# Wake Round 5

## 1NC

### T

#### Restrictions on authority prohibit- the aff is a condition

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

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

**Vote neg  
limits and ground- anything can indirectly affect war powers--also makes the topic bidirectional because conditions can enhance executive power**

### Politics of Schmitt K

#### Politics is Schmittian – trying to fight the executive on their own battlefield is naïve – the aff is just a liberal knee-jerk reaction that swells executive power

Kinniburgh, 5/27 **–** (Colin, Dissent, 5-27, <http://www.dissentmagazine.org/blog/partial-readings-the-rule-of-law>)

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

#### Legality feeds a new form of muscular liberalism where these illusions cannot see how much they sustain it which legitimizes wars for democracies and doctrines of pre-emption

Motha 8 \*Stewart, Senior Lecturer, Kent Law School, University of Kent, Canterbury, Kent, Journal of Law, Culture, and Humanities Forthcoming 2008, Liberal Cults, Suicide Bombers, and other Theological Dilemmas

A universalist liberal ideology has been re-asserted. It is not only neo-con hawks or Blairite opportunists that now legitimise wars for democracy. Alarmingly, it is a generation of political thinkers who opposed the Nixonian logic of war (wars to show that a country can ‘credibly’ fight a war to protect its interests1), and those humbled by the anticolonial struggles of liberation from previous incarnations of European superiority that are renewing spurious civilizational discourses. This ‘muscular liberalism’ has found its voice at the moment of a global political debate about the legality and effectiveness of ‘just wars’ – so called ‘wars for democracy’ or ‘humanitarian war’. The new political alignment of the liberal left emerged in the context of discussions about the ‘use of force’ irrespective of UN Security Council endorsement or the sovereign state’s territorial integrity, such as in Kosovo – but gained rapid momentum in response to attacks in New York City and Washington on September 11, 2001. Parts of the liberal left have now aligned themselves with neoconservative foreign policies, and have joined what they believe is a new anti-totalitarian global struggle – the ‘war on terror’ or the battle against Islamist fundamentalism. One task of this essay, then, is to identify this new formation of the liberal left. Much horror and suffering has been unleashed on the world in the name of the liberal society which must endure. However, when suicide bombing and state-terror are compared, the retort is that there is no moral equivalence between the two. Talal Asad in his evocative book, On Suicide Bombing, has probed the horror that is felt about suicide bombing in contrast to state violence and terror.2 What affective associations are formed in the reaction to suicide bombing? What does horror about suicide bombing tell us about the constitution of inter-subjective relations? In this essay I begin to probe these questions about the relation between death, subjectivity, and politics. I want to excavate below the surface oppositions of good deaths and bad, justifiable killing and barbarism, which have been so central to left liberal arguments. As so much is riding on the difference between ‘our good war’ and ‘their cult of death’, it seems apt to examine and undo the opposition. The muscular liberal left projects itself as embodying the values of the ‘West’, a geo-political convergence that is regularly opposed to the ‘East’, ‘Muslims’, or the ‘Islamic World’. I undo this opposition, arguing that thanatopolitics, a convergence of death, sacrifice, martyrdom and politics, is common to left liberal and Islamist political formations. How does death become political for left liberals and Islamist suicide bombers? In the case of the latter, what is most immediately apparent is how little is known about the politics and politicization of suicide bombers. Suicide bombers are represented as a near perfect contrast to the free, autonomous, self-legislating liberal subject – a person overdetermined by her backward culture, oppressive setting, and yet also empty of content, and whose death can have no temporal political purchase. The ‘suicide bomber’ tends to be treated by the liberal left as a trans-historical ‘figure’, usually represented as the ‘Islamo-fascist’ or the ‘irrational’ Muslim.3 The causes of suicide bombing are often implicitly placed on Islam itself – a religion that is represented as devoid of ‘scepticism, doubt, or rebellion’ and thus seen as a favourable setting for totalitarianism.4 The account of the suicide bomber as neo-fascist assassin supplements a lack – that is, that the association of suicide bombing with Islam explains very little. The suicide bomber is thus made completely familiar as totalitarian fascist, or wholly other as “[a] completely new kind of enemy, one for whom death is not death”.5 So much that is written about the suicide bomber glosses over the unknown with political subjectivities, figures, and paradigms (such as fascism) which are familiar enough to be vociferously opposed. By drawing the suicide bomber into a familiar moral register of ‘evil’, political and historical relations between victim and perpetrator are erased.6 In the place of ethnographically informed research the ‘theorist’ or ‘public intellectual’ erases the contingency of the suicide bomber and reduces her death to pure annihilation, or nothingness. The discussion concludes by undoing the notion of the ‘West’, the very ground that the liberal left assert they stand for. The ‘West’ is no longer a viable representation of a geo-political convergence, if it ever was. Liberal discourse has regarded itself as the projection of the ‘West’ and its enlightenment. But this ignores important continuities between Islam, Christianity, and contemporary secular formations. The current ‘clash of monotheisms’, I argue after J-L Nancy, reveals a crisis of sense, authority, and meaning which is inherent to the monotheistic form. An increasingly globalised world is made up of political communities and juridical orders that have been ‘emptied’ of authority and certainty. This crisis of sense conditions the horror felt by the supposedly rational liberal in the face of Islamist terrorism. Horror at terrorism is then the affective bond that sustains a grouping that otherwise suffers the loss of a political project with a definite end. The general objective of this essay is to challenge the unexamined assumptions about politics and death that circulate in liberal left denunciations of Islamic fascism. The horror and fascination with the figure of the suicide bomber reveals an unacknowledged affective bond that constitutes the muscular liberal left as a political formation. This relies on disavowing the sacrificial and theological underpinnings of political liberalism itself – and ignores the continuities between what is called the ‘West’ and the theologico-political enterprise of monotheism. Monotheism is not the preserve of something called the ‘West’, but rather an enterprise that is common to all three Religions of the Book. The article concludes by describing how the writings of Jean-Luc Nancy on monotheism offer liberal left thinkers insights for rethinking the crisis of value that resulted from the collapse of grand emancipatory enterprises as well as the fragmentation of politics resulting from a focus on political identification through difference. I opened with a reference to the ‘liberal left’. Of course the ‘liberal left’ signifies a vast and varied range of political thinking and activism – so I must clarify how I am deploying this term. In this essay the terms ‘liberal left’ or ‘muscular liberal’ are used interchangeably. Paul Berman and Nick Cohen, whose writing I will shortly refer to, are exemplars of the new political alignment who self-identify as ‘democrats and progressives’, but whose writings feature bellicose assertions about the superiority of western models of democracy, and universal human rights.7 Among this liberal left, democracy and freedom become hemispheric and come to stand for the West. More generally, now, the ‘liberal left’ can be distinguished from political movements and thinkers who draw inspiration from a Marxist tradition of thought with a socialist horizon. The liberal left I am referring to would view the Marxist tradition as undervaluing democratic freedoms and human rights. Left liberals also tend to dismiss the so called post-Marxist turn in European continental philosophy as ‘postmodern relativism’.8 PostMarxists confronted the problem of the ‘collective’ – addressing the problem of masses and classes as the universal category or agent of historical transformation. This was a necessary correction to all the disasters visited on the masses in the name of a universal working class. The liberal state exploited these divisions on the left. It is true that a left fragmented through identity politics or the politics of difference were reduced to group based claims on the state. However, liberal multiculturalism was critiqued by anti-racist and feminist thinkers as early as the 1970s for ignoring the structural problems of class or as yet another nation-building device. The new formation of the muscular liberal left have only just discovered the defects of multiculturalism. The dismissal of liberal multiculturalism is now code for ‘too much tolerance’ of ‘all that difference’. The liberal left, or muscular liberal, as I use these terms, should not be conflated with the way ‘liberal’ is generally used in North America to denote ‘progressive’, ‘pro-choice’, open to a multiplicity of forms of sexual expression, generally ‘tolerant’, or ‘left wing’ (meaning socialist). It might be objected that it is not the liberal left, but ‘right wing crazies’ driven by Christian evangelical zeal combined with neo-liberal economic strategies that have usurped a post-9/11 crime and security agenda to mount a global hegemonic enterprise in the name of a ‘war on terror’. It might also be said that this is nothing new – global expansionist enterprises such as 18th and 19th century colonialism mobilised religion, science, and theories of economic development to secure resources and justify extreme violence where necessary. Global domination, it might be argued, has always been a thanatopolitical enterprise. So what’s different now? What is crucial, now, is that the entire spectrum of liberalism, including the ‘rational centre’, is engaged in the kind of mindset whereby a destructive and deadly war is justified in the name of protecting or establishing democracy, the rule of law, and human rights. It might then be retorted that this ‘rational centre’ of liberalism have ‘always’ been oriented in this way. That is partly true, but it is worth recalling that the liberal left I have in mind is the generation that came of age with opposition to the war in Vietnam, other Indo-Chinese conflagrations, and the undoing of empire. This is a left that observed the Cold War conducted through various ‘hot wars’ in Africa, Central and Latin America, and South East Asia and thus at least hoped to build a ‘new world order’ of international law and multilateralism. This is a left that was resolved, by the 1970s, not to repeat the error of blindly following a scientific discourse that promised to produce a utopia – whether this was ‘actually existing socialism’ or the purity of ‘blood and soil’. But now, a deadly politics, a thanatopolitics, is drawn out of a liberal horror and struggle against a monolithically drawn enemy called Islamic fundamentalism. What is new is that Islam has replaced communism/fascism as the new ‘peril’ against which the full spectrum of liberalism is mobilized. Islamist terrorism and suicide bombers, a clash between an apparently Islamic ‘cult of death’ versus modern secular rationality has come to be a central preoccupation of the liberal left. In the process, as Talal Asad has eloquently pointed out, horror about terrorism has come to be revealed as one way in which liberal subjectivity and its relation to political community can be interrogated and understood.9 Moreover, the potential for liberal principles to be deployed in the service of legitimating a doctrine of pre-emption as the ‘new internationalism’ is significant. The first and second Gulf Wars, according to the liberal left, are then not wars to secure control over the supply of oil, or regional and global hegemony, as others on the left might argue, but anti-fascist, anti-totalitarian wars of liberation fought in the name of ‘democracy’. Backing ‘progressive wars’ for ‘freedom and democracy’, those who self-identify as a left which is reasserting liberal democratic principles start by asking questions such as: “Are western freedoms only for westerners?”.10 In the process, freedom becomes ‘western’, and its enemy an amorphous legion behind an unidentifiable line between ‘west’ and the rest (the ‘Muslim world’). The ‘war for democracy’ waged against ‘Islamist terrorism’ and Muslim fundamentalism is the crucible on which the new alignment of the liberal left is forged.

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

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

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

### CP

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

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

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

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

#### Internal checks comparatively solve better and don’t link to politics

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

Several bases exist for thinking that internal separation of powers mechanisms may have a comparative advantage. First, internal mechanisms [\*440] operate ex ante, at the time when the Executive Branch is formulating and implementing policy, rather than ex post. As a result, they avoid the delay in application that can hamper both judicial and congressional oversight. 76 Second, internal mechanisms often operate continuously, rather than being limited to issues that generate congressional attention or arise in the form of a justiciable challenge. 77 Third, internal mechanisms operate not just at the points at which policy proposals originate and are implemented but also at higher managerial levels, thus addressing policy and administration in both a granular and systemic fashion. In addition, policy recommendations generated through internal checks may face less resistance than those offered externally because the latter frequently arise after executive officials have already decided upon a policy course and are more likely to take an adversarial form. 78 Internal mechanisms may also gain credibility with Executive Branch officials to the extent they are perceived as contributing to more fully informed and expertise-based decisionmaking. 79

### CP 2

#### The United States federal government should re-name the Air-Sea Battle doctrine as Air-Sea Operations and include the Marine Corps in their operations.

#### Renaming solves – means not seen as aggressive

O’Hanlon, Director of Foreign Policy Research at Brookings, ’12 (Michael, October 15, “Air-Sea Ops, Not Battle U.S. Should De-emphasize War in Pacific Policy” Defense News, http://www.defensenews.com/article/20121015/DEFFEAT05/310150007/)

A popular concept in planning circles at the Pentagon today, especially within the U.S. Air Force and Navy, is known as Air-Sea Battle. This approach to future war is, in part, designed to adapt to technological change but also reflects the rise of China. The People’s Republic wishes to exert greater influence over waterways to its east as its power increases. Iran and one or two other states provide some of the impetus for Air-Sea Battle doctrine, but China is surely the main spur. As such, Air-Sea Battle is, in some ways, the military complement to the “rebalancing” strategy of the Obama administration, which places greater foreign policy emphasis on the Asia-Pacific region. The main impetus behind the concept of Air-Sea Battle is quite reasonable. China is developing advanced submarines, precision-guided ballistic and cruise missiles and other capabilities to prevent the U.S. from treating the Western Pacific like the American lake it largely was in recent decades. In light of this, we need to reply. American access to the Western Pacific remains crucial for supporting key allies and interests there. It requires improvements in missile defense, anti-submarine warfare, communications system resiliencies and other capabilities that improved integration between the U.S. Air Force and Navy can help provide. However, there are a couple of ways in which this American doctrine should be refined. First, it needs a less provocative, more accurate name. This is not about political correctness. In Asia, semantics count a great deal, and we should be careful not to treat military planning for Asia like preparation for the next Operation Desert Storm. Unlike Iraq under Saddam Hussein, or the Taliban government of Afghanistan, China is not an enemy. The essence of our military policy in Asia is not to prepare for war so much as to prevent it. Nor are we trying to contain it the way we sought to contain the Soviet Union, including through a doctrine of Air-Land Battle in the latter Cold War years. War-fighting capability is naturally integral to any military operational concept. But the phrase Air-Sea Battle unduly emphasizes the prospect of war. Our overall military strategy for the region has other goals besides prepara¬tion for war. Indeed, its very purpose is to help prevent war. Air-Sea Operations would be a much better and more strategically sound name for the doctrine. That would encompass planning for war, of course, but also normal peacetime presence missions, posturing for deterrence, exercising with allies, positioning for crisis response and even cooperating with China in some activities. That shift in terminology will also allow U.S. military officials and diplomats to acknowledge what is already obvious to the Chinese, yet often denied by Americans: that Air-Sea Operations is largely designed to deal with China’s rise — but in a way designed less to prepare for conflict than to reinforce regional stability. Two more changes also make sense. First, Air-Sea Operations should not anticipate a pre-emptive or even early campaign against targets on the Chinese mainland in the event of war. Rapid escalation to include attacks against such targets risks general war and is far more dangerous than some have recognized to date. The right answer is not to ask U.S. and allied military forces to operate in harm’s way without defending themselves, but to look for indirect or asymmetrical ways of responding to possible Chinese aggression that lower the risks of such escalatory dynamics while still ensuring protection of core American interests to the extent possible. In addition, Air-Sea Operations needs to move beyond a strictly Air Force and Navy concept. The other military services have important contributions to make. One set of smart changes would entail asking the Marine Corps, with its naval affiliations and expeditionary traditions, to prepare for possible defense of Navy and Air Force assets and installations in the broader Asia-Pacific region. It could even prove necessary, in a future conflict, to help establish and secure bases in the Indonesian or Philippine archipelagos, or to help defend existing bases on Okinawa and Guam against special operations forces attack from a hostile adversary. Creating such a ring of military capabilities in defense of national territory and the territories of friends and allies may be the wisest long-term response to a China that becomes hostile someday. As the Pentagon looks ahead to a new Quadrennial Defense Review under either a President Obama or a President Romney, it needs a concept of military operations and a name for that concept that supports and accurately reflects U.S. grand strategy goals. Air-Sea Operations would be a sound choice.

### DA

#### High-skilled visa reform will pass

Rubin 11-14. [Jennifer, WaPo blogger, “Immigration reform outlook” Washington Post --¶ <http://www.washingtonpost.com/blogs/right-turn/wp/2013/11/14/immigration-reform-outlook/>]

There were some theatrics on Wednesday from liberal immigration reform advocates, claiming the speaker of the House was now refusing to go to conference with the Senate on immigration reform. Immigration reform dead! Really? No.¶ In fact, this morning at the U.S. Chamber of Commerce Headquarters, a collection of conservatives — Thomas J. Donohue, president and chief executive of the U.S. Chamber of Commerce; Dr. Russell Moore, president of the Ethics and Religious Liberty Commission of the Southern Baptist Convention; Grover Norquist, president of Americans for Tax Reform; Jay Timmons, president and chief executive of the National Association of Manufacturers; Bishop John C. Wester, bishop of Salt Lake City; and Greg Zoeller, the attorney general of Indiana (R) — will be holding a press conference to push for further action on immigration reform.¶ As for Speaker John Boehner, those familiar with his thinking tell Right Turn that he still supports taking up discrete immigration issues (border security, internal enforcement, visas, undocumented etc.) for debate and passage. This has been his position for some time. Whether the Senate will be willing to break up its bill into separate legislative chunks (passed in succession) is an open question, but Boehner is not going to engage on one massive bill. As for the prospects of those separate bills getting through this year, House leadership is realistic that months have now been chewed up on the shutdown and Obamacare.¶ Boehner and other Republicans nevertheless maintain that whether taken up in December or after the first of the year, something will come out of the House. Politico quoted Boehner yesterday as saying, “I’ve made it clear since the day after the election that it’s time to get this done.” His spokesman clarified, according to the report, that he was referring to his “taking up reform with a collection of bills, not a sweeping comprehensive bill like the Senate passed in June.”¶ From my vantage point, there really isn’t time in the next month and a half to get immigration done. But immigration reform opponents are mistaken if they think the issue is dead as of December 31. Immigration reform is still doable, albeit not in as sweeping a fashion as the Senate bill attempted.¶ In fact, I would argue that with the president on the ropes and anxious for something other than scandal, defeat and chaos, he and the Democrats might be willing to deal in ways they weren’t earlier this year. A pro-immigration reform GOP senator with whom I spoke a couple of weeks ago said he was more optimistic lately that Sen. Chuck Schumer (D-N.Y.) and the president could deal with Republicans on something other than, as he put it, a “special path to citizenship.” (“Special” here is the variable.) I would add that with the bruising taken by the far-right in the shutdown and Nov. elections and the re-engagement of Main Street Republicans (evidence by today’s press conference), the House may have more votes for immigration reform than before the disastrous shutdown.¶ In any event, immigration reform didn’t die yesterday. It continues to limp along just has it has for the last few months.

#### Capital key – pressure ensures votes.

Sanders 10-19. [Bob, columnist, "There’s no better time for Obama to push for immigration reform" Star-Telegram -- www.star-telegram.com/2013/10/19/5258963/theres-no-better-time-for-obama.html]

Now that the Republican hijacking of the federal government has been brought to an end, perhaps President Barack Obama and Congress can move on to other major issues that have been neglected too long.¶ The president, in addition to wanting to work out a long-term budget deal, has said that he is now ready to push for passage of a comprehensive immigration bill, as well as rescuing the farm bill, which was gutted when GOP lawmakers stripped out the food stamp section.¶ Just a few months ago, immigration reform looked promising, garnering bipartisan support in the Senate. A measure that was long overdue passed the upper chamber in Congress last June, but has been stalled in the House as recalcitrant Republicans simply couldn't stomach the idea of providing a path to citizenship for the millions of illegal immigrants already in the country.¶ While the Senate bill has its faults - including adding 700 miles of new fencing along the U.S.-Mexico border - it is a compromise that, if passed, would be a giant step toward improving the entire immigration system and, at the same time, bringing illegal immigrants out of the shadows.¶ Obama got re-elected partly on his promise to pursue the issue aggressively, receiving 71 percent of the Latino vote. He has not been as aggressive as many would like, even though they're willing to cut him a little slack because of all the uncontrollable international crises and manufactured domestic distractions (like the shutdown of the government) he has had to deal with.¶ But he shouldn't let anything get in his way this time, even though Republicans in the House are vowing not to negotiate with him because the president stood his ground and refused to negotiate on his healthcare law in connection with raising the debt ceiling and ending the government shutdown.¶ House Speaker John Boehner, who has refused to bring the Senate bill to a vote, has said he won't bring any immigration legislation to the floor until a majority of his Republican caucus agrees.¶ That, in effect, means never. Or, if there is a bill that the majority of his party would support, you can almost bet it will be terribly inadequate, one that would not pass the Senate and one that the president wouldn't sign if it did.¶ Boehner, who has been on the losing end a lot lately, ought to be pressured into bringing the Senate bill to a vote. It's clear that on many of the important matters facing this country, the majority of his party in the House will reject just about anything the president supports.¶ Therefore, it will be left up to the House Democrats and the moderate Republicans who are not afraid of the "tea party" to get an immigration bill passed.¶ Since the government shutdown fiasco, in which the GOP unmistakably was the loser, the president has the upper hand, and he should take the opportunity to press forward with his agenda.¶ By no means am I suggesting that Obama become a bully or deliberately attempt to undermine Boehner's leadership, but he shouldn't back away from this fight again.¶ Every time an election approaches - and there's always an approaching election - it is suggested that it's the wrong time to bring up immigration reform.¶ Frankly, there's no better time than right now as candidates prepare to file for office and gear up their campaigns for the 2014 contests.

#### 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.

#### High skilled workers solves multiple internal links to the economy

Beadle 12/10 Amanda Peterson, Reporter/Blogger at ThinkProgress.org. She received her B.A. in journalism and Spanish from the University of Alabama, where she was editor-in-chief of the campus newspaper The Crimson White and graduated with honors. Before joining ThinkProgress, she worked as a legislative aide in the Maryland House of Delegates. “Top 10 Reasons Why The U.S. Needs Comprehensive Immigration Reform” http://thinkprogress.org/justice/2012/12/10/1307561/top-10-reasons-why-the-us-needs-comprehensive-immigration-reform-that-includes-a-path-to-citizenship/

The nation needs a comprehensive immigration plan, and it is clear from a recent poll that most Americans support reforming the U.S.’s immigration system. In a new poll, nearly two-thirds of people surveyed are in favor of a measure that allows undocumented immigrants to earn citizenship over several years, while only 35 percent oppose such a plan. And President Obama is expected to “begin an all-out drive for comprehensive immigration reform, including seeking a path to citizenship” in January.¶ Several top Republicans have softened their views on immigration reform following November’s election, but in the first push for reform, House Republicans advanced a bill last month that would add visas for highly skilled workers while reducing legal immigration overall. Providing a road map to citizenship for the millions of undocumented immigrants living in the U.S. would have sweeping benefits for the nation, especially the economy.¶ Here are the top 10 reasons why the U.S. needs comprehensive immigration reform:¶ 1. Legalizing the 11 million undocumented immigrants in the United States would boost the nation’s economy. It would add a cumulative $1.5 trillion to the U.S. gross domestic product—the largest measure of economic growth—over 10 years. That’s because immigration reform that puts all workers on a level playing field would create a virtuous cycle in which legal status and labor rights exert upward pressure on the wages of both American and immigrant workers. Higher wages and even better jobs would translate into increased consumer purchasing power, which would benefit the U.S. economy as a whole.¶ 2. Tax revenues would increase. The federal government would accrue $4.5 billion to $5.4 billion in additional net tax revenue over just three years if the 11 million undocumented immigrants were legalized. And states would benefit. Texas, for example, would see a $4.1 billion gain in tax revenue and the creation of 193,000 new jobs if its approximately 1.6 million undocumented immigrants were legalized.¶ 3. Harmful state immigration laws are damaging state economies. States that have passed stringent immigration measures in an effort to curb the number of undocumented immigrants living in the state have hurt some of their key industries, which are held back due to inadequate access to qualified workers. A farmer in Alabama, where the state legislature passed the anti-immigration law HB 56 in 2011, for example, estimated that he lost up to $300,000 in produce in 2011 because the undocumented farmworkers who had skillfully picked tomatoes from his vines in years prior had been forced to flee the state.¶ 4. A path to citizenship would help families access health care. About a quarter of families where at least one parent is an undocumented immigrant are uninsured, but undocumented immigrants do not qualify for coverage under the Affordable Care Act, leaving them dependent on so-called safety net hospitals that will see their funding reduced as health care reforms are implemented. Without being able to apply for legal status and gain health care coverage, the health care options for undocumented immigrants and their families will shrink.¶ 5. U.S. employers need a legalized workforce. Nearly half of agricultural workers, 17 percent of construction workers, and 12 percent of food preparation workers nationwide lacking legal immigration status. But business owners—from farmers to hotel chain owners—benefit from reliable and skilled laborers, and a legalization program would ensure that they have them.¶ 6. In 2011, immigrant entrepreneurs were responsible for more than one in four new U.S. businesses. Additionally, immigrant businesses employ one in every 10 people working for private companies. Immigrants and their children founded 40 percent of Fortune 500 companies, which collectively generated $4.2 trillion in revenue in 2010—more than the GDP of every country in the world except the United States, China, and Japan. Reforms that enhance legal immigration channels for high-skilled immigrants and entrepreneurs while protecting American workers and placing all high-skilled workers on a level playing field will promote economic growth, innovation, and workforce stability in the United States.¶ 7. Letting undocumented immigrants gain legal status would keep families together. More than 5,100 children whose parents are undocumented immigrants are in the U.S. foster care system, according to a 2011 report, because their parents have either been detained by immigration officials or deported and unable to reunite with their children. If undocumented immigrants continue to be deported without a path to citizenship enabling them to remain in the U.S. with their families, up to 15,000 children could be in the foster care system by 2016 because their parents were deported, and most child welfare departments do not have the resources to handle this increase.¶ 8. Young undocumented immigrants would add billions to the economy if they gained legal status. Passing the DREAM Act—legislation that proposes to create a roadmap to citizenship for immigrants who came to the United States as children—would put 2.1 million young people on a pathway to legal status, adding $329 billion to the American economy over the next two decades.¶ 9. And DREAMers would boost employment and wages. Legal status and the pursuit of higher education would create an aggregate 19 percent increase in earnings for young undocumented immigrants who would benefit from the DREAM Act by 2030. The ripple effects of these increased wages would create $181 billion in induced economic impact, 1.4 million new jobs, and $10 billion in increased federal revenue.¶ 10. Significant reform of the high-skilled immigration system would benefit certain industries that require high-skilled workers. Immigrants make up 23 percent of the labor force in high-tech manufacturing and information technology industries, and immigrants more highly educated, on average, than the native-born Americans working in these industries. For every immigrant who earns an advanced degree in one of these fields at a U.S. university, 2.62 American jobs are created.

#### Global economic crisis causes nuclear war

Cesare Merlini 11, nonresident senior fellow at the Center on the United States and Europe and chairman of the Board of Trustees of the Italian Institute for International Affairs, May 2011, “A Post-Secular World?”, Survival, Vol. 53, No. 2

Two neatly opposed scenarios for the future of the world order illustrate the range of possibilities, albeit at the risk of oversimplification. The first scenario entails the premature crumbling of the post-Westphalian system. One or more of the acute tensions apparent today evolves into an open and traditional conflict between states, perhaps even involving the use of nuclear weapons. The crisis might be triggered by a collapse of the global economic and financial system, the vulnerability of which we have just experienced, and the prospect of a second Great Depression, with consequences for peace and democracy similar to those of the first. Whatever the trigger, the unlimited exercise of national sovereignty, exclusive self-interest and rejection of outside interference would self-interest and rejection of outside interference would likely be amplified, emptying, perhaps entirely, the half-full glass of multilateralism, including the UN and the European Union. Many of the more likely conflicts, such as between Israel and Iran or India and Pakistan, have potential religious dimensions. Short of war, tensions such as those related to immigration might become unbearable. Familiar issues of creed and identity could be exacerbated. One way or another, the secular rational approach would be sidestepped by a return to theocratic absolutes, competing or converging with secular absolutes such as unbridled nationalism**.**

### Congress

#### Alt causes to unrestrained executive – deference on AUMF policy

#### Congressional oversight means more secrecy

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 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.

#### No escalation—executives will be responsible

**Weiner 2007**

Michael Anthony, J.D. Candidate, Vanderbilt School of Law, 2007, “A Paper Tiger with Bite: A Defense of the War Powers Resolution,” http://www.vanderbilt.edu/jotl/manage/wp-content/uploads/Weiner.pdf

IV. CONCLUSION: THE EXONERATED WPR AND THE WOLF IN SHEEP'S CLOTHING The WPR is an effective piece of war powers legislation. As Part III made clear, no presidential unilateral use of force since 1973 has developed into a conflict that in any way resembles the WPR's impetus, Vietnam. Rather, the great majority of these conflicts have been characterized by their brevity, safety, and downright success. Yes, there have been tragic outcomes in Lebanon and Somalia; but what happened in response to those tragedies? In Lebanon, President Reagan actually submitted to being Congress's "messengerboy," 203 asking for its permission, per the WPR, to continue the operation. And in Somalia, at the first sight of a looming disaster, it was President Clinton who cut short the operation. Thus, from 1973 on, it is easy to argue that sitting Executives have made responsible use of their power to act unilaterally in the foreign affairs realm. The WPR has even contributed to a congressional resurgence in the foreign affairs arena. In many of these conflicts, we have seen Congress conducting numerous votes on whether and how it should respond to a unilaterally warring Executive. In some of the conflicts, Congress has come close to invoking the WPR against rather impetuous Executives. 20 4 In Lebanon, Congress actually succeeded in the task.20 5 It is this Note's contention, though, that even when Congress failed to legally invoke the WPR, these votes had normative effects on the Executives in power. Such votes demonstrate that Congress desires to be, and will try to be, a player in foreign affairs decisions. So, perhaps the enactment of the WPR, the rise of Congress (at least in the normative sense) and the successful string of unilateral presidential uses of force are just a series of coincidences. This Note, however, with common sense as its companion, contends that they are not. Rather, it is self-evident that the WPR has played a significant role in improving the implementation of presidential unilateral uses of force.

#### No causality between hegemony and peace

-this card is really good

Fettweis 11 Christopher, Professor of Political Science @ Tulane, Dangerous Times?: The International Politics of Great Power Peace, pg. 172-174

The primary attack on restraint, or justification of internationalism, posits that if the United States were to withdraw from the world, a variety of ills would sweep over key regions and eventually pose threats to U.S. security and/or prosperity. These problems might take three forms (besides the obvious if remarkably unlikely, direct threats to the homeland.). generalized chaos, hostile imbalances in Eurasia, and/or failed states. Historian Arthur Schlesinger was typical when he worried that restraint would mean "a chaotic, violent, and ever more dangerous planet." All of these concerns either implicitly or explicitly assume that the presence of the United States is the primary reason for international stability, and if that presence were withdrawn chaos would ensue. In other words, they depend upon hegemonic-stability logic. Simply stated, the hegemonic stability theory proposes that international peace is only possible when there is one country strong enough to make and enforce a set of rules. At the height of Pax Romana between 27 BC and 180 AD, for example, Rome was able to bring unprecedented peace and security to the Mediterranean. The Pax Britannica of the nineteenth century brought a level of stability to the high seas. Perhaps the current era is peaceful because the United States has established a de facto Pax Americana where no power is strong enough to challenge its dominance, and because it has established a set of rules that are generally in the interests of all countries to follow. Without a benevolent hegemon, some strategists fear, instability may break out around the globe.."'. Unchecked conflicts could cause humanitarian disaster and, in today's interconnected world, economic turmoil that would ripple throughout global financial markets. If the United States were to abandon its commitments abroad, argued Art, the world would "become a more dangerous place' and, sooner or later, that would 'redound to America's detriment."' If the massive spending that the United States engages in actually provides stability in the international political and economic systems, then perhaps internationalism is worthwhile. There are good theoretical and empirical reasons, however, to believe that U.S hegemony is not the primary cause of the current era of stability. First of all, the hegemonic-stability argument overstates the role that the United States plays in the system. No country is strong enough to police the world on its own. The only way there can he stability in the community of great powers is if self-policing occurs, if states have decided that their interests are served by peace. if no pacific normative shift had occurred among the great powers that was filtering down through the system, then no amount of international constabulary work by the United States could maintain stability. Likewise, if it is true that such a shift has occurred, then most of what the hegemon spends to bring stability would be wasted. The 5 percent of the world's population that live in the United States simply could not force peace upon an unwilling 95. At the risk of beating the metaphor to death, the United States maybe patrolling a neighborhood that has already rid itself of crime. Stability and unipolarity may be simply coincidental. In order for U.S. hegemony to he the reason for global stability, the rest of the world would have to expect reward for good behavior and fear punishment for bad. Since the end of the Cold War, the United States has not always proven to he especially eager to engage in humanitarian interventions abroad. Even rather incontrovertible evidence of genocide has not been sufficient to inspire action. Hegemonic stability can only take credit for influencing those decisions that would have ended in war without the presence, whether physical or psychological, of the United States. Ethiopia and Eritrea are hardly the only states that could go to war without the slightest threat of U.S. intervention. Since most of the world today is free to fight without U.S. involvement, something else must be at work. Stability exists in many places where no hegemony is present. Second, the limited empirical evidence we have suggests that there is little connection between the relative level of U.S. activism and international stability. During the 1990s the United States cut back on its defense spending fairly substantially. By 1998 the United States was spending $100 billion less on defense in real terms than it had in 1990,72 To internationalists, defense hawks, and other believers in hegemonic stability, this irresponsible peace dividend" endangered both national and global security. "No serious analyst of American military capabilities;' argued Kristol and Kagan, 'doubts that the defense budget has been cut much too far to meet America's responsibilities to itself and to world peac&'73 If the pacific trends were due not to U.S. hegemony but a strengthening norm against interstate war, however, one would not have expected an increase in global instability and violence. The verdict from the past two decades is fairly plain: The world grew' more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable Pentagon, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums; no security dilemmas drove mistrust and arms races; no regional balancing occurred once the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in U.S. capabilities. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and it kept declining as the Bush Administration ramped spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated. It is also worth noting for our purposes that the United States was no less safe.

### Miscalc

#### AirSea key to creating naval shift away from reliance on carriers

Galrahn, ’11 (June 21, “The Navy is Losing the Narratives Battle” Information Dissemination, http://www.informationdissemination.net/2011/06/navy-is-losing-narratives-battle.html)

As of late AirSea Battle has not unfolded in the way many in the Navy believed it should. Studies and wargames associated with AirSea Battle doctrine development began consistently suggesting that aircraft carriers do not play the prominent role in future military operations from the sea as originally envisioned by the Navy, indeed the findings that divide roles and missions have pushed the Navy away from using big deck aircraft carriers as the sustained strike platform, and instead push the Navy towards more of a long range precision munitions regime primarily conducted by submarines and surface combatants. These findings suggests that the Air Force becomes the primary lead in conventional strike airpower while the Navy leverages their unique capabilities for infiltration and rolling back enemy defense networks. Essentially the Navy's role becomes kicking the doors down in support of the Air Force and preventing enemy to leverage the sea against allied infrastructure, but sustained combat air operations are conducted primarily by the Air Force in the AirSea Battle doctrine that is currently being developed. None of this is decided, indeed nothing is decided at all, but what has happened during the development of AirSea Battle doctrine is that the Navy has realized they had lost control of the AirSea Battle narrative. The Navy narrative placed the aircraft carrier at the center of AirSea Battle doctrine, and the Air Force's role was supposed to be in support of seapower and filling in gaps not covered by the Navy. As the new narrative emerged with AirSea Battle doctrine development, the Navy saw it as a threat to the institutionalized prominence of big deck aircraft carriers. It was at that point folks like VADM Clingan and ADM Willard withdrew support for AirSea Battle doctrine as it was being developed, and OPNAV supported their withdraw seeing further development of AirSea Battle doctrine at this time as a budget threat to aircraft carriers.

#### That causes a transition to a distributed force structure that solves the aff

Galrahn, ’11 (June 21, “The Navy is Losing the Narratives Battle” Information Dissemination, http://www.informationdissemination.net/2011/06/navy-is-losing-narratives-battle.html)

AirSea Battle doctrine development began to show what some have recently began advocating more vocally, that the precision missile regime supported by CRUDES and submarines has replaced the aircraft carrier as the most capable strike regime from the sea in the future. It is suggested aircraft carriers are no longer affordable and investment in greater quantities of CRUDES and submarine power would allow the Navy to extend the strike power of the fleet considerably, and shift the role of aviation towards more of an ISR and support element rather than as the primary strike element. In other words, the argument is that precision missile advancements that would be realized with investments in next generation Harpoon and Tomahawk replacements - not to mention advanced gun technologies like rail guns - would change the paradigm, and the aircraft carriers role in naval warfare would change to support the surface 'strike' force, not the surface force supporting the big deck aircraft carrier 'strike' wing as has been the model since WWII. Along with new gun and missile systems for strike, laser systems like FEL would be incorporated into the surface fleet changing the paradigm in other ways for fleet defense as well. This future surface force would then move the Navy towards a future with a common hull design that emphasized capacity instead of capability in requirements. The emphasis on capacity would leverage IPS to provide maximum power for open architecture systems in supporting AEGIS networks for offense and defense while deployable systems (UAVs, UUVs, USVs, MH60s, RHIBs, etc) are leveraged to extend the network of every surface combatant. Smaller aircraft carriers would over time replace the large deck aircraft carriers to provide critical naval airpower capabilities in support of the fleet. Built in large quantities, these surface combatants in conjunction with an expanded submarine force would form a networked precision guided weapon regime that is distributed for total battle network survivability. This is ultimately a distributed model of naval force that emphasizes the quantity of platforms and systems dispersed in overlapping, integrated networks that when combined with the Air Force to provides the United States the maximum combat capability against challenges posed by enemy forces. This model of naval forces would not emphasize a handful of primary concentrations of firepower (the limited number of big deck aircraft carriers) that the enemy could focus on to disrupt the overall capabilities of the naval network, indeed it is believed a larger number of smaller carriers providing advanced aviation capabilities would be sufficient to meet requirements in supporting a new distributed naval force structure.

#### China-US relations are strong and sustainable – both know they need each other in the long term

Sieff, 1-5-‘12 [Martin Sieff, Three Time Pulitzer Prize Winner for International Reporting, Chief Global Analyst at The Globalist, MA History @ Oxford, “United States determined to maintain partnership with China,” January 5th 2012, http://apdforum.com/en\_GB/article/rmiap/articles/online/features/2012/01/05/china-us-partnership]

The rhetoric of domestic politics in China and the United States has obscured a fundamental truth the two nations understand well: The prosperity and well-being of China and the United States remain bound to each other. United States President Barrack Obama and U.S. Secretary of State Hillary Clinton are committed to a constructive partnership with China. They are not seeking to increase tensions or create a potentially destabilizing new confrontational posture against Beijing. Their goal is to stabilize Sino-American relations and the general balance of power in the East Asia and the western Pacific. The United States has advocated comprehensive negotiations in the South China Sea. “We both have much more to gain from cooperation than from conflict,” Clinton said. Clinton laid out the United States strategy to peacefully build a new era of peaceful cooperation with China in a major address published on the Foreign Policy magazine website in October. “We both have much more to gain from cooperation than from conflict,” she wrote. “We make the case to our Chinese colleagues that a deep respect for international law and a more open political system would provide China with a foundation for far greater stability and growth—and increase the confidence of China’s partners,” Clinton continued. “Without them, China is placing unnecessary limitations on its own development.” Obama recognizes that the United States and China are deeply dependent on each other. Obama has taken no actions to try to curtail Chinese exports into the United States and he does not intend to do so. The United States remains by far the largest and most lucrative market for Chinese exports. China ran a $273 billion trade surplus with the United States in 2010. It is projected to be even higher this year. If the United States curtailed the volume of its imports from China, Beijing’s leaders know that could set off a devastating economic crisis for them at home. China also holds more than $1 trillion in U.S. Treasury securities. It could cause a disastrous fall of the dollar and trigger a devastating economic double-dip back into recession on the U.S. economy if it sold too many of them too quickly on world markets. China’s greatest concern about the U.S. financial and economic policy is not a desire to see America grow weaker. On the contrary, Chinese Prime Minister Wen Jiabao repeatedly warned senior figures in the George W. Bush and Obama administrations to reduce the government’s ballooning annual federal budget deficit to restore investor confidence. Chinese leaders openly expressed their skepticism that boosting government spending too rapidly will not create jobs, but will threaten fiscal stability and undermine business confidence. These arguments reflect the clear recognition by China’s leaders that the United States and China remain deeply dependent upon each other for the continued prosperity and success of both nations. Also, Obama has made it clear that the United States remains committed to maintaining international security and stability in East Asia and the Western Pacific. The United States has rejected arguments to try to contain China or make it the enemy for a new generation of so-called neo-Cold War containment policies. China’s rise in economic and diplomatic influence across South-East Asia and through sub-Saharan Africa has been a stabilizing force. Chinese diplomats and companies are happy to work with secure governments throughout these regions as long as they can deliver stability and good conditions for economic development and investment. It enjoys mature relations with democratic Malaysia and Indonesia, as well as with authoritarian governments in Africa. China also has a vested interest, as does the United States, in global as well as in U.S. financial and economic stability and security. China has used its massive financial resources and global business clout to support the threatened euro currency and signal its support for European governments mired in massive national debts such as Italy and France. Like the United States, China remains a status quo power in is economic policies. U.S. interests also require a continuing stable, strong and friendly China. The U.S. government needs China to remain confident that its vast investment in U.S. Treasuries remains secure. Washington wants China also to go on attracting major Foreign Direct Investment, especially from the United States in the rapidly growing information technology and related high-tech sectors. China and the United States also share a concern in maintaining the security and stability of Indonesia and the Malacca Strait, through which so much of the oil imports from the Middle East for China, South Korea and Japan all have to pass. Many reported areas of apparent conflict or disagreement between the United States and China are either far less than generally realized, or have naturally subsided. China’s massive investment in solar and other forms of renewable and sustainable power has blunted previous criticism by American environmentalists of China’s energy policies. In reality, the United States and China both want to move to sustainable power sources as rapidly as possible while both countries recognize their need to remain dependent on traditional fossil fuel sources for the foreseeable future. Both countries are investing on a massive scale in clean natural gas which has a far smaller carbon footprint than oil or coal. China’s massive investment in hundreds of next-generation safe nuclear civilian power reactors has also been widely welcomed by American environmentalists. And both countries want to keep the Middle East stable, global oil prices down and global energy supplies secure. Disagreements over specific statements on individual issues have to be seen in this broader context. The United States, China and the entire Asia-Pacific region have benefitted tremendously from the decades of partnership and mutually beneficial growth between the world’s two largest economies. Obama’s administration is determined that it will continue.

China-US Relations in 2012: Caution Ahead

#### The aff pushes cyber operations underground – undercuts cbms and turns case

Lorber, 13 – (Eric, J.D. Candidate, University of Pennsylvania Law School, Ph.D Candidate, Duke University, “Executive Warmaking Authority And Offensive Cyber Operations: Can Existing Legislation Successfully Constrain Presidential Power?”)

Stemming from similar tension noted in the constitutional division of war-making authority noted above, congressional oversight of covert actions beyond intelligence collection has often proved a point of contention between the executive and legislative branches. n195 Presidents have "inferred authority [to conduct covert actions] from such places as the Vesting Clause, the Commander-in-Chief Clause, the Treaty Clause, and from an implied executive privilege." n196¶ [\*993] Likewise, Congress attempted to rein in the President's ability to conduct covert operations without oversight by implementing a series of laws that required the President to get approval before undertaking such activities. n197 If the President did not provide such notification, Congress could decline to fund that particular covert activity. n198 Following the revelation that widespread, unreported covert actions were undertaken during the Vietnam War, Congress moved for stricter control of executive power, both by forcing the executive to account for the money it was spending as part of annual authorization bills n199 and by streamlining its own oversight capability by tasking two primary committees, the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence, with oversight. n200¶ While Congress designed this legislation to rein in the President's power to conduct covert activities without oversight, events in the 1980s clearly showed that its efforts had been ineffective. n201 In particular, the Iran-Contra affair illustrated that Congress needed to substantially reform oversight legislation to ensure that it could properly monitor executive covert action. n202 As a result, in 1990, Congress began drafting a new oversight bill, [\*994] the Intelligence Authorization Act of 1991, which grants Congress oversight of covert activities. n203 Section 413b of the Intelligence Authorization Act provides,

#### Covert designation fuels suspicion and can’t solve cyber war — also removes international pressure from Chinese hacking

Wright 11, Executive director of studies at The Chicago Council on Global Affairs

(Thomas, 6/26, America has double standards in fighting cyberwar, [www.ft.com/cms/s/0/c8002f6a-a01b-11e0-a115-00144feabdc0.html#axzz1QYnW3i1w](http://www.ft.com/cms/s/0/c8002f6a-a01b-11e0-a115-00144feabdc0.html#axzz1QYnW3i1w))

While it has several advantages, **treating American cyber-destruction as a covert operation will severely undermine the new cyber-strategy. Suspicion that the US uses cyber­weapons whenever convenient will hamper its attempts to press other states to be transparent about their intentions**. **In particular, it takes the pressure off China, widely believed to be the leading state source of cyberattacks. It may also dissuade the US from developing the technology to trace the source of an attack.**

## 2NC

### K – Grey Holes

#### All of our solvency arguments are *net offense*---legalism creates the façade that the executive is being constrained while allowing the government to do as it pleases under the guise of constraint---this swells executive power and turns the case

Osborn 8 Timothy Kaufman is the Baker Ferguson Professor of Politics and Leadership at Whitman College; from 2002-06 as president of the American Civil Liberties of Washington; and he recently completed a term on the Executive Council of the American Political Science Association. Theory & Event > Volume 11, Issue 2

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

### K – Link: Their 1AC Card

**\*\*Congress must initiate a restriction – Failure irreversibly increases presidential power.**

**Hansen & Friedman 9, Professor of Law**

Professors at the New England School of Law, (Victor and Lawrence, The Case for Congress: Separation of Powers and the War on Terror, p.130)

The problem, of course, is that much of this **congressional involvement has come** much **too late** in the process and only after significant damage to our constitutional values had been inflicted by the Bush administration. **If Congress only acts after being goaded** by the courts, or only after high profile scandals have come to light, or only after the President’s policies have prolonged wars and made us at the same time less secure and less free, then **we** have **reached** a level of **constitutional brinkmanship which can only be regarded as intolerable.** Likewise, members of Congress would be sorely mistaken if they believed that these legislative initiatives have once and for all ended the possibility of executive assertions of dominance in these areas. Put simply, **Congress cannot afford to wait for** some **crisis to act.** As we have already discussed, the consequences are too dire. As many of the post-September 11 policy decisions of the Bush administration demonstrate, a President who acts without securing the benefits of the deliberative process established in the Constitution is likely to fail in making us more secure while maintaining basic liberties. Moreover, **when Congress only engages in these issues after the fact, its relevance as an institution is undermined. Unless Congress is** as **proactive** and assertive of its constitutionally appointed responsibilities as the executive is about its authority, the **checks and balances of our system simply will not work. Congress will be relegated to a second tier institution** in the realm of national security, and **it will be ever more difficult for Congress to [confront] ~~stand up to~~ an** assertive and **aggressive president.**

### K – FW

#### The state is hijacked by elites who control the decision making that normalizes an authoritarian state that wages war on populations – the focus of debate should be how culture elements can create change to combat normalization of violence caused by the military-industrial-state

Giroux 13 Henry A. is a social critic and educator, and the author of many books. He currently holds the Global Television Network Chair in English and Cultural Studies at McMaster University, Ontario, Monthly Review, Volume 65, Issue 01 (May)

In addition, as the state is hijacked by the financial-military-industrial complex, the “most crucial decisions regarding national policy are not made by representatives, but by the financial and military elites.”53 Such massive inequality and the suffering and political corruption it produces point to the need for critical analysis in which the separation of power and politics can be understood. This means developing terms that clarify how power becomes global even as politics continues to function largely at the national level, with the effect of reducing the state primarily to custodial, policing, and punishing functions—at least for those populations considered disposable. The state exercises its slavish role in the form of lowering taxes for the rich, deregulating corporations, funding wars for the benefit of the defense industries, and devising other welfare services for the ultra-rich. There is no escaping the global politics of finance capital and the global network of violence it has produced. Resistance must be mobilized globally and politics restored to a level where it can make a difference in fulfilling the promises of a global democracy. But such a challenge can only take place if the political is made more pedagogical and matters of education take center stage in the struggle for desires, subjectivities, and social relations that refuse the normalizing of violence as a source of gratification, entertainment, identity, and honor. War in its expanded incarnation works in tandem with a state organized around the production of widespread violence. Such a state is necessarily divorced from public values and the formative cultures that make a democracy possible. The result is a weakened civic culture that allows violence and punishment to circulate as part of a culture of commodification, entertainment, distraction, and exclusion. In opposing the emergence of the United States as both a warfare and a punishing state, I am not appealing to a form of left moralism meant simply to mobilize outrage and condemnation. These are not unimportant registers, but they do not constitute an adequate form of resistance .What is needed are modes of analysis that do the hard work of uncovering the effects of the merging of institutions of capital, wealth, and power, and how this merger has extended the reach of a military-industrial-carceral and academic complex, especially since the 1980s. This complex of ideological and institutional elements designed for the production of violence must be addressed by making visible its vast national and global interests and militarized networks, as indicated by the fact that the United States has over 1,000 military bases abroad.54 Equally important is the need to highlight how this military-industrial-carceral and academic complex uses punishment as a structuring force to shape national policy and everyday life. Challenging the warfare state also has an important educational component. C. Wright Mills was right in arguing that it is impossible to separate the violence of an authoritarian social order from the cultural apparatuses that nourish it. As Mills put it, the major cultural apparatuses not only “guide experience, they also expropriate the very chance to have an experience rightly called ‘our own.’”55 This narrowing of experience shorn of public values locks people into private interests and the hyper-individualized orbits in which they live. Experience itself is now privatized, instrumentalized, commodified, and increasingly militarized. Social responsibility gives way to organized infantilization and a flight from responsibility. Crucial here is the need to develop new cultural and political vocabularies that can foster an engaged mode of citizenship capable of naming the corporate and academic interests that support the warfare state and its apparatuses of violence, while simultaneously mobilizing social movements to challenge and dismantle its vast networks of power. One central pedagogical and political task in dismantling the warfare state is, therefore, the challenge of creating the cultural conditions and public spheres that would enable the U.S. public to move from being spectators of war and everyday violence to being informed and engaged citizens.

Unfortunately, major cultural apparatuses like public and higher education, which have been historically responsible for educating the public, are becoming little more than market-driven and militarized knowledge factories. In this particularly insidious role, educational institutions deprive students of the capacities that would enable them not only to assume public responsibilities, but also to actively participate in the process of governing. Without the public spheres for creating a formative culture equipped to challenge the educational, military, market, and religious fundamentalisms that dominate U.S. society, it will be virtually impossible to resist the normalization of war as a matter of domestic and foreign policy. Any viable notion of resistance to the current authoritarian order must also address the issue of what it means pedagogically to imagine a more democratically oriented notion of knowledge, subjectivity, and agency and what it might mean to bring such notions into the public sphere. This is more than what Bernard Harcourt calls “a new grammar of political disobedience.”56 It is a reconfiguring of the nature and substance of the political so that matters of pedagogy become central to the very definition of what constitutes the political and the practices that make it meaningful. Critical understanding motivates transformative action, and the affective investments it demands can only be brought about by breaking into the hardwired forms of common sense that give war and state-supported violence their legitimacy. War does not have to be a permanent social relation, nor the primary organizing principle of everyday life, society, and foreign policy. The war of all-against-all and the social Darwinian imperative to respond positively only to one’s own self-interest represent the death of politics, civic responsibility, and ethics, and set the stage for a dysfunctional democracy, if not an emergent authoritarianism. The existing neoliberal social order produces individuals who have no commitment, except to profit, disdain social responsibility, and loosen all ties to any viable notion of the public good. This regime of punishment and privatization is organized around the structuring forces of violence and militarization, which produce a surplus of fear, insecurity, and a weakened culture of civic engagement—one in which there is little room for reasoned debate, critical dialogue, and informed intellectual exchange. Patricia Clough and Craig Willse are right in arguing that we live in a society “in which the production and circulation of death functions as political and economic recovery.”57 The United States understood as a warfare state prompts a new urgency for a collective politics and a social movement capable of negating the current regimes of political and economic power, while imagining a different and more democratic social order. Until the ideological and structural foundations of violence that are pushing U.S. society over the abyss are addressed, the current warfare state will be transformed into a full-blown authoritarian state that will shut down any vestige of democratic values, social relations, and public spheres. At the very least, the U.S. public owes it to its children and future generations, if not the future of democracy itself, to make visible and dismantle this machinery of violence while also reclaiming the spirit of a future that works for life rather than death—the future of the current authoritarianism, however dressed up they appear in the spectacles of consumerism and celebrity culture. It is time for educators, unions, young people, liberals, religious organizations, and other groups to connect the dots, educate themselves, and develop powerful social movements that can restructure the fundamental values and social relations of democracy while establishing the institutions and formative cultures that make it possible. Stanley Aronowitz is right in arguing that: the system survives on the eclipse of the radical imagination, the absence of a viable political opposition with roots in the general population, and the conformity of its intellectuals who, to a large extent, are subjugated by their secure berths in the academy [and though] we can take some solace in 2011, the year of the protester…it would be premature to predict that decades of retreat, defeat and silence can be reversed overnight without a commitment to what may be termed “a long march” through the institutions, the workplaces and the streets of the capitalist metropoles.58 The current protests among young people, workers, the unemployed, students, and others are making clear that this is not—indeed, cannot be—only a short-term project for reform, but must constitute a political and social movement of sustained growth, accompanied by the reclaiming of public spaces, the progressive use of digital technologies, the development of democratic public spheres, new modes of education, and the safeguarding of places where democratic expression, new identities, and collective hope can be nurtured and mobilized. Without broad political and social movements standing behind and uniting the call on the part of young people for democratic transformations, any attempt at radical change will more than likely be cosmetic.

### K – Perm

#### Sequencing DA – alt key to come before the plan otherwise movements get sapped

Nagin 5 Tomiko Brown, Visiting Associate Professor, University of Virginia School of Law, “ELITES, SOCIAL MOVEMENTS, AND THE LAW: THE CASE OF AFFIRMATIVE ACTION,” Columbia Law Review, 105 Colum. L. Rev. 1436

Those seeking to have an impact on the political and legal orders should not root a mass movement in the courts;instead, affirmative litigation about constitutional rights should be anchored upon and preceded by a mass movement.Efforts to achieve fundamental change shouldbegin with the target constituency and be waged initially outside of the confines of institutionalized politics.Law should be understood as a tactic in an ongoing political struggle, where the struggle is the main event and favorable legal outcomes are its byproducts. There is a crucially important temporal component to this view. Legal claims can be tactically useful in a political strategy for achieving change - butonly after social movements lay the groundwork

for legal change. Social movements must first create political pressure that frames issues in a favorable manner, creates cultural norm shifts, and affects public opinion; these norm shifts then increase the likelihood that courts will reach outcomes favored by lawyers. [437](http://www.lexis.com/research/retrieve?_m=b1b76c3bff33e7c7527182cc42568c87&docnum=11&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzz-zSkAl&_md5=b4841fe459fa752b47486b13d84385b6&focBudTerms=milliken%20w/150%20hispanic%20or%20latino&focBudSel=all#n437) Again, my claims find support in the history of the mid-twentieth-century civil rights movement. This narrative posits an intimate relationship between the sociopolitical dynamics within black client communities and the success (or failure) of civil rights lawyers' litigation campaigns for rights. The postwar civil rights movement confirms that the moral suasion of participatory democratic groups of nonlawyers, and typically nonelites, was integral to law's movement from a Jim Crow regime to a [\*1523] constitutional order in which formal equality was the norm. During the past three decades, historians who have analyzed social change have discovered that small groups of inexpert individuals can be the leading edge of a social movement, especially when they work in coalition with those who traditionally wield influence in society. [438](http://www.lexis.com/research/retrieve?_m=b1b76c3bff33e7c7527182cc42568c87&docnum=11&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzz-zSkAl&_md5=b4841fe459fa752b47486b13d84385b6&focBudTerms=milliken%20w/150%20hispanic%20or%20latino&focBudSel=all#n438)Through their commitment to a social cause, ordinary people with no insider knowledge of the technical aspects of the broad issue on which they are mobilizing can create circumstances in which those with actual power (political, economic, and, ultimately, legal power) are persuaded to act in their favor.

#### Aff gets lost in the details of specifics – they zero in on certain aspects of executive power which stop broader systemic criticisms and provides a cover to normalize the war on terror

Saas, 12 \*\*William O. Pf Department of Communication Arts and Sciences at the Pennsylvania State University. symploke > Volume 20, Numbers 1-2

How might one critique this massive network of violence that has become so enmeshed in our contemporary geo-socio-political reality? Is there any hope for reversing the expansion of executive violence in the current political climate, in which the President enjoys minimal resistance to his most egregious uses of violence? How does exceptional violence become routine? Answers to these broad and difficult questions, derived as they are from the disorientingly vast and hyper-accelerated retrenchment of our current political situation, are best won through the broad strokes of what Slavoj Žižek calls "systemic" critique. For Žižek, looking squarely at interpersonal or subjective violences (e.g., torture, drone strikes), drawn as we may be by their gruesome and immediate appeal, distorts the critic's broader field of vision.

For a fuller picture, one must pull one's critical focus back several steps to reveal the deep, objective structures that undergird the spectacular manifestations of everyday, subjective violence (Žižek 2008, 1-2). Immediately, however, one confronts the limit question of Žižek's mandate: how does one productively draw the boundaries of a system without too severely dampening the force of objective critique? For practical purposes, this essay leaves off discussion of neoliberal economic domination, vital as it may be to a full accounting for the U.S.' latest and most desperate expressions of state solvency.

### CP – 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

### CP – A2 Credibility

#### Counterplan solves US credibility and soft power

Margulies 8 Peter, Professor of Law, Roger Williams University School of Law, Maryland Law Review, 68 Md. L. Rev. 1

This model rests on two elements: transparency and tailoring. Transparency calls for dialog between the branches, within the executive branch, and with the public, to develop a sense of stake and optimize the quality of decisions. Tailoring, like the equitable tailoring that courts do to take into account the interests of parties and the [\*68] public interest, 307 requires that the lawyer seek to accommodate both the rationale and content of proposed executive action within the constitutional scheme of overlapping authority among the branches. The role conception that drives the dialogic equipoise model stems not only from the logic of the separation of powers but also from the lawyer's function in representing collective entities and the historical function of the Attorney General. Under the Model Rules, lawyers representing collective entities such as corporations must act in the best interests of the organization. 308 On significant occasions, such as when a person, like a CEO, that the lawyer would ordinarily look to for direction on the organization's behalf acts against the entity's interests, the lawyer has an obligation to uphold those interests. This institutional obligation reduces the agency costs that flow from the self-dealing or myopia of particular managers, and promotes continuity within the organization. 309 The sense of institutional obligation within the dialogic equipoise model also echoes the background understanding that existed at the founding of the function of the Attorney General, derived from English law. 310 A minimum of objectivity was part and parcel of this understanding. 311 Edmund Randolph, the first Attorney General of the United States, set the tone with opinions on the establishment of the Bank of the United States that were measured, taking into account the most cogent arguments for and against the proposal. 312 Because the model seeks to reduce the agency costs of executive overreaching, it also preserves the long-term perspective that emergencies can sometimes obscure. Transparency can help prevent the loss of executive power and credibility that can follow in the wake of executive overreaching. Transparency also preserves the legitimacy and international reputation of the United States by displaying the executive's confidence that it can rally others to its cause and respond [\*69] to their concerns. This is what the drafters of the Declaration of Independence had in mind when they claimed "a decent Respect [for] the Opinions of Mankind." 313 Maintaining reputation allows the United States to exercise "soft power" 314 that will often be more effective than brute force. 315 In this fashion, a dialogic equipoise model enhances long-term stability and aids in refining current policies. Moreover, transparency does not necessarily frustrate timely action, including the use of force when that is necessary. In the Cuban Missile Crisis, for example, the Administration engaged in a wide and vigorous internal debate and subsequently consulted with foreign capitals and international organizations. 316 The destroyer deal between the United States and Britain featured a robust internal debate. Most recently, dialog with Congress and the United Nations preceded the decision by the United States to intervene militarily in Afghanistan after September 11. Government attorneys should urge dialog and advise the President of the adverse consequences attending a lack of transparency. Just as dialog yields results that preserve American leverage, tailoring an executive response will have similar benefits. Courts use tailoring to ensure that extraordinary remedies such as injunctions serve the public interest and respect the rights of the parties.

### CP – A2 Precedent

#### Legal norms fail and are not unique to congress – the WPR proves. 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

### CP – Politics NB

#### Counterplan doesn’t link to politics – external checks inherently take an adversarial form, but internal checks gain executive credibility and face less resistance – that’s Metzger

#### 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.

## 1NR

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#### ZERO game at the internal link level – Beadle evidence is fantastic – cites a consensus

#### Statistical studies go neg

Royal 10 Jedediah Royal, Director of Cooperative Threat Reduction at the U.S. Department of Defense, 2010, “Economic Integration, Economic Signaling and the Problem of Economic Crises,” in Economics of War and Peace: Economic, Legal and Political Perspectives, ed. Goldsmith and Brauer, p. 213-214

Less intuitive is how periods of economic decline may increase the likelihood of external conflict. Political science literature has contributed a moderate degree of attention to the impact of economic decline and the security and defence behaviour of interdependent states. Research in this vein has been considered at systemic, dyadic and national levels. Several notable contributions follow. First, on the systemic level, Pollins (2008) advances Modelski and Thompson’s (1996) work on leadership cycle theory, finding that rhythms in the global economy are associated with the rise and fall of pre-eminent power and the often bloody transition from one pre-eminent leader to the next. As such, exogenous shocks such as economic crises could usher in a redistribution of relative power (see also Gilpin, 10981) that leads to uncertainty about power balances, increasing the risk of miscalculation (Fearon, 1995). Alternatively, even a relatively certain redistribution of power could lead to a permissive environment for conflict as a rising power may seek to challenge a declining power (Werner, 1999). Seperately, Polllins (1996) also shows that global economic cycles combined with parallel leadership cycles impact the likelihood of conflict among major, medium, and small powers, although he suggests that the causes and connections between global economic conditions and security conditions remain unknown. Second, on a dyadic level, Copeland’s (1996,2000) theory of trade expectations suggests that ‘future expectation of trade’ is a significant variable in understanding economic conditions and security behavior of states. He argues that interdependent states are likely to gain pacific benefits from trade so long as they have an optimistic view of future trade relations. However, if the expectation of future trade declines, particularly for difficult to replace items such as energy resources, the likelihood for conflict increases , as states will be inclined to use force to gain access to those resources. Crises could potentially be the trigger for decreased trade expectations either on its own or because it triggers protectionist moves by interdependent states. Third, others have considered the link between economic decline and external armed conflict at a national level. Blomberg and Hess (2002) find a strong correlation between internal conflict and external conflict, particularly during periods of economic downturn. They write, The linkages between internal and external conflict and prosperity are strong and mutually reinforcing. Economic conflict tends to spawn internal conflict, which in turn returns the favour. Moreover, the presence of a recession tends to amplify the extent to which international and external conflicts self-reinforce each other. (Blomberg & Hess, 2002, p.89). Economic decline has also been linked with an increase in the likelihood of terrorism (Blomberg, Hess, & Weerapana, 2004), which has the capacity to spill across borders and lead to external tensions. Furthermore, crises generally reduce the popularity of a sitting government. ‘Diversionary theory’ suggests that, when facing unpopularity arising from economic decline, sitting governments have increased incentives to create a ‘rally round the flag’ effect. Wang (1996), DeRouen (1995), and Blomberg, Hess and Thacker (2006) find supporting evidence showing that economic decline and use of force are at least indirectly correlated. Gelpi (1997) Miller (1999) and Kisanganie and Pickering (2009) suggest that the tendency towards diversionary tactics are greater for democratic states than autocratic states, due to the fact that democratic leaders are generally more susceptible to being removed from office due to lack of domestic support. DeRouen (2000) has provided evidence showing that periods of weak economic performance in the United States, and thus weak presidential popularity, are statistically linked to an increase in the use of force..

#### Economic collapse turns hegemony—geopolitical shifts, undermines will, destroys alliances

Rothkopf 9 David, Visiting Fellow @ Carnegie Endowment for Int’l Peace, 3/11/9. CQ Congressional Testimony, Lexis

We have only experienced the first wave of shocks associated with the international economic collapse. It is still too early to say how long the economic dimensions of the global downturn will continue to challenge leaders and populations worldwide, and while it is impossible to predict how much further conditions will deteriorate before the global economy begins to recover as it inevitably will, one set of consequences of the crisis can be predicted with a high degree of confidence. A crisis of this severity, one that according to the most recent estimate by the World Bank will produce net global contraction in 2009, that has already brought U.S. stock markets to 12 year lows stripping away over half their value, that has deeply eaten into world trade cutting volumes by almost a third and into capital flows and shaken the global financial system to its very foundations, will unavoidably produce a series of political aftershocks. A recent report for the Asian Development Bank suggests the crisis has already obliterated approximately $50 trillion in asset value worldwide - the equivalent of roughly a year of global economic output. We have already seen political reactions in public demonstrations and other violent episodes in a diverse list of countries including Greece, China, Haiti, Latvia, Bolivia, Bulgaria, Russia, Italy, Ireland, Iceland and Lithuania. But these events are just the first rumblings of upsets that almost certainly will ultimately be far more serious and will have important national security consequences for the U.S.. Further, the crisis may in the longer run produce lasting geopolitical shifts as power is concentrated in the hands of nations with available capital, drawn away from those who are net borrowers, and greater and greater constraints limit the options of nations who are likely to spend years seeking to work down the debts incurred during this time of severe global contraction. This new reality was reflected in the fact that Director of National Intelligence Blair in his February 12, 2009 testimony to the Senate Select Committee on Intelligence on the Intelligence Community's Annual Threat Assessment cited the crisis as the primary driver of concerns in today's world. As he clearly stated, "The primary near-term security concern of the United States is the global economic crisis and its geopolitical implications." In fact, during the past few months, as the crisis has brought down governments (Iceland) and threatened others (across Eastern Europe), it has also had more pernicious effects that are harder to see. Greatest of these is certainly its impact on the United States, reducing the resources available to this country as well as seemingly eating away at the political will that would be required if the U.S. were to play the active, broad-ranging internationally stabilizing role that has marked our foreign policy since the end of the Second World War. Adding to this is the weakening of our core alliances, not in terms of the desire to collaborate, but rather because allies have been preoccupied by challenges at home. Some leading allies, notably the EU, have in recent weeks seen the viability of their core institutions questioned. The weakening of international institutions has been a related consequence of the crisis. Without a degree of financial support and political flexibility for vital organizations like the IMF and the World Bank that seems unlikely at the moment, we may well find ourselves at a true crossroads for the international system. At precisely the instance that the crisis has revealed a need for greater global regulatory oversight and stronger financial institutions to prevent and to respond to crisis, rising nationalism, the political imperative of turning inward, and limited resources threaten existing institutions with irrelevance and needed new ones with being stillborn. Given other weaknesses in this system, such as the dubious value- added of much of the United Nations, the unsettling recent track record of the global non-proliferation regime, the troubles at the WTO with the Doha Round and the failure to establish, as yet, a global environmental organization to address climate change, it is possible to see the crisis neutralizing much of the system built up since the end of the Second World War. The challenges the system faces are made all the more complex by the need to rethink the steering committee for this system and recognize the rise of emerging powers and the declining relevance of some established powers. That this economic crisis has also produced a global crisis of confidence in institutions from national governments to financial markets, from international economic coordination mechanisms that have failed to big corporations, only further exacerbates these already daunting challenges. Beyond threats to stabilizing forces and the international system, individual countries and key regions are also likely to see decline and unrest brought on by the crisis. Some of this unrest is likely to take the form of regime changes or social instability. Other risks associated with the crisis will come as opportunists seek to use anger at the failures in a system that is closely associated with the U.S. to foment hatred, to fuel recruitment for extremist and anti-US organizations and to simply produce distractions from local problems via the time-tested means of identifying foreign or domestic scapegoats and lashing out against them.

#### Economic collapse turns Chinese relations and war

Mead 9(Walter Russell, Henry A. Kissinger Senior Fellow in U.S. Foreign Policy – Council on Foreign Relations, “Only Makes You Stronger”, The New Republic, 2-4, http://www.tnr.com/politics/story.html?id=571cbbb9-2887-4d81-8542-92e83915f5f8&p=2)

The greatest danger both to U.S.-China relations and to American power itself is probably not that China will rise too far, too fast; it is that the current crisis might end China's growth miracle. In the worst-case scenario, the turmoil in the international economy will plunge China into a major economic downturn. The Chinese financial system will implode as loans to both state and private enterprises go bad. Millions or even tens of millions of Chinese will be unemployed in a country without an effective social safety net. The collapse of asset bubbles in the stock and property markets will wipe out the savings of a generation of the Chinese middle class. The political consequences could include dangerous unrest--and a bitter climate of anti-foreign feeling that blames others for China's woes. (Think of Weimar Germany, when both Nazi and communist politicians blamed the West for Germany's economic travails.) Worse, instability could lead to a vicious cycle, as nervous investors moved their money out of the country, further slowing growth and, in turn, fomenting ever-greater bitterness. Thanks to a generation of rapid economic growth, China has so far been able to manage the stresses and conflicts of modernization and change; nobody knows what will happen if the growth stops. India's future is also a question. Support for global integration is a fairly recent development in India, and many serious Indians remain skeptical of it. While India's 60-year-old democratic system has resisted many shocks, a deep economic recession in a country where mass poverty and even hunger are still major concerns could undermine political order, long-term growth, and India's attitude toward the United States and global economic integration. The violent Naxalite insurrection plaguing a significant swath of the country could get worse; religious extremism among both Hindus and Muslims could further polarize Indian politics; and India's economic miracle could be nipped in the bud. If current market turmoil seriously damaged the performance and prospects of India and China, the current crisis could join the Great Depression in the list of economic events that changed history, even if the recessions in the West are relatively short and mild. The United States should stand ready to assist Chinese and Indian financial authorities on an emergency basis--and work very hard to help both countries escape or at least weather any economic downturn. It may test the political will of the Obama administration, but the United States must avoid a protectionist response to the economic slowdown. U.S. moves to limit market access for Chinese and Indian producers could poison relations for years. For billions of people in nuclear-armed countries to emerge from this crisis believing either that the United States was indifferent to their well-being or that it had profited from their distress could damage U.S. foreign policy far more severely than any mistake made by George W. Bush. It's not just the great powers whose trajectories have been affected by the crash. Lesser powers like Saudi Arabia and Iran also face new constraints. The crisis has strengthened the U.S. position in the Middle East as falling oil prices reduce Iranian influence and increase the dependence of the oil sheikdoms on U.S. protection. Success in Iraq--however late, however undeserved, however limited--had already improved the Obama administration's prospects for addressing regional crises. Now, the collapse in oil prices has put the Iranian regime on the defensive. The annual inflation rate rose above 29 percent last September, up from about 17 percent in 2007, according to Iran's Bank Markazi. Economists forecast that Iran's real GDP growth will drop markedly in the coming months as stagnating oil revenues and the continued global economic downturn force the government to rein in its expansionary fiscal policy. All this has weakened Ahmadinejad at home and Iran abroad. Iranian officials must balance the relative merits of support for allies like Hamas, Hezbollah, and Syria against domestic needs, while international sanctions and other diplomatic sticks have been made more painful and Western carrots (like trade opportunities) have become more attractive. Meanwhile, Saudi Arabia and other oil states have become more dependent on the United States for protection against Iran, and they have fewer resources to fund religious extremism as they use diminished oil revenues to support basic domestic spending and development goals. None of this makes the Middle East an easy target for U.S. diplomacy, but thanks in part to the economic crisis, the incoming administration has the chance to try some new ideas and to enter negotiations with Iran (and Syria) from a position of enhanced strength. Every crisis is different, but there seem to be reasons why, over time, financial crises on balance reinforce rather than undermine the world position of the leading capitalist countries. Since capitalism first emerged in early modern Europe, the ability to exploit the advantages of rapid economic development has been a key factor in international competition. Countries that can encourage--or at least allow and sustain--the change, dislocation, upheaval, and pain that capitalism often involves, while providing their tumultuous market societies with appropriate regulatory and legal frameworks, grow swiftly. They produce cutting-edge technologies that translate into military and economic power. They are able to invest in education, making their workforces ever more productive. They typically develop liberal political institutions and cultural norms that value, or at least tolerate, dissent and that allow people of different political and religious viewpoints to collaborate on a vast social project of modernization--and to maintain political stability in the face of accelerating social and economic change. The vast productive capacity of leading capitalist powers gives them the ability to project influence around the world and, to some degree, to remake the world to suit their own interests and preferences. This is what the United Kingdom and the United States have done in past centuries, and what other capitalist powers like France, Germany, and Japan have done to a lesser extent. In these countries, the social forces that support the idea of a competitive market economy within an appropriately liberal legal and political framework are relatively strong. But, in many other countries where capitalism rubs people the wrong way, this is not the case. On either side of the Atlantic, for example, the Latin world is often drawn to anti-capitalist movements and rulers on both the right and the left. Russia, too, has never really taken to capitalism and liberal society--whether during the time of the czars, the commissars, or the post-cold war leaders who so signally failed to build a stable, open system of liberal democratic capitalism even as many former Warsaw Pact nations were making rapid transitions. Partly as a result of these internal cultural pressures, and partly because, in much of the world, capitalism has appeared as an unwelcome interloper, imposed by foreign forces and shaped to fit foreign rather than domestic interests and preferences, many countries are only half-heartedly capitalist. When crisis strikes, they are quick to decide that capitalism is a failure and look for alternatives. So far, such half-hearted experiments not only have failed to work; they have left the societies that have tried them in a progressively worse position, farther behind the front-runners as time goes by. Argentina has lost ground to Chile; Russian development has fallen farther behind that of the Baltic states and Central Europe. Frequently, the crisis has weakened the power of the merchants, industrialists, financiers, and professionals who want to develop a liberal capitalist society integrated into the world. Crisis can also strengthen the hand of religious extremists, populist radicals, or authoritarian traditionalists who are determined to resist liberal capitalist society for a variety of reasons. Meanwhile, the companies and banks based in these societies are often less established and more vulnerable to the consequences of a financial crisis than more established firms in wealthier societies. As a result, developing countries and countries where capitalism has relatively recent and shallow roots tend to suffer greater economic and political damage when crisis strikes--as, inevitably, it does. And, consequently, financial crises often reinforce rather than challenge the global distribution of power and wealth. This may be happening yet again. None of which means that we can just sit back and enjoy the recession. History may suggest that financial crises actually help capitalist great powers maintain their leads--but it has other, less reassuring messages as well. If financial crises have been a normal part of life during the 300-year rise of the liberal capitalist system under the Anglophone powers, so has war. The wars of the League of Augsburg and the Spanish Succession; the Seven Years War; the American Revolution; the Napoleonic Wars; the two World Wars; the cold war: The list of wars is almost as long as the list of financial crises. Bad economic times can breed wars. Europe was a pretty peaceful place in 1928, but the Depression poisoned German public opinion and helped bring Adolf Hitler to power. If the current crisis turns into a depression, what rough beasts might start slouching toward Moscow, Karachi, Beijing, or New Delhi to be born? The United States may not, yet, decline, but, if we can't get the world economy back on track, we may still have to fight.

### A2 ASATS

#### Diplomacy checks China threat

Hagt, 7 **-- director of the China Program at the World Security Institute (Eric, “China’s ASAT Test: Strategic Response.” http://www.wsichina.org/cs5\_3.pdf)**

Even if we are facing the worst **case scenario and China is bent on space weaponization** (entirely inconsistent with its past behavior), **the reality remains that China can be brought to the negotiating table with appropriate measures and international pressure**. After all, **China clearly remains the far weaker space power vis-à-vis the United States and a space race would be proportionately far more costly to China than the United States.** But in order for progress to be made, the United States also needs to come to terms with a new reality. China’s ASAT test was a voice of opposition both to the structure of security in space and the U.S. pursuit of military dominance in space at the exclusion of others.

And thus, it is actually America’s response to the ASAT test that may be even more important in how the future of space security plays out. **China probably has both the technological and financial means to compete with the United States in space over the long term**. **If the United States concludes it must meet a threat with more threat, it may invite a military race in outer space and China may just give it to them.** **If the United States can muster the political will and leadership to restrain its reaction, there is still hope.** But flexibility and sacrifice will be essential.

#### And, China wouldn’t engage in a large-scale space attack—they know it would lead to full scale war.

Tellis 2007 - **senior associate at the Carnegie Endowment for International Peace [specializing in international security, defense, and Asian strategic issues. PhD from U of Chicago Ashley J. Tellis, August, 30 2007, published online on September, 1 2007, “China's Military Space Strategy”, Survivial,** [**http://www.carnegieendowment.org/files/tellis\_china\_space1.pdf**](http://www.carnegieendowment.org/files/tellis_china_space1.pdf)**, accessed 7-14]**

To begin with, the number of spacecraft in the tactical communications and navigation and positioning constellations is relatively large. The US military, for example, uses at least five separate dedicated satellite constellations for its defence connectivity needs, each with several primary platforms and associated relays.72 In recent years, American dependence on allied, commercial and civilian space satellites for military communications has also increased tremendously, confronting Chinese planners with a plethora of targets that must be neutralised to comprehensively disrupt the tactical communications of their potential adversary.73 Because the US tactical military communications network is highly diversified, with numerous alternative and redundant channels of connectivity, the most effective option for a Chinese military strategist is not discrete anti-satellite attacks but **large-scale ’sky clearing’ operations.** Such actions **would of necessity embroil the People’s Republic of China not merely in a war with the United States, but with the entire international community, and are unlikely to be the military option of first resort.**

### A2 HC

#### All of their evidence assumes the Obamacare rollout – issue specific uniqueness subsumes – just provides a brink.

#### Obamacare fight is contained – plus no vote.

Sargent 11-15. [Greg, political blogger, “Dems leaders struggle to contain the damage” Washington Post -- http://www.washingtonpost.com/blogs/plum-line/wp/2013/11/15/dems-leaders-struggle-to-contain-the-damage/]

And, indeed, with the total of defections among House Dems at 39, it’s still seems unlikely, at least as of now, that there will be a vote on any legislative fix in the Senate.¶ For the time being, this puts us back where we’ve always been. We’re probably not getting any legislative fix from Congress, which means the only fix we’re likely going to get is the administrative one Obama has put forth. And even that may not do much, if insurers don’t go along. It is certainly possible more problems will arise, and that another epic Democratic meltdown could unfold. The larger story remains that Dems are in the midst of an extended gut-check moment, in which they will hopefully remember that this isn’t about Obama; it’s about the policy upon which they’ve staked so much.¶ But in the last couple of days Dem leaders — and Obama — have managed to contain, at least to some degree, the full scale rebellion that seemed to be looming. And now we’re again stuck waiting for the Obama administration to fix the website, and waiting to see whether the policy works over the long haul, which is what really matters.

#### Obama’s solution solved

Beutler 11-14. [Brian, political writer, “The president strikes back: Insurance companies get their justified comeuppance” Salon -- www.salon.com/2013/11/14/the\_president\_strikes\_back\_insurance\_companies\_get\_their\_justified\_comeuppance/]

If your health insurance carrier has canceled your plan in anticipation of the launch of the Affordable Care Act, the administrative fix President Obama announced Thursday doesn’t guarantee you can get it back. But setting aside logistical hurdles, it loosens regulations to allow insurance companies to reinstate the plans for another year, if they so choose — and if they first fully apprise you of your other options, including expanded benefits and the potential availability of premium support, on the exchanges. This solution combines a clever p.r. stunt, a stalling tactic, an act of retribution, the genuine possibility of transition assistance for some, and a large political and substantive gamble. It bears the hallmarks of desperation and frustration and determination, but it just might work. The idea isn’t to retroactively fulfill the promise he made to everyone whose plans have been canceled, but to demonstrate to the public that there’s now nothing in law requiring carriers to dump policyholders or uphold their cancelation notices, so that the public takes its concerns and grievances directly to the carriers. That would alleviate pressure on Democratic lawmakers to vote under duress for legislation that would undermine the Affordable Care Act more dramatically. Carriers and state regulators will now have to decide how to respond. And herein lies both promise and peril. From a theoretical vantage point, insurers could decide to reinstate all of the plans, none of the plans, or some of the plans. Logistical, regulatory and financial considerations will control the actual outcome. But the optimal scenario is that people whose plans don’t get renewed will blame insurers, and that of the people whose plans do get renewed, a healthy portion and distribution will learn of the other options available to them and try their luck in the exchanges. Neither piece of that scenario is guaranteed to materialize. That could mean higher premiums next year and an ongoing political crisis for Dems. But it constitutes both a gamble — a doubling down, if you will — on the law itself, and a reprisal against rapacious insurers who tried to capitalize on the Obamacare launch at the expense of their customers and good public policy. The fix Obama announced changes the rules for insurers mid-game, and many of them will not be happy about it. The nation’s largest health insurance trade association, AHIP, has already warned that the move could “destabilize the market and result in higher premiums for consumers.” But setting aside the merits, Obama’s remedy is a justified comeuppance for carriers who defaulted beneficiaries into obscenely expensive plans, which they characterized as “comparable” to the canceled coverage, without apprising them of their options, and blamed the whole disruption on Obamacare. It’s a scolding reminder to particular insurance companies that their lack of integrity exacerbated a problem that might have been containable if they hadn’t acted with such avarice. They are now reaping the whirlwind. Moreover, if Obama didn’t believe that, on a level playing field, the exchanges will prove more attractive than the old, underwritten market, he probably wouldn’t have done this. It’s a statement of confidence in his signature initiative. The immediate response on Capitol Hill is confused but promising. Republicans don’t know exactly what to say — Sen. Bob Corker, R-Tenn, called it a “good move” and “a step in the right direction”! — but I’d expect them to converge rapidly toward unified condemnation. Many Democrats say they’re satisfied. The most politically vulnerable of them are relieved, appreciative of a helpful first step, but not completely assuaged. The question now is whether it will allay their concerns enough that they’ll stall underhanded Congressional action long enough for the administration to get Healthcare.gov fixed. I imagine Obama’s great hope right now is that it does.

#### Health care helps not hurts Obama.

Beutler 11-12. [Brian, political writer, “GOP about to hurt itself again!: New ploy to kill Obamacare will blow up” Salon -- www.salon.com/2013/11/12/gop\_about\_to\_hurt\_itself\_again\_new\_ploy\_to\_kill\_obamacare\_will\_blow\_up/]

Starting on Jan. 1, votes to repeal Obamacare will become votes to take health insurance away from a lot of people. Just how many people will depend on when the votes take place (assuming they take place at all), and when Healthcare.gov is finally up and running. But repeal votes will cease to be abstractions. They’ll be deeply relevant to hundreds of thousands of people. And because politics don’t always obey the laws of entropy, it’s safe to assume that Democrats will characterize past votes for repealing Obamacare as if they’d taken place in 2014. Which is why the GOP’s latest tactical assault on Obamacare merits so much attention. It underscores how unviable the repeal platform will be by the time Republicans have the power to enact it. And it even suggests repealers have so successfully blinded themselves to the positive consequences of the Affordable Care Act that they can’t see how badly they’re now undermining their own campaign. Like many other Republican attacks on Obamacare, this one is subterfuge — a proposal that sounds great but in reality would plant the seeds of the law’s destruction. The real goal is to deny Obamacare marketplaces across the country the critical mass and demographic balance they’ll need to function properly. But it’s dressed up in focus-grouped legislation called the Keep Your Health Plan Act. The Keep Your Health Plan Act clumsily addresses a real moral conundrum created by the failure of Healthcare.gov. The Obama administration timed regulations that have resulted in millions of insurance policy cancellations to coincide with the opening of marketplaces where the people receiving notices could shop for alternatives. But the marketplaces are practically inaccessible in most states. As currently implemented, Obamacare is causing people to lose their existing plans without providing them means to acquire new ones. The Keep Your Health Plan Act would genuinely address this problem, by superseding the administration’s efforts to fix Healthcare.gov. Republicans are selling it as a fix that will allow people whose insurance policies have been canceled to keep their old plans. In reality it would allow carriers to rescind cancellation notices and honor existing policies outside of the exchanges for another year. That’s easier said than done. It would be a huge logistical challenge. But to the extent that it’s possible, it would create an incentive for insurers to extend only plans for low risk beneficiaries who might be disinclined to enter the new system. By jumping the gun, though, they’ve revealed that their purpose isn’t to alleviate the bottleneck created by the website, which might still be fixed in time for the administration to keep its end of the bargain. The timing gives the game away. If it were December, and Healthcare.gov weren’t working, and people whose plans had been canceled were facing the real prospect of a coverage gap, the moral logic of the Keep Your Health Plan Act would be harder to assail. But House Republicans plan to hold the vote this week, a month ahead of the effective deadline to apply for coverage that begins January 1. And since Republicans aren’t about to stand up and admit that they’re engaging in misdirection and sabotage, they’re left with one plausible argument: that changes in federal healthcare policy shouldn’t cause anyone anywhere to lose health insurance they already have. But that’s exactly what repealing the ACA would do. The Keep Your Health Plan Act would be immensely damaging to Obamacare if it ever became law, and preventing it from becoming law will require Senate Democrats and President Obama to sustain real political damage over the next few weeks. But looking ahead, it will be useful for them to have Republicans on the record against forcing people off of their insurance. Keep Your Health Plan would be consistent with the broader repeal campaign if Obamacare really provided no benefits. And if you’re cocooned in an impenetrable conservative information bubble, it must seem like that’s the case. But, even if you ignore Medicaid, which is expanding on a somewhat distinct path, the law’s already providing tangible benefits to tens of thousands of people. If Healthcare.gov is working in two weeks, that number will swell into the millions. And at that point the Keep Your Health Plan Act and H.R. 45 (PDF), which passed the House in May, will be incompatible. If it’s wrong under any circumstances to make changes in law that result in people losing their health insurance, as Republicans are suddenly positing, then the beginning of a new year has no special meaning. There’s no principled distinction between legally rescinding health insurance policies that commenced before Jan. 1 and rescinding health insurance policies that commence after Jan. 1. Unless they let go of their repeal obsession, Republicans will find themselves explicitly in favor of the latter, but not the former. That won’t fly, particularly so long as the GOP is unable to coalesce around an alternative plan that matches or bests the ACA’s coverage expansion. Obamacare is driving policy cancelations right now, but it at least creates a coverage guarantee for those affected. Repeal without replace would impose a greater burden without providing any counterweight. If they pass the Keep Your Health Plan Act this week, House Republicans will see their stylized sympathy for people whose policies have been canceled come into tension with their explicit desire to take Obamacare benefits away from many of the same people, and millions more. These conflicting positions underscore why it’s so imperative for the administration to get Healthcare.gov up and running. Once it works, it won’t just serve as a portal connecting the uninsured with decent coverage. It will propel the repeal campaign into its wincing final throes.

### UNIQUENESS

#### Conceded that capital is key – President is PUSHING for piecemeal reform now – even if Comprehensive doesn’t pass

#### Piecemeal momentum now.

Baum 11-14. [Janell, "Boehner Leaves Immigration Bill Future Murky" Farm Futures -- farmfutures.com/story-boehner-leaves-immigration-bill-future-murky-0-104821]

While the declaration that the Senate's bill won't be conferenced isn't necessarily a surprise – Boehner had previously said the House would not "take up and vote on whatever the Senate passes" – rumors still swirled that smaller bills, instead of one larger bill, could pass.¶ "I want us to deal with this issue, but I want to deal with in in a common-sense, step-by-step way," Boehner said, echoing statements he and other legislators have previously made, though not indicating a timeline.¶ Meanwhile, as five committee-passed immigration efforts go unnoticed in the House – one being Goodlatte's own plan for an ag guestworker program – Boehner said Goodlatte is now in the process of collecting bipartisan "principles" that might drive the House's immigration reform bill in the future.¶ While the American Farm Bureau Federation's Director of Congressional Relations Kristi Boswell says Boehner's announcement is "disappointing," she noted that AFBF respects the House's process, and understands that there's still hope for a bipartisan bill.¶ "We are working with (Goodlatte) and making sure that when this moves, there is an agriculture solution that's moving with it," Boswell noted, adding that the House's apparent plan to pass immigration reform in a piece-by-piece fashion may be what is able to garner the most support.

#### piecemeal will pass – laundry list.

* Boehner flex
* Hastert irrel
* Advocates = more commitment and money
* Obama push
* Congress wants to pass SOMETHING

MacGillis 10-24. [Alec, reporter, "Seven Reasons To Stop Being Fatalistic About Immigration Reform" The New Republic -- www.newrepublic.com/article/115341/immigration-reform-may-actually-pass]

Seven Reasons To Stop Being Fatalistic About Immigration Reform¶ President Obama’s East Room pitch on Thursday to revitalize comprehensive immigration reform was met with a collective shrug, as was Speaker John Boehner’s comment the day before that “immigration reform is an important subject that needs to be addressed. And I'm hopeful.” The prevailing conventional wisdom is that the issue is defunct for now, lost in the welter of the Republican civil war. Plus, it’s more fun to talk about illicit Twitter accounts, concocted ad hominem blind quotes and, of course, Web site malfunctions.¶ But the natural optimist in me thinks that the odds for some sort of serious immigration reform happening in the months ahead are better than many realize. A few reasons why, in no particular order:¶ Boehner has space. To the extent that there was any logic to the Speaker’s letting the government shutdown and debt-ceiling brinkmanship drag out as long as he did, it was that he had strengthened his position with his caucus’s hard-right flank and thereby created some room to maneuver on other fronts. “Boehner’s hold is a little stronger than it was” a few months ago, his near-predecessor as speaker, the lobbyist supreme Bob Livingston, told me when I ran into him at a function Wednesday night.¶ Well, there is no better opportunity for Boehner to show that this is the case – to retroactively justify a gambit that cost the country billions of dollars – than to press forward with immigration reform. To do that will require more than just casual comments like the one he tossed off Wednesday – it will require making clear that the leadership is serious about this and setting aside time on the calendar for it.¶ But wouldn’t pushing the issue forward mean once again breaking the not-so-hallowed Hastert Rule, which requires leadership to bring up for a vote only measures supported a majority of the caucus? Well, yes and no. There is increasing talk of taking a piecemeal route in the House – with, among others, one Dream Act-style measure to legalize those who came into the country as minors, one to stiffen border enforcement, one to expand visas for skilled foreign workers, and, yes, one to provide some sort of eventual path to citizenship for illegal immigrants beyond the Dreamers. The latter would not get a majority of House GOP support, but perhaps if brought through in a stream of other measures would not set off the Hastert Rule alarms as loudly. There would remain the question of how to reconcile whatever passed with the comprehensive reform bill already passed by the Senate – House conservatives say they are wary of a conference committee. But the fact remains that there is a conceivable path forward – if Boehner wants to pursue it. “He’s in a much stronger place for himself job-security-wise all around,” says one House Democratic aide.¶ It’s in the Republicans’ interest. Why would the cautious, conflict-averse Boehner want to put himself through the hassle, even if he does have a path forward? Because, of course, he and so many other leaders of his party and the conservative movement – Paul Ryan, Karl Rove, Grover Norquist – grasp that the party cannot continue be seen as obstructing immigration reform by the country’s growing legions of Hispanic and Asian-American voters. Yes, many of the same leaders were warning the hard-liners in the House and Senate off of the defund-Obamacare government-shutdown path to no avail, but those warnings were highly ambivalent, a matter of tactical disagreement after years in which the leaders had been banging the same anti-Obamacare drum. Whereas in this case the leaders are truly in favor of immigration reform, even if just for reasons of self-preservation.¶ It’s not Obamacare. This is the other reason why Boehner might be able to push forward on this front: as incendiary an issue as immigration reform has been for many Republican voters in recent years, it’s actually less threatening than the two-headed beast of Obamacare and government spending. For one thing, it predates Obama as an issue – it was fellow Republicans George W. Bush and John McCain who were most identified with the 2007 push. For another, some of the most ardent anti-Obamacare soldiers are in favor of immigration reform to varying degrees, from Idaho Rep. Raul Labrador to border congressmen like New Mexico's Steve Pearce to the evangelical groups that have come out for reform. “In the grand scheme of Republican issues, it just doesn’t match up to Obamacare – that’s health care and Obama. That’s partly because they haven’t yet made it about Obama,” said the House Democratic aide.¶ Follow the money. Put simply: the pro-reform side has lots of it, the opponents not so much. Again, this is a crucial contrast with the battles over Obamacare, where the Club for Growth, Koch Brothers and the like are spending heavily to thwart the reformers, even to the point of punishing Republican state legislators who dare to contemplate embracing federal funds for Medicaid expansion. In the immigration realm, the big bucks are coming from these guys.¶ The pro-reform side isn’t giving up. This is the element too often discounted in drawn-out legislative battles: the energy and resolve of the footsoldiers. And it has not abated as much on the pro-reform side as much as the pessimistic Beltway take on the issue would have one think. There are millions of people in this country with a huge stake in this fight, and plenty others who have taken up arms in their support, and not just in the usual places: I was amazed to see several dozen people agitating for reform at the annual Fancy Farm political picnic in far western Kentucky, in August. Advocates have gotten further than ever before – they’ve gotten a bipartisan vote in their favor in the Senate, and they’ve gotten key agreements between the AFL-CIO and Chamber of Commerce and growers and farmworkers in California, among others. They’re not about to give up now. “This is the absolute best opportunity we have to pass reform,” says Angelica Salas, executive director of the Coalition for Humane Immigrant Rights of Los Angeles. “If we were going to leave it to the national pundits, this issue would have died a long time ago, but the reality is that it’s in the hands of the immigration rights movement and people are not going to end the fight until there’s a fix to this cruel situation that we’re living in.”¶ Obama wants to make it happen. One might think this would be the biggest obstacle for reform, in that Republicans would be unwilling to grant the president a legislative triumph. In fact, Democrats are having to contend with the reverse, a suspicion among many House Republicans that Obama and the Democrats secretly want reform to fail, so that they can keep bludgeoning Republicans with the issue among Hispanic voters. This is hogwash, as far as Obama is concerned: he desperately wants a major achievement in his second term, not least given the troubles that have arisen in implementing his main first-term one. As for the Republicans’ suspicion, there’s an easy way to keep Democrats from using immigration as a wedge issue: voting for a reform package. “It’s a self-fulfilling prophecy,” says the Democratic House aide.¶ Redemption. This one applies to both sides of the aisle. This may be overly naïve, but I suspect there are members of both parties who are genuinely abashed by how badly Congress has come across in recent weeks, not to mention recent years, and would like to be able to show that they can come to Washington and address a major national problem. For the reasons listed above, this could offer just the ticket. And it sure beats spending the next year talking about chained CPI.

#### Yes piecemeal – Reid support

The Hill 11-13-13. thehill.com/blogs/blog-briefing-room/news/190181-reid-stunned-about-boehners-immigration-comments

"This is about trying to do this in a way that the American people and our members can absorb," Boehner said, arguing the immigration system is too complex to address quickly. ¶ In the morning, a group of teenagers approached Boehner at a Capitol Hill diner and questioned why the Speaker wouldn’t act on immigration. Their family members, they said, have previously faced deportation. ¶ “I’m trying to find a way to get this thing done. It’s, as you know, not easy. It’s not going to be an easy path forward, but I’ve made it clear since the day after the election that it’s time to get this done,” Boehner said. A video of the exchange was recorded.¶ Reid accused Boehner of sending mixed signals, Fusion reports.¶ "I mean, this House of Representatives might just as well not exist,” he said. “They don't do anything.” ¶ The Senate passed the Gang of Eight legislation in June, but Boehner has since rejected that measure’s reforms.¶ Reid said he’s open to negotiating with Boehner if the House passes piece-meal legislation addressing immigration-related issues individually.¶ "I don't like it,” he said. “But if they pass something, we can at least go to conference.”

### Links

#### Ext Kriner

#### he says committee have you taken a government class – the plan is created in committee but the NDAA still has to pass the house and congress – your Keck evidence CONCEDES that congress WANTS AIR SEA BATTLE WHICH PROVES YOU TURN THE NDAA INTO A HUGE FIGHT

Keck, 7/13 (Zach, “Air Sea Battle Under Fire From Congressional Committee” Flashpoints. http://thediplomat.com/flashpoints-blog/2013/06/13/air-sea-battle-under-fire-from-congressional-committee/

The House Armed Service Committee (HASC) in the U.S. Congress is raising a number of concerns about the U.S. military’s AirSea Battle Office and its larger plans to counter Anti-Access/Area Denial (A2/AD) envrionments.¶ In [its initial version](http://armedservices.house.gov/index.cfm/files/serve?File_id=bbdda6e0-f0b1-4c30-b46e-404830bed8cf) of the FY 2014 National Defense Authorization Act, which was passed through committee with the relevant provisions seemingly intact, HASC advanced a number of concerns over the creation of the AirSea Battle (ASB) Office outside the Joint Staff, while also indicating its desire to better incorporate the U.S. Army and U.S. Marine Corps (USMC) into the military’s solution for overcoming A2/AD threats.¶ With regards to the ASB office, HASC wrote: “The committee is concerned whether the placement of the current ASB office outside of the Joint Staff is the most logical and effective location for integrating ASB concepts across the services.”¶ It then directed [Secretary of Defense Chuck Hagel](http://thediplomat.com/flashpoints-blog/2013/01/08/chuck-hagel-and-the-battle-for-gop-foreign-policy/) to evaluate whether the office is “accomplishing its goals to enable and prepare the U.S. military to effectively operate in an A2/AD environment, and whether the office provides a unique function and perspective or it duplicates other efforts carried out elsewhere in the Department of Defense.”¶ HASC goes on to write that even if the Pentagon concludes that the ASB office is both effective and unique, the committee would like Secretary Hagel to “determine whether the ASB office should continue as is, be modified, or placed within the Joint Staff.”

#### the NDAA amendments won’t thump – the last line of your card concedes THEY HAVE PASSED

#### military industrial complex <3 Plan

Kreft, 10/11 (“Air Sea Battle? New War Concept Briefed to congress. All Things Aero. http://allthingsaero.com/military-aviation/aircraft/article-air-sea-battle-new-war-concept-briefed-to-congress

In a first-ever open hearing before Congress, senior representatives from the Navy, Air Force, Marine Corps, Army and Joint Staff discussed an entirely new approach to warfare dubbed the "Air-Sea Battle concept" with the House Armed Services Committee Seapower and Projection Forces Subcommittee.¶ Yesterday's hearing was the first public congressional testimony on the concept, which was first revealed in November of 2011.¶ Chairman J. Randy Forbes was quick to remind everyone Air-Sea Battle is not "a strategy" as he pitched questions to the military leaders. "We don't want to put you on the spot. But one of the things we're wrestling with now is what's our strategy, you know, we don't want to have a strategy that develops based on our procurement policy."¶ Rear Admiral James Foggo, Assistant Deputy Chief of Naval Operations for Operations, Plans and Strategy, was first to testify.¶ "We are leveraging AirSea Battle to build these pre-integrated joint forces that I've talked about and there are plenty of examples, our brethren from the Navy and their Top Gun school routinely train with our Air Forces Weapon School," he said. "Air combat command and Navy fleet forces command are working on common problems together in this newly formed Navy-Air Force integration forum."¶ Many military experts argue ASB is necessary to achieve the much-discussed Asia-Pacific re-balance, but Admiral Foggo stressed the concept is less about location, more about access anywhere.¶ "This has nothing to do with the region, it's a concept that can support that strategy and provide choices to our combatant commanders wherever they may need to counter that Anti-Access Area Denial threat."

#### Military lobby backlash drains capital.

Gentry 3. [John, USAR Ret., is an analyst with the Center for Integrated Intelligence Systems, the MITRE Corporation, "Doomed to Fail: America’s Blind Faith in Military Technology" Parameters -- Winter -- strategicstudiesinstitute.army.mil/pubs/parameters/Articles/02winter/gentry.htm]

These reforms are unlikely to occur in the absence of a significant US battlefield defeat. Organizations that agree on little within the Pentagon close ranks when collectively challenged. The military services have significant lobbying clout on Capitol Hill and powerful supporters in reserve and veterans organizations. Policymakers and the citizenry should continue to expect poor military performance and avoid--for a myriad of reasons--policies that run the risk of major war.The best we probably can hope for is a moderate conflict in which the inadequacies of JV 2O2O are obvious but the United States does not suffer disastrous defeat. Hundreds of lives and the associated diplomatic and domestic political ramifications of a defeat will probably be part of this awakening. We can but hope the cost will not be higher.

#### Military bureaucratic backlash outweighs any link turn.

Ritchie 8. (Nick, Oxford Research Group, “US Nuclear Weapons Policy After the Cold War”)

The reality and complexity of bureaucratic life suggests that there are genuine difficulties in shifting policy even with senior level attention and widespread support from Congress and those involved in the policymaking process. This supports the contention that changes in national security policy generally occur incrementally due in part to the nature of government bureaucracy, as well as resistance to changes that challenge organizational interests

and identities that may have coalesced around instutionalised idea sets.