# 1nc

## Off-Case

### Off

#### Security is a psychological construct—the aff’s scenarios for conflict are products of paranoia that project our violent impulses onto the other

**Mack 91** – Doctor of Psychiatry and a professor at Harvard University (John, “The Enemy System” http://www.johnemackinstitute.org/eJournal/article.asp?id=23 \*Gender modified)

The threat of nuclear annihilation has stimulated us to try to understand what it is about (hu)mankind that has led to such self-destroying behavior. Central to this inquiry is an exploration of the adversarial relationships between ethnic or national groups. It is out of such enmities that war, including nuclear war should it occur, has always arisen. Enmity between groups of people stems from the interaction of psychological, economic, and cultural elements. These include fear and hostility (which are often closely related), competition over perceived scarce resources,[3] the need for individuals to identify with a large group or cause,[4] a tendency to disclaim and assign elsewhere responsibility for unwelcome impulses and intentions, and a peculiar susceptibility to emotional manipulation by leaders who play upon our more savage inclinations in the name of national security or the national interest. A full understanding of the "enemy system"[3] requires insights from many specialities, including psychology, anthropology, history, political science, and the humanities. In their statement on violence[5] twenty social and behavioral scientists, who met in Seville, Spain, to examine the roots of war, declared that there was no scientific basis for regarding (hu)man(s) as an innately aggressive animal, inevitably committed to war. The Seville statement implies that we have real choices. It also points to a hopeful paradox of the nuclear age: threat of nuclear war may have provoked our capacity for fear-driven polarization but at the same time it has inspired unprecedented efforts towards cooperation and settlement of differences without violence. The Real and the Created Enemy Attempts to explore the psychological roots of enmity are frequently met with responses on the following lines: "I can accept psychological explanations of things, but my enemy is real. The Russians [or Germans, Arabs, Israelis, Americans] are armed, threaten us, and intend us harm. Furthermore, there are real differences between us and our national interests, such as competition over oil, land, or other scarce resources, and genuine conflicts of values between our two nations. It is essential that we be strong and maintain a balance or superiority of military and political power, lest the other side take advantage of our weakness". This argument does not address the distinction between the enemy threat and one's own contribution to that threat-**by distortions of perception**, provocative words, and actions. In short, the enemy is real, but we have not learned to understand how we have created that enemy, or how the threatening image we hold of the enemy relates to its actual intentions. "We never see our enemy's motives and we never labor to assess his will, with anything approaching objectivity".[6] Individuals may have little to do with the choice of national enemies. Most Americans, for example, know only what has been reported in the mass media about the Soviet Union. We are largely unaware of the forces that operate within our institutions, affecting the thinking of our leaders and ourselves, and which determine how the Soviet Union will be represented to us. Ill-will and a desire for revenge are transmitted from one generation to another, and we are not taught to think critically about how our assigned enemies are selected for us. In the relations between potential adversarial nations there will have been, inevitably, real grievances that are grounds for enmity. But the attitude of one people towards another is usually determined by leaders who manipulate the minds of citizens for domestic political reasons which are generally unknown to the public. As Israeli sociologist Alouph Haveran has said, in times of conflict between nations historical accuracy is the first victim.[8] The Image of the Enemy and How We Sustain It Vietnam veteran William Broyles wrote: "War begins in the mind, with the idea of the enemy."[9] But to sustain that idea in war and peacetime a nation's leaders must maintain public support for the massive expenditures that are required. Studies of enmity have revealed susceptibilities, though not necessarily recognized as such by the governing elites that provide raw material upon which the leaders may draw to sustain the image of an enemy.[7,10] Freud[11] in his examination of mass psychology identified the proclivity of individuals to surrender personal responsibility to the leaders of large groups. This surrender takes place in both totalitarian and democratic societies, and without coercion. Leaders can therefore designate outside enemies and take actions against them with little opposition. Much further research is needed to understand the psychological mechanisms that impel individuals to kill or allow killing in their name, often with little questioning of the morality or consequences of such actions. Philosopher and psychologist Sam Keen asks why it is that in virtually every war "The enemy is seen as less than human? He's faceless. He's an animal"." Keen tries to answer his question: "The image of the enemy is not only the soldier's most powerful weapon; it is society's most powerful weapon. It enables people en masse to participate in acts of violence they would never consider doing as individuals".[12] National leaders become skilled in presenting the adversary in dehumanized images. The mass media, taking their cues from the leadership, contribute powerfully to the process.

#### Our response is to interrogate the epistemological failures of the 1ac---this is the only way to solve inevitable extinction

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While recommendations to shift our frame of orientation away from conventional state-centrism toward a 'human security' approach are valid, this cannot be achieved without confronting the deeper theoretical assumptions underlying conventional approaches to 'non-traditional' security issues.106 By occluding the structural origin and systemic dynamic of global ecological, energy and economic crises, orthodox approaches are incapable of transforming them. Coupled with their excessive state-centrism, this means they operate largely at the level of 'surface' impacts of global crises in terms of how they will affect quite traditional security issues relative to sustaining state integrity, such as international terrorism, violent conflict and population movements. Global crises end up fuelling the projection of risk onto social networks, groups and countries that cross the geopolitical fault-lines of these 'surface' impacts - which happen to intersect largely with Muslim communities. Hence, regions particularly vulnerable to climate change impacts, containing large repositories of hydrocarbon energy resources, or subject to demographic transformations in the context of rising population pressures, have become the focus of state security planning in the context of counter-terrorism operations abroad.

The intensifying problematisation and externalisation of Muslim-majority regions and populations by Western security agencies - as a discourse - is therefore not only interwoven with growing state perceptions of global crisis acceleration, but driven ultimately by an epistemological failure to interrogate the systemic causes of this acceleration in collective state policies (which themselves occur in the context of particular social, political and economic structures). This expansion of militarisation is thus coeval with the subliminal normative presumption that the social relations of the perpetrators, in this case Western states, must be protected and perpetuated at any cost - precisely because the efficacy of the prevailing geopolitical and economic order is ideologically beyond question.

As much as this analysis highlights a direct link between global systemic crises, social polarisation and state militarisation, it fundamentally undermines the idea of a symbiotic link between natural resources and conflict per se. Neither 'resource shortages' nor 'resource abundance' (in ecological, energy, food and monetary terms) necessitate conflict by themselves.

There are two key operative factors that determine whether either condition could lead to conflict. The first is the extent to which either condition can generate socio-political crises that challenge or undermine the prevailing order. The second is the way in which stakeholder actors choose to actually respond to the latter crises. To understand these factors accurately requires close attention to the political, economic and ideological strictures of resource exploitation, consumption and distribution between different social groups and classes. Overlooking the systematic causes of social crisis leads to a heightened tendency to problematise its symptoms, in the forms of challenges from particular social groups. This can lead to externalisation of those groups, and the legitimisation of violence towards them.

Ultimately, this systems approach to global crises strongly suggests that conventional policy 'reform' is woefully inadequate. Global warming and energy depletion are manifestations of a civilisation which is in overshoot. The current scale and organisation of human activities is breaching the limits of the wider environmental and natural resource systems in which industrial civilisation is embedded. This breach is now increasingly visible in the form of two interlinked crises in global food production and the global financial system. In short, industrial civilisation in its current form is unsustainable. This calls for a process of wholesale civilisational transition to adapt to the inevitable arrival of the post-carbon era through social, political and economic transformation.

Yet conventional theoretical and policy approaches fail to (1) fully engage with the gravity of research in the natural sciences and (2) translate the social science implications of this research in terms of the embeddedness of human social systems in natural systems. Hence, lacking capacity for epistemological self-reflection and inhibiting the transformative responses urgently required, they reify and normalise mass violence against diverse 'Others', newly constructed as traditional security threats enormously amplified by global crises - a process that guarantees the intensification and globalisation of insecurity on the road to ecological, energy and economic catastrophe. Such an outcome, of course, is not inevitable, but extensive new transdisciplinary research in IR and the wider social sciences - drawing on and integrating human and critical security studies, political ecology, historical sociology and historical materialism, while engaging directly with developments in the natural sciences - is urgently required to develop coherent conceptual frameworks which could inform more sober, effective, and joined-up policy-making on these issues.

### Off

#### Congress will ultimately compromise to avert shutdown

Tom Cohen, 9-20-2013, “Congress: will it be a government shutdown or budget compromise?” CNN, http://www.cnn.com/2013/09/19/politics/congress-shutdown-scenarios/index.html?utm\_source=feedburner&utm\_medium=feed&utm\_campaign=Feed%3A+rss%2Fcnn\_allpolitics+(RSS%3A+Politics)

There hasn't been a government shutdown in more than 17 years, since the 28 days of budget stalemate in the Clinton administration that cost more than $1 billion. Now we hear dire warnings and sharpening rhetoric that another shutdown is possible and perhaps likely in less than two weeks when the current fiscal year ends. Despite an escalating political imbroglio, the combination of how Congress works and what politicians want makes the chances of a shutdown at the end of the month uncertain at best. In particular, a rift between Republicans over how to proceed has heightened concerns of a shutdown in the short run, but remains a major reason why one is unlikely in the end. A more probable scenario is a last-minute compromise on a short-term spending plan to fund the government when the current fiscal year ends on September 30. After that, the debate would shift to broader deficit reduction issues tied to the need to raise the federal debt ceiling sometime in October. "There's going to be a lot of draconian talk from both sides, but the likelihood of their being an extended shutdown is not high," said Darrell West, the vice president and director of governance studies at the Brookings Institution. Government shutdown: Again? Seriously? Conservatives tie Obamacare to budget talks While the main issue is keeping the government funded when the new fiscal year begins October 1, a conservative GOP wing in the House and Senate has made its crusade against Obamacare the focus of the debate. They demand a halt to funding for the signature program from President Barack Obama's first term, and they seem indifferent about forcing a government shutdown if that doesn't happen. "I will do everything necessary and anything possible to defund Obamacare," Republican Sen. Ted Cruz of Texas said Thursday, threatening a filibuster and "any procedural means necessary." The GOP split was demonstrated later Thursday by Sen. John McCain, who told CNN that "we will not repeal or defund Obamacare" in the Senate. "We will not, and to think we can is not rational," McCain said. A compromise sought by House Speaker John Boehner and fellow GOP leaders would have allowed a symbolic vote on the defunding provision that the Senate would then strip out. The result would have been what legislators call a "clean" final version that simply extended current levels of government spending for about two months of the new fiscal year, allowing time for further negotiations on the debt ceiling. However, conservative opposition to the compromise made Boehner agree to a tougher version that made overall government funding contingent on eliminating money for Obamacare. Moderate Republicans question the strategy, but fear a right-wing backlash in the 2014 primaries if they go against the conservative wing. In reference to the divisions in the House, McCain said it was "pretty obvious that (Boehner) has great difficulties within his own conference." The House passed the tea party inspired plan on an almost strictly party line vote on Friday, setting in motion what is certain to be 10 days or so of legislative wrangling and political machinations. The measure now goes to the Democratic-led Senate, where Majority Leader Harry Reid made clear on Thursday that any plan to defund Obamacare would be dead on arrival. Instead, the Senate was expected to strip the measure of all provisions defunding Obamacare and send it back to the House. "They're simply postponing an inevitable choice they must face," Reid said of House Republicans. Here is a look at the two most-discussed potential outcomes -- a government shutdown or a short-term deal that keeps the government funded for a few months while further debate ensues. House GOP: defund Obamacare or shut government down Shutdown scenario According to West, the ultimate pressure on whether there is a shutdown will rest with Boehner. With the Republican majority in the House passing the spending measure that defunds Obamacare, Senate Democrats say they will stand united in opposing it. "Don't make it part of your strategy that eventually we'll cave," Sen. Chuck Schumer of New York warned Republicans on Thursday. "We won't. We're unified, we're together. You're not." That means the Senate would remove any provisions to defund Obamacare and send the stripped-down spending proposal back to the House. Boehner would then have to decide whether to put it to a vote, even though that could undermine his already weakened leadership by having the measure pass with only a few dozen moderate Republicans joining Democrats in support. If he refuses to bring the Senate version to the floor for a vote, a shutdown would ensue. "The key player is really Boehner," West said. Polls showing a decrease in public support for the health care reforms embolden the Republican stance. Meanwhile, surveys showing most people oppose a government shutdown and that more would blame Republicans if it happens bolster Democratic resolve. Compromise scenario Voices across the political spectrum warn against a shutdown, including Congressional Budget Office Director Douglas Elmendorf, Federal Reserve Chairman Ben Bernanke, the U.S. Chamber of Commerce and Republican strategist Karl Rove. "Even the defund strategy's authors say they don't want a government shutdown. But their approach means we'll get one," Rove argued in an op-ed published Thursday by the Wall Street Journal. He noted the Democratic-controlled Senate won't support any House measure that eliminates funding for Obamacare, and the White House said Thursday that Obama would veto such a spending resolution. "Republicans would need 54 House Democrats and 21 Senate Democrats to vote to override the president's veto," Rove noted, adding that "no sentient being believes that will happen." West concurred, telling CNN that "you can't expect a president to offer his first born to solve a political problem for the other party." "It's the House split that's causing this to happen," he noted. "People now equate compromise with surrender. It's hard to do anything under those circumstances." Under the compromise scenario, the Senate would remove provisions defunding Obamacare from what the House passes while perhaps making other relatively minor changes to provide Boehner and House Republicans with political cover to back it.

#### The plan would trade off with Congress’s ability to avert the shutdown---GOP has momentum and will, but they need literally every hour to get it done

Frank James, 9-13-2013, “Congress Searches For A Shutdown-Free Future,” NPR, http://www.npr.org/blogs/itsallpolitics/2013/09/13/221809062/congress-searches-for-a-shutdown-free-future

The only thing found Thursday seemed to be more time for negotiations and vote-wrangling. Republican leaders recall how their party was blamed for the shutdowns of the mid-1990s and earnestly want to avoid a repeat, especially heading into a midterm election year. Cantor alerted members Thursday that during the last week of September, when they are supposed to be on recess, they will now most likely find themselves in Washington voting on a continuing resolution to fund the government into October. It looks like lawmakers will need every hour of that additional time. While talking to reporters Thursday, Boehner strongly suggested that House Republicans weren't exactly coalescing around any one legislative strategy. "There are a lot of discussions going on about how — about how to deal with the [continuing resolution] and the issue of 'Obamacare,' and so we're continuing to work with our members," Boehner said. "There are a million options that are being discussed by a lot of people. When we have something to report, we'll let you know."

#### Shutdown wrecks the economy

Yi Wu, 8-27-2013, “Government Shutdown 2013: Still a Terrible Idea,” PolicyMic, http://www.policymic.com/articles/60837/government-shutdown-2013-still-a-terrible-idea

Around a third of House Republicans, many Tea Party-backed, sent a letter last week calling on Speaker John Boehner to reject any spending bills that include implementation of the Affordable Care Act, otherwise known as Obamacare. Some Senate Republicans echo their House colleagues in pondering this extreme tactic, which is nothing other than a threat of government shutdown as neither congressional Democrats nor President Obama would ever agree on a budget that abolishes the new health care law. Unleashing this threat would amount to holding a large number of of the federal government's functions, including processing Social Security checks and running the Centers for Disease Control, hostage in order to score partisan points. It would be an irresponsible move inflicting enormous damage to the U.S. economy while providing no benefit whatsoever for the country, and Boehner is rightly disinclined to pursue it. Government shutdowns are deleterious to the economy. Two years ago in February 2011, a similar government shutdown was looming due to a budget impasse, and a research firm estimated that quater's GDP growth would be reduced by 0.2 percentage points if the shutdown lasted a week. After the budget is restored from the hypothetical shutdown, growth would only be "partially recouped," and a longer shutdown would result in deeper slowdowns. Further, the uncertainties resulting from a shutdown would also discourage business. A shutdown was avoided last-minute that year, unlike in 1995 during the Clinton administration where it actually took place for four weeks and resulted in a 0.5 percentage-point dent in GDP growth. Billions of dollars were cut from the budget, but neither Boehner nor the Republicans at the time were reckless enough to demand cancellation of the entire health care reform enacted a year before.

#### Global nuclear war

Harris & Burrows 9 Mathew, PhD European History @ Cambridge, counselor of the U.S. National Intelligence Council (NIC) and Jennifer, member of the NIC’s Long Range Analysis Unit “Revisiting the Future: Geopolitical Effects of the Financial Crisis” http://www.ciaonet.org/journals/twq/v32i2/f\_0016178\_13952.pdf

Of course, the report encompasses more than economics and indeed believes the future is likely to be the result of a number of intersecting and interlocking forces. With so many possible permutations of outcomes, each with ample Revisiting the Future opportunity for unintended consequences, there is a growing sense of insecurity. Even so, history may be more instructive than ever. While we continue to believe that the Great Depression is not likely to be repeated, the lessons to be drawn from that period include the **harmful effects on fledgling democracies** and multiethnic societies (think Central Europe in 1920s and 1930s) and on the sustainability of multilateral institutions (think League of Nations in the same period). There is no reason to think that this would not be true in the twenty-first as much as in the twentieth century. For that reason, the ways in which **the potential for** greater **conflict could grow** would seem to be even more apt in a constantly volatile economic environment as they would be if change would be steadier. In surveying those risks, the report stressed the likelihood that terrorism and nonproliferation will remain priorities even as resource issues move up on the international agenda. **Terrorism**’s appeal will decline if economic growth continues in the Middle East and youth unemployment is reduced. For those terrorist groups that remain active in 2025, however, the diffusion of technologies and scientific knowledge will place some of the world’s most dangerous capabilities within their reach. Terrorist groups in 2025 will likely be a combination of descendants of long established groups\_inheriting organizational structures, command and control processes, and training procedures necessary to conduct sophisticated attacks and newly emergent collections of the angry and disenfranchised that become self-radicalized, particularly in the absence of economic outlets that would become narrower in an economic downturn. The most dangerous casualty of any **economically-induced drawdown** of U.S. military presence would almost certainly be the Middle East. Although Iran’s acquisition of nuclear weapons is not inevitable, worries about a nuclear-armed Iran could lead states in the region to develop new security arrangements with external powers, **acquire additional weapons**, and consider pursuing their own **nuclear ambitions**. It is not clear that the type of stable deterrent relationship that existed between the great powers for most of the Cold War would emerge naturally in the Middle East with a nuclear Iran. Episodes of low intensity conflict and terrorism taking place under a nuclear umbrella could lead to an **unintended escalation** and **broader conflict** if clear red lines between those states involved are not well established. The close proximity of potential **nuclear rivals** combined with underdeveloped surveillance capabilities and mobile dual-capable Iranian missile systems also will produce inherent difficulties in achieving reliable indications and warning of an impending nuclear attack. The lack of strategic depth in neighboring states like Israel, short warning and missile flight times, and uncertainty of Iranian intentions may place more focus on **preemption** rather than defense, potentially leading to **escalating crises**. 36 Types of conflict that the world continues to experience, such as over resources, could reemerge, particularly if protectionism grows and there is a resort to neo-mercantilist practices. Perceptions of renewed energy scarcity will drive countries to take actions to assure their future access to energy supplies. In the worst case, this could result in **interstate conflicts** if government leaders deem assured access to energy resources, for example, to be essential for maintaining domestic stability and the survival of their regime. Even actions short of war, however, will have important geopolitical implications. Maritime security concerns are providing a rationale for naval buildups and modernization efforts, such as China’s and India’s development of blue water naval capabilities. If the fiscal stimulus focus for these countries indeed turns inward, one of the most obvious funding targets may be military. Buildup of regional naval capabilities could lead to increased tensions, rivalries, and counterbalancing moves, but it also will create opportunities for multinational cooperation in protecting critical sea lanes. With water also becoming scarcer in Asia and the Middle East, cooperation to manage changing water resources is likely to be increasingly difficult both within and between states in a more dog-eat-dog world.

### Off

#### Congress is too slow to respond to 21st century threats --- executive deference is critical

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

That fragmentation is most obvious at the other end of Pennsylvania Avenue. Despite common grammatical usage, including in this book, Congress is not an “it” but a “they.” That is, Congress is not singular but plural and a fractious plural at that. The geographic basis of House representation— the “territorial imperative”—means that no two House members share identical interests.6 The distinctive constituencies and terms of the House and Senate generate few overlapping sympathies across the chambers. Sequential majorities and supermajorities are required for action, but only a small minority for inaction. This became even more true after the application of reforms in the 1970s designed to apply the openness and decentralization aimed at the executive branch to Congress itself. The reforms enhanced the power of subcommittees and gave party rank-and-‹le more power to override seniority in selecting committee chairs. What nineteenth-century observers like Woodrow Wilson condemned as “committee government” often atomized further into “subcommittee government” instead. As a result, one scholar noted, members of Congress can make laws “only with sweat patience, and a remarkable skill in the handling of creaking machinery.” But stopping laws is a feat “they perform daily, with ease and infinite variety.”7¶ Thus even an alert and aggressive Congress has endemic weaknesses.8 Its large size and relative lack of hierarchy hamper quick decision making. The specialized jurisdictions inherent in the committee system, so necessary for dividing labor, also divide issues and make their comprehensive consideration across functional lines nearly impossible. (Nor do House members’ two-year terms give much incentive for long-term planning.) For similar reasons Congress has difficulty in planning and agenda setting. The ready acceptance of the idea of a presidential legislative program after World War II was partly a question of legislative convenience, a way to weed through innumerable proposals and provide a focus for limited floor time. Finally, with so many members, each seeking press attention, Congress also finds it hard to keep a secret. As President George H. W. Bush’s counsel, Boyden Gray, put it, “any time you notify Congress, it’s like putting an ad in the Washington Post. Notification is tantamount to declaration.”9¶ In short, Congress has the problems inherent to any body of individuals that must take collective action. The decisions that are rational for a single member—especially those aimed at gaining particular benefits for his or her district—are not always good decisions for the body as a whole.10 James Madison wrote as early as 1791 that whenever a question of “general. . . advantage to the Union was before the House . . . [members] commonly resorted to local views.” Then, as now, coalition building had to overcome decentralized inertia, with the result that governing often comes down to, in the words of LBJ budget official Charles Schultze, “a lot of boodle being handed out in large numbers of small boodle.”11¶ Worse, fragmentation is not limited to the legislative branch. After all, Congress created most of the executive branch as well—and in its own image. The “politics of bureaucratic structure” result in a bureaucracy far different than what organization theorists would draw up on a blank page, one rarely aligned along functional lines or with clear lines of executive authority. Legislative majorities hope to institutionalize their own interests in government agencies and to structurally insulate those preferences against future majorities seeking to meddle. They hope to gain access to the bureaucratic decision-making process and to influence it whenever desirable. They hope to gain points with constituents for fixing the errors agencies make, perhaps to the point of structuring agencies that cannot help but make errors. If nothing else, the historical pattern of executive branch development has spurred a particular array of legislative committees—and organized special interests linked to both.12¶ As the size and scope of the national government grew, its organizational inefficiencies became more obvious and more meaningful. This in turn focused increased attention on the need for direction and coordination— for a chief executive who could actually manage the executive branch. The areas of homeland security and intelligence analysis are only the most recent cases where failures of communication or analysis within the bureaucracy have magnified the need for those qualities.¶ Globalization in some ways highlights the continuing limits of the presidency’s authority: its incumbent is not, after all, president of the world. Yet the practical advantages of presidential leadership vis-à-vis the legislature, at least, are further magnified in an era where rapid transportation, instantaneous communication, and huge flows of trade have changed the context of governance in ways that play to presidential strengths. Both opportunities and threats arise quickly and demand immediate response. Their resolution requires a broad national view, not territorialism; resident expertise, not the give-and-take of log-rolling compromise. Further, if, as Richard Neustadt suggested, the cold war’s omnipresent fear of nuclear war made the president for a time the “final arbiter” in the balance of power, the rise of rogue states and nonstate actors with access to similar weaponry ups the ante again. In this one sense at least the “modern presidency” described earlier may have given way to a “postmodern” one.13 As the Bush administration argued to the Supreme Court on behalf of the president’s power to designate enemy combatants,¶ The court of appeals’ attempt to cabin the Commander-in-Chief authority to the conduct of combat operations on a traditional battlefield is particularly ill-considered in the context of the current conflict. . . . The September 11 attacks not only struck targets on United States soil; they also were launched from inside the Nation’s borders. The “full power to repel and defeat the enemy” thus necessarily embraces determining what measures to take against enemy combatants found within the United States. As the September 11 attacks make manifestly clear, moreover, al Qaeda eschews conventional battlefield combat, yet indiicts damage that, if anything, is more devastating.14

#### Executive flexibility and ability to launch force quickly is vital to solve multiple nuclear threats

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

A. The Emergence of Non-State Actors

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

#### Great power war

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. 360-63

\*We do not endorse ableist language

What did not happen in the Cold War is even more important than what did. For the three centuries after the recognition of the nation-state system in the Peace of Westphalia, great power wars were commonplace. Just as the twentieth century had its World Wars I and II, the nineteenth had the Napoleonic Wars, and the seventeenth had the Thirty Years' War, to name but a few. These wars took an enormous toll on humanity -- military deaths in World War I reached about 10 million for all nations, and 25 million in World War II, with estimates ranging from double to triple those numbers in civilian deaths. By the twentieth century, the United States could no longer isolate itself from the struggles in Europe. World War I cost the United States 116,000 soldiers and sailors killed and 204,000 wounded. In World War II, the U.S. armed forces had 405,000 killed and 672,000 wounded. In World War I, the Wilson administration spent about $310 billion on the military. In World War II, the military consumed about $3.5 trillion (both figures in 2008 dollars). With the development of tactical and strategic nuclear weapons, military conflict between the United States and the Soviet Union would have been far worse in terms of casualties and financial costs than both World Wars -- and probably all U.S. wars -- put together. That the United States avoided another great power conflict from 1945-92 is a testament to the stewardship of Presidents from Truman through George H. W. Bush. Nine American Presidents from different parties, over half a century, patiently pursued a policy that contained, and ultimately exhausted, an enemy that outmatched the United States in land power. They had to follow a moderate course that sometimes required active challenges to the Soviets, at other times, restraint. It was not produced by a system where Congress generally controls foreign and national security policy. Many academics assume that congressional dominance would lead to less war, because Congress is slower to move at home and less adventuresome abroad. In effect, this approach finds a virtue in the internal transaction costs within Congress, which make it difficult for a large number of people to reach agreement.49 But there is no historical reason why Congress should be less warlike than Presidents. It was the war hawks in Congress, not President Madison, who pushed the United States into the War of 1812, for example. A Congress eager for territorial expansion sought war in 1846 and 1898. Putting aside whether their assumptions about Congress are accurate, the critics' reading of the Constitution could have placed the nation in a straitjacket as it rose to confront the challenges of the Cold War. It is true that a high level of cooperation among the branches was necessary to prevail, but containing the Soviet Union called for a wide range of instruments of national power, ranging from covert action, to crisis management, to shorter conflicts, to long-term national security planning. Congress could not have conducted successful policy along these dimensions. The unpredictability, suddenness, and high stakes of foreign affairs were the very reasons for the Framers' creation of an independent executive branch. Presidential leadership during the Cold War did not just advance American interests in the short term, but benefited human welfare in the West and Asia. At the end of World War II, the economies and populations of the Axis powers were ruined. Germany's population had fallen to its 1910 level, 68 million, and its economy had collapsed. Japan was similarly devastated; its population in 1950 was estimated to be roughly 84 million, and the war destroyed about 40 percent of its industrial capacity. Today, Germany's population is 82 million, and its GDP is $2.9 trillion, third in the world. Japan's population today is 127 million, and its GDP is $4.34 trillion, second in the world. Italy's GNP today is $1.84 trillion, seventh in the world. Although Presidents had demanded unconditional surrender, once the war was over they reintegrated our former enemies into the political and economic systems of the West. Presidents supported a system of market-based economies and constitutional democracy -- with the financial support of Congress at times -- primarily through their control over foreign policy.50 We can also see the effects in the countries that witnessed the most direct American intervention. South Korea, a small agrarian nation with a population of 21 million in 1955, today has a population of 48 million and is the 13th largest economy in the world with a GNP of $888 billion. (Nominal GNP in 1962 was only $2.3 billion.) North Korea's population, by contrast, has stagnated for the past decade at around 21-22 million, with annual economic growth of less than half of one percent; its economy is barely functional, with a GNP of no more than $40 billion (which ranks it at the very bottom in the world), and its society is governed by the most extreme Communist dictatorship left on earth. Vietnam, too, took its toll on the lives and treasury of the United States and arguably destroyed two Presidencies, but the effects of American withdrawal may have been even steeper -- millions of Vietnamese were killed or sent to concentration camps, or fled as boat people. Wars in both Korea and Vietnam sent important signals to the Soviet Union and China that the United States would continue to resist Communist expansion forcefully. It is impossible to answer counterfactual questions, but if Congress had held the upper constitutional hand in war and had refused to send troops to Korea and Vietnam, the Cold War may have ended very differently. The costs of congressional paralysis during the Cold War could well have been higher than the costs of executive action, even taking into account these setbacks.

### Off

#### The United States Federal Government should require Congressional authorization prior to initiating offensive use of conventional force. The President of the United States should execute a disarming nuclear strike on the Chinese nuclear arsenal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Strategic Implications of the Nuclear Imbalance

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

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

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

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

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

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

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

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

## Case

## Intervention

### AT: Groupthink

#### Groupthink theory is wrong

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).

#### No groupthink—executives are fragmented and pluralistic—Congress links harder

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

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

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

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

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

#### Informal checks on groupthink are sufficient

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

Neither the president nor the decision-making group members implement "hybrid" checks; the checks do, however, originate in the executive branch and directly affect the president and the group members. Hybrid checks relate to the bureaucratic machine and typically address the structural faults within the executive branch that can affect the core decision-making group. Although the president and his or her advisers constitute the insiders of the decision-making group, they ultimately belong [\*676] to a larger organization - the executive branch - and thereby become part of the bureaucratic machine.

1. Inter-Agency Process

 The "inter-agency process" check involves getting approval for, or opinions about, a proposed decision from other agencies. n252 The inter-agency process is particularly common for national security and foreign policy decisions. n253 "Occasionally, it will operate at a higher level in principals' committees involving Cabinet-level or sub-Cabinet people and their deputies," thus directly checking the decision-making group members. n254

2. Intra-Agency Process

Another similar check is the "intra-agency process," in which the circulation of proposed decisions within the agency empowers dissidents and harnesses a diversity of thinking. n255 If nothing else, the process catches errors, or at least increases the odds of avoiding them, given the number of people who must review or approve a document or decision within the agency. n256

3. Agency or Lawyer Culture

The culture of a particular agency - the institutional self-awareness of its professionalism - provides another check. n257 "Lawyer culture" - which places high value on competency and adherence to rules and laws - resides at the core of agency culture; n258 its "nay-saying" objectivity "is especially important in the small inner circle of presidential decision making to counter the tendency towards groupthink and a vulnerability to sycophancy." n259

 [\*677]

4. Public Humiliation

 A final check in this category is the "public humiliation" check. n260 This check only comes into play when the previous three have failed, and involves the threat to ""go public' by leaking embarrassing information or publicly resigning."

### AT: Accidents

#### Multiple checks prevent Executive overreach --- their impact is a myth

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,” E-Book

A second lesson of this book is that the notion of an unchecked executive, wielding dictatorial powers to plunge the nation into disaster, is a myth born of Vietnam and Watergate. Congresses have always possessed ample ability to stalemate and check an executive run amok. Congress regularly ignores executive proposals for legislation, rejects nominees, and overrides vetoes. It can use its power over legislation, funding, and oversight to exercise significant control over the administrative state. There would be no agencies, no delegated powers, and no rule-making without Congress's basic decisions to create the federal bureaucracy. It can use these authorities even at the zenith of presidential power: foreign affairs. Congress can cut off war funding, shrink the military, stop economic aid, and block treaties. It used its sole control of the purse to limit the Mexican-American War and to end the Vietnam conflict, for example.

### AT: Adventurism

#### They don’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.

## Warfighting

### AT: Power Projection

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

**Fettweis 11** [Christopher J. Fettweis - 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, Chetan]

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.

### AT: Soft Power

#### Soft power’s inevitable and not key

Brooks and Wohlforth, 9 (Stephen Brooks and William Wohlforth, both are professors of Government at Dartmouth, “Reshaping the world order: how Washington should reform international institutions,” Foreign Affairs, March-April)

FOR ANALYSTS such as Zbigniew Brzezinski and Henry Kissinger, the key reason for skepticism about the United States' ability to spearhead global institutional change is not a lack of power but a lack of legitimacy. Other states may simply refuse to follow a leader whose legitimacy has been squandered under the Bush administration; in this view, the legitimacy to lead is a fixed resource that can be obtained only under special circumstances. The political scientist G.John Ikenberry argues in After Victory that states have been well positioned to reshape the institutional order only after emerging victorious from some titanic struggle, such as the French Revolution, the Napoleonic Wars, or World War I or II. For the neoconservative Robert Kagan, the legitimacy to lead came naturally to the United States during the Cold War, when it was providing the signal service of balancing the Soviet Union. The implication is that today, in the absence of such salient sources of legitimacy, the wellsprings of support for U.S. leadership have dried up for good. But this view is mistaken. For one thing, it overstates how accepted U.S. leadership was during the Cold War: anyone who recalls the Euromissile crisis of the 1980s, for example, will recognize that mass opposition to U.S. policy (in that case, over stationing intermediaterange nuclear missiles in Europe) is not a recent phenomenon. For another, it understates how dynamic and malleable legitimacy is. Legitimacy is based on the belief that an action, an actor, or a political order is proper, acceptable, or natural. An action - such as the Vietnam War or the invasion of Iraq - may come to be seen as illegitimate without sparking an irreversible crisis of legitimacy for the actor or the order. When the actor concerned has disproportionately more material resources than other states, the sources of its legitimacy can be refreshed repeatedly. After all, this is hardly the first time Americans have worried about a crisis of legitimacy. Tides of skepticism concerning U.S. leadership arguably rose as high or higher after the fall of Saigon in 1975 and during Ronald Reagan's first term, when he called the Soviet Union an "evil empire." Even George W. Bush, a globally unpopular U.S. president with deeply controversial policies,oversaw a marked improvement in relations with France, Germany, and India in recent years - even before the elections of Chancellor Angela Merkel in Germany and President Nicolas Sarkozy in France. Of course, the ability of the United States to weather such crises of legitimacy in the past hardly guarantees that it can lead the system in the future. But there are reasons for optimism. Some of the apparent damage to U.S. legitimacy might merely be the result of the Bush administration's approach to diplomacy and international institutions. Key underlying conditions remain particularly favorable for sustaining and even enhancing U.S. legitimacy in the years ahead. The United States continues to have a far larger share of the human and material resources for shaping global perceptions than any other state, as well as the unrivaled wherewithal to produce public goods that reinforce the benefits of its global role. No other state has any claim to leadership commensurate with Washington's. And largely because of the power position the United States still occupies, there is no prospect of a counterbalancing coalition emerging anytime soon to challenge it. In the end, the legitimacy of a system's leader hinges on whether the system's members see the leader as acceptable or at least preferable to realistic alternatives. Legitimacy is not necessarily about normative approval: one may dislike the United States but think its leadership is natural under the circumstances or the best that can be expected. Moreover, history provides abundant evidence that past leading states - such as Spain, France, and the United Kingdom - were able to revise the international institutions of their day without the special circumstances Ikenberry and Kagan cite. Spainfashioned both normative and positive laws to legitimize its conquest of indigenous Americans in the early seventeenth century; France instituted modern concepts of state borders to meet its needs as Europe's preeminent land power in the eighteenth century; and the United Kingdom fostered rules on piracy, neutral shipping, and colonialism to suit its interests as a developing maritime empire in the nineteenth century. As Wilhelm Grewe documents in his magisterial The Epochs of International Law, these states accomplished such feats partly through the unsubtle use of power: bribes, coercion, and the allure oflucrative long-term cooperation. Less obvious but often more important, the bargaining hands of the leading states were often strengthened by the general perception that they could pursue their interests in even less palatable ways - notably, through the naked use of force. Invariably, too, leading states have had the power to set the international agenda, indirectly affecting the development of new rules by defining the problems they were developed to address. Given its naval primacy and global trading interests, the United Kingdom was able to propel the slave trade to the forefront of the world's agenda for several decades after it had itself abolished slavery at home, in 1833. The bottom line is that the UnitedStates today has the necessary legitimacy to shepherd reform of the international system.

### AT: Alliances

#### Alliances will fail regardless of their internal link

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

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

### AT: Ikenberry

#### No “liberal order” impact---U.S. model fails

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

AFTER A year and a half of violence and tens of thousands of deaths in Syria, the UN Security Council convened in July 2012 to consider exerting additional international pressure on President Bashar al-Assad. And for the third time in nine months, Russia and China vetoed any moves toward multilateral intervention. Less than two weeks later, Kofi Annan resigned as the joint UN–Arab League special envoy for Syria, lamenting, “I can’t want peace more than the protagonists, more than the Security Council or the international community for that matter.” ¶ Not only have we seen this movie before, but it seems to be on repeat. Instead of a gradual trend toward global problem solving punctuated by isolated failures, we have seen over the last several years essentially the opposite: stunningly few instances of international cooperation on significant issues. Global governance is in a serious drought—palpable across the full range of crucial, mounting international challenges that include nuclear proliferation, climate change, international development and the global financial crisis. ¶ Where exactly is the liberal world order that so many Western observers talk about? Today we have an international political landscape that is neither orderly nor liberal. ¶ It wasn’t supposed to be this way. In the envisaged liberal world order, the “rise of the rest” should have been a boost to global governance. A rebalancing of power and influence should have made international politics more democratic and multilateral action more legitimate, while bringing additional resources to bear. Economic integration and security-community enlargement should have started to envelop key players as the system built on itself through network effects—by making the benefits of joining the order (and the costs of opposing it) just a little bit greater for each new decision. Instead, the world has no meaningful deal on climate change; no progress on a decade-old global-trade round and no inclination toward a new one; no coherent response to major security issues around North Korea, Iran and the South China Sea; and no significant coordinated effort to capitalize on what is possibly the best opportunity in a generation for liberal progress—the Arab Spring. ¶ It’s not particularly controversial to observe that global governance has gone missing. What matters is why. The standard view is that we’re seeing an international liberal order under siege, with emerging and established powers caught in a contest for the future of the global system that is blocking progress on global governance. That mental map identifies the central challenge of American foreign policy in the twenty-first century as figuring out how the United States and its allies can best integrate rising powers like China into the prevailing order while bolstering and reinforcing its foundations. ¶ But this narrative and mental map are [is] wrong. The liberal order can’t be under siege in any meaningful way (or prepped to integrate rising powers) because it never attained the breadth or depth required to elicit that kind of agenda. The liberal order is today still largely an aspiration, not a description of how states actually behave or how global governance actually works. The rise of a configuration of states that six years ago we called a “World Without the West” is not so much challenging a prevailing order as it is exposing the inherent frailty of the existing framework.

### AT: Benevolence

#### States won’t bandwagon---capabilities outweigh intentions---it’s impossible to make heg seem benevolent

Layne & Schwarz 2 – Christopher Layne, professor and Robert M. Gates Chair in National Security at Texas A & M University’s George H. W. Bush School of Government and Public Service; and Benjamin Schwarz, National Editor of The Atlantic, January 2002, “A New Grand Strategy,” The Atlantic, Vol. 289, No. 1, p. 36-42

Like some optimistic Britons in the late eighteenth century, many American strategists today assert that the United States, the only superpower, is a "benevolent" hegemon, immunized from a backlash against its preponderance by what they call its "soft power"—that is, by the attractiveness of its liberal-democratic ideology and its open, syncretic culture. Washington also believes that others don't fear U.S. geopolitical pre-eminence because they know the United States will use its unprecedented power to promote the good of the international system rather than to advance its own selfish aims.

But states must always be more concerned with a predominant power's capabilities than with its intentions, and in fact well before September 11—indeed, throughout most of the past decade—other states have been profoundly anxious about the imbalance of power in America's favor. This simmering mistrust of U.S. predominance intensified during the Clinton Administration, as other states responded to American hegemony by concerting their efforts against it. Russia and China, although long estranged, found common ground in a nascent alliance that opposed U.S. "hegemonism" and expressly aimed at re-establishing "a multipolar world." Arguing that the term "superpower" is inadequate to convey the true extent of America's economic and military pre-eminence, the French Foreign Minister Hubert Vedrine called the United States a "hyperpower." Even the Dutch Prime Minister declared that the European Union should make itself "a counterweight to the United States."

## SOP

### No Preemption Modeling---General

#### The Bush doctrine doesn’t set a precedent for other nations

Lieber and Lieber 2 Keir A. Lieber, 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.

### AT: HR Norms

#### Authoritarian states don’t follow norms — their “US justifies others” arg is naive

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

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

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

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

#### Human rights cred is irrelevant---public opinion, global norms, and NGO networks outweigh US policy

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

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

### AT: SOP – Useless

#### SoP useless – pres powers too big

**Posner and Vermeule, 10** - \*professor of law at the University of Chicago AND \*\*professor of law at Harvard (Eric and Adrian, The Executive Unbound, p. 17-18)

We begin with the constitutional framework, and with the official constitutional theory of liberal legalism. In this theory lawmaking powers are separated among three different branches-legislature, executive, and judiciary-in order to promote an institutional division of labor and to protect liberty The liberty-protecting function of the separation of powers, Madison suggested, is that the combination of powers in one institution would be "the very definition of tyranny". Mutual checking and monitoring by the branches of government would prevent concentration of power suppress the evils of factionalism, and conduce to better policymaking overall.

This theory has collapsed. Its fit with reality is no longer merely imperfect, in the way that all regulative ideals are imperfect; rather it does not even approximate the political terrain it purports to cover. We will proceed to explain this conclusion in three steps. First, we examine the checking function of the separation of powers. Here Madison made two crucial mistakes: first in assuming that the individual ambitions of government officials would cause them to support the power of the institutions they occupy and second in assuming that some invisible-hand mechanism

would cause the mutual contest among institutions to produce a socially beneficial system of mutual checks. Nothing in the actual separation-of-powers system, however, guarantees or even generally tends to produce socially beneficial results. In particular, we show that the system will predictably lead to suboptimal checking-to a political regime in which some institutions (such as legislature and judiciary) do too little to check the swelling power of others (such as the executive).

Second, we examine the monitoring function of the separation of powers, focusing particularly on legislative and judicial monitoring of the executive. The vastly increased complexity and scale of the executive, since Madison's day ensures that the monitoring function is largely obsolete. In the administrative state, the scope of the executive's responsibility is vast, and legislative and judicial institutions lack the capacity to monitor any important fraction of what the executive does, even where opposing political parties occupy the executive and other branches, and even with the help of "fire alarms"-alerts from interest groups with stakes in particular issues.2 In many of the most important domains, and those most difficult to monitor-those involving intelligence, foreign affairs and national security or highly complex questions of economic policy-legislators and the courts are overmatched, for enduring structural reasons that prevail no matter what the contingent political constellation. We thus reject any strong version of the "congressional dominance" thesis-the idea that Congress, sometimes enlisting the aid of interest groups and the courts, exerts implicit but effective control over executive and administrative behavior.

# Block

## CP

### AT: We Don’t Ban Nukes

#### Nuclear weapons are a subset of “military force”

Joshua J. McElwee, 9-18-2013, “Disarm nukes, question all military force,” National Catholic Reporter, http://ncronline.org/blogs/francis-chronicles/vatican-disarm-nukes-question-all-military-force

A Vatican official on Monday renewed the Catholic church's decades-long call for global disarmament of nuclear weapons, telling a yearly assembly of world leaders they must reject "the temptation to face new situations with old systems." Archbishop Dominique Mamberti, who holds a post that effectively makes him the Vatican's foreign minister, told the conference of the International Atomic Energy Agency that the Vatican "shares the thoughts and sentiments of most men and women of good will who aspire to a total elimination of nuclear weapons." Speaking in Vienna to 159 delegates to the IAEA from nations around the world, Mamberti also exhorted nations to look skeptically at the use of any sort of military force, not just nuclear weapons.

#### Gov docs prove

Michio Kaku 6, Professor of Nuclear Physics at City University of New York, To Win a Nuclear War, 122,

The thrust of these Top Secret documents is quite explicit. US. military force is required in the Third World: a) to protect rapidly expanding business interests and investments in the Third World; b) to expand “spheres of Influence”; and e) to shut out Soviet influence. Ultimately, this military force includes the use of nuclear weapons These documents indicate that nuclear superiority Is supposed w protect U.S investment in the Third World in much the same way that naval superiority supported British colonialism In the world of the previous century.

General Maxwell Taylor, former Chairman of the JCS, was unusually frank when he talked about the need to dominate escalation in the Third World: “AS the leading ‘have power, we may expect to have to Ìg1it for our national valuables against envious ‘have nos’... [We need I mobile, ready forces to deter or suppress such conflicts before they expand into something greater.”

#### Armed forces include nuclear forces.

US Code 10 subsection 111 'Military Force Structure Review Act of 1996'. \*\*\* Current through PL 113-31, approved 8/9/13 \*\*\* TITLE 10. ARMED FORCES SUBTITLE A. GENERAL MILITARY LAW PART I. ORGANIZATION AND GENERAL MILITARY POWERS CHAPTER 2. DEPARTMENT OF DEFENSE Go to the United States Code Service Archive Directory 10 USCS § 111 Lexis

"(1) The term ' above the line' force structure of the Armed Forces' means the force structure (including numbers, strengths, and composition and major items of equipment) for the Armed Forces at the following unit levels:

 "(A) In the case of the Army, the division.

 "(B) In the case of the Navy, the battle group.

 "(C) In the case of the Air Force, the wing.

 "(D) In the case of the Marine Corps, the expeditionary force.

 "(E) In the case of special operations forces of the Army, Navy, or Air Force, the major operating unit.

 "(F) In the case of the strategic forces, the ballistic missile submarine fleet, the heavy bomber force, and the intercontinental ballistic missile force.

 "(2) The term 'Commission on Roles and Missions of the Armed Forces' means the Commission on Roles and Missions of the Armed Forces established by subtitle E of title IX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1738; 10 U.S.C. 111 note).

[*To contextualize - SS]* (1) The Panel shall submit to the Secretary an independent assessment of a variety of possible force structures of the Armed Forces through the year 2010 and beyond, including the force structure identified in the report on the review under section 923(d). The purpose of the assessment is to develop proposals for an 'above the line' force structure of the Armed Forces and to provide the Secretary and Congress recommendations regarding the optimal force structure to meet anticipated threats to the national security of the United States through the time covered by the assessment.

#### Use of nuclear weapons inherently “declares war” – the plan would force the president to get authorization from congress

Hemesath 2000 PAUL A. HEMESATH\* J.D./M.S.F.S. Georgetown University Law Center, School of Foreign Service, 2001; B.A. University of California at Los Angeles, 1996 88 Geo. L.J. 2473 1999-2000 Who's Got the Button? Nuclear War Powers Uncertainty in the Post-Cold War Era

As intimated above, the end of the Cold War has brought fundamental change to the war powers regime. The post-Cold War era has signaled a normalization of previously heightened tensions, resulting in a change in the way that nuclear weapons may be classified. First, the decline of Cold War tensions has stripped the Executive of justifications for the accretion of unilateral presidential power, exposing it to attacks regarding the constitutionality of the war powers authority it continues to wield. The decline of Cold War hysteria, perhaps justified at the time, suggests that the "tacit deal" described by Ely may be coming to an end. 113 In its place, the Congress may demand a reversion to the constitutional standards imposed by the Framers. Specifically, in light of the normalization of the national security threat, Congress may assert its claim to be consulted before acts of conventional war, and particularly, acts of possible nuclear war. If the Cold War actually required an exception to the Constitution for the sake of national security, its decline may also signal a necessary return to original principles. Second, the substitution of the dangers of terrorism for the Soviet threat, and the resulting decline of deterrence as a primary strategic tool, has constitutionally redefined the use of nuclear weapons because the use of nuclear weapons may no longer be characterized as merely a repelling action, as envisioned by the Framers.114 If nuclear arsenals do not effectively deter the violent acts of terrorists, as they deterred the Soviets from first-strikes, any eventual use must be defined under the alternatives: offensive attack or reprisal- 15-military actions that would not be countenanced by the repel exception to the War Powers Clause." 6 Therefore, the transformation of nuclear weapons from deterrence based, defensive shields to reprisal-seeking, offensive weapons, carrying a possible inherent declaration of war, may bring their use closer to the sphere of congressional control. 11 The significance of these two changes is amplified by application of the Steel Seizure case.t18 In a widely accepted concurrence, Justice Jackson divided the foreign powers of the presidency into three zones of constitutional scrutiny.1 9 The Executive, Jackson held, wields the most power to act in foreign relations when Congress has explicitly approved its actions, and the least power when Congress explicitly disapproves of its actions.120 Where Congress remains silent, the President's powers exist in an ambiguous zone of "twilight."121 Applying the Steel Seizure case to congressional attitudes during the Cold War, the phenomenon of presidential aggrandizement could be classified as operating under the ambiguous zone of twilight. Although Congress passed no law explicitly authorizing the President to take control of nuclear weapons, it tacitly supported the presidential control of nuclear weapons because tense U.S.-Soviet relations and the realities of a delicate deterrence strategy demanded deference. 122 Indeed, during the Cold War, to reserve any part of the nuclear command control process to congressional deliberation would have weakened the appearance of a perfectly responsive deterrence mechanism. 23 Thus, during the Cold War, the Executive could be said to have been operating under the middle zone of the Steel Seizure test: with nebulous and tacit congressional approval, but lacking the permanence or legitimacy of a mandate actually legislated by Congress. However, with the decline of traditional deterrence models in the post-Cold War period, extreme deference to the Executive-previously granted to demonstrate the appearance of an immediately responsive nuclear response-is no longer necessary because no enemy retains the ability to launch a counter-force attack, 124 nor is deference to the Executive an effective means of ensuring national security in the context of terrorism.1 25 As a result, the status of a solely presidential nuclear decision has transformed from an authority secured by the perceived need for executive brinksmanship to one where Congress may plausibly reassert its prerogatives in light of a return to normalcy.

### AT: Congress Says Yes

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

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

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

### Speed Key

#### Rapid response key

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

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

### : Taboo DA – Use Strengthens Taboo

#### Violating the taboo just makes it stronger

George Quester, Government Prof @ Maryland, Spring 2005, “If The Nuclear Taboo Gets Broken,” Naval War College Review, v. 58, no. 2

 Thus, when taboos are violated, the question immediately arises whether the taboos will remain or whether violation by many more parties has become much more thinkable. We may be able to learn something from the aftermath of cases where other taboos were violated. The world has seen several rounds of chemical warfare since the 1950s, though this was the one kind of warfare that the Allies and the Axis largely managed to abstain from during World War II. There have been reports that the Soviet Union and its allies experimented with various forms of biological warfare in Cambodia and in Afghanistan (and during World War II the Japanese engaged in horrible experiments with biological warfare in China). The Indian and Pakistani detonations of nuclear warheads in 1998 may not have changed very much of the reality of nuclear proliferation in South Asia, as India was projected to have enough plutonium already for as many as seventy- five nuclear weapons (and had already detonated a “peaceful nuclear explosive” in 1975) and as Pakistan was assumed to have enough enriched uranium for as many as ten warheads. Yet the blatancy of the detonations again challenged the idea that a further spread of nuclear weapons was unthinkable, that it was some- how taboo. Pessimists might thus have expected extensive nuclear weapons proliferation around the world after India and Pakistan had made such an open display of their newly acquired weapons, as they might have expected numerous conflicts on the high seas after the Falklands War. Fortunately for the world, neither has happened. In these parallels, then, single violations did not totally shatter the pattern of restraint or eliminate the world public opinion behind that restraint. Pessimists might expect that the use of chemical and biological warfare is now generally more likely, as more and more states and even nonstate actors are able to lay their hands on such weapons and as the instances of state and nonstate exploitation of such weapons erode the taboo. One has to be very care- ful not to ignore the pessimistic forecasts here—just as one cannot assume that the attacks on the World Trade Center will be one-of-a-kind operations just be- cause the immediate perpetrators killed themselves in the process. Other at- tacks are likely to be launched against tall buildings, by agents of the same organization that launched the 11 September attacks or by “copycat” imitators. Yet neither should one simply conclude that nothing good is possible hereafter, that the world’s feelings about what is “thinkable” or “unthinkable” make no difference. If nuclear weapons are used, whatever taboo had been at work will have been violated, and further uses of such weapons will seem more thinkable. Yet the very possibility that a taboo had been in place suggests that it could be renewed and retained even then. If most of the world now regards a given kind of military action as “unthinkable,” an actual instance would challenge that attitude but not necessarily demolish it.

### AT: Taboo DA – Low Casualty Solves

#### Low casualty first strikes don’t mess up the taboo – people would get over it

George H. Quester, prof @ Maryland, 2006, Nuclear First Strike, p. gb

The second group of escalation possibilities comprised cases in which nuclear weapons would be used in ways that caused little civilian harm. Contrary to what most of us normally expect, the first use of nuclear weapons since Nagasaki might (in a number of our scenarios) produce the reaction that “nothing so drastic” had happened, that nuclear weapons were in effect really “just another weapon,” that no great changes in policy were required in response, as the appropriate attitude was a sort of “business as usual.” These are the scenarios, of course, where the nuclear weapon is not used to devastate a city, killing tens of thousands of people, but perhaps is used with no deaths at all (for example as a warhead for missile defense), or with no civilian deaths, as only a submarine and Its crew are destroyed (a submarine that had been a target all along in conventional warfare). As one measure of whether the publics and governments of the world, including the public of the United States, would go into a state of deep shock, we might adopt as our benchmark the reactions to the non-nuclear terrorist destruction of the World Trade Center on September 11, 2001. (It is a little early to tell whether Americans will regard the WTC attack as an event changing life as we knew it or as an event that can, with proper vigilance and a proper punitive response, be kept from happening again, that can be con- tamed.3) Even though this benchmark Is as yet a little difficult to sort out, we might nonetheless pose this test for a future nuclear event: Will the world’s reactions to a particular nuclear escalation be less than were the American and other reactions to the WTC attack? Terrorist attacks of the 9/11 type can have the impact of hardening every- one to other bad news. “Surprise” and “shock” are quite relative; they are based on a comparison with what one has come to expect. The nuclear escalation we are contemplating here, as we try to anticipate its consequences for the world, could thus come as a “pleasant surprise,” if damage were relatively low-scale, and our worst fears through the years of the Cold War might then seem to have been excessive. We might wonder whether the nuclear taboo had not been based too much on excessive fears of the difference that nuclear weapons would make.

### Yes US-China War

#### Prefer Mazza---IR scholars agree---this is the year for a Taiwan crisis

William Lowther 13, staff, Taipei Times, 1/7/13, “Taiwan may hurt China-US ties this year: expert,” http://www.taipeitimes.com/News/taiwan/archives/2013/01/07/2003551954

He added that with the easy economic cross-strait steps already taken, Beijing now expects Ma to discuss political issues.

“But Ma doesn’t have the domestic political support to pursue political talks,” Mazza said.

This could set the scene for a crisis in the Strait, he added.

Several other US academics polled on this question agreed with Mazza.

“Maybe Mazza is right that this is the year that Beijing wants some measurable political success and becomes even more assertive,” one expert said.

“The problem has always been that Beijing gets to define the ‘status quo’ and therefore gets to decide when Taiwan has gone too far,” he said.

#### Taiwan crisis inevitable---current détente will inevitably break down and China’s committed to both reunification and the military option

J. Michael Cole 12, Taipei-based journalist who focuses on military issues in Northeast Asia and in the Taiwan Strait, previously served as an intelligence officer at the Canadian Security Intelligence Service, 9/3/12, “Taiwan Hedges its Bets on China,” The Diplomat, http://thediplomat.com/flashpoints-blog/2012/09/03/taiwan-hedges-its-bets-against-china/

By a number of yardsticks, relations in the Taiwan Strait today are the best they’ve been in years, if not ever. But if a report released by Taiwan’s Ministry of National Defense (MND) on Friday is any indication, Taiwanese government officials don’t appear to be convinced that such détente will last for very long.

Without doubt, the pace of normalization in relations between Taiwan and China, especially at the economic level, has accelerated dramatically since Ma Ying-jeou of the Chinese Nationalist Party (KMT) was elected in 2008, a process that is expected to continue with Ma securing a second four-year term in January. In addition to the landmark Economic Cooperation Framework Agreement (ECFA) signed in June 2010, the governments on both sides have inked at least 16 agreements touching on various aspects of cross-strait relations, including an agreement reached on Friday that will allow banks in Taiwan to clear renminbi transactions, a move that obviates the need for converting the currency into U.S. dollars before a transaction can be made.

Beyond trade, visits to Taiwan by Chinese officials have become almost routine, a limited number of Chinese can now study at Taiwan’s universities, Chinese tourism to the island has boomed, and joint exercises by the countries’ respective coast guards are now held every other year since 2010, mostly for the purpose of sea-rescue operations in the waters off Taiwan’s Kinmen and China’s Xiamen.

While those developments have for the most part contributed to a less tense, if not amicable, environment in what was once regarded as a potential tinderbox, Taiwanese officials are aware that Beijing remains committed to far more than economic liberalization. What it wants and has made no secret of is unification. Interestingly, during Ma’s first term as he was attempted to create a new paradigm in relations with China, government agencies, including the MND, found it very difficult to say anything publicly that was too critical of China. This, we can assume, was under directions from top officials in the Presidential Office, who feared that hostile rhetoric — such as pointing out that, despite better relations, China was continuing its missile build-up targeting Taiwan — would undermine his efforts at rapprochement.

For one reason or another, that restraint seems to have disappeared. Officials are now making it clear that military exercises, for example, are targeted at China and not at “nature” or some abstract enemy. Last week’s report to the Legislative Yuan on the five-year modernization plan for the armed forces’ military capabilities went one step further by claiming, reportedly for the first time in such a report, that China “may attempt a direct assault on Taiwan proper” once it has acquired enough amphibious transport vehicles or when the situation calls for it.

Additionally, the report said the People’s Liberation Army (PLA) had been hard at work improving its electronic warfare (EW) capabilities so that it can operate in a complex EW environment, while pointing to signs that China could turn to all-put psychological warfare to sow confusion in Taiwan ahead of a military campaign.

The report also states that the MND was expanding its Communication Electronics and Information Bureau (CEIB) to include a specialist group on electronic and cyber warfare. This was in direct reaction to sustained cyber-attacks against Taiwan’s government and national security systems originating from China. Emphasizing this point, Taiwan’s National Security Bureau (NSB) said that in the January-to-June period, its computers had been the targets of more than 1 million cyber-attacks, the great majority coming from China.

Such signaling, which was immediately picked up by the local media, could not have been made without the consent of senior government officials. Several factors can help explain why Taiwan is hardening its position. These include the need for increased military preparedness ahead of the expected pressure from Beijing for the two sides to enter sensitive political negotiations. Already there are signs that China has begun turning the screws on this issue.

Another possibility is that Taipei may have realized that despite the recent “goodwill,” China will not abandon the military option and will continue to widen the balance of power in its favor, which increases mistrust. Uncertainty about the regional environment amid rising tensions in the East and South China Sea, added to the U.S. “pivot” to Asia, could also explain that shift, perhaps even signaling Taiwan’s “choosing sides” as Beijing tries to give the impression that the two cooperate in defending territorial claims in those two areas (claims that Taipei has systematically denied).

Other possible factors include institutional turf battles and efforts by the MND to obtain a greater share of next year’s government budget, especially at a time when it embarks on a hugely expensive program to create an all-volunteer base force by 2015. Or this could be part of a strategy to send a signal of commitment to Washington ahead of the U.S. presidential election and to play Republicans against Democrats with a view to future arms deals. With the “China threat” a prominent feature of the campaigns there, Taiwan could see this as an opportunity to secure future military assistance deals with the U.S.

Whatever the reason, Taipei is fully aware that Taiwanese prefer the “status quo” to unification with China, especially one that continues to be governed by an undemocratic and repressive regime. Unless he intends to disregard the wishes of the 23 million people who put him in power — which includes the majority of people who voted for him, who also do not desire unification — Ma has little option but to prepare for a rainy day. Since Beijing has shown no intention to abandon the military option, even after four years of détente under a very accommodating, if not pliant, administration in Taipei, Taiwan’s response has to be in kind.

The signaling may be a subtle shift, but it’s a step in the right direction. This by no means signifies that Taipei should abandon efforts to improve relations with China — quite the contrary. But not knowing how an increasingly nationalistic and assertive Beijing will react when cross-strait relations enter a more difficult period, as they certainly will, or when Chinese claims butts heads with Taiwan’s own nationalism, Taiwan cannot afford to let its defenses down. A strong defense is the best insurance Taiwan can buy at this point.

#### Peaceful relations will inevitably break down---Chinese impatience, Taiwanese moves toward independence

Szu-yin Ho 11, Professor of Political Science, National Chengchi University, 11/10/11, “Under the Shadow of a Rising Great Power,” http://www.aei.org/files/2012/09/26/-under-the-shadow-of-a-rising-great-power\_151048132170.pdf

Given Taiwanese and Chinese efforts as well as US encouragement of these efforts, the cross-Strait relationship has seen enormous improvements since 2008. Yet, the fundamental difference between Taiwan and China remains unsolved. For China, Taiwan’s separation from the motherland symbolizes the humiliation China suffered in its modern history, as Taiwan was ceded to Japan after the first Sino-Japanese War (1894–1895). Taiwan is the last missing piece in China’s unfinished pursuit of territorial integrity. A nominally independent Taiwan is a threat to the Chinese regime, as elites have staked their legitimacy, in part, on eventual unification. Should those elites somehow permit Taiwan to achieve de jure independence, the opposition to Taiwan’s independence that those leaders have fostered may prove their undoing.

Taiwan therefore remains a vital national security concern for China. 7 On the other hand, Taiwan has continued to develop its own, independent identity since it was ceded to Japan. Its ideology (first anticommunistic, then prodemocratic), political system, social ethos, and lifestyle are vastly different from those of China. The Taiwan identity, though comprised of strong elements of Chinese culture (for example, shared religion, language, and festivals), is a mix of democratic ideology, capitalism, a victim-oriented interpretation of its modern history, and a strong besieged mentality.

The two sides of the Taiwan Strait differ greatly in their approach to solving the sovereignty issue. Taiwan has maintained the status quo for quite some time, and it opposes reunification in the short term. This is well in accordance with public opinion in Taiwan—the majority of people prefer keeping the status quo. 8 The current Taiwanese government’s policy toward China is therefore oriented toward managing and maintaining the status quo. As President Ma has often said, the two sides of the strait should not spend time arguing over sovereignty; rather, both sides should learn how to manage their differences.

Ma’s operational formula is “mutual non-denial of the other side’s governing authority,” even though neither side can recognize the government on the other side of the Taiwan Strait. 9 For China, reunifying Taiwan with the mainland remains its ultimate goal, though China is otherwise conciliatory on a wide spectrum of issues. Therefore, China will not budge on its deployment of over one thousand cruise missiles aimed at Taiwan. 10 On the diplomatic front, China’s opening of Taiwan’s international space is designed such that it can be easily reversed should Taiwan resume its quest for independence.

The current rapport between Taiwan and China might be disrupted in the future. Taiwan has a presidential election every four years, and there is no guarantee that the Ma administration’s policy will be followed by future administrations. China may get impatient with limited progress toward the “great unification enterprise.” For example, Luo Yuan, a retired People’s Liberation Army (PLA) major-general who is widely regarded as the spokesperson for the PLA’s stance on political issues, has commented on China’s progress since the beginning of the Ma administration:

Though we have released a lot of goodwill, the proportion of people in Taiwan who support reunification doesn’t seem to rise, the proportion for Taiwan Independence doesn’t seem to drop . . . maintaining permanent status quo is tantamount to peaceful secession . . . Ma’s “No Unification, No Independence, No Use of Force” is the embodiment of peaceful secession. We haven’t solved the fundamental conflict. We want peace, yet we will never forget war. The PLA has to take initiative.11

As China grows stronger—as it did after the 2008 global financial crisis—it may become overconfident. Therefore, a coercive threat to Taiwan is not totally unfathomable.

### Yes Chinese Nuclear Use – China-India

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

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

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

### Yes Chinese Nuclear Use – South China Seas

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

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

Evidence of China's growing reach in the South China Sea can be found at obscure map points such as Woody Island in the Paracels, where China is steadily expanding and improving an airstrip, as well as the remote Mischief Reef - roughly 150 miles west of the Philippines - where China has erected various structures. China's neighbors view the process as expansionist and even hostile, despite the joint signing of the 2002 Declaration on the Conduct of Parties in the South China Sea. According to some security experts, China's end goal is not merely the creation of a vast exclusive economic zone (EEZ), extending by some renderings as far south as the Indonesia-claimed gas rich Natuna Islands. They say China seeks control over the the sea as part of a plan to establish more maritime power projection, including through a fleet of nuclear ballistic missile submarines (SSBNs), in sea lanes extending beyond the Pacific to the Indian Ocean. The South China Sea is the second busiest sea lane in the world and serves as China's gateway for imports of oil from the Persian Gulf and natural resources from Africa. "China's first carrier battle groups will be based on Hainan Island, and they will patrol these resource routes. For China's political leadership, control of the SCS is a critical objective toward ensuring the economic and political survival of the Communist Party dictatorship," said Richard Fisher, senior fellow at the Washington-based International Assessment and Strategy Center. However, he says, the US, Japan, Australia and several Association of Southeast Asian Nations (ASEAN) are still standing in China's way. "[China wants] to make it into a heavily protected territorial zone for the operation of SSBNs until such a time as Taiwan comes to provide a better base for SSBN operations," said Fisher. "China may base up to half of its nuclear missiles on SSBNs, meaning that China will only settle for dictating future regimes for the SCS."

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

## case

### Modeling Adv

No modeling---nuclear doctrines are driven by regional security interests---references to U.S. doctrine are just for legitimation of things they’d do anyway

Tertrais 9 – Bruno Tertrais, Senior Research Fellow at the Paris-based Foundation for Strategic Research and Contributing Editor to Survival, October-November 2009, “The Trouble with No First Use,” Survival, Vol. 51, No. 5, p. 23-24

Sagan argues that first-use options encourage other countries to follow suit, citing the example of India. But nuclear doctrines are hardly a matter of fashion. They are driven by security interests and technical capabilities, political imperative and moral choices. More often than not, the same causes produce the same effects. Other countries’ doctrines are used essentially as legitimising factors. New Delhi abandoned its no-first-use policy in 2003 for fear that Pakistan or China could use chemical or biological weapons in the course of a conflict against India despite their ratification of the relevant conventions.

Modeling isn’t reverse-causal – [US posture is an excuse after the fact, not the cause]

Stanley Foundation 8 – “A New Look at No First Use,” April 4, 2008, online: http://www.stanleyfoundation.org/publications/pdb/NoFirstUsePDB708.pdf

That said, conference participants were divided as to how, and how much, a NFU doctrine would affect nuclear-weapons-use norms and the nuclear weapons calculus of other states. The link between US declaratory policy and the strategic decisions of other nations is not always so clear. Iran, North Korea, and other countries have often protested US nuclear policy, citing these “nuclear threats” as a justification for their own arms programs. But conference participants generally agreed that Iran’s nuclear program is more likely a response to current US conventional superiority, and before now to Iraq’s nuclear program in the Saddam Hussein years. Indeed, the North Korean, Indian, and Pakistani nuclear weapons programs all accelerated during the 1990s, when the United States was moving to delegitimize nuclear weapons. Nevertheless, adopting NFU would at the very least deprive other states of one argument for their arsenals.

Russia doesn’t model U.S. doctrine---they retain first-use options to deter U.S. conventional advantages and they repealed their NFU policy years ago with zero impact

Stanley Foundation 8 – “A New Look at No First Use,” April 4, 2008, online: http://www.stanleyfoundation.org/publications/pdb/NoFirstUsePDB708.pdf

Some participants were not sure that NFU would measurably reduce the salience of nuclear weapons. For example, nuclear weapons certainly affect the relationship between India and Pakistan, and their nuclear weapons are not even deployed. Moreover, when Russia and India declared that they would no longer adhere to a NFU posture, the effect—negative or positive—on the international community was negligible. One participant recalled a meeting in Norway on reducing the salience of nuclear weapons, in which the representatives of Asian countries were unenthusiastic about NFU. Instead, they said the key to delegitimizing nuclear weapons was to get them out of the hands of the military and remove them from war plans. To that end, rather than changing declared doctrine, the United States should focus on programmatic steps toward a less aggressive nuclear posture—cutting the Reliable Replacement Warhead, de-alerting nuclear weapons, developing conventional means to cover every possible contingency except for nuclear attack, and so forth. The United States should strive to emphasize, with words and actions, that “the purpose of nuclear weapons is to ensure that they are never used.” Participants said that such a policy would stated doctrine may be, the default US nuclear posture is a defensive last resort simply because American officials would not consider using nuclear weapons except under the most dire of circumstances. The 2001 Nuclear Posture Review, other nuclear planning documents, have the virtue of reducing the salience of nuclear weapons while remaining more realistic and honest about possible nuclear use in extenuating circumstances.

Many participants emphasized the realist’s perspective that, despite our attempts to reduce the salience of nuclear weapons, many countries do not see nuclear weapons as a tool to “ensure that nuclear weapons are never used,” but rather as an essential guarantee of their security against conventional attack. For example, a US NFU doctrine will have no effect on Israel’s nuclear strategy. Likewise, Russia sees its nuclear weapons as a way to offset the erosion of its conventional military strength. This applies to states like North Korea and Iran as well. Their nuclear programs are, in large part, a response to US conventional military might, so a change in US nuclear doctrine is unlikely to affect their own nuclear decisions.

No modeling – Russia, China, Pakistan, and Israel won’t consider giving up their nuclear advantage.

Esin 09 (General Viktor Esin (Ret.), 6/21/09, Crossing Obstacles and Implementation of De-alert Approach, East West Institute Forum, http://www.ewi.info/system/files/Esin.pdf)

Second type of the obstacles pertains to provision of military security of nuclear states. At the time when USA and NATO alliance headed by USA absolutely predominate in general purpose forces it is impossible to expect from Russia or China the steps that would lead to limitation of capabilities of their nuclear deterrence potential. The same approach is intrinsic to Pakistan that would hardly lower capabilities of its nuclear deterrence potential when India possesses overwhelming superiority in conventional forces. It is also impossible to imagine that Israel would be agreeable to lowering its nuclear forces potential until the peaceable agreement on the Middle East is concluded and the Arab states provide Israel with credible security guarantees.

#### No modeling

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

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

## Flex

### AT: Plan Solves Warfighting

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

John Yoo 4, 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, “War, Responsibility, and the Age of Terrorism,” UC-Berkeley Public Law and Legal Theory Research Paper Series, http://works.bepress.com/cgi/viewcontent.cgi?article=1015&context=johnyoo

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

#### Adversaries won’t perceive Congressional participation as a sign of resolve

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

The credibility-enhancing effects of legislative constraints on threats are subject to dispute. Some studies question the assumptions underpinning theories of audience costs – specifically the idea that democratic leaders suffer domestic political costs to failing to make good on their threats, and therefore that their threats are especially credible171 – and others question whether the empirical data supports claims that democracies have credibility advantages in making threats.172 Other scholars dispute the likelihood that leaders will really be punished politically for backing down, especially if the threat was not explicit and unambiguous or if they have good policy reasons for doing so.173 Additionally, even if transparency in democratic institutions allows domestic dissent from threats of force to be visible to foreign audiences, it is not clear that adversaries would interpret these mechanisms as political scientists expect in their models of strategic interaction, in light of various common problems of misperception in international relations.174 These disputes are not just between competing theoretical models but also over the links between any of the models and real-world political behavior by states. At this point there remains a dearth of good historical evidence as to how foreign leaders interpret political maneuvers within Congress regarding threatened force.

#### New statutory restrictions collapse executive crisis response --- triggers terrorism, rogue state attacks, and wildfire prolif

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

#### Congressional involvement cripples warfighting – extinction

\*\*\*This is their 1ac separation-of-powers author

Weinberger 9 [Seth Weinberger, Assistant Professor in the Department of Politics and Government at the University of Puget Sound, M.A. and Ph.D. in Political Science from Duke University, "Balancing War Powers in an Age of Terror", The Good Society, 18(2), <http://muse.jhu.edu/journals/good_society/v018/18.2.weinberger.html>]

**In wartime**, however, **it may be** neither expedient nor strategically sound **for the president to be forced to come before Congress for permission for each and every legislative action deemed necessary** for the war effort. C**ircumstances in war are** fluid and unpredictable**, and legislation passed at one time may quickly become irrelevant or obsolete. The deliberation and compromise that are the hallmarks of congressional legislation may be ill-suited to war, which demands** swift and decisive action **to keep on top of rapidly shifting military situations**. As one scholar puts it, "**Congress at war is not a pretty sight. The legislative branch can be questioning and judgmental, impatient for victories yet free with inexpert advice, slow to provide the men and materiel for combat, reluctant to vote the taxes needed to pay for the war, critical of generals, and careless with secrets**."25 **In times in which the country faces an** existential, or otherwise exceedingly dangerous, threat**, it may not behoove the president, the military, or the nation as a whole to require the president to ask Congress time and time again to enact laws to advance the war effort.**

#### Key to victory in every domain

Johson ‘6

Karlton, Army War College, “Temporal and Scalar Mechanics of Conflict Strategic Implications of Speed and Time on the American Way of War,” http://www.dtic.mil/dtic/tr/fulltext/u2/a449394.pdf

Military services appear to be increasingly dependent on speed, and these organizations continue to place a premium on its relative value. The Army’s “Field Manual 1: The Army,” embraces the idea that speed is critical to its operational concept, necessary for maneuver forces to keep the initiative in battle, and vital towards achieving shock and surprise.25 The United States Navy looks to speed as an essential component of maritime operations. In “Fleet Tactics and Costal Combat,” Wayne P. Hughes reasons that speed is necessary to win the sea battle **within the first few shots of an engagement**.26 The United States Air Force has plans to increase the speed and fidelity of command, control, communications and computers, intelligence, surveillance and reconnaissance (C4ISR) to create Predictive Battlespace Awareness over the combat area. The desired end state of these capabilities will be “getting a cursor over a target” upon demand.27 Even U.S. Air Force doctrine is replete with references to speed. The concept of speed clearly underlies the tenets and principles of airpower as an enabling factor.28

### AT: Waxman

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

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

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

#### Plan allows Congress to vocally oppose crisis intervention --- that destroys international perception of U.S. resolve

Waxman 8/25/13 Matthew Waxman, Professor of Law @ Columbia and Adjunct Senior Fellow for Law and Foreign Policy @ CFR, citing William Howell, Sydney Stein Professor in American Politics @ U-Chicago, and Jon Pevehouse, Professor of Political Science @ U-Wisconsin-Madison, “The Constitutional Power to Threaten War,” Forthcoming in Yale Law Journal, vol. 123, August 25, 2013, SSRN

When members of Congress vocally oppose a use of force, they undermine the president’s ability to convince foreign states that he will see a fight through to the end. Sensing hesitation on the part of the United States, allies may be reluctant to contribute to a military campaign, and adversaries are likely to fight harder and longer when conflict erupts— thereby raising the costs of the military campaign, decreasing the president’s ability to negotiate a satisfactory resolution, and increasing the probability that American lives are lost along the way. Facing a limited band of allies willing to participate in a military venture and an enemy emboldened by domestic critics, presidents may choose to curtail, and even abandon, those military operations that do not involve vital strategic interests.145

### AT: Tradeoff Zero-Sum/Solves

#### They completely shift the balance of war powers

Heder 10 (Adam, J.D., magna cum laude , J. Reuben Clark Law School, Brigham Young University, “THE POWER TO END WAR: THE EXTENT AND LIMITS OF CONGRESSIONAL POWER,” St. Mary’s Law Journal Vol. 41 No. 3, <http://www.stmaryslawjournal.org/pdfs/Hederreadytogo.pdf>)

Congressional attempts to repeal an authorization for war, in fact, would conflict with the President’s plenary powers contained in the Commander in Chief Clause. The Commander in Chief Clause, if it means anything, means the power to prosecute a war. 87 As noted, the structure of the Constitution splits the war powers between the two elected branches. Giving Congress the unilateral power to legally end, limit, or redefine a conflict would, no doubt, deter the President from executing a war in the way he sees fit. If the President’s goals or strategies diverge from those of Congress, then Congress would have an incredibly robust veto power over the President — one that would not **suffer the** extreme political or practical consequences **that a use of the appropriation power would**. Consequently, knowing that Congress is always looking over his shoulder, the President likely would **not conduct the war as he deems fit;** he would conduct the war more consistently with Congress’s strategies. 88 Such a scheme would tilt the scales heavily in favor of Congress and **run afoul of the basic power-sharing scheme of the Constitution,** wherein neither branch has some unilateral right to effectively control all major aspects of a war. 89