencies to trace guns and send information for background checks to a database.¶ In his State of the Union address last month, Obama instructed businesses to improve the security of computers to help prevent hacking. But he doesn’t have the legal authority to force private companies to act.¶ “The executive order can be a useful tool but there are only certain things he can do,” said Melanie Teplinsky, an American University law professor who’s spoken extensively on cyber-law.¶ Executive actions often are fleeting. They generally don’t settle a political debate, and the next president, Congress or a court may overturn them.¶ Consider the so-called Mexico City policy. With it, Reagan banned federal money from going to international family-planning groups that provide abortions. Clinton rescinded the policy. George W. Bush reinstated it, and Obama reversed course again.¶ But congressional and legal action are rare. In 1952, the Supreme Court threw out Harry Truman’s order authorizing the seizure of steel mills during a series of strikes. In 1996, the District of Columbia Court of Appeals dismissed an order by Clinton that banned the government from contracting with companies that hire workers despite an ongoing strike.¶ Obama has seen some pushback.¶ Congress prohibited him from spending money to move inmates from the Guantanamo Bay U.S. naval base in Cuba after he signed an order that said it would close. A Chinese company sued Obama for killing its wind farm projects by executive order after he said they were too close to a military training site. A federal appeals court recently ruled that he’d exceeded his constitutional powers when he named several people to the National Labor Relations Board while the Senate was in recess.¶ But Obama appears to be undaunted.¶ “If Congress won’t act soon to protect future generations,” he told Congress last month, “I will.”

## Contention 1---Intervention

### AT: Groupthink

#### No groupthink—Congress wouldn’t help

**Posner and Vermeule, 7** – \*Kirkland and Ellis Professor of Law at the University of Chicago Law School AND \*\*professor at Harvard Law School (Eric and Adrian, Terror in the Balance: Security, Liberty, and the Courts p. 46-47)

The idea that Congress will, on net, weed out bad policies rests on an institutional comparison. The president is elected by a national constituency on a winner-take-all basis (barring the remote chance that the Electoral College will matter), whereas Congress is a summation of local constituencies and thus affords more voice to political and racial minorities. At the level of political psychology, decisionmaking within the executive is prone to group polarization and other forms of groupthink or irrational panic,51 whereas the internal diversity of legislative deliberation checks these forces. At the level of political structure, Congress contains internal veto gates and chokepoints—consider the committee system and the fi libuster rule—that provide minorities an opportunity to block harmful policies, whereas executive decisionmaking is relatively centralized and unitary.

The contrast is drawn too sharply, because in practice the executive is a they, not an it. Presidential oversight is incapable of fully unifying executive branch policies, which means that disagreement flourishes within the executive as well, dampening panic and groupthink and providing minorities with political redoubts.52 Where a national majority is internally divided, the structure of presidential politics creates chokepoints that can give racial or ideological minorities disproportionate influence, just as the legislative process does. Consider the influence of Arab Americans in Michigan, often a swing state in presidential elections.

It is not obvious, then, that statutory authorization makes any difference at all. One possibility is that a large national majority dominates both Congress and the presidency and enacts panicky policies, oppresses minorities, or increases security in ways that have ratchet effects that are costly to reverse. If this is the case, a requirement of statutory authorization does not help. Another possibility is that there are internal institutional checks, within both the executive branch and Congress, on the adoption of panicky or oppressive policies and that democratic minorities have real infl uence in both arenas. If this is the case, then a requirement of authorization is not necessary and does no good. Authorization only makes a difference in the unlikely case where the executive is thoroughly panicky, or oppressively majoritarian, while Congress resists the stampede toward bad policies and safeguards the interests of oppressed minorities.

Even if that condition obtains, however, the argument for authorization goes wrong by failing to consider both sides of the normative ledger. As for majoritarian oppression, the multiplicity of veto gates within Congress may allow minorities to block harmful discrimination, but it also allows minorities to block policies and laws which, although targeted, are nonetheless good. As for panic and irrationality, if Congress is more deliberative, one result will be to prevent groupthink and slow down stampedes toward bad policies, but another result will be to delay necessary emergency measures and slow down stampedes toward good policies. Proponents of the authorization requirement sometimes assume that quick action, even panicky action, always produces bad policies. But there is no necessary connection between these two things; expedited action is sometimes good, and panicky crowds can stampede either in the wrong direction or in the right direction. Slowing down the adoption of new policies through congressional oversight retards the adoption not only of bad policies, but also of good policies that need to be adopted quickly if they are to be effective.

### AT: Escalation

#### No escalation—executives will be responsible

**Weiner 2007**

Michael Anthony, J.D. Candidate, Vanderbilt School of Law, 2007, “A Paper Tiger with Bite: A Defense of the War Powers Resolution,” http://www.vanderbilt.edu/jotl/manage/wp-content/uploads/Weiner.pdf

IV. CONCLUSION: THE EXONERATED WPR AND THE WOLF IN SHEEP'S CLOTHING The WPR is an effective piece of war powers legislation. As Part III made clear, no presidential unilateral use of force since 1973 has developed into a conflict that in any way resembles the WPR's impetus, Vietnam. Rather, the great majority of these conflicts have been characterized by their brevity, safety, and downright success. Yes, there have been tragic outcomes in Lebanon and Somalia; but what happened in response to those tragedies? In Lebanon, President Reagan actually submitted to being Congress's "messengerboy," 203 asking for its permission, per the WPR, to continue the operation. And in Somalia, at the first sight of a looming disaster, it was President Clinton who cut short the operation. Thus, from 1973 on, it is easy to argue that sitting Executives have made responsible use of their power to act unilaterally in the foreign affairs realm. The WPR has even contributed to a congressional resurgence in the foreign affairs arena. In many of these conflicts, we have seen Congress conducting numerous votes on whether and how it should respond to a unilaterally warring Executive. In some of the conflicts, Congress has come close to invoking the WPR against rather impetuous Executives. 20 4 In Lebanon, Congress actually succeeded in the task.20 5 It is this Note's contention, though, that even when Congress failed to legally invoke the WPR, these votes had normative effects on the Executives in power. Such votes demonstrate that Congress desires to be, and will try to be, a player in foreign affairs decisions. So, perhaps the enactment of the WPR, the rise of Congress (at least in the normative sense) and the successful string of unilateral presidential uses of force are just a series of coincidences. This Note, however, with common sense as its companion, contends that they are not. Rather, it is self-evident that the WPR has played a significant role in improving the implementation of presidential unilateral uses of force.

### AT: Spoofing

#### They don’t solve spoofing:

#### A) They’ll just bait OTHER countries to intervene

#### B) Congress wouldn’t be able to know any better

#### Congress doesn’t solve “better wars” or adventurism

Jide Nzelibe 6, Asst. Profesor of Law @ Northwestern, and John Yoo, Emanuel S. Heller Professor of Law @ UC-Berkeley Law, “Rational War and Constitutional Design,” Yale Law Journal, Vol. 115, SSRN

But before accepting this attractive vision, we should ask whether the Congress first system produces these results. In other words, has requiring congressional ex ante approval for foreign wars produced less war, better decision making, or greater consensus? Students of American foreign policy generally acknowledge that comprehensive empirical studies of American wars are impractical, due to the small number of armed conflicts. Instead, they tend to focus on case studies. A cursory review of previous American wars does not suggest that congressional participation in war necessarily produces better decision making. We can certainly identify wars, such as the Mexican-American War or the Spanish-American War, in which a declaration of war did not result from extensive deliberation nor necessarily result in good policy.14 Both wars benefited the United States by expanding the nation’s territory and enhanced its presence on the world stage,15 but it seems that these are not the wars that supporters of Congress’s Declare War power would want the nation to enter – i.e., offensive wars of conquest. Nor is it clear that congressional participation has resulted in greater consensus and better decision making. Congress approved the Vietnam War, in the Tonkin Gulf resolution, and the Iraq war, both of which have produced sharp division in American domestic politics and proven to be mistakes.

The other side of the coin here usually goes little noticed, but is just as important for evaluating the substantive performance of the Congress-first system. To a significant extent, much of the war powers literature focuses on situations in which the United States might erroneously enter a war where the costs outweigh the expected benefits. Statisticians usually label such errors of commission as Type I errors. Scholars rarely, if ever, ask whether requiring congressional ex ante approval for foreign wars could increase Type II errors. Type II errors occur when the United States does not enter a conflict where the expected benefits to the nation outweigh the costs, and this could occur today when the President refuses to launch a preemptive strike against a nation harboring a hostile terrorist group, for example, out of concerns over congressional opposition. It may be the case that legislative participation in warmaking could prevent the United States from entering, or delaying entry, into wars that would benefit its foreign policy or national security. The clearest example is World War II. During the inter-war period, Congress enacted several statutes designed to prevent the United States from entering into the wars in Europe and Asia. In 1940 and 1941, President Franklin D. Roosevelt recognized that America’s security would be threatened by German control of Europe, and he and his advisers gradually attempted to bring the United States to the assistance of Great Britain and the Soviet Union.16 Nonetheless, congressional resistance prevented Roosevelt from doing anything more than supplying arms and loans to the Allies, although he arguably stretched his authority to cooperate closely with Great Britain in protecting convoys in the North Atlantic, among other things. It is likely that if American pressure on Japan to withdraw from China had not helped triggered the Pacific War, American entry into World War II might have been delayed by at least another year, if not longer.17 Knowing what we now know, most would agree that America’s earlier entry into World War II would have been much to the benefit of the United States and to the world. A more recent example might be American policy in the Balkans during the middle and late 1990s.

## Contention 2---Warfighting

### AT: Backlash

#### Obama’s not Bush—no backlash to liberal order

Aziz 13 (Omer, graduate student at Cambridge University, is a researcher at the Center for International and Defense Policy at Queen’s University, “The Obama Doctrine's Second Term,” Project Syndicate, 2-5, <http://www.project-syndicate.org/blog/the-obama-doctrine-s-second-term--by-omer-aziz>)

The Obama Doctrine’s first term has been a remarkable success. After the $3 trillion boondoggle in Iraq, a failed nation-building mission in Afghanistan, and the incessant saber-rattling of the previous Administration, President Obama was able to reorient U.S. foreign policy in a more restrained and realistic direction.

He did this in a number of ways. First, an end to large ground wars. As Defense Secretary Robert Gates put it in February 2011, anyone who advised future presidents to conduct massive ground operations ought “to have [their] head examined.” Second, a reliance on Secret Operations and drones to go after both members of al Qaeda and other terrorist outfits in Pakistan as well as East Africa. Third, a rebalancing of U.S. foreign policy towards the Asia-Pacific — a region neglected during George W. Bush's terms but one that possesses a majority of the world’s nuclear powers, half the world’s GDP, and tomorrow’s potential threats. Finally, under Obama's leadership, the United States has finally begun to ask allies to pick up the tab on some of their security costs. With the U.S. fiscal situation necessitating retrenchment, coupled with a lack of appetite on the part of the American public for foreign policy adventurism, Obama has begun the arduous process of burden-sharing necessary to maintain American strength at home and abroad.

What this amounted to over the past four years was a vigorous and unilateral pursuit of narrow national interests and a multilateral pursuit of interests only indirectly affecting the United States.

Turkey, a Western ally, is now leading the campaign against Bashar al-Assad’s regime in Syria. Japan, Korea, India, the Philippines, Myanmar, and Australia all now act as de facto balancers of an increasingly assertive China. With the withdrawal of two troop brigades from the continent, Europe is being asked to start looking after its own security. In other words, the days of free security and therefore, free riding, are now over.

The results of a more restrained foreign policy are plentiful. Obama was able to assemble a diverse coalition of states to execute regime-change in Libya where there is now a moderate democratic government in place. Libya remains a democracy in transition, but the possibilities of self-government are ripe. What’s more, the United States was able to do it on the cheap. Iran’s enrichment program has been hampered by the clandestine cyber program codenamed Olympic Games. While Mullah Omar remains at large, al Qaeda’s leadership in Afghanistan and Pakistan has been virtually decimated. With China, the United States has maintained a policy of engagement and explicitly rejected a containment strategy, though there is now something resembling a cool war — not yet a cold war — as Noah Feldman of Harvard Law School puts it, between the two economic giants.

The phrase that best describes the Obama Doctrine is one that was used by an anonymous Administration official during the Libya campaign and then picked up by Republicans as a talking point: Leading From Behind. The origin of the term dates not to weak-kneed Democratic orthodoxy but to Nelson Mandela, who wrote in his autobiography that true leadership often required navigating and dictating aims ‘from behind.’ The term, when applied to U.S. foreign policy, has a degree of metaphorical verity to it: Obama has led from behind the scenes in pursuing terrorists and militants, is shifting some of the prodigious expenses of international security to others, and has begun the U.S. pivot to the Asia-Pacific region. The Iraq War may seem to be a distant memory to many in North America, but its after-effects in the Middle East and Asia tarnished the United States' image abroad and rendered claims to moral superiority risible. Leading From Behind is the final nail in the coffin of the neoconservatives' failed imperial policies.

### AT: Soft Power

#### Soft power is a symptom and not a cause of hegemony

Jervis, 9 (Robert, PhD, professor of IR at Columbia, “Unipolarity: A Structural Perspective,” World Politics, Jan)

It is even more difficult to measure and generalize about other forms of capability, often summarized under the heading “soft power.”5 It [End Page 191] seems likely, however, that the distribution of most forms of soft power will roughly correlate with the distribution of economic and military resources. Soft power matters but by itself cannot establish or alter the international hierarchy. Some small countries are widely admired (for example, Canada), but it is unclear whether this redounds to their benefit in some way or helps spread their values. Although states that lose economic and military strength often like to think that they can have a disproportionate role by virtue of their culture, traditions, and ideas, this rarely is the case. Intellectual and cultural strength can feed economic growth and perhaps bolster the confidence required for a state to play a leading role on the world stage, but material capabilities also tend to make the state’s ideas and culture attractive. This is not automatic, however. As I will discuss further below, economic and military power are not sufficient to reach some objectives, and a unipole whose values or behavior are unappealing will find its influence reduced.

## Contention 3---SOP

### AT: SOP

#### SOP resilient

Rosman 96 [Michael E. Rosman (General Counsel @ Center for Individual Rights; JD from Yale); Review of “FIGHTING WORDS: INDIVIDUALS, COMMUNITIES AND LIBERTIES OF SPEECH”; Constitutional Commentary 96 (Winter, p. 343-345)]

Of course, the other branches also shove at the boundaries of branch power--FDR's Court-packing plan being one notable example of this practice. Sometimes the law of unintended consequences grabs hold. Perhaps the Court-packing plan concentrated the Justices' minds on finding ways to hold New Deal legislation constitutional, but it also blew up in FDR's face politically.

At least for the last two hundred years, however, no branch has managed to expand its power to the point of delivering an obvious knock-out blow to another branch. Seen from this broader perspective, cases such as Morrison,(33) Bowsher v. Synar,(34) and Mistretta v. United States(35) surely alter the balance of branch power at a given historical moment, but do not change the fundamental and brute fact that the Constitution puts three institutional heavyweights into a ring where they are free to bash each other.

Judicialocentrism tends to obscure this obvious point because it causes people to dwell on the hard cases that reach the Supreme Court. The power of separation of powers, however, largely resides in its ability to keep the easy cases from ever occurring. For instance, Congress, although it tries to weaken the President from time to time, has not tried to reduce the President to a ceremonial figurehead a la the Queen of England. Similarly, Congress does not make a habit of trying cases that have been heard by the courts. This list could be continued indefinitely.

The Supreme Court has had two hundred years to muck about with separation-of-powers doctrine. Over that time, scores of Justices--each with his or her own somewhat idiosyncratic view of the law--have sat on the bench. Scholars have denounced separation-of-powers jurisprudence as a mess. But the Republic endures, at least more or less. These historical facts tend to indicate that the Court need not rush to change its approach to separation of powers to prevent a slide into tyranny.

### AT: Human Rights

#### Friendly democracies can decipher between good and bad US norms, and authoritarian nations don’t care either way

John O. McGinnis 7, Professor of Law, Northwestern University School of Law. \*\* Ilya Somin \*\* Assistant Professor of Law, George Mason University School of Law. GLOBAL CONSTITUTIONALISM: GLOBAL INFLUENCE ON U.S. JURISPRUDENCE: Should International Law Be Part of Our Law? 59 Stan. L. Rev. 1175

The second benefit to foreigners of distinctive U.S. legal norms is information. The costs and benefits of our norms will be visible for all to see. n268 Particularly in an era of increased empirical social science testing, over time we will be able to analyze and identify the effects of differences in norms between the United States and other nations. n269 Such diversity benefits foreigners as foreign nations can decide to adopt our good norms and avoid our bad ones.

The only noteworthy counterargument is the claim that U.S. norms will have more harmful effects than those of raw international law, yet other nations will still copy them. But both parts of this proposition seem doubtful. First, U.S. law emerges from a democratic process that creates a likelihood that it will cause less harm than rules that emerge from the nondemocratic processes [\*1235] that create international law. Second, other democratic nations can use their own political processes to screen out American norms that might cause harm if copied.

Of course, many nations remain authoritarian. n270 But our norms are not likely to have much influence on their choice of norms. Authoritarian states are likely to select norms that serve the interests of those in power, regardless of the norms we adopt. It is true that sometimes they might cite our norms as cover for their decisions. But the crucial word here is "cover." They would have adopted the same rules, anyway. The cover may bamboozle some and thus be counted a cost. But this would seem marginal compared to the harm of allowing raw international law to trump domestic law.

#### authoritarian nations don’t follow norms — their “US justifies others” arg is naïve---if they really don’t like US preemption, then they just won’t model us

#### Human Rights Cred is irrelevant — public opinion, global norms, and NGO networks outweigh US policy

Andrew Moravcsik 5, PhD and a Professor of Politics and International Affairs at Princeton, 2005, "The Paradox of U.S. Human Rights Policy," American Exceptionalism and Human Rights, http://www.princeton.edu/~amoravcs/library/paradox.pdf

It is natural to ask: What are the consequences of U.S. "exemptionalism” and noncompliance? International lawyers and human rights activists regularly issue dire warnings about the ways in which the apparent hypocrisy of the United States encourages foreign governments to violate human rights, ignore international pressure, and undermine international human rights institutions. In Patricia Derian's oft-cited statement before the Senate in I979: "Ratification by the United States significantly will enhance the legitimacy and acceptance of these standards. It will encourage other countries to join those which have already accepted the treaties. And, in countries where human rights generally are not respected, it will aid citizens in raising human rights issues.""' One constantly hears this refrain. Yet there is little empirical reason to accept it. Human rights norms have in fact spread widely without much attention to U.S. domestic policy. In the wake of the "third wave" democratization in Eastern Europe, East Asia, and Latin America, government after government moved ahead toward more active domestic and international human rights policies without attending to U.S. domestic or international practice." The human rights movement has firmly embedded itself in public opinion and NGO networks, in the United States as well as elsewhere, despite the dubious legal status of international norms in the United States. One reads occasional quotations from recalcitrant governments citing American noncompliance in their own defense-most recently Israel and Australia-but there is little evidence that this was more than a redundant justification for policies made on other grounds. Other governments adhere or do not adhere to global norms, comply or do not comply with judgments of tribunals, for reasons that seem to have little to do with U.S. multilateral policy.

# 2NC

### 2NC

### 2NC China Impact Calc

#### A U.S. counterforce strike on China would cause 700 casualties

Lieber & Press 9 - Keir A. Lieber, Assistant Professor of Political Science at the University of Notre Dame, and Daryl G. Press, Associate Professor of Political Science at the University of Pennsylvania, November-December 2009, “The Nukes We Need: Preserving the American Deterrent,” Foreign Affairs, p. 45-

To illustrate the growth in U.S. counterforce capabilities, we applied a set of simple formulas that analysts have used for decades to estimate the effectiveness of counterforce attacks. We modeled a U.S. strike on a small target set: 20 intercontinental ballistic missiles (ICBMs) in hardened silos, the approximate size of China’s current long-range, silo-based missile force. The analysis compared the capabilities of a 1985 Minuteman ICBM to those of a modern Trident II submarine-launched ballistic missile.1

In 1985, a single U.S. ICBM warhead had less than a 60 percent chance of destroying a typical silo. Even if four or five additional warheads were used, the cumulative odds of destroying the silo would never exceed 90 percent because of the problem of “fratricide,” whereby incoming warheads destroy each other.Beyond five warheads, adding more does no good. A probability of 90 percent might sound high, but it falls far short if the goal is to completely disarm an enemy: with a 90 percent chance of destroying each target, the odds of destroying all 20 are roughly 12 percent. In 1985, then, a U.S. icbm attack had little chance of destroying even a small enemy nuclear arsenal.

Today, a multiple-warhead attack on a single silo using a Trident II missile would have a roughly 99 percent chance of destroying it, and the probability that a barrage would destroy all 20 targets is well above 95 percent. Given the accuracy of the U.S. military’s current delivery systems, the only question is target identification: silos that can be found can be destroyed. During the Cold War, the United States worked hard to pinpoint Soviet nuclear forces, with great success. Locating potential adversaries’ small nuclear arsenals is undoubtedly a top priority for U.S. intelligence today.

The revolution in accuracy is producing an even more momentous change: it is becoming possible for the United States to conduct low-yield nuclear counterforce strikes that inflict relatively few casualties. A U.S. Department of Defense computer model, called the Hazard Prediction and Assessment Capability (HPAC), estimates the dispersion of deadly radioactive fallout in a given region after a nuclear detonation. The software uses the warhead’s explosive power, the height of the burst, and data about local weather and demographics to estimate how much fallout would be generated, where it would blow, and how many people it would injure or kill. HPAC results can be chilling. In 2006, a team of nuclear weapons analysts from the Federation of American Scientists (FAS) and the Natural Resources Defense Council (NRDC) used HPAC to estimate the consequences of a U.S. nuclear attack using high-yield warheads against China’s ICBM field. Even though China’s silos are located in the countryside, the model predicted that the fallout would blow over a large area, killing 3–4 million people. U.S. counterforce capabilities were useless, the study implied, because even a limited strike would kill an unconscionable number of civilians.

But the United States can already conduct nuclear counterforce strikes at a tiny fraction of the human devastation that the FAS/NRDC study predicted, and small additional improvements to the U.S. force could dramatically reduce the potential collateral damage even further.

The United States’ nuclear weapons are now so accurate that it can conduct successful counterforce attacks using the smallest-yield warheads in the arsenal, rather than the huge warheads that the FAS/NRDC simulation modeled. And to further reduce the fallout, the weapons can be set to detonate as airbursts, which would allow most of the radiation to dissipate in the upper atmosphere. We ran multiple HPAC scenarios against the identical target set used in the FAS/NRDC study but modeled low-yield airbursts rather than high-yield groundbursts. The fatality estimates plunged from 3–4 million to less than 700—a figure comparable to the number of civilians reportedly killed since 2006 in Pakistan by U.S. drone strikes.

One should be skeptical about the results of any model that depends on unpredictable factors, such as wind speed and direction. But in the scenarios we modeled, the area of lethal fallout was so small that very few civilians would have become ill or died, regardless of which way the wind blew.

#### Absent complete destruction of their arsenal, Chinese strikes would target U.S. cities---causes massive firestorms

Kristensen et al 6 – Hans Kristensen, Director of the Nuclear Information Project at the Federation of American Scientists, Robert S. Norris, senior research associate with the NRDC nuclear program and director of the Nuclear Weapons Databook project, and Matthew G. McKinzie, scientific consultant to the Nuclear Program at the Natural Resources Defense Council, November 2006, “Chinese Nuclear Forces and U.S. Nuclear War Planning,” online: http://www.fas.org/nuke/guide/china/Book2006.pdf

China’s main nuclear deterrent against the United States has been described as a retaliatory minimum deterrent against countervalue targets with forces on very low or no alert. “Retaliatory” and “countervalue” refer to the fact that the Chinese nuclear doctrine is one of no-first-use, and consistent with that stated policy, the Chinese nuclear weapons capable of attacking the continental United States are not of a quantity or an accuracy that could threaten U.S. nuclear forces, but instead would be capable of targeting population centers. We calculated the effects of a Chinese strike against U.S. cities with warheads from the 20 DF-5A ICBMs that were hypothetical targets in the scenario discussed above. We did this analysis to better quantify China’s current deterrent against the U.S. homeland and examine different potential future Chinese nuclear force postures against the United States. We also explored parameters of the calculation, such as missile range, warhead yield, and warhead height-of-burst and targeting.

In Chapter 2 we quoted a range for China’s DF-5A ICBM of at least 8,000 miles (13,000 km). Assuming a circumpolar trajectory for the missile, Figure 92 illustrates which areas of the United States are within range assuming the DF-5A is launched from silos near the city of Luoning in China’s Henan Province. A range of at least 6.835 miles (11,000 km) is required to put cities at risk on the West Coast and in the north-central region of the United States. A range of 7,456 miles (12,000 km) puts cities on the East Coast at risk, including New York City and Washington, D.C. If the range of the DF-5A exceeds 8,000 miles (13,000 km) then all of the continental United States could be targeted. Note that a near-polar intercontinental ballistic missile trajectory toward the United States from Luoning is the shortest distance but would necessitate an overflight of Russia and possibly activate Russia’s early warning system. Missile trajectories from China to the continental United States which do not overfly Russia would require a range exceeding 10,560 miles (17,000 km).

The yield of the warhead mounted on the DF-5A is believed to be from 3 Mt to 5 Mt – a substantially higher-yield warhead than the U.S. W88 or W76. In HPAC, the effects of a nuclear explosion in the 3 Mt to 5 Mt range on a city are estimated from an extrapolation of the effects seen at Hiroshima and Nagasaki, but the damage due to fire storms from such a high-yield nuclear explosion may be more pervasive.497

It is unknown whether the Chinese warheads on the DF-5A can be fuzed to detonate as a ground burst. The U.S. nuclear weapons dropped on Hiroshima and Nagasaki at the end of World War II were fuzed to detonate at an altitude of approximately 1,640 feet (500 meters) to maximize the area exposed to the blast wave produced in the nuclear explosion. The DOD defines the “optimum height of burst” as: “For nuclear weapons and for a particular target (or area), the height at which it is estimated a weapon of a specified energy yield will produce a certain desired effect over the maximum possible area.” 498 In the case of the “Fat Man” and “Little Boy” nuclear weapons dropped on Japan, a height of burst of 1,640 feet (500 meters) maximized the area exposed to 10 pounds-per-square inch (psi) for nuclear explosive yields of about 15 kilotons, and the radius of a circle exposed to 10 psi or greater from these nuclear explosion is calculated to be about 0.62 miles (1 km). In the case of a 4 Mt weapon, the optimum height of burst to maximize an area exposed to 10 psi or greater is 9,840 feet (3,000 meters), and the radius to which 10 psi extends is 3.9 miles (6.2 km). Table 20 contrasts the effects of a Hiroshima nuclear bomb with that of the 4 Mt warhead on the Chinese DF-5A.

The calculated effects of a single 4 Mt nuclear airburst over a major U.S. city are staggering. Figure 93 illustrates the combined nuclear explosive effects of blast, thermal radiation and initial radiation in the form of an overall probability of being killed or injured while inside a building structure at the time of the explosion in New York City (top) or Los Angeles (bottom). An inner zone of near complete destruction (more than 90 percent casualties) would extend 16.2 miles (10 km) from ground zero, and blast and fire damage would extend as far as 21.8 miles (35 km) or more from the ground zero. A blast wave as strong or stronger than that directly under the Hiroshima explosion (35 psi) would cross the island of Manhattan. A firestorm could potentially engulf all of New York City or Los Angeles.

Using HPAC, we calculated the combined effects of 4 Mt nuclear detonations on 20 populous U.S. cities, including Washington, D.C. From 15.8 million to 26.1 million fatalities and 40.6 million to 41.3 million casualties would result. We found that varying the yield of the Chinese DF-5A nuclear weapon from 3 Mt to 5 Mt only changed the predicted casualties by 10 percent – any multi-megaton weapon threatens a large urban area. The results also were relatively insensitive to varying the commonly-estimated accuracy (Circular Error Probable, or CEP) of these weapons.

Figure 94 plots the numbers of casualties and fatalities from a Chinese strike as a function of the number of U.S. cities attacked. Using HPAC, we found that the average number fatalities per attacking weapon is about 800,000, and the average number of casualties per weapon is about two million for these nuclear airbursts. It is evident from this analysis that the threat of even a few weapons reaching the United States should serve as a robust deterrent. U.S. war planners would have to have complete confidence in the success of both a counterforce strike against the DF-5A launchers and the capabilities of a National Missile Defense (NMD) system, otherwise a huge toll would be exacted on the United States.

#### Causes nuclear winter and extinction---only city attacks are sufficient

Stuart Arsmtrong 12, James Martin Research Fellow, Future of Humanity Institute, University of Oxford, 3/16/12, “Old threats never die, they fade away from our minds: nuclear winter,” http://blog.practicalethics.ox.ac.uk/2012/03/old-threats-never-die-they-fade-away-from-our-minds-nuclear-winter/

In 1983, scientists published a paper on nuclear winter. This boosted the death toll of all-out nuclear war from ‘only’ 200-500 million to the very real possibility of the complete extinction of the human race\*. But some argued the report was alarmist, and there did seem to be some issues with the assumptions. So – a military phenomena that might cause megadeaths, possibly true but requiring further study, and a huge research defense budget that could be used to look into this critical phenomena and that was already spending millions on all aspects of nuclear weapons – can you guess what happened next?

Correct – the issue was ignored for decades. For over twenty years, there were but a tiny handful of papers on the most likely way we could end our own existence, and a vague and persistent sense that nuclear winter had been ‘disproved’. But in 2007, we finally had a proper followup - with the help of modern computers, better models and better observations, what can we now say? Well, that nuclear winter is still a major threat; the initial fear was right. Their most likely scenario was:

A global average surface cooling of –7°C to –8°C persists for years, and after a decade the cooling is still –4°C [...]. Considering that the global average cooling at the depth of the last ice age 18,000 yr ago was about –5°C, this would be a climate change unprecedented in speed and amplitude in the history of the human race. The temperature changes are largest over land [...] Cooling of more than –20°C occurs over large areas of North America and of more than –30°C over much of Eurasia, including all agricultural regions.

Also, precipitation would be cut in half and we’d lose most of the ozone layer. But there was a more worrying development: it also seems that a small-scale nuclear war could generate its own mini nuclear winter.

It’s important to understand that nuclear winter would not be a direct consequences of the nuclear explosions, but of the burning of our cities in the wake of the war (given enough heat, even roads and pavements will burn), generating clouds of very black smoke that rise into the stratosphere. The clouds do need to reach these heights: any lower and they’ll get rained out. This is what happened during the burning of the Kuwaiti oil wells in 1991: Carl Sagan, one of the fathers of the theory, predicted a nuclear winter-like scenario. But he wasn’t paying attention to the climate models: as they predicted, the local damage was severe, but the smoke didn’t reach the stratosphere, and global damage was avoided.

FOOTNOTE:

\*Edit: the extinction risks doesn’t come directly from the nuclear winter (some human groups will survive), but from the collapse of human society and fragmentation of the species into small, vulnerable subgroups, with no guarantee that they’d survive setbacks or ever climb back to a technological society.

#### Only city attacks generate enough smoke for nuclear winter

Robock 9 – Dr. Alan Robock, professor of climatology in the Department of Environmental Sciences at Rutgers University and the associate director of its Center for Environmental Prediction, January 6, 2009, “Nuclear Winter,” online: http://www.eoearth.org/article/Nuclear\_winter

A nuclear explosion is like bringing a piece of the Sun to the Earth's surface for a fraction of a second. Like a giant match, it causes cities and industrial areas to burn. Megacities have developed in India and Pakistan and other developing countries, providing tremendous amounts of fuel for potential fires. The direct effects of the nuclear weapons, blast, radioactivity, fires, and extensive pollution, would kill millions of people, but only those near the targets. However, the fires would have another effect. The massive amounts of dark smoke from the fires would be lofted into the upper troposphere, 10-15 kilometers (6-9 miles) above the Earth's surface, and then absorption of sunlight would further heat the smoke, lifting it into the stratosphere, a layer where the smoke would persist for years, with no rain to wash it out.

The climatic effects of smoke from fires started by nuclear war depend on the amount of smoke. Our new calculations show that for 50 nuclear weapons dropped on two countries, on the targets that would produce the maximum amount of smoke, about 5 megatons (Tg) of black smoke would be produced, accounting for the amount emitted from the fires and the amount immediately washed out in rain. As the smoke is lofted into the stratosphere, it would be transported around the world by the prevailing winds. We also did calculations for two scenarios of war between the two superpowers who still maintain large nuclear arsenals, the United States and Russia. In one scenario, 50 Tg of black smoke would be produced and in another, 150 Tg of black smoke would be produced. How many nuclear weapons would be required to produce this much smoke? It depends on the targets, but there are enough weapons in the current arsenals to produce either amount. In fact, there are only so many targets. Once they are all hit by weapons, additional weapons would not produce much more smoke at all. Even after the current nuclear weapons reduction treaty between these superpowers is played out in 2012, with each having about 2,000 weapons, 150 Tg of smoke could still be produced.

### Yes Chinese Nuclear Use – China-India

#### China-India nuclear war coming – border dispute, Tibetan independence, and Chinese expansionism

Jeremy Kahn, 10-10-2009, “Why India Fears China,” http://www.newsweek.com/id/217088/page/1

China claims some 90,000 square kilometers of Indian territory. And most of those claims are tangled up with Tibet. Large swaths of India's northern mountains were once part of Tibet. Other stretches belonged to semi-independent kingdoms that paid fealty to Lhasa. Because Beijing now claims Tibet as part of China, it has by extension sought to claim parts of India that it sees as historically Tibetan, a claim that has become increasingly flammable in recent months. Ever since the anti-Chinese unrest in Tibet last year, progress toward settling the border dispute has stalled, and the situation has taken a dangerous turn. The emergence of videos showing Tibetans beating up Han Chinese shopkeepers in Lhasa and other Tibetan cities created immense domestic pressure on Beijing to crack down. The Communist Party leadership worries that agitation by Tibetans will only encourage unrest by the country's other ethnic minorities, such as Uighurs in Xinjiang or ethnic Mongolians in Inner Mongolia, threatening China's integrity as a nation. Susan Shirk, a former Clinton-administration official and expert on China, says that "in the past, Taiwan was the 'core issue of sovereignty,' as they call it, and Tibet was not very salient to the public." Now, says Shirk, Tibet is considered a "core issue of national sovereignty" on par with Taiwan. The implications for India's security—and the world's—are ominous. It turns what was once an obscure argument over lines on a 1914 map and some barren, rocky peaks hardly worth fighting over into a flash point that could spark a war between two nuclear-armed neighbors. And that makes the India-China border dispute into an issue of concern to far more than just the two parties involved. The U**nited** S**tates** and Europe as well as the rest of Asia ought to take notice—a conflict involving India and China could result in a nuclear exchange. And it could suck the West in—either as an ally in the defense of Asian democracy, as in the case of Taiwan, or as a mediator trying to separate the two sides. Beijing appears increasingly concerned about the safe haven India provides to the Dalai Lama and to tens of thousands of Tibetan exiles, including increasingly militant supporters of Tibetan independence. These younger Tibetans, many born outside Tibet, are growing impatient with the Dalai Lama's "middle way" approach—a willingness to accept Chinese sovereignty in return for true autonomy—and commitment to nonviolence. If these groups were to use India as a base for armed insurrection against China, as Tibetan exiles did throughout the 1960s, then China might retaliate against India. By force or demand, Beijing might also seek to gain possession of important Tibetan Buddhist monasteries that lie in Indian territory close to the border. Both politically and culturally, these monasteries are seen as key nodes in the Tibetan resistance to Chinese authority. Already Beijing has launched a diplomatic offensive aimed at undercutting Indian sovereignty over the areas China claims, particularly the northeast state of Arunachal Pradesh and one of its key cities, Tawang, birthplace of the sixth Dalai Lama in the 17th century and home to several important Tibetan monasteries. Tibet ceded Tawang and the area around it to British India in 1914. China has recently denied visas to the state's residents; lodged a formal complaint after Indian Prime Minister Manmohan Singh visited the state in 2008; and tried to block a $2.9 billion Asian Development Bank loan to India because some of the money was earmarked for an irrigation project in the state. All these moves are best understood in the context of China's recent troubles in Tibet, with Beijing increasingly concerned that any acceptance of the 1914 border will amount to an implicit acknowledgment that Tibet was once independent of China—a serious blow to the legitimacy of China's control over the region and potentially other minority areas as well. The reports of Chinese incursions can be read as a signal that it is deadly serious about its territorial claims. The exact border has never been mutually agreed on—meaning one side's incursion is another side's routine patrol—but the Chinese have clearly stepped up their activity along the frontier. The Indian military reported a record 270 Chinese border violations last year—nearly double the figure from the year before and more than three times the number of incidents in 2006, says Brahma Chellaney, an expert in strategic studies at New Delhi's Centre for Policy Research, an independent think tank. Noting that there was a reported incursion nearly every day this summer, Chellaney says this amounts to "a pattern of Chinese belligerence." In June the People's Daily criticized recent moves by India to strengthen its border defenses and declared: "China will not make any compromises in its border disputes with India." It asked if India had properly weighed "the consequences of a potential confrontation with China." To many Indians, China is an expansionist power bent on thwarting India's rise as a serious challenge to Beijing's influence in Asia. They are haunted by memories of India's 1962 war with China, in which China launched a massive invasion along the length of the frontier, routing the Indians before unilaterally halting at what today remains the de facto border, known as the Line of Actual Control (LAC). They are fearful of China's expanding naval presence in the Indian Ocean, seeing its widening network of naval bases as a noose that could be used to strangle India. They blast Prime Minister Manmohan Singh for alleged weakness in the face of this growing threat. Bharat Verma, editor of the Indian Defence Review, predicted in a widely publicized essay this summer that China would attack India sometime before 2012. With social unrest rising within China due to the worldwide economic slump, he says, the leadership in Beijing needs "a small military victory" to unify the nation, and India is "a soft target," due to Singh's fecklessness. In recent weeks India's defense minister and the heads of the Army and Air Force have felt compelled to reassure the public that "there will be no repeat of 1962."

### Yes Chinese Nuclear Use – South China Seas

#### Chinese aggression in the South China Sea sparks war with the US

Peter Brown, political analyst, 12-9-2009, “Calculated ambiguity in the South China Sea,” Asia Times, http://www.atimes.com/atimes/Southeast\_Asia/KL08Ae01.html

Evidence of China's growing reach in the South China Sea can be found at obscure map points such as Woody Island in the Paracels, where China is steadily expanding and improving an airstrip, as well as the remote Mischief Reef - roughly 150 miles west of the Philippines - where China has erected various structures. China's neighbors view the process as expansionist and even hostile, despite the joint signing of the 2002 Declaration on the Conduct of Parties in the South China Sea. According to some security experts, China's end goal is not merely the creation of a vast exclusive economic zone (EEZ), extending by some renderings as far south as the Indonesia-claimed gas rich Natuna Islands. They say China seeks control over the the sea as part of a plan to establish more maritime power projection, including through a fleet of nuclear ballistic missile submarines (SSBNs), in sea lanes extending beyond the Pacific to the Indian Ocean. The South China Sea is the second busiest sea lane in the world and serves as China's gateway for imports of oil from the Persian Gulf and natural resources from Africa. "China's first carrier battle groups will be based on Hainan Island, and they will patrol these resource routes. For China's political leadership, control of the SCS is a critical objective toward ensuring the economic and political survival of the Communist Party dictatorship," said Richard Fisher, senior fellow at the Washington-based International Assessment and Strategy Center. However, he says, the US, Japan, Australia and several Association of Southeast Asian Nations (ASEAN) are still standing in China's way. "[China wants] to make it into a heavily protected territorial zone for the operation of SSBNs until such a time as Taiwan comes to provide a better base for SSBN operations," said Fisher. "China may base up to half of its nuclear missiles on SSBNs, meaning that China will only settle for dictating future regimes for the SCS." Beefing up China's offshore presence means that its State Oceanic Administration (SOA) and China Maritime Surveillance (CMS) will ensure that fishermen and survey vessels plying the South China Sea from other regional countries have more and more encounters with larger and better equipped Chinese vessels from the People's Liberation Army Navy (PLAN), including the Yuzheng 311. A March 16 incident showed Beijing's growing willingness to order non-PLAN ships, including from the SOA and CMS fleets, to carry out enforcement activities in the Spratly Islands - to the chagrin of neighbors, particularly the Philippines. After US spy ship the USNS Impeccable was harassed by Chinese vessels on March 8, the Chinese dispatched what it claimed was a fishery patrol boat - not a warship - to safeguard its interests in the South China Sea. "China would dearly like to turn its assumption of control over the SCS into a non-confrontational police exercise in which Vietnam, the Philippines and others basically do nothing," said Fisher. "Giving non-PLAN agencies larger ships and greater firepower may be an attempt at benign militarization, but it will be destabilizing just the same." Competing claims in the South China Sea have frequently flared into showdowns, including a clash between Chinese and Vietnamese naval vessels in 1988 at Johnson Reef in the Spratly Islands. Last month's joint session in Hanoi, co-sponsored by the Diplomatic Academy of Vietnam and the Vietnam Lawyers' Association, resulted in promises to start multilateral dialogue on the many unresolved and overlapping claims in the area. "Although in the past, China has insisted on bilateral solutions, no progress has been made because most disputes require concessions by multiple claimants. The goal for this session was likely to build confidence by holding preliminary, non-binding track two discussions and it was a good sign that Chinese scholars attended the conference because it may reflect some measure of acceptance on the part of the Chinese to a multilateral approach to untangling the disputes," said Associate Professor Peter Dutton at the US Naval War College's China Maritime Studies Institute. According to one of the attendees, Carlyle Thayer, professor of politics at the University of New South Wales at the Australian Defense Force Academy, there were no national delegations and the Chinese representatives who attended hailed only from various universities and think tanks. "The meeting was termed a workshop, and not a conference, to water down any impression that a set of conclusions by way of a resolution or statement would be issued," said Thayer. The event succeeded in raising the profile of regional concerns about development in the reputedly oil and gas rich South China Sea that "participants characterized as deteriorating or had the potential to deteriorate," said Thayer. "A consensus emerged that a long-standing proposal for joint development should be revived for consideration by claimant states." Dotty maps Perhaps more importantly, Thayer said that besides the fact that, "there was no one China position," the so-called "nine-dotted line map" was described by one of the Chinese "as currently under discussion". In 1947, the nationalist Chinese government put forward claims to the South China Sea in a map containing 11 dotted lines. This map was adopted by the Chinese communists when they took power and later premier Chou Enlai deleted two lines in the Gulf of Tonkin to make the 11 dots into nine. Unofficial maps containing the nine dotted lines have long been in circulation. Regional officials have been unable to get China to indicate how the lines would be connected and how much of the area China is claiming, according to Thayer. "Chinese scholars made clear that an official map of the SCS containing nine dotted lines represented the maximum extent of historical claims to the area. Chinese specialists noted that this left open areas for discussion," said Thayer. "For example, one Chinese proposed that if nations which made claims for extended continental shelves withdrew such claims, there would be several areas within the dotted line might be amenable to joint development." This proposal is tied to the submission of claims for extended continental shelves by Vietnam and Malaysia earlier this year under a United Nations imposed timetable. Both countries submitted a joint claim to areas in the south, while Vietnam lodged separate claims for an extended continental shelf in the north. "China lodged a protest and tabled a map with nine dotted lines to indicate the area it said was Chinese territory. This appears to have been the first time the Chinese government has tabled this map," said Thayer. "China is deliberately pursuing a policy of calculated ambiguity in this matter. It is putting off any settlement of conflicting maritime sovereignty claims until the moment suits Beijing." There is already talk of a second South China Sea workshop in Hanoi in mid-2010. Dutton has identified a number of possible agenda items. "One positive step would be to hold a multilateral, regional forum to discuss the range of possible multilateral projects which could be undertaken to research the extent of hydrocarbon deposits under the SCS seabed," said Dutton. "Another positive step could include development of a multilateral management framework for living resources, including a regional body to regulate sustainable fishing by all claimants under a treaty regime that allocates a total allowable catch among the various parties. Such steps would resolve some of the less difficult challenges, while postponing more difficult questions of sovereignty," he said. Prejudiced claims Dutton noted that a debate within China persists as to the exact nature of its claims to sovereignty and coastal state jurisdiction in the South China Sea. Among other things, China probably prefers a political solution here, rather than a solution that applies a legal framework that might prejudice its other claims, he said. "Chinese domestic law claims sovereignty over all of the islands in the SCS and also claims territorial seas and EEZs emanating from all of its claimed territories. However, it may benefit the Chinese to remain somewhat ambiguous as to the exact nature of the Chinese SCS legal claims," said Dutton. "It is critical that settlement of Chinese claims in the SCS does not apply a legal approach that might prejudice its claims against Japan in the East China Sea. Thus, from China's perspective, a legal framework for resolution of SCS disputes must be developed that does not compromise its East China Sea claims." With or without a legal framework, Thayer believes China seeks to divide regional states and strike bilateral deals. "China has recently told the 10-member Association of Southeast Asian Nations that they should get their act together first before approaching China for discussions on the SCS. Some ASEAN states point out that getting consensus among the ASEAN 10 states would be difficult and that a unified bloc would only create friction in dealing with China," said Thayer. The recent workshop in Hanoi will be followed on December 16 by another round of talks on the South China Sea, the next round of the so-called Military Maritime Consultative Agreement (MMCA) discussions involving delegations from China and the US. The meeting will be held at the Asia-Pacific Center for Security Studies in Honolulu, Hawaii. "The Vietnam conference was essentially a Track 2 discussion of issues, whereas the MMCA is a Track 1 military-to-military dialogue," said Dutton. "The Vietnam Conference will have no impact on MMCA, as the issues are fundamentally different. The attendees at the Vietnam Conference were discussing national sovereignty and jurisdiction issues, whereas the MMCA discussions focus on freedoms of navigation and other military uses of the waters of the seas off China's coastline." Thayer notes that the US Embassy in Hanoi did not send diplomatic observers to the workshop, thus distancing the US from sovereignty and territorial disputes in the South China Sea. "The next session of the MMCA may dampen maritime confrontation, such as the incident involving the USNS Impeccable. But a negotiated 'Incident at Sea Agreement' is likely to take a year or more before it is signed," said Thayer. Thayer pointed to the visit to the US in October by General Xu Caihou, vice chairman of China's Central Military Commission. (See Chinese general on a long march, Asia Times, November 3, 2009.) General Xu identified the four obstacles to a healthy and stable US-China military relationship as starting with Taiwan, and he called upon the US to cease its intrusion via military aircraft and ships' intrusions into China's maritime EEZ. "China's main objective is to get the US to scale down, if not cease, its surveillance activities off China's coast and the naval base on Hainan Island particularly," said Thayer. Besides General Xu's demands, Fisher points to a recently retired PLA general who publicly called for China to greatly increase its military force deployments in the South China Sea and to build an airbase on Mischief Reef in the Spratly Islands. "In addition to being only about 200 miles from the Philippine island of Palawan , it would extend PLA control over the Palawan Straits, a vital commercial sea lane for Japan , South Korea and Taiwan ," said Fisher who recently wrote an article about this issue. "An airbase on Mischief Reef would create a security challenge of a very high order which Washington could not ignore." Taiwan's islands in the South China Sea make matters even more complicated. "There are also smaller islands closer to Hainan occupied by Taiwan. Beijing could use a number of excuses, from threatening military activity aimed at nuclear assets on Hainan, to a desire to create political instability in Taiwan as cause to take them over," said Fisher. "Due to its decade-long investment in amphibious assault forces, the PLA could take these islands with ease. But having long ago chosen to concede to Beijing's 'One China' policies, it is highly unlikely that any Asian state would respond in a manner that defends their larger interests." The South China Sea and even Taiwan are of less strategic importance to the US than they were during the Cold War-era. But China should not take this increasingly "disinterested" stance for granted. US strategy could shift with an up-tick in Chinese military activity in the region. And it is too early to tell if the meeting in Hanoi represents an important new chapter in China's dealings with its neighbors in particular. "A continuation of US neutrality will only serve to hasten the day in which China becomes the region's anti-democratic hegemon with an ability to apply vast economic and military pressures to force regional conformity with its desires," said Fisher.

### 2NC AT: Perm Do Both

#### Plan and perm make first strike impossible – Congress would never approve a first strike, and waiting until a crisis makes it less likely to be successful

James J. Wirtz 7, et al, Professor of National Security Affairs at the Naval Postgraduate School, Winter 2006-2007, “The Short Shadow of U.S. Primacy?”, International Security

Lieber and Press's bolt-out-of-the-blue scenario is within the realm of possibility, but it is not realistic. Surprise attacks sometimes occur and generally succeed, so there is always a chance that a nuclear-armed state could be caught napping. n4 Government officials, military officers, and the general public have an uncanny ability to ignore what in hindsight are clear indicators of trouble. n5 But a bolt-out-of-the-blue attack is unlikely in the absence of significant political motivation for undertaking such a risky act. If a crisis increases the political salience of preemption, it is likely to generate pressures on both sides to alert their forces, reducing the technical opportunity to launch a splendid first strike. Modest, nonprovocative actions could greatly increase a state's secure second-strike capability; the availability of partial-alert measures such as moving a few mobile missiles from garrison or putting submarines out to sea increases the probability that some action will be taken in response to a warning. When the technical possibility of launching a bolt-out-of-the-blue attack exists, policymakers will lack the political motivation for rolling the dice. And during a crisis when preemption appears politically tempting, the likelihood that both sides would alert their forces eliminates the technical opportunity to disarm the opponent. It is difficult to escape the conclusion that the scenario identified by Lieber and Press might occur, but that the problem they identify is not especially significant. This observation still leaves open the possibility that U.S. policymakers might order an attack to disarm Russians simply because it appears as if they can. A bolt-out-of-the-blue attack, however, would remain unlikely because even a remote possibility of retaliation is likely to deter all but the most risk-acceptant individuals. U.S. policymakers are not going to launch a preventive war because they are enticed by the fact that a deteriorating Russian day-alert posture creates a higher probability of launching a splendid first strike. Instead, they will more likely be deterred by the lingering probability that a few (dozen, score, hundred?) nuclear weapons might land on major U.S. urban-industrial centers. Deterrence works not only because the United States military can kill some Russians, but also because of the fear that in a nuclear war, Russia might destroy some U.S. countervalue targets. Of course, the only way to win a nuclear war is by firing first, and it would be preferable to destroy all of your opponent's nuclear forces before they can be used against you. But U.S. and Russian policymakers are more likely to be terrified by the prospect of even a couple of nuclear weapons fired in retaliation than energized by the opportunity to attempt to catch the opponent napping. The analytical excursion offered by Lieber and Press, however, sidesteps the entire issue of retaliation and deterrence. Because the results of the stochastic analytical techniques the authors employ are largely driven by the assumptions that guide their analysis, the U.S. policymakers in their scenario need not fear Russian retaliation. The assumptions that the United States is able to catch the Russians in a extremely weak day-alert position--with their submarines in port, bombers concentrated on a few runways, and their mobile missiles in garrison, while launching a fully generated nuclear force undetected by either Russian early warning systems or overhead and human surveillance of the United States--determine the outcome of the exchange. By assuming that "Russia is unable to launch its missiles before the first wave of U.S. warheads arrives on target" (p. 19), or that "the Russian early warning system would probably not give Russia's leaders the time they need to retaliate" (p. 22), one grants the United States a splendid first-strike capability before even beginning the analysis. Given the assumptions that drive Lieber and Press's nuclear exchange, the outcome enjoyed by the United States would be no different than if the Russians lacked a nuclear arsenal: in both situations, the United States could destroy or threaten to destroy Russia with no fear of retaliation. n6 This result does not correspond to reality because so long as a state possesses a nuclear arsenal, there is always a possibility--however remote--that nuclear retaliation might occur following a nearly splendid first strike. n7

#### Not fast enough - China can launch in 27 minutes, we have their fastest timeframe for approval beat by 6 minutes

Li Bin 7, Inst. Of Int’l Studies @ Tsinghua, 2007, “Tracking Chinese Strategic Mobile Missiles,” Science and Global Security 15:1-30, http://www.princeton.edu/sgs/publications/sgs/archive/151Li-Bin.pdf#search=%22li%20bin%20df-31%20gmti%22

Another article on Xinhua News Agency’s website describes details of an exercise of patrol and retaliation of the Chinese strategic nuclear force.32 According to this article, the surviving missile TELs began their patrol after absorbing nuclear attacks; the missiles carried nuclear warheads and the warheads were put on the missiles on the ﬁfth day in bad weather after the patrol began; the missile was simulated to be launched on the eighth day. Currently, the TELs use multispectrum camouﬂage webs to distort the infrared signals.33 According to another article,34 the preparation for a launch started at 9:58 am and launched at 10:25 am in a military exercise. Based on this, preparation takes about a half an hour.

#### Rapid response key – they’ve conceded from 1NC Yoo & Li ev that Congress is slow and inherently favors delay

Bob Aldridge, former Trident missile engineer, “11-16-2002, “U.S. Trident Submarine & Missile System,” PLRC Pacific Life Research Center

Submarine-launched Trident missiles have important advantages over ICBMs. They can reach their targets in 10-15 minutes as compared to 30 minutes for an ICBM. They can approach those targets from all directions from unknown launch points, as opposed to only over the north pole for ICBMs launched from fixed silos of known & targeted locations. Those advantages would confuse detection and greatly enhance the element of surprise which is needed for a first strike. On top of that, Trident missiles hold enough warheads to provide a first-strike force all by themselves, against any adversary, while remaining invulnerable to a sneak attack. Trident missiles, supported by extreme low frequency (ELF) submarine communications and NAVSTAR Global Positioning System (GPS) satellite navigation corrections, make ICBMs obsolete.

### AT: No NB

#### The U.S. has nuclear primacy now against every potential rival---it’s a deliberate policy choice

---Also answers cuts UQ because cuts have affected Russia MORE, which boosts U.S. primacy

Carl Osgood 13 and Rachel Douglas, Executive Intelligence Review, 3/15/13, “U.S. Moves Toward

Nuclear First Strike Capability,” http://www.larouchepub.com/other/2013/4011nuke\_first\_strike.html

On March 1, the Strategic Studies Quarterly, a journal published by the U.S. Air Force's Air University, published an article admitting what both Lyndon LaRouche and EIR, and the Russians, have long been warning against: that U.S. strategic policy under the Obama Administration is seeking to create the capability to launch a first strike against Russia and/or China, without fear of nuclear retaliation, and that this is making nuclear war more, not less, likely. ¶ While the two authors, Keir A. Lieber, associate professor at the Edmund A. Walsh School of Foreign Service at Georgetown University, and Daryl G. Press, an associate professor of government at Dartmouth University, have been warning against this danger since at least 2006, this is the first time one of their articles has appeared in a U.S. military publication, a tacit admission, perhaps, that their argument has merit, and must be considered. ¶ The Strategic Studies article comes on the heels of a report from Moscow, by the Izborsk Club, an association of high-level Russian intellectuals who characterize themselves as "patriotic and anti-liberal," warning of the same danger of an emerging "counterforce" threat to Russia's strategic deterrent, and laying out the steps that Russia must take, militarily, to defend against it. ¶ Since Barack Obama ascended to the office of the Presidency, he has expanded the Bush-Cheney policy of strategic confrontation with Russia, most notably, with respect to Iran and Syria. In Syria, the U.S. policy is one of regime change, a policy strongly opposed by Russia. At the same time, the U.S. has been ringing Russia with missile defenses, including land-based sites in Poland and Romania, and moving forward with a plan to forward-base four Aegis missile defense destroyers in Rota, Spain. ¶ On May 3, 2012, then-Chief of the Russian Armed Forces General Staff Gen. Nikolai Makarov declared that further advances in the deployment of a BMD system by the United States and NATO in Europe would so greatly threaten Russia's security, as to necessitate a pre-emptive attack on such installations: The outbreak of military hostilities between the U.S.A. and Russia would mean nuclear war. "Considering the destabilizing nature of the BMDS," Makarov told an audience including U.S. officials, "specifically the creation of the illusion of being able to inflict a disarming first strike without retaliation, a decision on the pre-emptive use of available offensive weapons will be taken during the period of an escalating situation" (emphasis added). ¶ What Makarov was pointing out is that ostensibly defensive systems can be used in offensive warfare—in this case, to enable the West to launch a pre-emptive first strike without fear of a retaliatory response. Just two weeks later, at a conference in Virginia, former U.S. Vice Chairman of the Joint Chiefs of Staff Gen. James Cartwright acknowledged that "there's the potential that you could, in fact, generate a scenario where, in a bolt from the blue, we launch a pre-emptive attack and then use missile defense to weed out" Russia's remaining missiles launched in response. "We're going to have to think our way out of this," he said. "We're going to have to figure out how we're going to do this." ¶ If the alleged threat from Iran, which is used to justify the missile defense deployment in Europe, is so great, then why not cooperate with Russia on missile defense? Indeed, Russia has been proposing such cooperation since 2007, when then-President Vladimir Putin traveled to Kennebunkport, Maine, to propose to then-President George W. Bush, cooperation with the U.S. and NATO on missile defense. Bush never accepted the proposal, and neither has Obama. ¶ If the U.S.-NATO European system is not aimed at Russia, then the U.S. ought to be able to provide guarantees that that's the case, as Russia has been demanding, but this is dismissed by the U.S. and NATO as "unnecessary." The Russians have repeatedly warned that the U.S.-NATO plan upsets the strategic balance and increases the risk of war, and have acted accordingly, even as they have made numerous proposals that would avoid such a confrontation. The U.S. refusal to acknowledge Russian concerns, in concert with its regime-change policies in Syria and Iran, is setting the stage for that confrontation. ¶ U.S. Seeks Strategic Primacy¶ In their March 1 article, "The New Era of Nuclear Weapons, Deterrence, and Conflict," Lieber and Press posit that, number one, "technological innovation has dramatically improved the ability of states to launch 'counterforce' attacks—that is, military strikes aimed at disarming an adversary by destroying its nuclear weapons." Number two, they argue, is that "in the coming decades, deterring the use of nuclear weapons during conventional wars will be much harder than most analysts believe." ¶ The basis of the authors' first argument is that: "Very accurate delivery systems, new reconnaissance technologies, and the downsizing of arsenals from Cold War levels have made both conventional and nuclear counterforce strikes against nuclear arsenals much more feasible than ever before." During the Cold War, they note, neither the U.S. nor the Soviet Union could launch a disarming first strike against the other because each side had so many weapons deliverable by different modes, that an attempted counterforce strike could not prevent a retaliatory reply. This is no longer the case. The reduction of nuclear arsenals on both sides means there are now fewer targets to hit, especially on the Russian side. ¶ In 2006, Lieber and Press modeled a hypothetical U.S. first strike against Russia. "The same models that were used during the Cold War to demonstrate the inescapability of stalemate—the condition of 'mutual assured destruction,' or MAD—now suggested that even the large Russian arsenal could be destroyed in a disarming strike." Their point was to demonstrate that the Cold War axioms of mutual and assured destruction and deterrence no longer apply.¶ But the authors go further to argue that the U.S. is knowingly pursuing a strategy of strategic primacy against potential adversaries, "meaning that Washington seeks the ability to defeat enemy nuclear forces (as well as other WMD) but that U.S. nuclear weapons are but one dimension of that effort. In fact, the effort to neutralize adversary strategic forces—that is, achieve strategic primacy—spans nearly every realm of warfare: for example, ballistic missile defense, antisubmarine warfare, intelligence, surveillance-and-reconnaissance systems, offensive cyber warfare, conventional precision strike, and long-range precision strike, in addition to nuclear strike capabilities." ¶ Rather than pointing out the obvious—that the U.S. is building a first-strike capability against any potential adversary, including Russia and China—they ask, instead: "How is deterrence likely to work when nuclear use does not automatically imply suicide and mass slaughter?

#### Obama has strengthened the exact capabilities necessary to maintain nuclear primacy --- solves capability AND credibility of first strike

Lieber and Press 11, Keir A. Lieber, Assistant Professor of Political Science at the University of Notre Dame, and Daryl G. Press, Associate Professor of Political Science at Dartmouth College, “Obama’s Nuclear Upgrade: The Case for Modernizing America’s Nukes,” Foreign Affairs, July 6, http://www.posse.gatech.edu/outside-publications/obamas-nuclear-upgrade-case-modernizing-americas-nukes

But even as the administration cuts the force and talks about a world free of nuclear weapons, it has proposed a major multi-year campaign to replace aging weapons and modernize the U.S. arsenal. The plan calls for a new class of nuclear submarines, new nuclear-capable bomber and fighter aircraft, and updated nuclear bombs, warheads, and missiles. The price tag for this nuclear overhaul is estimated at $185 billion over the coming decade, but the actual cost will no doubt be higher.¶ ¶ Is there a sensible strategy behind these proposals? Does nuclear modernization contribute to deterrence, which the 2010 Nuclear Posture Review called "the fundamental role" of the U.S. nuclear arsenal?¶ ¶ In "The Nukes We Need" (November/December 2009), we described the deterrence challenges that the United States will likely face in the coming years and the nuclear capabilities that might mitigate them. First, we argued that the United States is likely to face tougher deterrence problems in the coming years than it did during the Cold War. Specifically, as nuclear weapons proliferate, it becomes increasingly likely that the United States will find itself in conventional conflicts with nuclear-armed adversaries. Those adversaries have witnessed the catastrophic consequences of losing a war to the United States -- regime change, with prison or death the frequent fate of enemy leaders. Coercive nuclear escalation is one of the only trump cards that countries fighting the United States hold, offering the prospect of a battlefield stalemate and keeping existing regimes in power. For the United States, deterring weak, desperate adversaries from using their nuclear trump card will be a major challenge -- especially as these weapons spread.¶ ¶ Second, we argued that retaining the right mix of capabilities in the U.S. nuclear arsenal is vital for deterring -- or responding to -- an adversary engaging in coercive nuclear escalation. The foundation of a credible deterrent is maintaining the capability and the will to carry out one's threats. But most of the nuclear weapons in the current U.S. arsenal, including all the land- and submarine-based ballistic missiles, have such enormous explosive yields that using them would spread radioactive fallout across vast regions and almost certainly kill large numbers of noncombatants. Threatening to use such indiscriminate weapons would simply not be credible, at least in any scenario short of a nuclear attack on the U.S. homeland. To retain a credible deterrent, the United States must possess nuclear weapons that a president might actually use if U.S. allies, military forces, or territory suffered a nuclear attack. We therefore argued that Washington, as it reduces the size of its nuclear arsenal, must retain and modernize its lowest-yield and most accurate weapons.¶ ¶ So what has happened in the past 18 months? After substantial internal deliberation and input from Congress, the Obama administration has settled on a pragmatic approach to the U.S. nuclear arsenal. That approach balances the administration's two principal goals: reducing the size of the U.S. nuclear arsenal and retaining a robust deterrent for the foreseeable future. Toward the first goal, the administration successfully negotiated and secured the ratification of New START, which caps U.S. and Russian deployed strategic forces at roughly 1,550 warheads -- about 20 percent lower than the previous cap. (All told, the number of deployed U.S. strategic weapons has now been reduced by 85 percent since the end of the Cold War.) The administration is seeking a new round of cuts to further reduce the arsenal.¶ ¶ At the same time, the White House has proposed a major nuclear modernization effort to revitalize the remaining force. Those proposals include funding nuclear infrastructure (that is, the complex of national laboratories, production facilities, and personnel), extending the life of aging warheads, and replacing old delivery systems. Fortunately, the administration's modernization plans seek to preserve the exact capabilities we advocated in "The Nukes We Need."¶ ¶ For example, the administration wants to retain and modernize the lowest-yield nuclear options in the force --the bombs and cruise missiles delivered by aircraft. The White House is seeking funding for a nuclear-capable version of the F-35 Joint Strike Fighter and a nuclear-capable long-range bomber to replace the B-52 and B-2 bombers. Most noteworthy, the administration supports a modernization plan that would convert all remaining B-61 nuclear bombs into a single, low-yield version with increased accuracy. The plan also calls for a new air-launched cruise missile that will probably combine lower weapon yield with higher accuracy.

#### US has nuclear primacy over China – improved counterforce and capabilities gap

Keir A. **Lieber**, Assistant Professor of Political Science at the University of Notre Dame, and Daryl G. Press is Associate Professor of Government at Dartmouth, **2007,** Superiority Complex, http://www.theatlantic.com/doc/print/200707/china-nukes

In the 1990s, with the Cold War receding, nuclear weapons appeared to be relics. Russian and Chinese leaders apparently thought so. Russia allowed its arsenal to decline precipitously, and China showed little interest in modernizing its nuclear weapons. The small strategic force that China built and deployed in the 1970s and early 1980s is essentially the same one it has today.

But meanwhile, the United States steadily improved its “counterforce” capabilities—those nuclear weapons most effective at targeting an enemy’s nuclear arsenal. Even as it reduced the number of weapons in its nuclear arsenal, the U.S. made its remaining weapons more lethal and accurate. The result today is a global nuclear imbalance unseen in 50 years. And nowhere is U.S. nuclear primacy clearer—or potentially more important—than in the Sino-U.S. relationship.

China has approximately 80 operationally deployed nuclear warheads, but only a few of them—those assigned to single-warhead DF-5 intercontinental ballistic missiles (ICBMs)—can reach the continental United States. (There is no definitive, unclassified count of China’s DF-5 ICBMs, but official U.S. statements have put the number at 18.) China has neither modern nuclear ballistic-missile submarines nor long-range nuclear bombers. Moreover, China’s ICBMs can’t be quickly launched; the warheads are stored separately, and the missiles are kept unfueled. (Unlike the solid fuel used in U.S. missiles, the liquid fuel used to propel Chinese ICBMs is highly corrosive.) Finally, China lacks an advanced early-warning system that would give Beijing reliable notice of an incoming attack.

This small arsenal fulfilled China’s strategic requirements in the 20th century, but it is now obsolete. The current Chinese force was designed for a different era: when China was a poor nation with a limited role on the world stage, and when U.S. and Soviet missiles were too inaccurate to carry out a disarming strike—even against Beijing’s small force. But China’s international presence is expanding, and America’s counterforce capabilities have soared. Moreover, one of the biggest constraints that would deter American leaders from contemplating a disarming strike is fading away. In the past, a U.S. preemptive attack would have generated horrific civilian casualties, but that may soon cease to be the case.

How the United States achieved nuclear dominance after the Soviet Union collapsed is an open secret. The Navy refitted its entire fleet of nuclear-armed submarines with new, highly accurate Trident II missiles and replaced many of the 100-kiloton W76 warheads on these missiles with 455-kiloton W88 warheads. (One kiloton is the explosive energy released by 1,000 tons of TNT.) The result is an unprecedented combination of accuracy and destructive power, essential for an attack on hardened silos. The Navy also recently tested a GPS guidance system that would dramatically boost the accuracy, and thus lethality, of the submarine missile arsenal.

For its part, the Air Force has improved the guidance systems of land-based Minuteman III missiles. Many of these missiles are also being “retipped” with more-powerful warheads—and more-accurate reentry vehicles—taken from recently retired MX (“Peacekeeper”) missiles. The Air Force has also upgraded the avionics on B-2 bombers. These nuclear-mission-capable bombers are already “stealthy,” but the upgrades improve the planes’ ability to penetrate enemy airspace secretly, by flying very low and using the terrain to shield them from radar.

### China---AT: Conventional Solves

#### U.S. conventional doctrine is inherently escalatory---adversaries will have more at stake---only nuclear counterforce prevents China from escalating a war over Taiwan to full-scale nuclear war

Lieber & Press, November-December 9 - Keir A. Lieber, Assistant Professor of Political Science at the University of Notre Dame, and Daryl G. Press, Associate Professor of Political Science at the University of Pennsylvania, November-December 2009, “The Nukes We Need: Preserving the American Deterrent,” Foreign Affairs, p. 50-51

A second criticism of the argument for retaining and improving certain counterforce capabilities is that the cure could be worse than the disease. Counterforce capabilities may mitigate escalation during a conflict—for example, by dissuading adversaries from nuclear saber rattling, by reassuring allies that the United States can defend them, and, if necessary, by giving the United States the ability to pursue regime change if adversaries brandish or use nuclear weapons. But they may also exacerbate the problem of controlling escalation if an adversary feels so threatened that it adopts a hair-trigger nuclear doctrine. Specifically, the United States’ ability to launch a disarming strike without killing millions of civilians might increase the escalatory pressures that already exist because of the nature of the U.S. military’s standard wartime strategy. Conventional air strikes on radar systems, communication links, and leadership bunkers may look even more like the precursors of a preemptive disarming strike if adversaries know that the United States possesses a well-honed nuclear counterforce capability.

This second criticism has merit. Nevertheless, the benefits of maintaining effective counterforce capabilities trump the costs. Strong counterforce capabilities should make adversaries expect that escalating a conventional war will lead to a disarming attack, not a cease-fire. Beyond deterrence, these capabilities will provide a more humane means of protecting allies who are threatened by nuclear attack and give U.S. leaders the ability to pursue regime change if an adversary acts in a truly egregious fashion. Moreover, some danger of escalation is unavoidable because the style of U.S. conventional operations will inevitably blind, rattle, and confuse U.S. adversaries. If the United States has powerful counterforce tools, these may dissuade its enemies from escalating in desperate times, and U.S. leaders would have a much more acceptable option if deterrence fails.

The nuclear forces the United States builds today must be able to act as a reliable deterrent, even in much darker times. Many of those who recommend a much smaller U.S. nuclear arsenal—and assign little importance to a nuclear counterforce option—fail to consider the great difficulties of maintaining deterrence during conventional wars. The U.S. nuclear arsenal should retain sufficient counterforce capabilities to make adversaries think very carefully before threatening to use, putting on alert, or actually using a nuclear weapon. Any nuclear arsenal should also give U.S. leaders options they can stomach employing in these high-risk crises. Without credible and effective options for responding to attacks on allies or U.S. forces, the United States will have difficulty deterring such attacks. Unless the United States maintains potent counterforce capabilities, U.S. adversaries may conclude—perhaps correctly—that the United States’ strategic position abroad rests largely on a bluff.

### China---AT: Won’t Go Nuclear

#### Conventional inferiority combined with high stakes in Taiwan make backsliding extremely likely

Zhang 8 - Baohui Zhang, Associate Professor of Political Science, Lingnan University, Hong Kong, March 2008, “The Taiwan Strait and the Future of China's No-First-Use Nuclear Policy,” Comparative Strategy, Vol. 27, No. 2, p. 164-182

This article examines whether China may modify its no-first-use policy in the future. It first discusses the origins of the no-first-use doctrine and its perceived weakness in defending China's core national interests. The greatest problem, according to its critics, is that the doctrine cannot deter a conventional war against China by the United States. Specifically, China vast conventional disadvantage against the United States will severely limit its ability to deter American military intervention in the Taiwan Strait.

The article will next explore whether it is likely China would modify the no-first-use policy because of military considerations. The central importance of Taiwan in Chinese strategic planning, China's vast conventional weakness compared to the United States, and its recent breakthroughs in nuclear capability all generate strong incentives for China to move toward a more robust deterrence strategy. However, the article suggests that, for a variety of political and strategic reasons, China is unlikely to renounce the no-first-use policy. Nonetheless, the possibility of China threatening first use of nuclear weapons should not be ruled out when a real crisis in the Taiwan Strait makes U.S military intervention seemingly unavoidable. The reason is that China must do everything to prevent a defeat by the United States and subsequent independence of Taiwan. Both of these outcomes jeopardize the most essential national interests of China. Thus, when a war in the Taiwan Strait looks imminent, China will be under tremendous pressure to rely on nuclear deterrence to prevent these worst case scenarios, which in fact could trigger a collapse of the regime.

# DA

### I/L---Speed Key

#### Speed of response is key to resolve crises

David Gartner 12, Associate Professor of Law @ Arizona State University, J.D. Yale Law, “Foreign Relations, Strategic Doctrine, and Presidential Power,” 2-26, Alabama Law Review, 63:3, SSRN

\*We do not endorse gendered language

A policeman would not be a very effective policeman if, when he saw a felon break into a house, he had to go to the Town Hall and call a town meeting to issue a warrant before the felon could be arrested. . . . [O]ur American representative must be endowed in advance by the people themselves, by constitutional means through their representatives in the Congress, with authority to act.205¶ Defenders of the United Nations pointed to the precedent of using smaller deployments of forces earlier in the twentieth century “to protect American citizens abroad, to prevent an invasion of the territory, or to suppress insurrection.”206¶ In the Korean War, President Truman also borrowed from Theodore Roosevelt’s legacy in characterizing his deployment of troops as a “police action.” Responding to a reporter’s question at a press conference in which Truman characterized the UN action as one “to suppress a bandit raid,” he agreed with the characterization of it as a “police action.”207 President Truman justified sending troops to Korea on his own authority as part of a “police action” to protect international peace and security.208 Many leading accounts highlight the Korean War as a key turning point in the balance of power over warmaking between the President and Congress.209 John Hart Ely highlights President Truman’s framing of the Korean War as a police action in his conclusion that that conflict marked the shift toward a “tacit deal” in which presidents take responsibility for hostilities.210 ¶ In tracing the roots of unprecedented assertions of presidential power over war, Senator Fulbright wrote from the vantage point of the Vietnam War:¶ The use of the Armed Forces against soverign [sic] nations without authorization by Congress began to occur early in this century. . . . Presidents Theodore Roosevelt, Taft, and Wilson used these powers to engage in military action against sovereign states, thereby greatly expanding the scope of executive power and setting precedents for the even greater expansions of executive power which followed.211¶ As with Roosevelt, Truman developed an expansive vision of executive power under which the Constitution implicitly empowered the President to do what he saw as necessary to defend the national interest.212 He also interpreted his constitutional role through the prism of the strategic doctrine of containment, which viewed the Cold War as a global struggle to prevent Soviet expansion at every turn.213 In explaining his actions without congressional authorization, Truman stated simply, “‘I just had to act as Commander-in-Chief, and I did.’”214 In response to the Supreme Court’s decision in Youngstown Sheet & Tube Co. v. Sawyer,215 rejecting Truman’s seizure of the steel mills during the Korean War, he defended his actions with reference to the strategic necessity and inherent authority of the President:¶ We live in an age when hostilities begin without polite exchanges of diplomatic notes. There are no longer sharp distinctions between combatants and noncombatants, between military targets and the sanctuary of civilian areas. . . . [The] President, who is Commander in Chief and who represents the interests of all the people, must be able to act at all times to meet any sudden threat to the nation’s security.216

### I/L---Secrecy Key

#### Secrecy is vital to effective military policy

William Galston 8/22/13, senior fellow @ the Brookings Institute’s Governance Studies Program, “Politics & Ideas: How Much Transparency Do We Really Want?” WSJ, Factiva

The problem here is obvious: Policy makers often face a choice between private diplomacy and no diplomacy. Secretary of State John Kerry clearly thought that the precise content of his shuttle diplomacy between Israel and the Palestinian Authority had to be kept from public view if there was to be any chance of restarting peace talks. A measure of secrecy is a necessary (if not sufficient) condition of success.¶ This maxim applies broadly. No one thinks that nations at war have a responsibility to make their military strategy public. If the Allies had not succeeded in confusing the Germans, the Normandy landing might have failed.¶ The same consideration of secrecy applies to the acquisition of intelligence. Government officials believe that revealing the details, or even the existence, of secret surveillance programs would help our adversaries elude their reach. They also believe that briefing more than a handful of elected representatives would lead inevitably to public disclosure. Those who do receive briefings are sworn not to reveal their substance, even in congressional debate.¶ Effectiveness and accountability collide -- a tension that can be managed more or less well but never entirely abolished.¶ In the wake of Vietnam and Watergate, Congress and the executive branch pieced together a new strategy for managing this tension. Institutions such as congressional intelligence committees and the Foreign Intelligence Surveillance Court would ensure executive branch accountability while preserving necessary secrecy.¶ The current surveillance controversy challenges the entire post-Watergate regime. Many members of Congress have come to doubt that the intelligence committees permit sufficient accountability; an increasing share of the public now doubts that the system established by the 1978 Foreign Intelligence Surveillance Act adequately protects privacy.¶ But what is to replace it? If secrecy is diminished in the name of public accountability and individual liberty, are we willing to sacrifice a measure of security?¶

### Impact---Laundry List---Rogues Terminal

#### Emboldened rogue states threaten nuclear war --- crisis management is key to solve

Dibb 6 Emeritus Prof of IR @ Australian National University, Sydney Morning Herald (Australia), August 15, 2006 Tuesday, As one nuclear flashpoint reaches a lull, another simmers away, Pg. 11, Lexis

NOW that the building blocks for achieving a cessation in hostilities in the crisis involving Israel and Hezbollah in Lebanon are in place, the focus can shift back to the main game - Iran and North Korea. Both flashpoints have the potential to escalate out of control if they are not managed carefully. Yet neither region is noted for the success of its diplomacy. Both the Middle East and North-East Asia are heavily armed parts of the world characterised by deep-seated hatreds and long-standing territorial disputes. Historically, such situations have been a recipe for disaster. Not so long ago we were being told that we were living in a peaceful, interdependent world. Yet the fact is that the constraints and understandings of the bipolar Cold War world have been replaced by a more uncertain world, where there is much more jockeying for position and influence. In the Middle East, the destruction of Saddam Hussein's regime and its replacement, at least for now, by a weakened Iraq has allowed Iran to become the dominant regional power. The regime in Tehran is hell-bent on exporting terrorism and acquiring nuclear weapons. For Israel, the ceasefire may stall the military action, but the longer-term real strategic threat it faces - the spectre of a nuclear-armed Iran equipped with ballistic missiles of sufficient range and accuracy to target Israel without taking out Palestinian or neighbouring Arab territories - will not go away. Israel will not tolerate this and the US needs to make it clear to Tehran that any such attack on Israel will bring about Iran's destruction. That was a good enough understanding with the USSR at the height of the Cold War. But this discipline no longer applies because now there is only one superpower, which cannot control both Israel and Arab-Iranian protagonists. In North Korea a similar situation applies. Having seen the destruction of Saddam's regime, North Korea's Kim Jong-il is intent on acquiring nuclear weapons to preserve his regime. But the end of the Cold War has eroded the influence of North Korea's allies over its military ambitions and sense of security. China has been embarrassed by its inability to restrain North Korea from testing nuclear-capable ballistic missiles and Russia no longer wields any influence over the rogue state. In many ways, the situation in North-East Asia is potentially even more dire than in the Middle East. North Korea's recalcitrance in dismantling its nuclear weapons program comes at a time of unprecedented tensions between China and Japan and South Korea and Japan where one false move could spell disaster. North Korea is playing a dangerous game of bellicose brinkmanship; it continues to keep more than a million troops on high-alert status, including heavy artillery concentrations only 50 kilometres from Seoul, a city of more than 10 million people. North Korea's acquisition of nuclear weapons threatens to seriously destabilise North-East Asia and result in a nuclear arms race developing there. As it is, the North's belligerence is encouraging Japan to build up its military capabilities. This at a time when China's poor relations with Japan are worrying. The Chinese communist leadership drums up anti-Japanese nationalism whenever it suits, while China's military build-up greatly concerns Japan. The pace of Beijing's defence spending is puzzling, particularly as China faces no military threat for the first time in many decades. Similarly, Japan's relations with South Korea are at a low point, partly over Japan's view of the history of World War II but also because of territorial disputes, which Seoul has elevated to the level of national pride, threatening the use of military force. This is occurring when, from Tokyo's perspective, South Korea is drifting from the orbit of the US alliance and getting uncomfortably close to China, as well as appeasing North Korea. All this is an unhealthy mix of great power tensions and deep-seated historical distrust and growing military capabilities. The bigger worry is that Pyongyang's adventurism will incinerate any efforts to stabilise a region full of dangerous rivalries, as will the inevitable collision between Iran and Israel in the Middle East.

### Link---Congress---Secrecy

#### Telling Congress is like putting an ad in the newspaper --- leaks are inevitable

Andrew Rudalevige 6, the Thomas Brackett Reed Professor of Government @ Bowdoin College, “The New Imperial Presidency,” UMich-Ann Arbor Press, Book, p. 264-67

¶ Thus even an alert and aggressive Congress has endemic weaknesses.8 Its large size and relative lack of hierarchy hamper quick decision making. The specialized jurisdictions inherent in the committee system, so necessary for dividing labor, also divide issues and make their comprehensive consideration across functional lines nearly impossible. (Nor do House members’ two-year terms give much incentive for long-term planning.) For similar reasons Congress has difficulty in planning and agenda setting. The ready acceptance of the idea of a presidential legislative program after World War II was partly a question of legislative convenience, a way to weed through innumerable proposals and provide a focus for limited floor time. Finally, with so many members, each seeking press attention, Congress also finds it hard to keep a secret. As President George H. W. Bush’s counsel, Boyden Gray, put it, “any time you notify Congress, it’s like putting an ad in the Washington Post. Notification is tantamount to declaration.”9¶

### Link---Congress---Expertise

#### Congress lacks the intelligence to correctly evaluate threats --- proves complete deference to the executive is preferable

David Mervin 2k, reader in politics at the University of Warwick, “The Law: Controversy: Demise of the War Clause,” Presidential Studies Quarterly, http://drworley.org/NSPcommon/War%20Powers/Journal%20Articles/PSQ%202000,12%20Mervin%20demise%20war%20clause.pdf

At the time of the Constitutional Convention, sailing ships moved at an average of five miles per hour, and the Atlantic and Pacific oceans provided the United States with for - midable defensive barriers. Those barriers remained significant even in the age of steam, but by the mid twentieth century and the invention of high-speed, long-range military aircraft, the United States became vulnerable to attack in a way that it had never been before, and that, of course, was only the beginning. Furthermore, in line with its superpower status, the United States of today has the biggest navy and the second biggest army in the world. And even in the post–cold war era, it has military personnel stationed in significant numbers in more than thirty countries, reflecting its worldwide spread of interest and its participation in a plethora of treaties and agreements with other nations.¶ Given these fundamentally different circumstances, it surely cannot be the case that “contemporary questions about the allocation of power between the president and Congress in foreign affairs are largely the same as those addressed two centuries ago” (Adler and George 1996, 20). In that earlier time, the idea of allowing Congress to be the arbiter in mat - ters of national security made sense, whereas it does not today. The comforting sense of isola - tion that figured so prominently in the thoughts of the founding generation is now no more than a distant memory.¶ The Information Advantage¶ Revolutionary advances in the acquisition and transmission of information have further undermined the case for a preeminent role for Congress in decisions to initiate hostilities. Two hundred years ago, the sources of military intelligence available to decision makers were extraordinarily crude by modern standards, and information traveled no faster than a horse or a sailing ship. Now, the president of the United States sits at the hub of an ultrasophisticated intelligence-gathering system, and information flashes around the world in an instant. This, in theory at least, allows the president to monitor threats to U.S. interests emerging on the other side of the world of which members of Congress may be totally unaware.¶ Some indications of the information resources available to contemporary presidents were evident from the press coverage of one of the incidents included in Adler’s (2000) cata - log of unconstitutional military initiatives by the Clinton administration: the missile strikes against targets in Afghanistan and Sudan in August 1998. The administration apparently had available to it “a multibillion-dollar array of satellites and worldwide electronic eavesdrop - ping facilities capable of photographing virtually any spot on Earth several times a day and intercepting nearly any form of electronic communication.” According to one intelligence expert, the advanced KH-11 satellites now in use provide remarkable “high resolution images that easily identify buildings and vehicles.” They are also equipped with infrared capability, which allows them to produce images at night; other satellites can penetrate cloud cover. In addition, the National Security Agency is “capable of intercepting radio, sat - ellite telephone, [and] even walkie-talkie communications” (Loeb and Grunwald 1998, A19)¶ The implications arising from the extraordinary degree of scrutiny available to deci - sion makers in the executive branch are far-reaching even though, it cannot be emphasized enough, intelligence sources are far from infallible. Indeed, considerable doubt has been cast on the reliability of the intelligence provided to Clinton prior to the missile strikes in ques - tion. The case for demolishing a factory at Al Shifa in Sudan rested on claims that it was pro - ducing chemical weapons for Osama bin Laden, whereas a variety of sources, including some within the administration, subsequently questioned the validity of the evidence. The suggested link with bin Laden was disputed; the factory was shown to be engaged in the pro - duction of pharmaceuticals, and its alleged involvement in the manufacture of chemical weapons was severely questioned (Weiner and Risen 1998).¶ Enormously sophisticated technology and other sources of intelligence available to the executive branch are obviously no guarantee against mistakes. And, even if the intelli - gence is sound, decision makers may well act unwisely. The presumption must be, however, that generally speaking the executive is infinitely better informed on such matters than are legislators. Members of Congress are supported by resources and expertise that are the envy of their counterparts elsewhere in the world, but they cannot hope to acquire the high-level information available to the White House.¶ No doubt in the past the information advantage accruing to the executive branch was far less, but in the modern context it cannot be brushed aside as being of no consequence (Adler and George 1996, 24). When a president, drawing on his vastly superior sources, pronounces that a threat to United States’ vital interests is developing somewhere on the other side of the world, it is difficult for him to be plausibly resisted. In the short run at least, responsible members of Congress are likely to feel obliged to defer to the president, take sec - ond place, and allow the president to meet his responsibilities as foreign policy leader and as guardian of the nation’s security.

### Link---Congress---Indecisiveness

#### Congress is too indecisive --- guarantees failure

Robert Turner 84, Principle Deputy Assistant Secretary of State for Legislative and Intergovernmental Affairs, 6/1, “The War Powers Resolution: Unconstitutional, Unnecessary, and Unhelpful,” Digital Commons @ LMU, Loyola of LA Law Review, http://digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=1433&context=llr

Even were there no constitutional difficulties with the War Powers Resolution, a review of its implementation during the past nine years demonstrates that it has been as ineffective in practice as it is unwise in theory. Congress lacks the expertise to deal hurriedly with complex foreign policy emergencies, and most members are too busy with other duties to remain up-to-date on even a prolonged crisis. During times of crisis, decisiveness is often essential. Failure will almost be guaranteed if there are 536 potential secretaries of state trying to make decisions by consensus. Congress is not structured to make rapid decisions, and the more controversial and important the decision, the more likely it is that at least some members will want to prolong the debate to avoid having to take a position that might later prove to have been politically unwise.

### AT: Yoo Indict

#### Respect Yoo’s arguments despite his conservatism

Jack Rakove 10, Professor of Political Science @ Stanford, “Why the president should hold all the cards,” Jan 10, Washington Post, http://articles.washingtonpost.com/2010-01-10/opinions/36908499\_1\_president-obama-john-yoo-george-w-bush

John Yoo was a significant participant in the Bush administration's war on terrorism. As a deputy assistant attorney general in the Justice Department's Office of Legal Counsel, he wrote many of the legal briefs on which the Bush administration relied, including, famously, a number of memos relating to the treatment of detainees at Guantanamo Bay.¶ Since returning to his academic position at the University of California at Berkeley law school, he has published three books. One dealt with the Constitution's allocation of authority over war and foreign relations among the branches of government, with a strong emphasis on the founding fathers' vision. The second was a memoir of his involvement in the war on terror. Now comes "Crisis and Command," which is a vigorously argued and, in some ways, deeply unsettling account of the necessary superiority of the presidency in our constitutional scheme. (Yoo, I must add, is a professional acquaintance of mine across the San Francisco Bay; we have appeared on panels together, and though I disagree in key respects with his positions, his arguments merit attention and respect.)¶ Yoo's account has a deceptively simple theme: At critical moments, the decisive exercise of power by the president has been the driving force in American history, and neither Congress nor the Supreme Court has ever rivaled the presidency in its capacity to direct how the nation responds to unexpected challenges to its essential interests. Efforts to devise new ways to cabin our presidents -- the best as well as the mediocre and mendacious, such as Andrew Johnson and Richard Nixon -- risk restraining exactly the kind of initiative we want the executive to mount.¶ In the contemporary battles of constitutional theory, Yoo is decidedly a "departmentalist." Like Andrew Jackson, whom he much admires, Yoo is a firm believer that it is better to let each of the departments of the government stake its claim and fight out whatever conflicts ensue. He is no friend of the modern proposition that the Supreme Court, whose members are the beneficiaries of intensely political appointment, is uniquely qualified to resolve all serious constitutional questions.¶ Given Yoo's strong conservatism, it would be easy for liberals to dismiss "Crisis and Command" as one more venture in a hackneyed debate. That would be a big mistake. True to form, Yoo does use his two brief final chapters to defend the George W. Bush legacy and drive progressives nuts with the idea that President Obama has some strangely reactionary ideas struggling to control his brain. But the heart of the book is the highly favorable treatment that Yoo extends to five great presidents -- all of whom should rank high on any liberal's list of admirable leaders: Washington, Jefferson, Jackson, Lincoln and Franklin Roosevelt -- followed by a broad survey of the Cold War presidents from Truman through Reagan.¶ This is a deeply serious history of the presidency, sometimes selective in its emphasis, but always provocative and thoughtful. The recurring theme is how well the republic was served by the initiatives these leaders took.

# 1NR

## Warfighting DA

### Link---Congress---International Credibility

#### Congressional restrictions cause adversaries to doubt the credibility of our threats --- causes crisis escalation

Matthew Waxman 8/25/13, Professor of Law @ Columbia and Adjunct Senior Fellow for Law and Foreign Policy @ CFR, “The Constitutional Power to Threaten War,” Forthcoming in Yale Law Journal, vol. 123, August 25, 2013, SSRN

A claim previously advanced from a presidentialist perspective is that stronger legislative checks on war powers is harmful to coercive and deterrent strategies, because it establishes easily-visible impediments to the President’s authority to follow through on threats. This was a common policy argument during the War Powers Resolution debates in the early 1970s. Eugene Rostow, an advocate inside and outside the government for executive primacy, remarked during consideration of legislative drafts that any serious restrictions on presidential use of force would mean in practice that “no President could make a credible threat to use force as an instrument of deterrent diplomacy, even to head off explosive confrontations.”178 He continued:¶ In the tense and cautious diplomacy of our present relations with the Soviet Union, as they have developed over the last twenty-five years, the authority of the President to set clear and silent limits in advance is perhaps the most important of all the powers in our constitutional armory to prevent confrontations that could carry nuclear implications. … [I]t is the diplomatic power the President needs most under the circumstance of modern life—the power to make a credible threat to use force in order to prevent a confrontation which might escalate.179

#### Empirically proven

David Mervin 2k, reader in politics at the University of Warwick, “The Law: Controversy: Demise of the War Clause,” Presidential Studies Quarterly, http://drworley.org/NSPcommon/War%20Powers/Journal%20Articles/PSQ%202000,12%20Mervin%20demise%20war%20clause.pdf

The Yugoslavia case, however, also provides powerful support for those who question whether it is appropriate for Congress to be the ultimate authority in national security policy making. In a series of votes, during the course of three weeks, the national legislature sent an extraordinary mixture of messages casting grave doubt on where the United States stood with regard to one of the greatest crises of modern times. Thus, the House rejected by a vote of 427 to 2 a measure to formally declare war on Yugoslavia. On the other hand, a proposal to bring all U.S. forces home was defeated 290 to 139. A House resolution to give retrospective approval to air strikes already under way failed to pass, the result of the vote being a 213 to 213 tie (CNN 1999). The Senate by contrast voted to approve the air strikes but shortly afterward declined to pass a resolution authorizing Clinton to use “all necessary force” in the conflict. Subsequently, the House did what one reporter described as “a full back flip” by voting to approve special appropriations for the military twice as large as Clinton had requested (Gugliotta 1999).¶ The behavior of legislators in the face of this crisis was understandably the subject of scornful comment from the White House. Joe Lockhart, Clinton’s press secretary, said at a press briefing,¶ The House yesterday voted not to move forward, not to pull back, tied on what we’re doing. The only thing they seem able to agree on is to try to double the money we spend on a policy they’re not sure what they think about. If we were worried about sending mixed signals, I don’t imagine we should be because I don’t think anyone can comprehend the signal they sent. (CNN 1999)¶ The Kosovo case did little for the credibility of Congress as a foreign policy maker. Confronted by a major crisis, the legislature proved incapable of agreeing on a consistent, constructive, coherent policy. There was nothing unusual about this; coherence has never been one of Congress’ strong suits and is never likely to be given the weakness of parties and the centrifugal structure of power in Congress. There is also no guarantee of coherence in the executive branch, but the chances of achieving coherence there are infinitely greater.

#### Congressional intervention destroys international perception of U.S. resolve

David Auerswald 97, Asst. Prof of PoliSci @ George Washington, and Peter Cowhey, Prof of IR @ UC-San Diego, “Ballotbox Diplomacy: The War Powers Resolution and the Use of Force,” International Studies Quarterly 41, 505-528

The strategic problem for the United States (or any democracy) during military conflicts is maintaining the ability to respond internationally while not abrogating the domestic political process. The legislature in a division-of-powers system like the United States faces an especially acute dilemma. Congressional micro-management of military conflicts may erode crisis flexibility or create seemingly inexplicable policy changes, either of which may lead international opponents to discount American resolve. Micro-management also subjects Congress to unpredictable and significant electoral risks. Conversely, legislative abdication over the use of force allows the executive to dominate the escalation agenda, a problematic outcome should Congress not share the policy preferences of the president. The War Powers Resolution (PL 93-148, hereafter called the Act) was a congressional innovation to solve this dilemma. Passed over President Nixon’s veto, the Act was a reaction to administration excesses during the Vietnam War. Its impact, however, is still being felt today.

## Intervention Advantage

### Groupthink

#### More ev---Informal checks on groupthink are sufficient

Kennedy, 12 [ Copyright (c) 2012 Gould School of Law Southern California Interdisciplinary Law Journal Spring, 2012 Southern California Interdisciplinary Law Journal 21 S. Cal. Interdis. L.J. 633 LENGTH: 23138 words NOTE: THE HIJACKING OF FOREIGN POLICY DECISION MAKING: GROUPTHINK AND PRESIDENTIAL POWER IN THE POST-9/11 WORLD NAME: Brandon Kennedy\* BIO: \* Class of 2012, University of Southern California Gould School of Law; M.A. Regional Studies: Middle East 2009, Harvard Graduate School of Arts and Sciences; B.A. Government 2009, Harvard University.]

Neither the president nor the decision-making group members implement "hybrid" checks; the checks do, however, originate in the executive branch and directly affect the president and the group members. Hybrid checks relate to the bureaucratic machine and typically address the structural faults within the executive branch that can affect the core decision-making group. Although the president and his or her advisers constitute the insiders of the decision-making group, they ultimately belong [\*676] to a larger organization - the executive branch - and thereby become part of the bureaucratic machine. 1. Inter-Agency Process The "inter-agency process" check involves getting approval for, or opinions about, a proposed decision from other agencies. n252 The inter-agency process is particularly common for national security and foreign policy decisions. n253 "Occasionally, it will operate at a higher level in principals' committees involving Cabinet-level or sub-Cabinet people and their deputies," thus directly checking the decision-making group members. n254 2. Intra-Agency Process Another similar check is the "intra-agency process," in which the circulation of proposed decisions within the agency empowers dissidents and harnesses a diversity of thinking. n255 If nothing else, the process catches errors, or at least increases the odds of avoiding them, given the number of people who must review or approve a document or decision within the agency. n256 3. Agency or Lawyer Culture The culture of a particular agency - the institutional self-awareness of its professionalism - provides another check. n257 "Lawyer culture" - which places high value on competency and adherence to rules and laws - resides at the core of agency culture; n258 its "nay-saying" objectivity "is especially important in the small inner circle of presidential decision making to counter the tendency towards groupthink and a vulnerability to sycophancy." n259 [\*677] 4. Public Humiliation A final check in this category is the "public humiliation" check. n260 This check only comes into play when the previous three have failed, and involves the threat to ""go public' by leaking embarrassing information or publicly resigning."

#### more ev---Congress links harder

Posner and Vermeule, 7 – \*Kirkland and Ellis Professor of Law at the University of Chicago Law School AND \*\*professor at Harvard Law School (Eric and Adrian, Terror in the Balance: Security, Liberty, and the Courts p. 46-47)

The idea that Congress will, on net, weed out bad policies rests on an institutional comparison. The president is elected by a national constituency on a winner-take-all basis (barring the remote chance that the Electoral College will matter), whereas Congress is a summation of local constituencies and thus affords more voice to political and racial minorities. At the level of political psychology, decisionmaking within the executive is prone to group polarization and other forms of groupthink or irrational panic,51 whereas the internal diversity of legislative deliberation checks these forces. At the level of political structure, Congress contains internal veto gates and chokepoints—consider the committee system and the fi libuster rule—that provide minorities an opportunity to block harmful policies, whereas executive decisionmaking is relatively centralized and unitary. The contrast is drawn too sharply, because in practice the executive is a they, not an it. Presidential oversight is incapable of fully unifying executive branch policies, which means that disagreement flourishes within the executive as well, dampening panic and groupthink and providing minorities with political redoubts.52 Where a national majority is internally divided, the structure of presidential politics creates chokepoints that can give racial or ideological minorities disproportionate influence, just as the legislative process does. Consider the influence of Arab Americans in Michigan, often a swing state in presidential elections. It is not obvious, then, that statutory authorization makes any difference at all. One possibility is that a large national majority dominates both Congress and the presidency and enacts panicky policies, oppresses minorities, or increases security in ways that have ratchet effects that are costly to reverse. If this is the case, a requirement of statutory authorization does not help. Another possibility is that there are internal institutional checks, within both the executive branch and Congress, on the adoption of panicky or oppressive policies and that democratic minorities have real infl uence in both arenas. If this is the case, then a requirement of authorization is not necessary and does no good. Authorization only makes a difference in the unlikely case where the executive is thoroughly panicky, or oppressively majoritarian, while Congress resists the stampede toward bad policies and safeguards the interests of oppressed minorities. Even if that condition obtains, however, the argument for authorization goes wrong by failing to consider both sides of the normative ledger. As for majoritarian oppression, the multiplicity of veto gates within Congress may allow minorities to block harmful discrimination, but it also allows minorities to block policies and laws which, although targeted, are nonetheless good. As for panic and irrationality, if Congress is more deliberative, one result will be to prevent groupthink and slow down stampedes toward bad policies, but another result will be to delay necessary emergency measures and slow down stampedes toward good policies. Proponents of the authorization requirement sometimes assume that quick action, even panicky action, always produces bad policies. But there is no necessary connection between these two things; expedited action is sometimes good, and panicky crowds can stampede either in the wrong direction or in the right direction. Slowing down the adoption of new policies through congressional oversight retards the adoption not only of bad policies, but also of good policies that need to be adopted quickly if they are to be effective.

#### Proof you should Reject their case studies --- they’re done with students and don’t apply to military policy

Ramon Aldag 93, professor in the Management and Human Resources dept. of U-Wisconsin School of Business, and Sally Fuller, School of Business, U-Washington, “Beyond Fiasco : A Reappraisal of the Groupthink Phenomenon and a New Model of Group Decision Processes,” Psychological Bulletin, Vol. 113, Issue 3, EBSCO

As suggested by the earlier review, most support for groupthink has come from retrospective case studies that have focused on decision fiascoes rather than comparing the decision-making processes associated with good versus bad decisions.¶ Experimental studies of groupthink have considered only a small portion of the model, often without a cohesive group and in situations inconsistent with Janis's (1971, 1972, 1982, 1989) antecedents. Furthermore, they have relied exclusively on student samples dealing with hypothetical or simulated decisions, with potential resultant problems for external validity. Military strategists, managers, politicians, or other “real-world” decision makers have never been used. In the laboratory, many real-world group characteristics, including ongoing power relationships and political maneuverings, have been necessarily ignored. Although student samples in laboratory settings may be valuable to address many issues relating to group problem solving, their use to examine groupthink is problematic.

#### The historical support for the theory is suspect

Scheeringa 10 (Daniel, Was the Decision to Invade Iraq and the Failure of Occupation Planning a Case of Groupthink? Thesis submitted to the faculty of the Virginia Polytechnic Institute and State University in partial fulfillment of the requirements for the degree of Master of Arts In Political Science. pg. lexis)

In *Groupthink and Government*, Paul t‟Hart undertakes a thorough examination of the theory. He examines the theory from social-psychological and political perspectives. He also applies groupthink theory to the Iran-contra scandal of the late 1980‟s. In “Groupthink, Bay of Pigs and Watergate Reconsidered” Bertram Raven used groupthink theory to examine the decisions leading to the Watergate scandal. He concluded that while groupthink was a factor, other factors, such as Nixon‟s influence and political considerations, also weighed on the group dynamic. Raven uses the Watergate example as evidence that groupthink does not necessarily lead to failure, which is the converse of the argument that failure is not necessarily caused by groupthink24. In “Revisiting the Bay of Pigs and Vietnam Decisions 25 Years Later: How Well Has Groupthink Theory Stood the Test of Time?” Kramer contends that new historical information regarding Presidents Kennedy‟s and Johnson‟s decision-making processes shows 16

that their decisions were less the result of group dynamics than Janis suggested, casting doubt on the fundamental tenets of groupthink theory25.

### AT: Interventions

#### Congress doesn’t solve “better wars” or adventurism

Jide Nzelibe 6, Asst. Profesor of Law @ Northwestern, and John Yoo, Emanuel S. Heller Professor of Law @ UC-Berkeley Law, “Rational War and Constitutional Design,” Yale Law Journal, Vol. 115, SSRN

But before accepting this attractive vision, we should ask whether the Congress first system produces these results. In other words, has requiring congressional ex ante approval for foreign wars produced less war, better decision making, or greater consensus? Students of American foreign policy generally acknowledge that comprehensive empirical studies of American wars are impractical, due to the small number of armed conflicts. Instead, they tend to focus on case studies. A cursory review of previous American wars does not suggest that congressional participation in war necessarily produces better decision making. We can certainly identify wars, such as the Mexican-American War or the Spanish-American War, in which a declaration of war did not result from extensive deliberation nor necessarily result in good policy.14 Both wars benefited the United States by expanding the nation’s territory and enhanced its presence on the world stage,15 but it seems that these are not the wars that supporters of Congress’s Declare War power would want the nation to enter – i.e., offensive wars of conquest. Nor is it clear that congressional participation has resulted in greater consensus and better decision making. Congress approved the Vietnam War, in the Tonkin Gulf resolution, and the Iraq war, both of which have produced sharp division in American domestic politics and proven to be mistakes.

The other side of the coin here usually goes little noticed, but is just as important for evaluating the substantive performance of the Congress-first system. To a significant extent, much of the war powers literature focuses on situations in which the United States might erroneously enter a war where the costs outweigh the expected benefits. Statisticians usually label such errors of commission as Type I errors. Scholars rarely, if ever, ask whether requiring congressional ex ante approval for foreign wars could increase Type II errors. Type II errors occur when the United States does not enter a conflict where the expected benefits to the nation outweigh the costs, and this could occur today when the President refuses to launch a preemptive strike against a nation harboring a hostile terrorist group, for example, out of concerns over congressional opposition. It may be the case that legislative participation in warmaking could prevent the United States from entering, or delaying entry, into wars that would benefit its foreign policy or national security. The clearest example is World War II. During the inter-war period, Congress enacted several statutes designed to prevent the United States from entering into the wars in Europe and Asia. In 1940 and 1941, President Franklin D. Roosevelt recognized that America’s security would be threatened by German control of Europe, and he and his advisers gradually attempted to bring the United States to the assistance of Great Britain and the Soviet Union.16 Nonetheless, congressional resistance prevented Roosevelt from doing anything more than supplying arms and loans to the Allies, although he arguably stretched his authority to cooperate closely with Great Britain in protecting convoys in the North Atlantic, among other things. It is likely that if American pressure on Japan to withdraw from China had not helped triggered the Pacific War, American entry into World War II might have been delayed by at least another year, if not longer.17 Knowing what we now know, most would agree that America’s earlier entry into World War II would have been much to the benefit of the United States and to the world. A more recent example might be American policy in the Balkans during the middle and late 1990s.

#### Congress doesn’t enhance cred --- narrow majorities make us look unsure --- empirics prove

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It is also not obvious that congressional deliberation ensures consensus. Legislative authorization might reflect ex ante consensus before military hostilities, but it also might merely represent a bare majority of Congress or an unwillingness to challenge the President’s institutional and political strengths regardless of the merits of the war. It is also no guarantee of an ex post consensus after combat begins. Thus, the Vietnam War, which Ely and others admit satisfied their constitutional requirements for congressional approval, did not meet with a consensus over the long term but instead provoked some of the most divisive politics in American history. It is also difficult to claim that the congressional authorizations to use force in Iraq, of either the 1991 or 2002 varieties, reflected a deep consensus over the merits of war there. Indeed, the 1991 authorization barely survived the Senate and the 2002 one received significant negative votes and has become an increasingly divisive issue in national political and the 2004 presidential election. Congress’s authorization for the use of force in Iraq in 2003 has not served as a guarantee of political consensus. ¶ Conversely, a process without congressional declarations of war does not necessarily result in less deliberation or consensus. Nor does it seem to inexorably lead to poor or unnecessary war goals. Perhaps the most important example, although many might consider it a “war,” is the conflict between the United States and the Soviet Union from 1946 through 1991. War was fought throughout the world by the superpowers and their proxies during this period. Yet the only war arguably authorized by Congress – and even this is a debated point – was Vietnam. The United States waged war against Soviet proxies in Korea and Vietnam, the Soviet Union fought in Afghanistan, and the two almost came into direct conflict during the Cuban Missile Crisis. Despite the division over Vietnam, there appeared to be a significant bipartisan consensus on the overall strategy (containment) and goal (defeat of the Soviet Union, protection of Europe and Japan), and Congress consistently devoted significant resources to the creation of a standing military to achieve them. Different conflicts during this period that did not benefit from congressional authorization, such as conflicts in Korea, Grenada, Panama, and Kosovo, did not suffer from a severe lack of consensus, at least at the outset. Korea initially received the support of the nation’s political leadership, and it seems that support declined only once battlefield reverses had occurred. Grenada and Panama did not seem to suffer from any serious political challenge, and while Kosovo met with some political resistance, it does not appear to have been significant.

## SOP Advantage

### AT: Modeling

#### No modeling

Zenko ‘13 [Micah, Council on Foreign Relations Center for Preventive Action Douglas Dillon fellow, "The Signal and the Noise," Foreign Policy, 2-2-13, www.foreignpolicy.com/articles/2013/02/20/the\_signal\_and\_the\_noise, accessed 6-12-13, mss]

Later, Gen. Austin observed of cutting forces from the Middle East: "Once you reduce the presence in the region, you could very well signal the wrong things to our adversaries." Sen. Kelly Ayotte echoed his observation, claiming that President Obama's plan to withdraw 34,000 thousand U.S. troops from Afghanistan within one year "leaves us dangerously low on military personnel...it's going to send a clear signal that America's commitment to Afghanistan is going wobbly." Similarly, during a separate House Armed Services Committee hearing, Deputy Secretary of Defense Ashton Carter ominously warned of the possibility of sequestration: "Perhaps most important, the world is watching. Our friends and allies are watching, potential foes -- all over the world." These routine and unchallenged assertions highlight what is perhaps the most widely agreed-upon conventional wisdom in U.S. foreign and national security policymaking: the inherent power of signaling. This psychological capability rests on two core assumptions: All relevant international audiences can or will accurately interpret the signals conveyed, and upon correctly comprehending this signal, these audiences will act as intended by U.S. policymakers. Many policymakers and pundits fundamentally believe that the Pentagon is an omni-directional radar that uniformly transmits signals via presidential declarations, defense spending levels, visits with defense ministers, or troop deployments to receptive antennas. A bit of digging, however, exposes cracks in the premises underlying signaling theories. There is a half-century of social science research demonstrating the cultural and cognitive biases that make communication difficult between two humans. Why would this be any different between two states, or between a state and non-state actor? Unlike foreign policy signaling in the context of disputes or escalating crises -- of which there is an extensive body of research into types and effectiveness -- policymakers' claims about signaling are merely made in a peacetime vacuum. These signals are never articulated with a precision that could be tested or falsified, and thus policymakers cannot be judged misleading or wrong. Paired with the faith in signaling is the assumption that policymakers can read the minds of potential or actual friends and adversaries. During the cycle of congressional hearings this spring, you can rest assured that elected representatives and expert witnesses will claim to know what the Iranian supreme leader thinks, how "the Taliban" perceives White House pronouncements about Afghanistan, or how allies in East Asia will react to sequestration. This self-assuredness is referred to as the illusion of transparency by psychologists, or how "people overestimate others' ability to know them, and...also overestimate their ability to know others." Policymakers also conceive of signaling as a one-way transmission: something that the United States does and others absorb. You rarely read or hear critical thinking from U.S. policymakers about how to interpret the signals from others states. Moreover, since U.S. officials correctly downplay the attention-seeking actions of adversaries -- such as Iran's near-weekly pronouncement of inventing a new drone or missile -- wouldn't it be safer to assume that the majority of U.S. signals are similarly dismissed? During my encounters with foreign officials, few take U.S. government pronouncements seriously, and instead assume they are made to appease domestic audiences.

### AT: Human Rights

#### Friendly democracies can decipher between good and bad US norms, and authoritarian nations don’t care either way

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The second benefit to foreigners of distinctive U.S. legal norms is information. The costs and benefits of our norms will be visible for all to see. n268 Particularly in an era of increased empirical social science testing, over time we will be able to analyze and identify the effects of differences in norms between the United States and other nations. n269 Such diversity benefits foreigners as foreign nations can decide to adopt our good norms and avoid our bad ones.

The only noteworthy counterargument is the claim that U.S. norms will have more harmful effects than those of raw international law, yet other nations will still copy them. But both parts of this proposition seem doubtful. First, U.S. law emerges from a democratic process that creates a likelihood that it will cause less harm than rules that emerge from the nondemocratic processes [\*1235] that create international law. Second, other democratic nations can use their own political processes to screen out American norms that might cause harm if copied.

Of course, many nations remain authoritarian. n270 But our norms are not likely to have much influence on their choice of norms. Authoritarian states are likely to select norms that serve the interests of those in power, regardless of the norms we adopt. It is true that sometimes they might cite our norms as cover for their decisions. But the crucial word here is "cover." They would have adopted the same rules, anyway. The cover may bamboozle some and thus be counted a cost. But this would seem marginal compared to the harm of allowing raw international law to trump domestic law.

#### Human Rights Cred is irrelevant — public opinion, global norms, and NGO networks outweigh US policy

Andrew Moravcsik 5, PhD and a Professor of Politics and International Affairs at Princeton, 2005, "The Paradox of U.S. Human Rights Policy," American Exceptionalism and Human Rights, http://www.princeton.edu/~amoravcs/library/paradox.pdf

It is natural to ask: What are the consequences of U.S. "exemptionalism” and noncompliance? International lawyers and human rights activists regularly issue dire warnings about the ways in which the apparent hypocrisy of the United States encourages foreign governments to violate human rights, ignore international pressure, and undermine international human rights institutions. In Patricia Derian's oft-cited statement before the Senate in I979: "Ratification by the United States significantly will enhance the legitimacy and acceptance of these standards. It will encourage other countries to join those which have already accepted the treaties. And, in countries where human rights generally are not respected, it will aid citizens in raising human rights issues.""' One constantly hears this refrain. Yet there is little empirical reason to accept it. Human rights norms have in fact spread widely without much attention to U.S. domestic policy. In the wake of the "third wave" democratization in Eastern Europe, East Asia, and Latin America, government after government moved ahead toward more active domestic and international human rights policies without attending to U.S. domestic or international practice." The human rights movement has firmly embedded itself in public opinion and NGO networks, in the United States as well as elsewhere, despite the dubious legal status of international norms in the United States. One reads occasional quotations from recalcitrant governments citing American noncompliance in their own defense-most recently Israel and Australia-but there is little evidence that this was more than a redundant justification for policies made on other grounds. Other governments adhere or do not adhere to global norms, comply or do not comply with judgments of tribunals, for reasons that seem to have little to do with U.S. multilateral policy.

## Warfighting Advantage

#### There is no “global liberal order”---it’s not key to anything and fails inevitably

Barma et al., 13 (Naazneen, assistant professor of national-security affairs at the Naval Postgraduate School; Ely Ratner, a fellow at the Center for a New American Security; and Steven Weber, professor of political science and at the School of Information at the University of California, Berkeley, March/April 2013, “The Mythical Liberal Order,” The National Interest, http://nationalinterest.org/print/article/the-mythical-liberal-order-8146)

Loyalists are quick to defend the concept of a robust liberal order by falling back on outdated metrics of success. The original de minimis aims of the postwar order achieved what now should be considered a low bar: preventing a third world war and a race-to-the-bottom closure of the global-trade regime. Beyond that, the last seventy years have certainly seen movement toward globalization of trade and capital as well as some progress on human rights—but less clearly as a consequence of anything like a liberal world order than as a consequence of national power and interest. ¶ What would a meaningful liberal world order actually look like if it were operating in practice? Consider an objective-based definition: a world in which most countries most of the time follow rules that contribute to progressively more collective security, shared economic gains and individual human rights. States would gradually downplay the virtues of relative advantage and self-reliance. Most states would recognize that foreign-policy choices are constrained (to their aggregate benefit) by multilateral institutions, global norms and nonstate actors. They would cede meaningful bits of sovereign authority in exchange for proactive collaboration on universal challenges. And they would accept that economic growth is best pursued through integration, not mercantilism, and is in turn the most reliable source of national capacity, advancement and influence. With those ingredients in place, we would expect to see the gradual, steady evolution of something resembling an “international community” bound by rights and responsibilities to protect core liberal values of individual rights and freedoms. ¶ No wonder proponents of the liberal-world-order perspective hesitate to offer precise definitions of it. Few of these components can reasonably be said to have been present for any length of time at a global level in the post–World War II world. There may be islands of liberal order, but they are floating in a sea of something quite different. Moreover, the vectors today are mostly pointing away from the direction of a liberal world order. ¶ HOW DID we get here? Consider two founding myths of liberal internationalism. The first is that expressions of post–World War II American power and leadership were synonymous with the maturation of a liberal order. The narrative should sound familiar: The United States wins World War II and controls half of global GDP. The United States constructs an international architecture aimed at promoting an open economic system and a semi-institutionalized approach to fostering cooperation on security and political affairs. And the United States provides the essential global public goods—an extended security deterrent and the global reserve currency—to make cooperation work. Some essential elements of the system survive in a posthegemony era because the advantages to other significant powers of sustained institutionalized cooperation exceed the costs and risks of trying to change the game. ¶ In the 1990s the narrative gets more interesting, controversial and relevant. This is when the second foundational myth of the liberal world order—that it has an inexorable magnetic attraction—comes to the fore. The end of the Cold War and the attendant rejection of Communism is supposed to benefit the liberal world order in breadth and depth: on the internal front, new capitalist democracies should converge on individuals’ market-based economic choice and election-based political choice; on the external front, the relationships among states should become increasingly governed by a set of liberal international norms that privilege and protect the civic and political freedoms that capitalist democracies promise. The liberal order’s geography should then expand to encompass the non-Western world. Its multilateral rules, institutions and norms should increase in density across economic, political and security domains. As positive network effects kick in, the system should evolve to be much less dependent on American power. It’s supposedly easier—and more beneficial—to join the liberal world order than it is to oppose it (or even to try to modify it substantially). A choice to live outside the system becomes progressively less realistic: few countries can imagine taking on the contradictions of modern governance by themselves, particularly in the face of expanding multilateral free trade and interdependent security institutions. ¶ The story culminates in a kind of magnetic liberalism, where countries and foreign-policy decisions are attracted to the liberal world order like iron filings to a magnet. With few exceptions, U.S. foreign policy over the last two decades has been predicated on the assumption that the magnetic field is strong and getting stronger. It’s a seductive idea, but it should not be confused with reality. In practice, the magnetic field is notable mainly for its weakness. It is simply not the case today that nations feel equally a part of, answerable to or constrained by a liberal order. And nearly a quarter century after 1989, it has become disingenuous to argue that the liberal world order is simply slow in getting off the ground—as if the next gust of democratic transitions or multilateral breakthroughs will offer the needed push to revive those triumphalist moments brought on by the end of World War II and the fall of the Berlin Wall. To the contrary, the aspirational liberal end state is receding into the horizon. ¶ THE PICTURE half a century ago looked more promising, with the initial rounds of the General Agreement on Tariffs and Trade and the successful establishment of NATO setting expectations about what multilateral governance could achieve. But international institutions picked off the low-hanging fruit of global cooperation decades ago and have since stalled in their attempts to respond to pressing international challenges. The 1990s served up the best possible set of conditions to advance global liberalism, but subsequent moves toward political and economic liberalization that came with the end of the Cold War were either surprisingly shallow or fragile and short-lived. ¶ Ask yourself this: Have developing countries felt and manifested over time the increasing magnetic pull of the liberal world order? A number of vulnerable developing and post-Communist transitional countries adopted a “Washington Consensus” package of liberal economic policies—freer trade, marketization and privatization of state assets—in the 1980s and 1990s. But these adjustments mostly arrived under the shadow of coercive power. They generally placed the burden of adjustment disproportionately on the most disempowered members of society. And, with few exceptions, they left developing countries more, not less, vulnerable to global economic volatility. The structural-adjustment policies imposed in the midst of the Latin American debt crisis and the region’s subsequent “lost decade” of the 1980s bear witness to each of these shortcomings, as do the failed voucher-privatization program and consequent asset stripping and oligarchic wealth concentration experienced by Russians in the 1990s. ¶ If these were the gains that were supposed to emerge from a liberal world order, it’s no surprise that liberalism came to have a tarnished brand in much of the developing world. The perception that economic neoliberalism fails to deliver on its trickle-down growth pledge is strong and deep. In contrast, state capitalism and resource nationalism—vulnerable to a different set of contradictions, of course—have for the moment delivered tangible gains for many emerging powers and look like promising alternative development paths. Episodic signs of pushback against some of the excesses of that model, such as anti-Chinese protests in Angola or Zambia, should not be confused with a yearning for a return to liberal prescriptions. And comparative economic performance in the wake of the global financial crisis has done nothing to burnish liberalism’s economic image, certainly not in the minds of those who saw the U.S. investment banking–led model of capital allocation as attractive, and not in the minds of those who held a vision of EU-style, social-welfare capitalism as the next evolutionary stage of liberalism. ¶ There’s just as little evidence of sustained liberal magnetism operating in the politics of the developing world, where entrenched autocrats guarding their legitimacy frequently caricature democracy promotion as a not-very-surreptitious strategy to replace existing regimes with either self-serving instability or more servile allies of the West. In practice, the liberal order’s formula for democratic freedom has been mostly diluted down to observing electoral procedures. The results have been almost uniformly disappointing, as the legacy of post–Cold War international interventions from Cambodia to Iraq attests. Even the more organic “color revolutions” of Eastern Europe and Central Asia at the beginning of the twenty-first century have stalled into equilibria Freedom House identifies as only “partly free”—in reality affording average citizens little access to political or economic opportunities. Only two years past the initial euphoria of the Arab Spring a similar disillusionment has set in across the Middle East, where evidence for the magnetic pull of a liberal world order is extremely hard to find.

### Multilat Fails---Generic

#### Multilateral coop will always structurally fail regardless of their internal link

Barma et al., 13 (Naazneen, assistant professor of national-security affairs at the Naval Postgraduate School; Ely Ratner, a fellow at the Center for a New American Security; and Steven Weber, professor of political science and at the School of Information at the University of California, Berkeley, March/April 2013, “The Mythical Liberal Order,” The National Interest, http://nationalinterest.org/print/article/the-mythical-liberal-order-8146)

Assessed against its ability to solve global problems, the current system is falling progressively further behind on the most important challenges, including financial stability, the “responsibility to protect,” and coordinated action on climate change, nuclear proliferation, cyberwarfare and maritime security. The authority, legitimacy and capacity of multilateral institutions dissolve when the going gets tough—when member countries have meaningfully different interests (as in currency manipulations), when the distribution of costs is large enough to matter (as in humanitarian crises in sub-Saharan Africa) or when the shadow of future uncertainties looms large (as in carbon reduction). Like a sports team that perfects exquisite plays during practice but fails to execute against an actual opponent, global-governance institutions have sputtered precisely when their supposed skills and multilateral capital are needed most. ¶ WHY HAS this happened? The hopeful liberal notion that these failures of global governance are merely reflections of organizational dysfunction that can be fixed by reforming or “reengineering” the institutions themselves, as if this were a job for management consultants fiddling with organization charts, is a costly distraction from the real challenge. A decade-long effort to revive the dead-on-arrival Doha Development Round in international trade is the sharpest example of the cost of such a tinkering-around-the-edges approach and its ultimate futility. Equally distracting and wrong is the notion held by neoconservatives and others that global governance is inherently a bad idea and that its institutions are ineffective and undesirable simply by virtue of being supranational. ¶ The root cause of stalled global governance is simpler and more straightforward. “Multipolarization” has come faster and more forcefully than expected. Relatively authoritarian and postcolonial emerging powers have become leading voices that undermine anything approaching international consensus and, with that, multilateral institutions. It’s not just the reasonable demand for more seats at the table. That might have caused something of a decline in effectiveness but also an increase in legitimacy that on balance could have rendered it a net positive.¶ Instead, global governance has gotten the worst of both worlds: a decline in both effectiveness and legitimacy. The problem is not one of a few rogue states acting badly in an otherwise coherent system. There has been no real breakdown per se. There just wasn’t all that much liberal world order to break down in the first place. The new voices are more than just numerous and powerful. They are truly distinct from the voices of an old era, and they approach the global system in a meaningfully different way.¶

#### Multilat is terminally screwed and small measures (like the aff) can’t save it

Hellmann, 13 (Gunther Hellmann is a senior fellow at the Transatlantic Academy, an initiative of the German Marshall Fund, “The Decline of Multilateralism,” May 2, German Marshall Fund Blog, http://blog.gmfus.org/2013/05/02/the-decline-of-multilateralism/)

WASHINGTON—It is becoming increasingly difficult to argue against retrenchment in Europe and North America. Economic crises and domestic political stagnation absorb energy and consume financial resources. Global military engagements in faraway places cost lives and treasure and often yield limited success. There is growing disillusionment with democracy promotion. Coalitions of sovereign state defenders like the BRICS (Brazil, Russia, India, China, and South Africa) make life for the guardians of the liberal world order ever more challenging. The upshot is multilateral fatigue in both Europe and North America.¶ This is a perilous state of affairs because state-transcending global problems are proliferating. “Global Trends 2030,” a study published by the U.S. National Intelligence Council last December, predicts that “the current, largely Western dominance of global structures … will have been transformed by 2030 to be more in line with the changing hierarchy of new economic players.” Yet even if this were to happen, the report argues, it remains unclear to what degree new or reformed institutions “will have tackled growing global challenges.”¶ One might be forgiven for taking this to be an overly optimistic projection. Based on current trends, the outlook is much gloomier, due mainly to the political contagion effects of sovereigntism, the fixation on state sovereignty as an absolute value, and minilateralism. Moisés Naím, who initially coined the term, defined minilateralism as getting together the “smallest possible number of countries needed to have the largest possible impact on solving a particular problem.” The problem is that the smallest possible number may quickly grow very large; Naím’s own book, The End of Power, provides ample evidence that this is so. Consider, for instance, the number and political weight of countries needed to address the problems in the aftermath of a military escalation in the Middle East and Persian Gulf. The minimum number of countries required to effectively regulate global warming does not look any more encouraging. In other words, sovereigntism and minilateralism are symptoms of the crisis of liberal world order — manifestations of The Democratic Disconnect — and not a recipe for curing its ills.¶ In the old days when multilateralism was not yet qualified politically with such adjectives as “assertive” (Madeleine Albright) or “effective” (EU), it served as a descriptor for a fundamental transformation of interstate collaboration in the second half of the 20th century. In an influential article, John Ruggie, a Harvard professor and former high-ranking UN official, showed that the actual practice of multilateralism by the liberal democracies of North America and Europe after World War II was based on a set of generalized principles of conduct. These principles rendered segments of the post-war international order into more reliable cooperative settings, such as the United Nations, or islands of peaceful change, such as the zone of European integration. A readiness to give up sovereignty or, at least to cooperate on the basis of reciprocity, were characteristic elements of multilateralism and what came to be called the “liberal world order.”¶ This liberal order is under strain today because its creators and guardians have themselves strayed from these principles. In the security field, “coalitions of the willing” have undermined multilateralism not only in the UN context, but also in NATO. In economic and financial matters, the politics of European sovereign debt crisis management illustrates both the dangers of executive federalism and the limits of diffuse reciprocity among Europe’s nation states in the world’s most integrated region. “Responsible stakeholders,” the former Deputy Secretary of State Robert Zoellick once said, do more than merely “conduct diplomacy to promote their national interests…They recognize that the international system sustains their peaceful prosperity, so they work to sustain that system.” What was meant as advice to China when Zoellick gave that speech in 2005 can easily be redirected at the liberal democracies of North America and Europe today.¶ There are no easy ways out. Even if the slide toward retrenchment can be stopped, the prospects do not seem bright for the kind of bold new initiatives for global institutional reform that are required. It is debatable whether calls for “democratic internationalism” or a new alignment among “like-minded democracies” can do the trick, but Europe and North America need to realize that their stakes in the liberal order are much higher than those of relative newcomers. Indeed, overcoming crises at home hinges at least in part on sustaining a conducive global environment. Readjusting the balance between minilateralism and multilateralism will help.