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### Flex DA

#### The plan’s precedent causes further constraint --- undermines overall war powers

Paul 8 Christopher, Senior Social Scientist; Professor, Pardee RAND Graduate School Pittsburgh Office Education Ph.D., M.A., and B.A. in sociology, University of California, Los Angeles, “US Presidential War Powers: Legacy Chains in Military Intervention Decisionmaking\* ,” Journal of Peace Research, Vol. 45, No. 5 (Sep., 2008), pp. 665-679

Legacy Chains

Finegold & Skocpol (1995: 222) describe policy legacies: Past and present policies are connected in at least three different ways. First, past policies give rise to analogies that affect how public officials think about contemporary policy issues. Second, past policies suggest lessons that help us to understand the processes by which contemporary policies are formulated and implemented and by which the conse quences of contemporary policies will be determined. Third, past policies impose limitations that reduce the range of policy choices available as responses to contemporary problems. All three of the ways in which they connect past policy to present policy can be viewed as changes in the institutional context in which policy is made. These legacies are institutionalized in two different ways: first, through changes in formal rules or procedures, and second, in the 'taken for granteds', 'schemas', and accepted wisdom of policy makers and ordinary citizens alike (Sewell, 1992: 1-29). While a policy or event can leave multiple legacies, it often leaves a single major legacy. For example, the War Powers Resolution for mally changed the relationship between the president and the congress with regard to war-making and the deployment of troops. Subsequent military interventions were influenced by this change and have, in turn, left their own legacy (legal scholars might call it precedent) as a link in that chain. Legacy chains can be modified, trans formed, or reinforced as they step through each 'link' in the chain. As another example, US involvement in Vietnam left a legacy in the sphere of press/military relations which affected the intervention in Grenada in 1983 (the press was completely excluded for the first 48 hours of the operation). The press legacy chain begun in Vietnam also affected the Panama invasion of 1989 (a press pool was activated, in country, but excluded from the action), but the legacy had been trans formed slightly by the Grenada invasion (the press pool system itself grew out of complaint regarding press exclusion in Grenada) (Paul & Kim, 2004). Because of the different ways in which policy legacies are institutionalized, some legacies have unintended institutional cons quences. The War Powers Resolution was intended to curtail presidential war-making powers and return some authority to the con gress. In practice, the joint resolution failed to force presidents to include congressional participation in their intervention decision making, but it had the unintended conse quence of forcing them to change the way they planned interventions to comply with the letter of the law (see the extended ex ample presented later in the article).1

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

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

A. The Emergence of Non-State Actors

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

### Iran Counterplan

#### The United States federal government should cease threats of force against Iran. The United States federal government should cease all current and future sanctions on Iran.

#### Solves negotiations and Iran aggression

Reuters 11/14 Kerry: Failing to reach nuclear deal will push Iran to obtain nuclear weapons, JPOST.COM STAFF, 11/14/2013, http://www.jpost.com/Iranian-Threat/News/Kerry-Failing-to-reach-nuclear-deal-will-push-Iran-to-obtain-nuclear-weapons-331791

US secretary of state makes case against imposing additional sanctions on Tehran, saying such a move would signal to Iran the US isn't willing to negotiate in good faith; says no distance between US, Israel on issue. Imposing additional sanctions on Iran would signal to Tehran that the United States is not willing to negotiate a peaceful resolution to the nuclear dispute, and drive hardliners in the country to push for obtaining of nuclear weapons, US Secretary of State John Kerry said in an interview with MSNBC on Thursday. Kerry and Vice President Joe Biden met with senators on Capitol Hill on Wednesday in an attempt to convince them to hold off on increasing sanctions on the Islamic Republic, arguing that such a move would be viewed by Iran as a bad faith step from the US. "You have to do something in order to make it worthwhile for them to say, 'Yes, we’re going to lock our program where it is today and actually roll it back,'" he said. He stressed that 95 percent, the core of the sanctions regime, would remain in place, and only a "tiny portion" of sanctions would be eased. "Iran was bringing in a $110-120 billion a year in income from its oil revenues, banking and so forth. That has been knocked down to $40-45 billion and that money is frozen in banks around the world. All we're talking about doing is releasing a tiny portion of that," he said. He warned that failure to reach a deal would result in Tehran continuing its nuclear program, "and then we're locked in a standoff for the next how-many number of years that becomes more dangerous for Israel and our other allies in the region, and may even push other countries to nuclearize and could result in the requirement that we'd have to - rather than have to negotiate a peaceful resolution of this - take military action in order to secure our goals." Kerry said that he has had several phone conversations with Prime Minister Binyamin Netanyahu on the issue over the past week, including one of Thursday. "I respect completely [Netanyahu's] deep concerns, as a prime minister should have about the existential nature of this threat to Israel," he said, noting that the two countries agree about the goal of the talks - stopping Iran from obtaining nuclear weapons - but not on the way to achieve that goal. "We believe that you need to take the first step and that you will not get Iran to simply surrender and believe you're dealing in good faith if after two years of negotiating you don't follow through with what's on the table. But Mr. Netanyahu believes that you can increase the sanctions, put the pressure on even further, and that somehow this is going to force them to do what they haven't been willing to do any time previously," the secretary of state said. Despite that, he stressed that there is no distance between Israel and the United States. "I believe [this deal] is the best first step that will actually make Israel safer. It will extend the break out time. If we don't get that first step, not only will that break out time shrink, but Iran may interpret the congressional reaction to increase sanctions as bad faith on our part and unwillingness to negotiate and may drive the hardliners even more to a commitment that they have to have the weapons," he said.

### T Armed Forces

#### Interpretation – US Armed Forces are limited to uniformed personnel – military is distinct because it includes civilian employees

Opinion of the Eastern District Court of PA 2002

(NO. 01-6241, http://www.paed.uscourts.gov/documents/opinions/02d0669p.pdf)

Those courts recognize that the term “military departments” used in 42 U.S.C. § 2000e-¶ 16(a) is not interchangeable with the term “armed forces.” As defined by Congress in 5 U.S.C. §¶ 102, the term “military departments” includes the Department of the Army, the Department of¶ the Navy, and the Department of the Air Force. Id. § 102. By contrast, the term “armed forces,”¶ as defined by Congress in 10 U.S.C. § 101(a)(7), includes “the Army, Navy, Air Force, Marine¶ Corps, and Coast Guard.” Id. § 101(a)(7). The courts have thus construed the term “military¶ departments” to only include civilian employees of the Army, Navy, or Air Force, while¶ construing the term “armed forces” as only referring to uniformed military personnel. In¶ Gonzalez, relying on the legislative history of the statute, the court explained that “[t]he two¶ differing definitions show that Congress intended a distinction between ‘military departments’¶ and ‘armed forces,’ the former consisting of civilian employees, the latter of uniformed military¶ personnel.” 718 F.2d at 928 (citation omitted).

#### Violation – the plan restricts military force

#### Voting issue –

#### First – precision – minor legal distinctions are key – attention to detail is necessary in the context of legal debates

Gantt 7 – Associate Professor and Director of Academic Success, Regent University School of Law; M.Div., Gordon-Conwell Theological Seminary, 2000; J.D., Harvard Law School, 1994; A.B., Duke University, 1991

(Larry, “Deconstructing Thinking Like a Lawyer: Analyzing the Cognitive Components of the Analytical Mind,” 29 Campbell L. Rev. 413, Lexis)

Implicit in much of the above discussion is another cognitive skill lawyers develop: attention to detail. Lawyers, in general, are very detail oriented. \*\*footnote 290\*\* Many students in Saunders & Levine's study emphasized that they thought "attention to detail" was important to thinking like a lawyer. Saunders & Levine, supra note 17, at 168, 192 (explaining, inter alia, how one student reported that "careful and thorough analysis" was an important lawyering skill while another student described that thinking like a lawyer means to "think precisely" and be able to "focus on details"). \*\*end footnote\*\* Scholars have recognized this attention to detail by [471] contending that any good legal argument is characterized by "precision." 291 Legal rules and principles consistently make fine distinctions; the use of one word over another or the placement of a particular punctuation mark may dramatically change the legal import of a text. \*\*footnote 292\*\* See Schwartz, supra note 2, at 12, 99 (noting how a legal conclusion can depend on how words are defined and how conjunctions and punctuation marks are used). \*\*end footnote\*\* Legal thinkers thus must recognize those distinctions both to understand the law and to know how to apply it to a particular factual scenario. 293 Several students in the Regent survey stressed the importance of precision and detail orientation in legal thinking. 294 At the same time, however, legal thinking involves being able to discern which distinctions are important and which ones are not. 295 Knowing the import of distinctions is related to the skill noted above regarding determining relevance. 296

#### Second – solvency booster – they get to restrict more branches and private contractors – fiats out of circumvention and doctrine shift arguments

#### Third – ground – private contracting is an entirely separate literature base – doubles the USAF research burden and ensures the aff is a step ahead

### Farm Bill DA

#### Farm bill will pass now, but PC is still key to negotiate a compromise

Dale Hildebrant, 11-17-2013, “Farm Bill Conference Committee wants to finish by Thanksgiving,” Minnesota Farm Guide, http://www.minnesotafarmguide.com/news/regional/farm-bill-conference-committee-wants-to-finish-by-thanksgiving/article\_2e07f0b2-4d4a-11e3-9894-001a4bcf887a.html

Little has been heard from the Farm Bill Conference Committee since its opening session on Oct. 30 – at least not publicly. But that doesn’t mean there hasn’t been progress. That’s because most of the negotiating is going on behind closed doors. In fact, several committee members have expressed optimism that a compromise bill could be hammered out by Thanksgiving. If that happens, it should allow adequate time for full House and Senate action on the compromise by the end of the year. That first official meeting of the committee on Oct. 30 allowed the 41 members to make their opening statements and offers on what they would like to see in the compromise bill. Since then private meetings have taken place with the nutrition spending level and Title I programs presenting the biggest challenges to an agreement. “We have a responsibility to reach consensus and do what is best for all of agriculture and rural America,” said Rep. Frank Lucas (R-Okla.) in his opening remarks after convening the conference committee. “Let’s give certainty and sound policy to our agricultural producers; let’s deliver taxpayers billions of dollars in deficit reduction; let’s continue to provide consumers the affordable and reliable food supply they have grown accustomed to. Let’s work together to get our work done.” Senate Ag Committee chair Debbie Stabenow (D-Mich.) echoed Lucas’ call for compromise and action. “There are 16 million men and women whose jobs rely on the strength of agriculture and I am confident we won’t let them down,” Stabenow said. Even though Congress has a scheduled recess coming up, ranking member on the House Committee, Rep. Collin Peterson (D-Minn.) expressed hope that the work of the conference committee would continue through the recess. “We need to get at this or we’re not going to get this done,” Peterson told reporters. In a short news conference later in the week, both Lucas and Stabenow expressed the desire to continue work on a compromise bill during the recess. The dialogue surrounding the nutrition part of the Farm Bill debate has already changed with the suspension of a 2009 increase in food stamps benefits as part of the effort to stimulate the economy. The Obama Administration had hoped to phase out those stimulus benefits over time, but Congress decided to speed up the schedule. This reduction, which kicked in on Nov. 1, will save an estimated $11 billion in savings over the next few years. Stabenow referenced this in her opening remarks to the Conference Committee noting that this $11 billion in savings should be added to the equation measuring the food stamp cuts in both versions of the bill. “That $11 billion, plus the $4 billion in original cuts in the Senate bill, means that accepting the Senate nutrition title would result in a total of $15 billion in cuts in nutrition,” she said. The House version of nutrition assistance originally cut $39 billion from the program, which doesn’t include the $11 billion in savings from the Nov. 1 cut in funding. Because of this large difference in the two versions of the bill, Peterson believes that President Obama’s intervention will prove useful in getting the issue resolved.

#### Restrictions on war powers deplete political capital and trade off with the rest of the agenda

Douglas L. Kriner 10, Assistant Professor of Political Science at Boston University, 2010, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 68-69

Raising or Lowering Political Costs by Affecting Presidential Political Capital

Shaping both real and anticipated public opinion are two important ways in which Congress can raise or lower the political costs of a military action for the president. However, focusing exclusively on opinion dynamics threatens to obscure the much broader political consequences of domestic reaction—particularly congressional opposition—to presidential foreign policies. At least since Richard Neustadt's seminal work Presidential Power, presidency scholars have warned that costly political battles in one policy arena frequently have significant ramifications for presidential power in other realms. Indeed, two of Neustadt's three "cases of command"—Truman's seizure of the steel mills and firing of General Douglas MacArthur—explicitly discussed the broader political consequences of stiff domestic resistance to presidential assertions of commander-in-chief powers. In both cases, Truman emerged victorious in the case at hand—yet, Neustadt argues, each victory cost Truman dearly in terms of his future power prospects and leeway in other policy areas, many of which were more important to the president than achieving unconditional victory over North Korea."¶ While congressional support leaves the president's reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president's foreign policies is capital that is unavailable for his future policy initiatives. Moreover, any weakening in the president's political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races.59 Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War.60¶ In addition to boding ill for the president's perceived political capital and reputation, such partisan losses in Congress only further imperil his programmatic agenda, both international and domestic. Scholars have long noted that President Lyndon Johnson's dream of a Great Society also perished in the rice paddies of Vietnam. Lacking both the requisite funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, many of President Bush's highest second-term domestic priorities, such as Social Security and immigration reform, failed perhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq.61¶ When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies. If congressional opposition in the military arena stands to derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena.

#### Political capital is key --- overcomes partisanship

Josh Lederman 10/18/13, reporter for the Associated Press, and Jim Kuhnhenn, “No safe bets for Obama despite toned-down agenda,” US News and World Report, http://www.usnews.com/news/politics/articles/2013/10/18/no-safe-bets-for-obama-despite-toned-down-agenda

WASHINGTON (AP) — Regrouping after a feud with Congress stalled his agenda, President Barack Obama is laying down a three-item to-do list for Congress that seems meager when compared with the bold, progressive agenda he envisioned at the start of his second term.¶ But given the capital's partisanship, the complexities of the issues and the limited time left, even those items — immigration, farm legislation and a budget — amount to ambitious goals that will take political muscle, skill and ever-elusive compromise to execute.¶ "Those are three specific things that would make a huge difference in our economy right now," Obama said. "And we could get them done by the end of the year if our focus is on what's good for the American people."

#### Farm bill’s key to advances in biofuels---stable policy and funding are vital

Sustainable Business 11/6/13, “Farm Bill is Back, Will Renewable Energy Be Included?,” http://www.sustainablebusiness.com/index.cfm/go/news.display/id/25339

While we don't often think of the farm-renewable energy connection, under the Farm Bill, the US Department of Agriculture (USDA) has assisted bringing thousands of solar, wind and biogas projects to farms, while helping them increase their efficiency.

The Rural Energy for America Program (REAP) funds up to 25% of a renewable energy system or energy efficiency upgrade and provides additional support through loan guarantees. 8,250 renewable energy and energy efficiency projects have been installed under the Obama administration.

The Biorefinery Assistance Program supports young companies in getting their biofuel technologies off the ground. Sapphire Energy's $54 million loan from the US Department of Agriculture (USDA) allowed it to build its Green Crude Farm in New Mexico, which turns algae into crude oil. Sapphire paid the loan back this year.

While these programs represent a tiny portion of Farm Bill costs - 0.7% of the 2008 Farm Bill - they are responsible for much of the growth of the US renewable energy industry, they say. Both programs are hanging by a thread because of funding cuts over the past few years.

The letter - from the solar, wind and biofuels trade associations - asks them to re-authorize $900 billion in guaranteed funds for the next five years, which is in the Senate version of the bill (S.954).

In the past, these funds have leveraged billions of dollars in private investment, they say. "These new agriculture, manufacturing, and high technology jobs are at risk without continued federal investment."

The House version, (HR 2642) leaves this funding out and instead, authorizes $1.4 billion in discretionary funds that can be allocated as congress wishes.

Indeed, in 2011, House Republicans cut funding from $75 million to just $1.3 million for the Rural Energy for America Program. They wanted to scrap the program.

Rep. Tim Walz (D-MN), the ranking member of the House Agriculture Subcommittee on Conservation, Energy and Forestry, is expected to lead on getting these programs through conference committee negotiations.

"The U.S. is experiencing strong growth in the development and commercialization of biofuels, bioproducts, biopower, biogas, energy crops, renewable energy, renewable chemicals and energy efficiency. These important and growing industries all benefit agriculture and forestry and are poised to make huge contributions to our economic, environmental and national security in the coming years, provided that we maintain stable policies that support clean energy manufacturing and innovation," the letter says.

#### Farm bill renewables grants are key to the Navy’s Great Green Fleet

Tina Casey 12, specializes in military and corporate sustainability, advanced technology, emerging materials, biofuels, and water and wastewater issues for Clean Technica, 8/27/12, “Farmers in Cahoots with Navy Biofuel Mission,” <http://cleantechnica.com/2012/08/27/chemtex-gets-usda-loan-for-biofuel-plant-in-north-carolina/#OdGkBwbQVPdqPi7r.99>

When Republican leadership in Congress tried to torpedo the U.S. Navy’s ambitious biofuel programs last spring, the Navy managed to fight its way around those obstacles. The maneuvers received some media attention at the time, but one strategic ally seems to have slipped under the radar: the U.S. Department of Agriculture. The USDA has been funding a network of eight biofuel refineries in every region of the country while supporting foundational research that will help make biofuels cost competitive with fossil fuels, which will benefit the Navy and farmers alike.

Biorefineries to Aid Farmers

When you think of biorefineries, the fuel is the first thing that naturally comes to mind, but a key mission of the USDA’s biorefinery program is to aid farmers and boost rural economies.

The Navy and Department of Energy first announced a major biofuel partnership with the USDA last summer, capping off President Obama’s midwest bus tour in support of the Administration’s rural economic development programs.

The USDA is funding the eight new biorefineries under The Biorefinery Assistance Program set forth in Section 9003 of the 2008 Farm Bill. The goal of that program goes beyond the dollars and cents of competitive biofuels. According to the USDA, it is intended to:

“…increase the energy independence of the United States; promote resource conservation, public health, and the environment; diversify markets for agricultural and forestry products and agriculture waste material; create jobs and enhance the economic development of the rural economy.”

A New Biorefinery for North Carolina

The USDA’s latest biorefinery project is a $99 million, 80% loan guarantee to the global engineering company Chemtex, which also received funding to work directly with local farmers to raise “energy grasses” like switchgrass and miscanthus.

The new biorefinery will be the first commercial-scale facility of its kind in the Mid-Atlantic, and the USDA expects it to create 65 jobs on site with another 250 jobs off site, many involved in raising and transporting feedstock for the refinery.

In a sustainability twofer, some of the feedstock will also double as natural effluent management for waste lagoons at local pig farms, where a grass called Coastal Bermuda is already being used for that purpose. By transitioning to energy grasses, farmers will continue the land stewardship program while benefiting from a new revenue stream.

USDA estimates that local farmers stand to gain $4.5 million in new revenue annually when the new biorefinery is completed.

U.S. Navy: 3, Biofuel Opponents: 0

By putting itself front and center as an early adopter of biofuels, the Navy’s goal has been to help the biofuel industry build up to an economy of scale that makes its product competitive with petroleum fuels.

To that end, the Navy has budgeted for the purchase of biofuels even though they are currently more expensive. The program culminated in the launch of biofuel-assisted ships and aircraft in the new Green Strike Group this summer, and a full Great Green Fleet is planned for 2016.

#### GGF’s key to U.S. clean tech leadership

Peter Lehner 12, Executive Director of the Natural Resources Defense Council, 7/31/12, “Navy Launches Great Green Fleet, Powered by Biofuels,” http://switchboard.nrdc.org/blogs/plehner/navy\_launches\_great\_green\_flee.html

The U.S. Navy launched its Great Green Fleet recently at RIMPAC, the world's largest naval exercise, which takes place biannually off the coast of Hawaii. Squadrons of F/A-18 Hornet fighter jets, an SH60-Seahawk helicopter, E-2 Hawkeye airborne early warning aircraft and other planes took off from the deck of the USS Nimitz, all powered by a biofuel blend, demonstrating, for the first time, biofuels in action at sea.

“The military has done a lot of things that starts a tidal wave throughout our culture, and I think this is one of those things,” Lt. Commander Jason Fox, a Hawkeye pilot, told Forbes.

The Navy has been testing biofuels for years, as part of a broader military effort to reduce vulnerability to oil prices and improve combat capability in general through renewable energy and efficiency. Naval Secretary Ray Mabus pointed out that the Navy got hit with a billion-dollar energy bill in May due to rising oil prices. He told reporters, “We simply have to figure out a way to get American made homegrown fuel that is stable in price, that is competitive with oil that we can use to compete with oil. If we don’t we’re still too vulnerable.”

The Navy is aiming to get 50 percent of its energy from renewable sources by 2020, and biofuels are an important part of that plan. However, the Navy's expanded use of biofuels could have unintended consequences, depending on what kind of biofuels the Navy chooses. Done right, biofuels are a sustainable source of energy that can protect the environment and reduce carbon pollution without affecting food prices. But carelessly produced biofuels can actually increase global warming pollution and degrade our forests, soil, and water quality, and pose a threat to public health--hardly compatible with the military's mission. Moreover, biofuels that degrade the land, soil, and water that sustain them will not deliver strategically meaningful volumes of alternative fuel for very long.

Working to increase the production of low-carbon, responsibly grown biofuels can give us environmental security and national security, by providing our military with a sustainable supply of domestic fuel, reducing global warming pollution, and helping our economy--and our nation--break free from the monopoly of oil. The launch of the Great Green Fleet demonstrates real leadership on the Navy's part, and highlights the key role that the military can play in advancing groundbreaking technologies that transform the way we live.

The military essentially created the semiconductor industry, for example, by supporting early R&D and then making large purchases that brought down the cost of semiconductor manufacturing, eventually making it accessible to the broader civilian market. The military can play this transformative role again, by supporting biofuel supplies that can be replenished and sustained over the long term. That means ensuring the Navy's biofuels are responsibly grown, low-carbon biofuels that provide maximum benefits for all Americans.

#### Solves extinction---green leadership’s more important to heg than oil independence

Louis Klarevas 9, Professor for Center for Global Affairs @ New York University, 12/15, “Securing American Primacy While Tackling Climate Change: Toward a National Strategy of Greengemony,” http://www.huffingtonpost.com/louis-klarevas/securing-american-primacy\_b\_393223.html

As national leaders from around the world are gathering in Copenhagen, Denmark, to attend the United Nations Climate Change Conference, the time is ripe to re-assess America's current energy policies - but within the larger framework of how a new approach on the environment will stave off global warming and shore up American primacy. By not addressing climate change more aggressively and creatively, the United States is squandering an opportunity to secure its **global primacy** for the next few generations to come. To do this, though, the U.S. must rely on innovation to help the world escape the coming environmental meltdown. Developing the key technologies that will save the planet from global warming will allow the U.S. to outmaneuver potential great power rivals seeking to replace it as the international system's hegemon. But the greening of American strategy must occur soon. The U.S., however, seems to be stuck in time, unable to move beyond oil-centric geo-politics in any meaningful way. Often, the gridlock is portrayed as a partisan difference, with Republicans resisting action and Democrats pleading for action. This, though, is an unfair characterization as there are numerous proactive Republicans and quite a few reticent Democrats. The real divide is instead one between realists and liberals. Students of realpolitik, which still heavily guides American foreign policy, largely discount environmental issues as they are not seen as advancing national interests in a way that generates relative power advantages vis-à-vis the other major powers in the system: Russia, China, Japan, India, and the European Union. ¶ Liberals, on the other hand, have recognized that global warming might very well become the greatest challenge ever faced by (hu)mankind. As such, their thinking often eschews narrowly defined national interests for the greater global good. This, though, ruffles elected officials whose sworn obligation is, above all, to protect and promote American national interests. What both sides need to understand is that by becoming a lean, mean, green fighting machine, the U.S. can actually bring together liberals and realists to advance a collective interest which benefits every nation, while at the same time, securing America's global primacy well into the future. To do so, the U.S. must re-invent itself as not just your traditional hegemon, but as history's first ever green hegemon. Hegemons are countries that dominate the international system - bailing out other countries in times of global crisis, establishing and maintaining the most important international institutions, and covering the costs that result from free-riding and cheating global obligations. Since 1945, that role has been the purview of the United States. Immediately after World War II, Europe and Asia laid in ruin, the global economy required resuscitation, the countries of the free world needed security guarantees, and the entire system longed for a multilateral forum where global concerns could be addressed. The U.S., emerging the least scathed by the systemic crisis of fascism's rise, stepped up to the challenge and established the postwar (and current) liberal order. But don't let the world "liberal" fool you. While many nations benefited from America's new-found hegemony, the U.S. was driven largely by "realist" selfish national interests. The liberal order first and foremost benefited the U.S. With the U.S. becoming bogged down in places like Afghanistan and Iraq, running a record national debt, and failing to shore up the dollar, the future of American hegemony now seems to be facing a serious contest: potential rivals - acting like sharks smelling blood in the water - wish to challenge the U.S. on a variety of fronts. This has led numerous commentators to forecast the U.S.'s imminent fall from grace. Not all hope is lost however. With the impending systemic crisis of global warming on the horizon, the U.S. again finds itself in a position to address a transnational problem in a way that will benefit both the international community collectively and the U.S. selfishly. The current problem is two-fold. First, the competition for oil is fueling animosities between the major powers. The geopolitics of oil has already emboldened Russia in its 'near abroad' and China in far-off places like Africa and Latin America. As oil is a limited natural resource, a nasty zero-sum contest could be looming on the horizon for the U.S. and its major power rivals - a contest which threatens American primacy and global stability. Second, converting fossil fuels like oil to run national economies is producing irreversible harm in the form of carbon dioxide emissions. So long as the global economy remains oil-dependent, greenhouse gases will continue to rise. Experts are predicting as much as a 60% increase in carbon dioxide emissions in the next twenty-five years. That likely means more devastating water shortages, droughts, forest fires, floods, and storms. In other words, if global competition for access to energy resources does not undermine international security, global warming will. And in either case, oil will be a culprit for the instability. Oil arguably has been the most precious energy resource of the last half-century. But "black gold" is so 20th century. The key resource for this century will be green gold - clean, environmentally-friendly energy like wind, solar, and hydrogen power. Climate change leaves no alternative. And the sooner we realize this, the better off we will be. What Washington must do in order to avoid the traps of petropolitics is to convert the U.S. into the world's first-ever green hegemon. For starters, the federal government must drastically increase investment in energy and environmental research and development (E&E R&D). This will require a serious sacrifice, committing upwards of $40 billion annually to E&E R&D - a far cry from the few billion dollars currently being spent. By promoting a new national project, the U.S. could develop new technologies that will assure it does not drown in a pool of oil. Some solutions are already well known, such as raising fuel standards for automobiles; improving public transportation networks; and expanding nuclear and wind power sources. Others, however, have not progressed much beyond the drawing board: batteries that can store massive amounts of solar (and possibly even wind) power; efficient and cost-effective photovoltaic cells, crop-fuels, and hydrogen-based fuels; and even fusion. Such innovations will not only provide alternatives to oil, they will also give the U.S. an edge in the global competition for hegemony. If the U.S. is able to produce technologies that allow modern, globalized societies to escape the oil trap, those nations will eventually have no choice but to adopt such technologies. And this will give the U.S. a tremendous economic boom, while simultaneously providing it with means of leverage that can be employed to keep potential foes in check. The bottom-line is that the U.S. needs to become green energy dominant as opposed to black energy independent.

### Rule of Law K

#### The plan identifies the non-Western world as a space devoid of the rule of law---makes aggressive colonial and neoliberalism violence inevitable---their evidence is based on distorted representations

Ugo Mattei 9, Professor at Hastings College of the Law & University of Turin; and Marco de Morpurgo, M.Sc. Candidate, International University College of Turin, LL.M. Candidate, Harvard Law School, 2009, “GLOBAL LAW & PLUNDER: THE DARK SIDE OF THE RULE OF LAW,” online: <http://works.bepress.com/cgi/viewcontent.cgi?article=1014&context=bocconi_legal_papers>

Within this framework, Western law has constantly enjoyed a dominant position during the past centuries and today, thus being in the position to shape and bend the evolution of other legal systems worldwide. During the colonial era, continental-European powers have systematically exported their own legal systems to the colonized lands. During the past decades and today, the United States have been dominating the international arena as the most powerful economic power, exporting their own legal system to the ‘periphery’, both by itself and through a set of international institutions, behaving as a neo-colonialist within the ideology known as neoliberalism. ¶ Western countries identify themselves as law-abiding and civilized no matter what their actual history reveals. Such identification is acquired by false knowledge and false comparison with other peoples, those who were said to ‘lack’ the rule of law, such as China, Japan, India, and the Islamic world more generally. In a similar fashion today, according to some leading economists, Third World developing countries ‘lack’ the minimal institutional systems necessary for the unfolding of a market economy. ¶ The theory of ‘lack’ and the rhetoric of the rule of law have justified aggressive interventions from Western countries into non-Western ones. The policy of corporatization and open markets, supported today globally by the so-called Washington consensus3, was used by Western bankers and the business community in Latin America as the main vehicle to ‘open the veins’ of the continent—to borrow Eduardo Galeano’s metaphor4—with no solution of continuity between colonial and post-colonial times. Similar policy was used in Africa to facilitate the forced transfer of slaves to America, and today to facilitate the extraction of agricultural products, oil, minerals, ideas and cultural artefacts in the same countries. The policy of opening markets for free trade, used today in Afghanistan and Iraq, was used in China during the nineteenth century Opium War, in which free trade was interpreted as an obligation to buy drugs from British dealers. The policy of forcing local industries to compete on open markets was used by the British empire in Bengal, as it is today by the WTO in Asia, Africa, and Latin America. ¶ Foreign-imposed privatization laws that facilitate unconscionable bargains at the expense of the people have been vehicles of plunder, not of legality. In all these settings the tragic human suffering produced by such plunder is simply ignored. In this context law played a major role in legalizing such practices of powerful actors against the powerless.5 Yet, this use of power is scarcely explored in the study of Western law. ¶ The exportation of Western legal institutions from the West to the ‘rest’ has systematically been justified through the ideological use of the extremely politically strong and technically weak concept of ‘rule of law’. The notion of ‘rule of law’ is an extremely ambiguous one. Notwithstanding, within any public discussion its positive connotations have always been taken for granted. The dominant image of the rule of law is false both historically and in the present, because it does not fully acknowledge its dark side. The false representation starts from the idea that good law (which others ‘lack’) is autonomous, separate from society and its institutions, technical, non-political, non-distributive and reactive rather than proactive: more succinctly, a technological framework for an ‘efficient’ market. ¶ The rule of law has a bright and a dark side, with the latter progressively conquering new ground whenever the former is not empowered by a political soul. In the absence of such political life, the rule of law becomes a cold technology. Moreover, when large corporate actors dominate states (affected by a declining regulatory role), law becomes a product of the economy, and economy governs the law rather than being governed by it.

#### Reject their emphasis on Western-models of law in favor of a fundamental rethink of democracy from the bottom-up

Ugo Mattei 9, Professor at Hastings College of the Law & University of Turin; and Marco de Morpurgo, M.Sc. Candidate, International University College of Turin, LL.M. Candidate, Harvard Law School, 2009, “GLOBAL LAW & PLUNDER: THE DARK SIDE OF THE RULE OF LAW,” online: <http://works.bepress.com/cgi/viewcontent.cgi?article=1014&context=bocconi_legal_papers>

In the complex spectrum of global law, both throughout the era of colonialism and neo-liberal US-led Western imperialism within a pattern of continuity, the rule of law, together with the theory of ‘lack’ and other powerful rhetorical arguments, has been used in order to legitimize political interventions and plunder in the ‘emerging’ economies. The sacred concept of rule of law, whose positive connotations are ‘naturally’ assumed, has been portrayed as the embodiment of a professional and neutral technology, thus being capable of substituting the lack of democratic legitimacy of the institutions that are protagonist in the creation of global law. But its dark side has never been shown or discussed. An imperial rule of law is now a dominant layer for the worldwide legal systems. It is produced, in the interest of international capital, by a variety of institutions, both public and private, all sharing a gap in political legitimacy sometimes referred to as ‘democratic deficit’.31 At the same time, law has been constructively turned into a technology and a mere component of an economic system of capitalism, thus hiding its intrinsic political nature, and annulling the relevance of local political systems, now impotent in front of the dynamics of global law. The ‘dry technology’ of the rule of law penetrates worldwide legal systems without any political discussion at the local level, attempting to create the conditions for the development of market economies, often without success, and causing serious consequences for the less powerful. Under the technology of the rule of law, in its imperial version capable of producing plunder, the essence of the United States’ law hides. In the aftermath of World War II, there was a dramatic change in the pattern of Western legal development. Leading legal ideas once produced in continental Europe and exported through the colonized world are now, for the first time, produced in a common law jurisdiction: the United States. Clearly, the present world dominance of the United States has been economic, military and political first, and only recently legal, so that a ready explanation of legal hegemony can be found within a simple conception of law as a product of the economy.32 Furthermore, US law has been capable of expanding worldwide thanks to its prestige, the high level of professionalization of its attorneys and a series of procedural institutions, that benefit plaintiffs, that allow US courts to have a certain capacity to attract jurisdiction, while showing themselves as courts for universal justice.33 The general attitude of the United States has been a very ethnocentric one, and precisely that of showing itself as the guardian of a universal legality, which it is legitimized to export through its courts of law, scholarly production, military and political intervention, and through a set of US-centric international institutions. In recent times, in particular after September 11th 2001 and the declaration of the ‘war on terror’, the US rule of law has come under attack 34, so that once admiring crowds of lawyers and intellectuals worldwide are now beginning to look upon the United States as an uncivilized old West from the perspective of legal culture, despite the professional prestige still enjoyed by the giant New York law firms and by the US academy. Notwithstanding, there has been no decline in the rhetoric of the rule of law when it comes to foreign relations. Bringing democracy and the rule of law is still used as a justification to keep intruding in foreign affairs. The same can be said for the international financial institutions and their innumerable ‘development’ projects that come packaged with the prestigious wrapping of the rule of law. A rethinking of the very idea of global law is necessary and it must derive from a revaluation of the local dimension, which is currently ignored by the neo-liberal model of development. The production of global law should change its direction, and follow a bottom-up approach, rather than a top-down one, thus being sensitive to the local particularities and complexities. Western spectacular ideas of democracy and the rule of law should be rethought. On this planet, resources are scarce, but there would be more than enough for all to live well. Nobody would admire and respect someone who, at a lunch buffet for seven, ate 90 percent of the food, leaving the other guests to share an amount insufficient for one. In a world history of capitalism in which the rule of law has reproduced this precise ‘buffet’ arrangement on the large scale, admiring the instruments used to secure such an unfair arrangement seems indeed paradoxical. People have to be free to build their own economies. There is nothing inevitable about the present arrangements and their dominant and taken-for granted certainties. Indeed, it may be that the present legal and political hegemonies suffer from lack: the lack of world culture and of global political realism.

### Exec Counterplan

#### The Executive Branch of the United States should not use offensive military force against the Islamic Republic without Congressional authorization, unless to repel attacks by the Islamic Republic of Iran. The Executive Branch should publically announce this policy.

#### Counterplan solves cred and the case

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

\*We do not endorse gendered language

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

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

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

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

### Congress

#### Squo is voluntary consultation---solves the aff but doesn’t trigger our DA’s

Lederman 9/1, law professor at Georgetown, former Deputy Assistant Attorney General, 9/1/2013

(Marty, “Syria Insta-Symposium: Marty Lederman Part I–The Constitution, the Charter, and Their Intersection,” http://opiniojuris.org/2013/09/01/syria-insta-symposium-marty-lederman-part-constitution-charter-intersection/)

In the past two generations, there have been three principal schools of thought on the question of the President’s power to initiate the use of force unilaterally, i.e., without congressional authorization:

a. The traditional view, perhaps best articulated in Chapter One of John Hart Ely’s War and Responsibility, is that except in a small category of cases where the President does not have time to wait for Congress before acting to interdict an attack on the United States, the President must always obtain ex ante congressional authorization, for any use of military force abroad. That view has numerous adherents, and a rich historical pedigree. But whatever its merits, it has not carried the day for many decades in terms of U.S. practice.

b. At the other extreme is the view articulated at pages 7-9 of the October 2003 OLC opinion on war in Iraq, signed by Jay Bybee (which was based upon earlier memos written by his Deputy, John Yoo). The Bybee/Yoo position is that there are virtually no limits whatsoever: The President can take the Nation into full-fledged, extended war without congressional approval, as President Truman did in Korea, as long as he does so in order to advance the “national security interests of the United States.” With the possible exception of Korea itself, this theory has never reflected U.S. practice. (Indeed, even before that OLC opinion was issued, President Bush sought and obtained congressional authorization for the war in Iraq.) Notably, it was even rejected by William Rehnquist when he was head of OLC in 1970 (see the opinion beginning at page 321 here).

c. Between these two categorical views is what I like to call the Clinton/Obama “third way”—a theory that has in effect governed, or at least described, U.S. practice for the past several decades. It is best articulated in Walter Dellinger’s OLC opinions on Haiti and Bosnia, and in Caroline Krass’s 2011 OLC opinion on Libya. The gist of this middle-ground view (this is my characterization of it) is that the President can act unilaterally if two conditions are met: (i) the use of force must serve significant national interests that have historically supported such unilateral actions—of which self-defense and protection of U.S. nationals have been the most commonly invoked; and (ii) the operation cannot be anticipated to be “sufficiently extensive in ‘nature, scope, and duration’ to constitute a ‘war’ requiring prior specific congressional approval under the Declaration of War Clause,” a standard that generally will be satisfied “only by prolonged and substantial military engagements, typically involving exposure of U.S. military personnel to significant risk over a substantial period” (quoting from the Libya opinion). Largely for reasons explained by my colleague and Dean, Bill Treanor, I am partial to this “third way,” at least in contrast to the two more categorical views described above. (I do not subscribe to every detail of the Dellinger and Krass opinions—in particular, I’m wary of resort to the interest in “regional stability,” which has never been used as a stand-alone justification for unilateral executive action—but I concur in the broad outlines sketched out above.) Regardless of whether Dean Treanor and I—and Presidents Clinton and Obama—are right or wrong about that, however, what’s important for present purposes is that U.S. practice after World War II (with the possible exception of Korea and Kosovo) reflects, and is consistent with, this “third way” view: When a prolonged campaign has been anticipated, with great risk to U.S. blood and treasure, congressional authorization has been necessary—and has, in fact been secured (think Vietnam, both Gulf Wars, and the conflict with al Qaeda). Otherwise, the President has considered himself free to act unilaterally, in support of important interests that have historically justified such unilateral action—subject, however, to any statutory limitations, including the time limits imposed by the War Powers Resolution. See, e.g., Libya (twice, 1986 and 2011), Panama (1989), Somalia (1992), Haiti (twice, 1994 and 2004), and Bosnia (1995). Assuming this “third way” view is correct—or, in any event, that it establishes the relevant historical baseline against which to measure the case of Syria—Peter Spiro makes a valid point about the second of the two criteria. As he puts it, “[a]t no point in the last half century . . . has a president requested advance congressional authorization for anything less than the full-scale use of force.” But that does not mean that the President’s turn to Congress yesterday is a “watershed,” for Peter overlooks the important first condition. All of the examples of unilateral presidential use of force since 1986 that he implicitly invokes (with the possible exception of Kosovo, discussed below) have been in the service of significant national interests that have historically supported such unilateral actions—such as self-defense, protection of U.S. nationals, and/or support of U.N. peacekeeping or other Security Council-approved endeavors and mandates (e.g., Bosnia and Libya). The Syria operation, however, would have had no significant precedent in unilateral executive practice; it would not have been been supported by one of those historically sufficient national interests. That’s not to say that that operation would not be in the service of a very important national interest. For almost a century the U.S. has worked assiduously, with many other nations, to eliminate the scourge of chemical weapons. If Syria’s use of such weapons were to remain unaddressed, that might seriously compromise the international community’s hard-won success in establishing the norm that such weapons are categorically forbidden, and should not even be contemplated as instruments of war. As Max Fisher has written, “it’s about every war that comes after, about what kind of warfare the world is willing to allow, about preserving the small but crucial gains we’ve made over the last century in constraining warfare in its most terrible forms.” Preventing that degradation of the strong international norm against use of chemical weapons is, indeed, an important national (and international) interest of the first order. (To be clear: I am not remotely qualified to opine on whether and to what extent the contemplated action would advance that interest—my point is only that the interest is undoubtedly an important one.) And perhaps that should be enough to justify discrete, unilateral presidential action short of “war in the constitutional sense.” But if so, it would nevertheless be an unprecedented basis for unilateral executive action, and it would open up a whole new category of uses of force that Presidents might order without congressional approval, even where such actions could have profound, longstanding consequences: Most obviously, think, for example, of possible strikes on Iran in order to degrade its nuclear capabilities. Is Peter so sure that that’s the sort of thing that a President should be able to do without obtaining congressional approval? At a minimum, it’s a profound, and heretofore unresolved, question, one that any President should be wary of raising. But there’s yet another reason why unilateral action in Syria would have been especially troubling—a reason that hasn’t received the attention it warrants in recent days. As I discuss in my next post, I agree with the majority of OJ commentators that the Syrian operation would violate Article 2(4) of the U.N. Charter. Indeed, it’s not really a close question. But this is not merely a point about international law. The Charter is a treaty of the United States. It is therefore the “supreme Law” of the land under Article VI of the Constitution, and the President has a constitutional obligation (under Article II) to take care that it is faithfully executed. Unless and until Congress passes a “later in time” statute, under what authority can the President deliberately put the U.S. in breach of the Charter? That is to say: Whatever one’s views might be on the scope of the President’s authority to unilaterally use force abroad—whether you subscribe to the traditional view, the Bybee/Yoo view, or the Clinton/Obama “third way” (or any variant in between)—what is the possible justification for a unilateral presidential decision to violate a treaty that is binding as a matter of domestic law? This is, I think, the most troubling thing about the 1999 Kosovo precedent. The Clinton Administration virtually conceded that the operation was in breach of the Charter. Of course, as a matter of domestic law, Congress can pass a statute authorizing violation of the Nation’s treaty obligation. And OLC concluded that Congress effectively authorized the Kosovo operation eight weeks after it began. But why did President Clinton have the authority, without congressional authorization, to order the operation, and to breach Article 2(4), during those first eight weeks? The notion that the President may unilaterally cause the U.S. to breach a treaty raises deep and unresolved questions of constitutional law: Just as Presidents Obama and Clinton were correct to assume that their unilateral uses of force (in Kosovo and Libya, respectively) were subject to the constraints of the War Powers Resolution, so, too, should the President act within the constraints of binding treaty obligations. The Clinton Administration never did address this problem in connection with Kosovo. (I should note that in 1989, OLC reasoned that because Article 2(4) of the Charter is non-self-executing, in the sense that it does not establish a rule for court adjudication, it is “not legally binding on the political branches,” and thus “as a matter of domestic law, the Executive has the power to authorize actions inconsistent with Article 2(4) of the U.N. Charter.” 13 Op. O.L.C. 163, 179. In my view, this understanding of the effect of a “non-self-executing” treaty is importantly mistaken—but that’s a much broader topic, for another day. I am not aware of any indication that the Clinton Administration adopted this position.) For these reasons, I think that President Obama’s decision to ask Congress for authorization for the use of force in Syria is to be commended, and welcomed. Moreover, I agree with Jack Goldsmith that this decision will not result in any “surrender” of existing executive authority: When in the future the two “third way” criteria for unilateral action articulated in the Haiti, Bosnia and Libya OLC opinions are satisfied, and where the use of force does not violate the Charter, Presidents will certainly continue to assert the power to act unilaterally, subject to statutory and international law constraints. But if and when a President wishes to act for a reason that has not previously been the basis for unilateral action (such as to degrade another nation’s ability to use certain weapons), and/or in a manner that violates a U.S. treaty obligation, past practice will support obtaining congressional authorization, even as the question of the President’s unilateral authority in such circumstances remains untested and unresolved.

#### Congress doesn’t improve decision-making or effectiveness

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.

#### Obama solves unilateralism

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

The Obama Doctrine’s first term has been a remarkable success. After the $3 trillion boondoggle in Iraq, a failed nation-building mission in Afghanistan, and the incessant saber-rattling of the previous Administration, President Obama was able to reorient U.S. foreign policy in a more restrained and realistic direction. He did this in a number of ways. First, an end to large ground wars. As Defense Secretary Robert Gates put it in February 2011, anyone who advised future presidents to conduct massive ground operations ought “to have [their] head examined.” Second, a reliance on Secret Operations and drones to go after both members of al Qaeda and other terrorist outfits in Pakistan as well as East Africa. Third, a rebalancing of U.S. foreign policy towards the Asia-Pacific — a region neglected during George W. Bush's terms but one that possesses a majority of the world’s nuclear powers, half the world’s GDP, and tomorrow’s potential threats. Finally, under Obama's leadership, the United States has finally begun to ask allies to pick up the tab on some of their security costs. With the U.S. fiscal situation necessitating retrenchment, coupled with a lack of appetite on the part of the American public for foreign policy adventurism, Obama has begun the arduous process of burden-sharing necessary to maintain American strength at home and abroad. What this amounted to over the past four years was a vigorous and unilateral pursuit of narrow national interests and a multilateral pursuit of interests only indirectly affecting the United States. Turkey, a Western ally, is now leading the campaign against Bashar al-Assad’s regime in Syria. Japan, Korea, India, the Philippines, Myanmar, and Australia all now act as de facto balancers of an increasingly assertive China. With the withdrawal of two troop brigades from the continent, Europe is being asked to start looking after its own security. In other words, the days of free security and therefore, free riding, are now over. The results of a more restrained foreign policy are plentiful. Obama was able to assemble a diverse coalition of states to execute regime-change in Libya where there is now a moderate democratic government in place. Libya remains a democracy in transition, but the possibilities of self-government are ripe. What’s more, the United States was able to do it on the cheap. Iran’s enrichment program has been hampered by the clandestine cyber program codenamed Olympic Games. While Mullah Omar remains at large, al Qaeda’s leadership in Afghanistan and Pakistan has been virtually decimated. With China, the United States has maintained a policy of engagement and explicitly rejected a containment strategy, though there is now something resembling a cool war — not yet a cold war — as Noah Feldman of Harvard Law School puts it, between the two economic giants. The phrase that best describes the Obama Doctrine is one that was used by an anonymous Administration official during the Libya campaign and then picked up by Republicans as a talking point: Leading From Behind. The origin of the term dates not to weak-kneed Democratic orthodoxy but to Nelson Mandela, who wrote in his autobiography that true leadership often required navigating and dictating aims ‘from behind.’ The term, when applied to U.S. foreign policy, has a degree of metaphorical verity to it: Obama has led from behind the scenes in pursuing terrorists and militants, is shifting some of the prodigious expenses of international security to others, and has begun the U.S. pivot to the Asia-Pacific region. The Iraq War may seem to be a distant memory to many in North America, but its after-effects in the Middle East and Asia tarnished the United States' image abroad and rendered claims to moral superiority risible. Leading From Behind is the final nail in the coffin of the neoconservatives' failed imperial policies.

### Iran

#### Negotiations will fail

Lee H. Hamilton 11/15/13, Professor of Practice, Indiana University School of Public and Environmental Affairs; Distinguished Scholar, IU School of Global and International Studies; Director, Center on Congress at Indiana University, "Iran Nuclear Talks Are Bound to Get Tougher," http://www.huffingtonpost.com/lee-h-hamilton/iran-nuclear-talks-are-bo\_b\_4269412.html

¶ So now what?¶ ¶ That's the big question following last weekend's talks in Geneva over curbing Iran's nuclear program. The conversation closed without a deal, dashing the hopes of those here in America and abroad who believed that -- after decades of tension and stalemate -- an agreement over Tehran's atomic ambitions might actually be achievable.¶ ¶ Those high hopes have been quickly replaced by heated accusations over who was ultimately responsible for the failure of the weekend talks to result in a nuclear deal, anger and frustration in Iran and questions about whether the negotiating group in Geneva better known as the P5+1 (the U.S., Russia, China, France, Germany and Britain) left the table in a better or worse bargaining position than when the talks began.¶ ¶ Talks are expected to resume later this month, and I'm here to tell you that they are only bound to get tougher moving forward.¶ ¶ What Iran and the P5+1 are aiming to agree upon is a two-part strategy. The first stage of this strategy would include an interim agreement that would temporarily freeze Iran's nuclear program for as long as sixth months and ease more than three decades of crippling economic sanctions and political isolation levied by the West.¶ ¶ The second stage would represent a more comprehensive accord that results in Iran significantly restraining its nuclear program, limiting uranium enrichment and accepting full transparency into the nation's nuclear production in return for lifting the economic sanctions.¶ ¶ Going into last week's Geneva talks, Iran signaled a willingness to accept the outlines of such an accord and start to put an end to the sanctions. Indeed, gaining rapid relief from those sanctions is extremely important to Iran's leaders, who need to demonstrate to their populace that they are making real progress on this front.¶ ¶ For its part, the Obama administration has acknowledged the opportunity before it to make major progress on one of the greatest challenges facing American foreign policy. Indeed, no country has caused the U.S. more past and present heartburn than Iran, which poses complex challenges to our nation's security, and it would be difficult to exaggerate the fundamental mistrust that has existed between our two countries. It's safe to say that such a great opportunity for resolving the standoff over Iran's nuclear program may not come again.¶ ¶ That said, even before the negotiations began, there was cause for concern that hopes and expectations were running too high and were too unrealistic. After talks between Iran and the P5+1 ended last month, many news commentators lamented the lack of a major "breakthrough," even though it was clear that each of the options before us for curtailing Iran's nuclear program contained significant disadvantages.

#### No treaties impact

HRW 9, Human Rights Watch United States Ratification of International Human Rights Treaties, www.hrw.org/news/2009/07/24/united-states-ratification-international-human-rights-treaties

The US has not ratified any international human rights treaties since December 2002, when it ratified two optional protocols to the Convention on the Rights of the Child. Since that time, important new treaties have been adopted and other long-standing treaties have gained new member states. Unfortunately, the US has too often remained outside these efforts. For example, the US is the only country other than Somalia that has not ratified the Convention on the Rights of the Child, the most widely and rapidly ratified human rights treaty in history. It is one of only seven countries-together with Iran, Nauru, Palau, Somalia, Sudan and Tonga- that has failed to ratify the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

These and other key treaties that the US has yet to ratify protect some of the world's most vulnerable populations. They would help, for instance, a woman seeking protection by the police from a threatening spouse; a mentally ill prisoner placed in solitary confinement; and a child who has been trafficked into prostitution. The treaties espouse non-discrimination, due process, and other core values that most American unquestionably support. They are also largely consistent with existing US law and practice.

The failure of the US to join with other nations in taking on international human rights legal obligations has undercut its international leadership on key issues, limiting its influence, its stature, and its credibility in promoting respect for human rights around the world.

#### Effective presidential treaty power key to solve rogue-prolif and terrorism---but, there’s no risk of their overreach impacts

John Yoo 8, Cal Berkeley law prof, The Powers of War and Peace, 204-5

Events such as the Neutrality Proclamation, the termination of the Mutual Defense Treaty with Taiwan, or even the Reagan-era struggle over the SDI program may seem of limited relevance to today’s challenges of rogue nations, the proliferation of weapons of mass destruction, and terrorism. Recent efforts, however, designed to respond to such problems only highlight again the centrality of treaties to the conduct of foreign affairs. Treaty termination and interpretation has proven central in the debate over how to respond to the proliferation of nuclear weapons and ballistic missiles, and the legal status of al Qaeda and Taliban ﬁghters captured in Afghanistan and throughout the world. On these questions, the Constitution’s ﬂexibility toward the distribution of the foreign affairs power has given the president the tools to promote U.S. foreign policy, but at the same time has ensured that Congress has the ability to block policies with which it disagrees.

#### Extinction

Kroenig 12 – Matthew Kroenig is an Assistant Professor of Government at Georgetown University and a Stanton Nuclear Security Fellow on the Council on Foreign Relations, May 26th, 2012, “The History of Proliferation Optimism: Does It Have A Future?” <http://www.npolicy.org/article.php?aid=1182&tid=30>

What’s Wrong with Proliferation Optimism?

**The proliferation optimist position**, while having a distinguished pedigree, **has several major flaws**. Many of these weaknesses have been chronicled in brilliant detail by Scott Sagan and other contemporary proliferation pessimists.34 Rather than repeat these substantial efforts, I will use this section to offer some original critiques of the recent incarnations of proliferation optimism.¶ First and foremost, proliferation optimists do not appear to understand contemporary deterrence theory. I do not say this lightly in an effort to marginalize or discredit my intellectual opponents. Rather, I make this claim with all due caution and sincerity. A careful review of the contemporary proliferation optimism literature does not reflect an understanding of, or engagement with, the developments in academic deterrence theory over the past few decades in top scholarly journals such as the American Political Science Review and International Organization.35 While early optimists like Viner and Brodie can be excused for not knowing better, the writings of contemporary proliferation optimists **ignore much of the past fifty years of academic research on nuclear deterrence theory.**¶In the 1940s, Viner, Brodie, and others argued that the advent of Mutually Assured Destruction (MAD) rendered war among major powers obsolete, but nuclear deterrence theory soon advanced beyond that simple understanding.36 After all, great power political competition does not end with nuclear weapons. And nuclear-armed states still seek to threaten nuclear-armed adversaries. States cannot credibly threaten to launch a suicidal nuclear war, but they still want to coerce their adversaries. This leads to a credibility problem: “how can states credibly threaten a nuclear-armed opponent? Since the 1960s academic nuclear deterrence theory has been devoted almost exclusively to answering this question.37 And, unfortunately for proliferation optimists, the answers do not give us reasons to be optimistic.¶ Thomas Schelling was the first to devise a rational means by which states can threaten nuclear-armed opponents.38 He argued that leaders cannot credibly threaten to intentionally launch a suicidal nuclear war, but they can make a “threat that leaves something to chance.”39 They can engage in a process, the nuclear crisis, which increases the risk of nuclear war in an attempt to force a less resolved adversary to back down. As states escalate a nuclear crisis there is an increasing probability that the conflict will spiral out of control and result in an inadvertent or accidental nuclear exchange. As long as the benefit of winning the crisis is greater than the incremental increase in the risk of nuclear war, threats to escalate nuclear crises are inherently credible. In these games of nuclear brinkmanship, the state that is willing to run the greatest risk of nuclear war before backing down will win the crisis as long as it does not end in catastrophe. It is for this reason that Thomas Schelling called great power politics in the nuclear era a “competition in risk taking.”¶ 40 This does not mean that states eagerly bid up the risk of nuclear war. Rather, they face gut-wrenching decisions at each stage of the crisis. They can quit the crisis to avoid nuclear war, but only by ceding an important geopolitical issue to an opponent. Or they can the escalate the crisis in an attempt to prevail, but only at the risk of suffering a possible nuclear exchange.¶ Since 1945 there were have been many high stakes nuclear crises (by my count, there have been twenty) in which “rational” states like the United States run a frighteningly-real risk of nuclear war.41 By asking whether states can be deterred or not, therefore, proliferation optimists ask the wrong question. The right question to ask is: what risk of nuclear war is a specific state willing to run against a particular opponent in a given crisis? Optimists are likely correct when they assert that Iran will not intentionally commit national suicide by launching a bolt-from-the-blue nuclear attack on the United States or Israel. This does not mean that Iran will never use nuclear weapons, however. Indeed, it is almost inconceivable to think that a nuclear-armed Iran would not, at some point, find itself in a crisis with another nuclear-armed power. It is also inconceivable that in those circumstances, Iran would not be willing to run any risk of nuclear war in order to achieve its objectives. If a nuclear-armed Iran and the United States or Israel have a geopolitical conflict in the future, over, for example, the internal politics of Syria, an Israeli conflict with Iran’s client Hezbollah, the U.S. presence in the Persian Gulf, passage through the Strait of Hormuz, or some other issue, do we believe that Iran would immediately capitulate? Or is it possible that Iran would push back, possibly even brandishing nuclear weapons in an attempt to coerce its adversaries? If the latter, there is a real risk that proliferation to Iran could result in nuclear war.¶ An optimist might counter that nuclear weapons will never be used, even in a crisis situation, because states have such a strong incentive, namely national survival, to ensure that nuclear weapons are not used. But, this objection ignores the fact that **leaders operate under competing pressures.** Leaders in nuclear-armed states also have very strong incentives to convince their adversaries that nuclear weapons could very well be used. Historically we have seen that leaders take actions in crises, such as **placing nuclear weapons on** high alert **and** delegating **nuclear** launch authority **to low level commanders**, to purposely increase the risk of accidental nuclear war in an attempt to force less-resolved opponents to back down.

#### Sanctions inev---turns their arguments

Landler and Sanger 11/14 , Mark and David, New York Times, Obama Calls for Patience in Iran Talks, 11/14/13, http://www.nytimes.com/2013/11/15/us/politics/obama-iran.html?\_r=0

Nader Karimi Joni, a political analyst close to the Rouhani administration, said, “It is fair to say that Iran is showing good will, just like the European Union and the United States have done.”¶ Still, experts on Iran cautioned against imputing a political motive to what is fundamentally a technical decision.¶ “It is difficult to decipher political motivation from technological pace,” said Ray Takeyh, a senior fellow at the Council on Foreign Relations. “Having said that, it may be a signal of some sort. Alternatively, Iran has been having difficulty with its machines, so it may be trying to perfect their design and operation. Or a combination of all the above.”¶ The lack of certainty about Iran’s motives lends itself to widely conflicting interpretations of the report’s findings.¶ “They’ve got enough facilities, enough centrifuges, to develop and to complete the fissile material which is at the core of an atomic bomb,” Mr. Netanyahu said Thursday.¶ On Capitol Hill, aides to Republican and Democratic senators dismissed the report. “It simply confirms the concerns that senators already have: There have been no centrifuges removed,” said one. Another added, “They’re closing it down in the morning and opening it up in the afternoon.”¶ On Wednesday, Mr. Kerry and Vice President Joseph R. Biden Jr. met with Senate leaders, who are considering a new set of sanctions that aim to drive Iran’s oil exports to zero. But there was little evidence that the senators were persuaded to delay action.

#### No arms race

Procida 9—National Intelligence Fellow at the Council on Foreign Relations (Frank, Why an Iranian Nuclear Bomb Is Not the End of the World, 9 June 2009, http://www.foreignaffairs.com/articles/65127/frank-procida/overblown)

Since the advent of the nuclear age, scientists, activists, academics, and politicians have feared that the spread of atomic weapons would prove unstoppable. The rhetoric one hears today regarding the probable reaction of Middle Eastern countries to a nuclear Iran echoes concerns put forth by experts when the Soviet Union, China, and even France got the bomb. Yet the worst-case scenarios rarely came to pass -- Germany and Japan, for instance, remained nonnuclear despite expectations -- and there is no reason to suspect that the Middle East will buck this historical trend. Analysts are particularly concerned about the reactions of countries such as Egypt and Saudi Arabia to an Iranian nuclear program. What they seem to forget is that the Arab world already has been living with a nuclear neighbor, Israel -- a state against which many Arab countries have fought wars and still do not recognize. Still, the Arab world has been unable or unwilling to respond in kind. An Iranian nuclear capability would not threaten these states more, or even as much as, an Israeli weapon. And in terms of prestige and influence, a Persian bomb should not be any more significant to these states than a Jewish one. Furthermore, developing a nuclear weapon is not as simple as flipping a switch. Libya spent close to two decades trying to acquire a nuclear weapon before giving up its program in 2003. Technology has never been the region's strong suit, and even with A. Q. Khan-supplied centrifuge drawings readily available, it would be foolish to expect a rash of nuclear successes in the near future.

#### No Afghan spillover or cred impact

Melvin A. Goodman 9, senior fellow at the Center for International Policy and adjunct professor of government at Johns Hopkins University, “Five Myths on Afghanistan,” Oct 8 2009, http://www.truth-out.org/archive/item/86385:five-myths-on-afghanistan

Myth #3: Any loss in Afghanistan would have a domino effect in the region that would affect Pakistan, India and Iran, with the United States and NATO suffering a significant loss of credibility. The domino effect and the credibility argument represent old saws from the Vietnam era that were discredited 35 years ago and should be dismissed today. Internal political machinations in Afghanistan, even the restoration of a Taliban government in Kabul, would not have significant implications outside the country, and there is no indication that the Taliban has aspirations beyond Afghan borders. The international community has a good sense of US military capabilities, and a reduced US military footprint would not lessen the international perception of US power.

#### Structural barriers prevent instability in Central Asia

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Social disorder in Tunisia, Egypt, Libya, and other Arab countries has invariably led observers to regard Central Asia’s autocracies as potentially vulnerable to similar upheaval. Some Central Asian leaders have been in power for many years, and only Kyrgyzstan, the most impoverished of the five, has developed a competitive multi-party political system. Elsewhere, political parties are weak or are tools of the regime. But other factors make the Arab scenario less plausible in Central Asia. ­­Security forces are more closely aligned with ruling elites; independent political groups and social-media networks are less well developed; economic performance remains high in some countries; and a previous wave of revolutions produced disappointing results in Ukraine and Kyrgyzstan.

## 2NC

### CP

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

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

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

#### The counterplan is a logical policy choice grounded in topic lit

Sinnar 13 assistant professor of law at Stanford Law School, May 2013

(Shirin, “Protecting Rights from Within? Inspectors General and National Security Oversight,” 65 Stan. L. Rev. 1027, Lexis)

More than a decade after September 11, 2001, the debate over which institutions of government are best suited to resolve competing liberty and national security concerns continues unabated. While the Bush Administration's unilateralism in detaining suspected terrorists and authorizing secret surveillance initially raised separation of powers concerns, the Obama Administration's aggressive use of drone strikes to target suspected terrorists, with little oversight, demonstrates how salient these questions remain. Congress frequently lacks the [\*1029] information or incentive to oversee executive national security actions that implicate individual rights. Meanwhile, courts often decline to review counterterrorism practices challenged as violations of constitutional rights out of concern for state secrets or institutional competence. n1 These limitations on traditional external checks on the executive - Congress and the courts - have led to increased academic interest in potential checks within the executive branch. Many legal scholars have argued that executive branch institutions supply, or ought to supply, an alternative constraint on executive national security power. Some argue that these institutions have comparative advantages over courts or Congress in addressing rights concerns; others characterize them as a second-best option necessitated by congressional enfeeblement and judicial abdication.

### Flex DA

#### 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.

#### Congress doesn’t have a fast enough tempo to win 4th gen conflicts

Howell 7 et al., Chicago political science professor, 2007 (William, While Dangers Gather: Congressional Checks on Presidential War Powers, google books)

In foreign policy making generally, and on issues involving the use of force in particular this feature of unilateral powers reaps special rewards. If presidents had to build broad-based consensus behind every deployment before any military planning could be executed, most ventures would never get off the ground. Imagine having to explain to members of Congress why events in Liberia this month or Ethiopia the next demand military action, and then having to secure the formal consent of a supermajority before any action could be taken. The federal government could not possibly keep pace with an increasingly interdependent world in which every region holds strategic interests for the United States. Because presidents, as a practical matter, can unilaterally launch ventures into distant locales without ever having to guide a proposal through a circuitous and uncertain legislative process, they can more effectively manage these responsibilities and take action when **congressional deliberations** often result in gridlock. It is no wonder, then, that in virtually every system of governance, executives [not legislatures or courts) mobilize their nations through wars and foreign crises. Ultimately, it is their ability to act unilaterally that enables them to do so. in sum, the advantages of unilateral action arc significant: they allow the president to move first and move alone.

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

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

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

#### Legislative checks on Executive power destroy our ability to make credible threats to adversaries --- that’s vital to successful foreign policy and prevents terror, prolif, escalation, and nuclear war

Matthew Waxman 8/27/13, Professor of Law @ Columbia, “The Constitutional Power to Threaten War,” Oct 1, “Yale Law Journal, Vol. 123, 2014, (Forthcoming), SSRN, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2316777

As a prescriptive matter, Part II also shows that examination of threatened force and the credibility requirements for its effectiveness calls into question many orthodoxies of the policy advantages and risks attendant to various allocations of legal war powers, including the existing one and proposed reforms.23 Most functional arguments about war powers focus on fighting wars or hostile engagements, but that is not all – or even predominantly – what the United States does with its military power. Much of the time it seeks to avert such clashes while achieving its foreign policy objectives: to bargain, coerce, deter.24 The President’s flexibility to use force in turn affects decision-making about threatening it, with major implications for securing peace or dragging the United States into conflicts. Moreover, constitutional war power allocations affect potential conflicts not only because they may constrain U.S. actions but because they may send signals and shape other states’ (including adversaries’) expectations of U.S. actions.25 That is, most analysis of war-powers law is inward-looking, focused on audiences internal to the U.S. government and polity, but thinking about threatened force prompts us to look outward, at how war-powers law affects external perceptions among adversaries and allies. Here, extant political science and strategic studies offer few clear conclusions, but they point the way toward more sophisticated and realistic policy assessment of legal doctrine and proposed reform. More generally, as explained in Part III, analysis of threatened force and war powers exposes an under-appreciated relationship between constitutional doctrine and grand strategy. Instead of proposing a functionally optimal allocation of legal powers, as legal scholars are often tempted to do, this Article in the end denies the tenability of any such claim. Having identified new spaces of war and peace powers that legal scholars need to take account of in understanding how those powers are really exercised, this Article also highlights the extent to which any normative account of the proper distribution of authority over this area depends on many matters that cannot be predicted in advance or expected to remain constant.26 Instead of proposing a policy-optimal solution, this Article concludes that the allocation of constitutional war powers is – and should be –geopolitically and strategically contingent; the actual and effective balance between presidential and congressional powers over war and peace in practice necessarily depends on fundamental assumptions and shifting policy choices about how best to secure U.S. interests against potential threats.27 I. Constitutional War Powers and Threats of Force Decisions to go to war or to send military forces into hostilities are immensely consequential, so it is no surprise that debates about constitutional war powers occupy so much space. But one of the most common and important ways that the United States uses its military power is by threatening war or force – and the constitutional dimensions of that activity receive almost no scrutiny or even theoretical investigation. A. War Powers Doctrine and Debates The Constitution grants Congress the powers to create military forces and to “declare war,”28 which the Supreme Court early on made clear includes the power to authorize limited uses of force short of full-blown war.29 The Constitution then vests the President with executive power and designates him commander in chief of the armed forces,30 and it has been well-accepted since the Founding that these powers include unilateral authority to repel invasions if the United States is attacked.31 Although there is nearly universal acceptance of these basic starting points, there is little legal agreement about how the Constitution allocates responsibility for the vast bulk of cases in which the United States has actually resorted to force. The United States has declared war or been invaded only a handful of times in its history, but it has used force – sometimes large-scale force – hundreds of other times.32 Views split over questions like when, if ever, the President may use force to deal with aggression against third parties and how much unilateral discretion the President has to use limited force short of full-blown war. For many lawyers and legal scholars, at least one important methodological tool for resolving such questions is to look at historical practice, and especially the extent to which the political branches acquiesced in common practices.33 Interpretation of that historical practice for constitutional purposes again divides legal scholars, but most would agree at least descriptively on some basic parts of that history. In particular, most scholars assess that from the Founding era through World War II, Presidents and Congresses alike recognized through their behavior and statements that except in certain narrow types of contingencies, congressional authorization was required for large-scale military operations against other states and international actors, even as many Presidents pushed and sometimes crossed those boundaries.34 Whatever constitutional constraints on presidential use of force existed prior to World War II, however, most scholars also note that the President asserted much more extensive unilateral powers to use force during and after the Cold War, and many trace the turning point to the 1950 Korean War.35 Congress did not declare war in that instance, nor did it expressly authorize U.S. participation.36 From that point forward, presidents have asserted broad unilateral authority to use force to address threats to U.S. interests, including threats to U.S. allies, and that neither Congress nor courts pushed back much against this expanding power.37 Concerns about expansive presidential war-making authority spiked during the Vietnam War. In the wind-down of that conflict, Congress passed – over President Nixon’s veto – the War Powers Resolution,38 which stated its purpose as to ensure the constitutional Founders’ original vision that the “collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.”39 Since then, presidentialists have argued that the President still retains expansive authority to use force abroad to protect American interests,40 and congressionalists argue that this authority is tightly circumscribed.41 These constitutional debates have continued through the first decade of the 21st century. Constitutional scholars split, for example, over President Obama’s power to participate in coalition operations against Libya without congressional authorization in 2011, especially after the War Powers Resolution’s 60-day clock expired.42 Some argue that President Obama’s use of military force without specific congressional authorization in that case reflects the broad constitutional discretion presidents now have to protect American interests, at least short of full-blown “war”, while others argue that it is the latest in a long record of presidential violations of the Constitution and the War Powers Resolution.43 B. Threats of Force and Constitutional Powers These days it is usually taken for granted that – whether or not he can make war unilaterally – the President is constitutionally empowered to threaten the use of force, implicitly or explicitly, through diplomatic means or shows of force. It is never seriously contested whether the President may declare that United States is contemplating military options in response to a crisis, or whether the President may move substantial U.S. military forces to a crisis region or engage in military exercises there. To take the Libya example just mentioned, is there any constitutional limitation on the President’s authority to move U.S. military forces to the Mediterranean region and prepare them very visibly to strike?44 Or his authority to issue an ultimatum to Libyan leaders that they cease their brutal conduct or else face military action? Would it matter whether such threats were explicit versus implicit, whether they were open and public versus secret, or whether they were just a bluff? If not a constitutional obstacle, could it be argued that the War Powers Resolution’s reporting requirements and limits on operations were triggered by a President’s mere ultimatum or threatening military demonstration, insofar as those moves might constitute a “situation where imminent involvement in hostilities is clearly indicated by the circumstances”? These questions simply are not asked (at least not anymore).45 If anything, most lawyers would probably conclude that the President’s constitutional powers to threaten war are not just expansive but largely beyond Congress’s authority to regulate directly. From a constitutional standpoint, to the extent it is considered at all, the President’s power to threaten force is probably regarded to be at least as broad as his power to use it. One way to look at it is that the power to threaten force is a lesser included element of presidential war powers; the power to threaten to use force is simply a secondary question, the answer to which is bounded by the primary issue of the scope of presidential power to actually use it. If one interprets the President’s defensive war powers very broadly, to include dealing with aggression not only directed against U.S. territories but also against third parties,46 then it might seem easy to conclude that the President can also therefore take steps that stop short of actual armed intervention to deter or prevent such aggression. If, however, one interprets the President’s powers narrowly, for example, to include only limited unilateral authority to repel attacks against U.S. territory,47 then one might expect objections to arguably excessive presidential power to include his unilateral threats of armed intervention. Another way of looking at it is that in many cases, threats of war or force might fall within even quite narrow interpretations of the President’s inherent foreign relations powers to conduct diplomacy or his express commander in chief power to control U.S. military forces – or some combination of the two – depending on how a particular threat is communicated. A President’s verbal warning, ultimatum, or declared intention to use military force, for instance, could be seen as merely exercising his role as the “sole organ” of U.S. foreign diplomacy, conveying externally information about U.S. capabilities and intentions.48 A president’s movement of U.S. troops or warships to a crisis region or elevation of their alert level could be seen as merely exercising his dayto- day tactical control over forces under his command.49 Generally it is not seriously contested whether the exercise of these powers alone could so affect the likelihood of hostilities or war as to intrude on Congress’s powers over war and peace.50 We know from historical examples that such unilateral military moves, even those that are ostensibly pure defensive ones, can provoke wars – take, for example, President Polk’s movement of U.S. forces to the contested border with Mexico in 1846, and the resulting skirmishes that led Congress to declare war.51 Coming at the issue from Congress’s Article I powers rather than the President’s Article II powers, the very phrasing of the power “To declare War” puts most naturally all the emphasis on the present tense of U.S. military action, rather than its potentiality. Even as congressionalists advance interpretations of the clause to include not merely declarative authority but primary decision-making authority as to whether or not to wage war or use force abroad, their modern-day interpretations do not include a power to threaten war (except perhaps through the specific act of declaring it). None seriously argues – at least not any more – that the Declare War Clause precludes presidential threats of war. This was not always the case. During the early period of the Republic, there was a powerful view that beyond outright initiation of armed hostilities or declaration of war, more broadly the President also could not unilaterally take actions (putting aside actual military attacks) that would likely or directly risk war,52 provoke a war with another state,53 or change the condition of affairs or relations with another state along the continuum from peace to war.54 To do so, it was often argued, would usurp Congress’s prerogative to control the nation’s state of peace or war.55 During the Quasi-War with France at the end of the 18th century, for example, some members of Congress questioned whether the President, absent congressional authorization, could take actions that visibly signaled an intention to retaliate against French maritime harassment,56 and even some members of President Adams’ cabinet shared doubts.57 Some questions over the President’s power to threaten force arose (eventually) in relation to the Monroe Doctrine, announced in an 1823 presidential address to Congress and which in effect declared to European powers that the United States would oppose any efforts to colonize or reassert control in the Western Hemisphere.58 “Virtually no one questioned [Monroe’s proclamation] at the time. Yet it posed a constitutional difficulty of the first importance.”59 Of course, Monroe did not actually initiate any military hostilities, but his implied threat – without congressional action – risked provoking rather than deterring European aggression and by putting U.S. prestige and credibility on the line it limited Congress’s practical freedom of action if European powers chose to intervene.60 The United States would have had at the time to rely on British naval power to make good on that tacit threat, though a more assertive role for the President in wielding the potential for war or intervention during this period went hand in hand with a more sustained projection of U.S. power beyond its borders, especially in dealing with dangers emanating from Spanish-held Florida territory.61 Monroe’s successor, John Quincy Adams, faced complaints from opposition members of Congress that Monroe’s proclamation had exceeded his constitutional authority and had usurped Congress’s by committing the United States – even in a non-binding way – to resisting European meddling in the hemisphere.62 The question whether the President could unilaterally send militarily-threatening signals was in some respects a mirror image of the issues raised soon after the Constitution was ratified during the 1793 Neutrality Controversy: could President Washington unilaterally declare the United States to be neutral as to the war among European powers. Washington’s politically controversial proclamation declaring the nation “friendly and impartial” in the conflict between France and Great Britain (along with other European states) famously prompted a back-and-forth contest of public letters by Alexander Hamilton and James Madison, writing pseudonymously as “Pacificus” and “Helvidius”, about whether the President had such unilateral power or whether it belonged to Congress.63 Legal historian David Currie points out the irony that the neutrality proclamation was met with stronger and more immediate constitutional scrutiny and criticism than was Monroe’s threat. After all, Washington’s action accorded with the principle that only Congress, representing popular will, should be able to take the country from the baseline state of peace to war, whereas Monroe’s action seemed (at least superficially) to commit it to a war that Congress had not approved.64 Curiously (though for reasons offered below, perhaps not surprisingly) this issue – whether there are constitutional limits on the President’s power to threaten war – has almost vanished completely from legal discussion, and that evaporation occurred even before the dramatic post-war expansion in asserted presidential power to make war. Just prior to World War II, political scientist and presidential powers theorist Edward Corwin remarked that “[o]f course, it may be argued, and has in fact been argued many times, that the President is under constitutional obligation not to incur the risk of war in the prosecution of a diplomatic policy without first consulting Congress and getting its consent.”65 “Nevertheless,” he continued,66 “the supposed principle is clearly a maxim of policy rather than a generalization from consistent practice.” In his 1945 study World Policing and the Constitution, James Grafton Rogers noted: [E]xamples of demonstrations on land and sea made for a variety of purposes and under Presidents of varied temper and in different political climates will suffice to make the point. The Commander-in-Chief under the Constitution can display our military resources and threaten their use whenever he thinks best. The weakness in the diplomatic weapon is the possibility of dissidence at home which may cast doubt on our serious intent. The danger of the weapon is war.67 At least since then, however, the importance to U.S. foreign policy of threatened force has increased dramatically, while legal questions about it have receded further from discussion. In recent decades a few prominent legal scholars have addressed the President’s power to threaten force, though in only brief terms. ¶ Taylor Reveley noted in his volume on war powers the importance of allocating constitutional responsibility not only for the actual use of force but also “[v]erbal or written threats or assurances about the circumstances in which the United States will take military action …, whether delivered by declarations of American policy, through formal agreements with foreign entities, by the demeanor or words of American officials, or by some other sign of national intent.”68 Beyond recognizing the critical importance of threats and other non-military actions in affecting war and peace, however, Reveley made little effort to address the issue in any detail. Among the few legal scholars attempting to define the limiting doctrinal contours of presidentially threatened force, Louis Henkin wrote in his monumental Foreign Affairs and the Constitution that: Unfortunately, the line between war and lesser uses of force is often elusive, sometimes illusory, and the use of force for foreign policy purposes can almost imperceptibly become a national commitment to war. Even when he does not use military force, the President can incite other nations or otherwise plunge or stumble this country into war, or force the hand of Congress to declare or to acquiesce and cooperate in war. As a matter of constitutional doctrine, however, one can declare with confidence that a President begins to exceed his authority if he willfully or recklessly moves the nation towards war…69 The implication seems to be that the President may not unilaterally threaten force in ways that are dramatically escalatory and could likely lead to war, or perhaps that the President may not unilaterally threaten the use of force that he does not have the authority to initiate unilaterally.70 Jefferson Powell, who generally takes a more expansive view than Henkin of the President’s war powers, argues by contrast that “[t]he ability to warn of, or threaten, the use of military force is an ordinary and essential element in the toolbox of that branch of government empowered to formulate and implement foreign policy.”71 For Powell, the President is constantly taking actions as part of everyday international relations that carry a risk of military escalation, and these are well-accepted as part of the President’s broader authority to manage, if not set, foreign policy. Such brief mentions are in recent times among the rare exceptions to otherwise barren constitutional discussion of presidential powers to threaten force. That the President’s authority to threaten force is so well-accepted these days as to seem self-evident is not just an academic phenomenon. It is also reflected in the legal debates among and inside all three branches of government. In 1989, Michael Reisman observed: Military maneuvers designed to convey commitment to allies or contingent threats to adversaries … are matters of presidential competence. Congress does not appear to view as within its bailiwick many low-profile contemporaneous expressions of gunboat diplomacy, i.e., the physical interposition of some U.S. war-making capacity as communication to an adversary of United States’ intentions and capacities to oppose it.72 This was and remains a correct description but understates the pattern of practice, insofar as even major and high-profile expressions of coercive diplomacy are regarded among all three branches of government as within presidential competence. In Dellums v. Bush – perhaps the most assertive judicial scrutiny of presidential power to use large-scale force abroad since the end of the Cold War – the district court dismissed on ripeness grounds congressmembers’ suit challenging President George H. W. Bush’s intended military operations against Iraq in 1991 and seeking to prevent him from initiating an offensive attack against Iraq without first securing explicit congressional authorization for such action.73 That at the time of the suit the President had openly threatened war – through ultimatums and deployment of several hundred thousand U.S. troops – but had not yet “committed to a definitive course of action” to carry out the threat meant there was no justiciable legal issue, held the court.74 The President’s threat of war did not seem to give the district court legal pause at all; quite the contrary, the mere threat of war was treated by the court as a non-issue entirely.75 There are several reasons why constitutional questions about threatened force have dropped out of legal discussions. First, the more politically salient debate about the President’s unilateral power to use force has probably swallowed up this seemingly secondary issue. As explained below, it is a mistake to view threats as secondary in importance to uses of force, but they do not command the same political attention and their impacts are harder to measure.76 Second, the expansion of American power after World War II, combined with the growth of peacetime military forces and a set of defense alliance commitments (developments that are elaborated below) make at least some threat of force much more common – in the case of defensive alliances and some deterrent policies, virtually constant – and difficult to distinguish from other forms of everyday diplomacy and security policy.77 Besides, for political and diplomatic reasons, presidents rarely threaten war or intervention without at least a little deliberate ambiguity. As historian Marc Trachtenberg puts it: “It often makes sense … to muddy the waters a bit and avoid direct threats.”78 Any legal lines one might try to draw (recall early attempts to restrict the President’s unilateral authority to alter the state of affairs along the peacetime-wartime continuum) have become blurrier and blurrier. In sum, if the constitutional power to threaten war ever posed a serious legal controversy, it does so no more. As the following section explains, however, threats of war and armed force have during most of our history become a greater and greater part of American grand strategy, defined here as long-term policies for using the country’s military and non-military power to achieve national goals. The prominent role of threatened force in U.S. strategy has become the focus of political scientists and other students of security strategy, crises, and responses – but constitutional study has not adjusted accordingly.79 C. Threats of Force and U.S. Grand Strategy While the Korean and Vietnam Wars were generating intense study among lawyers and legal scholars about constitutional authority to wage military actions abroad, during that same period many political scientists and strategists – economists, historians, statesmen, and others who studied international conflict – turned their focus to the role of threatened force as an instrument of foreign policy. The United States was building and sustaining a massive war-fighting apparatus, but its security policy was not oriented primarily around waging or winning wars but around deterring them and using the threat of war – including demonstrative military actions – to advance U.S. security interests. It was the potential of U.S. military might, not its direct application or engagement with the enemy, that would do much of the heavy lifting. U.S. military power would be used to deter the Soviet Union and other hostile states from taking aggressive action. It would be unsheathed to prompt them to back down over disputes. It would reassure allies that they could depend on U.S. help in defending themselves. All this required that U.S. willingness to go to war be credible in the eyes of adversaries and allies alike. Much of the early Cold War study of threatened force concerned nuclear strategy, and especially deterrence or escalation of nuclear war. Works by Albert Wohlstetter, Herman Kahn, and others not only studied but shaped the strategy of nuclear threats, as well as how to use limited applications of force or threats of force to pursue strategic interests in remote parts of the globe without sparking massive conflagrations.80 As the strategic analyst Bernard Brodie wrote in 1946, “Thus far the chief purpose of our military establishment has been to win wars. From now on its chief purpose must be to avert them.”81 Toward that end, U.S. government security and defense planners during this time focused heavily on preserving and improving the credibility of U.S. military threats – while the Soviet Union was doing likewise.82 The Truman administration developed a militarized version of containment strategy against the Soviet empire, emphasizing that stronger military capabilities were necessary to prevent the Soviets from seizing the initiative and to resist its aggressive probes: “it is clear,” according to NSC-68, the government document which encapsulated that strategy, “that a substantial and rapid building up of strength in the free world is necessary to support a firm policy intended to check and to roll back the Kremlin's drive for world domination.”83 The Eisenhower administration’s “New Look” policy and doctrine of “massive retaliation” emphasized making Western collective security both more effective and less costly by placing greater reliance on deterrent threats – including threatened escalation to general or nuclear war. As his Secretary of State John Foster Dulles explained, “[t]here is no local defense which alone will contain the mighty landpower of the Communist world. Local defenses must be reinforced by the further deterrent of massive retaliatory power.”84 As described in Evan Thomas’s recent book, Ike’s Bluff, Eisenhower managed to convince Soviet leaders that he was ready to use nuclear weapons to check their advance in Europe and elsewhere. In part due to concerns that threats of massive retaliation might be insufficiently credible in Soviet eyes (especially with respect to U.S. interests perceived as peripheral), the Kennedy administration in 1961 shifted toward a strategy of “flexible response,” which relied on the development of a wider spectrum of military options that could quickly and efficiently deliver varying degrees of force in response to foreign aggression.85 Throughout these periods, the President often resorted to discrete, limited uses of force to demonstrate U.S. willingness to escalate. For example, in 1961 the Kennedy administration (mostly successfully in the short-run) deployed intervention-ready military force immediately off the coast of the Dominican Republic to compel its government's ouster,86 and that same year it used military exercises and shows of force in ending the Berlin crisis;87 in 1964, the Johnson administration unsuccessfully used air strikes on North Vietnamese targets following the Tonkin Gulf incidents, failing to deter what it viewed as further North Vietnamese aggression.88 The point here is not the shifting details of U.S. strategy after World War II – during this era of dramatic expansion in asserted presidential war powers – but the central role of credible threats of war in it, as well as the interrelationship of plans for using force and credible threats to do so. Also during this period, the United States abandoned its long-standing aversion to “entangling alliances,”89 and committed to a network of mutual defense treaties with dependent allies. Besides the global collective security arrangement enshrined in the UN Charter, the United States committed soon after World War II to mutual defense pacts with, for example, groups of states in Western Europe (the North Atlantic Treaty Organization)90 and Asia (the Southeast Asia Treaty Organization,91 as well as a bilateral defense agreement with the Republic of Korea,92 Japan,93 and the Republic of China,94 among others). These alliance commitments were part of a U.S. effort to “extend” deterrence of Communist bloc aggression far beyond its own borders.95 “Extended deterrence” was also critical to reassuring these U.S. allies that their security needs would be met, in some instances to head off their own dangerous rearmament.96 Among the leading academic works on strategy of the 1960s and 70s were those of Thomas Schelling, who developed the theoretical structure of coercion theory, arguing that rational states routinely use the threat of military force – the manipulation of an adversary’s perceptions of future risks and costs with military threats – as a significant component of their diplomacy.97 Schelling distinguished between deterrence (the use of threats to dissuade an adversary from taking undesired action) and compellence (the use of threats to persuade an adversary to behave a certain way), and he distinguished both forms of coercion from brute force: “[B]rute force succeeds when it is used, whereas the power to hurt is most successful when held in reserve. It is the threat of damage to come that can make someone yield of comply. It is latent violence that can influence someone’s choice.”98 Alexander George, David Hall, and William Simons then led the way in taking a more empirical approach, reviewing case studies to draw insights about the success and failure of U.S. coercive threats, analyzing contextual variables and their effects on parties’ reactions to threats during crises. Among their goals was to generate lessons informed by history for successful strategies that combine diplomatic efforts with threats or demonstrations of force, recognizing that the United States was relying heavily on threatened force in addressing security crises. Coercive diplomacy – if successful – offered ways to do so with minimal actual application of military force.99 One of the most influential studies that followed was Force Without War: U.S. Armed Forces as a Political Instrument, a Brookings Institution study led by Barry Blechman and Stephen Kaplan and published in 1977.100 They studied “political uses of force”, defined as actions by U.S. military forces “as part of a deliberate attempt by the national authorities to influence, or to be prepared to influence, specific behavior of individuals in another nation without engaging in a continued contest of violence.”101 Blechman and Kaplan’s work, including their large data set and collected case studies, was important for showing the many ways that threatened force could support U.S. security policy. Besides deterrence and compellence, threats of force were used to assure allies (thereby, for example, avoiding their own drive toward militarization of policies or crises) and to induce third parties to behave certain ways (such as contributing to diplomatic resolution of crises). The record of success in relying on threatened force has been quite mixed, they showed. Blechman and Kaplan’s work, and that of others who built upon it through the end of the Cold War and the period that has followed,102 helped understand the factors that correlated with successful threats or demonstrations of force without resort or escalation to war, especially the importance of credible signals.103 After the Cold War, the United States continued to rely on coercive force – threatened force to deter or compel behavior by other actors – as a central pillar of its grand strategy. During the 1990s, the United States wielded coercive power with varied results against rogue actors in many cases that, without the overlay of superpower enmities, were considered secondary or peripheral, not vital, interests: Iraq, Somalia, Haiti, Bosnia, and elsewhere. For analysts of U.S. national security policy, a major puzzle was reconciling the fact that the United States possessed overwhelming military superiority in raw terms over any rivals with its difficult time during this era in compelling changes in their behavior.104 As Daniel Byman and I wrote about that decade in our study of threats of force and American foreign policy: U.S. conventional and nuclear forces dwarf those of any adversaries, and the U.S. economy remains the largest and most robust in the world. Because of these overwhelming advantages, the United States can threaten any conceivable adversary with little danger of a major defeat or even significant retaliation. Yet coercion remains difficult. Despite the United States’ lopsided edge in raw strength, regional foes persist in defying the threats and ultimatums brought by the United States and its allies. In confrontations with Somali militants, Serb nationalists, and an Iraqi dictator, the U.S. and allied record or coercion has been mixed over recent years…. Despite its mixed record of success, however, coercion will remain a critical element of U.S. foreign policy.105 One important factor that seemed to undermine the effectiveness of U.S. coercive threats during this period was that many adversaries perceived the United States as still afflicted with “Vietnam Syndrome,” unwilling to make good on its military threats and see military operations through.106 Since the turn of the 21st Century, major U.S. security challenges have included non-state terrorist threats, the proliferation of nuclear and other weapons of mass destruction (WMD), and rapidly changing power balances in East Asia, and the United States has accordingly been reorienting but retaining its strategic reliance on threatened force. The Bush Administration’s “preemption doctrine” was premised on the idea that some dangerous actors – including terrorist organizations and some states seeking WMD arsenals – are undeterrable, so the United States might have to strike them first rather than waiting to be struck.107 On one hand, this was a move away from reliance on threatened force: “[t]he inability to deter a potential attacker, the immediacy of today’s threats, and the magnitude of potential harm that could be caused by our adversaries’ choice of weapons, do not permit” a reactive posture.108 Yet the very enunciation of such a policy – that “[t]o forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively”109 – was intended to persuade those adversaries to alter their policies that the United States regarded as destabilizing and threatening. Although the Obama administration pulled back from this rhetoric and placed greater emphasis on international institutions, it has continued to rely on threatened force as a key pillar of its strategy with regard to deterring threats (such as aggressive Iranian moves), intervening in humanitarian crises (as in Libya), and reassuring allies.110 With regard to East Asia, for example, the credible threat of U.S. military force is a significant element of U.S. strategy for deterring Chinese and North Korean aggression as well as reassuring other Asian powers of U.S. protection, to avert a destabilizing arms race.111 D. The Disconnect Between Constitutional Discourse and Strategy There is a major disconnect between the decades of work by strategists and many political scientists on American security policy and practice since the Second World War and legal analysis and scholarship of constitutional war powers during that period. Lawyers and strategists have been relying on not only distinct languages but distinct logics of military force – in short, when it comes to using U.S. military power, lawyers think in terms of “going to war” while strategists focus on potential war and processes leading to it. These framings manifest in differing theoretical starting points for considering how exercises of U.S. military might affect war and peace, and they skew the empirical insights and normative prescriptions about Presidential power often drawn from their analyses. 1. Lawyers’ Misframing Lawyers’ focus on actual uses of force – especially engagements with enemy military forces – as constitutionally salient, rather than including threats of force in their understanding of modern presidential powers tilts analysis toward a one-dimensional strategic logic, rather than a more complex and multi-dimensional and dynamic logic in which the credible will to use force is as important as the capacity to do so. As discussed above, early American constitutional thinkers and practitioners generally wanted to slow down with institutional checks decisions to go to war, because they thought that would make war less likely. “To invoke a more contemporary image,” wrote John Hart Ely of their vision, “it takes more than one key to launch a missile: It should take quite a number to start a war.”112 They also viewed the exercise of military power as generally a ratchet of hostilities, whereby as the intensity of authorized or deployed force increased, so generally did the state of hostilities between the United States and other parties move along a continuum from peace to war.113 Echoes of this logic still reverberate in modern congressionalist legal scholarship: the more flexibly the President can use military force, the more likely it is that the United States will find itself in wars; better, therefore, to clog decisions to make war with legislative checks.114 Modern presidentialist legal scholars usually respond that rapid action is a virtue, not a vice, in exercising military force.115 Especially as a superpower with global interests and facing global threats, presidential discretion to take rapid military action – endowed with what Alexander Hamilton called “[d]ecision, activity, secrecy, and dispatch”116 – best protects American interests. In either case the emphasis tends overwhelmingly to be placed on actual military engagements with adversaries. Strategists and many political scientists, by contrast, view some of the most significant use of military power as starting well before armed forces clash – and including important cases in which they never actually do. Coercive diplomacy and strategies of threatened force, they recognize, often involve a set of moves and countermoves by opposing sides and third parties before or even without the violent engagement of opposing forces. It is often the parties’ perceptions of anticipated actions and costs, not the actual carrying through of violence, that have the greatest impact on the course of events and resolution or escalation of crises. Instead of a ratchet of escalating hostilities, the flexing of military muscle can increase as well as decrease actual hostilities, inflame as well as stabilize relations with rivals or enemies. Moreover, those effects are determined not just by U.S. moves but by the responses of other parties to them – or even to anticipated U.S. moves and countermoves.117 Indeed, as Schelling observed, strategies of brinkmanship sometimes operate by “the deliberate creation of a recognizable risk of war, a risk that one does not completely control.”118 This insight – that effective strategies of threatened force involve not only great uncertainty about the adversary’s responses but also sometimes involve intentionally creating risk of inadvertent escalation119 – poses a difficult challenge for any effort to cabin legally the President’s power to threaten force in terms of likelihood of war or some due standard of care.120 2. Lawyers’ Selection Problems Methodologically, a lawyerly focus on actual uses of force – a list of which would then commonly be used to consider which ones were or were not authorized by Congress – vastly undercounts the instances in which presidents wield U.S. military might. It is already recognized by some legal scholars that studying actual uses of force risks ignoring instances in which President contemplated force but refrained from using it, whether because of political, congressional, or other constraints.121 The point here is a different one: that some of the most significant (and, in many instances, successful) presidential decisions to threaten force do not show up in legal studies of presidential war powers that consider actual deployment or engagement of U.S. military forces as the relevant data set. Moreover, some actual uses of force, whether authorized by Congress or not, were preceded by threats of force; in some cases these threats may have failed on their own to resolve the crisis, and in other cases they may have precipitated escalation. To the extent that lawyers are interested in understanding from historical practice what war powers the political branches thought they had and how well that understanding worked, they are excluding important cases. Consider, as an illustration of this difference in methodological starting point, that for the period of 1946-1975 (during which the exercise of unilateral Presidential war powers had its most rapid expansion), the Congressional Research Service compilation of instances in which the United States has utilized military forces abroad in situations of military conflict or potential conflict to protect U.S. citizens or promote U.S. interests – which is often relied upon by legal scholars studying war powers – lists only about two dozen incidents.122 For the same time period, the Blechman and Kaplan study of political uses of force (usually threats) – which is often relied upon by political scientists studying U.S. security strategy – includes dozens more data-point incidents, because they divide up many military crises into several discrete policy decisions, because many crises were resolved with threat-backed diplomacy, and because many uses of force were preceded by overt or implicit threats of force.123 Among the most significant incidents studied by Blechman and Kaplan but not included in the Congressional Research Service compilation at all are the 1958-59 and 1961 crises over Berlin and the 1973 Middle East War, during which U.S. Presidents signaled threats of superpower war, and in the latter case signaled particularly a willingness to resort to nuclear weapons.124 Because the presidents did not in the end carry out these threats, these cases lack the sort of authoritative legal justifications or reactions that accompany actual uses of force. It is therefore difficult to assess how the executive branch and congress understood the scope of the President’s war powers in these cases, but historical inquiry would probably show the executive branch’s interpretation to be very broad, even to include full-scale war and even where the main U.S. interest at stake was the very credibility of U.S. defense commitments undergirding its grand strategy, not simply the interests specific to divided Germany and the Middle East region. ¶ Of course, one might argue that because the threatened military actions were never carried out in these cases, it is impossible to know if the President would have sought congressional authorization or how Congress would have reacted to the use of force; nonetheless, it is easy to see that in crises like these a threat by the President to use force, having put U.S. credibility on the line in addition to whatever other foreign policy stakes were at issues, would have put Congress in a bind. 3. Lawyers’ Mis-Assessment Empirically, analysis of and insights gleaned from any particular incident – which might then be used to evaluate the functional merits of presidential powers – looks very different if one focuses predominantly on the actual use of force instead of considering also the role of threatened force. Take for example, the Cuban Missile Crisis – perhaps the Cold War’s most dangerous event. To the rare extent that they consider domestic legal issues of this crisis at all, lawyers interested in the constitutionality of President Kennedy’s actions generally ask only whether he was empowered to initiate the naval quarantine of Cuba, because that is the concrete military action Kennedy took that was readily observable and that resulted in actual engagement with Soviet forces or vessels – as it happens, very minimal engagement.125 To strategists who study the crisis, however, the naval quarantine is not in itself the key presidential action; after all, as Kennedy and his advisers realized, a quarantine alone could not remove the missiles that were already in Cuba. The most consequential presidential actions were threats of military or even nuclear escalation, signaled through various means including putting U.S. strategic bombers on highest alert.126 The quarantine itself was significant not for its direct military effects but because of its communicative impact in showing U.S. resolve. If one is focused, as lawyers often are, on presidential military action that actually engaged the enemy in combat or nearly did, it is easy to dismiss this case as not very constitutionally significant. If one focuses on it, as strategists and political scientists often do, on nuclear brinkmanship, it is arguably the most significant historical exercise of unilateral presidential powers to affect war and peace.127 Considering again the 1991 Gulf War, most legal scholars would dismiss this instance as constitutionally a pretty uninteresting military conflict: the President claimed unilateral authority to use force, but he eventually sought and obtained congressional authorization for what was ultimately – at least in the short-run – a quite successful war. For the most part this case is therefore neither celebrated nor decried much by either side of legal war powers debates,128 though some congressionalist scholars highlight the correlation of congressional authorization for this war and a successful outcome.129 Political scientists look at the case differently, though. They often study this event not as a successful war but as failed coercive diplomacy, in that the United States first threatened war through a set of dramatically escalating steps that ultimately failed to persuade Saddam Hussein to withdraw from Kuwait.130 Some political scientists even see U.S. legal debate about military actions as an important part of this story, assessing that adversaries pay attention to congressional arguments and moves in evaluating U.S. resolve (an issue taken up in greater detail below) and that congressional opposition to Bush’s initial unilateralism in this case undermined the credibility of U.S. threats.131 Whether one sees the Gulf War as a case of (successful) war, as lawyers usually do, or (unsuccessful) threatened war, as political scientists usually do, colors how one evaluates the outcome and the credit one might attach to some factors such as vocal congressional opposition to initially-unilateral presidential moves. Notice also that legal analysis of Presidential authority to use force is sometimes thought to turn partly on the U.S. security interests at stake, as though those interests are purely contextual and exogenous to U.S. decision-making and grand strategy. In justifying President Obama’s 2011 use of force against the Libyan government, for example, the Justice Department’s Office of Legal Counsel concluded that the President had such legal authority “because he could reasonably determine that such use of force was in the national interest,” and it then went on to detail the U.S. security and foreign policy interests.132 The interests at stake in crises like these, however, are altered dramatically if the President threatens force: doing so puts the credibility of U.S. threats at stake, which is important not only with respect to resolving the crisis at hand but with respect to other potential adversaries watching U.S. actions.133 The President’s power to threaten force means that he may unilaterally alter the costs and benefits of actually using force through his prior actions.134 The U.S. security interests in carrying through on threats are partly endogenous to the strategy embarked upon to address crises (consider, for example, that once President George H.W. Bush placed hundred of thousands of U.S. troops in the Persian Gulf region and issued an ultimatum to Saddam Hussein in 1990, the credibility of U.S. threats and assurances to regional allies were put on the line).135 Moreover, interests at stake in any one crisis cannot simply be disaggregated from broader U.S. grand strategy: if the United States generally relies heavily on threats of force to shape the behavior of other actors, then its demonstrated willingness or unwillingness to carry out a threat and the outcomes of that action affect its credibility in the eyes of other adversaries and allies, too.136 It is remarkable, though in the end not surprising, that the executive branch does not generally cite these credibility interests in justifying its unilateral uses of force. It does cite when relevant the U.S. interest in sustaining the credibility of its formal alliance commitments or U.N. Security Council resolutions, as reasons supporting the President’s constitutional authority to use force.137 The executive branch generally refrains from citing the similar interests in sustaining the credibility of the President’s own threats of force, however, probably in part because doing so would so nakedly expose the degree to which the President’s prior unilateral strategic decisions would tie Congress’s hands on the matter. \* \* \* In sum, lawyers’ focus on actual uses of force – usually in terms of armed clashes with an enemy or the placement of troops into hostile environments – does not account for much vaster ways that President’s wield U.S. military power and it skews the claims legal scholars make about the allocation of war powers between the political branches. A more complete account of constitutional war powers should recognize the significant role of threatened force in American foreign policy. II. Democratic Checks on Threatened Force The previous Parts of this Article showed that, especially since the end of World War II, the United States has relied heavily on strategies of threatened force in wielding its military might – for which credible signals are a necessary element – and that the President is not very constrained legally in any formal sense in threatening war. Drawing on recent political science scholarship, this Part takes some of the major questions often asked by students of constitutional war powers with respect to the actual use of force and reframes them in terms of threatened force. First, as a descriptive matter, in the absence of formal legal checks on the President’s power to threaten war, is the President nevertheless informally but significantly constrained by democratic institutions and processes, and what role does Congress play in that constraint? Second, as a normative matter, what are the strategic merits and drawbacks of this arrangement of democratic institutions and constraints with regard to strategies of threatened force? Third, as a prescriptive matter, although it is not really plausible that Congress or courts would ever erect direct legal barriers to the President’s power to threaten war, how might legal reform proposals to more strongly and formally constrain the President’s power to use force indirectly impact his power to threaten it effectively? For reasons discussed below, I do not consider whether Congress could legislatively restrict directly the President’s power to threaten force or war; in short, I set that issue aside because assuming that were constitutionally permissible, even ardent congressionalists have exhibited no interest in doing so, and instead have focused on legally controlling the actual use of force. Political science insights that bear on these questions emerge from several directions. One is from studies of Congress’ influence on use of force decisions, which usually assume that Congress’s formal legislative powers play only a limited role in this area, and the effects of this influence on presidential decision-making about threatened force. Another is international relations literature on international bargaining138 as well as literature on the theory of democratic peace, the notion that democracies rarely, if ever, go to war with one another.139 In attempting to explain the near-absence of military conflicts between democracies, political scientists have examined how particular features of democratic governments – electoral accountability, the institutionalized mobilization of political opponents, and the diffusion of decision-making authority regarding the use of force among executive and legislative branches – affect decision-making about war.140 These and other studies, in turn, have led some political scientists (especially those with a rational choice theory orientation) to focus on how those features affect the credibility of signals about force that governments send to adversaries in crises.141 My purpose in addressing these questions is to begin painting a more complete and detailed picture of the way war powers operate, or could operate, than one sees when looking only at actual wars and use of force. This is not intended to be a comprehensive account but an effort to synthesize some strands of scholarship from other fields regarding threatened force to inform legal discourse about how war powers function in practice and the strategic implications of reform. The answers to these questions also bear on raging debates among legal scholars on the nature of American executive power and its constraint by law. Initially they seem to support the views of those legal scholars who have long believed that in practice law no longer seriously binds the President with respect to war-making.142 That view has been taken even further recently by Eric Posner and Adrian Vermeule, who argue that “[l]aw does little constraint the modern executive” at all, but also observe that “politics and public opinion” operate effectively to cabin executive powers.143 The arguments offered here, however, do more to support the position of those legal scholars who describe a more complex relationship between law and politics, including that law is constitutive of the processes of political struggle.144 That law helps constitute the processes of political struggles is true of any area of public policy, though, and what is special here is the added importance of foreign audiences – including adversaries and allies, alike – observing and reacting to those politics, too. Democratic Constraints on the Power to the Threaten Force Whereas most lawyers usually begin their analysis of the President’s and Congress’s war powers by focusing on their formal legal authorities, political scientists usually take for granted these days that the President is – in practice – the dominant branch with respect to military crises and that Congress wields its formal legislative powers in this area rarely or in only very limited ways. A major school of thought, however, is that congressional members nevertheless wield significant influence over decisions about force, and that this influence extends to threatened force, so that Presidents generally refrain from threats that would provoke strong congressional opposition. Even without any serious prospect for legislatively blocking the President’s threatened actions, Congress under certain conditions can loom large enough to force Presidents to adjust their policies; even when it cannot, congressional members can oblige the President expend lots of political capital. As Jon Pevehouse and William Howell explain: 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 This statement also highlights the important point, alluded to earlier, that force and threatened force are not neatly separable categories. Often limited uses of force are intended as signals of resolve to escalate, and most conflicts involve bargaining in which the threat of future violence – rather than what Schelling calls “brute force”146 – is used to try to extract concessions. The formal participation of political opponents in legislative bodies provides them with a forum for registering dissent to presidential policies of force through such mechanisms floor statements, committee oversight hearings, resolution votes, and funding decisions.147 These official actions prevent the President “from monopolizing the nation’s political discourse” on decisions regarding military actions can thereby make it difficult for the President to depart too far from congressional preferences.148 Members of the political opposition in Congress also have access to resources for gathering policy relevant information from the government that informs their policy preferences. Their active participation in specialized legislative committees similarly gives opponent party members access to fact-finding resources and forums for registering informed dissent from decisions within the committee’s purview.149 As a result, legislative institutions within democracies can enable political opponents to have a more immediate and informed impact on executive’s decisions regarding force than can opponents among the general public. Moreover, studies suggest that Congress can actively shape media coverage and public support for a president’s foreign policy engagements.150 In short, these findings among political scientists suggest that, even without having to pass legislation or formally approve of actions, Congress often operates as an important check on threatened force by providing the president’s political opponents with a forum for registering dissent from the executive’s decisions regarding force in ways that attach domestic political costs to contemplated military actions or even the threats to use force. Under this logic, Presidents, anticipating dissent, will be more selective in issuing¶ threats in the first place, making only those commitments that would not incite¶ widespread political opposition should the threat be carried through.151 Political¶ opponents within a legislature also have few electoral incentives to collude in an¶ executive’s bluff, and they are capable of expressing opposition to a threatened use of¶ force in ways that could expose the bluff to a threatened adversary.152 This again narrows¶ the President’s range of viable policy options for brandishing military force. Counter-intuitively, given the President’s seemingly unlimited and unchallenged¶ constitutional power to threaten war, it may in some cases be easier for members of¶ Congress to influence presidential decisions to threaten military action than presidential¶ war decisions once U.S. forces are already engaged in hostilities. It is widely believed¶ that once U.S. armed forces are fighting, congress members’ hands are often tied: policy¶ opposition at that stage risks being portrayed as undermining our troops in the field.153¶ Perhaps, it could be argued, the President takes this phenomenon into account and¶ therefore discounts political opposition to threatened force; he can assume that such¶ opposition will dissipate if he carries it through. Even if that is true, before that point¶ occurs, however, members of Congress may have communicated messages domestically¶ and communicated signals abroad that the President will find difficult to counter.154 The bottom line is that a body of recent political science, while confirming the¶ President’s dominant position in setting policy in this area, also reveals that policymaking¶ with respect to threats of force is significantly shaped by domestic politics and¶ that Congress is institutionally positioned to play a powerful role in influencing those¶ politics, even without exercising its formal legislative powers. Given the centrality of¶ threatened force to U.S. foreign policy strategy and security crises, this suggests that the¶ practical war powers situation is not so imbalanced toward the President as many assume. B. Democratic Institutions and the Credibility of Threats A central question among constitutional war powers scholars is whether robust¶ checks – especially congressional ones – on presidential use of force lead to “sound”¶ policy decision-making. Congressionalists typically argue that legislative control over¶ war decisions promotes more thorough deliberation, including more accurate weighing of¶ consequences and gauging of political support of military action.155 Presidentialists¶ usually counter that the executive branch has better information and therefore better¶ ability to discern the dangers of action or inaction, and that quick and decisive military¶ moves are often required to deal with security crises.156 If we are interested in these sorts of functional arguments, then reframing the¶ inquiry to include threatened force prompts critical questions whether such checks also¶ contribute to or detract from effective deterrence and coercive diplomacy and therefore¶ positively or negatively affect the likelihood of achieving aims without resort to war.¶ Here, recent political science provides some reason for optimism, though the scholarship¶ in this area is neither yet well developed nor conclusive. To be sure, “soundness” of policy with respect to force is heavily laden with¶ normative assumptions about war and the appropriate role for the United States in the¶ broader international security system, so it is difficult to assess the merits and¶ disadvantages of constitutional allocations in the abstract. That said, whatever their¶ specific assumptions about appropriate uses of force in mind, constitutional war powers¶ scholars usually evaluate the policy advantages and dangers of decision-making¶ allocations narrowly in terms of the costs and outcomes of actual military engagements¶ with adversaries. The importance of credibility to strategies of threatened force adds important new¶ dimensions to this debate. On the one hand, one might intuitively expect that robust democratic checks would generally be ill-suited for coercive threats and negotiations –¶ that institutional centralization and secrecy of decision-making might better equip nondemocracies¶ to wield threats of force. As Quincy Wright speculated in 1944, autocracies¶ “can use war efficiently and threats of war even more efficiently” than democracies,157¶ especially the American democracy in which vocal public and congressional opposition¶ may undermine threats.158 Moreover, proponents of democratic checks on war powers¶ usually assume that careful deliberation is a virtue in preventing unnecessary wars, but¶ strategists of deterrence and coercion observe that perceived irrationality is sometimes¶ important in conveying threats: “don’t test me, because I might just be crazy enough to¶ do it!”159 On the other hand, some political scientists have recently called into question this¶ view and concluded that the institutionalization of political contestation and some¶ diffusion of decision-making power in democracies of the kind described in the previous¶ section make threats to use force rare but especially credible and effective in resolving¶ international crises without actual resort to armed conflict. In other words, recent¶ arguments in effect turn some old claims about the strategic disabilities of democracies¶ on their heads: whereas it used to be generally thought that democracies were ineffective¶ in wielding threats because they are poor at keeping secrets and their decision-making is¶ constrained by internal political pressures, a current wave of political science accepts this¶ basic description but argues that these democratic features are really strategic virtues.160 Rationalist models of crisis bargaining between states assume that because war is¶ risky and costly, states will be better off if they can resolve their disputes through¶ bargaining rather than by enduring the costs and uncertainties of armed conflict.161¶ Effective bargaining during such disputes – that which resolves the crisis without a resort¶ to force – depends largely on states’ perceptions of their adversary’s capacity to wage an¶ effective military campaign and its willingness to resort to force to obtain a favorable¶ outcome. A state targeted with a threat of force, for example, will be less willing to resist¶ the adversary’s demands if it believes that the adversary intends to wage and is capable of¶ waging an effective military campaign to achieve its ends. In other words, if a state¶ perceives that the threat from the adversary is credible, that state has less incentive to¶ resist such demands if doing so will escalate into armed conflict. The accuracy of such perceptions, however, is often compromised by¶ informational asymmetries that arise from private information about an adversary’s¶ relative military capabilities and resolve that prevents other states from correctly¶ assessing another states’ intentions, as well as by the incentives states have to¶ misrepresent their willingness to fight – that is, to bluff.162 Informational asymmetries¶ increase the potential for misperception and thereby make war more likely; war,¶ consequentially, can be thought of in these cases as a “bargaining failure.”163 Some political scientists have argued in recent decades – contrary to previously common wisdom – that features and constraints of democracies make them better suited than non-democracies to credibly signal their resolve when they threaten force. To bolster their bargaining position, states will seek to generate credible signals of their resolve by taking actions that can enhance the credibility of such threats, such as mobilizing military forces or making “hand-tying” commitments from which leaders cannot back down without suffering considerable political costs domestically.164 These domestic audience costs, according to some political scientists, are especially high for leaders in democratic states, where they may bear these costs at the polls.165 Given the potentially high domestic political and electoral repercussions democratic leaders face from backing down from a public threat, they have considerable incentives to refrain from bluffing. An adversary that understands these political vulnerabilities is thereby more likely to perceive the threats a democratic leader does issue as highly credible, in turn making it more likely that the adversary will yield.166 Other scholars have recently pointed to the special role of legislative bodies in signaling with regard to threatened force. This is especially interesting from the perspective of constitutional powers debates, because it posits a distinct role for Congress – and, again, one that does not necessarily rely on Congress’s ability to pass binding legislation that formally confines the President. Kenneth Schultz, for instance, argues that the open nature of competition within democratic societies ensures that the interplay of opposing parties in legislative bodies over the use of force is observable not just to their domestic publics but to foreign actors; this inherent transparency within democracies – magnified by legislative processes – provides more information to adversaries regarding the unity of domestic opponents around a government’s military and foreign policy decisions.167 Political opposition parties can undermine the credibility of some threats by the President to use force if they publicly voice their opposition in committee hearings, public statements, or through other institutional mechanisms. Furthermore, legislative processes – such as debates and hearings – make it difficult to conceal or misrepresent preferences about war and peace. Faced with such institutional constraints, Presidents will incline to be more selective about making such threats and avoid being undermined in that way.168 This restraining effect on the ability of governments to issue threats simultaneously makes those threats that the government issues more credible, if an observer assumes that the President would not be issuing it if he anticipated strong political opposition. Especially when members of the opposition party publicly support an executive’s threat to use force during a crisis, their visible support lends additional credibility to the government’s threat by demonstrating that political conditions domestically favor the use of force should it be necessary.169 In some cases, Congress may communicate greater willingness than the president to use force, for instance through non-binding resolutions.170 Such powerful signals of resolve should in theory make adversaries more likely to back down. 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. Nevertheless, at the very least, strands of recent political science scholarship cast significant doubt on the intuition that democratic checks are inherently disadvantageous to strategies of threatened force. Quite the contrary, they suggest that legislative checks – or, indeed, even the signaling functions that Congress is institutionally situated to play with respect to foreign audiences interpreting U.S. government moves – can be harnessed in some circumstances to support such strategies. C. Legal Reform and Strategies of Threatened Force Among legal scholars of war powers, the ultimate prescriptive question is whether the President should be constrained more formally and strongly than he currently is by legislative checks, especially a more robust and effective mandatory requirement of congressional authorization to use force. Calls for reform usually take the form of narrowing and better enforcement (by all three branches of government) of purported constitutional requirements for congressional authorization of presidential uses of force or revising and enforcing the War Powers Resolutions or other framework legislation requiring express congressional authorization for such actions.175 ¶ As applied to strategies of threatened force, generally under these proposals the President would lack authority to make good on them unilaterally (except in whatever narrow circumstances for which he retains his own unilateral authority, such as deterring imminent attacks on the United States). Whereas legal scholars are consumed with the internal effects of war powers law, such as whether and when it constrains U.S. government decision-making, the analysis contained in the previous section shifts attention externally to whether and when U.S. law might influence decision-making by adversaries, allies, and other international actors. In prescriptive terms, if the President’s power to use force is linked to his ability to threaten it effectively, then any consideration of war powers reform on policy outcomes and longterm interests should include the important secondary effects on deterrent and coercive strategies – and how U.S. legal doctrine is perceived and understood abroad.176 Would stronger requirements for congressional authorization to use force reduce a president’s opportunities for bluffing, and if so would this improve U.S. coercive diplomacy by making ensuing threats more credible? Or would it undermine diplomacy by taking some threats off the table as viable policy options? Would stronger formal legislative powers with respect to force have significant marginal effects on the signaling effects of dissent within Congress, beyond those effects already resulting from open political discourse? These are difficult questions, but the analysis and evidence above helps generate some initial hypotheses and avenues for further research and analysis. One might ask at this point why, though, having exposed as a hole in war powers legal discourse the tendency to overlook threatened force, this Article does not take up whether Congress should assert some direct legislative control of threats – perhaps statutorily limiting the President’s authority to make them or establishing procedural conditions like presidential reporting requirements to Congress. This Article puts such a notion aside for several reasons. First, for reasons alluded to briefly above, such limits would be very constitutionally suspect and difficult to enforce.177 Second, even the most ardent war-power congressionalists do not contemplate such direct limits on the President’s power to threaten; they are not a realistic option for reform. Instead, this Article focuses on the more plausible – and much more discussed – possibility of strengthening Congress’s power over the ultimate decision whether to use force, but augments the usual debate over that question with appreciation for the importance of credible threats. 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 In his veto statement on the War Powers Resolution, President Nixon echoed these concerns, arguing that the law would undermine the credibility of U.S. deterrent and coercive threats in the eyes of both adversaries and allies – they would know that presidential authority to use force would expire after 60 days, so absent strong congressional support they could assume U.S. withdrawal at that point.180 In short, those who oppose tying the president’s hands with mandatory congressional authorization requirements to use force sometimes argue that doing so incidentally and dangerously ties his hands in threatening it. A critical assumption here is that presidential flexibility, preserved in legal doctrine, enhances the credibility of presidential threats to escalate.

### Iran

#### Iran aggression impact is flawed scholarship

Paul R. Pillar 12, Visiting Professor and Director of the Security Studies Program in the Edmund A. Walsh School of Foreign Service at Georgetown University, served in the Central Intelligence Agency for 28 years, "We Can Live with a Nuclear Iran," March/April, The Washington Monthly, <http://www.washingtonmonthly.com/magazine/marchapril_2012/features/we_can_live_with_a_nuclear_ira035772.php?page=all>

Given the momentousness of such an endeavor and how much prominence the Iranian nuclear issue has been given, one might think that talk about exercising the military option would be backed up by extensive analysis of the threat in question and the different ways of responding to it. But it isn’t. Strip away the bellicosity and political rhetoric, and what one finds is not rigorous analysis but a mixture of fear, fanciful speculation, and crude stereotyping. There are indeed good reasons to oppose Iranian acquisition of nuclear weapons, and likewise many steps the United States and the international community can and should take to try to avoid that eventuality. But an Iran with a bomb would not be anywhere near as dangerous as most people assume, and a war to try to stop it from acquiring one would be less successful, and far more costly, than most people imagine.¶ What difference would it make to Iran’s behavior and influence if the country had a bomb? Even among those who believe that war with the Islamic Republic would be a bad idea, this question has been subjected to precious little careful analysis. The notion that a nuclear weapon would turn Iran into a significantly more dangerous actor that would imperil U.S. interests has become conventional wisdom, and it gets repeated so often by so many diverse commentators that it seldom, if ever, is questioned. Hardly anyone debating policy on Iran asks exactly why a nuclear-armed Iran would be so dangerous. What passes for an answer to that question takes two forms: one simple, and another that sounds more sophisticated.¶ The simple argument is that Iranian leaders supposedly don’t think like the rest of us: they are religious fanatics who value martyrdom more than life, cannot be counted on to act rationally, and therefore cannot be deterred. On the campaign trail Rick Santorum has been among the most vocal in propounding this notion, asserting that Iran is ruled by the “equivalent of al-Qaeda,” that its “theology teaches” that its objective is to “create a calamity,” that it believes “the afterlife is better than this life,” and that its “principal virtue” is martyrdom. Newt Gingrich speaks in a similar vein about how Iranian leaders are suicidal jihadists, and says “it’s impossible to deter them.”¶ The trouble with this image of Iran is that it does not reflect actual Iranian behavior. More than three decades of history demonstrate that the Islamic Republic’s rulers, like most rulers elsewhere, are overwhelmingly concerned with preserving their regime and their power—in this life, not some future one. They are no more likely to let theological imperatives lead them into self-destructive behavior than other leaders whose religious faiths envision an afterlife. Iranian rulers may have a history of valorizing martyrdom—as they did when sending young militiamen to their deaths in near-hopeless attacks during the Iran-Iraq War in the 1980s—but they have never given any indication of wanting to become martyrs themselves. In fact, the Islamic Republic’s conduct beyond its borders has been characterized by caution. Even the most seemingly ruthless Iranian behavior has been motivated by specific, immediate concerns of regime survival. The government assassinated exiled Iranian dissidents in Europe in the 1980s and ’90s, for example, because it saw them as a counterrevolutionary threat. The assassinations ended when they started inflicting too much damage on Iran’s relations with European governments. Iran’s rulers are constantly balancing a very worldly set of strategic interests. The principles of deterrence are not invalid just because the party to be deterred wears a turban and a beard.¶ If the stereotyped image of Iranian leaders had real basis in fact, we would see more aggressive and brash Iranian behavior in the Middle East than we have. Some have pointed to the Iranian willingness to incur heavy losses in continuing the Iran-Iraq War. But that was a response to Saddam Hussein’s invasion of the Iranian homeland, not some bellicose venture beyond Iran’s borders. And even that war ended with Ayatollah Khomeini deciding that the “poison” of agreeing to a cease-fire was better than the alternative. (He even described the cease- fire as “God’s will”—so much for the notion that the Iranians’ God always pushes them toward violence and martyrdom.)

#### Powers will cooperate rather than compete

Pantucci and Petersen 5/1/12 (Raffaello, Visiting Scholar at the Shanghai Academy of Social Sciences (SASS) and Alexandros, author of The World Island: Eurasian Geopolitics and the Fate of the West, “The New Great Game: Development, Not Domination, in Central Asia”, http://www.theatlantic.com/international/archive/2012/05/the-new-great-game-development-not-domination-in-central-asia/256578/)

It is cliché to talk about Central Asia in great-game terms, with battling rival powers elbowing each other to assert their influence. Seeing the region as either as a buffer area to other powers or as a source of natural wealth and instability, the surrounding large powers have long treated Central Asia as little more than a chessboard on which to move pawns. These days, however, the strategic approach taken by surrounding powers has shifted. Rather than talking about dominating the region, the discussion is focused on differing approaches to development, all of them tied to great powers' particular interests. Lead amongst these are China, Russia and the United States--all of which have launched new initiatives intended to bring stability and security to the region.

#### No draw in

Sikorski 11 (Tomasz, The Polish Institute of International Affairs, “Strategic Vacuum in Central Asia—a Case for European Engagement?”, April, PISM Strategic File #15)

An interesting phenomenon in Central Asia—Halford Mackinder’s pivotal area of the heartland— can be observed. The great political powers, when it comes to action in the region, seem to lack power at all. The U.S. assigns all its attention to the war in Afghanistan. Russia, painfully hit by the economic crisis, recognises that it is terribly difficult to rebuild its erstwhile zone of influence. Also China is not warmly welcomed in the region. What is then left? It seems that in the foreseeable future Central Asia is not going to be a scene of the so-called New Great Game. On the contrary, the region will be somewhat abandoned by the main political powers. The purpose of this paper is to prove the abandonment thesis, predict what is going to happen and propose recommendations for the European Union to act effectively in the new situation.

### Congress

#### Liberal order is locked in

G. John Ikenberry 11, Professor of Politics and International Affairs at Princeton University. “A World of Our Making”. Democracy A Journal of Ideas. Issue #21, Summer 2011. http://www.democracyjournal.org/21/a-world-of-our-making-1.php?page=1

The main alternatives to liberal order—both domestic and international—have more or less disappeared. The great liberal international era is not ending. Still, if the liberal order is not in crisis, its governance is. Yet, given the fundamental weakness of the past international orders—brought down by world wars and great economic upheavals—the challenges of reforming and renegotiating liberal world order are, if anything, welcome ones.

There are four reasons to think that some type of updated and reorganized liberal international order will persist. First, the old and traditional mechanism for overturning international order—great-power war—is no longer likely to occur. Already, the contemporary world has experienced the longest period of great-power peace in the long history of the state system. This absence of great-power war is no doubt due to several factors not present in earlier eras, namely nuclear deterrence and the dominance of liberal democracies. Nuclear weapons—and the deterrence they generate—give great powers some confidence that they will not be dominated or invaded by other major states. They make war among major states less rational and there-fore less likely. This removal of great-power war as a tool of overturning international order tends to reinforce the status quo. The United States was lucky to have emerged as a global power in the nuclear age, because rival great powers are put at a disadvantage if they seek to overturn the American-led system. The cost-benefit calculation of rival would-be hegemonic powers is altered in favor of working for change within the system. But, again, the fact that great-power deterrence also sets limits on the projection of American power presumably makes the existing international order more tolerable. It removes a type of behavior in the system—war, invasion, and conquest between great powers—that historically provided the motive for seeking to overturn order. If the violent over-turning of international order is removed, a bias for continuity is introduced into the system.

Second, the character of liberal international order itself—**with or without** American **hegemonic leadership**—reinforces continuity. The complex interdependence that is unleashed in an open and loosely rule-based order generates expanding realms of exchange and investment that result in a growing array of firms, interest groups, and other sorts of political stakeholders who seek to preserve the stability and openness of the system. Beyond this, the liberal order is also relatively easy to join. In the post-Cold War decades, countries in different regions of the world have made democratic transitions and connected themselves to various parts of this system. East European countries and states within the old Soviet empire have joined NATO. East Asian countries, including China, have joined the World Trade Organization (WTO). Through its many multilateral institutions, the liberal international order facilitates integration and offers support for states that are making transitions toward liberal democracy. Many countries have also experienced growth and rising incomes within this order. Comparing international orders is tricky, but the current liberal international order, seen in comparative perspective, does appear to have unique characteristics that encourage integration and discourage opposition and resistance.

Third, the states that are rising today do not constitute a potential united opposition bloc to the existing order. There are so-called rising states in various regions of the world. China, India, Brazil, and South Africa are perhaps most prominent. Russia is also sometimes included in this grouping of rising states. These states are all capitalist and most are democratic. They all gain from trade and integration within the world capitalist system. They all either are members of the WTO or seek membership in it. But they also have very diverse geopolitical and regional interests and agendas. They do not constitute either an economic bloc or a geopolitical one. Their ideologies and histories are distinct. They share an interest in gaining access to the leading institutions that govern the international system. Sometimes this creates competition among them for influence and access. But it also orients their struggles toward the reform and reorganization of governing institutions, not to a united effort to overturn the underlying order.

Fourth, all the great powers have alignments of interests that will continue to bring them together to negotiate and cooperate over the management of the system. All the great powers—old and rising—are status-quo powers. All are beneficiaries of an open world economy and the various services that the liberal international order provides for capitalist trading states. All worry about religious radicalism and failed states. Great powers such as Russia and China do have different geopolitical interests in various key trouble spots, such as Iran and South Asia, and so disagreement and noncooperation over sanctions relating to nonproliferation and other security issues will not disappear. But the opportunities for managing differences with frameworks of great-power cooperation exist and will grow.

#### Empirics disprove this argument

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

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

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

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

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

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

#### Congress isn’t even allowed to consider critical foreign policy intelligence

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

The executive branch has access to broader forms of information about foreign affairs than those available to Congress. In regard to classes of information, the executive branch has access to foreign policy and national security information produced not just by diplomatic channels, but also by clandestine agents or electronic eavesdropping. In terms of receiving and processing that information, the executive branch is not restricted by the structures that limit the information that a court or legislative body may consider. Indeed, it seems evident that the executive branch not only acquires more intelligence than Congress, but it also devotes more resources toward analyzing that information. While Congress may have its own independent staff that engage analysis of intelligence and foreign information, this staff is dwarfed by the size of the executive branch’s intelligence and foreign policy apparatus.

#### SQ solves treaty leadership

Rebecca Einhorn 13, Communications Director, Better World Campaign, BWC works with policy makers, media and the American public to foster a strong U.S.-UN relationship that promotes core American interests and builds a more secure, prosperous, and healthy world. Passage of UN Arms Trade Treaty is Product of Strong U.S. Leadership, Hails Better World Campaign, www.betterworldcampaign.org/news-room/press-releases/passage-of-un-arms-trade.html

Strong, U.S.-led action in the United Nations General Assembly to pass the first-ever Arms Trade Treaty represents a historic step by the Obama Administration, the Better World Campaign said today. The treaty, which will be open for signature beginning in June, calls upon UN member states to develop and implement the kinds of systems that the United States already has in place to reduce the risk that international arms transfers will be used to carry out the world's worst crimes, including terrorism, genocide, crimes against humanity, and war crimes.¶ In a statement, Peter Yeo, Executive Director of the Better World Campaign said:¶ "Today, the United States led 154 countries at the United Nations in standing up to black market arms dealers, rogue regimes, and terrorists. Utilizing its vote at the UN, the U.S. helped to pass a critical global framework to regulate the international weapons trade – closing loopholes that have long been exploited by criminals worldwide. This passage is a perfect example of the good that the U.S. can accomplish when it remains firmly engaged with the UN.¶ "Before today, no international laws or treaties existed to regulate the international sale of conventional weapons. In fact, as Maj. Gen. Roger R. Blunt (Ret.) has explained, 'We have international agreements regulating the cross-border sale of iPods and bananas, but we have no global treaties governing the international sale of weapons.'¶ "It's also important to note what this treaty does NOT do. By its own terms, and at the urging of the Obama Administration, this treaty applies only to international trade and reaffirms the sovereign right of any State – including the United States – to regulate arms within its territory. From the beginning, the United States required that this treaty would never infringe on the rights of American citizens under our domestic law or the Constitution, including the Second Amendment. ¶ "We commend the strong leadership of the United States on helping move the new Arms Trade Treaty forward and urge the President to continue leading by example by signing this treaty in June."

## 1NR

### Politics

#### Will pass --- both sides are finding common ground

Politico 11/14/13, “Republicans more optimistic on farm bill,” David Rogers, http://www.politico.com/story/2013/11/republicans-farm-bill-99889.html

House Republicans were more upbeat Thursday on getting a farm bill done this year, with Speaker John Boehner raising the subject and Agriculture Committee Chairman Frank Lucas saying he and his Senate counterparts are “getting to a common point on the commodity title.”¶ “I can say that all the face-to-face meetings that have gone on with the principals — in the last couple of weeks — have made progress,” Lucas told POLITICO. “We are getting to a common point on the commodity title.”¶ “There are still some big principles: choice vs. all inclusive, how you calculate the acres. But we are moving and staff on a variety of fronts are ironing out the differences.”¶ Talks between the Oklahoma Republican and Senate Agriculture Committee Chairwoman Debbie Stabenow (D-Mich.) are expected to continue late Thursday. And at his weekly news conference Thursday morning, Boehner included the farm bill as part of his year-end agenda.¶ “There are issues that can be resolved before the end of the year, including reforms to our farm programs, a bill to reauthorize important water projects around the country and hopefully a budget agreement so that we can stop lurching from one crisis to another,” the speaker told reporters. “We have got a chance to find common ground, and I am hopeful that we can make progress on all of these issues.”

#### It could pass as soon as next week --- disputes over Food Stamps and energy will be overcome

Erik Wasson 11/13/13, writer for The Hill, “Farm bill leaders report progress on deal,” http://thehill.com/blogs/on-the-money/agriculture/190196-farm-bill-leaders-cite-progress-toward-deal

The principal House negotiators on the farm bill on Wednesday said there is progress toward a deal.¶ ¶ House Agriculture Committee ranking member Collin Peterson (D-Minn.) suggested the framework for an agreement could be finished next week.¶ ¶ “It will probably be next week … far be it for me to set deadlines,” he said.¶ Peterson said good work is being done on the farm bill’s energy title and controversial nutrition title that is the focus of a dispute over food stamp cuts.¶ ¶ He said so far the leaders of the farm bill conference, including House Agriculture Committee Chairman Frank Lucas (R-Okla.), and Sens. Debbie Stabenow (D-Mich.) and Thad Cochran (R-Miss.), the chairwoman and ranking member of the Senate Agriculture Committee — have been left alone by party leaders.¶ ¶ “I’m not sure they are in the loop,” he said. “We’re coming to agreement on different things.”¶ ¶ Lucas said the discussions are “focused intensely” on the title containing commodity subsidies.¶ ¶ “I think actually people are moving in the right direction toward progress,” Lucas said.

#### Will pass but the next weeks are key --- Congress has limited time

Jerry Hagstrom 11/15/13, writer at Forum News Service, “Farm bill negotiations continue,” http://www.perhamfocus.com/content/farm-bill-negotiations-continue-0

WASHINGTON — The four principal negotiators on the farm bill appear to have made some progress at one meeting last week and seem likely to be engaged in intensive negotiations during the two weeks before Congress takes a break for Thanksgiving.¶ A new farm bill has passed the House and the Senate in different forms, and a conference committee headed by the Democratic and Republican leaders of the Agriculture committees are working to reconcile the differences so that a conference report can be presented to both houses before the end of the year and sent to President Barack Obama for his signature.¶ The four principals — House Agriculture Committee Chairman Frank Lucas, R-Okla., House Agriculture ranking member Collin Peterson, D-Minn., Senate Agriculture Committee Chairwoman Debbie Stabenow, D-Mich., and Senate Agriculture ranking member Thad Cochran, R-Miss., met on Nov. 6 for at least two hours and made enough progress that Stabenow said on Nov. 7 that they needed to get cost scores on the new proposals from the Congressional Budget Office in order to proceed.¶ In a brief interview off the Senate floor, Stabenow told Agweek that her meeting on Nov. 7 with the other three principal farm bill negotiators — Cochran, Lucas and Peterson — had been a “really good discussion” about “a broad framework,” but she added, “We’ve got to get scores.”¶ Asked whether the four principals would meet as soon as the House and Senate return after Veterans Day, Stabenow said that the four are in constant communication.¶ During the vote on the Employment Non-discrimination Act, which would ban workplace discrimination against gay, lesbian, bisexual and transgender employees, Stabenow was in discussion on the Senate floor with Sen. John Hoeven, R-N.D., for at least 15 minutes. Stabenow would not say whether they were talking about the farm bill in that discussion, but she said that she and Hoeven “talk all the time about the farm bill” and that those discussions are “very positive.”¶ The two weeks beginning Nov. 12 are likely to determine whether Congress will finish the farm bill this year.¶ Both the House and the Senate will be in session during that time. But both chambers are scheduled to leave on Nov. 22 for a Thanksgiving break, and congressional aides have said they are likely to be out of session for two weeks.¶ That schedule would mean that members would return on Dec. 9 for another two-week session before they are expected to depart on Dec. 20 for the Christmas and New Year’s holidays.¶ Although the House- and Senate-passed farm bills do not expire at the end of December because the congressional session will continue for another year, Congress is under pressure to finish the farm bill by then, in part to avoid another round of headlines about milk prices skyrocketing if permanent farm laws from 1938 and 1949 go into effect.

#### Obama’s leadership is critical --- only way to avoid a short-term extension which triggers our impacts

Eva Clayton 11/5/13, former Assistant Director General of the UN FAO, “Congressional and Presidential Leadership Needed for a Fair and Equitable Farm Bill,” http://www.huffingtonpost.com/eva-m-clayton/congressional-and-presidential\_b\_4221884.html

Will Congress and the president demonstrate the leadership necessary to enact a strong, but fair Farm Bill that protects our agricultural economy and rural communities? Will it provide a "safety net" for our most vulnerable citizens? Hopefully, the appointed Conferees will seek an opportunity to pass a strong Farm Bill that is fair and helpful to small and large farmers and will enable them to produce healthy and affordable food. The Farm Bill should empower our rural communities to develop and grow economically. Likewise, it must protect and provide food assistance to the millions of Americans in need.¶ The leadership in the U.S. House of Representatives and the Senate must instruct the Conferees to negotiate in the best interest of the American people. President Obama must be persistent in his leadership by calling on Congress to treat our most vulnerable citizens fairly, protect small and large farmers, and give rural communities an opportunity to grow economically. Another extension of the Farm Bill once again is unacceptable. Farmers and businesses, which have been devastated by the legislative uncertainty, are unable to plan for the next planting season, and cannot do so until Congress acts and the president signs a bill. This delay has hampered assistance for early generation farmers, minority farmers, and the rural small business sector who all suffer disproportionately without a signed bill.

#### It’s Obama’s top priority in the coming weeks --- he’s exerting pressure

Andy Eubank 11/10/13, writer at Hoosier Ag Today, “Farm Bill at Top of President’s Idea List in New Orleans,” http://www.hoosieragtoday.com/farm-bill-at-top-of-presidents-idea-list-in-new-orleans/

Speaking on the economy in New Orleans Friday – President Barack Obama again addressed three things he believes Republicans and Democrats can join together to do to make progress in the area of business growth and job creation right now. The farm bill was first on his list. President Obama said Congress needs to pass a farm bill that helps rural communities grow and protects vulnerable Americans. Stressing that the farm bill doesn’t just benefit farmers – the President called on Congress to do the right thing and pass a farm bill. The two weeks ahead of Thanksgiving could determine if Congress will get that done yet this year. The House and Senate will both be in session before taking a Thanksgiving break that is scheduled to begin November 22nd. Congressional aides have suggested that recess will last two weeks. That schedule would have members returning December 9th for another two week session before an NewOrleansNightLifeexpected December 20th departure for the Christmas and New Year’s holidays. The farm bills approved by the House and Senate will not expire at the end of the year since the congressional session continues – but the pressure is on to finish a farm bill by then.

#### Healthcare controversy doesn’t deplete political capital or derail Farm Bill push but it DOES create a brink for the DA

* Aides are the ones working on fixing healthcare; doesn’t distract Obama

Michael Shear 11/8/13, “A White House in Crisis Mode, but Some Allies Prod for More Action,” http://www.nytimes.com/2013/11/09/us/politics/a-white-house-in-crisis-mode-but-some-allies-prod-for-more.html?ref=farmbillus

WASHINGTON — President Obama was seething. Two weeks after the disastrous launch of HealthCare.gov, Mr. Obama gathered his senior staff members in the Oval Office for what one aide recalled as an “unsparing” dressing-down. ¶ The public accepts that technology sometimes fails, the president said, but he had personally trumpeted that HealthCare.gov would be ready on Oct. 1, and it wasn’t.¶ “If I had known,” Mr. Obama said, according to the aide, “we could have delayed the website.”¶ Mr. Obama’s anger, described by a White House that has repeatedly sought to show that the president was unaware of the extent of the website’s problems, has lit a fire under the West Wing staff. Senior aides are racing to make sure the website is fixed by the end of the month as they confront the political fallout from presidential promises, now broken, that all Americans who liked their existing health care plans could keep them.¶ Inside the White House, there is anxiety that if the health care problems are not righted, they could imperil the rest of Mr. Obama’s presidency, especially as criticism grows that the president misled consumers about the plan. Mr. Obama sought to tamp down that criticism by apologizing in an interview with NBC News on Thursday. “I am sorry that they, you know, are finding themselves in this situation, based on assurances they got from me,” the president said.¶ Internally, Denis R. McDonough, the White House chief of staff, is in charge of damage control. He leads a health care conference call at 7 p.m. daily, just before a written update on the broken website is inserted into the briefing book that is delivered to his boss in the White House residence. Mr. McDonough is also the primary conduit to angry Democratic lawmakers who are seeking to delay parts of the law and extend the enrollment period until the problems are fixed.¶ Still, Mr. McDonough has insisted that other work continue as the White House struggles to find a balance between operating in perpetual crisis mode and moving on with the rest of Mr. Obama’s agenda.¶ So daily “check-in” sessions on the push for an immigration overhaul still happen every morning. There are regular West Wing meetings on transportation, college affordability and a new farm bill. Mr. Obama spoke about increasing exports in a speech at the Port of New Orleans on Friday, and he is planning a trip next week to talk about the economy.

#### Farm bill before immigration

Tom Quaife, ed. Dairy Herd Network, 11-14-2013, “Immigration reform: The next big thing after farm bill,” http://www.dairyherd.com/dairy-news/latest/Immigration-reform-The-next-big-thing-after-the-farm-bill-231942031.html

Assuming a farm bill is passed by the end of the year, the next legislative priority for the dairy industry will be immigration reform. A top official at the National Milk Producers Federation is optimistic that reform will occur. “I believe that by 2014 we are going to have comprehensive immigration reform,” says Jamie Castaneda, senior vice president of strategic initiatives and trade policy at NMPF. Although it may be a challenge to win over conservative Republicans, Castaneda says the Republican Party also sees immigration reform as an important element for success in the 2016 elections. “When they’re going to do it, I can’t tell you whether it will be the first six months (of 2014) or a lame-duck session” after the November congressional elections, Castaneda said. A worker visa program, allowing workers to stay on a dairy for upwards of six years, may be part of the reform measure. If the focus does shift to immigration reform by the early part of 2014, Castaneda says it will be important for dairy producers to speak up and let their elected representatives know where they stand. “Grass-roots efforts are going to be very important,” he says. Castaneda and others talked about immigration reform at the joint annual meeting of the National Milk Producers Federation, National Dairy Board and United Dairy Industry Association this week in Phoenix.

#### PC is key and zero sum---best scholarship proves

Matthew N. Beckmann and Vimal Kumar 11, Profs Department of Political Science, @ University of California Irvine "How Presidents Push, When Presidents Win" Journal of Theoretical Politics 2011 23: 3 SAGE

Before developing presidents’ lobbying options for building winning coalitions on Capitol Hill, it is instructive to consider **cases where the president has no** political capital and no viable lobbying options. In such circumstances of **imposed passivity** (beyond offering a proposal), **a president’s fate is clear**: his proposals are subject to pivotal voters’ preferences. So if a president lacking political capital proposes to change some far-off status quo, that is, one on the opposite side of the median or otherwise pivotal voter, a (Condorcet) winner always exists, and it coincides with the pivot’s predisposition (Brady and Volden, 1998; Krehbiel, 1998) (see also Black (1948) and Downs (1957)). Considering that there tends to be substantial ideological distance between presidents and pivotal voters, positive presidential inﬂuence without lobbying, then, is not much inﬂuence at all.¶ As with all lobbyists, presidents looking to push legislation must do so indirectly by **push**ing the **lawmakers whom they need to pass it**. Or, as Richard Nesustadt artfully explained:¶ The essence of a President’s persuasive task, with congressmen and everybody else, is to induce them to believe that what he wants of them is what their own appraisal of their own responsibilities requires them to do in their interest, not his…Persuasion deals in the coin of self-interest with men who have some freedom to reject what they ﬁnd counterfeit. (Neustadt, 1990: 40) ¶ Fortunately for contemporary presidents, today’s White House affords its occupants an unrivaled supply of **persuasive carrots and sticks**. Beyond the ofﬁce’s unique visibility and prestige, among both citizens and their representatives in Congress, presidents may also sway lawmakers by using their discretion in budgeting and/or rulemaking, unique fundraising and campaigning capacity, control over executive and judicial nominations, veto power, or numerous other options under the chief executive’s control. Plainly, when it comes to the arm-twisting, brow-beating, and horse-trading that so often characterizes legislative battles, modern presidents are uniquely well equipped for the ﬁght. In the following we employ the omnibus concept of ‘presidential political capital’ to capture this conception of presidents’ positive power as persuasive bargaining.¶ Speciﬁ- cally, we deﬁne presidents’ political capital as the **class of tactics White House ofﬁcials employ to induce changes in lawmakers’ behavior.**¶Importantly, this conception of presidents’ positive power as persuasive bargaining not only **meshes with previous scholarship** on lobbying (see, e.g., Austen-Smith and Wright (1994), Groseclose and Snyder (1996), Krehbiel (1998: ch. 7), and Snyder (1991)), but also **presidential practice.** For example, Goodwin recounts how President Lyndon Johnson routinely allocated ‘rewards’ to ‘cooperative’ members:¶ The rewards themselves (and the withholding of rewards) . . . might be something as unobtrusive as receiving an invitation to join the President in a walk around the White House grounds, knowing that pictures of the event would be sent to hometown newspapers . . . [or something as pointed as] public works projects, military bases, educational research grants, poverty projects, appointments of local men to national commissions, the granting of pardons, and more. (Goodwin, 1991: 237) Of course, presidential political capital is a scarce commodity with a ﬂoating value. Even a favorabl[e]y situated president enjoys only a ﬁnite supply of political **capital**; **he can only promise or pressure so much**. What is more, this capital **ebbs and ﬂows as realities and/or perceptions change**. So, similarly to Edwards (1989), we believe presidents’ bargaining resources cannot fundamentally alter legislators’ predispositions, but rather operate ‘at the margins’ of US lawmaking, **however important those margins may be** (see also Bond and Fleisher (1990), Peterson (1990), Kingdon (1989), Jones (1994), and Rudalevige (2002)). Indeed, our aim is to explicate those margins and show how **presidents may** systematically inﬂuence them.

#### Institutional incentives to fight even if Obama doesn’t want to strike Iran

Scheuerman 13 (William, Professor of Political Science at Indiana University, PhD from Harvard, Barack Obama's "war on terror", Eurozine, 3/7, http://www.eurozine.com/pdf/2013-03-07-scheuerman-en.pdf)

Given dual democratic legitimacy, holders of executive power face deeply rooted institutional incentives to retain whatever power or authority has landed¶ in their laps. Fundamentally, their political fate is separate from that of the¶ legislature's. They have to prove −− on their own −− that they deserve the trust placed in them by the electorate. Unlike prime ministers in parliamentary¶ regimes, they also face strict term limits. As astute observers have noted, this¶ provides political life in presidential regimes with a particular sense of urgency¶ since the executive will only have a short span of time in which to advance his¶ or her program. Presidentialism's strict separation of powers means that the¶ executive will soon likely face potentially hostile opponents who have gained a¶ foothold in the legislature. In the US, for example, even presidents recently¶ elected with large majorities immediately need to worry about looming¶ midterm congressional elections. To be sure, even prime ministers in¶ parliamentary systems will want to get things done. But incentives to do so in a¶ high−speed fashion remain more deeply ingrained in presidential systems.¶ These familiar facts about presidentialism allow us to help make sense of¶ Obama's disappointing record. Without doubt, Obama has been personally as¶ well as ideologically committed to reining in Bush−era executive prerogative.¶ Yet he now occupies an institutional position which necessarily makes him averse to far−reaching attempts to limit his own room for effective political¶ and administrative action, especially when the stakes are high, as is manifestly¶ the case in counterterrorism. Understandably, he needs to worry that the¶ electorate will punish him −− and not the Congress or Supreme Court −− for¶ mistakes which might result in deadly terrorist attacks on US citizens. Given the institutional dynamics of a presidential system characterized by more−or−less permanent rivalry, it is hardly surprising that he has held onto so much of the prerogative power successfully claimed for the executive branch¶ by his right−wing predecessor. As Obama's own political advisors have been¶ vocally telling him since 2009, it might indeed prove politically perilous if he¶ were to go too far in abandoning the substantial discretionary powers he enjoys¶ in the war on terror. Unfortunately, their "sound" political advice −− which¶ indeed may have helped Obama get reelected −− simultaneously has had¶ deeply troublesome humanitarian and legal consequences.

#### Disagreements over authority trigger constitutional showdowns – even if the executive wants restraint toward Iran – it’s about who decides, not the decision itself

Posner 10 and Vermeule - \*professor of law at the University of Chicago AND \*\*professor of law at Harvard (Eric and Adrian, The Executive Unbound, p. 75-77)

Showdowns occur when the location of constitutional authority for making an important policy decision is ambiguous, and multiple political agents (branches, parties, sections, governments) have a strong interest in establishing that the authority lies with them. Although agents often have an interest in negotiating a settlement, asymmetric information about the interests and bargaining power of opposing parties will sometimes prevent such a settlement from being achieved. That is when a showdown occurs. Ultimately, however, someone must yield; this yielding to or acquiescence in the claimed authority of another agent helps clarify constitutional lines of authority, so that next time the issue arises, a constitutional impasse can be avoided. From a normative standpoint, constitutional showdowns thus have an important benefit, but they are certainly not costless. As long as the showdown lasts, the government may be paralyzed, unable to make important policy decisions, at least with respect to the issue under dispute. We begin by examining a simplified version of our problem, one involving just two agents—Congress and the executive. We assume for now that each agent is a unitary actor with a specific set of interests and capacities. We also assume that each agent has a slightly different utility function, reflecting their distinct constituencies. If we take the median voter as a baseline, we might assume that Congress is a bit to the left (or right) of the median voter, while the president is a bit to the right (or left). We will assume that the two agents are at an equal distance from the median, and that the preferences of the population are symmetrically distributed, so that the median voter will be indifferent between whether the president or Congress makes a particular decision, assuming that they have equal information.39 But we also will assume that the president has better information about some types of problems, and Congress has better information about other types of problems, so that, from the median voter’s standpoint, it is best for the president to make decisions about the first type of problem and for Congress to make decisions about the second type ofproblem.40 Suppose, for example, that the nation is at war and the government must decide whether to terminate it soon or allow it to continue. Congress and the president may agree about what to do, of course. But if they disagree, their disagreement may arise from one or both of two sources. First, Congress and the president have different information. For example, the executive may have better information about the foreign policy ramifications of a premature withdrawal, while Congress has better information about home-front morale. These different sources of information lead the executive to believe that the war should continue, while Congress believes the war should be ended soon. Second, Congress and the president have different preferences because of electoral pressures of their different constituents. Suppose, for example, that the president depends heavily on the continued support of arms suppliers, while crucial members of Congress come from districts dominated by war protestors. Thus, although the median voter might want the war to continue for a moderate time, the president prefers an indefinite extension, while Congress prefers an immediate termination. So far, we have explained why the president and Congress might disagree about when to terminate the war, but mere policy disagreement does not result in a showdown. Showdowns arise only when there is a disagreement about authority. If Congress believes that the president has the sole authority to terminate the war, then his view will prevail. Congress may try to pressure him or influence him by offering support for other programs desired by the president, or by trying to rile up the public, but these activities are part of normal politics, and do not provoke a constitutional showdown. Similarly, if the president believes that Congress has the sole authority to terminate the war, then Congress’s view will prevail. This outcome is shown in cell 3 in table 2.1. Similarly, no showdown occurs when the two branches agree both about authority and policy—for example, that the president decides, and Congress agrees with his decision (cell 1). The first column represents the domain of normal politics. Showdowns can arise only when Congress and the president disagree about who decides. Here, there are two further possibilities. First, Congress and the president disagree about who decides but agree about the correct policy outcome (cell 2). In these situations, which arise with some frequency, the two branches are often tempted to paper over their differences because an immediate policy choice is not at stake. But sometimes a showdown will occur. We will discuss this special case later. Second, Congress and the president disagree about the policy outcome and about authority (cell 4). In this case, showdowns are likely, because a policy decision must be made, and if the parties cannot agree about what it should be, then they cannot avoid resolving the question of authority. We focus on this case for now.

#### Reid delayed it---means it doesn’t require Obama PC now

AP 11/15—http://abcnews.go.com/Politics/wireStory/health-care-dispute-delay-iran-sanctions-20901920

Four Republican senators — New Hampshire's Kelly Ayotte, Florida's Marco Rubio, Texas' John Cornyn and Illinois' Mark Kirk — wrote to Obama on Friday expressing serious concerns that the United States was considering sanctions relief for Iran "valued at up to $20 billion - and, in exchange, Iran would not be required to dismantle a single centrifuge, close a single facility or ship outside its borders a single kilogram of enriched uranium."¶ The four talked about working with other senators on increased penalties on Iran. Sen. Bob Casey, D-Pa., said in a statement Thursday, "At this time, I see no reason to let up the pressure," while 63 House Republicans and Democrats wrote to Senate leaders urging them to act quickly on sanctions.¶ Republican and Democratic aides said Friday that debate on the annual defense bill could be delayed until later next week, in part because of Senate action on a separate pharmaceutical bill. Senators are expected to press for a vote on Iran sanctions as part of the defense bill, but that vote could slip until December.¶ Sen. David Vitter, R-La., wanted a vote during consideration of the pharmaceutical legislation on his measure to make lawmakers disclose which of their aides are enrolling in the president's new health care law as part of an ongoing effort to discredit "Obamacare."¶ Time spent on that bill could give Reid time to delay the defense bill and a likely vote on tough, new penalties on Iran just as negotiators are sitting down in Switzerland.

#### Farm is Obama’s top priority --- PC is key

Jenny Hopkinson, 11-11-2013, “COOL rules under fire in farm bill — Obama names farm bill as top priority, again — Pew delivers report on GRAS,” Politico, http://www.politico.com/morningagriculture/1113/morningagriculture12187.html

OBAMA: FARM BILL TOP PRIORITY: President Obama on Friday, in a speech on exports at the Port of the New Orleans, reiterated his calls for the farm bill to be Congress’ number one priority now. “Congress needs to pass a farm bill that helps rural communities grow and protects vulnerable Americans,” Obama said. “For decades, Congress found a way to compromise and pass farm bills without fuss. For some reason, now Congress can't even get that done. Now, this is not something that just benefits farmers. Ports like this one depend on all the products coming down the Mississippi. So let’s do the right thing, pass a farm bill. We can start selling more products. That's more business for this port. And that means more jobs right here.” HAPPY VETERANS DAY! Welcome to Morning Ag, where your host hopes that you had a great weekend, and that everyone who has served has a happy Veterans Day! Thoughts? News? Tips? Feel free to send them to jhopkinson@politico.com and @jennyhops. Follow us @Morning\_Ag and @POLITICOPro. MA’s MONDAY MORNING BUZZ: Every Monday MA will predict what professionals in and around the ag and food industries are going to be talking about the most in the week ahead. This week — the farm bill will be front and center as the House returns to Washington and the self-imposed Thanksgiving deadline for reaching an agreement among the conferees edges ever closer. And we might have a better idea how the talks are going following POLITICO Pro Ag’s launch event Thursday where USDA Secretary Tom Vilsack is set to speak along with a panel of key members of the conference committee and representatives from farm and industry groups who have been closely watching the process.

#### GGF key to naval power

Bryan Walsh 11, Senior Editor, TIME, 7/19/11, “Blue Water, Green Fleet: The Navy Gets Eco-Friendly,” TIME, http://www.time.com/time/health/article/0,8599,2083965,00.html#ixzz2OOCGmv42

In 1907, then President Theodore Roosevelt dispatched a U.S. Navy fleet of 16 battleships for a 16-month trip around the world. Though the hulls of the ships were painted white, the Navy's peacetime color scheme — which led observers to nickname the vessels the Great White Fleet — the voyage wasn't a holiday cruise. In the wake of the Spanish-American and Russo-Japanese wars, Roosevelt wanted the world to know that the U.S. was emerging as a major military power, one capable of projecting naval strength to every stretch of the oceans. Naval power would help define the geopolitics in the 20th century, and with the Great White Fleet, the U.S. raised the table stakes for every other nation.

It's the 21st century now, and the defining geopolitical issue today may well be energy and everything that surrounds it, from climate change to imported oil. While American politicians seem unable to craft a meaningful energy policy — witness the breathtakingly stupid decision last week by House Republicans and a few Democrats to vote against energy-efficiency standards for lightbulbs — the U.S. Navy is rising to the challenge again. By 2016 the Navy plans to organize and sail a "Great Green Fleet" that will include nuclear vessels, hybrid electric ships and aircraft powered by biofuels. Just like its conventional counterpart more than a century ago, the Great Green Fleet will put the world on notice that the U.S. can indeed lead on energy — at least when it comes to the Navy and the military.

"This is about making sure that a critical part of the combat ethos is now an energy ethos," says Rear Admiral Philip Hart Cullom, the director of the Navy's Energy and Environmental Readiness Division. "We need a Spartan mind-set so we can sustain our mission in perpetuity — otherwise we're left vulnerable."

Cullom and his colleagues in the Navy know they have little choice but to get green and lean. The Department of Defense burns more oil than any other public or private entity in the world — 135 million barrels of fuel in 2010 — and the Navy is second only to the Air Force among the service branches in its fuel guzzling. Navy officers are also intimately aware of the cost of securing foreign oil for the U.S. — keeping the crude flowing safely from the Middle East is a major duty for the Bahrain-based Fifth Fleet.

Dependence on imported oil may be the American military machine's single greatest vulnerability. And that vulnerability isn't just on the seas and in the field. With the cost of energy rising — the military spent $20 billion on fuel and electricity last year — and the federal debt putting pressure even on the Defense Department's usually untouchable budget, efficiency is about organizational survival too. "This should be a reality check for our supply lines and logistics and politics," says Cullom. "We need to instill a culture of conservation from the top to the bottom."

The military has one big advantage there: it doesn't have to worry about filibusters or public opinion. That's led the Navy to put forward bold goals on energy that far outpace what seems to be politically possible in the civilian world. By 2015, the Navy has pledged to reduce petroleum use in its commercial-vehicle fleet — think jeeps and trucks — by 50%. By 2020, the Navy says it will produce at least 50% of shore-based energy from alternative sources, while 50% of Navy installations will be net zero — meaning they'll use no more energy than they produce. Altogether by the end of the decade, 50% of total Navy energy consumption will come from alternative sources.

Going so green won't be easy, though. The Navy has steadily improved the energy efficiency of its onshore facilities — thanks in part to a recent decision to make energy decisions mandatory when awarding contracts for buildings — and has added renewable energy to some of its bases. But just 1% of the energy used by the Navy in 2008 came from renewable sources (though an additional 16% came from carbon-free nuclear, thanks to atomic subs and carriers). And if a new biofuel or other alternative isn't combat-ready, the military isn't going to adopt it just to look green. "We can't operate on ethanol because it doesn't have enough energy density," says Cullom. "You need something that looks and smells and acts like a petroleum equivalent."

Indeed, a report earlier this year from the Rand Corp. argued that the focus on biofuels by the Navy and Air Force was a mistake, and that a quick movement off oil simply wasn't feasible. Perhaps not — but from GPS navigation to the Internet, military R&D has helped lead to breakthroughs in civilian life. There's reason to hope, then, that we could achieve similar successes for energy, particularly since the Navy is already partnering with civilian groups like MIT's Sloan School of Management. "The Navy can be a tremendous resource for the rest of us on this," says Jonathan Lehrich, the director of MIT Sloan's M.B.A. program for executives, which has hosted midcareer Navy officers working on energy policy.

But maybe the best contribution the Navy and the other branches of the military can offer the rest of the country is the willingness to actually do something about energy. At a time when the politics over climate, oil and energy remains deeply polarized in the U.S. — and when much of the Republican Party seems to be dead set against any government action on efficiency or renewables — the Navy is dispensing with the silliness and simply doing it. "We need the sailor on the deck and the Marine on the field to understand why this is important," says Cullom. "That's the biggest piece of this challenge." If they can do it, it seems like the rest of us should be able to fall in line.

#### Solves global order---turns their treaty args

Eaglen and McGrath 11—Mackenzie, Research Fellow for National Security in the Douglas and Sarah Allison Center for Foreign Policy Studies, division of the Institute for International Studies, The Heritage Foundation, Bryan, retired naval officer and the Director of Delex Consulting, "Thinking About a Day without sea power: Implications for US Defense Policy", May 16, Heritage Foundation, <http://www.heritage.org/research/reports/2011/05/thinking-about-a-day-without-sea-power-implications-for-us-defense-policy>

The U.S. Navy’s global presence has added immeasurably to U.S. economic vitality and to the economies of America’s friends and allies, not to mention those of its enemies. World wars, which destroyed Europe and much of East Asia, have become almost incomprehensible thanks to the “nuclear taboo” and preponderant American sea power. If these conditions are removed, all bets are off.

For more than five centuries, the global system of trade and economic development has grown and prospered in the presence of some dominant naval power. Portugal, Spain, the Netherlands, the United Kingdom, and now the U.S. have each taken a turn as the major provider of naval power to maintain the global system. Each benefited handsomely from the investment:

[These navies], in times of peace, secured the global commons and ensured freedom of movement of goods and people across the globe. They supported global trading systems from the age of mercantilism to the industrial revolution and into the modern era of capitalism. They were a gold standard for international exchange. These forces supported national governments that had specific global agendas for liberal trade, the rule of law at sea, and the protection of maritime commerce from illicit activities such as piracy and smuggling.[4]

A preponderant naval power occupies a unique position in the global order, a special seat at the table, which when unoccupied creates conditions for instability. Both world wars, several European-wide conflicts, and innumerable regional fights have been fueled by naval arms races, inflamed by the combination of passionate rising powers and feckless declining powers.

#### Strong naval power puts a lid on conflict---means deterrence solves their impacts

James A. Lyons 13, ret. Navy Admiral, was commander in chief of the U.S. Pacific Fleet and senior U.S. military representative to the United Nations, 1/15/13, “LYONS: ‘Where are the carriers?’,” The Washington Times, http://www.washingtontimes.com/news/2013/jan/15/where-are-the-carriers/#ixzz2NAEedkTg

To keep pressure on and raise the level of deterrence, movement of naval forces, particularly carrier strike groups, must remain unpredictable. In a deteriorating crisis situation, our Navy gains maximum impact by moving the carrier strike group into the crisis area. That sends a special signal of our intent to respond to our potential enemies and to our allies as well. Such a signal has a telling effect on our regional allies and encourages them to employ their air force and naval assets in a coordinated manner, which certainly should raise the deterrent equation.