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### 1

#### 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.

#### 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.

#### Will Pass and PC is 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.

#### 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.

#### No strike crushes US global credibility that is necessary for global peace

Cohen 9/4, The International Herald Tribune, Red lines matter, p. 6

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Europe knows, and this city in particular, about the importance of American ''red lines.'' West Berlin, caught for more than four decades 100 miles within the Soviet occupation zone, survived on the credibility of the U.S. commitment to it, demonstrated by the Allied airlift in response to the Soviet blockade of 1948.¶ A shattered Europe became whole, free and prosperous under the shield of U.S. credibility. Article 5 of the North Atlantic Treaty spelled out that an armed attack against one member ''shall be considered an attack against them all.'' This was believable enough to deter a Soviet attack on Western Europe. ¶ American credibility in Asia has played a substantial part in the rapid but peaceful rise of China, a power shift of a kind that has seldom, if ever, occurred in world history without major conflict. China believes in the U.S. defense commitment to Japan, South Korea, the Philippines, Australia and New Zealand. America has been the offsetting power allaying the tensions of China's emergence.¶ It is the credibility of the United States as a European and Asian and Middle Eastern power that underwrites global security.¶ In the Americas, the crisis that began in October 1962 with the presentation of evidence to President John F. Kennedy of Soviet missile sites under construction in Cuba, 90 miles off the Florida coast, provided a stern test of U.S. credibility. Kennedy, like President Barack Obama over Syria, took his time before declaring: ''It shall be the policy of this nation to regard any nuclear missile launched from Cuba against any nation in the Western Hemisphere as an attack by the Soviet Union on the United States, requiring a full retaliatory response upon the Soviet Union.'' In the end, Moscow backed down.¶ Syria is not part of Moscow's imperium in the way Cuba was, and Syria does not present anything resembling the threat to the United States of the Cuban missile crisis. Still, President Bashar al-Assad is Moscow's man and Syria has become a critical test of American power.¶ Nobody, to my knowledge, bequeathed Syria in perpetuity to the Assad family. But let's set that aside for the moment - and Hama, and the 100,000 dead of the past 30 months, and the more than two million refugees. It is not easy to overlook the crimes of a leader who will so slaughter and scatter his own. But let's try, because a global question of overriding importance has now arisen out of Syria.¶ That is the question of the enduring credibility of the American ''red lines'' that have been a foundation of the post-1945 world order.¶ Obama drew one last year on the use of chemical weapons in Syria. France has declared that the Aug. 21 chemical attack near Damascus ''could not have been ordered and carried out by anyone but the Syrian government,'' the same conclusion the U.S. government has reached. The gas, the munitions, the target, the intelligence and the history all point to the regime.¶ As for motive, it may as well be asked what motivation prompted Assad to acquiesce to the slaughter or dispersal of several million of his citizens.¶ Syria, in the words of Secretary of State John Kerry, speaking of the chemical attack, has become a ''moral obscenity.'' The man bearing ultimate responsibility for that obscenity is Assad.¶ Values cannot be all of foreign policy; perhaps they cannot even be a quarter of it; but a U.S. foreign policy stripped entirely of values is no longer American. U.S. authority is tied to its moral stature as a state of laws committed to freedom. It is equally tied to the credibility of its word. In Syria the two inextricable strands of U.S. foreign policy - values and realpolitik - have come together.¶ That is the kernel of the matter now before Congress. As Senator John McCain has said, a no vote in Congress on a U.S. military riposte to the chemical weapons attack would be ''catastrophic'' for the United States and its credibility in the world. If Assad can thumb his nose at America anyone can, including the Islamic Republic of Iran.¶ My initial response to Obama's decision to seek congressional support and to the long delay involved was that it betrayed a by-now familiar hesitancy. I have reconsidered: This is a necessary post-9/11 rebalancing from the dangerous ''unbound powers'' of the presidency of which Obama has spoken, powers that opened the way to the compromising of America's ''basic values'' to which he also alluded this year.

### 2

#### Restraints of the length of war encourages a revolution in military affiars – the military will concentrate on high-tech conventional weapons designed to win wars quickly. The impact is asymmetric attacks, more casualties, Congressional-Executive clashes and a new imperial presidency

Kamienski 3 Lukasz, Jagiellonian University, Faculty of International and Political Studies, Strategic Insights, Volume II, Issue 9, September

A short and decisive war, however, does not pose a threat of a constitutional conflict between the President and Congress. The RMA facilitates fighting these quick wars. It reflects "the Napoleonic concept of war" which is typical of the American war culture, namely "that only decisive results are worth having."[11] Information dominance and supremacy in high-tech conventional weapons are supposed to enable the United States to win wars quickly. Rapid and precise air strikes paralyze an opponent's military and civilian infrastructures. This, in turn, makes ensuing land operation faster, more predictable and less costly. The United States has conducted several "RMA wars": the Persian Gulf War in 1991, the Kosovo war in 1999, and the war with Iraq in 2003. The RMA allows various administrations to conduct "Presidential wars" (with no Congressional authorization) within the time limit set by the War Powers Resolution. In October 2002, for example, Congress passed joint resolution 114 authorizing President George W. Bush to "use the Armed Forces of the United States as he determines to be necessary and appropriate in order to (1) defend the national security interests of the United States against the continuing threat posed by Iraq and (2) to enforce all relevant United Nations Security Council resolutions regarding Iraq."[12] Congress thus made irrelevant its prerogative to declare war. A Republican Representative, Ron Paul summed up the behavior of the legislature in the following words: "Congress would rather give up its most important authorized power to the President and the UN than risk losing an election if the war goes badly."[13] Avoiding Casualties If a U.S. administration suffers far greater casualties than expected in a given conflict, then it is likely that the Vietnam syndrome might reemerge in American politics. Congressional opposition to the conflict would grow. As a result, the President's position would be weakened and his options for action narrowed. This could be seriously damaging particularly given the congressional threat of demand for force withdrawal (Section 5[c] of the WPR). The RMA, however, helps to avert this scenario by minimizing casualties among combatant and noncombatants on both sides of the conflict. Thus, the socio-psychological dimension of the RMA reflects Western trends toward the humanization of warfare. Precision munitions, long-range missiles and unmanned vehicles move soldiers away from the battlefield, while information superiority facilitates highly effective operations that minimizes losses on both sides and reduce the likelihood that attritional engagements will take place. Indeed, a paradox of this post-heroic warfare is that more casualties are caused by friendly fire and accidents on the side possessing information superiority than are caused by enemy action. The RMA helps Presidents keep public support for military actions while avoiding conflict with Congress, thereby strengthening the executive vs. the legislative branch of the U.S. government in terms of war powers. This situation has been sanctioned by the practice of several administrations and a passive Congress. The RMA is making longer wars that might trigger the War Powers Act less likely, establishing de facto authority for Presidents to make war. Asymmetric Warfare The RMA is that is a double-edged sword. According to James Adams, "The countries that have the most effective IW [Information Warfare] capabilities are also the most vulnerable to attack—uniquely in the history of the world, a single individual armed with just a computer and a modem can literally hold America to ransom."[14] The accidental power failure that affected up to 50 million Americans in August 2003 should be a warning that reveals an Achilles heel of the information-based society. An asymmetric adversary does not have to target the military to paralyze a state's infrastructure. In fact, because the U.S. military dominates the high-tech conventional battlefield, a determined adversary will be drawn to launch asymmetric attacks against a relatively vulnerable American civil society to undermine the American effort to keep war short with few casualties. Asymmetric war thus posses a great challenge to the new Presidential-style of war that has emerged in the United States. If asymmetric conflict turns long and bloody, Congress might become more vigorous in asserting its constitutional prerogatives when it comes to issues of war and peace. Adversaries might try to use asymmetric attacks to engage the "sixty-day clock" of the War Powers Act by extending the conflict or avoiding decisive engagements, increasing the chances for a conflict between Congress and the President. (My note: See people, that whole counterinsurgency thing was part of the dialectic - they wanted to test this out long after 'Mission Accompished' had been declared. The war did not go south - they knew exactly what they were doing - using Iraq as a giant battle lab for all of their pet theories) Democratization vs. Centralization There is a paradox inherent to the relationship between the RMA and war powers. On the one hand, the RMA is a strong democratizing factor within military organizations. The need of "jointness" (inter-service cooperation replacing traditional service-oriented structures) and the ability to communicate around traditional hierarchies, will over time force militaries to adopt more horizontal, decentralized and flatter command structures. The RMA requires military organizations to adopt the net-like structures that already dominate the most effective corporations. The "real-time knowledge" and "situational awareness" make traditional decision-making processes and procedures archaic. Military operations can no longer be pre-planned since the intelligence information is constantly changing. As a result, many decisions, which were previously taken on a higher and centralized level, have to be made ad hoc by lower unit-levels. In short, the RMA undermines traditional and hierarchic military organizations and favors decentralized and horizontal structures. On the other hand, the shift in war powers from the legislative to the executive and the establishment of the "presidential war powers" represent the opposite process. It is characterized by centralized, hierarchical and unilateral decision-making. "Imperial presidency" is the antithesis of the intent of the Framers, who, as James Wilson put it, did not want "one man to hurry us into war."[15] The original idea was that there should be a genuine debate in Congress (the democratic representation of the nation) before the United States became involved in a war. In fact, the shift of power from Congress to the President as far as decisions on war and peace are concerned reflect a drift toward less democratic procedures. This paradox is of a significant importance for the analysis of the contemporary American way of warfare and its transformation. The decision-making process of going to war has become more centralized and less democratic. At the same time decisions regarding the conduct of war are becoming less centralized and more democratic. Conclusion Will war powers within the U.S. government be a subject of increased academic interest and debate? The answer is yes. If the 21st century turns out to be another "American Century," then the information revolution and the RMA may facilitate the return of an "imperial presidency," and the traditional, Constitutional vision of war powers may become obsolete.

#### The aff can’t solve – we don’t need troops if we have drones, special forces and cyber technology

Cohen 12 (Michael, fellow at the Century Foundation, “The Imperial Presidency: Drone Power and Congressional Oversight,” http://www.worldpoliticsreview.com/articles/12194/the-imperial-presidency-drone-power-and-congressional-oversight)

In a sense we are witnessing a perfect storm of executive branch power-grabbing: a broad authorization of military force giving the president wide-ranging discretion to act, combined with a set of tools -- drones, special forces and cyber technology -- that allows him to do so in unprecedented ways. And since few troops are put in harm’s way, there is barely any public scrutiny. Congress has the ability to stop these excesses. On Libya, it possessed the power to turn off the financial spigot and cut off funding, and indeed, there was a tepid effort in the House of Representatives to do so. On the AUMF, Congress could simply repeal it or more realistically modify it to take into account the new battlefields in the war on terror.

#### Drone strikes as is hurt U.S. credibility

Zenko 13, (Micah, fellow at the Council on Foreign Relations, with expertise in Conflict Prevention; US national security policy, military planning and operations and nuclear weapons policy. “Reforming U.S. Drone Strike Policies”, Council on Foerign Relations Special Report no. 65, January 2013 <http://www.cfr.org/wars-and-warfare/reforming-us-drone-strike-policies/p29736>, pg15)

The problem with maintaining that drone strikes are covert is that both the American and international publics often misunderstand how drones are used. And in affected states, citizens often blame the United States for collateral damage that could have been caused by the host states’ own weapon systems. According to a recent report from Yemen: It’s extremely difficult to figure out who is responsible for any given strike. . . . It could be a manned plane from the Yemeni Air Force or the U.S. military. Or it could be an unmanned drone flown by the U.S. military or the CIA. . . . But no matter who launches a particular strike, Yemenis are likely to blame it on the Americans. What’s more, we found that many more civilians are being killed than officials acknowledge.37 Congressional oversight of drone strikes varies depending on whether the CIA or the U.S. military is the lead executive authority. The CIA, according to the chair of the Senate Select Committee on Intelligence, Senator Dianne Feinstein, meets its “fully and currently informed” legal obligations through “monthly in-depth oversight meetings to review strike records and question every aspect of the program.” 38 Individual JSOC strikes are not reported to the relevant armed services committees, but are covered under the broad special access program biannual reporting to Congress. According to senior staff members on the Senate Foreign Relations Committee and House Foreign Affairs Committee, many of their peers have little understanding of how drone strikes are conducted within the countries for which they are responsible for exercising oversight. Even serving White House officials and members of Congress repeatedly make inaccurate statements about U.S. targeted killings and appear to be unaware of how policies have changed over the past decade.39 At the same time, the judiciary committees have been repeatedly denied access to the June 2010 Office of Legal Counsel memorandum that presented the legal basis for the drone strike that killed U.S. citizen and alleged leader of AQAP Anwar al-Awlaki in September 2011.40 Finally, despite nearly ten years of nonbattlefield targeted killings, no congressional committee has conducted a hearing on any aspect of them.

### 3

#### The Executive Branch should clarify that the 2001 Authorization for Use of Military Force only applies to al-Qaeda, the Taliban, or those nations, organizations, or persons who enjoy close and well-established collaboration with al-Qaeda or the Taliban.

#### 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

### Solvency

#### Congressional oversight means more secrecy – empirically Senators use oversight to do the opposite

Greenwald 12THURSDAY, JUN 7, 2012 03:05 AM PDT Probing Obama’s secrecy games Will high-level Obama officials who leak for political gain be punished on equal terms with actual whistleblowers? BY GLENN GREENWALD

What all of this reflects is the wildly excessive, anti-democratic secrecy behind which the U.S. Government operates, and the solution in the face of this growing controversy ought to be serious attempts to increase transparency and dilute the wall of secrecy. But that’s highly unlikely to happen. When people like Dianne Feinstein, Carl Levin and John McCain start digging their hands into these controversies, they reflexively do the opposite: they are devoted to always-increasing levels of government secrecy. For Security State servants like these, secrecy is the currency on which their power, influence and self-importance depends: the more government actions which they know about but which are concealed from the citizenry, the more influential and unaccountable they are. So as is usually true when bipartisan groups of self-important Senators gather in common cause, they’re certain to make the core problem worse. In response to the genuine problem of selective leak-punishment by the Executive Branch, they will not try to increase transparency but will do the opposite: attempt to plug leaks, punish whistleblowers, and fortify U.S. Government secrecy powers even beyond where they are now.

#### The President can easily use the Covert Action Statute to justify any imminent threat

Lawfare 12 Legality of U.S. Government’s Targeted Killing Program under Domestic Law, http://www.lawfareblog.com/wiki/the-lawfare-wiki-document-library/targeted-killing/legality-of-targeted-killing-program-under-u-s-domestic-law/

Nevertheless, Bradley and Goldsmith explain, even if Congress did not authorize the U.S. government’s targeted killing program with the AUMF, the President could in theory act against terrorists presenting an imminent threat under the Covert Action Statute (CAS), 50 U.S.C. §413b. The CAS is potentially an important authorizing authority, as its scope extends beyond that of the AUMF, namely in that it is not limited to those terrorist groups linked to the September 11, 2001 attacks. In other ways, though, the CAS may be narrower than the AUMF. For instance, Robert Chesney sets forth the argument that the CAS merely authorizes that which is otherwise lawful under Article II, and thus does not expand the scope of the President’s authority.

#### The executive will give the Congress the finger – secrecy, media and lying

Branfman 13 Fred, Director of Project Air War, interviewed the first Lao refugees brought down to Vientiane from the Plain of Jars in northern Laos, visited U.S. airbases in Thailand and South Vietnam, talking with U.S. Embassy officials, Alternet, 6-9

Whatever his personal beliefs prior to becoming President Mr. Obama, as the Executive's titular leader, has necessarily signed up to support the secrecy, lying, and disinformation it employs to enjoy maximum flexibility from democratic oversight in order to pursue its policies of overt and covert violence. Two important new books - Jeremy Scahill's Dirty Wars and Mark Mazzetti's The Way of the Knife - describe how, in near-total secrecy, the U.S. Executive is a world of its own. Over the last 12 years, Executive officials have unilaterally and secretly launched, escalated or deescalated wars; installed and supported massively corrupt governments, savage warlords, or local paramilitary forces, and overthrown leaders that have displeased it; created the first unit of global American assassins and fleets of machines waging automated war; engaged in vicious turf wars for more money and budget; spied on Americans including the media and activists on a scale unmatched in U.S. history; compiled 3 different sets of global "kill lists" independently operated by the White House, CIA and Pentagon/JSOC; used police-state tactics while claiming to support democracy, e.g. when it fed retina scans, facial recognition features and fingerprints of over 3 million Iraqi and Afghani males into a giant data base; incarcerated and tortured, either directly or indirectly, tens of thousands of people without evidence or trial; and much more. All of these major activities are conducted entirely by the Executive Branch, without meaningful Congressional oversight or the knowledge of the American people. The foundational principle of the U.S. Constitution is that governments can only rule with the "informed consent" of the people. But the U.S. Executive Branch has not only robbed its people of this fundamental right. It has prosecuted those courageous whistleblowers who have tried to inform them. The U.S. mass media, dependent upon the Executive for their information and careers, and run by corporate interests benefiting from Executive largesse, predominately convey Executive Branch perspectives on an hourly basis to the American people. Even on the relatively few occasions when they publish information the Executive wishes to keep secret, it has little impact on Executive policies while maintaining the illusion that the U.S. has a "free press". The U.S. Executive is essentially free to conduct its activities as it wishes. In future articles in this space we will explore three key features of the U.S. Executive Branch: (1) Evil - If evil consists of murdering, maiming, and making homeless the innocent, and/or waging the “aggressive war” judged the “supreme international crime” at Nuremberg, the U.S. Executive Branch is today clearly the world’s most evil institution. It has killed, wounded or made refugees of an officially-estimated 21 million people in Iraq and Indochina alone, far more than any other institution since the time of Stalin and Mao. President Obama is the first U.S. President to acknowledge, in his recent "counterterrorism" speech, that this number has included killing "hundreds of thousands" of civilians in Vietnam whom it officially claimed it was trying to protect. Former Secretary of Defense Robert McNamara put the total number of Vietnamese killed at 3.4 million. [38] (2) Lawlessness - If illegality consists of refusing to obey the law, the Executive is clearly the most lawless institution in the world. It routinely violates even timid legislative attempts to control its unilateral war-making. And no nation on earth has signed fewer international laws, and so failed to observe even those it has signed. These include measures like those intended to clean up the tens of millions of landmines and cluster bombs [39] with which it has littered the world, refused to clean up, and which continue to murder and maim tens of thousands of innocent people until today. (3) Authoritarianism - And if "authoritarianism" consists of a governing body acting unilaterally, regularly deceiving its own citizenry, neutering its legislature ,and prosecuting those who expose its lies, the U.S. Executive is clearly the most undemocratic institution in America. Indeed its deceiving its own people - keeping its activities secret and then lying about and covering them up when caught - throws its very legitimacy into question.

#### Libya proves this argument – the administration won’t cave to congressional restraints

Kucinich 11 Rep. Dennis (D-OH), “Obama in Libya,” The Progressive, June 2011,

http://www.progressive.org/kucinich0611.html

In two years, we have moved from President Bush’s doctrine of preventive war to President Obama’s assertion of the right to go to war without even the pretext of a threat to our nation. This Administration is now asserting the right to go to war because a nation may threaten force against those who have internally taken up arms against it. Our bombs began dropping even before the U.N.’s International Commission of Inquiry could verify allegations of murder of noncombatant civilians by the Qaddafi regime. The Administration deliberately avoided coming to Congress and furthermore rejects the principle that Congress has any role in this matter. Yesterday we learned that the Administration would forge ahead with military action even if Congress passed a resolution constraining the mission. This is a clear and arrogant violation of our Constitution.

### Advantage 1

#### International cooperation inevitable and solves terrorism

Mueller, Professor PolSci Ohio State, and Stewart, Professor Infrastructure Performance at U of Newcastle, ’12 (John- Senior Research Scientist Mershon Center for International Security Studies, Mark- Australian Research Council Professorial Fellow, Summer, “The Terrorism Delusion: America’s Overwrought Response to September 11” International Security, Vol 37 No 1, ProjectMuse)

No matter how much states around the world might disagree with the United States on other issues (most notably on its war in Iraq), there is a compelling incentive for them to cooperate to confront any international terrorist problem emanating from groups and individuals connected to, or sympathetic with, al-Qaida. Although these multilateral efforts, particularly by such Muslim states as Libya, Pakistan, Sudan, Syria, and even Iran, may not have received sufficient publicity, these countries have felt directly threatened by the militant network, and their diligent and aggressive efforts have led to important breakthroughs against the group.27 Thus a terrorist bombing in Bali in 2002 galvanized the Indonesian government into action and into making extensive arrests and obtaining convictions. When terrorists attacked Saudis in Saudi Arabia in 2003, the government became considerably more serious about dealing with internal terrorism, including a clampdown on radical clerics and preachers. The main result of al-Qaida-linked suicide terrorism in Jordan in 2005 was to outrage Jordanians and other Arabs against the perpetrators. In polls conducted in thirty-five predominantly Muslim countries by 2008, more than 90 percent condemned bin Laden’s terrorism on religious grounds.28¶ In addition, the mindless brutalities of al-Qaida-affiliated combatants in Iraq—staging beheadings at mosques, bombing playgrounds, taking over hospitals, executing ordinary citizens, performing forced marriages—eventually turned the Iraqis against them, including many of those who had previously been fighting the U.S. occupation either on their own or in connection with the group.29 In fact, they seem to have managed to alienate the entire population: [End Page 92] data from polls in Iraq in 2007 indicate that 97 percent of those surveyed opposed efforts to recruit foreigners to fight in Iraq; 98 percent opposed the militants’ efforts to gain control of territory; and 100 percent considered attacks against Iraqi civilians “unacceptable.”30¶ In Iraq as in other places, “al-Qaeda is its own worst enemy,” notes Robert Grenier, a former top CIA counterterrorism official. “Where they have succeeded initially, they very quickly discredit themselves.”31 Grenier’s improbable company in this observation is Osama bin Laden, who was so concerned about al-Qaida’s alienation of most Muslims that he argued from his hideout that the organization should take on a new name.32¶ Al-Qaida has also had great difficulty recruiting Americans. The group’s most important, and perhaps only, effort at this is the Lackawanna experience, when a smooth-talking operative returned to the upstate New York town in early 2000 and tried to convert young Yemini-American men to join the cause (case 5). In the summer of 2001, seven agreed to accompany him to an al-Qaida training camp, and several more were apparently planning to go later. Appalled at what they found there, however, six of the seven returned home and helped to dissuade those in the next contingent.

#### No bioweapon could kill off humanity – natural resistance and technology check a superbug

Easterbrook (Gregg, The New Republic Editor) 2003 [Wired, "We're All Gonna Die!" 11/7, http://www.wired.com/wired/archive/11.07/doomsday.html]

3. Germ warfare! Like chemical agents, biological weapons have never lived up to their billing in popular culture. Consider the 1995 medical thriller Outbreak, in which a highly contagious virus takes out entire towns. The reality is quite different. Weaponized smallpox escaped from a Soviet laboratory in Aralsk, Kazakhstan, in 1971; three people died, no epidemic followed. In 1979, weapons-grade anthrax got out of a Soviet facility in Sverdlovsk (now called Ekaterinburg); 68 died, no epidemic. The loss of life was tragic, but no greater than could have been caused by a single conventional bomb. In 1989, workers at a US government facility near Washington were accidentally exposed to Ebola virus. They walked around the community and hung out with family and friends for several days before the mistake was discovered. No one died. The fact is, evolution has spent millions of years conditioning mammals to resist germs. Consider the Black Plague. It was the worst known pathogen in history, loose in a Middle Ages society of poor public health, awful sanitation, and no antibiotics. Yet it didn't kill off humanity. Most people who were caught in the epidemic survived. Any superbug introduced into today's Western world would encounter top-notch public health, excellent sanitation, and an array of medicines specifically engineered to kill bioagents. Perhaps one day some aspiring Dr. Evil will invent a bug that bypasses the immune system. Because it is possible some novel superdisease could be invented, or that existing pathogens like smallpox could be genetically altered to make them more virulent (two-thirds of those who contract natural smallpox survive), biological agents are a legitimate concern. They may turn increasingly troublesome as time passes and knowledge of biotechnology becomes harder to control, allowing individuals or small groups to cook up nasty germs as readily as they can buy guns today. But no superplague has ever come close to wiping out humanity before, and it seems unlikely to happen in the future.

#### Multiple barriers mean bioterror is extremely unlikely

Schneidmiller, Global Security Newswire, 1-13-09 (Chris, “Experts Debate Threat of Nuclear, Biological Terrorism,” http://www.globalsecuritynewswire.org/gsn/nw\_20090113\_7105.php)

Panel moderator Benjamin Friedman, a research fellow at the Cato Institute, said academic and governmental discussions of acts of nuclear or biological terrorism have tended to focus on "worst-case assumptions about terrorists' ability to use these weapons to kill us." There is need for consideration for what is probable rather than simply what is possible, he said. Friedman took issue with the finding late last year of an experts' report that an act of WMD terrorism would "more likely than not" occur in the next half decade unless the international community takes greater action. "I would say that the report, if you read it, actually offers no analysis to justify that claim, which seems to have been made to change policy by generating alarm in headlines." One panel speaker offered a partial rebuttal to Mueller's presentation. Jim Walsh, principal research scientist for the Security Studies Program at the Massachusetts Institute of Technology, said he agreed that nations would almost certainly not give a nuclear weapon to a nonstate group, that most terrorist organizations have no interest in seeking out the bomb, and that it would be difficult to build a weapon or use one that has been stolen. However, he disputed Mueller's assertion that nations can be trusted to secure their atomic weapons and materials. "I don't think the historical record shows that at all," Walsh said. Black-market networks such as the organization once operated by former top Pakistani nuclear scientist Abdul Qadeer Khan remain a problem and should not be assumed to be easily defeated by international intelligence services, Walsh said (see GSN, Jan. 13). It is also reasonable to worry about extremists gaining access to nuclear blueprints or poorly secured stocks of highly enriched uranium, he said. "I worry about al-Qaeda 4.0, kids in Europe who go to good schools 20 years from now. Or types of terrorists we don't even imagine," Walsh said. Greater consideration must be given to exactly how much risk is tolerable and what actions must be taken to reduce the threat, he added. "For all the alarmism, we haven't done that much about the problem," Walsh said. "We've done a lot in the name of nuclear terrorism, the attack on Iraq, these other things, but we have moved ever so modestly to lock down nuclear materials." Biological Terrorism Another two analysts offered a similar debate on the potential for terrorists to carry out an attack using infectious disease material. Milton Leitenberg, a senior research scholar at the Center for International and Security Studies at the University of Maryland, played down the threat in comparison to other health risks. Bioterrorism has killed five U.S. citizens in the 21st century -- the victims of the 2001 anthrax attacks, he said. Meanwhile, at least 400,000 deaths are linked each year to obesity in this country. The United States has authorized $57 billion in spending since the anthrax mailings for biological prevention and defense activities, Leitenberg said. Much of the money would have been better used to prepare for pandemic flu, he argued. "Mistaken threat assessments make mistaken policy and make mistaken allocation of financial resources," Leitenberg said. The number of states with offensive biological weapons programs appears to have stabilized at six beginning in the mid-1970s, despite subsequent intelligence estimates that once indicated an increasing number of efforts, Leitenberg said. Caveats in present analyses of those states make it near-impossible to determine the extent to which their activities remain offensive in nature, he added. There has been minimal proliferation of biological expertise or technology to nations of concern in recent decades, Leitenberg said. He identified roughly 12 Russian scientists who ended up in Iran and shipments of technology and pathogen strains to Iraq from France, Germany, the former Soviet Union and the United States between 1980 and 1990. No evidence exists of state assistance to nonstate groups in this sector. Two prominent extremist organizations, al-Qaeda and Aum Shinrikyo in Japan, failed to produce pathogenic disease strains that could be used in an attack, according to Leitenberg. Terrorists would have to acquire the correct disease strain, handle it safely, correctly reproduce and store the material and then disperse it properly, Leitenberg said. He dismissed their ability to do so. "What we've found so far is that those people have been totally abysmally ignorant of how to read the technical, professional literature," Leitenberg said. "What's on the jihadi Web sites comes from American poisoners' handbooks sold here at gun shows. Which can't make anything and what it would make is just garbage."

#### No risk of nuclear terrorism – technically impossible\*\*\*

Michael, Professor Nuclear Counterprolif and Deterrence at Air Force Counterprolif Center, ’12 (George, March, “Strategic Nuclear Terrorism and the Risk of State Decapitation” Defence Studies, Vol 12 Issue 1, p 67-105, T&F Online)

Despite the alarming prospect of nuclear terrorism, the obstacles to obtaining such capabilities are formidable. There are several pathways that terrorists could take to acquire a nuclear device. Seizing an intact nuclear weapon would be the most direct method. However, neither nuclear weapons nor nuclear technology has proliferated to the degree that some observers once feared. Although nuclear weapons have been around for over 65 years, the so-called nuclear club stands at only nine members. 72 Terrorists could attempt to purloin a weapon from a nuclear stockpile; however, absconding with a nuclear weapon would be problematical because of tight security measures at installations.¶ Alternatively, a terrorist group could attempt to acquire a bomb through an illicit transaction, but there is no real well-developed black market for illicit nuclear materials. Still, the deployment of tactical nuclear weapons around the world presents the risk of theft and diversion. 73 In 1997, the Russian General, Alexander Lebed, alleged that 84 ‘suitcase’ bombs were missing from the Russian military arsenal, but later recanted his statements. 74 American officials generally remain unconvinced of Lebed’s story insofar as they were never mentioned in any Soviet war plans. 75 Presumably, the financial requirements for a transaction involving nuclear weapons would be very high, as states have spent millions and billions of dollars to obtain their arsenals. 76 Furthermore, transferring such sums of money could raise red flags, which would present opportunities for authorities to uncover the plot. When pursuing nuclear transactions, terrorist groups would be vulnerable to sting operations. 77¶ Even if terrorists acquired an intact nuclear weapon, the group would still have to bypass or defeat various safeguards, such as permissive action links (PALs), and safing, arming, fusing, and firing (SAFF) procedures. Both US and Russian nuclear weapons are outfitted with complicated physical and electronic locking mechanisms. 78 Nuclear weapons in other countries are usually stored partially disassembled, which would make purloining a fully functional weapon very challenging. 79¶ Failing to acquire a nuclear weapon, a terrorist group could endeavor to fabricate its own Improvised Nuclear Device (IND). For years, the US government has explored the possibility of a clandestine group fabricating a nuclear weapon. The so-called Nth Country Experiment examined the technical problems facing a nation that endeavored to build a small stockpile of nuclear weapons. Launched in 1964, the experiment sought to determine whether a minimal team –in this case, two young American physicists with PhDs and without nuclear-weapons design knowledge –could design a workable nuclear weapon with a militarily significant yield. After three man-years of effort, the two novices succeeded in a hypothetical test of their device. 80 In 1977, the US Office of Technology Assessment concluded that a small terrorist group could develop and detonate a crude nuclear device without access to classified material and without access to a great deal of technological equipment. Modest machine shop facilities could be contracted for purposes of constructing the device. 81¶ Numerous experts have weighed in on the workability of constructing an IND. Hans Bethe, the Nobel laureate who worked on the Manhattan Project, once calculated that a minimum of six highly-trained persons representing the right expertise would be required to fabricate a nuclear device. 82 A hypothetical scenario developed by Peter Zimmerman, a former chief scientist for the Arms Control and Disarmament Agency, and Jeffrey G. Lewis, the former executive director of the Managing the Atom Project at Harvard University’s Belfer Center for Science and International Affairs, concluded that a team of 19 persons could build a nuclear device in the United States for about $10 million. 83¶ The most crucial step in the IND pathway is acquiring enough fissile material for the weapon. According to some estimates, roughly 25 kilograms of weapons-grade uranium or 8 kilograms of weapons-grade plutonium would be required to support a self-sustaining fission chain reaction. 84 It would be virtually impossible for a terrorist group to create its own fissile material. Enriching uranium, or producing plutonium in a nuclear reactor, is far beyond the scope of any terrorist organization. 85 However, the International Atomic Energy Agency (IAEA), which maintains a database, confirmed 1,562 incidents of smuggling encompassing trade in nuclear materials or radioactive sources. Fifteen incidents involved HEU or plutonium. 86 Be that as it may, according to the IAEA, the total of all known thefts of HEU around the world between 1993 and 2006 amounted to less than eight kilograms, far short of the estimated minimum 25 kilograms necessary for a crude improvised nuclear device. 87 An amount of fissile material adequate for a workable nuclear device would be difficult to procure from one source or in one transaction. However, terrorists could settle on less demanding standards. According to an article in Scientific American, a nuclear device could be fabricated with as little as 60 kilograms of HEU (defined as concentrated to levels of 20 percent for more of the uranium 235 isotope). 88 Although enriching uranium is well nigh impossible for terrorist groups, approximately 1,800 tons of HEU was created during the Cold War, mostly by the United States and the Soviet Union. 89 Collective efforts, such as the Cooperative Threat Reduction program, the G-8 Partnership against the Spread of Weapons of Mass Destruction, and the Nuclear Suppliers Group, have done much to secure nuclear weapons and fissile materials, but the job is far from complete. 90 And other problems are on the horizon. For instance, the number of nuclear reactors is projected to double by the end of the century, though many, if not most, will be fueled with low-enriched uranium (LEU). With this development, comes the risk of diversion as HEU and plutonium stockpiles will be plentiful in civilian sectors. 91¶ Plutonium is more available around the world than HEU and smuggling plutonium would be relatively easy insofar as it commonly comes in two-pound bars or gravel-like pellets. 92 Constructing an IND from plutonium, though, would be much more challenging insofar as it would require the more sophisticated implosion-style design that would require highly trained engineers working in well-equipped labs. 93 But, if an implosion device does not detonate precisely as intended, then it would probably be more akin to a radiological dispersion device, rather than a mushroom. Theoretically, plutonium could be used in a gun-assembly weapon, but the detonation would probably result in an unimpressive fizzle, rather than a substantial explosion with a yield no greater than 10 to 20 tons of TNT, which would still be much greater than one from a conventional explosive. 94¶ But even assuming that fissile material could be acquired, the terrorist group would still need the technical expertise to complete the required steps to assemble a nuclear device. Most experts believe that constructing a gun-assembly weapon would pose no significant technological barriers. 95 Luis Alvarez once asserted that a fairly high-level nuclear explosion could be occasioned just by dropping one piece of weapons-grade uranium onto another. He may, however, have exaggerated the ease with which terrorists could fabricate a nuclear device. 96¶ In sum, the hurdles that a terrorist group would have to overcome to build or acquire a nuclear bomb are very high. If states that aspire to obtain nuclear capability face serious difficulties, it would follow that it would be even more challenging for terrorist groups with far fewer resources and a without a secure geographic area in which to undertake such a project. The difficulty of developing a viable nuclear weapon is illustrated by the case of Saddam Hussein’s Iraq, which after 20 years of effort and over ten billion dollars spent, failed to produce a functional bomb by the time the country was defeated in the 1991 Gulf War. 97 Nevertheless, the quality of a nuclear device for a non-state entity would presumably be much lower as it would not be necessary to meet the same quality standards of states when fabricating their nuclear weapons. Nor would the device have to be weaponized and mated with a delivery system.¶ In order to be successful, terrorists must succeed at each stage of the plot. With clandestine activities, the probability of security leaks increases with the number of persons involved. 98 The plot would require not only highly competent technicians, but also unflinching loyalty and discipline from the participants. A strong central authority would be necessary to coordinate the numerous operatives involved in the acquisition and delivery of the weapon. Substantial funding to procure the materials with which to build a bomb would be necessary, unless a weapon was conveyed to the group by a state or some criminal entity. 99 Finally, a network of competent and dedicated operatives would be required to arrange the transport of the weapon across national borders without detection, which could be challenging considering heightened security measures, including gamma ray detectors. 100 Such a combination of steps spread throughout each stage of the plot would be daunting. 101¶ As Matthew Bunn and Anthony Wier once pointed out, in setting the parameters of nuclear terrorism, the laws of physics are both kind and cruel. In a sense, they are kind insofar as the essential ingredients for a bomb are very difficult to produce. However, they are also cruel in the sense that while it is not easy to make a nuclear bomb, it is not as difficult as believed once the essential ingredients are in hand. 102 Furthermore, as more and more countries undergo industrialization concomitant with the diffusion of technology and expertise, the hurdles for acquiring these ingredients are now more likely to be surmounted, though HEU is still hard to procure illicitly. In a global economy, dual-use technologies circulate around the world along with the scientific personnel who design and use them. 103 And although both the US and Russian governments have substantially reduced their arsenals since the end of the Cold War, many warheads remain. 104 Consequently, there are still many nuclear weapons that could fall into the wrong hands.

#### No bioweapon could kill off humanity – natural resistance and technology check a superbug

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#### Multiple barriers mean bioterror is extremely unlikely

Schneidmiller, Global Security Newswire, 1-13-09 (Chris, “Experts Debate Threat of Nuclear, Biological Terrorism,” http://www.globalsecuritynewswire.org/gsn/nw\_20090113\_7105.php)

Panel moderator Benjamin Friedman, a research fellow at the Cato Institute, said academic and governmental discussions of acts of nuclear or biological terrorism have tended to focus on "worst-case assumptions about terrorists' ability to use these weapons to kill us." There is need for consideration for what is probable rather than simply what is possible, he said. Friedman took issue with the finding late last year of an experts' report that an act of WMD terrorism would "more likely than not" occur in the next half decade unless the international community takes greater action. "I would say that the report, if you read it, actually offers no analysis to justify that claim, which seems to have been made to change policy by generating alarm in headlines." One panel speaker offered a partial rebuttal to Mueller's presentation. Jim Walsh, principal research scientist for the Security Studies Program at the Massachusetts Institute of Technology, said he agreed that nations would almost certainly not give a nuclear weapon to a nonstate group, that most terrorist organizations have no interest in seeking out the bomb, and that it would be difficult to build a weapon or use one that has been stolen. However, he disputed Mueller's assertion that nations can be trusted to secure their atomic weapons and materials. "I don't think the historical record shows that at all," Walsh said. Black-market networks such as the organization once operated by former top Pakistani nuclear scientist Abdul Qadeer Khan remain a problem and should not be assumed to be easily defeated by international intelligence services, Walsh said (see GSN, Jan. 13). It is also reasonable to worry about extremists gaining access to nuclear blueprints or poorly secured stocks of highly enriched uranium, he said. "I worry about al-Qaeda 4.0, kids in Europe who go to good schools 20 years from now. Or types of terrorists we don't even imagine," Walsh said. Greater consideration must be given to exactly how much risk is tolerable and what actions must be taken to reduce the threat, he added. "For all the alarmism, we haven't done that much about the problem," Walsh said. "We've done a lot in the name of nuclear terrorism, the attack on Iraq, these other things, but we have moved ever so modestly to lock down nuclear materials." Biological Terrorism Another two analysts offered a similar debate on the potential for terrorists to carry out an attack using infectious disease material. Milton Leitenberg, a senior research scholar at the Center for International and Security Studies at the University of Maryland, played down the threat in comparison to other health risks. Bioterrorism has killed five U.S. citizens in the 21st century -- the victims of the 2001 anthrax attacks, he said. Meanwhile, at least 400,000 deaths are linked each year to obesity in this country. The United States has authorized $57 billion in spending since the anthrax mailings for biological prevention and defense activities, Leitenberg said. Much of the money would have been better used to prepare for pandemic flu, he argued. "Mistaken threat assessments make mistaken policy and make mistaken allocation of financial resources," Leitenberg said. The number of states with offensive biological weapons programs appears to have stabilized at six beginning in the mid-1970s, despite subsequent intelligence estimates that once indicated an increasing number of efforts, Leitenberg said. Caveats in present analyses of those states make it near-impossible to determine the extent to which their activities remain offensive in nature, he added. There has been minimal proliferation of biological expertise or technology to nations of concern in recent decades, Leitenberg said. He identified roughly 12 Russian scientists who ended up in Iran and shipments of technology and pathogen strains to Iraq from France, Germany, the former Soviet Union and the United States between 1980 and 1990. No evidence exists of state assistance to nonstate groups in this sector. Two prominent extremist organizations, al-Qaeda and Aum Shinrikyo in Japan, failed to produce pathogenic disease strains that could be used in an attack, according to Leitenberg. Terrorists would have to acquire the correct disease strain, handle it safely, correctly reproduce and store the material and then disperse it properly, Leitenberg said. He dismissed their ability to do so. "What we've found so far is that those people have been totally abysmally ignorant of how to read the technical, professional literature," Leitenberg said. "What's on the jihadi Web sites comes from American poisoners' handbooks sold here at gun shows. Which can't make anything and what it would make is just garbage."

#### Economic decline doesn’t cause war

Barnett, Senior Managing Director Enterra Solutions LLC, ‘9 (Thomas, August 24, “The New Rules: Security Remains Stable Amid Financial Crisis” World Politics Review, http://www.worldpoliticsreview.com/articles/4213/the-new-rules-security-remains-stable-amid-financial-crisis)

When the global financial crisis struck roughly a year ago, the blogosphere was ablaze with all sorts of scary predictions of, and commentary regarding, ensuing conflict and wars -- a rerun of the Great Depression leading to world war, as it were. Now, as global economic news brightens and recovery -- surprisingly led by China and emerging markets -- is the talk of the day, it's interesting to look back over the past year and realize how globalization's first truly worldwide recession has had virtually no impact whatsoever on the international security landscape. None of the more than three-dozen ongoing conflicts listed by GlobalSecurity.org can be clearly attributed to the global recession. Indeed, the last new entry (civil conflict between Hamas and Fatah in the Palestine) predates the economic crisis by a year, and three quarters of the chronic struggles began in the last century. Ditto for the 15 low-intensity conflicts listed by Wikipedia (where the latest entry is the Mexican "drug war" begun in 2006). Certainly, the Russia-Georgia conflict last August was specifically timed, but by most accounts the opening ceremony of the Beijing Olympics was the most important external trigger (followed by the U.S. presidential campaign) for that sudden spike in an almost two-decade long struggle between Georgia and its two breakaway regions. Looking over the various databases, then, we see a most familiar picture: the usual mix of civil conflicts, insurgencies, and liberation-themed terrorist movements. Besides the recent Russia-Georgia dust-up, the only two potential state-on-state wars (North v. South Korea, Israel v. Iran) are both tied to one side acquiring a nuclear weapon capacity -- a process wholly unrelated to global economic trends. And with the United States effectively tied down by its two ongoing major interventions (Iraq and Afghanistan-bleeding-into-Pakistan), our involvement elsewhere around the planet has been quite modest, both leading up to and following the onset of the economic crisis: e.g., the usual counter-drug efforts in Latin America, the usual military exercises with allies across Asia, mixing it up with pirates off Somalia's coast). Everywhere else we find serious instability we pretty much let it burn, occasionally pressing the Chinese -- unsuccessfully -- to do something. Our new Africa Command, for example, hasn't led us to anything beyond advising and training local forces. So, to sum up: \*No significant uptick in mass violence or unrest (remember the smattering of urban riots last year in places like Greece, Moldova and Latvia?); \*The usual frequency maintained in civil conflicts (in all the usual places); \*Not a single state-on-state war directly caused (and no great-power-on-great-power crises even triggered); \*No great improvement or disruption in great-power cooperation regarding the emergence of new nuclear powers (despite all that diplomacy); \*A modest scaling back of international policing efforts by the system's acknowledged Leviathan power (inevitable given the strain); and \*No serious efforts by any rising great power to challenge that Leviathan or supplant its role. (The worst things we can cite are Moscow's occasional deployments of strategic assets to the Western hemisphere and its weak efforts to outbid the United States on basing rights in Kyrgyzstan; but the best include China and India stepping up their aid and investments in Afghanistan and Iraq.) Sure, we've finally seen global defense spending surpass the previous world record set in the late 1980s, but even that's likely to wane given the stress on public budgets created by all this unprecedented "stimulus" spending. If anything, the friendly cooperation on such stimulus packaging was the most notable great-power dynamic caused by the crisis. Can we say that the world has suffered a distinct shift to political radicalism as a result of the economic crisis? Indeed, no. The world's major economies remain governed by center-left or center-right political factions that remain decidedly friendly to both markets and trade. In the short run, there were attempts across the board to insulate economies from immediate damage (in effect, as much protectionism as allowed under current trade rules), but there was no great slide into "trade wars." Instead, the World Trade Organization is functioning as it was designed to function, and regional efforts toward free-trade agreements have not slowed. Can we say Islamic radicalism was inflamed by the economic crisis? If it was, that shift was clearly overwhelmed by the Islamic world's growing disenchantment with the brutality displayed by violent extremist groups such as al-Qaida. And looking forward, austere economic times are just as likely to breed connecting evangelicalism as disconnecting fundamentalism. At the end of the day, the economic crisis did not prove to be sufficiently frightening to provoke major economies into establishing global regulatory schemes, even as it has sparked a spirited -- and much needed, as I argued last week -- discussion of the continuing viability of the U.S. dollar as the world's primary reserve currency. Naturally, plenty of experts and pundits have attached great significance to this debate, seeing in it the beginning of "economic warfare" and the like between "fading" America and "rising" China. And yet, in a world of globally integrated production chains and interconnected financial markets, such "diverging interests" hardly constitute signposts for wars up ahead. Frankly, I don't welcome a world in which America's fiscal profligacy goes undisciplined, so bring it on -- please! Add it all up and it's fair to say that this global financial crisis has proven the great resilience of America's post-World War II international liberal trade order. Do I expect to read any analyses along those lines in the blogosphere any time soon? Absolutely not. I expect the fantastic fear-mongering to proceed apace. That's what the Internet is for.

#### Global economy is remarkably resilient – integration solves war

Zakaria Editor Newsweek ‘9 (Fareed-, Dec. 12, Newsweek, “The Secrets of Stability”, http://www.newsweek.com/id/226425/page/1)

One year ago, the world seemed as if it might be coming apart. The global financial system, which had fueled a great expansion of capitalism and trade across the world, was crumbling. All the certainties of the age of globalization—about the virtues of free markets, trade, and technology—were being called into question. Faith in the American model had collapsed. The financial industry had crumbled. Once-roaring emerging markets like China, India, and Brazil were sinking. Worldwide trade was shrinking to a degree not seen since the 1930s. Pundits whose bearishness had been vindicated predicted we were doomed to a long, painful bust, with cascading failures in sector after sector, country after country. In a widely cited essay that appeared in The Atlantic this May, Simon Johnson, former chief economist of the International Monetary Fund, wrote: "The conventional wisdom among the elite is still that the current slump 'cannot be as bad as the Great Depression.' This view is wrong. What we face now could, in fact, be worse than the Great Depression." Others predicted that these economic shocks would lead to political instability and violence in the worst-hit countries. At his confirmation hearing in February, the new U.S. director of national intelligence, Adm. Dennis Blair, cautioned the Senate that "the financial crisis and global recession are likely to produce a wave of economic crises in emerging-market nations over the next year." Hillary Clinton endorsed this grim view. And she was hardly alone. Foreign Policy ran a cover story predicting serious unrest in several emerging markets. Of one thing everyone was sure: nothing would ever be the same again. Not the financial industry, not capitalism, not globalization. One year later, how much has the world really changed? Well, Wall Street is home to two fewer investment banks (three, if you count Merrill Lynch). Some regional banks have gone bust. There was some turmoil in Moldova and (entirely unrelated to the financial crisis) in Iran. Severe problems remain, like high unemployment in the West, and we face new problems caused by responses to the crisis—soaring debt and fears of inflation. But overall, things look nothing like they did in the 1930s. The predictions of economic and political collapse have not materialized at all. A key measure of fear and fragility is the ability of poor and unstable countries to borrow money on the debt markets. So consider this: the sovereign bonds of tottering Pakistan have returned 168 percent so far this year. All this doesn't add up to a recovery yet, but it does reflect a return to some level of normalcy. And that rebound has been so rapid that even the shrewdest observers remain puzzled. "The question I have at the back of my head is 'Is that it?' " says Charles Kaye, the co-head of Warburg Pincus. "We had this huge crisis, and now we're back to business as usual?" This revival did not happen because markets managed to stabilize themselves on their own. Rather, governments, having learned the lessons of the Great Depression, were determined not to repeat the same mistakes once this crisis hit. By massively expanding state support for the economy—through central banks and national treasuries—they buffered the worst of the damage. (Whether they made new mistakes in the process remains to be seen.) The extensive social safety nets that have been established across the industrialized world also cushioned the pain felt by many. Times are still tough, but things are nowhere near as bad as in the 1930s, when governments played a tiny role in national economies. It's true that the massive state interventions of the past year may be fueling some new bubbles: the cheap cash and government guarantees provided to banks, companies, and consumers have fueled some irrational exuberance in stock and bond markets. Yet these rallies also demonstrate the return of confidence, and confidence is a very powerful economic force. When John Maynard Keynes described his own prescriptions for economic growth, he believed government action could provide only a temporary fix until the real motor of the economy started cranking again—the animal spirits of investors, consumers, and companies seeking risk and profit. Beyond all this, though, I believe there's a fundamental reason why we have not faced global collapse in the last year. It is the same reason that we weathered the stock-market crash of 1987, the recession of 1992, the Asian crisis of 1997, the Russian default of 1998, and the tech-bubble collapse of 2000. The current global economic system is inherently more resilient than we think. The world today is characterized by three major forces for stability, each reinforcing the other and each historical in nature. The first is the spread of great-power peace. Since the end of the Cold War, the world's major powers have not competed with each other in geomilitary terms. There have been some political tensions, but measured by historical standards the globe today is stunningly free of friction between the mightiest nations. This lack of conflict is extremely rare in history. You would have to go back at least 175 years, if not 400, to find any prolonged period like the one we are living in. The number of people who have died as a result of wars, civil conflicts, and terrorism over the last 30 years has declined sharply (despite what you might think on the basis of overhyped fears about terrorism). And no wonder—three decades ago, the Soviet Union was still funding militias, governments, and guerrillas in dozens of countries around the world. And the United States was backing the other side in every one of those places. That clash of superpower proxies caused enormous bloodshed and instability: recall that 3 million people died in Indochina alone during the 1970s. Nothing like that is happening today. Peace is like oxygen, Harvard's Joseph Nye has written. When you don't have it, it's all you can think about, but when you do, you don't appreciate your good fortune. Peace allows for the possibility of a stable economic life and trade. The peace that flowed from the end of the Cold War had a much larger effect because it was accompanied by the discrediting of socialism. The world was left with a sole superpower but also a single workable economic model—capitalism—albeit with many variants from Sweden to Hong Kong. This consensus enabled the expansion of the global economy; in fact, it created for the first time a single world economy in which almost all countries across the globe were participants. That means everyone is invested in the same system. Today, while the nations of Eastern Europe might face an economic crisis, no one is suggesting that they abandon free-market capitalism and return to communism. In fact, around the world you see the opposite: even in the midst of this downturn, there have been few successful electoral appeals for a turn to socialism or a rejection of the current framework of political economy. Center-right parties have instead prospered in recent elections throughout the West. The second force for stability is the victory—after a decades-long struggle—over the cancer of inflation. Thirty-five years ago, much of the world was plagued by high inflation, with deep social and political consequences. Severe inflation can be far more disruptive than a recession, because while recessions rob you of better jobs and wages that you might have had in the future, inflation robs you of what you have now by destroying your savings. In many countries in the 1970s, hyperinflation led to the destruction of the middle class, which was the background condition for many of the political dramas of the era—coups in Latin America, the suspension of democracy in India, the overthrow of the shah in Iran. But then in 1979, the tide began to turn when Paul Volcker took over the U.S. Federal Reserve and waged war against inflation. Over two decades, central banks managed to decisively beat down the beast. At this point, only one country in the world suffers from -hyperinflation: Zimbabwe. Low inflation allows people, businesses, and governments to plan for the future, a key precondition for stability. Political and economic stability have each reinforced the other. And the third force that has underpinned the resilience of the global system is technological connectivity. Globalization has always existed in a sense in the modern world, but until recently its contours were mostly limited to trade: countries made goods and sold them abroad. Today the information revolution has created a much more deeply connected global system. Managers in Arkansas can work with suppliers in Beijing on a real-time basis. The production of almost every complex manufactured product now involves input from a dozen countries in a tight global supply chain. And the consequences of connectivity go well beyond economics. Women in rural India have learned through satellite television about the independence of women in more modern countries. Citizens in Iran have used cell phones and the Internet to connect to their well-wishers beyond their borders. Globalization today is fundamentally about knowledge being dispersed across our world. This diffusion of knowledge may actually be the most important reason for the stability of the current system. The majority of the world's nations have learned some basic lessons about political well-being and wealth creation. They have taken advantage of the opportunities provided by peace, low inflation, and technology to plug in to the global system. And they have seen the indisputable results. Despite all the turmoil of the past year, it's important to remember that more people have been lifted out of poverty over the last two decades than in the preceding 10. Clear-thinking citizens around the world are determined not to lose these gains by falling for some ideological chimera, or searching for a worker's utopia. They are even cautious about the appeals of hypernationalism and war. Most have been there, done that. And they know the price.

#### US isn’t key to the world economy

Wassener, MSC in IR, 9—London School of Economics and Political Science, MSc , International Relations, Politics (Bettina, In Asia, a Derided Theory Returns, 1 July 2009, http://query.nytimes.com/gst/fullpage.html?res=9C0CEFDE163EF932A35754C0A96F9C8B63)

For a while, when the global economic crisis was at its worst, it was a dirty word that only the most provocative of analysts dared to use. Now, the D-word -- decoupling -- is making a comeback, and nowhere more so than in Asia. Put simply, the term refers to the theory that emerging countries -- whether China or Chile -- will become more independent of the ups and downs in the United States as their economies become stronger and more sophisticated. For much of last year, the theory held up. Many emerging economies had steered clear of investments that dragged down a string of banking behemoths in the West, and saw nothing like the turmoil that began to engulf the United States and Europe in 2007. But then, last autumn, when the collapse of Lehman Brothers caused the global financial system to convulse and consumer demand to shrivel, emerging economies around the world got caught in the downdraft, and the D-word became mud. Now, the tables are turning again, especially in Asia, where many emerging economies are showing signs of a stronger recovery than in the West. And economists here have begun to use the D-word in public once again. ''Decoupling is happening for real,'' the chief Asia-Pacific economist at Goldman Sachs in Hong Kong, Michael Buchanan, said in a recent interview. Or as the senior Asia economist at HSBC, Frederic Neumann, said, ''Decoupling is not a dirty word.'' To be sure, the once sizzling pace of Asian economic growth has slowed sharply as exports to and investments from outside the region slumped. Across Asia, millions of people have lost their jobs as business drops off and companies cut costs and output. Asia is heavily dependent upon selling its products to consumers in the United States and Europe, and many executives still say a strong U.S. economy is a prerequisite for a return to the boom of years past. Nevertheless, the theory of decoupling is back on the table. For the past couple of months, data from around the world have revealed a growing divergence between Western economies and those in much of Asia, notably China and India.

### Advantage 2

#### Even if the president has to rely on risky legal grounds – no court will ever rule against him on national security affairs and even if they did, the executive would circumvent them

Vermeule 9 \*Adrian, John H. Watson, Jr. Professor of Law, Harvard Law School. Harvard Law Review, 122 Harv. L. Rev. 1095, February

4. Standards Versus Grey Holes. - A particular clarification about grey holes is also necessary. A conventional legal perspective would hold that administrative law is, of course, composed of both "rules" and "standards" in the sense in which these terms are used in legal theory. 35 And on this perspective, it is unsurprising that where the relevant law creates standards, judges will increase deference to the executive when administrative action touches on sensitive matters of national security and foreign relations, or as emergencies arise. No one thinks that liberal legalism is inconsistent with standards, as opposed to rules, or that it prohibits all judicial deference to the executive, or that it requires judges to redecide all administrative decisions. Is the claim that our administrative law is Schmittian just a claim that it contains standards, or that judges sometimes defer to agencies? No. A "standard" in the legal theorist's sense is merely a potential grey hole, and the sort of deference that liberal-legalist judges are usually willing to afford is not enough to bring a grey hole into being either. My suggestion is that the standards inherent in administrative law are best understood as adjustable parameters, in which the intensity of review can be dialed up or down. When (and only when) it is dialed down far enough, the apparent availability of judicial review becomes a sham or facade, and a grey hole arises. It is hard to specify, in the abstract, when exactly this occurs, or how deferential review must be to create a grey hole. But it is not necessary to specify that in the abstract. If the examples in Part II are convincing - the proof must be in the pudding - then the reality is that in certain domains, and with respect to certain questions, it is an inescapable fact that judges applying the adjustable parameters of our administrative law have upheld executive or administrative action on such deferential terms as to make legality a pretense. In such cases, judicial review is itself a kind of legal fiction and the outcome of judicial review is a foregone conclusion - not something that is compatible, even in theory, with the banal liberal-legalist observations that administrative law contains standards and permits deference. II. The Black and Grey Holes of Administrative Law I will lay the groundwork for the later theoretical discussion with an overview of decisions by the federal courts of appeals in cases at the intersection of administrative law and national security, especially after 9/11. It is important to be clear about what this overview is intended [\*1107] to show. I do not attempt to prove an empirical hypothesis to the effect that administrative law in the courts of appeals has become more deferential after 9/11, although that may well be true. The examples of law-free zones and sham review I will examine are not evidence of some further hypothesis; rather they are themselves the facts to be established. They show that administrative law in operation contains substantial black and grey holes built into its working structure - that our administrative law is in this sense substantially Schmittian. Not as Schmittian as possible, but much more so than the various camps of rule-of-law theorists and administrative law theorists think is true or desirable.

#### Congressional limitations cause greater executive reliance on PMCs. The drug war in Columbia proves the link

MICHAELS 4 \*Jon D. Assistant Professor of Law at the UCLA School of Law. Law Clerk to the Honorable Guido Calabresi, U.S. Court of Appeals for the Second Circuit; *Washington University Law Quarterly*, BEYOND ACCOUNTABILITY: THE CONSTITUTIONAL, DEMOCRATIC, AND STRATEGIC PROBLEMS WITH PRIVATIZING WAR, Fall, 82 Wash. U. L. Q. 1001

But since the War Powers Resolution applies only to the deployment of U.S. Armed Forces 259 and, moreover, since anti-covert operations legislation requiring congressional notification and consultation [\*1077] applies only to members of the U.S. intelligence community, 260 there is room to maneuver unilaterally if the president were to use privateers. The drug war in Colombia provides an apt example. 261 Due to frustrations associated with Congress's stringent limitations on the number and responsibilities of American soldiers in Colombia in the 1990s, private military firms were utilized probably in no small part to circumvent these legislative restrictions. 262 According to P.W. Singer, the intent of privatized military assistance is to bypass Congressional oversight and provide political cover to the White House if something goes wrong... . [So,] the United States quietly arranged the hire of a slew of PMFs, whose operations in Colombia range far beyond the narrow restrictions placed on U.S. soldiers fighting the drug war. Rather, the firms' operations are intended to help the Colombian military finally end the decades-old [rebel] insurgency. 263 Again, the structural damage is clear: through bypassing Congress - and the American people - the Executive can initiate more conflict than the public might otherwise have been willing to support.

#### Leads to quicker intervention and causes the President to not depend on coalitions – Iraq proves

MICHAELS 4 \*Jon D. Assistant Professor of Law at the UCLA School of Law. Law Clerk to the Honorable Guido Calabresi, U.S. Court of Appeals for the Second Circuit; *Washington University Law Quarterly*, BEYOND ACCOUNTABILITY: THE CONSTITUTIONAL, DEMOCRATIC, AND STRATEGIC PROBLEMS WITH PRIVATIZING WAR, Fall, 82 Wash. U. L. Q. 1001

Hence with lower political opportunity costs for waging war, the president may be more apt to overcommit American capital - human, monetary, and diplomatic - in ways that would be less likely to occur were Congress and the American people (through their legislators) given a more direct say. One need not ponder hypotheticals to appreciate this potential for dangerous presidential unilateralism. If it were not for the tens of thousands of private troops supporting and serving alongside of U.S. soldiers in Iraq and Afghanistan, perhaps the President would not have been so eager to invade Iraq; 208 or, perhaps, the limited number of American troops available would have compelled him to seek a broader coalition of countries willing to commit their own personnel to these endeavors at the outset. 209 By relying on external, private sources for troops, the President has, perhaps, overextended American obligations abroad, turned his back on collective security measures, and in the process drawn the ire of a great many. (Hence, these "structural" harms are independent of any accountability-related transgressions that privateers might themselves perpetrate once deployed.) 210 Accordingly, tapping into an external, elastic supply of contract personnel could breach a tacit - and, no doubt, often hard fought - agreement between the Executive and Congress on the size of the military. This harm is, immediately, a fiscal one: it might be the case that Congress and the president agreed to keep the military comparatively small to reduce expenditures and reap peace dividends after, for example, the thawing of the very costly Cold War. 211 But, the harm is also a political [\*1065] and legal one: Perhaps Congress kept the military small to dissuade an overly interventionist president from participating in far-flung engagements. Moreover, Congress might have agreed to authorize specific war powers requests only with the knowledge that the engagement would be of a limited scope commensurate with the manpower resources it assumed were available. 212 Again, to the extent that the president could extend the duration and expand the magnitude of war by employing private contractors and to the extent that Congress had not been anticipating the wholesale reliance on military privateers, privatization provides opportunities to subvert these carefully arrived at arrangements.

#### Bad intel. Causes greater Air Force dependence on privates and more drone strikes

Isenberg 12 – (David, author of the book Shadow Force: Private Security Contractors in Iraq, “Predator Military Contractors: Privatizing the Drones,” http://www.huffingtonpost.com/david-isenberg/contractors-privatizing-the-drones\_b\_1976650.html)

Clanahan judges that The Air Force appears to have adopted a position similar to that of the Office of the DNI, but is not nearly as dependent on contractors for intelligence activities and thinks one can conclude "that the Air Force is making a conscious effort to retain control over intelligence-analysis activities, and is keeping contractors from engaging in inherently governmental activities.¶ But it is not hard to see how things could turn bad. As a cautionary danger, Clanahan notes this incident:¶ "A recent Air Force investigation of an erroneous drone strike in the Uruzgan Province, central Afghanistan, raised questions concerning the possibility of inappropriate use of contractors for tactical intelligence and target identification. In February 2010, Hellfire missiles, launched after a "positive identification" based on drone intelligence monitoring, killed fifteen Afghan civilians, and injured at least a dozen more, travelling in a three-vehicle convoy near U.S. special operations forces who were conducting a capture mission. Investigations into the miscalculated decision to strike revealed that although the drone was operated by military personnel, and the decision to fire was made by the ground force commander, the decision was largely based upon intelligence analysis being conducted and reported by a civilian contractor. Arguably, this reported contractor activity should not be viewed as inherently governmental since it did not involve "direction and control of intelligence" or final decision making, but should at least be considered very "closely associated with inherently governmental [activities]," namely, the decision to strike--i.e., to engage in offensive combat....¶ Nevertheless, the Air Force must always remain cautious of contracted intelligence activities where civilians may exert a significant amount of influence or control over targeting and weapons release decisions. It is imperative that the Air Force prevent contractors from getting too close to the tip of the spear."¶ There is one aspect of contractor involvement in drone activities that may violate current Federal policy.¶ Currently, small tactical drone operations seem to be the only Air Force UAS mission where military members are not always in operational control of a military aircraft.

## 2NC

### 2NC Prerequisite

#### Counterplan is a prerequisite – key to effective legislative and judicial oversight

Metzger ‘9, Gillian E. Metzger, Professor of Law @ Columbia Law School, “The Interdependent Relationship Between Internal and External Separation of Powers” 59 Emory L.J. 423, Emory Law Journal, 2009

Equally important, the relationship between internal and external separation of powers is reciprocal: Internal and external checks reinforce and operate in conjunction with one another. Congress needs information to conduct meaningful oversight of the Executive Branch. 94 Internal agency experts and watchdogs are important sources of that information, whether in the guise of [\*445] formal reports, studies, and testimony or informal conversations and leaks. 95 Procedural constraints within agencies can serve a similar function, alerting Congress to agency activities. 96 Internal mechanisms also reinforce congressional mandates by creating bodies of personnel within the Executive Branch who are committed to enforcing the governing statutory regime that sets out the parameters of their authority and regulatory responsibilities - and on whose expertise the functioning of these regulatory regimes often depends. 97 Courts equally depend on information and evidence compiled by agency personnel to review agency actions, and they have invoked this dependence to justify the requirement that agencies disclose underlying information and offer detailed explanations of their decisions. 98 Moreover, despite courts regularly intoning that "it [is] not the function of the court to probe the mental processes of Secretaries in reaching [their] conclusions," 99 judicial review of agency actions often appears to turn on judges' perceptions of the role politics played in decisionmaking by agency officials. 100 Evidence that decisions were made over the objections of career staff and agency professionals often triggers more rigorous review. 101 A particularly striking [\*446] suggestion of how internal checks can effect judicial review came in the recent Boumediene litigation. Just a few months after refusing to grant certiorari in order to allow the Combatant Status Review Tribunal process to proceed, the Court reversed course and granted review, apparently influenced by the concerns of military lawyers about how the tribunals were functioning. 102

### Solvency – Hostilities: AUMF

#### The president should announce that any authority from post 9-11 authorizations no longer applies

Ford 13 Glen, Editor of Black Agenda Report, Perpetual War and Obama’s Perpetual Con Game 6-2, http://www.globalresearch.ca/page/21?p=0In

America must turn the page on the previous era, because “the threat has shifted and evolved from the one that came to our shores on 9/11.” A reevaluation is in order, since “we have to recognize that the scale of this threat closely resembles the types of attacks we faced before 9/11.” In that case, why not call for repeal of the layers of war on terror legislation that have accumulated over the last 12 years, including Obama’s own NDAA preventive detention bill? Or, he could simply renounce these measures and refuse to employ them as a matter of policy. Instead, the president defended his own maximalist interpretation of the law, and claimed that the legal basis for his kill-at-will authority is firmly rooted in the Congress’s 2001 Authorization of Military Force (AMUF). Although he made vague reference to changes that Congress might make in the AMUF, there was no substantive indication that he sought to impose restrictions on his own or any other president’s authority to wage war precisely as he has for the last four years.

### A2 Legal Norms Key: Courts

#### Executive action is a better defense of the rule of law

Dyzenhaus 6, Pf Philosophy @ Toronto, (David, “TERRORISM, GLOBALIZATION AND THE RULE OF LAW: SCHMITT V. DICEY: ARE STATES OF EMERGENCY INSIDE OR OUTSIDE THE LEGAL ORDER?” Cardozo Law Review, March, lexis)

I will argue, however, that in order to provide a workable version of the Identity Thesis, it is important to depart in some significant respects from Dicey. The regulative assumption just sketched does not require that judges always be the principal guardians of the rule of law. Certain situations, and emergencies are one, might require that Parliament or the executive play the lead role. The rule of law project does not require allegiance to a rigid doctrine of the separation of powers in which judges are the exclusive guardians of the rule of law. As I will argue, it is in seeing that judges are but part of the rule of law project that one can begin to appreciate the paradox that arises when rule by law, rule through a statute, is used to do away with the rule of law, to create a legal black hole. I will claim that there is a contradiction in the idea of legal black hole. In other words, one cannot have rule by law without the rule of law. But precisely because I want to argue that judges are but part of the rule of law project, I also am not committed to the conclusion that judges are always entitled to resist statutes that create legal black holes. Whether they are so entitled will depend on the constitutional structure of their legal order. But whatever that structure, they are under a duty to uphold the rule of law. Even if they are not entitled to invalidate a statute that creates a legal black hole, it is their duty to state that the legislature has made a decision to govern arbitrarily rather than through the rule of law. For example, Bruce Ackerman in his essay, The Emergency Constitution, 43 starts by claiming that we need "new constitutional concepts" in order to avoid the downward spiral in protection of civil liberties that occurs when politicians enact laws that become increasingly repressive with each new terrorist attack. 44 We need, he says, to rescue the concept of "emergency powers ... from fascist thinkers like Carl Schmitt, who used it as a battering ram against liberal [\*2016] democracy." 45 Because Ackerman does not think that judges are likely to do, or can do, better than they have in the past at containing the executive during an emergency, he proposes mainly the creative design of constitutional checks and balances to ensure, as did the Roman dictatorship, against the normalization of the state of emergency. Judges should not be regarded as "miraculous saviors of our threatened heritage of freedom." 46 Hence, it is better to rely on a system of political incentives and disincentives, a "political economy" that will prevent abuse of emergency powers. 47

### A2 Legal Norms K2 Precedent

#### A legal framework isn’t something that’s unique to Congress. Executive compliance with international norms SETS A LEGAL PRECEDENT

Twomey 13, Trinity College Dublin, (Laura, Setting a Global Precedent: President Obama's Codification of Drone Warfare, Cambridge Journal of International and Comparative Law, 14 March 2013, http://www.cjicl.org.uk/index.php/cjicl-blog/setting-a-global-precedent-president-obamas-codification-of-drone-warfare, da 7-31-13) PC

It is clear that, as the first State to deploy remote targeting technology in a non international armed conflict, the legal framework forged by the US during President Obama's second term will set significant precedent for the future practice of the estimated 40 States developing their own drone technology. On 7 March 2013, members of the European Parliament expressed deep concern about the “unwelcome precedent” the programme sets, citing its “destabilising effect on the international legal framework” that “destroys ... our common legal heritage.” This 'destabilising effect' arises from the classified and seemingly amorphous substantive legal basis for the programme and the apparent lack of procedural standards in place. It remains to be seen if the classified 'rulebook' will be released for public scrutiny, and allay these concerns. Reliance on international law in world order is based on consent, consensus, good faith and, crucially in this instance, reciprocity. The US programme may harbour short term gains in the pursuit of al-Qaeda operatives, however, if the aforementioned substantive legal justifications continue to be invoked, it risks engendering long term disadvantages. Pursuing this policy encourages other States to adopt similar policies. Administration officials have cited particular concern about setting precedent for Russia, Iran and China, all of which are developing their own remote targeting technology. It is therefore suggested that the Administration should take this opportunity to codify the rules, clarify terms where ambiguity may currently allow for broader interpretations, and to bring its regulations in line with the existing framework of international law. This legal framework should then be made available to the public, with covert operational necessities redacted. This could set a valuable legal precedent, of particular importance at this turning point wherein international law must adapt to the 21st century model of warfare, a model which lacks a clear enemy and a demarcated battlefield.

#### Nations respond to behavior and usage -- not legal standards

Roberts 13 (Kristin, When the Whole World Has Drones, National Journal, 21 March 2013, http://www.nationaljournal.com/magazine/when-the-whole-world-has-drones-20130321, da 8-1-13) PC

But even without raising standards, tightening up drone-specific restrictions in the standing control regime, or creating a new control agreement (which is never easy to pull off absent a bad-state actor threatening attack), just the process of lining up U.S. policy with U.S. practice would go a long way toward establishing the kind of precedent on use of this technology that America—in five, 10, or 15 years—might find helpful in arguing against another’s actions. A not-insignificant faction of U.S. defense and intelligence experts, Dennis Blair among them, thinks norms play little to no role in global security. And they have evidence in support. The missile-technology regime, for example, might be credited with slowing some program development, but it certainly has not stopped non-signatories—North Korea and Iran—from buying, building, and selling missile systems. But norms established by technology-leading countries, even when not written into legal agreements among nations, have shown success in containing the use and spread of some weapons, including land mines, blinding lasers, and nuclear bombs. Arguably more significant than spotty legal regimes, however, is the behavior of the United States. “History shows that how states adopt and use new military capabilities is often influenced by how other states have—or have not—used them in the past,” Zenko argued. Despite the legal and policy complexity of this issue, it is something the American people have, if slowly, come to care about. Given the attention that Rand Paul’s filibuster garnered, it is not inconceivable that public pressure on drone operations could force the kind of unforeseen change to U.S. policy that it did most recently on “enhanced interrogation” of terrorists. The case against open, transparent rule-making is that it might only hamstring American options while doing little good elsewhere—as if other countries aren’t closely watching this debate and taking notes for their own future policymaking. But the White House’s refusal to answer questions about its drone use with anything but “no comment” ensures that the rest of the world is free to fill in the blanks where and when it chooses.

### 2NC Politics NB

#### Executive action avoids politics

Sovacool 9 Dr. Benjamin K. Sovacool 2009 is a Research Fellow in the Energy Governance Program at the Centre on Asia and Globalization., Kelly E. Sovacool is a Senior Research Associate at the Lee Kuan Yew School of Public Policy at the National University of SingaporeArticle: Preventing National Electricity-Water Crisis Areas in the United States, Columbia Journal of Environmental Law 2009 34 Colum. J. Envtl. L. 333,

¶ Executive Orders also save time in a second sense. The President does not have to expend scarce political capital trying to persuade Congress to adopt his or her proposal. Executive Orders thus save ¶ ¶ presidential attention for other topics. Executive Orders bypass congressional debate and opposition, along with all of the horsetrading and compromise such legislative activity entails.¶ ¶ 292¶ ¶ Speediness of implementation can be especially important when challenges require rapid and decisive action. After the September ¶ ¶ 11, 2001 attacks on the Pentagon and World Trade Center, for ¶ ¶ instance, the Bush Administration almost immediately passed ¶ ¶ Executive Orders forcing airlines to reinforce cockpit doors and ¶ ¶ freezing the U.S. based assets of individuals and organizations ¶ ¶ involved with terrorist groups.¶ ¶ 293¶ ¶ These actions took Congress ¶ ¶ nearly four months to debate and subsequently endorse with ¶ ¶ legislation. Executive Orders therefore enable presidents to ¶ ¶ rapidly change law without having to wait for congressional action ¶ ¶ or agency regulatory rulemaking.

#### True for Obama

Ramsey 12 (MICHAEL D. RAMSEY, is Professor of Law at the University of San Diego School of Law, “THE FEDERALIST SOCIETY NATIONAL LAWYERS CONVENTION--2011: MEET THE NEW BOSS: CONTINUITY IN PRESIDENTIAL WAR POWERS?” Summer, 2012, Harvard Journal of Law & Public Policy, LexisNexis, KB)

Thus there has been an escalation in the use of unconstitutional executive war power under President Obama, yet there has not been an outcry against him resembling the outcry against the Bush Administration, which was routinely attacked for exceeding the limits of executive power. n29 Although some voices have been raised against President Obama's claims of executive power, n30 they have been marginalized. They have not [\*871] been taken up by the mainstream in the manner of similar criticisms of President Bush. My speculation is that there is an identification by legal and media elites with the establishment Democratic Party that makes it difficult for these criticisms to gain traction in the way they did in the Bush Administration.¶ I think this makes it easier for Democratic presidents than for Republican presidents to unconstitutionally extend executive power. Thus Obama's policies, which are much more deserving of constitutional criticism, do not generate the popular pushback that we saw, perhaps unjustifiably, against President Bush. In any event, what is most striking about executive war power under President Obama is not the commonly recognized continuity as compared to the prior administration, but rather the increased disregard of constitutional limits.

### Solvency

#### The AUMF is completely irrelevant – emergencies sustain the war on terror

Thronson 13 \* Patrick A., University of Michigan Law School; University of Michigan Journal of Law Reform, Winter, 46 U. Mich. J.L. Reform 737

Presidential declarations of national emergency furnish the President with broad military and foreign affairs powers. This Part focuses on a small group of those powers, which authorize the Executive to call reserve troops to service and expand the armed forces beyond statutorily prescribed limits. These authorities, though little discussed, are among the primary bases for the [\*770] "Global War on Terror" (GWOT). In short, the GWOT is being conducted in large part on the basis of emergency decrees. (The analysis below brackets the interesting question of whether the contemporary GWOT actually constitutes an armed conflict under domestic and international law.) The GWOT transcends the temporal and geographic limits we traditionally associate with armed conflicts. The Pentagon's February 2013 casualty report for Operation Enduring Freedom (OEF) - the military campaign most commonly associated with the "global war on terror" - includes U.S. military and civilian casualties in sixteen countries on four continents. 213 In 2012, members of the U.S. Special Forces were deployed in seventy-nine countries to combat suspected terrorists, 214 up from sixty in 2009. 215 The lack of temporal and geographic boundaries on how the GWOT is fought is succinctly expressed in an Executive Order signed by President Bush to establish "Global War on Terrorism Expeditionary and Service Medals." 216 The Executive Order specifies that the medals "shall be awarded to members of the Armed Forces of the United States who serve or have served in military expeditions to combat terrorism, as defined by such regulations, on or after September 11, 2001, and before a terminal date to be prescribed by the Secretary of Defense." 217 The "war," according to this Order, consists of all terrorism-related military operations. Its endpoint is not defined by a concrete military achievement; rather, it will end when the Executive Branch says it has ended. Most legal commentators assume that the struggle against al Qaeda has largely been waged on the basis of the 2001 congressional Authorization for Use of Military Force (AUMF). 218 But another central element of this unbounded so-called war is a similarly [\*771] unbounded national emergency declared by the President. 219 This declaration has never been reviewed by Congress and has been renewed annually by Presidents Bush and Obama since 2001. 220 As this Part will discuss, Proclamation 7463, declared in the immediate aftermath of 9/11, has served as the primary authorization for the Executive to call hundreds of thousands of reservists into indefinite active service, extend the tours of duty of thousands of military personnel past contractually agreed upon termination dates, and waive statutory limitations on the size of the armed forces. 221

#### Emergency politics are more important than legal authority to deploy troops. The world before the AUMF proved that legal authority wasn’t necessary.

Thronson 13 \* Patrick A., University of Michigan Law School; University of Michigan Journal of Law Reform, Winter, 46 U. Mich. J.L. Reform 737

The traditional narrative offered to explain the legal basis for the military powers invoked by Presidents George W. Bush and Barack Obama following the 9/11 terrorist attacks focuses on the AUMF, passed one week after the horrific events of that day. 246 The AUMF provides "that the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons." 247 Congress intended the AUMF to satisfy in advance the requirements of the War Powers Resolution (WPR), 248 which requires congressional authorization for the President's mobilization of troops into hostilities within sixty days after Congress receives notice of such an event. 249 Scholars, congressional representatives, and government officials hold that the AUMF is the source of executive authority to call up and deploy troops. 250 But significant actions, [\*776] carried on by the Executive Branch without a congressional grant of authority, preceded the AUMF. Simply by declaring a national emergency, the Executive Branch was able to order up to one million Americans to active duty in the U.S. armed forces. In Proclamation 7463, President Bush declared that he would use the authorities granted to him under 10 U.S.C. § 12302, 251 which gives the President authority to call up the Ready Reserve in a declared national emergency. 252 The Ready Reserve consists of approximately 1.08 million people, 253 and "is the primary manpower pool of the reserve components" of the entire military. 254

### Advantage 2

#### Courts won’t restrain the executive

Driesen 9 \* David M. University Professor, Syracuse University; Fordham Law Review, October, 78 Fordham L. Rev. 71

The executive branch often interprets the vast body of law it administers unilaterally. In some areas, courts have no opportunity to review its decisions. 217 Even when reviewable, the courts usually approach executive branch decisions deferentially and often correct errors in ways that leave continuing latitude for executive branch shaping of the law. 218 Because of the awkwardness of impeachment and funding cutoffs, congressional oversight provides only a very limited remedy for executive excess, and executive decisions to withhold information can further weaken oversight's effectiveness. 219 Because modern Presidents are so profoundly political, a danger exists that they will interpret the law opportunistically, to increase their own power and advance their faction's political agenda, rather than faithfully execute the laws Congress has publicly passed. 220 The opportunities for abuse have recently multiplied, because of the specter of terrorism, which tends to drive the executive toward secret policy making of his own largely unrestrained by law. 221

#### Post 9-11 jursiprudence proves courts won’t resist the Executive

Vermeule 9 \*Adrian, John H. Watson, Jr. Professor of Law, Harvard Law School. Harvard Law Review, 122 Harv. L. Rev. 1095, February

I explain these claims through an overview of the APA and surrounding legal doctrine. My focus is on administrative law in the trenches - in the federal courts of appeal - rather than on the Supreme Court's administrative law. The former is the terrain in which administrative law actually operates, and I will attempt to show that lower courts after 9/11 have applied the adjustable parameters of the APA - "arbitrariness," "reasonableness," and so on - in quite deferential ways, creating grey holes in which judicial review of agency action is more apparent than real. Part I briefly introduces Schmitt's thought on emergencies and the critiques offered by theorists committed to a strong version of the rule of law. Against this backdrop, I state my main theses and clarify my limited ambitions. Part II documents the black and grey holes of administrative law. Part III argues that the black and grey holes are unavoidable, for practical and institutional reasons; that contrary to the suggestions of several scholars, there is no such thing as "ordinary" administrative law, conceived as an alternative to exceptional deference [\*1098] to the executive during emergencies; and that proposals to handle executive emergency powers through an "institutional process" approach that focuses on congressional authorization are largely futile, because vague statutory authorizations just create grey holes in any event. So much for the main argument and its implications. Part IV speculates about some possible extensions. I suggest that the so-called "new legal realism," a body of political science work on the determinants of judging, should examine judicial perceptions of emergency and whether the lower federal courts have shown increased deference to administrative agencies after 9/11 in cases related to national security; that emergencies are a partial cure for the ossification of administrative policymaking; and that the Supreme Court's attempts to ensure judicial review of executive action after 9/11 cannot prevent lower courts from paying more deference to executive and administrative national security decisions than the Court might like - a situation that is the mirror image of the famous clash between the Court and the D.C. Circuit before and after Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, Inc. 8

#### Emergency thinking will structure all court decisions

Vermeule 9 \*Adrian, John H. Watson, Jr. Professor of Law, Harvard Law School. Harvard Law Review, 122 Harv. L. Rev. 1095, February

At the other end of the continuum, however, one could imagine a system of administrative law that is minimally Schmittian or even not Schmittian at all. In this sort of system, all administrative action would be subject to review under "ordinary" legal tests for statutory authority, procedural validity, and reasoned decisionmaking. There would be no categorical exclusions of executive action, no exceptions for military or diplomatic functions or for emergencies, and perhaps not even any special "deference" to executive decisionmaking on the merits. Rather, judges would quite simply decide whether, in their view, executive action comports with relevant statutes and constitutional rules, and would take a hard look at the reasonableness of agency policy choices. Crucially, in answering those questions, judges would draw upon thick background principles of legality of the sort that Fuller describes, principles of procedural regularity and fairness. This system, too, is a hopeless fantasy. Our administrative law is not like that either, and it never will be, or so I will suggest. Rather our system has substantial black holes and grey holes, and it will inevitably continue to do so. That the black holes and grey holes could be still larger is, for my purposes, neither here nor there. 3. Emergencies and Exemptions. - Of course not all the black and grey holes are automatically triggered during "emergencies," if these are understood as extreme crises, with 9/11 as the paradigmatic security emergency. However, all of the black and grey holes can become relevant to emergencies. As we will see, administrative law exempts military functions and uniquely presidential functions from its purview, and these exemptions will often be implicated by security emergencies. Although many of the other black holes and grey holes are seemingly more mundane, they too can become relevant to an emergency at any time. Where administrative law says that agencies can dispense with procedural requirements if they have "good cause" to do so, the good cause standard is an adjustable parameter that can be invoked by an agency, and interpreted broadly by a court, in circumstances of perceived emergency. Black and grey holes need not address, on their face, matters of military exigency or emergency power [\*1106] in order to be central components of administrative law's treatment of emergencies.

#### Greater reliance on PMCs causes shadow wars

Singer 7 (Peter, Director @ 21st century defense initiative, interviewed by Scott Horton, columnist for Harper’s Magazine, “‘Can’t Win With ‘Em, Can’t Go to War Without ‘Em’: Six Questions for P.W. Singer”, 9/30, http://harpers.org/archive/2007/09/hbc-90001311)

One of your first conclusions is that by using military contractors, policymakers “dodge key decisions that carry political costs, thus leading to operational choices that might not reflect the public interest.” Moving away from the operations in Iraq which are more immediately topical, security contractors have been pushed as surrogates for uniformed military as peacekeepers in Darfur, Liberia, Sierra Leone, and a variety of other circumstances. A Marine general recently told me that he was concerned that the heavy reliance on contractors might allow policymakers to ease into a foreign conflict in a way that avoided Congressional scrutiny and oversight. Do you agree that this is a realistic concern? Yes, and I wouldn’t use the word “might,” as if it were a future scenario. Contractors have already been used in all sorts of operations, in both an overt (Iraq, Balkans) and covert (Colombia, Sudan), manner to get around certain political consequences or congressional restrictions. When the U.S. military shifted to an all-volunteer, professional force in the wake of the Vietnam War, military leaders set up a series of organization “tripwires” to preserve the tie between the nation’s foreign policy decisions and local communities. Led by then-Army Chief of Staff General Creighton Abrams (1972-74), they wanted to ensure that the military would not go to war without the sufficient backing and involvement of the nation. Much like a call center moved to India, this “Abrams Doctrine” has been outsourced. Instead, contractors offer the means for choices to be dodged at the onset of deployment, and for scrutiny and public concern to be lessened after deployment. Your home-front does not get as involved when its contractors are being called up and deployed, nor do the people there ask key questions when contractors are lost. Over 1,000 have been killed in Iraq and 13,000 wounded, but they are not counted on official Department of Defense reports. In turn, if you want to go to a non-Iraq example, where is the concern over the three American contractors still held captive by the FARC in Colombia today? Imagine if we had three soldiers as POWs instead. In addition, your media also becomes less likely to cover the story when contractors are involved. One quarter of one percent of all news stories out of Iraq mention contractors. This new option is obviously greatly appealing to executive branch policymakers, but the underlying premise of the Abrams Doctrine was that, if a military operation could not garner public support of the level needed to involve the full nation, then maybe it shouldn’t happen in the first place.

#### A. PMCs are less constrained than the military

MICHAELS 4 \*Jon D. Assistant Professor of Law at the UCLA School of Law. Law Clerk to the Honorable Guido Calabresi, U.S. Court of Appeals for the Second Circuit; *Washington University Law Quarterly*, BEYOND ACCOUNTABILITY: THE CONSTITUTIONAL, DEMOCRATIC, AND STRATEGIC PROBLEMS WITH PRIVATIZING WAR, Fall, 82 Wash. U. L. Q. 1001

An additional cause of concern from a morale and confidence-damaging perspective is the possibility that privateers will comport themselves in an unbecoming manner. Unhinged from the narrative of military honor, privateers may never have internalized the ethos of honor and dignity that is inculcated in American GIs. 332 (And, even if the contractors are themselves veterans, that esprit may have long since diminished and been superseded by the mores of the marketplace.) As one recent observer of DynCorp's behavior in Kabul noted, "contractors do not live by the same constraints as active-duty soldiers ... . Their blurring of the military-civilian line serves as a reminder that military discipline not only keeps up morale, but encourages moral behavior." 333 American soldiers today (though admittedly not all model citizen-soldiers themselves) are taught the lessons of, for example, the My Lai massacre, and are told that those who helped stop the bloodshed were given medals; but that those who orchestrated it (and even those who just followed [\*1097] orders), were court-martialed. 334 Situating soldiers in a storied tradition of honor may not eradicate all instances of criminal or excessively brutal behavior, but that educational process may inform the soldiers of the institutional condemnation that will be affixed to any such transgressions. 335 It should not therefore be surprising that privateers, though hardly alone, were nevertheless at the center of the Abu Ghraib scandal in Iraq - involving the brutal torturing of Iraqi civilian prisoners - not just as participants, but as supervisors. 336 Whereas courts-martial quickly followed for the U.S. soldiers involved, 337 thus signaling (albeit belatedly) the government's intolerance toward such behavior, 338 it was reported that even after the news of the scandal broke and courts-martial [\*1098] were being convened, the contractors were still on the job, 339 just as was the case with those DynCorp employees who ran a sex-slave operation in Bosnia. 340 In the wake of that travesty in the Balkans, the only prophylactic measure taken by the company was to insist that each employee sign a statement saying she understands "human trafficking and prostitution are "immoral, unethical, and strongly prohibited.'" 341 Recall, too, that DynCorp summarily fired rather than rewarded the whistleblower in that case. 342 Since misdeeds like what happened at Abu Ghraib redound through the regular ranks of the military and lead to disillusionment and demoralization, 343 the government, at least by staging investigations and courts-martial, can at least try to embrace a zero-tolerance policy and hope to rebuild confidence among the rank and file and offer credible reassurances to Iraqis and the global community that such behavior is not condoned. 344

#### Guts our credibility and causes PMC prolif

MICHAELS 4 \*Jon D. Assistant Professor of Law at the UCLA School of Law. Law Clerk to the Honorable Guido Calabresi, U.S. Court of Appeals for the Second Circuit; *Washington University Law Quarterly*, BEYOND ACCOUNTABILITY: THE CONSTITUTIONAL, DEMOCRATIC, AND STRATEGIC PROBLEMS WITH PRIVATIZING WAR, Fall, 82 Wash. U. L. Q. 1001

Having canvassed the constitutional, legal, and democratic harms in Parts III and IV, I turn now to the international/diplomatic harms privatization may cause. These harms pose considerable consequences for American foreign policy, for American credibility abroad, and for the interests of containing the proliferation of even less well-regulated military profiteering practices around the world. A. Alienating Friends and Foes Alike Contracting out allows the U.S. government to purchase strategic outcomes at a much lower political cost than if the boys and girls of America's volunteer army were dispatched. Indeed, an overseas engagement involving contractors might, accordingly, produce neither an official body count nor much political opposition. 398 But, the security and flexibility the United States gains without expending domestic political capital and/or the lives of servicemen and women may, however, serve to validate the perception that the American agenda is driven by dollars rather than ideals; that decisions are made in private, smoke-filled backrooms rather than openly on the floors of Congress. It also invites concerns that the United States is represented in zones of hostilities by individuals who are not subject to the same standards of legal conduct and ethical restraint that this nation and the international community expects of the U.S. Armed Forces.

### Advantage 1

#### Multiple barriers mean bioterror is extremely unlikely

Schneidmiller, Global Security Newswire, 1-13-09 (Chris, “Experts Debate Threat of Nuclear, Biological Terrorism,” http://www.globalsecuritynewswire.org/gsn/nw\_20090113\_7105.php)

Panel moderator Benjamin Friedman, a research fellow at the Cato Institute, said academic and governmental discussions of acts of nuclear or biological terrorism have tended to focus on "worst-case assumptions about terrorists' ability to use these weapons to kill us." There is need for consideration for what is probable rather than simply what is possible, he said. Friedman took issue with the finding late last year of an experts' report that an act of WMD terrorism would "more likely than not" occur in the next half decade unless the international community takes greater action. "I would say that the report, if you read it, actually offers no analysis to justify that claim, which seems to have been made to change policy by generating alarm in headlines." One panel speaker offered a partial rebuttal to Mueller's presentation. Jim Walsh, principal research scientist for the Security Studies Program at the Massachusetts Institute of Technology, said he agreed that nations would almost certainly not give a nuclear weapon to a nonstate group, that most terrorist organizations have no interest in seeking out the bomb, and that it would be difficult to build a weapon or use one that has been stolen. However, he disputed Mueller's assertion that nations can be trusted to secure their atomic weapons and materials. "I don't think the historical record shows that at all," Walsh said. Black-market networks such as the organization once operated by former top Pakistani nuclear scientist Abdul Qadeer Khan remain a problem and should not be assumed to be easily defeated by international intelligence services, Walsh said (see GSN, Jan. 13). It is also reasonable to worry about extremists gaining access to nuclear blueprints or poorly secured stocks of highly enriched uranium, he said. "I worry about al-Qaeda 4.0, kids in Europe who go to good schools 20 years from now. Or types of terrorists we don't even imagine," Walsh said. Greater consideration must be given to exactly how much risk is tolerable and what actions must be taken to reduce the threat, he added. "For all the alarmism, we haven't done that much about the problem," Walsh said. "We've done a lot in the name of nuclear terrorism, the attack on Iraq, these other things, but we have moved ever so modestly to lock down nuclear materials." Biological Terrorism Another two analysts offered a similar debate on the potential for terrorists to carry out an attack using infectious disease material. Milton Leitenberg, a senior research scholar at the Center for International and Security Studies at the University of Maryland, played down the threat in comparison to other health risks. Bioterrorism has killed five U.S. citizens in the 21st century -- the victims of the 2001 anthrax attacks, he said. Meanwhile, at least 400,000 deaths are linked each year to obesity in this country. The United States has authorized $57 billion in spending since the anthrax mailings for biological prevention and defense activities, Leitenberg said. Much of the money would have been better used to prepare for pandemic flu, he argued. "Mistaken threat assessments make mistaken policy and make mistaken allocation of financial resources," Leitenberg said. The number of states with offensive biological weapons programs appears to have stabilized at six beginning in the mid-1970s, despite subsequent intelligence estimates that once indicated an increasing number of efforts, Leitenberg said. Caveats in present analyses of those states make it near-impossible to determine the extent to which their activities remain offensive in nature, he added. There has been minimal proliferation of biological expertise or technology to nations of concern in recent decades, Leitenberg said. He identified roughly 12 Russian scientists who ended up in Iran and shipments of technology and pathogen strains to Iraq from France, Germany, the former Soviet Union and the United States between 1980 and 1990. No evidence exists of state assistance to nonstate groups in this sector. Two prominent extremist organizations, al-Qaeda and Aum Shinrikyo in Japan, failed to produce pathogenic disease strains that could be used in an attack, according to Leitenberg. Terrorists would have to acquire the correct disease strain, handle it safely, correctly reproduce and store the material and then disperse it properly, Leitenberg said. He dismissed their ability to do so. "What we've found so far is that those people have been totally abysmally ignorant of how to read the technical, professional literature," Leitenberg said. "What's on the jihadi Web sites comes from American poisoners' handbooks sold here at gun shows. Which can't make anything and what it would make is just garbage."

#### And history proves – no link between the economy and war

Ferguson 6 (Ferguson, Niall. "The Next War of the World." Foreign Affairs 85.5 (Sept-Oct 2006): 61. Expanded Academic ASAP.)

There are many unsatisfactory explanations for why the twentieth century was so destructive. One is the assertion that the availability of more powerful weapons caused bloodier conflicts. But there is no correlation between the sophistication of military technology and the lethality of conflict. Some of the worst violence of the century -- the genocides in Cambodia in the 1970s and central Africa in the 1990s, for instance -- was perpetrated with the crudest of weapons: rifles, axes, machetes, and knives. Nor can economic crises explain the bloodshed. What may be the most familiar causal chain in modern historiography links the Great Depression to the rise of fascism and the outbreak of World War II. But that simple story leaves too much out. Nazi Germany started the war in Europe only after its economy had recovered. Not all the countries affected by the Great Depression were taken over by fascist regimes, nor did all such regimes start wars of aggression. In fact, no general relationship between economics and conflict is discernible for the century as a whole. Some wars came after periods of growth, others were the causes rather than the consequences of economic catastrophe, and some severe economic crises were not followed by wars.

#### More evidence – the economy is resilient

Washington Times 8 - chief political correspondent of The Washington Times (7/28/08, Donald Lambro, The Washington Times, "Always darkest before dawn", lexis)

The doom-and-gloomers are still with us, of course, and they will go to their graves forecasting that life as we know it is coming to an end and that we are in for years of economic depression and recession. Last week, the New York Times ran a Page One story maintaining that Americans were saving less than ever, and that their debt burden had risen by an average of $117,951 per household. And the London Telegraph says there are even harder times ahead, comparing today's economy to the Great Depression of the 1930s. Wall Street economist David Malpass thinks that kind of fearmongering is filled with manipulated statistics that ignore long-term wealth creation in our country, as well as globally. Increasingly, people are investing "for the long run - for capital gains (not counted in savings) rather than current income - in preparation for retirement," he told his clients last week. Instead of a coming recession, "we think the U.S. is in gradual recovery after a sharp two-quarter slowdown, with consumer resilience more likely than the decades-old expectation of a consumer slump," Mr. Malpass said. "Fed data shows clearly that household savings of all types - liquid, financial and tangible - are still close to the record levels set in September. IMF data shows U.S. households holding more net financial savings than the rest of the world combined. Consumption has repeatedly outperformed expectations in recent quarters and year," he said. The American economy has been pounded by a lot of factors, including the housing collapse (a needed correction to bring home prices down to earth), the mortgage scandal and the meteoric rise in oil and gas prices. But this $14 trillion economy, though slowing down, continues to grow by about 1 percent on an annualized basis, confounding the pessimists who said we were plunging into a recession, defined by negative growth over two quarters. That has not happened - yet. Call me a cockeyed optimist, but I do not think we are heading into a recession. On the contrary, I'm more bullish than ever on our economy's long-term prospects.

## 1NR

### OV

#### Nuclear war

James A. **Russell,** Senior Lecturer, National Security Affairs, Naval Postgraduate School, ‘9 (Spring) “Strategic Stability Reconsidered: Prospects for Escalation and Nuclear War in the Middle East” IFRI, Proliferation Papers, #26, http://www.ifri.org/downloads/PP26\_Russell\_2009.pdf

Strategic stability in the region is thus undermined by various factors: (1) asymmetric interests in the bargaining framework that can introduce unpredictable behavior from actors; (2) the presence of non-state actors that introduce unpredictability into relationships between the antagonists; (3) incompatible assumptions about the structure of the deterrent relationship that makes the bargaining framework strategically unstable; (4) perceptions by Israel and the United States that its window of opportunity for military action is closing, which could prompt a preventive attack; (5) the prospect that Iran’s response to pre-emptive attacks could involve unconventional weapons, which could prompt escalation by Israel and/or the United States; (6) the lack of a communications framework to build trust and cooperation among framework participants. These systemic weaknesses in the coercive bargaining framework all suggest that escalation by any the parties could happen either on purpose or as a result of miscalculation or the pressures of wartime circumstance. Given these factors, it is disturbingly easy to imagine scenarios under which a conflict could quickly escalate in which the regional antagonists would consider the use of chemical, biological, or nuclear weapons. It would be a mistake to believe the nuclear taboo can somehow magically keep nuclear weapons from being used in the context of an unstable strategic framework. Systemic asymmetries between actors in fact suggest a certain increase in the probability of war – a war in which escalation could happen quickly and from a variety of participants. Once such a war starts, events would likely develop a momentum all their own and decision-making would consequently be shaped in unpredictable ways. The international community must take this possibility seriously, and muster every tool at its disposal to prevent such an outcome, which would be an unprecedented disaster for the peoples of the region, with substantial risk for the entire world.

#### Power projection is irrelevant if we aren’t credible – It’s the only way to make deterrence work – They destroy our hegemony

Pulse Review 7-6-9 (founded by an Air Force Academy graduate with a MA in Unconventional Warfare from the American Military University Review, “Why We Are Called the Paper Tiger,” http://pulsereview.com/?p=1111)

What we perceive is what we believe. When other nations perceive that America will not act in its interests, they perceive us as a paper tiger. The reader may note that the “Paper Tiger” rhetoric has been absent as of late. After all, other nations perceived us conquering one country, sustaining operations in another, and persuading several other countries to sit down and play nice. Whatever other nations consider us, a paper tiger is not one of them currently. We built our credibility by doing what we said we would do. Credibility, is the lynch pin of international relations. It creates the difference between diplomatic lip service and statements that actually effect change. Some nations have a great deal of credibility - there is little doubt they will do what they threaten. The Chinese are an example of this, as was the former Soviet Union. Other nations vary in credibility. As Americans, we have seen our national credibility oscillate wildly. No matter what our credibility is, America sustains a very strong ability to project power. Other nations understand that our credibility is is a function of our will, and our will shifts. These shifts in will to enforce our decisions create credibility issues. North Korea is a credibility issue, as is Iran. Both nations routinely ignore international declarations in ostentatious ways, like launching missiles, or stating they plan to become nuclear powers. Most nations break international law in one way or another. Some do it fairly overtly, such as the Chinese claiming exorbitant swaths of sea lanes as their territory. Still others are mostly suspected of breaking the law through assassinations or other nefarious acts. When the international community, and America, tell[s] a country not to do something, and don’t [doesn’t] back their words with actions, credibility is lost. Any parent, schoolteacher, drill sergeant, or leader of any sort clearly understands the issue. No repercussions equates to tacit acceptance of the actions. A clear failure of actions to follow words undermines the credibility of the words. When words fail, actions tend to become necessary. This is the innate reason that words must carry weight. It is far better to deter a nation from doing something, than to revert to the use force to stop that nation further down the path. Pay now, or pay later, with interest. This applies to credit cards, education, physical fitness, and international affairs. When America says “Stop, or I will stop you” if the words do not stop the nation, America will have to act to protect its interests, potentially at a greater cost, later. It is better to stop something with words than with actions, for words are far cheaper. Words are cheap, but their credibility is bought with blood and treasure. When a nation maintains the credibility of its words, the long term cost is less. North Korea is a case in point. The international community has gotten to the point where maintaining the dysfunctional regime is preferable to ending it. If North Korea destabilizes (pretend with me that it is stable for the moment), the South will be in dire peril. Between the military and economic consequences, the South will potentially be destabilized itself. Millions of refugees with nothing more than the clothes on their back, malnourished, uneducated, and in need of a great deal of care, will come South - assuming South Korea can even take care of itself in the aftermath of potential armed conflict. The reason we don’t act now is the hope that North Korea will somehow get better, or the desire to let it be someone else’s problem. Hope is neither a plan nor a strategy. Passing the buck is not a legitimate strategy either. In the bitter, unfortunate end, North Korea must either become a legitimate state, or meet the end of illegitimate states. The question is, how much harm will North Korea inflict on the world beforehand? Paper Tigers and fallen nations go hand in hand. When other nations, or non-state actors (Bin Laden) perceive America as a Paper Tiger, they end up provoking America beyond endurance, and reap what they sow a thousand fold. As Americans, we end up paying far more than we should due to the wild oscillation of credibility we routinely engage in. If we don’t want other nations to perceive us as paper tigers and act accordingly, we have to maintain our credibility. It is better for everyone involved — especially us.

#### Credibility is just as important as resources – Even if they improve military strength, they don’t solve the terminal impact.

Gerson, Anaylst – Strategic Initiatives Group, 9 (Michael, Research Analyst in the Strategic Initiatives Group at CAN, participated in the conceptual development and drafting of the Navy's maritime strategy, member of the Nuclear Posture Review, lecturer at George Washing University & NYU, B.A. in History from University of Texas, M.A. in International Relations from the University of Chicago, “Conventional Deterrence In the Second Nuclear Age,” Parameters, Autumn, http://www.carlisle.army.mil/usawc/Parameters/Articles/09autumn/gerson.pdf)

Credibility, according to Sir Lawrence Freedman, is the “magic ingredient” of deterrence.44 Deterrence credibility is a function of an adversary’s assessment of a nation’s military capability and political resolve. For deterrence to be credible, an adversary has to believe that the United States has both the military capability and the political willpower to carry out its announced objectives.45 Of all the concepts and theories associated with deterrence, the issue of how to demonstrate or signal credibility has been the dominant theme in academic and policy literature. Whereas in the nuclear context discussions about deterrence credibility have centered on political willpower and resolve, in conventional deterrence the issue of credibility has focused on the military capabilities component of the credibility equation. The almost exclusive emphasis on resolve for credible nuclear deterrence and on capabilities for credible conventional deterrence is the result of the inherent differences between nuclear and conventional weapons. There is little doubt that nuclear weapons are extremely destructive. The pertinent question for credible nuclear deterrence is not whether one can inflict significant costs for unwanted actions (assuming, of course, that the nuclear forces are survivable and there are appropriate command, control, and communications), but rather whether one will use nuclear weapons, since the execution of the threat might risk retaliation in kind. As Herman Kahn argued, in the nuclear are na “credibility depends on being willing to accept the other side’s retaliatory blow. It depends on the harm he can do, not the harm we can do.”46 In the conventional setting, it has been advocated that the situation is essentially reversed. Given the comparatively limited power of conventional weapons, an adversary may doubt whether conventional forces are capable of denying a rapid victory or inflicting the associated costs that outweigh the benefits of aggression. As Richard Harknett explains: The nature of conventional forces invites skepticism at a level that few deterrence theorists have emphasized—that of capability. Due to the contestable nature of conventional forces, it is a state’s capability to inflict costs that is most likely to be questioned by a challenger. In a conventional environment, the issue of credibility is dominated by suspicions about the capability to inflict costs rather than on the decision to inflict costs . . . . In the end, a state evaluating a conventional deterrent can assume that the deterrer will retaliate. The pertinent question is how costly that response will be.47 The importance of the credibility of US conventional capabilities remains relevant. Future adversaries may discount conventional threats in the mistaken belief that they could circumvent US forces via a fait accompli strategy or otherwise withstand, overcome, or outmaneuver the United States on the conventional battlefield. But a singular focus on the capabilities part of the credibility equation misses the critical importance of an adversary’s judgment of US political resolve. In future conventional deterrence challenges, perceptions of US political willpower are likely to be as important for deterrence credibility as military capabilities.

### Uniqueness

#### Your ev was in the context of the UN negotiation

The Age, 9-14-’13 (“US removes threat but reserves right to strike Syria” http://www.theage.com.au/world/us-removes-threat-but-reserves-right-to-strike-syria-20130914-2trce.html)

US President Barack Obama will drop his insistence that the threat of a military strike be included in a UN resolution on Syria, a move that could clear the way for a compromise between Russia and the United States at talks in Geneva. Prior to Friday's round of talks between US Secretary of State John Kerry and Russian counterpart Sergei Lavrov, Obama had rejected the removal of the threat of force from a UN resolution on Syria's chemical weapons. But late on Friday at the White House senior administration officials told reporters that Obama recognised that Russia would use its veto power in the UN Security Council to block a resolution that authorised a military strike against Syria. But Obama will not agree to renounce force altogether, reserving the right to order a punitive military strike on his own without United Nations backing. Kerry and Lavrov held their second day of meetings in Geneva trying to bridge gaps on several aspects of the chemical weapons disarmament, diplomats said. They agreed to continue pushing for peace talks to end the Syrian conflict, even though they still don't agree on how to rid Syria of its chemical weapons. Kerry and Lavrov said they would conduct further talks in New York later this month on holding possible peace talks that would bring Syrian government and opposition representatives to the negotiating table. But Kerry also made clear that holding the peace talks would depend on progress on the chemical weapons issue. Russian news agency Itar-Tass reported that talks on the issue would continue on Saturday in Geneva. Finding a date for the peace negotiations, which have been repeatedly postponed, "will obviously depend on the capacity to have success here in the next day, hours, days, on the subject of the chemical weapons," Kerry told reporters. Echoing the US position on the threat of force, the National Coalition of Syrian Revolutionary and Opposition Forces said chemical disarmament should be backed up by a UN Security Council resolution containing clear timelines and the threat of consequences, in case President Bashar al-Assad does not follow through. The coalition met in Istanbul to plan a new strategy for overthrowing Assad now that his promise to give up chemical weapons has pushed back the prospect of US military intervention. Also on Friday, Syria requested technical assistance from the Organisation for the Prohibition of Chemical Weapons (OPCW) and officially notified the group of its plans to become a member, the OPCW reported. In New York, UN Secretary General Ban Ki-moon surprised reporters when he said a report due out soon from UN inspectors "will be an overwhelming report that chemical weapons were used". Farhan Haq, a spokesman for Ban, later confirmed that the secretary general did not have the report and was only speculating on its content.

#### Vote is NEXT WEEK

Chicago Tribune 9/11 http://www.chicagotribune.com/news/chi-obama-syria-20130911,0,5719759.story

U.S. lawmakers said the Senate could start voting as soon as next week on a resolution to authorize military force if efforts to find a diplomatic solution fail. Obama has struggled for support in Congress for the plan.

#### Vote NEXT WEEK credible threat of force is NECESSARY for diplomacy to solve

Chicago Tribune 9/11 http://www.chicagotribune.com/news/chi-obama-syria-20130911,0,5719759.story

Lawmakers said on Wednesday the Senate could start voting on a resolution to authorize the use of military force against Syria as soon as next week if efforts to find a diplomatic solution to the crisis fall short.¶ A resolution authorizing strikes against Syria had been expected to come before the full Senate for a vote this week. But it was delayed after President Barack Obama asked lawmakers to wait for the outcome of a Russia-backed diplomatic initiative under which Syria would give up its chemical weapons.¶ Senators said on Wednesday they would move ahead with a vote if necessary, saying they felt the continued threat of force would pressure Syrian President Bashar al-Assad.¶ "That would be a decision made with the administration on strategy as to the timing of Senate action. I think it could be next week... I would not rule out next week," Senator Ben Cardin, a senior Democratic member of the Senate Foreign Relations Committee, told reporters.¶ Republicans and Democrats on the Senate Foreign Relations panel held separate meetings on Wednesday so committee leaders could assess members' attitudes about events in Syria.¶ Afterward, members said they expected it would be at least a few days before the Senate decided what steps to take next as they await the outcome of Secretary of State John Kerry's meeting with Russian Foreign Minister Sergei Lavrov in Geneva on Thursday and Friday, and any action at the United Nations.¶ "Right now the focus is on Geneva and the United Nations, and I want to make certain that we don't do anything that's going to derail a constructive, diplomatic approach to solving this problem," said committee member Richard Durbin, the No. 2 Democrat in the Senate.¶ Lawmakers also continued to work on an amendment to the authorization taking into account the Russia-backed plan. Among other things, the amendment would set strict time limits for Assad to hand over his weapons and authorize strikes if he fails to do so.¶ "There's a strong belief that keeping the credible use of military force is very necessary, and that to the extent that we consider any language, that that must be a prevalent part," said Democratic Senator Robert Menendez, the committee chairman, who is working with the group of eight other senators on the amendment.

### PC Key

#### AUMF will take PC

Politico 9/5 http://hotair.com/headlines/archives/2013/09/05/after-syria-how-much-political-capital-will-obama-have-left-for-immigration-and-the-debt-ceiling/

A resolution authorizing the use of force in Syria won’t make it through the House or the Senate without significant cajoling from the White House. That means Obama, who struggles to get Congress to follow his lead on almost everything, could burn his limited leverage convincing Democrats and Republicans to vote for an unpopular military operation that even the president says he could carry out with or without their approval.¶ “The only effect is — and I don’t mean this to be dismissive in any way — it will be taking up some time and there be some degree of political capital expended by all,” said Sen. Bob Corker (R-Tenn.), the Foreign Relations Committee ranking member who helped draft the Senate resolution. “At the end of the day, it’s a tough vote for anybody because the issue is trying to draft an authorization knowing that they’re going to implement it.”

#### Capital key to authorization

Ben German, 8-31, 13, <http://thehill.com/blogs/global-affairs/middle-east-north-africa/319817-on-syria-request-obama-gets-praise-warnings-from-capitol-hill> “On Syria Request, Obama Praised, Warned by Lawmakers”

But despite likely support from Pelosi and some other influential Democrats, it’s not immediately clear how widespread the backing for strikes is among the rank-and-file in either party.¶ A strike could face opposition from a number of Tea Party Republicans and liberal Democrats.¶ Senate Foreign Relations Committee ranking Republican Bob Corker (R-Tenn.), who backs a limited military strike, said Obama could face difficult votes.“I think it is problematic [in the House] and it could be problematic in both bodies,” he said on CNN, and urged Obama to use “every ounce of political capital that he has to sell this.”Rep. Charlie Rangel (D-N.Y.) said on the same network that “there is absolutely no question that I would vote ‘no.’”A pair of influential Senate Republicans – Sens. John McCain (Ariz.) and Lindsey Graham (S.C.) – said they believe the alleged use of chemical weapons deserves a military response and said Congress should act as quickly as possible.But they added: “However, we cannot in good conscience support isolated military strikes in Syria that are not part of an overall strategy that can change the momentum on the battlefield, achieve the President's stated goal of Assad's removal from power, and bring an end to this conflict, which is a growing threat to our national security interests.”¶A House Republican leadership aide said the onus for winning the vote would be on Obama.¶ “This vote is going to depend on the president making the case to Congress - and, more importantly, the American people,” the aide said. “We are also going to need complete, serious answers to the questions the Speaker and other have asked.”

#### Obama will need to spend a lot of capital to barely win

Cindy Saine, 9-5, VOA News, “US Congressional Vote on Syria Faces Tough Road,” http://www.voanews.com/content/us-congressional-vote-on-syria-faces-tough-road/1743640.html

But some members, including Republican Michael McCaul of Texas, voiced concern about authorizing military action because of the make-up of the Syrian rebels. “My concern is that any strike against this regime, as bad as it is, will empower these radical Islamists, these extremists, and we have seen this movie before,” he noted. Political analyst Stuart Rothenberg said informal tallies of House members suggest that a resolution authorizing military force will be difficult, but not impossible, to pass.¶ "Presidents have a way of twisting arms and begging and pleading and promising right before a vote," he said. "And they often succeed narrowly. But this is not, not, a foregone conclusion."

#### Obama will likely win, but tough fight in the House

AP, 9-4, 13, “Obama Faces Syria Test as House Holds 1st Hearing,” http://www.nwitimes.com/news/national/government-and-politics/obama-faces-syria-test-as-house-holds-st-hearing/article\_4d0feeab-1b7a-5049-b8a3-3d4d8b0d8d5d.html

The Obama administration is facing a tougher examination of its plans for military intervention in Syria, squaring off against tea party Republicans and other skeptical House members a day after gaining Speaker John Boehner's endorsement and significant support in the Senate. With President Barack Obama in Europe, his top national security aides were to participate Wednesday in a series of public and private hearings at the Capitol to advance their case for limited strikes against Syrian President Bashar Assad's regime in retaliation for what the administration says was a deadly sarin gas attack by his forces outside Damascus last month.¶ The Senate Foreign Relations Committee could vote on authorizing the use of force as early as Wednesday. The panel's top members drafted a resolution late Tuesday that permits Obama to order a "limited and tailored" military mission against Syria, as long as it doesn't exceed 90 days and involves no American troops on the ground for combat operations.¶ "We have pursued a course of action that gives the president the authority he needs to deploy force in response to the Assad regime's criminal use of chemical weapons against the Syrian people, while assuring that the authorization is narrow and focused," said the committee's chairman, Sen. Bob Menendez, D-N.J., who drafted the measure with Sen. Bob Corker of Tennessee, the panel's senior Republican.¶ "We have an obligation to act, not witness and watch while a humanitarian tragedy is unfolding in plain view," Menendez said.¶ While the administration was making progress in the Senate, it also needed to persuade a Republican-dominated House that has opposed almost the entirety of Obama's agenda since seizing the majority more than three years ago. Several conservative Republicans and some anti-war Democrats already have come out in opposition to Obama's plans, even as Republican and Democratic House leaders gave their support to the president Tuesday.¶ Boehner emerged from a meeting at the White House and declared that the U.S. has "enemies around the world that need to understand that we're not going to tolerate this type of behavior. We also have allies around the world and allies in the region who also need to know that America will be there and stand up when it's necessary."¶ Rep. Eric Cantor, the House majority leader, also backed action. But he acknowledged the split positions among both parties and said it was up to Obama to "make the case to Congress and to the American people that this is the right course of action."¶ Secretary of State John Kerry, Defense Secretary Chuck Hagel and the chairman of the Joint Chiefs of Staff, Gen. Martin Dempsey, will try to make that argument in a public hearing before the House Foreign Affairs Committee on Wednesday. They and other senior administration officials also will provide classified briefings to the Senate Foreign Relations and Armed Services committees.¶ A consistent refrain in Tuesday's Senate hearing was the need for clearer limits on the duration and scope of any resolution that authorizes military force. Chief among them was language barring American soldiers from being sent to fight in Syria, something Obama has said repeatedly he has no intention of doing.¶ "There's no problem in our having the language that has zero capacity for American troops on the ground," Kerry told lawmakers. "President Obama is not asking America to go to war."¶ The administration says 1,429 died from the attack on Aug. 21 in a Damascus suburb. The British-based Syrian Observatory for Human Rights, which collects information from a network of anti-government activists in Syria, says it has been compiling a list of the names of the dead and says its toll has reached 502. Assad's government blames the episode on the rebels. A United Nations inspection team is awaiting lab results on tissue and soil samples it collected while in the country before completing a closely watched report.¶ Obama, who arrived in Stockholm early Wednesday, will be hoping to maintain the momentum toward congressional approval that he has generated since Saturday, when he announced he would ask lawmakers to authorize what until then had appeared to be imminent military action against Syria.¶ On Monday, the president met privately at the White House with the Senate's two leading Republican hawks, John McCain of Arizona and Lindsey Graham of South Carolina, and persuaded them to support his plans for an intervention on condition that he also seek to aid the Syrian rebels seeking to oust Assad.¶ A day later, he sat down with Boehner, Cantor and several other senior lawmakers to make a similar case that Assad must be punished for breaching the nearly century-old international taboo of using chemical weapons and for crossing the "red line" Obama set nearly a year ago. After gaining significant support, Kerry, Hagel and Dempsey appeared to get the backing of most senators at Tuesday's hearing.¶ "You're probably going to win" Congress' backing, Rand Paul of Kentucky, a conservative senator and likely opponent of the measure, conceded in a late-afternoon exchange with Kerry.¶ However, even proponents of military action urged Obama to do more to sell his plans to an American public that is highly skeptical after a decade of war in Iraq and Afghanistan.¶ Obama, who will travel from Sweden's capital to an economic summit in St. Petersburg, Russia, on Thursday, has little international support for action right now. Among major allies, only France has offered publicly to join the United States in a strike, although President Francois Hollande says he'll await Congress' decision.

### 1NR LINK

#### The process of new force authorizations will devolve into batshittery

Marcy 13 PhD program in Comparative Literature brought her to Michigan, Declaring “Wars” the President Didn’t Ask For, 5-8,http://www.emptywheel.net/2013/05/08/declaring-wars-the-president-didnt-ask-for/

But that, it seems to me, is ultimately what this debate about a new AUMF comes down to. Koh and, presumably, others who have served the President won’t want Congress to change the delicate balance that offers the President a great deal of flexibility to operate under both the AUMF and Article II. And to some degree, they’re right to worry about what batshit stuff the Lindsey Grahams of the world will mandate. But I suspect they’re just as worried that a new AUMF will put real limits to the President’s current fairly unlimited authority. Look, I don’t trust Congress to write a new AUMF either. If they do one, it’s going to contain all manner of batshittery.

#### Your turns don’t apply – there’s only support for the problem – not the solution

Knox June, Oliver, Yahoo! News June 21, 2013, http://news.yahoo.com/blogs/ticket/congress-struggles-ending-war-afghanistan-iraq-213153386.html

Enter Democratic Rp. Adam Schiff of California. Schiff, who sits on the House Intelligence Committee, has introduced legislation to repeal the Afghanistan AUMF on Jan. 1, 2015—when America's combat troops are supposed to be out of that war-torn country. The problem, he explained to Yahoo News, is coming up with something to replace it. "There's a lot of bipartisan recognition that we can't continue to rely on this," said Schiff, who has started to seek co-sponsors for his bill. "There's a lot less consensus about what should come after." Some lawmakers want a much broader AUMF that explicitly expands the list of groups that can be targeted, perhaps to include Iran-backed Hezbollah, Schiff said. Some believe "we should not have any further authorization" and instead should "use the criminal justice system" the way it was before Sept. 11, 2001, Schiff said, adding that some want a new AUMF "more narrowly tailored to the present threat." The uncertainty about the post-AUMF legal framework is a "risk" and "the biggest obstacle" to the legislation, Schiff told Yahoo News.

#### There’s zero support for repealing the AUMF – both the military and corporations have a major incentive to ensure that relaxations of the AUMF don’t occur

VVV Public Relations 13 AUMF Hunger Strike Called to Demand Repeal of 2001 Authorization for Use of Military Force

http://veritasvirtualvengeance.com/2013/03/29/aumf-hunger-strike-called-to-demand-repeal-of-2001-authorization-for-use-of-military-force/

Congressoman Barbara Lee (D-CA) was the only member of Congress to vote against AUMF in 2001 and recently sponsored H.R.198 to repeal it. Congressman Walter Jones (R-NC) and other representatives have signed on as co-sponsors, but barring a groundswell of bipartisan support GovTrack.US gives #HR198 a “2% chance of getting past committee” and a “0% chance of being enacted.” Such a groundswell would fly in the face of Military Industrial Complex and Top Secret America corporate interests who stand to lose trillions in revenues if AUMF 2001 is repealed and will gladly pour billions into anonymous political action committees, campaign contributions and lobbying to maintain the status quo (see also the POGO Federal Contractor Misconduct Database (FCMD), OpenSecrets.org and InfluenceExplorer.com.) IronBoltBruce understands, consequently, that the only way to motivate both Democrats and Republicans in the House and Senate to repeal AUMF 2001 is to mount a united nonpartisan grassroots effort to make the politicians of both parties fear the loss of votes from their constituents more so than the loss of cash from their corporate benefactors.

### A2 Hirsch

#### Success depends on picking the right issues – links prove the plan is wrong

Hirsh 2-7 – their author Michael Hirsh - chief correspondent for National Journal, previously senior editor and national economics correspondent for Newsweek, “There’s No Such Thing as Political Capital” February 7, 2013 http://www.nationaljournal.com/magazine/there-s-no-such-thing-as-political-capital-20130207

And then there are the presidents who get the politics, and the issues, wrong. It was the last president before Obama who was just starting a second term, George W. Bush, who really revived the claim of political capital, which he was very fond of wielding. Then Bush promptly demonstrated that he didn’t fully understand the concept either.¶ At his first news conference after his 2004 victory, a confident-sounding Bush declared, “I earned capital in the campaign, political capital, and now I intend to spend it. That’s my style.” The 43rd president threw all of his political capital at an overriding passion: the partial privatization of Social Security. He mounted a full-bore public-relations campaign that included town-hall meetings across the country.¶ Bush failed utterly, of course. But the problem was not that he didn’t have enough political capital. Yes, he may have overestimated his standing. Bush’s margin over John Kerry was thin—helped along by a bumbling Kerry campaign that was almost the mirror image of Romney’s gaffe-filled failure this time—but that was not the real mistake. The problem was that whatever credibility or stature Bush thought he had earned as a newly reelected president did nothing to make Social Security privatization a better idea in most people’s eyes. Voters didn’t trust the plan, and four years later, at the end of Bush’s term, the stock-market collapse bore out the public’s skepticism. Privatization just didn’t have any momentum behind it, no matter who was pushing it or how much capital Bush spent to sell it.¶ The mistake that Bush made with Social Security, says John Sides, an associate professor of political science at George Washington University and a well-followed political blogger, “was that just because he won an election, he thought he had a green light. But there was no sense of any kind of public urgency on Social Security reform. It’s like he went into the garage where various Republican policy ideas were hanging up and picked one. I don’t think Obama’s going to make that mistake.… Bush decided he wanted to push a rock up a hill. He didn’t understand how steep the hill was. I think Obama has more momentum on his side because of the Republican Party’s concerns about the Latino vote and the shooting at Newtown.” Obama may also get his way on the debt ceiling, not because of his reelection, Sides says, “but because Republicans are beginning to doubt whether taking a hard line on fiscal policy is a good idea,” as the party suffers in the polls.

#### Even if you don’t like the “political capital” metaphor, it’s really a semantic distinction – Hirsh’s entire argument assumes the plan is popular – links prove Hirsh is not applicable

--not every item costs political capital, and pushing popular policies are a win. THAT IS NOT THE PLAN.

SWR 2-11 – Political blog written by an Oregonian analyst

So Well Read, <http://sowellread.wordpress.com/2013/02/11/banking-on-old-ideas/>

National Journal’s Hirsh might suggest that Obama’s success in his second term depends less on withdrawals and deposits from an imaginary Bank of Political Capital but on how much time and energy he is willing to devote to passing a particular proposal. “Winning on one issue often changes the calculation for the next issue; there is never any known amount of capital,” Hirsh writes. Gun control measures like universal background checks are broadly popular, making a “win” on gun control unlikely to deplete whatever reserve of capital Politico imagines Obama to possess. Devoting time to such an issue, then, is not necessarily an expenditure of goodwill or a bump that can slow the president’s “momentum.” Quite the opposite: he may emerge from the fight with a stronger “mandate,” if we insist on calling it that, than he went in with.