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#### Diplomatic attempts give Obama momentum for strikes when talks inevitable fail – Congressional approval key to that threat being credible

Davis, 9-12-’13 (Julie, “Hoyer Says Obama Could Strike Syria Without Congress Vote” Bloomberg, http://www.bloomberg.com/news/2013-09-12/hoyer-says-obama-could-strike-syria-without-congress-vote.html)

On Syria, Hoyer said only a brief window exists for Russia to prove that its bid to require Syria to give up its chemical arms stockpile to avert a U.S. military strike is “real” -- “certainly not longer than weeks.” If the effort fails, Hoyer added, Obama’s hand would be strengthened in taking military action if Congress explicitly empowered him to do so**.** “If we passed a resolution, he’d have a stronger hand,” Hoyer said. “But having said that, neither the Russians nor the Syrians ought to conclude that the president is without authority to act.” ‘Extra Mile’ The attempt at a diplomatic solution may also help Obama influence lawmakers to support a military strike, Hoyer said. “People would say, ‘Well, he went the extra mile, he reached out, he took the diplomatic course that people had been urging him to take -- and it didn’t work,’” Hoyer said. “And therefore under those circumstances, the only option available to us to preclude the further use of chemical weapons and to try to deter and degrade Syria’s ability to use them is to act.’” The Senate Foreign Relations Committee approved a resolution authorizing military force against Syria, and the Senate was prepared to vote on the measurer this week. The resolution appeared to face growing House opposition. Then, when the prospect of a negotiated settlement arose, Obama said in a national televised address on Sept. 10 that he was asking Congress to delay voting.

#### Pc key

WSJ 9/8 http://online.wsj.com/article/SB10001424127887324094704579062930548599924.html

WASHINGTON—In a week poised to define his second term, President Barack Obama will mount an intensive campaign to promote a U.S. military strike on Syria as opposition rises in both Congress and across the country.¶ Mr. Obama will make his case repeatedly in coming days to Americans wary of opening a new military front in the Middle East, including in a battery of interviews set for Monday and a nationally televised address Tuesday evening. He also is sending aides to hold closed-door intelligence briefings for members of Congress about the alleged gassing deaths of more than 1,400 Syrian civilians by the forces of President Bashar al-Assad.¶ Mr. Obama's top challenge, as Congress returns Monday from summer recess, will be to find backing from enough lawmakers for a resolution authorizing a strike. He faces an unusual alliance seeking to block military action, one comprised of the president's closest allies among liberal Democrats—including members of the Congressional Black Caucus—and his most strident critics among Republicans.¶ The administration's argument is that the U.S. case that Mr. Assad's forces used chemical weapons in the Aug. 21 attack is now settled—an assertion that Mr. Assad denied in an interview with Charlie Rose of PBS and CBS.¶ ¶ "We are no longer debating whether it happened or whether it didn't happen," White House Chief of Staff Denis McDonough said on CNN, part of a blitz of television interviews Sunday. "Congress has an opportunity this week to answer a simple question: Should there be consequences for him for having used that material?"¶ Mr. Obama will also go to Capitol Hill Tuesday to meet with Senate Democrats, a Senate Democratic aide said.¶ The Senate is expected to vote this week on a resolution authorizing Mr. Obama to use force in Syria. The current resolution, which could be amended, backs a military mission designed, in part, to change the momentum of the Syrian civil war and set the stage for Mr. Assad's departure.¶ But it isn't clear whether Congress—particularly the House, where Mr. Obama faces a more ominous battle—will back such a measure. Many lawmakers have said they oppose the resolution as too broad, and their contention likely was bolstered during the recess as they heard constituents back home voice concern. The House isn't expected to vote before next week.¶ After a week of intense White House lobbying on Capitol Hill following Mr. Obama's surprise decision to seek authorization from Congress for a military strike, some lawmakers say they remain unsure who was responsible for the alleged chemical-weapons attack or remain unconvinced a strike would be the appropriate response.¶ Liberal Democrat Rep. Jim McGovern (D., Mass.) suggested the president withdraw the resolution. "I don't believe the support is there in Congress," he said on CNN.¶ Even those who have said they back a resolution express concern about the president's ability to pull off a successful vote. "It's an uphill slog from here," House Intelligence Committee Chairman Mike Rogers (R., Mich.) said Sunday on CBS, calling the administration's lobbying of lawmakers belated.¶ Mr. Rogers said the president should have called Congress back for a debate over Syria instead of leaving the country for the G-20 meetings last week in Russia. "It's very clear he's lost support in the last week," Mr. Rogers said.¶ White House officials, including Mr. Obama, have argued that if Congress fails to pass a resolution the U.S. will be seen as less credible on the international stage and adversaries such as Iran and the Lebanese-based militant political group Hezbollah would be emboldened.¶ Secretary of State John Kerry, in Paris to build support for strikes on Syria, grabs a seat for a meeting with other U.S. diplomats at the Tuileries Garden.¶ The White House has left open the possibility that Mr. Obama would proceed with military action if a vote in Congress fails. Administration officials also haven't ruled out presidential action if the House and Senate pass different resolutions yet are unable to agree on a compromise measure, but say it is too early to consider such a scenario.¶ Adding to Mr. Obama's challenges, Mr. Assad waded into the debate by denying in the interview with Mr. Rose that he had anything to do with the alleged chemical-weapons attack and saying he didn't even know whether one had taken place.¶ Mr. Assad refused to say whether Syria has chemical weapons, but he said any weapons would be under government control, Mr. Rose said in describing the interview that is scheduled to air Monday. At the same time, Mr. Assad repeated his suggestion that the Syrian opposition may have been behind the alleged attack, a charge the U.S. and opposition leaders deny. Additionally, Mr. Assad suggested there would be a response if the U.S. launches a strike, Mr. Rose said.¶ Part of the White House effort to persuade Congress to approve a strike includes trying to show that the president has a cadre of international support. U.S. Secretary of State John Kerry met with members of the European Union and Arab League over the weekend, and said that both groups support parts of the U.S. position. Neither, however, has explicitly endorsed U.S. military strikes.¶ Many lawmakers returning to Washington will attend their first classified briefings on Syria this week, raising hope among administration officials that intelligence information will sway undecided members. They likely will be shown graphic videos detailing the effects of the alleged chemical attack on victims.¶ Most lawmakers remain publicly undecided, while many Republican lawmakers have said they are leaning toward opposing military action. "The president has not made his case," one of them, Rep. Marsha Blackburn (R., Tenn.) said on CNN.¶ A strike is backed by both House Speaker John Boehner (R., Ohio) and House Majority Leader Eric Cantor (R., Va.).¶ The White House could get another boost from the American Israel Public Affairs Committee, an influential pro-Israel lobbying group that supports Mr. Obama's plans. The group is expected to meet with more than 300 lawmakers this week, according to an AIPAC official.¶ Underscoring the stakes for his presidency, Mr. Obama has done the kind of personal outreach to lawmakers he has been criticized for eschewing since taking office.¶ Administration officials say they have reached out to at least 85 senators and more than 165 House members. Vice President Joe Biden hosted a dinner Sunday night with a group of Republican senators that Mr. Obama attended. On Monday Mr. Kerry, Defense Secretary Chuck Hagel and National Security Adviser Susan Rice are scheduled to brief House members on U.S. intelligence assessments.

#### Plan tanks capital and derails the agenda – empirics prove

Kriner ’10 Douglas L. Kriner, assistant professor of political science at Boston University, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec 1, 2010, page 68-69

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 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 proprieties, 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.

#### Congressional support key to credible US threat of force that stabilizes Syria and maintains US credibility\*\*

Washington Post, 9-9-’13 (“Threat of U.S. strikes needed to change Syria’s behavior” http://articles.washingtonpost.com/2013-09-09/opinions/41898820\_1\_chemical-weapons-government-forces-syrian-foreign-minister)

IT WOULD be wrong to dismiss a potential move by Syria to place its chemical weapons arsenal under international supervision — a possibility that suddenly appeared Monday when a seemingly offhand comment by Secretary of State John F. Kerry was seized upon by Russia. But it also would be foolish to forget how the regime of Bashar al-Assad has used previous diplomatic proposals to stall and sandbag international intervention while continuing to wage a merciless war against its population. If this initiative works, it will happen only because the regime and its patrons in Moscow are made to believe that the alternative is a devastating U.S. military strike. In tossing out the idea at a London news conference, Mr. Kerry said Mr. Assad “could turn over every single bit of his chemical weapons to the international community in the next week” before predicting that “he isn’t about to do it, and it can’t be done.” That was a realistic assessment both of Mr. Assad — who has never made a promise he did not break — and of the potential difficulty of establishing international control over stockpiles scattered across Syria, including at military bases that are crucial to the regime’s war-fighting. Mr. Kerry’s idea — gaffe, some said — was taken up within hours by Russia’s foreign minister, who said Syria should not only place its chemical weapons under international control but also agree to their eventual destruction by signing the treaty that bans them. Soon the U.N.secretary general, the British prime minister and some in Congress had embraced the idea, which the Syrian foreign minister said he “welcomes.” And no wonder: A monitoring plan not only would spare Damascus a U.S. strike that could tip the balance in its civil war but could also allow for endless dickering. Who will the inspectors be? How will they be protected on Syrian military bases? Will the United States be asked to forswear any intervention in the war in exchange? It’s worth remembering that when the United Nations attempted to broker a deal in March 2012, envoy Kofi Annan announced that Mr. Assad had accepted a six-point peace plan, including a cease-fire with U.N. monitors. Syrian forces were to pull back from urban areas, allow humanitarian assistance and begin releasing prisoners. Not one of those terms was respected. Government forces continued their bloody siege of cities such as Homs and Hama. Unable to carry out their mission, the monitors withdrew, and Mr. Annan resigned. There’s only one reason an initiative on chemical weapons might turn out differently: a credible threat of military action by the United States. That makes Congress’s vote on a resolution authorizing force all the more important. If the resolution is approved, the administration will have leverage to push through the Russian proposal. If one or both houses of Congress reject the authorization, the Assad regime can be expected to find a way to reject the deal or dodge compliance indefinitely. Meanwhile, the civil war will go on. Moscow and Damascus may calculate that the Assad regime has a better chance of surviving if both chemical weapons and the possibility of U.S. intervention are taken off the table. But the regime’s prolongation would be a disaster for Syria and U.S. interests in the Middle East. That’s why, whatever the outcome of the chemical-weapons initiative, Mr. Obama should keep his promise to step up support for Syrian rebels.

#### Strikes k/t US-Israel relations

Chicago Tribune 9/11

http://www.chicagotribune.com/news/chi-obama-syria-20130911,0,5719759.story

Israeli Prime Minister Benjamin Netanyahu kept up pressure for action, saying Syria must be stripped of its chemical weapons and that the international community must make sure those who use weapons of mass destruction pay a price.¶ Netanyahu said Syria had carried out a "crime against humanity" by killing innocent civilians with chemical weapons and that Syria's ally Iran, which is at odds with the West over its nuclear program, was watching to see how the world acted.¶ "The message that is received in Syria will be received loudly in Iran," Netanyahu said.

#### Relations prevents WMD war in the Middle East and terrorism.

Kohr 99, 3/4/1999 (Howard A. – Executive Director of American Israel Public Affairs Committee, Before the House Appropriations Committee: Foreign Operations, export Financing and Related Programs Subcommittee, Federal News Service, p. Lexis)

In an increasingly dangerous yet important part of the world, the United States and Israel have forged a unique and remarkable partnership. This relationship is based on a common set of values, a shared commitment to democracy and freedom, and comparable histories of providing safe haven to oppressed peoples. The U.S.-Israel partnership is also based on a staunch commitment to defend the mutual interests of both countries against ever-more ominous threats. Together, our two countries pursue a process of resolving conflicts within the Middle East through negotiations while at the same time maintaining the strongest military forces in the region to prevent aggression and instability. Today, after a half-century of cooperation, the mutual interests of our two countries are once again being challenged. Weapons of mass destruction and the missiles to deliver them are becoming both more sophisticated and more widespread in the Middle East. To destroy the U.S.-sponsored peace process, terrorists are turning to increasingly brazen acts of violence against both American and Israeli targets. Religious extremists aim not only to eliminate Israel but to purge the region of all non-Islamic influences and pro-Western governments. The prospect of these extremists obtaining and using nuclear, chemical, or biological weapons is one of the greatest threats faced by the United States, Israel, and the entire world. These shared threats have led the United States and Israel to unprecedented cooperation in deterring aggression, sharing intelligence and preparing joint defense systems and strategies: - Strategic cooperation--including frequent joint military exercises, ongoing military exchanges, the prepositioning of U.S. military equipment in Israel, and the joint development of some of the world's most advanced weapons systems--helps deter aggression in the Middle East. - In the fight against international terrorism and proliferation of weapons of mass destruction (WMD), cooperation between the United States and Israel is perhaps without parallel. On a daily basis, the two allies exchange information on the whereabouts, organization, and plans of terrorist groups in the Middle East, as well as the political and military activities of the region's hostile states.- Israel serves as another set of"eyes and ears" for the United States. Israel provides vital intelligence on Iran's nuclear and missile programs, Iraq's concealment of vital documents, data, and facilities, and Iran's activities in support of Hezbollah in southern Lebanon, and other terrorist groups throughout the Middle East. - Israel is our most active partner in researching and developing missile defense systems to counter the ballistic missile threat from rogue countries such as Iran.

#### Middle East war causes extinction – nuclear, biological, chemical weapons use and major power draw in

Stirling, 10- Lord Timothy Stirling, B. sc. In Poli Sci, M.A. in European Studies, holds several Scottish/Canadian feudal titles, 4-17-2010, “Jordan's King Warns Mideast War 'Imminent',” Rense, http://www.rense.com/general90/jordd.htm

This is rather frighting information. The Jordanian Royal Family is always well up-to-date on the intelligence of what is happening and about to happen in their "neighborhood". A war against Hezbollah and Lebanon is one of the main scenarios for trigging a war with Iran/General Middle East War/World War III. There are somewhere between 40,000 and 60,000 or so rockets and guided missiles in Lebanon, placed there by Iran and Syria. These are normally under the 'command' of Hezbollah, but in reality are effectively controlled by Iranian and Syrian commanders. These rockets and guided missiles constitute a large percentage of the MAD (mutually assured destruction) strategic counter-force 'throw weight' from the Iranian/Syrian/Hezbollah alliance. Of course, the really 'big guns' are the Iranian Advanced Biological arsenal of genetically engineered viruses and these do not require rockets/missiles for delivery and in fact are a global strategic WMD (weapon of mass destruction) comparable in potential kill levels to global strategic thermonuclear warfare weapons. The large number of 'Hezbollah' rockets/missiles are a grave danger that is specific to Israel. In the Second Lebanon War (which Israel lost), the 'Hezbollah' forces were simply demonstrating their ability to 'deliver ordinance-on-target' over northern Israel using mostly relatively short range unguided rockets and 'dumb' warheads (simple high explosive warheads). Like Saddam Hussein did in the first Gulf War with his Scuds (actually al-Hussein missiles; a modified version of the Scud), the Iranians and Syrians using their Hezbollah proxies, were delivering a warning by firing repeatedly into their enemy. They were demonstrating their ability to hit their enemy but were only, by choice, using low impact 'dumb' high explosive warheads. Saddam held back a force (19 or more) of missiles armed with WMD, which is why we did not 'finish' the war the first time. (It was only after he had denuded himself of his WMD and delivery capabilities that we began the Iraqi War - Second Gulf War). The Iranians and Syrians and their Hezbollah allies/proxies have a considerable selection of WMD available for these 40,000 to 60,000 rockets/missiles (in addition to their Syrian and Iranian based longer range missiles). The WMD can range from FAE (fuel air explosive) warheads (which if fired in a coordinated pattern can lay down a FAE 'brew' over a wide area, such as over a heavily populated urban area) and achieve PSI (pounds per square inch) levels higher than standard NATO tactical nuclear warheads. The WMD can also include chemical warheads of various types. Syria and Iran have one of the largest (if not the largest) joint chemical warfare programs on Earth. Additionally, they can use Advanced Biologically produced biotoxin warheads for a longer lasting chemical war 'effect'. They can also use 'dirty bombs', that is Radiological warheads using things like Cobalt 60 and Strontium 90, which give the 'effect' of radiological fallout without using a nuclear blast. They can also use Radiological weapons encased in an advanced matrix containing hard to remove glue, so that the radioactive particles are glued to buildings, cars, etc., making any decontamination efforts most difficult. The Israelis see these rockets/missiles and their assorted warheads as a grave threat. The Second Lebanon War was planned as the first step in a war against Syria and Iran but the low-cost but powerful AT-14 Russian built and supplied anti-tank missiles proved too much for the IDF armor; the losses were simply too high. This time the IDF will be using different tactics, strategies, and weapons. Both Syria and Lebanon have make it very clear, over the last few months, that any large-scale Israeli attack on Lebanon/Hezbollah will be considered an attack on them and will immediately trigger a regional war with themselves and Israel. They simply cannot allow Israel to destroy the rocket/missile element to their MAD counter-force, as they know that the Syrian and Iranian homelands would be next. So any war on Lebanon/Hezbollah means a General Middle East War from day one. Any Third Lebanon War/General Middle East War is apt to involve WMD on both side quickly as both sides know the stakes and that the Israelis are determined to end, once and for all, any Iranian opposition to a 'Greater Israel' domination of the entire Middle East. It will be a case of 'use your WMD or lose them' to enemy strikes. Any massive WMD usage against Israel will result in the usage of Israeli thermonuclear warheads against Arab and Persian populations centers in large parts of the Middle East, with the resulting spread of radioactive fallout over large parts of the Northern Hemisphere. However, the first use of nukes is apt to be lower yield warheads directed against Iranian underground facilities including both nuclear sites and governmental command and control and leadership bunkers, with some limited strikes also likely early-on in Syrian territory. The Iranians are well prepared to launch a global Advanced Biological Warfare terrorism based strike against not only Israel and American and allied forces in the Middle East but also against the American, Canadian, British, French, German, Italian, etc., homelands. This will utilize DNA recombination based genetically engineered 'super killer viruses' that are designed to spread themselves throughout the world using humans as vectors. There are very few defenses against such warfare, other than total quarantine of the population until all of the different man-made viruses (and there could be dozens or even over a hundred different viruses released at the same time) have 'burned themselves out'. This could kill a third of the world's total population. Such a result from an Israeli triggered war would almost certainly cause a Russian-Chinese response that would eventually finish off what is left of Israel and begin a truly global war/WWIII with multiple war theaters around the world. It is highly unlikely that a Third World War, fought with 21st Century weaponry will be anything but the Biblical Armageddon. The entire World is facing a danger that is much worst than what it faced in the Cuban Missile Crisis of the early 1960s, which came close to going nuclear. At the present time, the AIPAC controlled political class in America is unwilling and seemly unable to mount any opposition to the Israeli drive towards war. This will be a fatal shortcoming that future historians will write about someday, assuming anyone is left to write about it.

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**Politics is Schmittian – congress and courts cannot effectively constrain the executive**

**Vermeule and Posner, 11** – Adrian Vermeule, prof of Law at Harvard University Law School, Eric A Posner., prof of Law at the University of Chicago Law School, Executive Unbound: After the Madisonian Republic, Oxford University Press 2011

Our thesis is that these modifications to liberal legalism fail. Either they do not go far enough to square with the facts, or they go so far as to effec­tively abandon the position they seek to defend. We live in a regime of executive-centered government, in an age after the separation of powers, and the legally constrained executive is now a historical curiosity. As against liberal constitutional theorists like Janies Madison, Bruce Acker­man,1 and Richard Epstein,2 and liberal theorists of the rule of law like ..Albert Venn Dicey3 and David Dyzenhaus,4 we argue that in the modern administrative state the executive governs, subject to legal constraints that are shaky in normal times and weak or nonexistent in times of crisis. Whereas Madison is an exemplar of liberal legalism, particularly in the domain of constitutional theory, we draw upon the thought of the Weimar legal theorist Carl Schmitt. We do not agree with all of Schmitt’s views, by any means. To the. extent Schmitt thought that democratic poli­tics do not constrain the executive, or thought that in the administrative state the executive is not only largely unconstrained by law but also uncon­strained tout court, we disagree. Indeed, to the extent that Schmitt thought this, he fell into a characteristic error of liberal legalism, which equates lack of legal constraint with unbounded power. But Schmitt’s critical arguments against liberal legalism seem to us basically correct, at least when demysti­fied and rendered into suitably pragmatic and institutional terms. A central theme in Schmitt s work, growing outof Weimar’s running economic and security crises in the 1920s and early 1930s, involves the relationship between the classical rule-of-law state, featuring legislative enactment of general rules enforced by courts, and the administrative state, featuring discretionary authority and ad hoc programs, administered by the executive, affecting particular individuals and firms. The nub of Schmitt s view is the idea that liberal lawmaking institutions frame, general norms that are essentially “oriented to the past,” whereas “the dictates of modern interventionist politics cry out for a legal system conducive to a present- and future-oriented ‘steering’ of complex, ever-changing eco­nomic scenarios.”3 Legislatures and courts, then, are continually behind the pace of events in the administrative state; they play an essentially reac­tive and marginal role, modifying and. occasionally blocking executive policy initiatives, but rarely taking the lead. And in crises, the executive governs nearly alone, at least so far as law is concerned. In our view, the major constraints on the executive, especially in crises, do not arise from law or from the separation-of-powers framework defended by liberal legalists, but from politics and public opinion. Law and politics are hard to separate and lie on a continuum—elections, for example, are a complicated mix: of legal rules and political norms—but the poles are clear enough for our purposes, and the main constraints on the executive arise from the political end of the continuum. A central fallacy of liberal legalism, we argue, is the equation of a constrained executive with an executive constrained by law. The pressures of the administrative state loosen legal constraints, causing liberal legalists to develop tyrannophobia, or unjustified fear of dictatorship. They overlook the de facto political con­straints that have grown up and, to some degree, substituted for legal constraints on the executive.6 As the bonds of law have loosened, the bonds of politics have tightened their grip. The executive, “unbound” from the standpoint of liberal legalism, is in some ways more constrained than ever before. We do not claim that these political constraints necessarily cause the executive to pursue the public interest, however defined, or that they pro­duce optimal executive decision-making. We do claim that politics and public opinion at least block the most lurid forms of executive abuse, that courts and Congress can do no better, that liberal legalism goes wrong by assuming that a legally unconstrained executive is unconstrained overall, and that in any event there is no pragmatically feasible alternative to exec­utive government under current conditions. The last point has normative implications, because of the maxim “Ought implies can.” Executive gov­ernment is best in the thin sense that there is no feasible way to improve upon it, under the conditions of the administrative state.

**Legal constraints have grey holes which maintain the façade of constraint that are ineffectual – that makes trust restraints difficult**

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The examples cited in this section suggest not the formation of an utterly lawless regime, but, rather, within an order that continues to understand itself in terms of the categories provided by liberal contractarianism, the more insidious creation, multiplication, and institutionalization of what David Dyzenhaus calls "grey holes." Such holes are "spaces in which there are some legal constraints on executive action...but the constraints are so insubstantial that they pretty well permit government to do as it pleases."40 As such, they are more harmful to the rule of law than are outright dictatorial usurpations, first, because the provision of limited procedural protections masks the absence of any real constraint on executive power; and, second, because location of the authority to create such spaces within the Constitution implies that, in the last analysis, they bear ex ante authorization by the people. When created, in other words, they may receive but they do not require ratification, whether by Congress or by those whom its members are said to represent. What this means in effect is that the second Bush administration has dispensed with Jefferson's stipulation that extra-constitutional executive acts (or, rather, acts that Jefferson deemed to be outside those constitutionally permitted) require ex post facto ratification; and, in addition, that it has dispensed with Locke's contention that, however unlikely, at least in principle, specific exercises of extra-legal prerogative power (or, rather, acts that Locke deemed to be outside those legally permitted) are properly subject to revolutionary rejection. What one finds in the second Bush administration, then, is a denial of both models of accountability, combined with an aggressive commitment to the constitution of a security state that is liberal only in name. As it extends its reach, perfection of that state renders the prospect of popular repudiation of prerogative power ever more chimerical, and, indeed, renders recognition of the problematic character of its exercise ever less likely.

**The alt is to reject the aff in favor of building a culture of resilience**

Vermeule and Posner 11 Adrian Vermeule, prof of Law at Harvard University Law School, Eric A Posner., prof of Law at the University of Chicago Law School, *Executive Unbound: After the Madisonian Republic*, Oxford University Press 2011

We do not yet live under a plebiscitary presidency. In such a system, the president has unchecked legal powers except for the obligation to submit to periodic elections. In our system, Congress retains the formal power to make law. It has subjected presidential lawmaking to complex procedures and bureaucratic checks,1 and it has created independent agencies over which the president in theory has limited control. The fed­eral courts can expect the executive to submit to their orders, and the Supreme Court retains certain quasi-lawmaking powers, which it exercises by striking down statutes and blocking executive actions. The federal system is still in place. State legal institutions retain considerable power over their populations. But these legal checks on executive authority (aside from the electoral constraint) have eroded considerably over the last two hundred years. Congress has delegated extensive powers to the executive. For new initia­tives, the executive leads and Congress follows. Congress can certainly slow down policymaking, and block bills proposed by the executive; but it cannot set the agenda. It is hard to quantify the extent of congressional control over regulatory agencies, but it is fair to say that congressional intervention is episodic and limited, while presidential control over both the executive and independent agencies is strong and growing stronger. The states increasingly exercise authority at the sufferance of the national government and hence the president. The federal courts have not tried to stop the erosion of congressional power and state power. Some commentators argue that the federal courts have taken over Con­gress’s role as an institutional check. It is true that the Supreme Court has shown little compunction about striking down statutes (although usually state statutes), and that it rejected some of the legal theories that the Bush administration used to justify its counterterrorism policies. However, the Court remains a marginal player. The Court ducked any legal rulings on counterterror policies until the 2004 Hamdi decision, and even after the Boumediene decision in 2008, no detainee has been released by final judicial order, from Guantanamo or elsewhere, except in cases where the government chose not to appeal the order of a district judge. The vast majority of detainees have received merely another round of legal process. Some speculate that judicial threats to release detainees have caused the administration to release them preemptively. Yet the judges would incur large political costs for actual orders to release suspected terrorists, and the government knows this, so it is unclear that the government sees the judi­cial threats as credible or takes them very seriously. The government, of course, has many administrative and political reasons to release detainees, quite apart from anything the courts do. So the executive submits to judi­cial orders in part because the courts are careful not to give orders that the executive will resist. In general, judicial opposition to the Bush administration’s counterter­rorism policies took the form of incremental rulings handed down at a gla­cial pace, none of which actually stopped any of the major counterterrorism tactics of that administration, including the application of military power against Al Qaeda, the indefinite detention of members of Al Qaeda, tar­geted assassinations, the immigration sweeps, even coercive interrogation. The (limited) modifications of those tactics that have occurred resulted not from legal interventions but from policy adjustments driven by changed circumstances and public opinion, and by electoral victory of the Obama administration. However, the Obama administration has mostly confirmed and in some areas even expanded the counterterrorism policies of the Bush administration. Strong executive government is bipartisan. The 9/11 attack provided a reminder of just how extensive the presi­dent’s power is. The executive claimed the constitutional authority to, in effect, use emergency powers. Because Congress provided redundant stat­utory authority, and the Supreme Court has steadfastly refused to address the ultimate merits of the executives constitutional claims, these claims were never tested in a legal or public forum. But it is worth trying to ima­gine what would have happened if Congress had refused to pass the Autho­rization for Use of Military Force and the Supreme Court had ordered the executive to release detainees in a contested case. We think that the execu­tive, backed up as it was by popular opinion, would have refused to obey. And, indeed, for just that reason, Congress would, never have refused its imprimatur and the Supreme Court would never have stood in the execu­tive’s way. The major check on the executives power to declare an emer­gency and to use emergency powers is—political. The financial crisis of 2008-2009 also revealed the extent of executive power. Acting together, the Fed, the Treasury, and other executive agencies spent hundreds of billions of dollars, virtually nationalizing parts of the financial system. Congress put up a fuss, but it could not make policy and indeed hardly even influenced policy. Congress initially refused to supply a blank check, then in world-record time changed its mind and gave the blank check, then watched helplessly as the administration adopted pol­icies different from those for which it said the legislation would be needed. Courts played no role in the crisis except to ratify executive actions in tension with the law.2 What, then, prevents the executive from declaring spurious emergencies and using the occasion to consolidate its power—or for that matter, consolidating its power during real emergencies so that it retains that power even after normal times return? In many countries, notably in Latin America, presidents have done just that. Citing an economic crisis, or a military threat, or congressional gridlock, executives have shut down independent media, replaced judges with their cronies, suppressed political opposition, and ruled by dictate. Could this happen in the United States? The answer is, very probably, no. The political check on the executive is real. Declarations of emergency not justified by publicly visible events would be met with skepticism. Actions said, to be justified by emergency would not be approved if the justification were not plausible. Separation of powers may be suffering through an enfeebled old age, but electoral democracy is alive and well. We have suggested that the historical developments that have under­mined separation of powers have strengthened democracy. Consider, for example, the communications revolution, which has culminated (so far) in the Internet Age. As communication costs decrease, the size of markets expand, and hence the scale of regulatory activity must increase. Localities and states lose their ability to regulate markets, and the national govern­ment takes over. Meanwhile, reduced communication costs increase the relative value of administration (monitoring firms and ordering them to change their behavior) and reduce the relative value of legislation (issuing broad-gauged rules), favoring the executive over Congress. At the same time, reduced communication costs make it easier for the public to mon­itor the executive. Today, whistleblowers can easily find an audience on the Internet,; people can put together groups that focus on a tiny aspect of the government s behavior; gigabytes of government data are uploaded onto the Internet and downloaded by researchers who can subject them to rigorous statistical analysis. It need not have worked out this way. Govern­ments can also use technology to monitor citizens for the purpose of suppressing political opposition. But this has not, so far, happened in the United States. Nixon fell in part because his monitoring of political enemies caused an overwhelming political backlash, and although the Bush administration monitored suspected terrorists, no reputable critic suggested that it targeted domestic political opponents. Our main argument has been methodological and programmatic: researchers should no longer view American political life through the Madisonian prism, while normative theorists should cease bemoaning the decline of Madisonianism and instead make their peace with the new political order. The center of gravity has shifted to the executive, which both makes policy and administers it, subject to weak constraints imposed by Congress, the judiciary, and the states. It is pointless to bewail these developments, and futile to argue that Madisonian structures should be reinvigorated. Instead, attention should shift to the political constraints on the president and the institutions through, which those political con­straints operate—chief among them elections, parties, bureaucracy, and the media. As long as the public informs itself and maintains a skeptical attitude toward the motivations of government officials, the executive can operate effectively only by proving over and over that it deserves the public s trust. The irony of the new political order is that the executive, freed from the bonds of law, inspires more distrust than in the past, and thus must enter ad hoc partnerships with political rivals in order to persuade people that it means well. But the new system is more fluid, allowing the executive to form those partnerships when they are needed to advance its goals, and not otherwise. Certain types of partnership have become recurrent pat­terns—for example, inviting a member of the opposite party to join the president’s cabinet. Others are likely in the future. In the place of the clockwork mechanism bequeathed to us by the Enlightenment thinking of the founders, there has emerged a more organic system of power sharing and power constraint that depends on shifting political alliances, currents of public opinion, and the particular exigencies that demand government action. It might seem that such a system requires more attention from the public than can reasonably be expected, but the old system of checks and balances always depended on public opinion as well. The centuries-old British parliamentary system, which operated in. just this way, should provide reason, for optimism. The British record on executive abuses, although hardly perfect, is no worse than the American record and arguably better, despite the lack of a Madisonian separation of legislative and executive powers

# 1NC

#### The Executive Branch of the United States should create “executive v. executive” divisions as per our Katyal evidence to promote internal separation of powers via separate and overlapping cabinet offices, mandatory review of government action by different agencies, civil-service protections for agency workers, reporting requirements to Congress, and an impartial decision-maker to resolve inter-agency conflicts.

#### Presidential veto power and executive deference mean external restraints fail – internal separation of powers constrains the president and leads to better decision making

Katyal ’6 Neal Katyal, Professor of Law @ Georgetown, The Yale Law Journal, “Internal Separation of Powers: Checking Today’s Most Dangerous Branch from Within” 115 Yale L.J. 2314, 2006

After all, Publius's view of separation of powers presumes three branches with equivalent ambitions of maximizing their powers, yet legislative abdication is the reigning modus operandi. It is often remarked that "9/11 changed everything"; 2 particularly so in the war on terror, in which Congress has been absent or content to pass vague, open-ended statutes. The result is an executive that subsumes much of the tripartite structure of government. Many commentators have bemoaned this state of affairs. This Essay will not pile on to those complaints. Rather, it begins where others have left off. If major decisions are going to be made by the President, then how might separation of powers be reflected within the executive branch? The first-best concept of "legislature v. executive" checks and balances must be updated to contemplate second-best "executive v. executive" divisions. And this Essay proposes doing so in perhaps the most controversial area: foreign policy. It is widely thought that the President's power is at its apogee in this arena. By explaining the virtues of internal divisions in the realm of foreign policy, this Essay sparks conversation on whether checks are necessary in other, domestic realms. That conversation desperately needs to center on how best to structure the ever-expanding modern executive branch. From 608,915 employees working in agencies in 1930, 3 to 2,649,319 individuals in 2004, 4 the growth of the executive has not generated a systematic focus on internal checks. We are all fond of analyzing checks on judicial activism in the post-Brown, post-Roe era. So too we think of checks on legislatures, from the filibuster to judicial review. But [\*2317] there is a paucity of thought regarding checks on the President beyond banal wishful thinking about congressional and judicial activity. This Essay aims to fill that gap. A critical mechanism to promote internal separation of powers is bureaucracy. Much maligned by both the political left and right, bureaucracy creates a civil service not beholden to any particular administration and a cadre of experts with a long-term institutional worldview. These benefits have been obscured by the now-dominant, caricatured view of agencies as simple anti-change agents. This Essay celebrates the potential of bureaucracy and explains how legal institutions can better tap its powers. A well-functioning bureaucracy contains agencies with differing missions and objectives that intentionally overlap to create friction. Just as the standard separation-of-powers paradigms (legislature v. courts, executive v. courts, legislature v. executive) overlap to produce friction, so too do their internal variants. When the State and Defense Departments have to convince each other of why their view is right, for example, better decision-making results. And when there is no neutral decision-maker within the government in cases of disagreement, the system risks breaking down. In short, the executive is the home of two different sorts of legitimacy: political (democratic will) and bureaucratic (expertise). A chief aim of this Essay's proposal is to allow each to function without undermining the other. This goal can be met without agency competition - overlapping jurisdiction is simply one catalyzing agent. Other ideas deserve consideration, alongside or independent of such competition, such as developing career protections for the civil service modeled more on the Foreign Service. Executives of all stripes offer the same rationale for forgoing bureaucracy-executive energy and dispatch. 5 Yet the Founders assumed that massive changes to the status quo required legislative enactments, not executive decrees. As that concept has broken down, the risks of unchecked executive power have grown to the point where dispatch has become a worn-out excuse for capricious activity. Such claims of executive power are not limited to the current administration, nor are they limited to politicians. Take, for example, Dean Elena Kagan's rich celebration of presidential administration. 6 Kagan, herself a former political appointee, lauded the President's ability to trump bureaucracy. Anticipating the claims of the current administration, Kagan argued that the [\*2318] President's ability to overrule bureaucrats "energizes regulatory policy" because only "the President has the ability to effect comprehensive, coherent change in administrative policymaking." 7 Yet it becomes clear that the Kagan thesis depends crucially on oversight by the coordinate legislative branch (typically controlled by a party in opposition to the President). Without that checking function, presidential administration can become an engine of concentrated power. This Essay therefore outlines a set of mechanisms that create checks and balances within the executive branch. The apparatuses are familiar - separate and overlapping cabinet offices, mandatory review of government action by different agencies, civil-service protections for agency workers, reporting requirements to Congress, and an impartial decision-maker to resolve inter-agency conflicts. But these restraints have been informally laid down and inconsistently applied, and in the wake of September 11 they have been decimated. 8 A general framework statute is needed to codify a set of practices. In many ways, the status quo is the worst of all worlds because it creates the facade of external and internal checks when both have withered. I. THE NEED FOR INTERNAL SEPARATION OF POWERS The treacherous attacks of September 11 gave Congress and the President a unique opportunity to work together. Within a week, both houses of Congress passed an Authorization for Use of Military Force (AUMF); 10 two months later they enacted the USA PATRIOT Act to further expand intelligence and law enforcement powers. 11 But Congress did no more. It passed no laws authorizing or regulating detentions for U.S. citizens. It did not affirm or regulate President Bush's decision to use military commissions to try unlawful belligerents. 12 It stood silent when President Bush accepted thinly reasoned legal views of the Geneva Conventions. 13 The administration was content to rely on vague legislation, and Congress was content to enact little else. 14 There is much to be said about the violation of separation of powers engendered by these executive decisions, but for purposes of this Essay, I want [\*2320] to concede the executive's claim - that the AUMF gave the President the raw authority to make these decisions. A democratic deficit still exists; the values of divided government and popular accountability are not being preserved. Even if the President did have the power to carry out the above acts, it would surely have been wiser if Congress had specifically authorized them. Congress's imprimatur would have ensured that the people's representatives concurred, would have aided the government's defense of these actions in courts, and would have signaled to the world a broader American commitment to these decisions than one man's pen stroke. Of course, Congress has not passed legislation to denounce these presidential actions either. And here we come to a subtle change in the legal landscape with broad ramifications: the demise of the congressional checking function. The story begins with the collapse of the nondelegation doctrine in the 1930s, which enabled broad areas of policymaking authority to be given to the President and to agencies under his control. That collapse, however, was tempered by the legislative veto; in practical terms, when Congress did not approve of a particular agency action, it could correct the problem. But after INS v. Chadha, 15 which declared the legislative veto unconstitutional, that checking function, too, disappeared. In most instances today, the only way for Congress to disapprove of a presidential decree, even one chock full of rampant lawmaking, is to pass a bill with a solid enough majority to override a presidential veto. The veto power thus becomes a tool to entrench presidential decrees, rather than one that blocks congressional misadventures. And because Congress ex ante appreciates the supermajority-override rule, its members do not even bother to try to check the President, knowing that a small cadre of loyalists in either House can block a bill. 16 For example, when some of the Senate's most powerful Republicans (John McCain, Lindsay Graham, and John Warner) tried to regulate detentions and trials at Guantanamo Bay, they were told that the President would veto any attempt to modify the AUMF. 17 The result is that once a court [\*2321] interprets a congressional act, such as the AUMF, to give the President broad powers, Congress often cannot reverse the interpretation, even if Congress never intended to give the President those powers in the first place. Senator McCain might persuade every one of the other ninety-nine Senators to vote for his bill, but that is of no moment without a supermajority in the House of Representatives as well. 18 At the same time, the executive branch has gained power from deference doctrines that induce courts to leave much conduct untouched - particularly in foreign affairs. 19 The combination of deference and the veto is especially insidious - it means that a President can interpret a vague statute to give himself additional powers, receive deference in that interpretation from courts, and then lock that decision into place by brandishing the veto. This ratchet-and-lock scheme makes it almost impossible to rein in executive power. All legislative action is therefore dangerous. Any bill, like Senator McCain's torture bill, can be derailed through compromise. A rational legislator, fearing this cascading cycle, is likely to do nothing at all. This expansion of presidential power is reinforced by the party system. When the political branches are controlled by the same party, loyalty, discipline, and self-interest generally preclude interbranch checking. That reluctance is exacerbated by a paucity of weapons that check the President. Post-Chadha, Congress only has weapons that cause extensive collateral damage. The fear of that damage becomes yet another reason why Congress is plagued with inertia. And the filibuster, the last big check in periods of single-party government, is useless against the host of problems caused by Presidents who take expansive views of their powers under existing laws (such as the AUMF). Instead of preserving bicameralism, Chadha has led to its subversion and "no-cameralism." A Congress that conducts little oversight provides a veneer of legitimacy to an adventurist President. The President can appeal to the historic sense of checks and balances, even if those checks are entirely compromised by modern political dynamics. With this system in place, it is no surprise that recent calls [\*2322] for legislative revitalization have failed. No successful action-forcing mechanisms have been developed; instead we are still in John Hart Ely's world of giving a "halftime pep-talk imploring that body to pull up its socks and reclaim its rightful authority." 20 It is time to consider second-best solutions to bring separation of powers into the executive. Bureaucracy can be reformed and celebrated (instead of purged and maligned), and neutral conflict-decision mechanisms can be introduced. Design choices such as these can help bring our government back in line with the principles envisioned by our Founders. 21

# 1NC

#### Civilian interference causes backlash from the military

**Urben, 10 –** (Heidi, PhD from Georgetown, “CIVIL - MILITARY RELATIONS IN A TIME OF WAR : PARTY, POLITICS, AND THE PROFESSION OF ARMS,” <http://repository.library.georgetown.edu/bitstream/handle/10822/553111/urbenHeidi.pdf>)

Huntington’s model of objective control (1957) largely provides the foundation for one side of the debate what Cohen (2002) calls ―the normal theory‖ of civil military relations and what Feaver has termed the ―professional supremacist‖ (2010) school of thought or delegative control model (1995). Under Huntington’s objective control, the military and its civilian overseers maintain distinct, separate spheres of responsibility. The military is a professional force because it remains ―politically sterile and neutral‖ (1957, 84). And because the military is a professional, apolitical force, and civilian control of the military should never be in doubt, this model suggests that considerable deference should be given to military leaders in their realm of expertise. Professional supremacist or normal theory adherents often include senior and retired military leaders, such as Colin Powell, and its tenets are largely borne out of the lessons learned from the Vietnam War. In Michael Desch’s words, this system works best as it ― allows for substantial military autonomy in the military, technical, and tactical realms (how to fight wars) in return for complete subordination to civ ilian authority in the political realm (when and if to fight them)‖ (Myers et al. 2007). Professional surpemacists also attribute civil - military friction and even wartime failures to violations of the normal theory model. For example, Desch (2007) has argued that many of the failures in the Iraq war were a result of Secretary of Defense Donald Rumsfeld’s abrasive approach and meddling into the military’s business. Key to the normal theory or professional supremacist view is the need to maintain Hunting ton’s separate spheres and preserve the military’s autonomy over military matters. Civilian interference into the military’s domain, they argue, will almost surely lead to dysfunction

#### Backlash from the military causes them to “shirk” – turns the case by swelling executive military power and destroys civilian control

**Gurcan, 12 –** (Metin, PhD CandidateBilkent University- Department of Political Science, ARMED SERVANTS: AGENCY, OVERSIGHT AND CIVIL-MILITARY RELATIONS,” Academia)

Employing “principal-agent theory” from economics, Feaver endavours to explain how principals (elected civilian leaders in our case) gets the agent (the military) carry out orders, using the degree of monitoring as the variable. According to him, the main problem of CMR in mature democracies is a military that “shirks.” Based on their expectations of whether shirking will be detected or not, the military decides whether to obey the civilian leaders or not. These expectations, for Feaver, are a function of many factors, the primary of which is the cost of monitoring. In fact, for the military, the outcome of working with non-intrusive monitoring (the cases of 1 and 3 correspond to Huntington’s prescription of “objective control,” which can only be established by recognizing an autonomous, politically neutral and sterile military through professionalization. Likewise, the case of 2 is the Huntington’s nightmare scenario that implies the systemic violation of the autonomy of professional the “” military by the civilians. It is case 4, characterized by relatively high civil-military friction, the gap of which is filled by Feaver’s theory. Feaver uses the term “shirking” to refer to activities of militaries that are contrary to the “functional goal” or the “relational goal” of civilians. The functional goal includes whether the military is doing what civilians asked it to do in a style that civilians direct, whether the military is using its full capacity to implement the civilians’ orders and whether the military is capable of implementing its tasks. As for the relational goal, it includes whether key policy decisions belong to civilians or the military, whether civilians decide which decisions should be given by the military, and whether the military avoids any action that may undermine civilian supremacy. Feaver presents some features (or problems) that have important influences on principal-agent relationships. First of all, there is an information asymmetry between the principal and the agent. In the CMR, the advantage of information is on the side of the military. As stated by Feaver, in the case of operations and war, the information asymmetry increases in favor of the military because of difficulties in monitoring . Moreover, confidentiality restrictions that are common in defense matters reinforce the tendency of the military to hide information. Information asymmetry provides the military important power to pursue its own institutional interests. Second, adverse selection is one of the main problems of principal-agency relations. According to Feaver, adverse selection is the uncertainty of principal about the capability and qualifications of its agents . The final problem is moral hazard. In Feaver’s words, “moral hazard refers at a general level to the problem that principals cannot completely observe the true behavior of the agent and so cannot be certain whether the agent is working or shirking .” As stated by Feaver, agents or employees have incentives to do less, if they can get paid the same amount for doing so . Moreover, Feaver presents two main requirements to prevent the military from shirking: monitoring mechanisms and punishment mechanisms. He states that “Civilians still have means available with which to direct the military and thereby mitigate the adverse selection and moral hazard problems inherent in delegation. In essence, control or monitoring mechanisms are ways of overcoming the information problems perhaps by getting the agent to reveal information or perhaps by adjusting the incentives of the agent so that the principal can ‘know’ that the agent wants what the principal wants.”

**Civilian control and cooperation between the two is necessary for have an effective military which solves a host of problems**

**Owens, 12 –** (Mackubin, Associate Dean of Academics for Electives and Directed Research and Professor of Strategy and Force Planning at the U.S. Naval War College, “What military officers need to know about civil-military relations,” <http://www.thefreelibrary.com/What+military+officers+need+to+know+about+civil-military+relations.-a0287635112>)

The combination of civil-military relations patterns and service doctrines affect military effectiveness. In essence, the ultimate test of a civil-military relations pattern is how well it contributes to the effectiveness of a state's military, especially at the level of strategic assessment and strategy making. (50) However, Richard Kohn has explicitly called into question the effectiveness of the American military in this realm, especially with regard to the planning and conduct of operations other than those associated with large-scale conventional war. "Nearly twenty years after the end of the Cold War, the American military, financed by more money than the entire rest of the world spends on its armed forces, failed to defeat insurgencies or fully suppress sectarian civil wars in two crucial countries, each with less than a tenth of the U.S. population, after overthrowing those nations' governments in a matter of weeks." (51) He attributes this lack of effectiveness to a decline in the military's professional competence with regard to strategic planning. "In effect, in the most important area of professional expertise--the connecting of war to policy, of operations to achieving the objectives of the nation--the American military has been found wanting. The excellence of the American military in operations, logistics tactics, , weaponry, and battle has been manifest for a generation or more. Not so with strategy." (52) This phenomenon manifests itself, he argues, in recent failure to adapt to a changing security environment in which the challenges to global stability are "less from massed armies than from terrorism; economic and particularly financial instability; failed states; resource scarcity (particularly oil and potable water); pandemic disease; climate change; and international crime in the form of piracy, smuggling, narcotics trafficking, and other forms of organized lawlessness." He observes that this decline in strategic competence has occurred during a time in which the U.S. military exercises enormous influence in the making of foreign and national security policies. He echoes the claim of Colin Gray: "All too often, there is a black hole where American strategy ought to reside." (53) Is there something inherent in current U.S. civil-military affairs that accounts for this failure of strategy? The failure of American civil-military relations to generate strategy can be attributed to the confluence of three factors. The first of these is the continued dominance within the American system of what Eliot Cohen has called the "normal" theory of civil-military relations, the belief that there is a clear line of demarcation between civilians who determine the goals of the war and the uniformed military who then conduct the actual fighting. Until President George W. Bush abandoned it when he overruled his commanders and embraced the "surge" in Iraq, the normal theory has been the default position of most presidents since the Vietnam War. Its longevity is based on the idea that the failure of Lyndon Johnson and Robert McNamara to defer to an autonomous military realm was the cause of American defeat in Vietnam. The normal theory can be traced to Samuel Huntington's The Soldier and the State, in which he sought a solution to the dilemma that lies at the heart of civil-military relations--how to guarantee civilian control of the military while still ensuring the ability of the uniformed military to provide security. His solution was a mechanism for creating and maintaining a professional, apolitical military establishment, which he called "objective control." Such a professional military would focus on defending the United States but avoid threatening civilian control. (54) But as Cohen has pointed out, the normal theory of civil-military relations often has not held in practice. Indeed, such storied democratic war leaders as Winston Churchill and Abraham Lincoln "trespassed" on the military's turf as a matter of course, influencing not only strategy and operations but also tactics. The reason that civilian leaders cannot simply leave the military to its own devices during war is that war is an iterative process involving the interplay of active wills. What appears to be the case at the outset of the war may change as the war continues, modifying the relationship between political goals and military means. The fact remains that wars are not fought for their own purposes but to achieve policy goals set by the political leadership of the state. The second factor, strongly reinforced by the normal theory of civil-military relations, is the influence of the uniformed services' organizational cultures. Each military service is built around a "strategic concept" that, according to Samuel Huntington, constitutes "the fundamental element of a military service," the basic "statement of [its] role ... or purpose in implementing national policy." (55) A clear strategic concept is critical to the ability of a service to organize and employ the resources that Congress allocates to it. It also largely determines a service's organizational culture. Some years ago, the late Carl Builder of the RAND Corporation wrote The Masks of War, in which he demonstrated the importance of the organizational cultures of the various military services in creating their differing "personalities," identities, and behaviors. His point was that each service possesses a preferred way of fighting and that "the unique service identities ... are likely to persist for a very long time." (56)

# \*\*\*Case

# Restraint

#### Aff can’t solve what their authors call for

#### Farley-

to the extent that any regulation of drone warfare is likely, it will come through treaties limiting how drones are used. Such a treaty would require either deep concern on the part of the major powers that advances in drone capabilities threatened their interests and survival, or widespread revulsion among the global public against the practice of drone warfare.

Even if US complies with I-law, they don’t have ev that creates a legal norm or international treaty- states will always act in their best interest, especially if it means they can one up the US

#### Plan can’t solve- US claims to follow I-law now

International Crisis Group 13 Drones: Myths and Reality in Pakistan Asia Report N°247 | 21 May

While John Brennan has asserted that all U.S. drone strikes respect principles of distinction, proportionality, necessity and humanity,110 the U.S. government’s expansive approach in apparent practice threatens to render the protections they confer meaningless. This will continue until there is a rigorous, publicly-defined legal framework for the use of drones that sets out clear roles for the executive, legislative and judicial branches and provides for adequate judicial and congressional oversight.

#### Can’t solve China- if China thinks their national interests are at stake they will certainly use drones no matter what and say it fits into a threat of imminence and proportionality compliant with I-law

**no china-japan conflict**

**Moss, 2/8 –** (Trefer, Asian Politics Writer, “7 Reasons China and Japan Won’t Go To War,” <http://thediplomat.com/2013/02/08/7-reasons-china-and-japan-wont-go-to-war/2/?all=true>)

1. Beijing’s nightmare scenario. China might well win a war against Japan, but defeat would also be a very real possibility. As China closes the book on its “century of humiliation” and looks ahead to prouder times, the prospect of a new, avoidable humiliation at the hands of its most bitter enemy is enough to persuade Beijing to do everything it can to prevent that outcome (the surest way being not to have a war at all). Certainly, China’s new leader, Xi Jinping, does not want to go down in history as the man who led China into a disastrous conflict with the Japanese. In that scenario, Xi would be doomed politically, and, as China’s angry nationalism turned inward, the Communist Party probably wouldn’t survive either.

**No China war**

Robert J. Art, Fall 2010 Christian A. Herter Professor of International Relations at Brandeis University and Director of MIT's Seminar XXI Program The United States and the rise of China: implications for the long haul Political Science Quarterly 125.3 (Fall 2010): p359(33)

The workings of these three factors should make us cautiously optimistic about keeping Sino-American relations on the peaceful rather than the warlike track. The peaceful track does not, by any means, imply the absence of political and economic conflicts in Sino-American relations, nor does it foreclose coercive diplomatic gambits by each against the other. What it does mean is that the conditions are in place for war to be a low-probability event, if policymakers are smart in both states (see below), and that an all-out war is nearly impossible to imagine. By the historical standards of recent dominant-rising state dyads, this is no mean feat. In sum, there will be some security dilemma dynamics at work in the U.S.-China relationship, both over Taiwan and over maritime supremacy in East Asia, should China decide eventually to contest America's maritime hegemony, and there will certainly be political and military conflicts, but nuclear weapons should work to mute their severity because the security of each state's homeland will never be in doubt as long as each maintains a second-strike capability vis-a-vis the other. If two states cannot conquer one another, then the character of their relation and their competition changes dramatically. These three benchmarks--China's ambitions will grow as its power grows; the United States cannot successfully wage economic warfare against a China that pursues a smart reassurance (peaceful rise) strategy; and Sino-American relations are not doomed to follow recent past rising-dominant power dyads--are the starting points from which to analyze America's interests in East Asia. I now turn to these interests.

# 1NC Pakistan

**No chance of a taliban takeover of pakistan – multiple warrants**

[**Arnoldy**](http://www.csmonitor.com/About/Contact/Staff-Writers/Ben-Arnoldy) **09** - (Ben, Staff writer June 7, 2009 “Why the Taliban Won’t Takeover Pakistan” <http://www.csmonitor.com/World/Asia-South-Central/2009/0607/p06s07-wosc.html/%28page%29/4> )

Islamabad, Pakistan

It has become the statistic heard round the world. The Taliban are within 60 miles of Islamabad. Just 60 miles. Every dispatch about the insurgents' recent advance into the Pakistani district of Buner carried the ominous number.

Washington quivered, too. A top counterinsurgency expert, David Kilcullen, reiterated that Pakistan could collapse within six months. Secretary of State Hillary Rodham Clinton said flatly if the country were to fall, the Taliban would have the "keys to the nuclear arsenal." On a visit to Islamabad, Sen. John Kerry – the proctor of $7.5 billion in Pakistani aid as head of the Senate Foreign Relations Committee – warned bluntly: "The government has to ratchet up the urgency."

The Pakistani military did launch a major counteroffensive that has sent 2 million people fleeing their homes. For now, both the US and many Pakistanis appear to be relieved that the military has drawn a line at least somewhere, in this case in the fruit orchards of the Swat Valley and the city of Mingora, north of Islamabad.

Yet Pakistani analysts and officials here caution that the casus belli of all the commotion – the infamous 60 miles and the threat of an imminent Taliban takeover – is overblown. The Visigoths are not about to overrun the gates of Rome. Bearded guys with fistfuls of AK-47s are not poised to breeze into Islamabad on the back of white Toyota pickups.

True, the Taliban threat remains serious. By one estimate, the militants maintain a presence in more than 60 percent of northwestern Pakistan and control significant sections along the Afghan border. Moreover, the possibility of the insurgents one day getting their hands on nuclear material remains the ultimate horror – it would probably be more ominous than the Cuban missile crisis.

But experts note that, even if the current operation by the Pakistani military stalls, or the Taliban return to areas they've been ousted from, the insurgents may not significantly expand their footprint in the country anytime soon. For reasons of geography, ethnicity, military inferiority, and ancient rivalries, they represent neither the immediate threat that is often portrayed nor the inevitable victors that the West fears.

"The Americans have become paranoid about Pakistan," says Talat Masood, a retired Pakistani military general. "They are losing their objectivity, and I think they need a reality check."

TAKE OUT YOUR MAPS

A planned city built in the 1960s, Islamabad is a strikingly modern South Asian metropolis. Broad streets lie along a spacious, uncluttered grid filled with trees. Nearby, its sister city, Rawalpindi, is more a reflection of old Pakistan but serves as its protectorate: It is the headquarters of the world's seventh-largest army.

One of the biggest houses in "Pindi" goes to the chief of Army staff. Clustered near the military compound are tony neighborhoods where retired generals live. Colonels, majors, and businessmen mingle in upper-middle-class enclaves, and farther away rise the starter homes of the lieutenants.

The elite area features a commercial center with a movie theater showing, at the moment, "Fast & Furious IV," as well as a big-box store and a McDonald's. Sitting on a bench, a young Pakistani businessman dressed in jeans laughs at the question of a Taliban takeover. "No," says Omar Ali with incredulity. "Do you think the Taliban are going to take over Washington?"

If it sounds as if Mr. Ali lives in a world far removed from the Taliban, it's because he does, literally and figuratively. The drive from McDonald's to the mountain hamlets of Buner, where the Taliban are trying to gain a sandal hold, takes about four hours. It may be 60 miles as the drone flies, but it's double that by pickup truck.

The M1 Motorway heading out of the capital starts like an American Interstate highway – three divided lanes in each direction, manicured on and off ramps. Take an exit toward Buner and soon the pavement grows intermittent, as does the sight of any women in public view.

Eventually, a bridge spans the rock-strewn Indus River. Historically, this has marked a significant divide – and serves as a reminder of how geography and history intrude on the Taliban. "West of the Indus [versus] East of the Indus – the cultures, attitudes, and linkages with Afghanistan are very different," says General Masood.

West was frontier and Pakistan still calls it that: the North West Frontier Province. In this direction, the land rises toward Afghanistan, and the lives get harder as mountains tear apart arable land and communities divide into insulated tribes.

The worldview of the Taliban comes from West of the Indus. For them, the plains represent exposure. "The Taliban have been able to operate in certain [mountainous areas] because of the terrain and the sympathy factor," says Rifaat Hussain, a military expert at Quaid-i-Azam University in Islamabad. "But the moment they begin to move out of the hideouts, they are exposed. If you have 100 truckloads of Taliban on the Peshawar Highway, all you need is two helicopter gunships" to wipe them out.

Coming down from the hills also would expose the Taliban to a more secular, urban world that views their way of life as something on the cover of National Geographic. Or, as a colleague of Professor Hussain puts it: "They are a bunch of mountain barbarians."

THE ETHNIC FIRE WALL

One area halfway between Islamabad and Taliban country looks like the California Central Valley, with donkey carts. The roads in the area, the Haripur district, are lined with eucalyptus trees, agricultural fields tumble off in the distance, and brickmaking kilns puff smoke from stout stacks.

The Taliban have threatened to come to this area to free comrades held in prison. As a result, officials mobilized extra security forces and intensified intelligence activity. But Haripur's best defenses lie with the people. "There is absolutely no support for Taliban in this district," says Yousaf Ayub Khan, Haripur's nazim, or ruler. The main reason: This is non-Pashto country.

More than 90 percent of residents speak Hindko, as opposed to Pashto, the language of the Pashtun people – and the Taliban. It's a common saying these days in Pakistan that all Taliban are Pashtuns, but not all Pashtuns are Taliban.

Haripur sits along a vast ethnic fire wall against further Taliban conquests. To the north and west are Pashtun lands, to the east and south – toward Islamabad – other groups dominate. "Pashtun areas have always been very conservative and religious, so they become easy prey," says the nazim, who also happens to be Pashtun. "People are docile here [and] their thinking is more toward Islamabad."

The grievances that the Taliban exploit, such as unemployment and tribal feudalism, don't exist as much here. Schools poke out from nearly every alley of Haripur city, and the district – with more than 1,000 private academies – is among the most educated in the country. Lush farmland and an industrial center support relative prosperity.

There are limits to the ethnic fire wall, of course. Ahmed Rashid, author of "Descent into Chaos," suggests the Taliban enjoy support in the Punjab region – Pakistan's heartland – among jihadi groups originally fighting in Kashmir. Moreover, many Pashtun refugees, including those displaced by the latest fighting, exist in places as far away as Karachi, the nation's financial center.

On the edge of Haripur, two camps house refugees who fled the 1979 Soviet invasion of Afghanistan. After three decades, the original tents have transformed into a little Kabul with mud, brick, and wood-pole structures. Residents say even police fear to go here, and some suspect the Afghan camps play host to militants.

"They visit often, they have links there," says Dr. Faiza Rasheed, a member of the provincial assembly and local gynecologist. "I think if [the Taliban] came, Afghans will support them, but not the local community."

Internet cafes in Haripur city have received threatening calls from insurgents, and some, like the Speed Link, have people frisking Afghans before entering.

Yet many Afghans chafe at the suspicions cast on them. "They blame us, saying that all Afghans are the Taliban," says Basti Gul, a barber at the Islamabad Beauty Parlor. He denies there are any Taliban in town and says the local populace – Afghan and Hindko speakers – are united against them. "We will not welcome them," he says. "The people of Swat liked them. But the people of Haripur don't."

LET'S COMPARE ARMS

The notion of a Taliban conquest of Pakistan also bumps up against some simple arithmetic. The Taliban in Swat number 5,000, and the total from all factions in Pakistan is estimated in the tens of thousands, at most. The Pakistani military, meanwhile, numbers more than half a million.

"There would have to be a collapse of will on the part of the Army to defend the country," says Hussain. "Yes, it's a state that's under stress, but it's not a failed state in the sense that people refer to Somalia or Afghanistan."

Until the latest counteroffensive, US and Pakistani analysts questioned the military's resolve in fighting the insurgency. Armies do not like fighting their own people. And Pakistani intelligence agencies have a history of funding militant groups to achieve foreign-policy goals.

But the counteroffensive in Swat has convinced many analysts here that the Army is serious – at least for now. The mass displacement of civilians offers grim confirmation of heavy engagement.

Until recently, it would have been easy in the war rooms in Islamabad to see the Taliban as someone else's problem. Since 2007, however, at least 17 suicide attacks have rocked the twin cities, killing more than 250 people. The Marriott hotel, scene of the most deadly strike, has turned into a five-star fort hidden behind a rock-wall barrier. Neighborhood conveniences are a little less convenient, too: The drive-through at the McDonald's in Rawalpindi has turned into an obstacle course with four concrete barriers and a checkpoint.

The military also senses it has public backing for the operation – as scores of interviews with average Pakistanis confirm. "The government is fair to do operations in Swat and Buner because the government has already given a chance to the Taliban to give up weapons, but they did not," says Muhammad Murtaza, a student at Quaid-i-Azam.

# 1NC Hegemony

#### Hegemony doesn’t solve war

Fettweis, 10-

Professor of national security affairs at U.S. Naval War College (Christopher J., “Threat and Anxiety in US Foreign Policy,” Informaworld, Survival, Volume 52, Issue 2 April 2010 , pages 59 – 82)   
One potential explanation for the growth of global peace can be dismissed fairly quickly: US actions do not seem to have contributed much. The limited evidence suggests that there is little reason to believe in the stabilizing power of the US hegemon, and that there is no relation between the relative level of American activism and international stability. During the 1990s, the United States cut back on its defense spending fairly substantially. By 1998, the United States was spending $100 billion less on defense in real terms than it had in 1990, a 25% reduction.29 To internationalists, defense hawks and other believers in hegemonic stability, this irresponsible 'peace dividend' endangered both national and global security. 'No serious analyst of American military capabilities', argued neo-conservatives William Kristol and Robert Kagan in 1996, 'doubts that the defense budget has been cut much too far to meet America's responsibilities to itself and to world peace'.30 And yet the verdict from the 1990s is fairly plain: the world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable US military, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums; no security dilemmas drove insecurity or arms races; no regional balancing occurred once the stabilizing presence of the US military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in US military capabilities. Most of all, the United States was no less safe. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Bill Clinton, and kept declining as the George W. Bush administration ramped the spending back up. Complex statistical analysis is unnecessary to reach the conclusion that world peace and US military expenditure are unrelated.