# 1NC

## Off

### 1

#### Restrictions are prohibitions on action

Jean Schiedler-Brown 12, Attorney, Jean Schiedler-Brown & Associates, Appellant Brief of Randall Kinchloe v. States Dept of Health, Washington, The Court of Appeals of the State of Washington, Division 1, http://www.courts.wa.gov/content/Briefs/A01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation.

Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as;

A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment.

Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

#### Restrictions on authority are distinct from conditions

William Conner 78, former federal judge for the United States District Court for the Southern District of New York United States District Court, S. D. New York, CORPORACION VENEZOLANA de FOMENTO v. VINTERO SALES, http://www.leagle.com/decision/19781560452FSupp1108\_11379

Plaintiff next contends that Merban was charged with notice of the restrictions on the authority of plaintiff's officers to execute the guarantees. Properly interpreted, the "conditions" that had been imposed by plaintiff's Board of Directors and by the Venezuelan Cabinet were not "restrictions" or "limitations" upon the authority of plaintiff's agents but rather conditions precedent to the granting of authority. Essentially, then, plaintiff's argument is that Merban should have known that plaintiff's officers were not authorized to act except upon the fulfillment of the specified conditions.

#### Vote neg---

#### Neg ground and limits---only prohibitions on particular authorities guarantee links to every core argument like flexibility and deference---there are an infinite number of potential conditions

#### Precision---only our interpretation defines “restrictions on authority”---that’s key to adequate preparation and policy analysis

#### Extra-T

### 2

#### Security politics are driven by a fundamental fear of alterity that create the enabling conditions for executive overreach and violence --- it’s try or die

Vivienne Jabri 6, Director of the Centre for International Relations and Senior Lecturer at the Department of War Studies, King’s College London, War, Security and the Liberal State, Security Dialogue, 37;47

LATE MODERN TRANSFORMATIONS are often conceived in terms of the sociopolitical and economic manifestations of change emergent from a globalized arena. What is less apparent is how late modernity as a distinct era has impacted upon our conceptions of the social sphere, our lived experience, and our reflections upon the discourses and institutions that form the taken-for-granted backdrop of the known and the knowable. The paradigmatic certainties of modernity – the state, citizenship, democratic space, humanity’s infinite capacity for progress, the defeat of dogma and the culmination of modernity’s apotheosis in the free-wheeling market place – have in the late modern era come face to face with uncertainty, unpre- dictability and the gradual erosion of the modern belief that we could indeed simply move on, assisted by science and technology, towards a condition where instrumental rationality would become the linchpin of government and human interaction irrespective of difference. Progress came to be associated with peace, and both were constitutively linked to the universal, the global, the human, and therefore the cosmopolitan. What shatters such illusions is the recollection of the 20th century as the ‘age of extremes’ (Hobsbawm, 1995), and the 21st as the age of the ever-present condition of war. While we might prefer a forgetting of things past, a therapeutic anamnesis that manages to reconfigure history, it is perhaps the continuities with the past that act as antidote to such righteous comforts.

How, then, do we begin to conceptualize war in conditions where distinctions disappear, where war is conceived, or indeed articulated in political discourse, in terms of peace and security, so that the political is somehow banished in the name of governmentalizing practices whose purview knows no bounds, whose remit is precisely the banishment of limits, of boundaries and distinctions. Boundaries, however, do not disappear. Rather, they become manifest in every instance of violence, every instance of control, every instance of practices targeted against a constructed other, the enemy within and without, the all-pervasive presence, the defences against which come to form the legitimizing tool of war.

Any scholarly take on the present juncture of history, any analysis of the dynamics of the present, must somehow render the narrative in measured tones, taking all factors into account, lest the narrator is accused of exaggeration at best and particular political affiliations at worst. When the late modern condition of the West, of the European arena, is one of camps, one of the detention of groups of people irrespective of their individual needs as migrants, one of the incarceration without due process of suspects, one of overwhelming police powers to stop, search and detain, one of indefinite detention in locations beyond law, one of invasion and occupation, then language itself is challenged in its efforts to contain the description of what is. The critical scholarly take on the present is then precisely to reveal the conditions of possibility in relation to how we got here, to unravel the enabling dynamics that led to the disappearance of distinctions between war and criminality, war and peace, war and security. When such distinctions disappear, impunity is the result, accountability shifts beyond sight, and violence comes to form the linchpin of control. We can reveal the operations of violence, but far more critical is the revelation of power and how power operates in the present. As the article argues, such an exploration raises fundamental questions relating to the relationship of power and violence, and their mutual interconnection in the complex interstices of disrupted time and space locations. Power and violence are hence separable analytical categories, separable practices; they are at the same time connected in ways that work on populations and on bodies – with violence often targeted against the latter so that the former are reigned in, governed. Where Michel Foucault sought, in his later writings, to distinguish between power and violence, to reveal the subtle workings of power, now, in the present, this article will venture, perhaps the distinction is no longer viable when we witness the indistinctions I highlight above

The article provides an analysis of the place of war in late modern politics. In particular, it concentrates on the implications of war for our conceptions of the liberty–security problematique in the context of the modern liberal state. The first section of the article argues the case for the figure of war as analyser of the present. The second section of the article reveals the con- ditions of possibility for a distinctly late modern mode of war and its imbri- cations in politics. The final section of the article concentrates on the political implications of the primacy of war in late modernity, and in particular on possibilities of dissent and articulations of political agency. The aim through- out is to provide the theoretical and conceptual tools that might begin to meet the challenges of the present and to open an agenda of research that concentrates on the politics of the present, the capacities or otherwise of contestation and accountability, and the institutional locations wherein such political agency might emerge.

The Figure of War and the Spectre of Security

The so-called war against terrorism is constructed as a global war, transcend- ing space and seemingly defiant of international conventions. It is dis- tinguished from previous global wars, including the first and the second world wars, in that the latter two have, in historiography, always been analysed as interstate confrontations, albeit ones that at certain times and in particular locations peripherally involved non-state militias. Such distinc- tions from the old, of course, will be subject to future historical narratives on the present confrontation and its various parameters. What is of interest in the present discussion is the distinctly global aspect of this war, for it is the globality1 of the war against terrorism that renders it particularly relevant and pertinent to investigations that are primarily interested in the relation- ship between war and politics, war and the political processes defining the modern state. The initial premise of the present article is that war, rather than being confined to its own time and space, permeates the normality of the political process, has, in other words, a defining influence on elements con- sidered to be constitutive of liberal democratic politics, including executive answerability, legislative scrutiny, a public sphere of discourse and inter- action, equal citizenship under the law and, to follow liberal thinkers such as Habermas, political legitimacy based on free and equal communicative practices underpinning social solidarity (Habermas, 1997). War disrupts these elements and is a time of crisis and emergency. A war that has a permanence to it clearly normalizes the exceptional, inscribing emergency into the daily routines of social and political life. While the elements of war – conflict, social fragmentation, exclusion – may run silently through the assemblages of control in liberal society (Deleuze, 1986), nevertheless the persistent iteration of war into politics brings these practices to the fore, and with them a call for a rethinking of war’s relationship to politics.

The distinctly global spatiality of this war suggests particular challenges that have direct impact on the liberal state, its obligations towards its citizenry, and the extent to which it is implicated in undermining its own political institutions. It would, however, be a mistake to assume that the practices involved in this global war are in any way anathema to the liberal state. The analysis provided here would argue that while it is crucial to acknowledge the transformative impact of the war against terrorism, it is equally as important to appreciate the continuities in social and political life that are the enabling conditions of this global war, forming its conditions of possibility. These enabling conditions are not just present or apparent at global level, but incorporate local practices that are deep-rooted and institu- tionalized. The mutually reinforcing relationship between global and local conditions renders this particular war distinctly all-pervasive, and poten- tially, in terms of implications, far more threatening to the spaces available for political contestation and dissent.

Contemporary global politics is dominated by what might be called a ‘matrix of war’2 constituted by a series of transnational practices that vari- ously target states, communities and individuals. These practices involve states as agents, bureaucracies of states and supranational organizations, quasi-official and private organizations recruited in the service of a global machine that is highly militarized and hence led by the United States, but that nevertheless incorporates within its workings various alliances that are always in flux. The crucial element in understanding the matrix of war is the notion of ‘practice’, for this captures the idea that any practice is not just situated in a system of enablements and constraints, but is itself constitutive of structural continuities, both discursive and institutional. As Paul Veyne (1997: 157) writes in relation to Foucault’s use of the term, ‘practice is not an agency (like the Freudian id) or a prime mover (like the relation of produc- tion), and moreover for Foucault, there is no agency nor any prime mover’. It is in this recursive sense that practices (of violence, exclusion, intimidation, control and so on) become structurated in the routines of institutions as well as lived experience (Jabri, 1996). To label the contemporary global war as a ‘war against terrorism’ confers upon these practices a certain legitimacy, suggesting that they are geared towards the elimination of a direct threat. While the threat of violence perpetrated by clandestine networks against civilians is all too real and requires state responses, many of these responses appear to assume a wide remit of operations – so wide that anyone interested in the liberties associated with the democratic state, or indeed the rights of individuals and communities, is called upon to unravel the implications of such practices.

When security becomes the overwhelming imperative of the democratic state, its legitimization is achieved both through a discourse of ‘balance’ between security and liberty and in terms of the ‘protection’ of liberty.3 The implications of the juxtaposition of security and liberty may be investigated either in terms of a discourse of ‘securitization’ (the power of speech acts to construct a threat juxtaposed with the power of professionals precisely to so construct)4 or, as argued in this article, in terms of a discourse of war. The grammars involved are closely related, and yet that of the latter is, para- doxically, the critical grammar, the grammar that highlights the workings of power and their imbrications with violence. What is missing from the securitization literature is an analytic of war, and it is this analytic that I want to foreground in this article.

The practices that I highlight above seem at first hand to constitute differ- ent response mechanisms in the face of what is deemed to be an emergency situation in the aftermath of the events of 11 September 2001. The invasion and occupation of Iraq, the incarceration without due process of prisoners in camps from Afghanistan to Guantánamo and other places as yet un- identified, the use of torture against detainees, extra-judicial assassination, the detention and deportation – again without due process – of foreign nationals deemed a threat, increasing restrictions on refugees, their confine- ment in camps and detention centres, the construction of the movement of peoples in security terms, and restrictions on civil liberties through domestic legislation in the UK, the USA and other European states are all represented in political discourse as necessary security measures geared towards the protection of society. All are at the same time institutional measures targeted against a particular other as enemy and source of danger.

It could be argued that the above practices remain unrelated and must hence be subject to different modes of analysis. To begin with, these practices involve different agents and are framed around different issues. Afghanistan and Iraq may be described as situations of war, and the incarceration of refugees as encompassing practices of security. However, what links these elements is not so much that they constitute a constructed taxonomy of dif- ferentiated practices. Rather, what links them is the element of antagonism directed against distinct and particular others. Such a perspective suggests that the politics of security, including the production of fear and a whole array of exclusionary measures, comes to service practices that constitute war and locates the discourse of war at the heart of politics, not just domes- tically, but, more crucially in the present context, globally. The implications for the late modern state and the distinctly liberal state are monumental, for a perpetual war on a global scale has implications for political structures and political agency, for our conceptions of citizenship and the role of the state in meeting the claims of its citizens,5 and for the workings of a public sphere that is increasingly global and hence increasingly multicultural.

The matrix of war is centrally constituted around the element of antago- nism, having an association with existential threat: the idea that the continued presence of the other constitutes a danger not just to the well-being of society but to its continued existence in the form familiar to its members, hence the relative ease with which European politicians speak of migrants of particular origins as forming a threat to the ‘idea of Europe’ and its Christian origins.6 Herein lies a discourse of cultural and racial exclusion based on a certain fear of the other. While the war against specific clandestine organiza- tions7 involves operations on both sides that may be conceptualized as a classical war of attrition, what I am referring to as the matrix of war is far more complex, for here we have a set of diffuse practices, violence, disci- plinarity and control that at one and same time target the other typified in cultural and racial terms and instantiate a wider remit of operations that impact upon society as a whole.

The practices of warfare taking place in the immediate aftermath of 11 September 2001 combine with societal processes, reflected in media representations and in the wider public sphere, where increasingly the source of threat, indeed the source of terror, is perceived as the cultural other, and specifically the other associated variously with Islam, the Middle East and South Asia. There is, then, a particularity to what Agamben (1995, 2004) calls the ‘state of exception’, a state not so much generalized and generalizable, but one that is experienced differently by different sectors of the global population. It is precisely this differential experience of the exception that draws attention to practices as diverse as the formulation of interrogation techniques by military intelligence in the Pentagon, to the recent provisions of counter-terrorism measures in the UK,8 to the legitimizing discourses surrounding the invasion of Iraq. All are practices that draw upon a discourse of legitimization based on prevention and pre-emption. Enemies constructed in the discourses of war are hence always potential, always abstract even when identified, and, in being so, always drawn widely and, in consequence, communally. There is, hence, a ‘profile’ to the state of exception and its experience. Practices that profile particular communities, including the citizens of European states, create particular challenges to the self-understanding of the liberal democratic state and its capacity, in the 21st century, to deal with difference.

While a number of measures undertaken in the name of security, such as proposals for the introduction of identity cards in the UK or increasing surveillance of financial transactions in the USA, might encompass the population as a whole, the politics of exception is marked by racial and cul- tural signification. Those targeted by exceptional measures are members of particular racial and cultural communities. The assumed threat that under- pins the measures highlighted above is one that is now openly associated variously with Islam as an ideology, Islam as a mode of religious identi- fication, Islam as a distinct mode of lifestyle and practice, and Islam as a particular brand associated with particular organizations that espouse some form of a return to an Islamic Caliphate. When practices are informed by a discourse of antagonism, no distinctions are made between these various forms of individual and communal identification. When communal profiling takes place, the distinction between, for example, the choice of a particular lifestyle and the choice of a particular organization disappears, and diversity within the profiled community is sacrificed in the name of some ‘pre- cautionary’ practice that targets all in the name of security.9 The practices and language of antagonism, when racially and culturally inscribed, place the onus of guilt onto the entire community so identified, so that its indi- vidual members can no longer simply be citizens of a secular, multicultural state, but are constituted in discourse as particular citizens, subjected to particular and hence exceptional practices. When the Minister of State for the UK Home Office states that members of the Muslim community should expect to be stopped by the police, she is simply expressing the condition of the present, which is that the Muslim community is particularly vulnerable to state scrutiny and invasive measures that do not apply to the rest of the citizenry.10 We know, too, that a distinctly racial profiling is taking place, so that those who are physically profiled are subjected to exceptional measures.

Even as the so-called war against terrorism recognizes no boundaries as limits to its practices – indeed, many of its practices occur at transnational, often indefinable, spaces – what is crucial to understand, however, is that this does not mean that boundaries are no longer constructed or that they do not impinge on the sphere of the political. The paradox of the current context is that while the war against terrorism in all its manifestations assumes a boundless arena, borders and boundaries are at the heart of its operations. The point to stress is that these boundaries and the exclusionist practices that sustain them are not coterminous with those of the state; rather, they could be said to be located and perpetually constructed upon the corporeality of those constructed as enemies, as threats to security. It is indeed the corporeal removal of such subjects that lies at the heart of what are constructed as counter-terrorist measures, typified in practices of direct war, in the use of torture, in extra-judicial incarceration and in judicially sanctioned detention. We might, then, ask if such measures constitute violence or relations of power, where, following Foucault, we assume that the former acts upon bodies with a view to injury, while the latter acts upon the actions of subjects and assumes, as Deleuze (1986: 70–93) suggests, a relation of forces and hence a subject who can act. What I want to argue here is that violence is imbricated in relations of power, is a mode of control, a technology of governmentality. When the population of Iraq is targeted through aerial bombardment, the consequence goes beyond injury and seeks the pacifica- tion of the Middle East as a political region.

When legislative and bureaucratic measures are put in place in the name of security, those targeted are categories of population. At the same time, the war against terrorism and the security discourses utilized in its legitimiza- tion are conducted and constructed in terms that imply the defence or protection of populations. One option is to limit policing, military and intel- ligence efforts through the targeting of particular organizations. However, it is the limitless construction of the war against terrorism, its targeting of particular racial and cultural communities, that is the source of the challenge presented to the liberal democratic state. In conditions constructed in terms of emergency, war permeates discourses on politics, so that these come to be subject to the restraints and imperatives of war and practices constituted in terms of the demands of security against an existential threat. The implications for liberal democratic politics and our conceptions of the modern state and its institutions are far-reaching,11 for the liberal democratic polity that considers itself in a state of perpetual war is also a state that is in a permanent state of mobilization, where every aspect of public life is geared towards combat against potential enemies, internal and external.

One of the most significant lessons we learn from Michel Foucault’s writ- ings is that war, or ‘the distant roar of battle’ (Foucault, 1977: 308), is never quite so distant from liberal governmentality. Conceived in Foucaultian terms, war and counter-terrorist measures come to be seen not as discontinuity from liberal government, but as emergent from the enabling conditions that liberal government and the modern state has historically set in place. On reading Foucault’s renditions on the emergence of the disciplinary society, what we see is the continuation of war in society and not, as in Hobbes and elsewhere in the history of thought, the idea that wars happen at the outskirts of society and its civil order. The disciplinary society is not simply an accumulation of institutional and bureaucratic procedures that permeate the everyday and the routine; rather, it has running through its interstices the constitutive elements of war as continuity, including confrontation, struggle and the corporeal removal of those deemed enemies of society. In Society Must Be Defended (Foucault, 2003) and the first volume of the History of Sexuality (Foucault, 1998), we see reference to the discursive and institutional continuities that structurate war in society. Reference to the ‘distant roar of battle’ suggests confrontation and struggle; it suggests the ever-present construction of threat accrued to the particular other; it suggests the immediacy of threat and the construction of fear of the enemy; and ultimately it calls for the corporeal removal of the enemy as source of threat. The analytic of war also encompasses the techniques of the military and their presence in the social sphere – in particular, the control and regulation of bodies, timed pre- cision and instrumentality that turn a war machine into an active and live killing machine. In the matrix of war, there is hence the level of discourse and the level of institutional practices; both are mutually implicating and mutually enabling. There is also the level of bodies and the level of population. In Foucault’s (1998: 152) terms: ‘the biological and the historical are not con- secutive to one another . . . but are bound together in an increasingly com- plex fashion in accordance with the development of the modern technologies of power that take life as their objective’.

What the above suggests is the idea of war as a continuity in social and political life. The matrix of war suggests both discursive and institutional practices, technologies that target bodies and populations, enacted in a complex array of locations. The critical moment of this form of analysis is to point out that war is not simply an isolated occurrence taking place as some form of interruption to an existing peaceful order. Rather, this peaceful order is imbricated with the elements of war, present as continuities in social and political life, elements that are deeply rooted and enabling of the actuality of war in its traditional battlefield sense. This implies a continuity of sorts between the disciplinary, the carceral and the violent manifestations of government.

#### Our alternative is to refuse technical debates about war powers in favor of subjecting the 1ac’s discourse to rigorous democratic scrutiny

Aziz Rana 12, Assistant Professor of Law, Cornell University Law School; A.B., Harvard College; J.D., Yale Law School; PhD., Harvard University, July 2012, “NATIONAL SECURITY: LEAD ARTICLE: Who Decides on Security?,” 44 Conn. L. Rev. 1417

But this mode of popular involvement comes at a key cost. Secret information is generally treated as worthy of a higher status than information already present in the public realm—the shared collective information through which ordinary citizens reach conclusions about emergency and defense. Yet, oftentimes, as with the lead up to the Iraq War in 2003, although the actual content of this secret information is flawed,197 its status as secret masks these problems and allows policymakers to cloak their positions in added authority. This reality highlights the importance of approaching security information with far greater collective skepticism; it also means that security judgments may be more ‘Hobbesian’—marked fundamentally by epistemological uncertainty as opposed to verifiable fact—than policymakers admit.

If the objective sociological claims at the center of the modern security concept are themselves profoundly contested, what does this meahn for reform efforts that seek to recalibrate the relationship between liberty and security? Above all, it indicates that the central problem with the procedural solutions offered by constitutional scholars-emphasizing new statutory frameworks or greater judicial assertiveness-is that they mistake a question of politics for one of law. In other words, such scholars ignore the extent to which governing practices are the product of background political judgments about threat, democratic knowledge, professional expertise, and the necessity for insulated decision-making. To the extent that Americans are convinced that they face continuous danger from hidden and potentially limitless assailants-danger too complex for the average citizen to comprehend independently-it is inevitable that institutions (regardless of legal reform initiatives) will operate to centralize power in those hands presumed to enjoy military and security expertise. Thus, any systematic effort to challenge the current framing of the relationship between security and liberty must begin by challenging the underlying assumptions about knowledge and security upon which legal and political arrangements rest. Without a sustained and public debate about the validity of security expertise, its supporting institutions, and the broader legitimacy of secret information, there can be no substantive shift in our constitutional politics. The problem at present, however, is that it remains unclear which popular base exists in society to raise these questions. Unless such a base fully emerges, we can expect our prevailing security arrangements to become ever more entrenched.

### 3

#### Obama will hold off a vote on Iran sanctions now---PC’s key---failure destroys regional and global U.S. power and cred

Flynt Leverett 1-20, professor at Pennsylvania State University’s School of International Affairs and is a Visiting Scholar at Peking University’s School of International Studies, and Hillary Mann Leverett, Senior Professorial Lecturer at the American University in Washington, DC and a Visiting Scholar at Peking University in Beijing, 1/20/14, “Iran, Syria and the Tragicomedy of U.S. Foreign Policy,” http://goingtotehran.com/iran-syria-and-the-tragicomedy-of-u-s-foreign-policy

Regarding President Obama’s ongoing struggle with the Senate over Iran policy, Hillary cautions against premature claims of “victory” for the Obama administration’s efforts to avert new sanctions legislation while the Joint Plan of Action is being implemented. She points out that “the foes of the Iran nuclear deal, of any kind of peace and conflict resolution in the Middle East writ large, are still very strong and formidable. For example, the annual AIPAC policy conference—a gathering here in Washington of over 10,000 people from all over the country, where they come to lobby congressmen and senators, especially on the Iran issue—that will be taking place in very early March. There’s still a lot that can be pushed and played here.”

To be sure, President Obama and Secretary of State John Kerry “have put a lot of political capital on the line.” No other administration has so openly staked out its opposition to a piece of legislation or policy initiative favored by AIPAC and backed by a bipartisan majority on Capitol Hill since the 1980s, when the Reagan administration successfully defended its decision to sell AWACs planes to Saudi Arabia. But, Hillary notes, if the pro-Israel lobby is able to secure a vote on the new sanctions bill, and to sustain the promised veto of said bill by President Obama, “that would be such a dramatic blow to President Obama, and not just on his foreign policy agenda, but it would be devastating to his domestic agenda.” So Obama “has a tremendous amount to lose, and by no means is the fight anywhere near over.”

Of course, to say that Obama has put a lot of political capital on the line over the sanctions issue begs the question of whether he is really prepared to spend the far larger amounts of capital that will be required to close a final nuclear deal with Tehran. As Hillary points out, if Obama were “really trying to lead this country on a much more constructive, positive trajectory after failed wars and invasions in Iraq and Afghanistan and Libya—Libya entirely on President Obama’s watch—[he] would be doing a lot more, rather than just giving these lukewarm talks, basically trying to continue to kiss up to major pro-Israel constituencies, and then trying to bring in some of political favors” on Capitol Hill.

Compare Obama’s handling of Iran and other Middle East challenges to President Nixon’s orchestration of the American opening to China—including Nixon’s willingness to “break the crockery” of the pro-Taiwan lobby—and the inadequacy of Obama’s approach become glaringly apparent. And that, Hillary underscores, is why we wrote our book, Going to Tehran—because “we think it’s absolutely essential for President Obama to do what Nixon did and go to Tehran, as Nixon went to China,” for “the Middle East is the make-or-break point for the United States, not just in our foreign affairs but in our global economic power and what we’re able to do here at home. If we can’t get what we’re doing in the Middle East on a much better, more positive trajectory, not only will we see the loss of our power, credibility, and prestige in the Middle East, but we will see it globally.”

#### It’s a war powers issue that Obama will win now---failure commits us to Israeli strikes

Merry 1/1Robert W., political editor of the National Interest, is the author of books on American history and foreign policy “Obama may buck the Israel lobby on Iran” Washington Times, http://www.washingtontimes.com/news/2013/dec/31/merry-obama-may-buck-the-israel-lobby-on-iran/

With the veto threat, Mr. Obama has announced that he is prepared to buck the Israel lobby — and may even welcome the opportunity. It isn’t fair to suggest that everyone who thinks Mr. Obama’s overtures to Iran are ill-conceived or counterproductive is simply following the Israeli lobby’s talking points, but Israel’s supporters in this country are a major reason for the viability of the sanctions legislation the president is threatening to veto.¶ It is nearly impossible to avoid the conclusion that the Senate legislation is designed to sabotage Mr. Obama’s delicate negotiations with Iran (with the involvement also of the five permanent members of the U.N. Security Council and Germany) over Iran’s nuclear program. The aim is to get Iran to forswear any acquisition of nuclear weapons in exchange for the reduction or elimination of current sanctions. Iran insists it has a right to enrich uranium at very small amounts, for peaceful purposes, and Mr. Obama seems willing to accept that Iranian position in the interest of a comprehensive agreement.¶ However, the Senate measure, sponsored by Sens. Robert Menendez, New Jersey Democrat; Charles E. Schumer, New York Democrat; and Mark Kirk, Illinois Republican, would impose potent new sanctions if the final agreement accords Iran the right of peaceful enrichment. That probably would destroy Mr. Obama’s ability to reach an agreement. Iranian President Hasan Rouhani already is under pressure from his country’s hard-liners to abandon his own willingness to seek a deal. The Menendez-Schumer-Kirk measure would undercut him and put the hard-liners back in control.¶ Further, the legislation contains language that would commit the United States to military action on behalf of Israel if Israel initiates action against Iran. This language is cleverly worded, suggesting U.S. action should be triggered only if Israel acted in its “legitimate self-defense” and acknowledging “the law of the United States and the constitutional responsibility of Congress to authorize the use of military force,” but the language is stunning in its brazenness and represents, in the view of Andrew Sullivan, the prominent blogger, “**an appalling new low in the Israeli government’s grip on the U.S. Congress**.”¶ While noting the language would seem to be nonbinding, Mr. Sullivan adds that “it’s basically endorsing the principle of handing over American foreign policy on a matter as grave as war and peace to a foreign government, acting against international law, thousands of miles away.”¶ That brings us back to Mr. Obama’s veto threat. The American people have made clear through polls and abundant expression (especially during Mr. Obama’s flirtation earlier this year with military action against Bashar Assad’s Syrian regime) that they are sick and weary of American military adventures in the Middle East. They don’t think the Iraq and Afghanistan wars have been worth the price, and they don’t want their country to engage in any other such wars.¶ That’s what the brewing confrontation between Mr. Obama and the Israel lobby comes down to — war and peace. Mr. Obama’s delicate negotiations with Iran, whatever their outcome, are designed to avert another U.S. war in the Middle East. The Menendez-Schumer-Kirk initiative is designed to kill that effort and cedes to Israel America’s war-making decision in matters involving Iran, which further increases the prospects for war. It’s not even an argument about whether the United States should come to Israel’s aid if our ally is under attack, but whether the decision to do so and when that might be necessary should be made in Jerusalem or Washington.

#### Obama fights the plan --- losers lose --- that drains political capital

Loomis 7 – Department of Government at Georgetown

(3/2/2007, Dr. Andrew J. Loomis is a Visiting Fellow at the Center for a New American Security, “Leveraging legitimacy in the crafting of U.S. foreign policy,” pg 35-36, [http://citation.allacademic.com//meta/p\_mla\_apa\_research\_citation/1/7/9/4/8/pages179487/p179487-36.php](http://citation.allacademic.com/meta/p_mla_apa_research_citation/1/7/9/4/8/pages179487/p179487-36.php))

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

#### Causes Israel strikes

Jon Perr 12/24/13**,** B.A. in Political Science from Rutgers University; technology marketing consultant based in Portland, Oregon, has long been active in Democratic politics and public policy as an organizer and advisor in California and Massachusetts. His past roles include field staffer for Gary Hart for President (1984), organizer of Silicon Valley tech executives backing President Clinton's call for national education standards (1997), recruiter of tech executives for Al Gore's and John Kerry's presidential campaigns, and co-coordinator of MassTech for Robert Reich (2002).(Jon, “Senate sanctions bill could let Israel take U.S. to war against Iran” Daily Kos, [http://www.dailykos.com/story/2013/12/24/1265184/-Senate-sanctions-bill-could-let-Israel-take-U-S-to-war-against-Iran#](http://www.dailykos.com/story/2013/12/24/1265184/-Senate-sanctions-bill-could-let-Israel-take-U-S-to-war-against-Iran)

As 2013 draws to close, the negotiations over the Iranian nuclear program have entered a delicate stage. But in 2014, the tensions will escalate dramatically as a bipartisan group of Senators brings a new Iran sanctions bill to the floor for a vote. As many others have warned, that promise of new measures against Tehran will almost certainly blow up the interim deal reached by the Obama administration and its UN/EU partners in Geneva. But Congress' highly unusual intervention into the President's domain of foreign policy doesn't just make the prospect of an American conflict with Iran more likely. As it turns out, the Nuclear Weapon Free Iran Act essentially empowers Israel to decide whether the United States will go to war against Tehran.¶ On their own, the tough new sanctions imposed automatically if a final deal isn't completed in six months pose a daunting enough challenge for President Obama and Secretary of State Kerry. But it is the legislation's commitment to support an Israeli preventive strike against Iranian nuclear facilities that almost ensures the U.S. and Iran will come to blows. As Section 2b, part 5 of the draft mandates:¶ If the Government of Israel is compelled to take military action in legitimate self-defense against Iran's nuclear weapon program, the United States Government should stand with Israel and provide, in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic, military, and economic support to the Government of Israel in its defense of its territory, people, and existence.¶ Now, the legislation being pushed by Senators Mark Kirk (R-IL), Chuck Schumer (D-NY) and Robert Menendez (D-NJ) does not automatically give the President an authorization to use force should Israel attack the Iranians. (The draft language above explicitly states that the U.S. government must act "in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force.") But there should be little doubt that an AUMF would be forthcoming from Congressmen on both sides of the aisle. As Lindsey Graham, who with Menendez co-sponsored a similar, non-binding "stand with Israel" resolution in March told a Christians United for Israel (CUFI) conference in July:¶ "If nothing changes in Iran, come September, October, I will present a resolution that will authorize the use of military force to prevent Iran from developing a nuclear bomb."¶ Graham would have plenty of company from the hardest of hard liners in his party. In August 2012, Romney national security adviser and pardoned Iran-Contra architect Elliott Abrams called for a war authorization in the pages of the Weekly Standard. And just two weeks ago, Norman Podhoretz used his Wall Street Journal op-ed to urge the Obama administration to "strike Iran now" to avoid "the nuclear war sure to come."¶ But at the end of the day, the lack of an explicit AUMF in the Nuclear Weapon Free Iran Act doesn't mean its supporters aren't giving Prime Minister Benjamin Netanyahu de facto carte blanche to hit Iranian nuclear facilities. The ensuing Iranian retaliation against to Israeli and American interests would almost certainly trigger the commitment of U.S. forces anyway.¶ Even if the Israelis alone launched a strike against Iran's atomic sites, Tehran will almost certainly hit back against U.S. targets in the Straits of Hormuz, in the region, possibly in Europe and even potentially in the American homeland. Israel would face certain retaliation from Hezbollah rockets launched from Lebanon and Hamas missiles raining down from Gaza.¶ That's why former Bush Defense Secretary Bob Gates and CIA head Michael Hayden raising the alarms about the "disastrous" impact of the supposedly surgical strikes against the Ayatollah's nuclear infrastructure. As the New York Times reported in March 2012, "A classified war simulation held this month to assess the repercussions of an Israeli attack on Iran forecasts that the strike would lead to a wider regional war, which could draw in the United States and leave hundreds of Americans dead, according to American officials." And that September, a bipartisan group of U.S. foreign policy leaders including Brent Scowcroft, retired Admiral William Fallon, former Republican Senator (now Obama Pentagon chief) Chuck Hagel, retired General Anthony Zinni and former Ambassador Thomas Pickering concluded that American attacks with the objective of "ensuring that Iran never acquires a nuclear bomb" would "need to conduct a significantly expanded air and sea war over a prolonged period of time, likely several years." (Accomplishing regime change, the authors noted, would mean an occupation of Iran requiring a "commitment of resources and personnel greater than what the U.S. has expended over the past 10 years in the Iraq and Afghanistan wars combined.") The anticipated blowback?¶ Serious costs to U.S. interests would also be felt over the longer term, we believe, with problematic consequences for global and regional stability, including economic stability. A dynamic of escalation, action, and counteraction could produce serious unintended consequences that would significantly increase all of these costs and lead, potentially, to all-out regional war.

#### Israeli strikes cause global great power war

Rafael Reuveny 10, PhD, Professor in the School of Public and Environmental Affairs at Indiana University, "Unilateral Strike on Iran could trigger world Depression", Op-ed distributed through McClatchy Newspaper Co, <http://www.indiana.edu/~spea/news/speaking_out/reuveny_on_unilateral_strike_Iran.shtml>

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. A regional war 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. 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. 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. Replaying Nixon’s nightmare 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.

### 4

#### The United States executive branch should establish a permanent war powers consultation committee within the executive branch, requiring the President to consult with the committee over introduction of United States Armed Forces into significant armed conflict and require a Congressional authorization vote following consultation. This should define significant armed conflict as any conflict expressly authorized by this committee or any mission conducted by United States Armed Forces pursuant to Rules of Engagement. This should include an explicit point of order mechanism

#### Counterplan solves cred and the case

Adrian Vermeule 7, Harvard law prof - AND - Eric Posner - U Chicago law, The Credible Executive, 74 U. Chi. L. Rev. 865

\*We do not endorse gendered language

The Madisonian system of oversight has not totally failed. Some- times legislators overcome the temptation to free ride; sometimes they invest in protecting the separation of powers or legislative preroga- tives. Sometimes judges review exercises of executive discretion, even during emergencies. But often enough, legislators and judges have no real alternative to letting executive officials exercise discretion un- checked. The Madisonian system is a partial failure; compensating mechanisms must be adopted to fill the area of slack, the institutional gap between executive discretion and the oversight capacities of other institutions. Again, the magnitude of this gap is unclear, but plausibly it is quite large; we will assume that it is. It is often assumed that this partial failure of the Madisonian sys- tem unshackles and therefore benefits ill-motivated executives. This is grievously incomplete. The failure of the Madisonian system harms the well-motivated executive as much as it benefits the ill-motivated one. Where Madisonian oversight fails, the well-motivated executive is a victim of his own power. Voters, legislators, and judges will be wary of granting further discretion to an executive whose motivations are un- certain and possibly nefarious. The partial failure of Madisonian over- sight thus threatens a form of inefficiency, a kind of contracting failure that makes potentially everyone, including the voters, worse off. Our central question, then, is what the well-motivated executive can do to solve or at least ameliorate the problem. The solution is for the executive to complement his (well-motivated) first-order policy goals with second-order mechanisms for demonstrating credibility to other actors. We thus do not address the different question of what voters, legislators, judges, and other actors should do about an executive who is ill motivated and known to be so. That project involves shoring up or replacing the Madisonian system to block executive dictatorship. Our project is the converse of this, and involves finding new mechanisms to help the well-motivated executive credibly distinguish himself as such. ¶ IV. EXECUTIVE SIGNALING: LAW AND MECHANISMS ¶ We suggest that the executive’s credibility problem can be solved by second-order mechanisms of executive signaling. In the general case, well-motivated executives send credible signals by taking actions that are more costly for ill-motivated actors than for well- motivated ones, thus distinguishing themselves from their ill- motivated mimics. Among the specific mechanisms we discuss, an important subset involves executive self-binding, whereby executives commit themselves to a course of action that would impose higher costs on ill-motivated actors. Commitments themselves have value as signals of benign motivations. ¶ This departs from the usual approach in legal scholarship. Legal theory has often discussed self-binding by “government” or govern- ment officials. In constitutional theory, it is often suggested that consti- tutions represent an attempt by “the people” to bind “themselves” against their own future decisionmaking pathologies, or relatedly, that constitutional prohibitions represent mechanisms by which govern- ments commit themselves not to expropriate investments or to exploit their populations.72 Whether or not this picture is coherent,73 it is not the question we examine here, although some of the relevant consid- erations are similar.74 We are not concerned with binding the president so that he cannot abuse his powers, but with how he might bind himself or take other actions that enhance his credibility, so that he can generate support from the public and other members of the government. ¶ Furthermore, our question is subconstitutional: it is whether a well-motivated executive, acting within an established set of constitu- tional and statutory rules, can use signaling mechanisms to generate public trust. Accordingly, we proceed by assuming that no constitutional amendments or new statutes will be enacted. Within these con- straints, what can a well-motivated executive do to bootstrap himself to credibility? The problem for the well-motivated executive is to credibly signal his benign motivations. In general, the solution is to engage in actions that are less costly for good types than for bad types. ¶ We begin with some relevant law, then examine a set of possible mechanisms—emphasizing both the conditions under which they might succeed and the conditions under which they might not—and conclude by examining the costs of credibility. ¶ A. A Preliminary Note on Law and Self-Binding ¶ Many of our mechanisms are unproblematic from a legal per- spective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self- binding.75 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is yes, at least to the same extent that a legislature can. Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo.76 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A president might commit himself to a long-term project of defense pro- curement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies. More schematically, we may speak of formal and informal means of self-binding:

### Flex DA

#### The counterplan maintains the benefits of the unitary executive while deterring excessive presidential adventurism

Neal Katyal 6, prof, Georgetown law, Internal Separation of Powers: Checking Today's Most Dangerous Branch from Within, 115 Yale L.J. 2314

This Essay's proposed reforms reflect a more textured conception of the presidency than either the unitary executivists or their critics espouse. In contrast to the unitary executivists, I believe that the simple fact that the President should be in control of the executive branch does not answer the question of how institutions should be structured to encourage the most robust flow of advice to the President. Nor does that fact weigh against modest internal checks that, while subject to presidential override, could constrain presidential adventurism on a day-to-day basis. And in contrast to the doubters of the unitary executive, I believe a unitary executive serves important values, particularly in times of crisis. Speed and dispatch are often virtues to be celebrated.¶ Instead of doing away with the unitary executive, this Essay proposes designs that force internal checks but permit temporary departures when the need is great. Of course, the risk of incorporating a presidential override is that its great formal power will eclipse everything else, leading agency officials to fear that the President will overrule or fire them. But just as a filibuster does not tremendously constrain presidential action, modest internal checks, buoyed by reporting requirements, can create sufficient deterrent costs.¶ [\*2319] Let me offer a brief word about what this Essay does not attempt. It does not propose a far-reaching internal checking system on all presidential power, domestic and foreign. Instead, this Essay takes a case study, the war on terror, and uses the collapse of external checks and balances to demonstrate the need for internal ones. In this arena, public accountability is low - not only because decisions are made in secret, but also because they routinely impact only people who cannot vote (such as detainees). In addition to these process defects, decisions in this area often have subtle long-term consequences that short-term executivists may not fully appreciate. n9

#### Causes nuclear war and bioterror---exec flex is key to successful fourth-gen warfare

Zheyao Li 9, 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 weapons of mass destruction, 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 ideology 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 adequately 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.

### 5

#### The United States federal judiciary should rule that the president’s war powers authority is restricted by a permanent war powers consultation committee over introduction of United States Armed Forces into significant armed conflict and require a Congressional authorization vote following consultation. This should define significant armed conflict as any conflict expressly authorized by this committee or any mission conducted by United States Armed Forces pursuant to Rules of Engagement. This should include an explicit point of order mechanism

#### Courts are comparatively better at checking presidential war powers

Robert Bejesky 12, M.A. Political Science (Michigan), M.A. Applied Economics (Michigan), LL.M. International Law (Georgetown), has taught international law courses for Cooley Law School and the Department of Political Science at the University of Michigan, American government and constitutional law courses for Alma College, and business law courses at Central Michigan University and the University of Miami, "ARTICLE: WAR POWERS PURSUANT TO FALSE PERCEPTIONS AND ASYMMETRIC INFORMATION IN THE "ZONE OF TWILIGHT" St. Mary's Law Journal, 44 St. Mary's L. J. 1, Lexis

E. Jurisprudential Guidance¶ In Marbury v. Madison, n386 the Supreme Court held the Judiciary interprets the Constitution. n387 Court precedent provides guidance to mitigate altercations between the Executive and Congress over war powers and reduces ambiguity when controversies arise. Early cases confirmed the distinct roles of the Legislative and Executive Branches in war powers and certified that the Framers intended the Judiciary to have a meaningful role in adjudicating disputes between the political branches over foreign and military affairs. n388 The Court regularly granted certiorari on war powers questions for over 150 years, but then became reluctant to examine the scope of the Commander in Chief authority on political questions, standing, ripeness, and mootness grounds after dozens of cases challenged presidential power during the Vietnam War. n389¶ [\*65] Gilligan v. Morgan n390 signaled the Supreme Court's tendency to avoid cases involving war powers. n391 The Court denied certiorari to draftees who challenged the constitutionality of the Vietnam War and the Gulf of Tonkin Resolution. n392 Perhaps most disconcerting about the Court's failure to address the claims in Morgan was that Congress repealed the Gulf of Tonkin Resolution after the war; n393 however, such revocation did not undo the negative ramifications of the war. After Congress annulled the Resolution, challenges seem warranted because the annulment suggested that government officials drafted citizens, deployed troops to Vietnam, and waged war with questionable authority. Court precedent had the potential to place the war into proper context. Commentators [\*66] vociferously argued the Court should address Vietnam War questions, n394 but Justice Douglas contended that "[t]he question of an unconstitutional war is neither academic nor 'political.'" n395¶ Other abstentions followed. In the 1980s, members of Congress challenged President Reagan's limited use of the military in undeclared conflicts, but courts dismissed the cases as political questions. n396 In 1990, fifty-four congresspersons filed a case against President Bush for troop buildups in the Persian Gulf prior to the 1991 Gulf War, but the court dismissed the case as unripe. n397 The court held:¶ [I]f the Congress decides that United States forces should not be employed in foreign hostilities, and if the Executive does not of its own volition abandon participation in such hostilities, action by the courts would appear to be the only available means to break the deadlock in favor of the constitutional provision. n398¶ Months later, Congress enacted the Authorization for Use of Military Force Against Iraq Resolution. n399 Years later, members of Congress similarly challenged President Clinton's airstrikes in Kosovo, but once more, the court refused to hear the case. n400¶ In short, if the Judiciary does not address a pertinent issue and the Executive pursues a controversial action without consequence, then future quandaries and political stalemates may lead to an expansion of the Executive Branch's war powers. n401 John Hart Ely believed the Judiciary [\*67] could assist in assuring Congress observes constitutional responsibilities and could further trigger a "judicial remand" to correct a legislature's failure to act. n402 Similarly, courts that accept the premise that the Judiciary should play a more prominent role in foreign affairs n403 would likely provide a more puissant check on the Executive. n404 Therefore, it appears the Court contributed substantial precedent that affirmed the original understanding of constitutional war powers, but with more recent judicial reluctance to address cases with changing factual circumstances, the President's legal counsel is now given broad discretion in interpreting such powers.

## Case

## Adv 1

### Circumvention

#### Obama will circumvent the plan --- empirics prove

Levine 12 - Law Clerk; J.D., May 2012, University of Michigan Law School (David Levine, 2013 SURVEY OF BOOKS RELATED TO THE LAW: BOOK NOTICE: A TIME FOR PRESIDENTIAL POWER? WAR TIME AND THE CONSTRAINED EXECUTIVE, 111 Mich. L. Rev. 1195)

Both the Declare War Clause n49 and the War Powers Resolution n50 give Congress some control over exactly when "wartime" exists. While the U.S. military was deployed to Libya during the spring and summer of 2011, the Obama Administration advanced the argument that, under the circumstances, it was bound by neither clause. n51 If Dudziak is worried about "war's presence as an ongoing feature of American democracy" (p. 136), Libya is a potent case study with implications for the use of force over the coming decades.

Article I, Section 8 of the U.S. Constitution grants to Congress the power to "declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water." n52 Although there is substantial debate on the precise scope of these powers, n53 this clause at least provides some measure of congressional control over significant commitments of U.S. forces to battle. However, it has long been accepted that presidents, acting pursuant to the commander-in-chief power, may "introduce[] armed forces into situations in which they encounter[], or risk[] encountering, hostilities, but which [are] not "wars' in either the common meaning or the [\*1207] constitutional sense." n54 Successive administrations have adopted some variant of that view and have invariably deployed U.S. forces abroad in a limited manner based on this inherent authority. n55

The Obama Administration has adopted this position - that a president has inherent constitutional authority to deploy forces outside of war - and even sought to clarify it. In the Office of Legal Counsel's ("OLC") memo to President Obama on the authority to use military force in Libya, n56 the Administration acknowledged that the Declare War Clause is a "possible constitutionally-based limit on ... presidential authority to employ military force." n57 The memo reasoned that the Constitution speaks only to Congress's ability to shape engagements that are "wars," and that presidents have deployed forces in limited contexts from the earliest days of the Union. n58 Acknowledging those facts, the memo concluded that the constitutional limit on congressional power must be the conceptual line between war and not war. In locating this boundary, the memo looked to the "anticipated nature, scope, and duration" of the conflict to which President Obama was introducing forces. n59 OLC found that the "war" standard "will be satisfied only by prolonged and substantial military engagements, typically involving exposure of U.S. military personnel to significant risk over a substantial period." n60

The Obama Administration's position was not out of sync with previous presidential practice - the Declare War Clause did not require congressional approval prior to executive deployment of troops. In analyzing the "nature, scope, and duration" questions, the memo looked first to the type of missions that U.S. forces would be engaged in. The air missions envisioned for the Libya operation did not pose the threat of withdrawal difficulty or escalation risk that might indicate "a greater need for approval [from Congress] at the outset." n61 The nature of the mission, then, was not similar to full "war." Similarly, the scope of the intended operation was primarily limited, at the time the memo was written, to enforcing a no-fly zone. n62 Consequently, [\*1208] the operation's expected duration was not long. Thus, concluded OLC, "the use of force by the United States in Libya [did not rise] to the level of a "war' in the constitutional sense." n63 While this conclusion may have been uncontroversial, it highlights Dudziak's concerns over the manipulation of the idea of "wartime," concerns that were heightened by the Obama Administration's War Powers Resolution analysis. Congress passed the War Powers Resolution in 1973 in an attempt to rein in executive power in the wake of the Vietnam War. n64 The resolution provides that the president shall "in every possible instance ... consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." n65 Additionally, when the president sends U.S. forces "into hostilities or into situations where imminent involvement in hostilities is clearly indicated," the resolution requires him to submit a report to Congress describing the circumstances of the deployment and the expected involvement of U.S. troops in the "hostilities." n66 Within sixty days of receiving that report, Congress must either declare war or in some other way extend the deployment; in the absence of some ratifying action, the resolution requires that the president withdraw U.S. forces. n67 Though eschewing the plainly confrontational route of directly challenging Congress's power under the War Powers Resolution, the Obama Administration implicitly challenged Congress's ability to affect future operations. In declining to withdraw forces, despite Congress's lack of approving legislation, President Obama claimed that the conflict in Libya could not be deemed "hostilities" as that term is used in the resolution. This argument was made both in a letter to Congress during the summer of 2011 n68 and in congressional testimony given by Harold Koh, the State Department Legal Advisor under the Obama Administration. n69 [\*1209] Koh's testimony provides the most complete recitation of the Obama Administration's analysis and focuses on four factors that distinguish the fighting in Libya (or at least the United States' participation) from "hostilities": the scope of the mission, the exposure of U.S. forces, the risk of escalation, and the nature of the tactics to be used. First, "the mission is limited." n70 That is, the objectives of the overall campaign led by the North American Treaty Organization ("NATO") were confined to a "civilian protection operation ... implementing a U.N. Security Council resolution." n71 Second, the "exposure" of the U.S. forces involved was narrow - the conflict did not "involve active exchanges of fire with hostile forces" in ways that would endanger U.S. service members' safety. n72 Third, the fact that the "risk of escalation [was] limited" weighed in favor of not categorizing the conflict as "hostilities." n73 Finally, the "military means" the United States used in Libya were limited in nature. n74 The majority of missions were focused on "providing intelligence capabilities and refueling assets." n75 Those American flights that were air-to-ground missions were a mix of suppression-of-enemy-air-defenses operations to enforce a no-fly zone and strikes by armed Predator drones. n76 As a point of comparison, Koh noted that "the total number of U.S. munitions dropped has been a tiny fraction of the number dropped in Kosovo." n77 With the exception of this final factor, these considerations are quite similar to the factors that define whether a conflict is a "war" for constitutional purposes. n78

The result of this reasoning is a substantially relaxed restraint on presidential authority to use force abroad going forward. As armed drones begin [\*1210] to make up a larger portion of the United States' arsenal, n79 and as other protective technologies, such as standoff munitions n80 and electronic warfare techniques, gain traction, it is far more likely that the "exposure" of U.S. forces will decrease substantially. The force used in Yemen and the Horn of Africa is illustrative of this new paradigm where U.S. service members are not "involved [in] active exchanges of fire with hostile forces," n81 but rather machines use force by acting as human proxies. To the same point, if the "military means" used in Libya are markers of something short of "hostilities," the United States is only likely to see the use of those means increase in the coming decades. Pressing the logic of Koh's testimony, leeway for unilateral executive action will increase as the makeup of our arsenal continues to modernize. n82

Dudziak worries about the invocation of "wartime" as an argument for the perpetual exercise of extraordinary powers. The Libya scenario, of course, is somewhat different - the president has argued that the absence of "war" leaves him a residuum of power such that he may use force abroad without congressional input. The two positions are of a piece, though. Dudziak argues that legacy conceptions of "wartime" and "peacetime" have left us vulnerable to the former's use, in and of itself, as a reason for increased executive power. Such literal thinking - that "war" is something specific or that the word "hostilities" has certain limits - also opens the door to the Obama Administration's defense of its position on Libya. And looking at the substance of that position leaves much to be desired.

Both Koh's testimony and the OLC memo pay lip service to the idea that the policy considerations underlying their position are consistent with the policy considerations of the Framers with respect to the Declare War Clause and Congress with respect to the War Powers Resolution. But the primary, if not the only, consideration mentioned is the loss of U.S. forces. That concern is front and center when analyzing the "exposure" of service [\*1211] members, n83 and it is also on display with respect to discussions about the nature and scope of an operation. n84 This is not the only policy consideration that one might intuit from those two provisions, however. Using lethal force abroad is a very serious matter, and the U.S. polity might rationally want input from the more representative branch in deciding when, where, and how that force is used in its name. In that same vein, permitting one individual to embroil the nation in foreign conflicts - limited or otherwise - without the input of another coequal branch of government is potentially dangerous. n85

As Dudziak's framework highlights the limits of the Obama Administration's argument for expansive power, so does the Administration's novel dissection of "hostilities" illustrate the limits of Dudziak's analysis. Dudziak presents a narrative arc bending toward the expansion of wartime and, as a result, increased presidential power. That is not the case with Libya: the president finds power in "not war" rather than in "wartime." If the American public is guilty, as Dudziak asserts, of using the outmoded and misleadingly concrete terminology of "wartime" to describe an increasingly complex phenomenon, Dudziak herself is guilty of operating within a paradigm where wartime necessarily equals more executive power (than does "not war"), a paradigm that has been supplanted by a more nuanced reality. Although [\*1212] Dudziak identifies the dangers of manipulating the boundaries of wartime, her catalog of manipulations remains incomplete because of the inherent limits of her framework.

This realization does not detract from Dudziak's warnings about the perils of endless wartime, however. Indeed, the powers that President Obama has claimed seem, perhaps, more palatable after a decade in which war has been invoked as an argument for many executive powers that would, in other eras, seem extraordinary. Though he has not explicitly invoked war during the Libya crisis, President Obama has certainly shown a willingness to manipulate its definition in the service of expanded executive power in ways that seem sure to increase "war's presence as an ongoing feature of American democracy" (p. 136).

Conclusion Dudziak presents a compelling argument and supports it well. War Time is potent as a rhetorical device and as a way to frame decisionmaking. This is especially so for the executive branch of the U.S. government, for which wartime has generally meant increased, and ever more expansive, power. As the United States continues to transit an era in which the lines between "war" and "peace" become increasingly blurred and violent adversaries are a constant, the temptation to claim wartime powers - to render the extraordinary ordinary - is significant.

This Notice has argued that, contrary to Dudziak's concerns, the temptation is not absolute. Indeed, in some instances - notably, detention operations in Iraq and Afghanistan - we are still able to differentiate between "war" and "peace" in ways that have hard legal meaning for the actors involved. And, importantly, the executive still feels compelled to abide by these distinctions and act in accordance with the law rather than claim wartime exceptionalism.

That the temptation is not absolute, however, does not mean that it is not real or that Dudziak's concerns have not manifested themselves. This detachment of expansive power from temporally bound periods has opened the door for, and in some ways incentivized, limiting wartime rather than expanding it. While President Obama has recognized the legal constraints that "war" imposes, he has also followed in the footsteps of executives who have attempted to manipulate the definition of "war" itself (and now the definition of "hostilities") in order to evade those constraints as much as possible. To the extent he has succeeded in that evasion, he has confirmed what seems to be Dudziak's greatest fear: that "military engagement no longer seems to require the support of the American people, but instead their inattention" (p. 132).

### 1NC---Obama Solves

#### Squo solves --- Obama rejected the Bush doctrine

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.

### 1NC---NSS Double Bind

#### Their ev is all describing the “Bush Doctrine” in the 02 NSS

Rehman 12 – 1AC Author – Fehzan Rehman, International Relations at the University of Westminster, "Analyzing America’s National Security Strategy", e-International Relations, 9-13, http://www.e-ir.info/2012/09/13/analyzing-americas-national-security-strategy/

The 11th September 2001 attacks on America catalysed the foreign policy objectives and decisions made by President George W. Bush, known as the Bush Doctrine. Some aspects of the Bush Doctrine were codified, particularly with a document called The National Security Strategy (NSS). This essay questions the implications the NSS has had on sovereignty and international law. Are we coming to a new age of collective security, where American exceptionalism sets the standards for interventions, and such institutions like the UN can be seen as a limit to a state’s sovereignty? Are we seeing a trend set by America where institutions like the UN and its international power will dwindle and have a similar fate as its predecessor, the League of Nations?

#### Obama already repudiated that in the 2010 NSS --- either the squo solves or the aff can

AP 10 Associated Press writers Anne Gearan and Robert Burns, “ Obama's National Security Strategy Turns Away From Bush Administration Goals,” http://www.huffingtonpost.com/2010/05/26/obamas-national-security\_n\_590109.html

WASHINGTON — President Barack Obama is breaking with the go-it-alone Bush years in a new strategy for keeping the nation safe, counting more on U.S. allies to tackle terrorism and other global problems. It's an approach that already has proved tricky in practice.¶ The administration's National Security Strategy, a summary of which was obtained Wednesday by The Associated Press, also for the first time adds homegrown terrorism to the familiar menu of threats facing the nation – international terror, nuclear weapons proliferation, economic instability, global climate change and an erosion of democratic freedoms abroad.¶ From mustering NATO forces for Afghanistan to corralling support to pressure North Korea to give up its illicit nuclear weapons program, the U.S. has sometimes struggled in leaning on friends and allies in recent years. Still, the new strategy breaks with some previous administrations in putting heavy emphasis on the value of global cooperation, developing wider security partnerships and helping other nations provide for their own defense.¶ In his first 16 months in office, Obama has pursued a strategy of gentle persuasion, sometimes summarized as "engagement."¶ His administration has attended more closely to ties with Europe, sought a "reset" of relations with Russia, pushed harder to restart stalled Mideast peace talks and consulted widely on a roadmap for defeating the Taliban in Afghanistan.¶ Obama's critics, however, assert that his policies have largely failed, given the continued defiance of Iran and North Korea on nuclear development, the stalemate in Afghanistan and rising worries about terrorist attacks at home.¶ Presidents use their national security strategy to set broad goals and priorities for keeping Americans safe. But the document isn't an academic exercise: it has far-reaching effects on spending, defense policies and security strategy.¶ For example, President George W. Bush's 2002 strategy document spelled out a doctrine of pre-emptive war.¶ "We must be prepared to stop rogue states and their terrorist clients before they are able to threaten or use weapons of mass destruction against the United States and our allies and friends," the Bush strategy said, with Iraq clearly in mind. The following year U.S. forces invaded, launching a conflict that has lasted far longer and cost far more money and lives than Bush intended.¶ Obama's new strategy is expected to move away from that doctrine.

### 1NC---Offense

#### Turn---the plan demolishes the credibility of US military threats---procedural hurdles and possible opposition embolden adversaries---decks warfighting

* transaction costs to comply with the plan independently trigger the link

Douglas Kriner 10, assistant professor of political science at Boston University, “After the Rubicon: Congress, Presidents, and the Politics of Waging War” 69-71

A growing game-theoretic literature within international relations suggests that these very same congressional actions can, however unintentionallv, also raise or lower the military costs for the president of using his preferred policy course. High-profile congressional support for or opposition to the president’s military policies does more than shape real and anticipated public opinion and affect the president’s levels of polit- ¡cal capital in Washington. It also sends important signals of American resolve or disunity to foreign actors. Target state leaders conduct their own cost-benefit analyses when plotting their military policy courses, and they may incorporate congressional signals into these calculations. An extensive literature in international relations examines the importance of signal credibility for interstate crisis bargaining and the initiation of military action.°2 In the international system. states are con stantly sending signals about their expectations of and intentions toward other state actors. When challenged by another country, a state’s leaders not only must weigh the costs and benefits of complying with their ad versarv’s demand; but, perhaps even more criticall, they must also evaluate the opposing state’s willingness to follow through on its threat (o use force ¡f necessary to achieve its objective. The decision of Congress to back or oppose the president’s threat thus conveys important information about American resolve to the target state. Moreover, when the president decides whether or not to threaten a target state with military action, he may anticipate the effect of likely congressional reactions to his decision or the credibility of the signal he will send to the target. Thus, because they can affect signal credibility, even anticipated congressional support or opposition can affect the cost-benefit calculations of both the president and the leader of the target state at the conflict ini tiation Phase.3 Signals of American resolve or disunity may also affect the target state’s calculations and, ¡n turn, the military costs to the president of staying the course throughout the conflict conduct phasc. Public displays of legislative support for the president’s conduct of military operations enhance the credibility of executive commitments to stay the course, and may deter the target state from escalating its resistance in the hope of outlasting American political will. Conversely, as presidents throughout American history have admonished would-be opponents in Congress. open legislative opposition to the president’s military course sends visible signals of American ambivalence, which may steel the target State’s resolve to continue to resist once a conflict has begun. For example, Vice President Dick Cheney was particularly aggres sive ¡n leveling this charge against Democratic opponents of the war ¡n Iraq. In response Lo congressional efforts to set a timetable for phased withdrawal from Iraq ¡n early 2007, Chencv minced few words: “When members of Congress pursue an antiwar strategy that’s been called ‘slow hlccding’ they arc not supporting the troops. they arc undermining them.” Vocal opposition in Congress. he charged, was a prescription for certain defeat as it was tantamount to “telling the enemy simply to watch the clock and wait us out.” A number of congressional Republicans echoed Cheney’s rhetoric; for example, South Carolina Senator Jim De- Mint asserted in 2007 that responsibility for American deaths in iraq be longed not to President Bush, but to Democratic opponents of the war ¡n Congress. “Al-Qaida knows that we’ve got a lot of wimps in Congress,” DeMint said. “I believe a lot of the casualties can be laid at the feet of all the talk in Congress about how we’ve got to get out, we’ve got to cut and run.”67

### 1NC---No Modeling

#### No norm against preemption exists regardless of US action --- means it’s inevitable

Keir A. Lieber 2, Assistant Professor of Political Science, University of Notre Dame and Robert J. Lieber, Professor of Government and Foreign Service, Georgetown University, December 2002, http://164.109.48.86/journals/itps/1202/ijpe/pj7-4lieber.htm

Some analysts believe that it is counterproductive to make explicit the conditions under which America will strike first, and there are compelling reasons for blurring the line between preemption and prevention. The attacks of September 11th demonstrate that terrorist organizations like al Qaeda pose an immediate threat to the United States, are not deterred by the fear of U.S. retaliation, and would probably seize the opportunity to kill millions of Americans if WMD could effectively be used on American soil. A proactive campaign against terrorists thus is wise, and a proclaimed approach toward state sponsors of terrorism might help deter those states from pursuing WMD or cooperating with terrorists in the first place. Other critics have argued that the Bush NSS goes well beyond even the right to anticipatory self-defense that has been commonly interpreted to flow from Article 51 of the U.N. Charter, and thus the Bush strategy will undermine international law and lead other states to use U.S. policy as a pretext for aggression. The most common examples are that the broad interpretation of legitimate preemption could lead China to attack Taiwan, or India to attack Pakistan. This logic is not compelling, however, as these states are not currently constrained from taking action by any norm against preemption, and thus will not be emboldened by rhetorical shifts in U.S. policy.

### 1NC---No Impact

#### Interventions won’t escalate --- executives will be responsible

Weiner 7 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.

### 1NC---Hype

#### Reject their hyperbolic claims --- multiple checks prevent SOP imbalance

John Yoo 9, Emanuel S. Heller Professor of Law @ UC-Berkeley Law, visiting scholar @ the American Enterprise Institute, former Fulbright Distinguished Chair in Law @ the University of Trento, served as a deputy assistant attorney general in the Office of Legal Council at the U.S. Department of Justice between 2001 and 2003, received his J.D. from Yale and his undergraduate degree from Harvard, “Crisis and Command,” Book, p. x-xi

This book is also written out of respect for Congress as well as the President. I have had the honor to serve as general counsel of the Senate Judiciary Committee under the chairmanship of Senator Orrin G. Hatch of Utah, a good and decent man as well as a strward of the Senate. I have the greatest respect for the awesome powers of Congress and the ways in which Congress and the broader political system can check any Chief Executive. It was Congress that forced the resignation of Richard Nixon through hearings, political pressure, spending constraints, and ultimately, the threat of impeachment. Today’s critics of the Presidency underestimate the power of politics to corral any branch of government that goes too far. They give too much credit to appeals to abstract notions of constitutional balance to restrain a truly out-of-control President, or misread active responses to unprecedented challenges as challenges to the Constitution. The hyperbole in such rhetoric is manifest in overwrought yet commonplace invocations of “treason” or “tramplings” of the Constitution. Has the Constitution indeed been trampled on? History provides us with a guide.¶ Certainly, the fear that a President might abuse power for personal gain or to maintain his or her position has haunted America from her birth. Executive power, as the Founding Fathers well knew, always carries the possibility of dictatorship. In their own day, the great Presidents were all accused of wielding power tyrannically. Yet, they were not dictators. They used their executive powers to the benefit of the nation. Once the emergency subsided, presidential power receded and often went into remission under long periods of congressional leadership. When chief executives misused their powers, the political system blocked or eventually ejected the President. No dictator has ever ruled in the United States, yet critics of contemporary presidential power wish to work radical change in current practice out of fear of impending dictatorship.

### AT: Heg Solves War

#### Impact’s empirically denied

Preble 10 – Former prof, history, Temple U. PhD, history, Temple (Christopher, U.S. Military Power: Preeminence for What Purpose?, 3 August, http://www.cato-at-liberty.org/u-s-military-power-preeminence-for-what-purpose/)

Goure and the Hadley-Perry commissioners who produced the alternate QDR argue that the purpose of American military power is to provide global public goods, to defend other countries so that they don’t have to defend themselves, and otherwise shape the international order to suit our ends. In other words, the same justifications offered for American military dominance since the end of the Cold War. Most in Washington still embraces the notion that America is, and forever will be, the world’s indispensable nation. Some scholars, however, questioned the logic of hegemonic stability theory from the very beginning. A number continue to do so today. They advance arguments diametrically at odds with the primacist consensus. Trade routes need not be policed by a single dominant power; the international economy is complex and resilient. Supply disruptions are likely to be temporary, and the costs of mitigating their effects should be borne by those who stand to lose --- or gain --- the most. Islamic extremists are scary, but hardly comparable to the threat posed by a globe-straddling Soviet Union armed with thousands of nuclear weapons. It is frankly absurd that we spend more today to fight Osama bin Laden and his tiny band of murderous thugs than we spent to face down Joseph Stalin and Chairman Mao. Many factors have contributed to the dramatic decline in the number of wars between nation-states; it is unrealistic to expect that a new spasm of global conflict would erupt if the United States were to modestly refocus its efforts, draw down its military power, and call on other countries to play a larger role in their own defense, and in the security of their respective regions. But while there are credible alternatives to the United States serving in its current dual role as world policeman / armed social worker, the foreign policy establishment in Washington has no interest in exploring them. The people here have grown accustomed to living at the center of the earth, and indeed, of the universe. The tangible benefits of all this military spending flow disproportionately to this tiny corner of the United States while the schlubs in fly-over country pick up the tab.

### 1NC---AT: Groupthink

#### Informal, internal checks are sufficient to address groupthink

Kennedy 12, JD from USC, MA in Middle Eastern Regional Studies from Harvard [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 competencyand 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."

#### No groupthink---executives are fragmented and pluralistic---Congress is far more prone to flawed decision-making

Posner 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.

### 1NC---Congress -/-> Better Wars

#### 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.

# Block

## DA

#### The AUMF provides broad targeted killing authority now---new restrictions cause the Executive to shift justifications and accelerate strikes based on self-defense---that destroys solvency and triggers global instability

Beau D. Barnes 12, J.D., Boston University School of Law, M.A. in Law and Diplomacy, The Fletcher School of Law and Diplomacy at Tufts University, 2012, “Reauthorizing the 'War on Terror': The Legal and Policy Implications of the AUMF's Coming Obsolescence,” Military Law Review, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2150874&download=yes>

In a world without a valid AUMF, the United States could base its continued worldwide counterterrorism operations on various alternative domestic legal authorities. All of these alternative bases, however, carry with them significant costs—detrimental to U.S. security and democracy. The foreign and national security policy of the United States should rest on “a comprehensive legal regime to support its actions, one that [has] the blessings of Congress and to which a court would defer as the collective judgment of the American political system about a novel set of problems.”141 Only then can the President’s efforts be sustained and legitimate.

2. Effect on the International Law of Self-Defense

A failure to reauthorize military force would lead to significant negative consequences on the international level as well. Denying the Executive Branch the authority to carry out military operations in the armed conflict against Al Qaeda would force the President to find authorization elsewhere, most likely in the international law of self-defense— the jus ad bellum.142 Finding sufficient legal authority for the United States’s ongoing counterterrorism operations in the international law of self-defense, however, is problematic for several reasons. As a preliminary matter, relying on this rationale usurps Congress’s role in regulating the contours of U.S. foreign and national security policy. If the Executive Branch can assert “self-defense against a continuing threat” to target and detain terrorists worldwide, it will almost always be able to find such a threat.143 Indeed, the Obama Administration’s broad understanding of the concept of “imminence” illustrates the danger of allowing the executive to rely on a self-defense authorization alone.144 This approach also would inevitably lead to dangerous “slippery slopes.” Once the President authorizes a targeted killing of an individual who does not pose an imminent threat in the strict law enforcement sense of “imminence,”145 there are few potential targets that would be off-limits to the Executive Branch. Overly malleable concepts are not the proper bases for the consistent use of military force in a democracy. Although the Obama Administration has disclaimed this manner of broad authority because the AUMF “does not authorize military force against anyone the Executive labels a ‘terrorist,’”146 relying solely on the international law of self defense would likely lead to precisely such a result.

The slippery slope problem, however, is not just limited to the United States’s military actions and the issue of domestic control. The creation of international norms is an iterative process, one to which the United States makes significant contributions. Because of this outsized influence, the United States should not claim international legal rights that it is not prepared to see proliferate around the globe. Scholars have observed that the Obama Administration’s “expansive and open-ended interpretation of the right to self-defence threatens to destroy the prohibition on the use of armed force . . . .”147 Indeed, “[i]f other states were to claim the broad-based authority that the United States does, to kill people anywhere, anytime, the result would be chaos.”148

Encouraging the proliferation of an expansive law of international self-defense would not only be harmful to U.S. national security and global stability, but it would also directly contravene the Obama Administration’s national security policy, sapping U.S. credibility. The Administration’s National Security Strategy emphasizes U.S. “moral leadership,” basing its approach to U.S. security in large part on “pursu[ing] a rules-based international system that can advance our own interests by serving mutual interests.”149 Defense Department General Counsel Jeh Johnson has argued that “[a]gainst an unconventional enemy that observes no borders and does not play by the rules, we must guard against aggressive interpretations of our authorities that will discredit our efforts, provoke controversy and invite challenge.”150 Cognizant of the risk of establishing unwise international legal norms, Johnson argued that the United States “must not make [legal authority] up to suit the moment.”151 The Obama Administration’s global counterterrorism strategy is to “adher[e] to a stricter interpretation of the rule of law as an essential part of the wider strategy” of “turning the page on the past [and rooting] counterterrorism efforts within a more durable, legal foundation.”152

## Cp

### 2NC Solves Cred

#### CP is goldilocks---it solves credibility but balances it with presidential flex which the aff destroys

Adrian Vermeule 7, Harvard law prof - AND - Eric Posner - U Chicago law, The Credible Executive, 74 U. Chi. L. Rev. 865

With discretion comes distrust.2 Voters and legislators grant the executive discretion, through action or inaction, and increase execu- tive discretion during emergencies, because they believe that the benefits of doing so outweigh the risks of executive abuse.3 By the same token, political actors will attempt to constrain the executive, or will simply fail to grant powers they otherwise would have preferred to grant, where they believe that the risks and harms of abuses out- weigh any benefits in security or other goods. The fear of executive abuse arises from many sources, but the basic problem is uncertainty about the executive’s motivations. The executive may, for example, be a power maximizer, intent on using legal or factual discretion to harm political opponents and cement his political position, or that of his political party; or he may be an empire builder, interested in expand- ing his turf at the expense of other institutions.

Where the executive is indeed ill motivated in any of these ways, constraining his discretion (more than the voters would otherwise choose) may be sensible. But the executive may not be ill motivated at all. Where the executive is in fact a faithful agent, using his increased discretion to promote the public good according to whatever concep- tion of the public good voters hold, then constraints on executive dis- cretion are all cost and no benefit. Voters, legislators, and judges know that different executive officials have different motivations. Not all presidents are power maximizers or empire builders.4 Of course, the executive need not be pure of heart; his devotion to the public interest may in turn be based on concern for the judgment of history. But so long as that motivation makes him a faithful agent of the principal(s), he counts as well motivated.

The problem, however, is that the public has no simple way to know which type of executive it is dealing with. An ill-motivated ex- ecutive will just mimic the statements of a well-motivated one, saying the right things and offering plausible rationales for policies that out- siders, lacking crucial information, find difficult to evaluate—policies that turn out not to be in the public interest. The ability of the ill- motivated executive to mimic the public-spirited executive’s state- ments gives rise to the executive’s dilemma of credibility: the well- motivated executive has no simple way to identify himself as such. Distrust causes voters (and the legislators they elect) to withhold discretion that they would like to grant and that the well-motivated ex- ecutive would like to receive. Of course, the ill-motivated executive might also want discretion. The problem is that voters who would want to give discretion (only) to the well-motivated executive may choose not to do so, because they are not sure what type he actually is. The risk that the public and legislators will fail to trust a well-motivated president is just as serious as the risk that they will trust an ill-motivated president, yet legal scholars have felled forests on the second topic while largely neglecting the first.5

Our aim in this Article is to identify this dilemma of credibility that afflicts the well-motivated executive and to propose mechanisms for ameliorating it. We focus on emergencies and national security but cast the analysis within a broader framework. Our basic claim is that the credibility dilemma can be addressed by executive signaling. Without any new constitutional amendments, statutes, or legislative action, law and executive practice already contain resources to allow a well- motivated executive to send a credible signal of his motivations, committing to use increased discretion in public-spirited ways. By tying policies to institutional mechanisms that impose heavier costs on ill- motivated actors than on well-motivated ones, the well-motivated executive can credibly signal his good intentions and thus persuade vot- ers that his policies are those that voters would want if fully informed. We focus particularly on mechanisms of executive self-binding that send a signal of credibility by committing presidents to actions or policies that only a well-motivated president would adopt.

The discussion is structured as follows. Part I lays out examples of the credibility dilemma, both historical and recent. Part II analyzes the credibility dilemma through the lens of principal-agent theory. Part III examines the attempted Madisonian solution to the credibility di- lemma and explains why it is a failure, for the most part. Part IV sug- gests a series of mechanisms for credibly demonstrating the executive’s good intentions. These mechanisms include independent commissions within the executive branch; bipartisanship in appointments to the executive branch, or more broadly the creation of domestic coa- litions of the willing; the related tactic of counterpartisanship, or choosing policies that run against the preferences of the president’s own party; commitments to multilateral action in foreign policy; increasing the transparency of the executive’s decisionmaking processes; and a regime of strict liability for executive abuses. Not all of these mecha- nisms succeed, and some of them succeed under some conditions but fail under others.

#### Executive self-restraint is the only way to solve the case

Gillian Metzger 9, prof, Columbia Law, THE INTERDEPENDENT RELATIONSHIP BETWEEN INTERNAL AND EXTERNAL SEPARATION OF POWERS 59 Emory L.J. 423

The case in favor of internal mechanisms is in part comparative. Real limitations exist on the ability of traditional external constraints, specifically Congress and the courts, to check the power of the Executive Branch. The fundamental impediments for Congress are internal ones, in particular its need to proceed via the arduous process of bicameralism and presentment and the additional obstacles created by the operation of congressional committees and rules. n62 The ordinary burdens of the legislative process are intensified in contexts involving efforts to check presidential authority given the frequent need to overcome a presidential veto. n63 Congress does wield important investigatory and oversight powers and has other tools that may give it leverage over the President, such as control over spending or the ability to add contentious measures to must-pass legislation. n64 But the political reality of party allegiance dominating institutional interests, along with greater ideological cohesion among political parties in Congress, undermines these techniques and makes rigorous congressional constraints on presidential actions unlikely except in the context of divided government. n65 Moreover, [\*438] even if Congress is willing to actually engage in oversight, its ability to do so may be significantly hampered by the Executive Branch's non-cooperation or intransigence, often in the form of assertion of executive privilege or failure to inform Congress of contentious activities. n66¶ Courts, in turn, face jurisdictional barriers that limit their ability to review Executive Branch actions. n67 Such barriers have recently surfaced in litigation challenging the government's expansion of domestic wiretapping without complying with the Foreign Intelligence Surveillance Act; the Sixth Circuit held that the plaintiffs' claims of injury from the program were too speculative to provide a basis for standing to challenge the program. n68 Even when actions are justiciable, the courts' effectiveness as a check can be significantly curtailed by their deference to reasonable Executive Branch policy [\*439] determinations, particularly in the area of national security. n69 Courts are also reluctant to intervene to correct general failures in administration or prompt Executive Branch action. n70 Another major impediment is delay. Courts must wait for cases to come to them, and challenges to presidential action or policy are likely to be appealed, postponing final resolution of the underlying claims. n71 This is not to say that deference and delay necessarily undermine judicial checks; the Supreme Court's rejection of the Bush Administration's refusal to regulate greenhouse gas emissions in Massachusetts v. EPA n72 and recent decisions rebuffing broad presidential assertions of power regarding the Guantanamo Bay detainees n73 are important testaments to the contrary. Yet even in these contexts, the limits of judicial constraints are evident. For example, although the EPA proposed regulating greenhouse gases under the Clean Air Act in response to the Massachusetts decision, the White House refused to act on the proposal and no formal action toward regulating greenhouse gases was taken in the remaining year and a half of the Bush Administration. n74 The ongoing, multi-year saga of habeas challenges involving the Guantanamo Bay detention center demonstrates even more vividly that it can be years before judicial review forces a change in Executive Branch behavior. n75¶ Several bases exist for thinking that internal separation of powers mechanisms may have a comparative advantage. First, internal mechanisms [\*440] operate ex ante, at the time when the Executive Branch is formulating and implementing policy, rather than ex post. As a result, they avoid the delay in application that can hamper both judicial and congressional oversight. n76 Second, internal mechanisms often operate continuously, rather than being limited to issues that generate congressional attention or arise in the form of a justiciable challenge. n77 Third, internal mechanisms operate not just at the points at which policy proposals originate and are implemented but also at higher managerial levels, thus addressing policy and administration in both a granular and systemic fashion. In addition, policy recommendations generated through internal checks may face less resistance than those offered externally because the latter frequently arise after executive officials have already decided upon a policy course and are more likely to take an adversarial form. n78 Internal mechanisms may also gain credibility with Executive Branch officials to the extent they are perceived as contributing to more fully informed and expertise-based decisionmaking. n79

### ASDF

#### Self restraint solves better than the aff

Adrian Vermeule 7, Harvard law prof - AND - Eric Posner - U Chicago law, The Credible Executive, 74 U. Chi. L. Rev. 865

As we noted earlier, legal scholars rarely note the problem of executive credibility, preferring to dwell on the problem of aggrandize- ment by ill-motivated presidents. Ironically, this assumption that presidents seek to maximize power has obscured one of the greatest constraints on aggrandizement, namely, the president’s own interest in maintaining his credibility. Neither a well-motivated nor an ill- motivated president can accomplish his goals if the public does not trust him.34 This concern with reputation may put a far greater check on the president’s actions than do the reactions of the other branches of the government.

#### The counterplan utilizes internal separations of power---the functional result is the same as the aff

Nathan Sales 12, Assistant Professor of Law, George Mason, Self-Restraint and National Security, JOURNAL OF NATIONAL SECURITY LAW & POLICY, 6:227

As we’ve seen, certain officials within military and intelligence agencies – general counsels, legal advisors, and other watchdogs – are responsible for ensuring that national security operations comply with the relevant domestic and international legal requirements. These players intervene to rule out missions they believe would cross a legal line. But sometimes they go beyond that basic function – ensure compliance with the law, full stop – and reject operations that, while lawful, are thought to be undesirable on policy grounds. That is, they impose self-restraints that are stricter than the applicable laws. Why?

One way to answer that question is to consider the individual and institutional incentives that color the behavior of military and intelligence officials. Looking at the government’s national security apparatus through the lens of public choice theory (especially the idea that bureaucrats are rationally self interested actors who seek to maximize their utility152) and basic agency relationships (e.g., the relationships between senior policymakers and the subordinates who act on their behalf153) reveals a complex system in which power is distributed among a number of different nodes. The executive branch “is a ‘they,’ not an ‘it.’”154 The national security community in particular is subdivided into various semi- autonomous entities, each of which promotes its own parochial interests within the system and, in so doing, checks the like ambitions of rival entities;155 the government thus is subject to what Neal Katyal has called the “internal separation of powers.”156 These basic insights into how military and intelligence agencies operate suggest several possible explanations for why self-restraint occurs. As elaborated in this Part, such constraints might result from systematic asymmetries in the expected value calculations of senior policymakers and their lawyers. In addition, as explained in Part IV, self-restraint might occur due to bureaucratic empire building by officials who review operations for compliance with domestic and international law.

A. A Simple Framework

One possible explanation for why the government stays its own hand is expected value asymmetry. This reluctance to push the envelope is a rational and predictable response to powerful bureaucratic incentives. Officials tend to be cautious because the costs they expect to incur as a result of forward-leaning and aggressive action usually are greater than the expected benefits. Similarly, government employment rules and other mechanisms make it easier to internalize onto individual bureaucrats the costs of a failed operation than the benefits of a successful one.157 National security players typically have more to lose from boldness than to gain, and that asymmetry inclines them to avoid risky behavior.158 While all members of the national security community experience some cost-benefit asymmetry, senior policymakers and their lawyers seem especially cautious. Attorneys who review proposed operations for legality therefore look askance at risky missions. They tend to veto proposals that, while legal, could inspire propaganda campaigns by adversaries, expose officials to ruinous investigations, or worse. The result is self-restraint – officials rule out operations that they regard as lawful because of fears they will prove too costly.

#### Counterplan causes congressional follow-on --- solves the whole aff but avoids politics

Duncan 10, Associate Professor of Law at Florida A&M, Winter 2010

(John C., “A Critical Consideration of Executive Orders,” 35 Vt. L. Rev. 333, Lexis)

**Executive orders** can serve the purpose of allowing the President to generate favorable publicity, such as when President Clinton signed an executive order on ethics, n493 and when President George W. Bush signed the first of a series of executive orders to launch his Faith-Based and Community Initiatives. n494 While these orders pay off political debts and thus may seem trivial, they nevertheless **create both infrastructural and regulatory precedents for future administrations**. Hence, they create an avenue for key constituencies of each administration to influence the executive structure as a whole without necessarily permitting that influence to extend to arenas of reserved for Congress. That is, while the President can act more swiftly and precisely to satisfy political commitments, the impact of his action will fall considerably short of analogous congressional action. This in turn serves to satisfy selected constituencies without giving them undue power via the presidency.

Executive orders have even served to create presidential commissions to investigate and research problems, and have been instrumental in solving remedial issues. n495 **Commission reports** that result from such orders can in [\*398] turn put pressure on Congress to enact legislation to respond to those problems. President Franklin Roosevelt pursued this process when he issued a report of the Committee on Economic Security studying financial insecurity due to "unemployment, old age, disability, and health." n496 This report led to the Social Security Act. n497

### 

### 2NC AT Future Prez Rollback

#### Rollback applies equally to the aff --- future Congresses/Courts would repeal the plan. We should get durable fiat just like the aff --- only way to overcome inherent barriers to both the plan and the counterplan.

#### Won’t be overturned by future presidents

Branum 2 --- Associate, Fulbright & Jaworski L.L.P., Houston, Texas. J.D. University of Texas; Austin (Tara L., Journal of Legislation, “PRESIDENT OR KING? THE USE AND ABUSE OF EXECUTIVE ORDERS IN MODERN-DAY AMERICA,” 28 J. Legis. 1)

Congressmen and private citizens besiege the President with demands [\*58] that action be taken on various issues. n273 To make matters worse, once a president has signed an executive order, he often makes it impossible for a subsequent administration to undo his action without enduring the political fallout of such a reversal. For instance, President Clinton issued a slew of executive orders on environmental issues in the weeks before he left office. n274 Many were controversial and the need for the policies he instituted was debatable. n275 Nevertheless, President Bush found himself unable to reverse the orders without invoking the ire of environmentalists across the country. n276 A policy became law by the action of one man without the healthy debate and discussion in Congress intended by the Framers. Subsequent presidents undo this policy and send the matter to Congress for such debate only at their own peril. This is not the way it is supposed to be.

## Heg

### 1NC General No Solve War

#### No impact to decline---\*decline of conflict is unrelated to hegemony

Christopher J. Fettweis 11, Department of Political Science, Tulane University, 9/26/11, Free Riding or Restraint? Examining European Grand Strategy, Comparative Strategy, 30:316–332, EBSCO

It is perhaps worth noting that there is no evidence to support a direct relationship between the relative level of U.S. activism and international stability. In fact, the limited data we do have suggest the opposite may be true. During the 1990s, the United States cut back on its defense spending fairly substantially. By 1998, the United States was spending $100 billion less on defense in real terms than it had in 1990.51 To internationalists, defense hawks and believers in hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities,” argued Kristol and Kagan, “doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace.”52 On the other hand, if the pacific trends were not based upon U.S. hegemony but a strengthening norm against interstate war, one would not have expected an increase in global instability and violence. The verdict from the past two decades is fairly plain: The world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable United States military, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums, no security dilemmas drove insecurity or arms races, and no regional balancing occurred once the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in U.S. capabilities. Most of all, the United States and its allies were no less safe. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and kept declining as the Bush Administration ramped the spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated. Military spending figures by themselves are insufficient to disprove a connection between overall U.S. actions and international stability. Once again, one could presumably argue that spending is not the only or even the best indication of hegemony, and that it is instead U.S. foreign political and security commitments that maintain stability. Since neither was significantly altered during this period, instability should not have been expected. Alternately, advocates of hegemonic stability could believe that relative rather than absolute spending is decisive in bringing peace. Although the United States cut back on its spending during the 1990s, its relative advantage never wavered. However, even if it is true that either U.S. commitments or relative spending account for global pacific trends, then at the very least stability can evidently be maintained at drastically lower levels of both. In other words, even if one can be allowed to argue in the alternative for a moment and suppose that there is in fact a level of engagement below which the United States cannot drop without increasing international disorder, a rational grand strategist would still recommend cutting back on engagement and spending until that level is determined. Grand strategic decisions are never final; continual adjustments can and must be made as time goes on. Basic logic suggests that the United States ought to spend the minimum amount of its blood and treasure while seeking the maximum return on its investment. And if the current era of stability is as stable as many believe it to be, no increase in conflict would ever occur irrespective of U.S. spending, which would save untold trillions for an increasingly debt-ridden nation. It is also perhaps worth noting that if opposite trends had unfolded, if other states had reacted to news of cuts in U.S. defense spending with more aggressive or insecure behavior, then internationalists would surely argue that their expectations had been fulfilled. If increases in conflict would have been interpreted as proof of the wisdom of internationalist strategies, then logical consistency demands that the lack thereof should at least pose a problem. As it stands, the only evidence we have regarding the likely systemic reaction to a more restrained United States suggests that the current peaceful trends are unrelated to U.S. military spending. Evidently the rest of the world can operate quite effectively without the presence of a global policeman. Those who think otherwise base their view on faith alone.

### 2NC Fettweis Laundry List Bad

#### Reject their vague assertions for conflict scenarios absent hegemony – their authors overestimate the importance of the US

Chris **Fettweis 11**, Department of Political Science Tulane University and Professor of National Security Affairs at the US Naval War College, “Free Riding or Restraint Examining European Grand Strategy”, Comparative Strategy; Sep/Oct2011, Vol. 30 Issue 4, p316-332, 17p

Assertions that without the combination of U.S. capabilities, presence and commitments instability would return to Europe and the Pacific Rim are usually rendered in rather vague language. If the United States were to decrease its commitments abroad, argued Robert Art, “the world will become a more dangerous place and, sooner or later, that will redound to America’s detriment.”53 From where would this danger arise? Who precisely would do the fighting, and over what issues? Without the United States, would Europe really descend into Hobbesian anarchy? Would the Japanese attack mainland China again, to see if they could fare better this time around? Would the Germans and French have another go at it? In other words, where exactly is hegemony is keeping the peace? With one exception, these questions are rarely addressed. That exception is in the Pacific Rim. Some analysts fear that a de facto surrender of U.S. hegemony would lead to a rise of Chinese influence. Bradley Thayer worries that Chinese would become “the language of diplomacy, trade and commerce, transportation and navigation, the internet, world sport, and global culture,” and that Beijing would come to “dominate science and technology, in all its forms” to the extent that soon theworldwould witness a Chinese astronaut who not only travels to the Moon, but “plants the communist flag on Mars, and perhaps other planets in the future.”54 Indeed Chin a is the only other major power that has increased its military spending since the end of the Cold War, even if it still is only about 2 percent of its GDP. Such levels of effort do not suggest a desire to compete with, much less supplant, the United States. The much-ballyhooed, decade-long military buildup has brought Chinese spending up to somewhere between one-tenth and one-fifth of the U.S. level. It is hardly clear that a restrained United States would invite Chinese regional, must less global, political expansion. Fortunately one need not ponder for too long the horrible specter of a red flag on Venus, since on the planet Earth, where war is no longer the dominant form of conflict resolution, the threats posed by even a rising China would not be terribly dire. The dangers contained in the terrestrial security environment are less severe than ever before. Believers in the pacifying power of hegemony ought to keep in mind a rather basic tenet: When it comes to policymaking, specific threats are more significant than vague, unnamed dangers. Without specific risks, it is just as plausible to interpret U.S. presence as redundant, as overseeing a peace that has already arrived. Strategy should not be based upon vague images emerging from the dark reaches of the neoconservative imagination. Overestimating Our Importance One of the most basic insights of cognitive psychology provides the final reason to doubt the power of hegemonic stability: Rarely are our actions as consequential upon their behavior as we perceive them to be. A great deal of experimental evidence exists to support the notion that people (and therefore states) tend to overrate the degree to which their behavior is responsible for the actions of others. Robert Jervis has argued that two processes account for this overestimation, both ofwhichwould seem to be especially relevant in theU.S. case. 55 First, believing that we are responsible for their actions gratifies our national ego (which is not small to begin with; the United States is exceptional in its exceptionalism). The hubris of the United States, long appreciated and noted, has only grown with the collapse of the Soviet Union.56 U.S. policymakers famously have comparatively little knowledge of—or interest in—events that occur outside of their own borders. If there is any state vulnerable to the overestimation of its importance due to the fundamental misunderstanding of the motivation of others, it would have to be the United States. Second, policymakers in the United States are far more familiar with our actions than they are with the decision-making processes of our allies. Try as we might, it is not possible to fully understand the threats, challenges, and opportunities that our allies see from their perspective. The European great powers have domestic politics as complex as ours, and they also have competent, capable strategists to chart their way forward. They react to many international forces, of which U.S. behavior is only one. Therefore, for any actor trying to make sense of the action of others, Jervis notes, “in the absence of strong evidence to the contrary, the most obvious and parsimonious explanation is that he was responsible.”57 It is natural, therefore, for U.S. policymakers and strategists to believe that the behavior of our allies (and rivals) is shaped largely by what Washington does. Presumably Americans are at least as susceptible to the overestimation of their ability as any other people, and perhaps more so. At the very least, political psychologists tell us, we are probably not as important to them as we think. The importance of U.S. hegemony in contributing to international stability is therefore almost certainly overrated. In the end, one can never be sure why our major allies have not gone to, and do not even plan for, war. Like deterrence, the hegemonic stability theory rests on faith; it can only be falsified, never proven. It does not seem likely, however, that hegemony could fully account for twenty years of strategic decisions made in allied capitals if the international system were not already a remarkably peaceful place. Perhaps these states have no intention of fighting one another to begin with, and our commitments are redundant.

#### No regional rebalancing or security dilemmas—the only empirical data goes our way.

Christopher Fettweis 11, Professor of Poli Sci @ Tulane University, “The Superpower as Superhero: Hubris in U.S. Foreign Policy,” Paper prepared for presentation at the 2011 meeting of the American Political Science Association, September 1-4, Seattle, WA, September 2011, pg. http://ssrn.com/abstract=1902154

The final and in some ways most important pathological belief generated by hubris places the United States at the center of the current era of relative peace. “All that stands between civility and genocide, order and mayhem,” explain Kaplan and Kristol, “is American power.”68 This belief is a variant of what is known as the “hegemonic stability theory,” which proposes that international peace is only possible when there is one country strong enough to make and enforce a set of rules.69 Although it was first developed to describe economic behavior, the theory has been applied more broadly, to explain the current proliferation of peace. At the height of Pax Romana between roughly 27 BC and 180 AD, for example, Rome was able to bring an unprecedented level of peace and security to the Mediterranean. The Pax Britannica of the nineteenth century brought a level of stability to the high seas. Perhaps the current era is peaceful because the United States has established a de facto Pax Americana in which no power is strong enough to challenge its dominance, and because it has established a set of rules that are generally in the interests of all countries to follow. Without a benevolent hegemon, some strategists fear, instability may break out around the globe.70 Unchecked conflicts could bring humanitarian disaster and, in today’s interconnected world, economic turmoil that could ripple throughout global financial markets. There are good theoretical and empirical reasons, however, to doubt that U.S hegemony is the primary cause of the current stability.

First, the hegemonic-stability argument shows the classic symptom of hubris: It overestimates the capability of the United States, in this case to maintain global stability. No state, no matter how strong, can impose peace on determined belligerents. **The U.S. military** may be the most imposing in the history of the world, but it can only police the system if the other members generally cooperate. Self-policing must occur, in other words; if other states had not decided on their own that their interests are best served by peace, then no amount of international constabulary work by the United States could keep them from fighting. The five percent of the world’s population that lives in the United States simply cannot force peace upon an unwilling ninety-five percent. Stability and unipolarity may be simply coincidental.

In order for U.S. hegemony to be the explanation for global stability, the rest of the world would have to expect reward for good behavior and fear punishment for bad. Since the end of the Cold War, the United States has not been especially eager to enforce any particular rules. Even rather incontrovertible evidence of genocide has not been enough to inspire action. Hegemonic stability can only take credit for influencing those decisions that would have ended in war without the presence, whether physical or psychological, of the United States. Since most of the world today is free to fight without U.S. involvement, something else must be preventing them from doing so.71 Stability exists in many places where no hegemony is present. Ethiopia and Eritrea are hardly the only states that could go to war without the slightest threat of U.S. intervention, yet few choose to do so.

Second, it is worthwhile to repeat one of the most basic observations about misperception in international politics, one that is magnified by hubris: Rarely are our actions as consequential upon their behavior as we believe them to be. The ego-centric bias suggests that while it may be natural for U.S. policymakers to interpret their role as crucial in the maintenance of world peace, they are almost certainly overestimating their own importance. At the very least, the United States is probably not as central to the myriad decisions in foreign capitals that help maintain international stability as it thinks it is.

Third, if U.S. security guarantees were the primary cause of the restraint shown by the other great and potentially great powers, then those countries would be demonstrating an amount of **trust** in the intentions, judgment and wisdom of another that would be **without precedent in** international **history**. If the states of Europe and the Pacific Rim detected a good deal of danger in the system, relying entirely on the generosity and sagacity (or, perhaps the naiveté and gullibility) of Washington would be the height of strategic irresponsibility. Indeed it is hard to think of a similar choice: When have any capable members of an alliance virtually disarmed and allowed another member to protect their interests? It seems more logical to suggest that the other members of NATO and Japan just do not share the same perception of threat that the United States does. If there was danger out there, as so many in the U.S. national security community insist, then the grand strategies of the allies would be quite different. Even during the Cold War, U.S. allies were not always convinced that they could rely on U.S. security commitments. Extended deterrence was never entirely comforting; few Europeans could be sure that United States would indeed sacrifice New York for Hamburg. In the absence of the unifying Soviet threat, their trust in U.S. commitments for their defense would presumably be lower—if in fact that commitment was at all necessary outside of the most pessimistic works of fiction.

Furthermore, in order for hegemonic stability logic to be an adequate explanation for restrained behavior, allied states must not only be fully convinced of the intentions and capability of the hegemon to protect their interests; they must also trust that the hegemon can interpret those interests correctly and consistently. As discussed above, the allies do not feel that the United States consistently demonstrates the highest level of strategic wisdom. In fact, they often seem to look with confused eyes upon our behavior, and are unable to explain why we so often find it necessary to go abroad in search of monsters to destroy. They will participate at times in our adventures, but minimally and reluctantly.

Finally, while believers in hegemonic stability as the primary explanation for the long peace have articulated a logic that some find compelling, they are rarely able to cite much evidence to support their claims. In fact, the limited empirical data we have suggests that there is little connection between the relative level of U.S. activism and international stability. During the 1990s, the United States cut back on defense fairly substantially, spending $100 billion less in real terms in 1998 that it did in 1990, which was a twenty-five percent reduction.72 To defense hawks and other believers in hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace,” argued Kristol and Kagan.”73 If global stability were unrelated to U.S. hegemony, however, one would not have expected an increase in conflict and violence.

The verdict from the last two decades is fairly plain: The world grew more peaceful while the United States cut its forces.74 No state believed that its security was endangered by a less-capable U.S. military, or at least none took any action that would suggest such a belief. **No defense establishments were enhanced** to address power vacuums; **no security dilemmas drove insecurity or arms races; no regional balancing occurred** after the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in U.S. capabilities. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and kept declining as the Bush Administration ramped that spending back up. The two phenomena are unrelated.

These figures will not be enough to convince skeptics. Military spending figures by themselves are insufficient to disprove a connection between overall U.S. actions and international stability, and one could also presumably argue that spending is not the only or even the best indication of hegemony, that it is instead U.S. foreign political and security commitments that maintain stability. Since neither was significantly altered during this period, instability should not be expected. Alternately, advocates of hegemonic stability could believe that relative rather than absolute spending is decisive in bringing peace. Although the United States cut back on its spending during the 1990s, its relative advantage never wavered.

However, two points deserve to be made. First, even if it were true that either U.S. commitments or relative spending account for global pacific trends, it would remain the case that stability can be maintained at drastically lower levels. In other words, even if one can be allowed to argue in the alternative for a moment and suppose that there is in fact a level of engagement below which the United States cannot drop without increasing international disorder, a rational grand strategist would still cut back on engagement and spending until that level is determined. Basic logic suggests that the United States ought to spend the minimum amount of its blood and treasure while seeking the maximum return on its investment. And if, as many suspect, this era of global peace proves to be inherently stable because normative evolution is typically unidirectional, then no increase in conflict would ever occur, irrespective of U.S. spending.75 Abandoning the mission to stabilize the world would save untold trillions for an increasingly debt-ridden nation.

Second, it is also worth noting that if opposite trends had unfolded, if other states had reacted to news of cuts in U.S. defense spending with more aggressive or insecure behavior, then surely hegemonists would note that their expectations had been justified. If increases in conflict would have been interpreted as evidence for the wisdom of internationalist strategies, then logical consistency demands that the lack thereof should at least pose a problem. As it stands, the only evidence we have regarding the relationship between U.S. power and international stability suggests that the two are unrelated. Evidently the rest of the world can operate quite effectively without the presence of a global policeman. Those who think otherwise base their view on faith alone.

It requires a good deal of hubris for any actor to consider itself indispensable to world peace. Far from collapsing into a whirlwind of chaos, the chances are high that the world would look much like it does now if the United States were to cease regarding itself as God’s gladiator on earth. The people of the United States would be a lot better off as well.

## OTHER

### 2NC---AT: Groupthink

#### Obama’s cabinet solves groupthink

Pillar 13 -- Brookings Foreign Policy Senior Fellow [Paul, "The Danger of Groupthink," The National Interest, 2-26-13, webcache.googleusercontent.com/search?q=cache:6rnyjYlVKY0J:www.brookings.edu/research/opinions/2013/02/26-danger-groupthink-pillar+&cd=3&hl=en&ct=clnk&gl=us]

David Ignatius has an interesting take on national security decision-making in the Obama administration in the wake of the reshuffle of senior positions taking place during these early weeks of the president's second term. Ignatius perceives certain patterns that he believes reinforce each other in what could be a worrying way. One is that the new team does not have as much “independent power” as such first-term figures as Clinton, Gates, Panetta and Petraeus. Another is that the administration has “centralized national security policy to an unusual extent” in the White House. With a corps of Obama loyalists, the substantive thinking may, Ignatius fears, run too uniformly in the same direction. He concludes his column by stating that “by assembling a team where all the top players are going in the same direction, he [Obama] is perilously close to groupthink.” We are dealing here with tendencies to which the executive branch of the U.S. government is more vulnerable than many other advanced democracies, where leading political figures with a standing independent of the head of government are more likely to wind up in a cabinet. This is especially true of, but not limited to, coalition governments. Single-party governments in Britain have varied in the degree to which the prime minister exercises control, but generally room is made in the cabinet for those the British call “big beasts”: leading figures in different wings or tendencies in the governing party who are not beholden to the prime minister for the power and standing they have attained. Ignatius overstates his case in a couple of respects. Although he acknowledges that Obama is “better than most” in handling open debate, he could have gone farther and noted that there have been egregious examples in the past of administrations enforcing a national security orthodoxy, and that the Obama administration does not even come close to these examples. There was Lyndon Johnson in the time of the Vietnam War, when policy was made around the president's Tuesday lunch table and even someone with the stature of the indefatigable Robert McNamara was ejected when he strayed from orthodoxy. Then there was, as the most extreme case, the George W. Bush administration, in which there was no policy process and no internal debate at all in deciding to launch a war in Iraq and in which those who strayed from orthodoxy, ranging from Lawrence Lindsey to Eric Shinseki, were treated mercilessly. Obama's prolonged—to the point of inviting charges of dithering—internal debates on the Afghanistan War were the polar opposite of this. Ignatius also probably underestimates the contributions that will be made to internal debate by the two most important cabinet members in national security: the secretaries of state and defense. He says John Kerry “has the heft of a former presidential candidate, but he has been a loyal and discreet emissary for Obama and is likely to remain so.” The heft matters, and Kerry certainly qualifies as a big beast. Moreover, the discreet way in which a member of Congress would carry any of the administration's water, as Kerry sometimes did when still a senator, is not necessarily a good indication of the role he will assume in internal debates as secretary of state. As for Chuck Hagel, Ignatius states “he has been damaged by the confirmation process and will need White House cover.” But now that Hagel's nomination finally has been confirmed, what other “cover” will he need? It's not as if he ever will face another confirmation vote in the Senate. It was Hagel's very inclination to flout orthodoxy, to arrive at independent opinions and to voice those opinions freely that led to the fevered opposition to his nomination.

#### Groupthink theory is flawed --- correlation, not causation

Anthony Hempell 4, User Experience Consulting Senior Information Architect, “Groupthink: An introduction to Janis' theory of concurrence-seeking tendencies in group work.,” <http://www.anthonyhempell.com/papers/groupthink/>, March 3

In the thirty years since Janis first proposed the groupthink model, there is still little agreement as to the validity of the model in assessing decision-making behaviour (Park, 2000). Janis' theory is often criticized because it does not present a framework that is suitable for empirical testing; instead, the evidence for groupthink comes from largely qualitative, historical or archival methods (Sunstein, 2003). Some critics go so far as to say that Janis's work relies on "anecdote, casual observation, and intuitive appeal rather than rigorous research" (Esser, 1998, cited in Sunstein, 2003, p.142). While some studies have shown support for the groupthink model, the support tends to be mixed or conditional (Esser, 1998); some studies have revealed that a closed leadership style and external threats (in particular, time pressure) promote groupthink and defective decision making (Neck & Moorhead, 1995, cited by Choi & Kim, 1999); the effect of group cohesiveness is still inconclusive (Mullen, Anthony, Salas & Driskel, 1994, cited by Choi & Kim, 1999). Janis's model tends to be supported by studies that employ a qualitative case-study approach as opposed to experimental research, which tends to either partially support or not support Janis's thesis (Park, 2000). The lack of success in experimental validation of groupthink may be due to difficulties in operationalizing and conceptualizing it as a testable variable (Hogg & Hains, 1998; Park, 2000). Some researchers have criticized Janis for categorically denouncing groupthink as a negative phenomenon (Longley & Pruitt, 1980, cited in Choi & Kim, 1999). Sniezek (1992) argues that there are instances where concurrence-seeking may promote group performance. When used to explain behaviour in a practical setting, groupthink has been frames as a detrimental group process; the result of this has been that many corporate training programs have created strategies for avoiding groupthink in the workplace (Quinn, Faerman, Thompson & McGrath, 1990, cited in Choi & Kim, 1999). Another criticism of groupthink is that Janis overestimates the link between the decision-making process and the outcome (McCauley, 1989; Tetlock, Peterson, McGuire, Chang & Feld, 1992; cited in Choi & Kim, 1999). Tetlock et al argue that there are many other factors between the decision process and the outcome. The outcome of any decision-making process, they argue, will only have a certain probability of success due to various environmental factors (such as luck). A large-scale study researching decision-making in seven major American corporations concluded that decision-making worked best when following a sound information processing method; however these groups also showed signs of groupthink, in that they had strong leadership which attempted to persuade others in the group that they were right (Peterson et al, 1998, cited in Sunstein, 2003). Esser (1998) found that groupthink characteristics were correlated with failures; however cohesiveness did not appear to be a factor: groups consisting of strangers, friends, or various levels of previous experience together did not appear to effect decision-making ability. Janis' claims of insulation of groups and groups led by autocratic leaders did show that these attributes were indicative of groupthink symptoms. Moorhead & Montanari conducted a study where they concluded that groupthink symptoms had no significant effect on group performance, and that "the relationship between groupthink-induced decision defects and outcomes were not as strong as Janis suggests" (Moorhead & Montanari, 1986, p. 399; cited by Choi & Kim, 1999).

#### The historical support for groupthink 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.

# DA

### Impact Overview

#### Yes strikes escalate, Poor concedes it “irrationality is possible and you cannot predict”--- trigger biological warfare and draw in Russia and China

Dennis Ray Morgan 9, Hankuk University of Foreign Studies, Yongin Campus - South Korea, Futures, Volume 41, Issue 10, December 2009, Pages 683-693

This scenario has gained even more plausibility since a January 2007 Sunday Times report [13] of an Israeli intelligence leak that Israel was considering a strike against Iran, using low-yield bunker busting nukes to destroy Iran’s supposedly secret underground nuclear facilities. In Moore’s scenario, non-nuclear neighboring countries would then respond with conventional rockets and chemical, biological and radiological weapons. Israel then would retaliate with nuclear strikes on several countries, including a pre-emptive strike against Pakistan, who then retaliates with an attack not only on Israel but pre-emptively striking India as well. Israel then initiates the ‘‘Samson option’’ with attacks on other Muslim countries, Russia, and possibly the ‘‘anti-Semitic’’ cities of Europe. At that point, all-out nuclear war ensues as the U.S. retaliates with nuclear attacks on Russia and possibly on China as well.11

#### Biowarfare triggers extinction

Anders Sandberg 8, is a James Martin Research Fellow at the Future of Humanity Institute at Oxford University; Jason G. Matheny, PhD candidate in Health Policy and Management at Johns Hopkins Bloomberg School of Public Health and special consultant to the Center for Biosecurity at the University of Pittsburgh Medical Center; Milan M. Ćirković, senior research associate at the Astronomical Observatory of Belgrade and assistant professor of physics at the University of Novi Sad in Serbia and Montenegro, 9/8/8, “How can we reduce the risk of human extinction?,” Bulletin of the Atomic Scientists,<http://www.thebulletin.org/web-edition/features/how-can-we-reduce-the-risk-of-human-extinction>

The risks from anthropogenic hazards appear at present larger than those from natural ones. Although great progress has been made in reducing the number of nuclear weapons in the world, humanity is still threatened by the possibility of a global thermonuclear war and a resulting nuclear winter. We may face even greater risks from emerging technologies. Advances in synthetic biology might make it possible to engineer pathogens capable of extinction-level pandemics. The knowledge, equipment, and materials needed to engineer pathogens are more accessible than those needed to build nuclear weapons. And unlike other weapons, pathogens are self-replicating, allowing a small arsenal to become exponentially destructive. Pathogens have been implicated in the extinctions of many wild species. Although most pandemics "fade out" by reducing the density of susceptible populations, pathogens with wide host ranges in multiple species can reach even isolated individuals. The intentional or unintentional release of engineered pathogens with high transmissibility, latency, and lethality might be capable of causing human extinction. While such an event seems unlikely today, the likelihood may increase as biotechnologies continue to improve at a rate rivaling Moore's Law.

#### Deal failure independently causes global conflict

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

A global conflict between the US, Russia, and China is likely in the coming months should the world powers fail to reach a nuclear deal with Iran, an American analyst says.¶ “If the talks fail, if the agreements being pursued are not successfully carried forward and implemented, then there would be enormous international pressure to drive towards a conflict with Iran before [US President Barack] Obama leaves office and that’s a very great danger that no one can underestimate the importance of,” senior editor at the Executive Intelligence Review Jeff Steinberg told Press TV on Wednesday. ¶ “The United States could find itself on one side and Russia and China on the other and those are the kinds of conditions that can lead to miscalculation and general roar,” Steinberg said. ¶ “So the danger in this situation is that if these talks don’t go forward, we could be facing a global conflict in the coming months and years and that’s got to be avoided at all costs when you’ve got countries like the United States, Russia, and China with” their arsenals of “nuclear weapons,” he warned.

### AT: No Strike

#### Israel will escalate to nuclear first-use---they perceive Iran as an existential threat

James M. Lindsay 10, Senior Vice President, Director of Studies, and Maurice R. Greenberg Chair at the Council on Foreign Relations, and Ray Takeyh, Senior Fellow at the Council on Foreign Relations, March/April 2010, “After Iran Gets the Bomb,” Foreign Affairs, Vol. 89, No. 2

Such a doomsday scenario could pan out. Whether it did would depend greatly on how the United States and others, starting with Israel, responded to Iran's nuclearization. Whether Israeli Prime Minister Benjamin Netanyahu forgoes a preventive strike against Iran's nuclear facilities or opts for launching an attack and it fails, the Israeli government will continue to regard the Iranian regime as an existential threat to Israel that must be countered by any means possible, including the use of nuclear weapons. Given Israel's unique history and Ahmadinejad's contemptible denials of the Holocaust, no Israeli prime minister can afford to think otherwise.

#### Sanctions change the game

Muhammad 12/31 Askia, citing David Bositis, Vice President and Senior Research Analyst at the Joint Center for Political and Economic Studies, “Obama's burden” <http://www.finalcall.com/artman/publish/National_News_2/article_101094.shtml>

In foreign affairs, the President’s burden is made even more awkward by dug-in opposition by leaders of both parties here in this country. Despite unprecedented breakthroughs on his watch with Syria concerning its stockpile of chemical weapons, and with Iran concerning its nuclear enrichment plans, the Israel-lobby would prefer more saber-rattling **and** possible military action than any peaceful resolution. Other challenges are complicated by some of Mr. Obama’s own decisions.¶ “On the international level,” Dr. Horne explained, “it’s clear that the Obama administration wants to pivot toward Asia, which mean’s China.¶ “But, you may recall, when he first came into office that was to be accompanied by a reset with Russia, because it’s apparent that the United States confronting Russia and China together is more than a notion. And yet, the Obama administration finds itself doing both.¶ “Look at its misguided policy towards Ukraine, for example, where it’s confronting Russia head-on, and its confrontation with China off the coast of eastern China. So, I guess in the longer term, it’s probably evident that the most severe challenge for the Obama administration comes from (the) international situation because as we begin to mark the 100th anniversary of the onset of World War I in 2014, it’s evident that unfortunately the international situation today, in an eerie way, resembles some ways the international situation at the end of 1913.¶ “In the end of 1913 there was a rising Germany, just like there is a rising China. There was a declining Britain, just like there is a declining United States of America, and we all know the rather morbid consequences of World War I, so it is for that reason that I say that I would say that Mr. Obama’s most severe challenge is in the international arena,” said Dr. Horne.¶ “In terms of foreign policy, his wanting to negotiate with Iran about their stopping their nuclear program, almost immediately there were people in the Congress speaking out in public who were totally against everything he wanted to do,” said Dr. Bositis.¶ “There are people who don’t want to put any pressure on Israel about coming to terms with the Palestinians. There are people who are unhappy with what he’s done in terms of Syria,” he said. These stumbling blocks also stand in the way of the President’s ability to deliver on his pre-election promise to close the Guantanamo prison camp where hundreds are being detained, although most have been cleared for release by all U.S. intelligence agencies because they pose no threat to this country. Yet the prisoners languish, some even resorting to hunger strikes because of the hopelessness of their plight, with the U.S. turning to painful force-feeding the inmates to keep them from starving themselves to death.¶ “Change is always hard,” Ms. Jarrett said Mr. Obama told a group of youth leaders recently. “The Civil Rights Movement was hard. People sacrificed their freedom. They went to prison. They got beat up. Look through our history and then look around the world. It’s always hard. You can’t lose faith because it’s hard. It just means you have to try harder. That’s really what drives him every day,” said Ms. Jarrett.¶ And at the end of the day, Mr. Obama remains in control and holding all the “trump cards.”¶ “Remember something,” Dr. Bositis said. “These people can say or make all these claims about Obama, but the fact of the matter is that Obama is president, and he’s going to be president for three more years, and he’s going to have a lot more influence than all of these clowns,” who disparage his leadership.¶ “He’s not going to blink. He learned that lesson. With these guys, they’re like rapists. If you give them an inch, they will own you,” Dr. Bositis concluded.

### AT: Reid Blocks

#### Vote counts go our way, but the reasoning behind them is that Democrats are afraid to challenge Obama on national security and foreign policy---the plan signals a break in that thinking

Shmuel Rosner 1-23, editor, writer and researcher based in Tel Aviv; Senior Political Editor for the Jewish Journal, 1/23/14, “Why Israel Should Worry about the Failure to Pass another Iran Sanctions Bill,” http://www.jewishjournal.com/rosnersdomain/item/why\_israel\_should\_worry\_about\_the\_failure\_to\_pass\_another\_iran\_sanctions\_bi

There are two ways of looking at the current map of expectations and calculations regarding a new Iran sanctions bill: one is mathematical, the other one focuses on trends rather than numbers.¶ Looking at the numbers makes sense, as the vote is ultimately about numbers. Can the bill pass? Can it withstand a Presidential veto? These are the important questions. To answer them, using the approach taken by Greg Sargent and Ron Kampeas can be helpful. According to their counts “19 members of the Senate Democratic caucus opposed to a vote, versus 15 who might be assumed to support one, with 21 not accounted for”. This teaches us that “although 58 senators have co-sponsored the proposed legislation that would tighten the restrictions on doing business with the tyrannical Islamist regime”, as Jonathan Tobin writes, “the Obama administration seems to have acquired the upper hand in the battle”. There will not be enough votes to overcome a veto. And if the count keeps coming down as it has in recent days, there might not be enough votes to pass a bill in the Senate (the House is another story).¶ Looking only at the numbers is a mistake, though, as the more troubling picture arises when one looks at the trends behind those numbers.¶ Legislators seem very reluctant to challenge the Obama administration on matters of national security and foreign affairs. This can’t be good for an Israeli government that finds a much more sympathetic ear on the Hill than in the white House.

PC is working to hold Dems in line precisely because Obama’s framing opposition to sanctions around the idea that the Executive should be free from restrictions in foreign policy---the plan’s a loss on the vital argument preventing sanctions

VOA 1-23 – Voice of America News, 1/23/14, “Support Slipping for Iran Sanctions in US Senate,” http://www.voanews.com/content/support-slipping-for-iran-sanctions-in-senate/1836453.html

More Democratic senators are quietly signaling their opposition to a bill that spells out new sanctions against Iran if negotiations to limit the country’s nuclear program do not yield a final accord.

The bill retains bipartisan support in both houses of Congress, but passage is seen as increasingly unlikely in the Democratic-led Senate amid an intense lobbying effort by the Obama administration to hold off on sanctions while international negotiations proceed.

Senators Patty Murray and Elizabeth Warren are the latest Democrats to announce their opposition to the Iran sanctions bill currently before Congress.

In a letter to constituents in Washington state, Murray said “the administration should be given time to negotiate a strong verifiable comprehensive agreement” on Iran’s nuclear program. At the same time, she pledged to work “to swiftly enact sanctions” if the talks ultimately fail.

Similarly, a spokeswoman for Warren says the Massachusetts senator “does not support imposing additional sanctions through new legislation while diplomatic efforts to achieve a long-term agreement are ongoing.”

The sanctions bill has 16 Democratic co-sponsors, near-unanimous support among Republicans, and the backing of politically potent pro-Israeli U.S. lobbying groups. But 11 Senate committee chairs, including Murray, currently oppose the bill.

Among Democrats who signed on to the measure late last year, some have grown less vocal in their defense and promotion of the measure in recent weeks. Senate Majority Leader Harry Reid has neither explicitly promised a vote on the bill, nor ruled it out.

Congressional expert William Galston of the Brookings Institution says pressure from President Barack Obama appears to be swaying a growing number of Democratic lawmakers.

“The White House is determined to prevent this from happening," he said. "The administration believes in the marrow of its bones that the executive branch is the lead negotiator in the matter and that it deserves a chance to conduct its own foreign policy."

Iran says any new sanctions would violate last year’s interim nuclear accord and spell the end of negotiations.

The White House has promised a presidential veto of any sanctions Congress may pass before negotiations run their course.

#### Err neg:

#### Political pressure from Obama will successfully hold off Iran sanctions now---vote counts are deceptive---momentum is behind the scenes

Sara Sorcher 1-22, and Elahe Izadi, writers for National Journal, 1/22/14, “It's Getting Easier to Vote Against Iran Sanctions–and AIPAC,” http://www.nationaljournal.com/defense/it-s-getting-easier-to-vote-against-iran-sanctions-and-aipac-20140122

The 59 senators who signed on to new Iran sanctions know President Obama opposes them—and they did it anyway. ¶ On the surface, the vote count—which includes 16 Democrats—looks grim for the White House, which strongly opposes the threat of new sanctions, in favor of diplomacy. But the tally is far from the 100-vote rebuke the Senate handed to the White House on the issue in 2011. ¶ The truth is that it is now easier to vote against Iran sanctions than it has been in years past—and to oppose one of the strongest, most influential lobbying groups in the country: the American Israel Public Affairs Committee. ¶ For two decades, AIPAC has made pressuring Iran its top issue, driving Democrats today into an uncomfortable position, wedged between an adamant White House and a powerful lobby trying to equate support for sanctions with support for Israel. ¶ "Being anti-Iran today is like being anti-Soviet during the Cold War," said Doug Bloomfield, the group's former legislative director. "Who wants to be tagged by being called pro-Iranian and opposing [sanctions]?" ¶ Officials at AIPAC declined to comment. But others, like Sen. Mark Kirk, the Illinois Republican who coauthored the sanctions bill, have been upfront about "heavy" contact with the pro-Israel community and "regular" briefings with AIPAC leadership about the Nuclear Weapon Free Iran Act, which includes measures to punish Iran's oil industry if it breaches diplomatic commitments. ¶ "[I'm] very happy that this has become the kind of test issue for the pro-Israel community," he said. "The pro-Israel community is going to be heavily present in most states. This is a chance for a senator to go back and tell them that, 'I'm with you … on a critical issue, like the survival of Israel in the 21st century.' "¶ Yet a significant minority of senators is declining that opportunity. ¶ The rise of J Street, a younger pro-Israel lobby pushing hard against the new sanctions, is serving as a counterweight to AIPAC on this issue. Revived hope for a diplomatic breakthrough with new Iranian President Hassan Rouhani helps J Street's cause. So does political pressure from Obama. By decoupling support for Israel with support for new sanctions against Iran, the group is making it easier for lawmakers inclined to support the White House. ¶ "We've been working diligently on Capitol Hill and in the Jewish-American community to raise support for the president's diplomatic efforts vis-a-vis Iran, and oppose any legislation which would threaten it," said Dylan Williams, director of government affairs at J Street. "We feel very strongly that the current bill in the Senate would threaten diplomacy." ¶ J Street's influence is also clear in the money it spends. Among pro-Israel groups, JStreetPAC was the largest single political donor during the 2008 and 2012 cycles, contributing nearly $2.7 million to federal candidates, parties, and outside groups. ¶ And some lawmakers supported by J Street have been vocal in support of the group's position. Senate Intelligence Committee Chairwoman Dianne Feinstein, for instance, has spoken out strongly against the new Iran sanctions. ¶ As one congressional aide put it, "Those are the political calculations that are made easier when a group like J Street gives you cover." ¶ Legitimate Differences¶ Policymakers for and against sanctions have legitimate differences of opinion on strategy to achieve the same goal: getting Iran to give up its pursuit of nuclear weapons. ¶ The administration believes new sanctions now will interfere with the final deal the U.S. and world powers are trying to negotiate with Iran. Yet Israeli Prime Minister Benjamin Netanyahu, and pro-Israel groups in the U.S. supporting Israeli leadership on this issue, want to keep the pressure tight during the interim deal, which does not fully dismantle Tehran's nuclear program. AIPAC and the bill's supporters in Congress believe the threat of new sanctions will actually strengthen the ongoing negotiations. The legislation gives Iran a "clear choice," AIPAC's director of policy and government affairs Brad Gordon said in a video on the group's website. "Give up your pursuit of a nuclear-weapons capability, or face further crippling economic sanctions." ¶ On Capitol Hill, the debate is less over tactics than ideology. Lawmakers are left in a tricky position: Those optimistic about diplomacy or wanting to side with the White House are often left with the impression that failing to back more sanctions against Tehran is tantamount to breaking faith with the Jewish state. ¶ "It's been a very clever lobbying campaign, because those who are promoting [sanctions] … have framed the discussion: You're either for Iran, or against Iran," Bloomfield said. "What the hell kind of choice is that?" ¶ The most direct influence AIPAC exerts on the Hill is via lobbying; the group spent $2.2 million in 2013, more than three-fourths of the total spent on pro-Israel lobbying that year. AIPAC's educational arm is one of the biggest sponsors of congressional travel, too, spending about $9 million on nearly 900 lawmaker trips to Israel since 2000, according to Legistorm. ¶ Unlike J Street, AIPAC does not directly contribute to candidates. However, donations from the organization's leadership has long been tracked by the Center for Responsive Politics as pro-Israel political contributions. ¶ AIPAC's support for sanctions has sometimes forced lawmakers into verbal acrobatics. Senate Majority Whip Dick Durbin of Illinois, for instance, stresses how he has voted for "the strongest" sanctions in the past. If negotiations fail, he said, "then I'm going to vote for even stronger sanctions in the future. But at this point, I think negotiations are our best hope of taking the nuclear weapons out of Iran and avoiding war." ¶ Does he feel this a politically difficult position to take, given that pro-Israel groups are pushing so hard? "Yes," Durbin said. He also acknowledges the pressure is prevalent on Capitol Hill. As for how he's felt it, he said, "I'm not going to get into that." ¶ A Pro-Israel Alternative¶ Founded in 2008, J Street introduced an alternative definition to what, exactly, it means to be pro-Israel. ¶ "There was a very clear definition of what was considered to be part of the mainstream Jewish community, and it basically had to do with agreeing with most of the Israeli government's policies," the aide said. ¶ Now there's a divide. "What J Street says is, 'We don't have to agree with Bibi Netanyahu, when we agree with some of the opposition leaders in Israel.' " the aide said. "They've definitely broadened the definition, the boundaries, of what it means to be pro-Israel, and they've empowered these voices, which exist in both the American-Jewish community, in Israel—and in Congress." ¶ The message is, apparently, resonating. Not one of the seven Senate candidates that J Street officially endorsed in 2012 have signed onto the recent sanctions bill. "Obviously we're excited to see when folks take what we think is the best position," said Dan Kalik, J Street's director of political affairs. ¶ Of course, these senators are a minority. But it is significant that, rather than avoiding cosponsoring sanctions or voting quietly against them, some lawmakers—including Feinstein—are coming out to say publicly they do not believe this is the time for new sanctions. ¶ Introducing new sanctions now, Feinstein said on the Senate floor last week, "defies logic, it threatens instant reverse, and it ends what has been unprecedented diplomacy. Do we want to take that on our shoulders? Candidly, in my view, it is a march toward war." ¶ Feinstein received $82,171 through JStreetPAC during her 2012 run, making the California Democrat the fifth-top recipient of the group's money that cycle, and the group her second-largest individual donor. ¶ Lobbying Ahead¶ In the battle for influence, groups supporting sanctions will continue to highlight the Iranian threat. Ben Chouake, a physician who heads NORPAC, a New Jersey-based group backing candidates committed to the "strength, security, and survival" of Israel and that is pushing for sanctions, said the message is well-received. ¶ "When you go to a member of Congress and say, 'This is an existential threat to the world,' you explain why, and it's a logical explanation, people usually get it," he said. "And they understand their responsibilities." ¶ A major player among pro-Israel groups, NORPAC contributed nearly $2 million to federal candidates, parties, and outside groups in election cycles from 2008 to 2012. While NORPAC offers no ultimatums in exchange for monetary support, Chouake said, Iran "is clearly the No. 1 issue." ¶ "What's on the table is the prospect of nuclear genocide," Chouake said. "They want to do to the Jews in 12 minutes what Hitler did in 12 years. You just can't let crazy people get nuclear weapons. There's nowhere to hide." ¶ Convincing presidents, however, can be a different story. "Virtually every president hates these sanctions bills," said Chouake, who has been at NORPAC for 15 years. "Clinton hated it; Bush fought it tooth and nail. But every administration, after it was passed, took great advantage of these sanctions and ultimately appreciated they could be used as a tool to facilitate American policy."¶ In his last term, Obama was forced to learn to love the Iran sanctions Congress muscled through. This time, he may not have to.

#### Their “momentum” and vote counts args are cut off at the knees because pro-sanctions forces don’t have a plan to force a vote---Obama’s PC is key to prevent Reid from allowing a vote---also means fast timeframe because sanctions pass as soon as Reid flips

Stacy Kaper 1-17, National Journal, 1/17/14, “U.S. Senate's Iran Hawks Flounder Against Reid-Obama Coalition,” http://www.nti.org/gsn/article/us-senates-iran-hawks-flounder-against-reid-obama-coalition/

The U.S. Senate's Iran hawks have lots of votes to back their sanctions legislation. What they lack is a plan to get the bill to the floor. ¶ Fifty-nine senators -- including 16 Democrats -- have signed onto sanctions legislation from Democratic Senator Robert Menendez (N.J.) and Republican Senator Mark Kirk (Ill.). The measure would punish Iran with sanctions if it reneges on an interim nuclear agreement, or if that agreement does not ultimately abolish any nuclear-weapons capabilities for Iran. ¶ The count has climbed rapidly since the bipartisan pair introduced their legislation in late December. But now it's unclear whether that support will be enough to clear the bill's next major hurdle: Senate Majority Leader Harry Reid. ¶ The Nevada Democrat is siding with the White House, which has put intense pressure on lawmakers not to act on sanctions, arguing it could result in both a nuclear-armed and hostile Iranian state. And without Reid's backing, supporters of the Menendez-Kirk bill are unsure how to move the measure to the floor. ¶ "I assume that if the Democrat senators put enough pressure on Senator Reid he might bring it to the floor," said Missouri Republican Senator Roy Blunt. "But, you know, we are at a moment in the Senate where nothing happens that Senator Reid doesn't want to happen; and this is something at this moment that Senator Reid doesn't want to happen." ¶ And for now, sanctions supporters are still mulling their strategy. ¶ "We are talking amongst ourselves. There is a very active debate and discussion ongoing about how best to move forward," said Democratic Senator Richard Blumenthal of Connecticut, a cosponsor of the bill. "There are a number of alternative strategies, but we're deliberating them." ¶ While Reid has, at least for now, foiled their policy plans, sanctions supporters are still scoring the desired political points on the issue. They can report their efforts to their constituents while blaming Reid for the inaction. ¶ But whatever pressure Reid is getting from his colleagues, he's also getting support from the commander in chief. ¶ In a White House meeting Wednesday night, President Obama made a hard sell to Democrats on the issue, pleading with them to back off sanctions while his team worked on a nuclear pact. ¶ "The president did speak passionately about how [we] must seize this opportunity, that we need to seize this six months … and that if Iran isn't willing to in the end make the decisions necessary to make it work, he'll be ready to sign a bill to tighten those sanctions -- but we gotta give this six months," said Senator Jeff Merkley of Oregon, after returning from the White House. ¶ In the meantime, many bill supporters reason that Reid will eventually feel the heat. ¶ "We'll just have to ratchet up the pressure, that's all," said Republican Senator John McCain (Ariz.). "The president is pushing back, obviously, and he's appealing to the loyalty of Democrats, but there are a lot of other forces out there that are pushing in the other direction, so we'll see how they react." ¶ Earlier this week Senator Lindsey Graham (R-S.C.) said he was hoping to find more Democratic cosponsors over the recess and was talking to House Majority Leader Eric Cantor (Va.) about whether the Republican-controlled House might take up the Senate sanctions bill as a way to spur the Senate to act. But neither of Graham's approaches represents a broad, coordinated campaign. ¶ Democrats, who have more power to drive the train in the Senate, seem to be in little hurry. ¶ "I don't think there is any time schedule related to it at this point," said Democratic cosponsor Ben Cardin of Maryland. "We are all trying to figure out how we can be most helpful and make sure Iran does not become a nuclear-weapon state." ¶ Menendez, who chairs the Senate Foreign Relations Committee and is the lead Democratic sponsor, said he is focused on hearing more from the administration about the reported unofficial secret "side deal" with Tehran. ¶ About the plans to proceed, Menendez said noncommittally, "We'll see." ¶ Kirk, the Republican who is the other lead sponsor, said he was counting on elections pressure to spark action. ¶ "My hope is that, as we get towards midterm elections, members are going to want to be on record being against giving up billions of dollars to Iran," Kirk said. ¶ Other members are hoping lobbying groups can carry the weight on this one. McCain said he hoped pro-Israel groups could convince Democrats to spring into action or that supporters could make it uncomfortable for Reid to continue blocking the bill.

### AT: TPA Thumper

#### Obama hasn’t actually started expending capital on TPA yet

Cokie and Steven V. Roberts, 1-24-2014, “Fast track to free trade,” Battle Creek Inquirer, http://www.battlecreekenquirer.com/article/20140124/OPINION02/301240013/Cokie-Steven-V-Roberts-Fast-track-free-trade

President Obama intends to make free trade a major goal this year, and few policies would do more to stimulate growth and create jobs at a time when too many Americans are still struggling to find work and support their families. But the president must show much more passion and persistence on this issue than he’s demonstrated so far. In particular, he has to stand up to the labor unions and liberal interest groups who continue to mount a wrong-headed, backward-looking opposition to expanding foreign commerce. He can start by making trade a major theme of his State of the Union speech next week. Rep. Aaron Schock of Illinois, a key Republican on trade policy, rightly told Bloomberg, “We need the president to come out and say he wants this. We need leadership from him.” The immediate issue is a bipartisan bill introduced earlier this month that would renew Trade Promotion Authority, commonly known as “fast track.” Under this process, Congress would be able to vote up or down on trade pacts but not offer amendments or change provisions.

#### Not spending capital on it – just sloganeering

South Maryland News, 1-24-2014, ““Year of Action”: Sincere or Just Another Slogan?” http://smnewsnet.com/archives/91357

The president says he wants this to be a “year of action.” Sounds great. But one issue in particular will show Americans whether those words are sincere – or just the latest in a long line of empty White House slogans. A bipartisan bill critical to expanding American exports and creating jobs is ripe for action. The legislation – called Trade Promotion Authority or TPA – has the support of most congressional Republicans as well as the president. And the bill’s economic benefits are clear. Only one roadblock to enactment remains: the president’s Democratic allies on Capitol Hill. As The Hill newspaper noted, “Getting TPA passed would be a major victory for the administration and one that would please business groups, but the White House will first have to convince Democrats to go along with it.” Shouldn’t be hard, right? With his credibility with our trading partners on the line, a revamped legislative staff in place, and American jobs at stake, surely the president can win the support of just a fraction of his own caucus in the House. That is all that is needed to pass this priority. But while the White House claims it is engaging Democratic lawmakers to support the bill, so far there is scant evidence of results.

### AT: Deal Fails

#### Both short and long-term deals with Iran will succeed---but the sanctions bill destroys any chance of agreement

David Morrison 1-24, Board Member of Sadaka, the Ireland Palestine Alliance, 1/24/14, “US chooses diplomacy with Iran … but years late,” http://www.david-morrison.org.uk/iran/us-diplomacy-iran-late.htm

Will the interim agreement be implemented successfully? Will a long term agreement be reached? The prospects look very good for both.

An immediate threat to the agreement – that the US Congress will enact legislation imposing additional nuclear-related sanctions on Iran – seems to be fading. In the interim agreement the Obama administration made the following commitment:

“The US Administration, acting consistent with the respective roles of the President and the Congress, will refrain from imposing new nuclear-related sanctions.”

This commitment obliges Obama to veto any legislation passed by Congress imposing additional sanctions.

A Bill currently before the US Senate, The Nuclear Weapon Free Iran Act of 2013 (S. 1881) [7], would impose additional sanctions, but only if Iran fails to implement the interim agreement or to negotiate a final agreement. This may not breach the letter of the agreement, though it is bound to put the future of the agreement in jeopardy.

It is being sold by its co-authors, Democrat Chairman of the Foreign Relations Committee, Robert Menendez, and Republican Mark Kirk, as offering a helping hand to the administration by strengthening its hand in the ongoing nuclear negotiations with Iran.

It is difficult to counter this proposition, if one asserts, as the administration does, that a previously unwilling Iran was forced to the negotiating table by the sanctions imposed by Congress in December 2011. If that were the case, then it follows that further sanctions would reinforce Iran’s willingness to negotiate and would increase the likelihood that it would accept less favourable terms.

In fact, Iran has not been forced to negotiate by sanctions. It was prepared to endure sanctions over many years in order to achieve international acceptance of its right to enrich uranium. It looks as if its endurance is about to pay off.

#### Iran’s verifiably implementing the interim agreement---new sanctions bill destroys progress

Daryl G. Kimball 1-23, executive director of the Arms Control Association, and Sanford Gottlieb, was executive director of the National Committee for a Sane Nuclear Policy, 1/23/14, “Bill could scuttle Iran deal [Commentary],” The Baltimore Sun, http://www.baltimoresun.com/news/opinion/oped/bs-ed-iran-deal-20140123,0,5752254.story#ixzz2rGSLEZ8z

Iran began taking verifiable steps this week to stop work on its most worrisome nuclear activities under the terms of an agreement with the United States and five other world powers. The breakthrough nuclear deal marks the first negotiated limitations on Iran's nuclear program in nearly a decade and opens the door for talks on a comprehensive agreement to prevent a nuclear-armed Iran.

As long as Iran complies with the limits on its program, the P5+1 group (China, France, Germany, Russia, the United Kingdom and the United States) has agreed to provide limited and reversible relief from some of the sanctions now in force against Iran. The six powers also pledged to refrain from any additional sanctions for the duration of the agreement, which will allow more frequent (daily) inspections of Iran's key nuclear sites, providing for early warning of any noncompliance.

Unfortunately, a group of 59 senators, including Maryland's Ben Cardin, has introduced and is seeking a vote on a bill (S. 1881) that would impose further sanctions on Iran, reopen the terms of the first phase agreement and impose new and unrealistic restrictions on the comprehensive deal.

The bill's authors claim their proposal for additional sanctions supports a diplomatic solution. As President Barack Obama and the 10 Senate Democratic committee chairs have warned, it would not.

Why? The new Iran sanctions bill sets out impractical demands for the still-to-be-negotiated comprehensive deal. Iran and the P5+1 powers have already agreed that the final phase deal will include a "mutually defined enrichment program" for Iran. But S. 1881 would only allow the suspension of sanctions if Iran agrees to zero-enrichment and the complete dismantlement of its nuclear infrastructure.

Zero-uranium enrichment may have been conceivable a decade ago when Iran had less than 300 centrifuges. But today, Iran has 10,000 operating centrifuge machines. A deal that forces Iran to capitulate and give up any and all uranium enrichment, even for peaceful purposes, would be politically unsustainable inside Iran. Instead, Congress should support efforts to negotiate a final deal that caps Iran's uranium enrichment program at far lower levels and puts in place even more intrusive inspections to guard against cheating.

The bill's authors say their proposal won't necessarily impose new sanctions right away because S. 1881 gives the U.S. president authority to temporarily waive the sanctions if Tehran meets the terms of the first phase agreement, as well as additional measures. That is misleading.

The bill would require that Iran take additional steps (including ending financing for terrorist groups and halting missile tests) that go beyond the terms of the first phase nuclear agreement. If Iran does not meet these added requirements (and it will not), new sanctions would go into effect within weeks. Iran's Foreign Minister has made clear that new sanctions legislation would be interpreted as a violation of the U.S. commitments in the nuclear agreement.

International sanctions have certainly played a role in motivating Tehran's leaders to reach the first-phase deal to limit their nuclear program by halting uranium enrichment above normal fuel-grade, stopping installation of more advanced uranium centrifuges and halting major construction work on a new reactor that could produce plutonium in the future. But if the U.S. tries to impose still more sanctions in the middle of the ongoing nuclear talks, other countries will see Washington, not Tehran, as the problem, and their support for the enforcing international sanctions against Iran will erode.

The threat of further U.S. sanctions would also undermine support inside Iran for nuclear restraint. Iranian hardliners, who already oppose the nuclear deal, will likely take retaliatory steps and make it harder for Iran's President, Hassan Rouhani, to agree to further limits on Iran's nuclear program.

As a result, talks on a comprehensive deal would likely collapse, Iran's nuclear activities would accelerate, bringing it closer to being able to produce nuclear weapons, and the risk of an Israeli military attack on Iran's nuclear sites would grow.

Military strikes would, at best, only delay Iran's nuclear program and at worst, would lead to a wider conflict and give Iran an excuse to openly pursue nuclear weapons.

Though the cosponsors of S. 1881 may have good intentions, this is not the time to move forward with new sanctions legislation. Maryland's Congressional representatives should support — not blow up — the promising diplomatic process to prevent a nuclear-armed Iran.

### AT: Waivers

#### Waivers don’t prevent the impact

David Finkel 1-16, Editor of Against the Current, 1/16/14, “Will The Iran Deal Hold?,” http://www.viewpointonline.net/site/component/content/article/38-bottomnews/3608-will-the-iran-deal-hold.html

The dangers, however, remain. It’s quite possible that Israel would undertake some major provocations in the coming months. The Obama White House might feel it necessary to do something to look tough. Iran’s rulers might miscalculate if new sanctions legislation looks like passing Congress.

The risk of any particular crisis leading to escalation and unintended catastrophe are small, but over time the cumulative risk of apocalypse most certainly isn’t.

#### Legislation’s key

Daryl G. Kimball 1-23, executive director of the Arms Control Association, and Sanford Gottlieb, was executive director of the National Committee for a Sane Nuclear Policy, 1/23/14, “Bill could scuttle Iran deal [Commentary],” The Baltimore Sun, http://www.baltimoresun.com/news/opinion/oped/bs-ed-iran-deal-20140123,0,5752254.story#ixzz2rGSLEZ8z

The bill's authors say their proposal won't necessarily impose new sanctions right away because S. 1881 gives the U.S. president authority to temporarily waive the sanctions if Tehran meets the terms of the first phase agreement, as well as additional measures. That is misleading.

The bill would require that Iran take additional steps (including ending financing for terrorist groups and halting missile tests) that go beyond the terms of the first phase nuclear agreement. If Iran does not meet these added requirements (and it will not), new sanctions would go into effect within weeks. Iran's Foreign Minister has made clear that new sanctions legislation would be interpreted as a violation of the U.S. commitments in the nuclear agreement.

International sanctions have certainly played a role in motivating Tehran's leaders to reach the first-phase deal to limit their nuclear program by halting uranium enrichment above normal fuel-grade, stopping installation of more advanced uranium centrifuges and halting major construction work on a new reactor that could produce plutonium in the future. But if the U.S. tries to impose still more sanctions in the middle of the ongoing nuclear talks, other countries will see Washington, not Tehran, as the problem, and their support for the enforcing international sanctions against Iran will erode.

The threat of further U.S. sanctions would also undermine support inside Iran for nuclear restraint. Iranian hardliners, who already oppose the nuclear deal, will likely take retaliatory steps and make it harder for Iran's President, Hassan Rouhani, to agree to further limits on Iran's nuclear program.

As a result, talks on a comprehensive deal would likely collapse, Iran's nuclear activities would accelerate, bringing it closer to being able to produce nuclear weapons, and the risk of an Israeli military attack on Iran's nuclear sites would grow.

### AT: PC Fails

#### The bill won’t be brought to a vote now, and the veto would be sustained if it were, because of PC

David Morrison 1-24, Board Member of Sadaka, the Ireland Palestine Alliance, 1/24/14, “US chooses diplomacy with Iran … but years late,” http://www.david-morrison.org.uk/iran/us-diplomacy-iran-late.htm

Nevertheless, it is not clear that the Bill will be voted on, let alone passed, by the Senate. The Obama administration is lobbying fiercely against it, arguing that putting it into law would likely bring diplomacy to an end and implying that, in those circumstances, the only way to stop Iran developing nuclear weapons would be by the US taking military action.

The White House has gone so far as to hint that some supporters of the Bill want military action – see, for example, the following from a statement by Bernadette Meehan of the National Security Council is typical of the argument being made by the White House:

“If Congress passes this bill, it will be proactively taking an action that will make diplomacy less likely to succeed. The American people have been clear that they prefer a peaceful resolution to this issue. If certain members of Congress want the United States to take military action, they should be up front with the American public and say so. Otherwise, it’s not clear why any member of Congress would support a bill that possibly closes the door on diplomacy and makes it more likely that the United States will have to choose between military options or allowing Iran’s nuclear program to proceed.” [9]

There are signs that this is having an effect in detaching some Democrat senators who have supported the Bill up to now in order, they say, to help the administration in its diplomatic efforts.

Mainstream media against Bill

Five major mainstream newspapers New York Times, Washington Post, USA Today, Los Angeles Times, and Minneapolis Star Tribune have published editorials against. Rarely has AIPAC-sponsored legislation taken such a battering from the US press.

A New York Times editorial on 13 January 2013 spoke of “dangerously misguided forces, including leading Democrats and Republicans in Congress, … working to sabotage” the nuclear deal, which it described as “an undeniably important step toward the peaceful resolution of a serious dispute” [10].

On 15 January 2013, the Washington Post wrote that “pursuing negotiations on these terms, though risky, is preferable to unrestrained Iranian enrichment and a slide toward war.” [11]

Even long term supporters of Israel are expressing doubts. For example, Jeffrey Goldberg wrote in his Bloomberg column on 14 January 2013:

“What it [the Bill] could do is move the US closer to war with Iran and, crucially, make Iran appear -- even to many of the US’s allies -- to be the victim of American intransigence, even aggression.” [12]

Feinstein’s speech

10 senior Democrats who chair Senate committees have backed the administration in opposing the Bill [13]. One of them, Diane Feinstein, who chairs the Intelligence Committee, made a very powerful and coherent speech against the Bill in the Senate on 14 January 2013, a speech which looked forward a rapprochement with Iran going much further than just nuclear issues. It’s well worth reading in full. Here’s a small extract:

“The fact is we have reached agreement and that action is just about to take place, and we are going to jaundice it, we are going to hurt it, and we are likely to collapse it by passing additional sanctions …

“How does that make any kind of common sense? It defies logic, it threatens instant reverse, and it ends what has been unprecedented diplomacy. Do we want to take that on our shoulders? Candidly, in my view, it is a march toward war.” [14]

On the Bill’s assertion that the US should support Israel if it took military action against Iran, she said: “While I recognize and share Israel’s concern, we cannot let Israel determine when and where the US goes to war”.

It is a testament to the enormous power of the Israeli lobby that 59 out of 100 US senators put their names to the proposition that the US should go to war at a time and place of Israel’s choosing. This is a rare occasion in which a senior US lawmaker has bluntly rejected that proposition in public. It could be a sign of the times.

\* \* \*

In the unlikely event of the Bill being passed by the Senate and the House of Representatives, it is certain that Obama will veto it. The commitment in the interim agreement obliges him to do so. Theoretically, a presidential veto can be overridden by a two-thirds vote in each House. But, that is extremely unlikely – very few Democratic senators are going to vote to torpedo a major foreign policy initiative by a Democratic president, in which he has invested a great deal of capital.

#### The deal will succeed now but it’s not assured---PC’s key to maintain momentum against sanctions---failure guarantees war

Matt Lockshin 1-21, senior campaign manager and online organizer at CREDO Action, 1/21/14, “A Big Day for Diplomacy With Iran,” <http://www.huffingtonpost.com/matt-lockshin/a-big-day-for-diplomacy-w_b_4632941.html?utm_hp_ref=politics>

Monday could go down in history as the day we took our first step toward a comprehensive nuclear deal with Iran that prevents the country from ever acquiring a nuclear weapon.

But the peaceful resolution of international concerns about Iran's nuclear program is hardly assured.

Those of us who support diplomacy have an important role to play in preventing members of the House and the Senate -- Democrats and Republicans -- who are unwilling to give President Obama the time and political space necessary to cut a reasonable deal with Iran.

Where We Are Now

On Monday, Iran began to implement an interim deal it has made with the United States and our international partners. Iran's nuclear program is now frozen and subject to the most intrusive inspections in history.

And for the next six months, while Iran's nuclear program is halted, negotiators will try to reach a comprehensive diplomatic agreement between Iran, the United States and various world powers to prevent Iran from ever acquiring a nuclear weapon.

President Obama has been a strong voice for peace despite opposition from many within his own party. Now more than ever, he needs our strong and vocal support.

These negotiations represent the best chance in a decade to resolve this issue peacefully. But they will be tough, both substantively and politically. President Obama himself has only given the talks a 50/50 chance of success.

The stakes of these talks are high. The alternative to a negotiated deal will be either a continually growing Iranian nuclear program or another American war in the Middle East.

So we shouldn't take counterproductive actions that make the negotiations even harder than they need to be.

Yet that is precisely what hawks in both chambers of Congress are trying to do.

The Biggest Danger to Diplomacy - New Sanctions.

Among the leading political dangers to diplomatic talks is the belligerent and reckless move to impose new sanctions

on Iran while negotiations are ongoing, in violation of our commitment to our international partners and Iranian diplomats as part of an interim nuclear deal.

In December, news broke that 14 Senate Democrats led by New Jersey's Robert Menendez and New York's Chuck Schumer had joined Republicans (led by Senator Mark Kirk of Illinois) in pushing a new sanctions bill (S. 1881) that would blow up diplomacy with Iran and set us on a path to war.

Initially, the new sanctions bill seemed to have momentum. But last week the momentum shifted in our favor, due in no small part to those who flooded the Senate with calls demanding that Senate Democrats not help the Republicans start another war.

And as of this morning, there are more Senate Democrats on the record opposing new sanctions

marked

at this time than there are Democratic co-sponsors of the new sanctions bill.

The National Iranian American Council, an organization that does great work supporting diplomacy with Iran, has a nice breakdown of where various senators stand on new sanctions. You can see their whip count, here.

The Second Biggest Danger to Diplomacy - Tying President Obama's Hands

Iran is currently under an extremely onerous sanctions regime. Sanctions have already crippled the Iranian economy and led to widespread economic pain, like rampant unemployment and shortages of medicine and other humanitarian supplies.

While the purpose of sanctions has never been to punish ordinary Iranians, they are the ones who overwhelmingly feel the pain caused by sanctions.

It's widely understood that if a deal is struck, the basic contours would be our agreeing to ease sanctions with a goal of ending them in exchange for a verifiable agreement with Iran that prevents it from ever building a nuclear weapon.

But some members of Congress want to move the goalposts and are trying to pass legislation that lays out the contours of what an acceptable final deal than ends sanctions would look like -- and the standards they want to establish are so unrealistic that nothing that's actually on the table would ever satisfy them.

This kind of legislation is not only dangerous if it passes. Iranian diplomats are less likely to go out on a limb and agree to potentially politically unpopular provisions if they don't believe Congress will back up President Obama by supporting the deal he cuts.

The bottom line is that Congress needs to give President Obama the space he needs to cut a reasonable deal. Legislation that seeks to tie his hands not only makes it less likely that diplomacy will succeed (which in turn makes war much more likely), it also makes it more likely that the failure of diplomacy would be blamed (perhaps justifiably) on the United States.

What Can We Do Now?

The short version is that we need to do all that we can to provide time and space for the administration to negotiate a verifiable deal that protects our interests and advances our security in a peaceful manner. Congress will try to prevent that, and it's our job to ensure that it doesn't.

In terms of strategy, we need to keep the pressure on Democrats in both chambers of Congress not to help the Republicans start another war.

Senate Democrats are our top targets. Although momentum has slowed on the new Iran sanctions bill, we remain in a dangerous position. If anything goes even a little awry in the ongoing negotiations, then move for new sanctions can quickly regain momentum.