## Case

### 2AC A2: Statutory Restrictions Fail

#### Even if they aren’t legally binding, they raise the political costs of unilateral action, which checks – that’s ogul

#### Farley says the plan revitalizes court intervention – allows them to rule on a definition of hostilities

#### External checks are effective

Aziz Z. Huq 12, Assistant Professor of Law, University of Chicago Law School, "Binding the Executive (by Law or by Politics)", May 25, www.law.uchicago.edu/files/file/400-ah-binding.pdf

Paulson ’ s genuflection and Obama ’ s reticence, I will contend here, are symptomatic of our political system ’ s operation rather than being aberration al . It is generally the case that even in the heart of crisis, and even on matters where executive competence is supposedly at an acme , legislators employ formal institutional powers not only to delay executive initiatives but also affirmatively to end presidential policies. 20 Numerous examples from recent events illustrate the point. Congressional adversaries of Obama, for instance, cut off his policy of emptying Guantánamo Bay via appropriations riders. 21 Deficit hawks spent 2011 resisting the President’s solutions to federal debt, while the President declined to short - circuit negotiations with unilateral action. 22 Even in military matters, a growing body of empirical research suggests Congress often successfully influences the course of overseas engagements to a greater degree than legal scholars have discerned or acknowledged. 23¶ That work suggests that the failure of absolute congressional control over military matters cannot be taken as evidence of “the inability of law to constrain the executive ” in more subtle ways (p 5). The conventional narrative of executive dominance , in other words, is at best incomplete and demands supplementing .¶ This Review uses The Executive Unbound as a platform to explore how the boundaries of discretionary executive action are established. As the controversial national security policies of the Bush administration recede in time, the issue of executive power becomes ripe for reconsideration. Arguments for or against binding the executive are starting to lose their partisan coloration. There is more room to investigate the dynamics of executive power in a purely positive fashion without the impinging taint of ideological coloration.¶ Notwithstanding this emerging space for analys i s, t here is still surprising inattention to evidence of whether the executive is constrained and to the positive question of how constraint works. The Executive Unbound is a significant advance because it takes seriously this second “ mechanism question. ” Future studies of the executive branch will ignore its i mportant and trenchant analysis at their peril. 24 Following PV ’ s lead, I focus on the descriptive , positive question of how the executive is constrained . I do speak briefly and in concluding to normative matters . B ut f irst and foremost, my arguments should be understood as positive and not normative in nature unless otherwise noted.¶ Articulating and answering the question “ W hat binds the executive ?” , The Executive Unbound draws a sharp line between legal and political constraints on discretion — a distinction between laws and institutions on the one hand, and the incentives created by political competition on the other hand . While legal constraints usually fail, it argues, political constraints can prevail. PV thus postulate what I call a “strong law/ politics dichotomy. ” My central claim in this Review is that this strong law/politics dichotomy cannot withstand scrutiny. While doctrinal scholars exaggerate law ’s autonomy, I contend, the realists PV underestimate the extent to which legal rules and institutions play a pivotal role in the production of executive constraint. Further, the political mechanisms they identify as substitutes for legal checks cannot alone do the work of regulating executive discretion. Diverging from both legalist and realist positions, I suggest that law and politics do not operate as substitutes in the regulation of executive authority. 25 They instead work as interlocking complements. An account of the borders of executive discretion must focus on the interaction of partisan and electoral forces on the one hand and legal rules. It must specify the conditions under which the interaction of political actors’ exertions and legal rules will prove effective in limiting such discretion.

#### BACK TO FLOW

### 2AC A2: No Impact

#### Group the impact defense – none of it assumes our scenario – avoiding intervention key to engaging the global commons – losing wars causes retrenchment – the impact is terrorism, climate change, prolif, and super-power war. Prefer our ev which cites data. That’s Brezinski and Mack

#### They’ve conceded an external impact – extend Crowe – unchecked presidential aggression guarantees extinction via nuclear escalation and miscalc

#### BACK TO FLOW

### A2: yoo – prez power solves

#### Turn --- we don’t eliminate any presidential role, just guarantee a congressional one. That’s best

Two heads are better than one

Pearlstein ’09, Deborah N. Pearlstein\*\* Visiting Scholar and Lecturer in Public and International Affairs, Woodrow Wilson School of Public & International Affairs, Princeton University, July, 2009¶ CONNECTICUT LAW REVIEW¶ 41 Conn. L. Rev. 1549, Article: Form and Function in the National Security Constitution, Lexis, jj

*\*gender modified*

This brings us to the new functionalists' role effectiveness approach. For whatever one researcher (especially, the new functionalists would suggest, legal researchers) might find in the empirical literature informing the nature of security threats and emergency responses, the new functionalists' more forthright argument is that institutional competences make the executive better positioned to consider this information and make decisions accordingly. Indeed, in a linear comparison of institutional competences, the differences among the branches that flow from institutional structure are of course real. The judiciary, for example, can only act in the event of a case or controversy. The administrative agency and national security apparatus may put information, in the first instance, in the hands of the executive rather than Congress or the courts. Moreover, the new functionalists add, the judiciary lacks the expertise and the procedural and evidentiary resources to make good judgments in an emergency; judicial resources are too scarce to require individualized determinations as to many hundreds or thousands of detainees it is assumed, as a matter of raw effectiveness, it will be necessary to detain. And given its own resource constraints and motives, the executive is [\*1598] unlikely to exaggerate the danger posed by an individual, or detain too many people. n168 Accordingly, the new functionalists tend to favor a decision- making structure with loose (if any), emergency-driven congressional engagement and deferential (if any) judicial review.¶ But such comparative competence accounts are misleading in several ways. They ignore the complexity of current government decision-making structures. The vast executive branch decision-making apparatus means decisions rarely come down to the speed possible with one [person] ~~man~~ acting alone, and Congress and the courts have at their institutional disposal multiple means to enable the sharing of information among the branches. Such accounts also critically ignore the possibility of collective organizational capacity, a notion Justice Jackson's Youngstown concurrence seemed squarely to contemplate. n169 The executive acting alone may be better than the courts acting alone in some circumstances, but the executive plus the courts (or Congress) may be more effective than the executive alone.¶ Perhaps most important, the new functionalist role effectiveness view ignores the structural reality that national security policy (indeed all government decision- making) is channeled through a set of existing organizations, each with its own highly elaborated set of professional norms and responsibilities, standard procedures and routines, identities and culture, all of which constrain and guide behavior-often in ways that centrally affect the organization's ability to perform its functions. Considering how such pathologies affect decision-making, one may find a far more sophisticated-and more meaningful-set of comparisons between decision-making structures than asking, for example, whether the executive can make decisions faster than courts. The next section explores a role effectiveness approach that could take this reality into account.

#### Plan’s a key middle ground:

#### Requiring Congressional approval doesn’t hurt flexibility in a crisis

The plan helps flex --- knee-jerk decisions made by the executive limit flexibility in the long term

Streichler ’08, Stuart Streichler, Adjunct Faculty, Seattle University School of Law. Ph.D., Johns Hopkins University; J.D., University of Michigan Law School; B.S., Bowling Green State University, Winter, 2008¶ Journal Of Law And Politics¶ 24 J. L. & Politics 93, ARTICLE: Mad about Yoo, or Why Worry about the Next Unconstitutional War, Lexis, jj

[\*123] When Yoo discusses the need for flexibility in the process for warmaking, he creates a false dilemma. He suggests that the president has discretionary power to start wars or that the president must secure prior authorization from Congress through a "fixed, legalistic process." n230 For Yoo, the latter would inevitably hamper the government's ability to respond to terrorist threats. n231 Yet even if Congress has the power to decide whether to go to war, the presi-dent retains substantial powers to respond quickly to defend the country. No lawmaker would insist on Congress delib-erating while terrorists set off weapons of mass destruction in the United States. Americans who lived with the risk of nuclear attack during the Cold War accepted the president's authority to respond to the Soviet Union without waiting for the results of legislative debate. Additionally, Congress has demonstrated that it can move quickly to authorize the use of military force. Three days after September 11, the Senate voted 98-0 to authorize the president to use force in response to the attacks, n232 and the House approved the measure a few hours later (420-1). n233 Another four days passed before the president signed it. n234 The last time Congress declared war in response to an attack on the United States, it did not take lawmakers long to do so. The Senate (82-0) and the House (388-1) issued a declaration of war thirty-three minutes after President Franklin D. Roosevelt's "Day of Infamy" speech. n235 Furthermore, whatever their capacity for dynamic response, presidents do not always react to security threats with speed and energy. While Yoo cleverly aligns his position with flexibility, there is more to constructing an adaptive foreign policy than letting the president initiate military hostilities. Executive decisions on war that appear, in the short term, to reflect a flexible approach may limit policy options over the long run, constraining foreign policymakers and military planners.

#### Congressional deliberation during peace time is key to leadership

Zelizer ’11, Julian E. Zelizer is a professor of history and public affairs at Princeton University. He is the author of "Jimmy Carter," published by Times Books, and editor of a book assessing former President George W. Bush's administration, published by Princeton University Press. June 27, 2011, CNN, War powers belong to Congress and the president, <http://www.cnn.com/2011/OPINION/06/27/zelizer.war.powers/index.html>, jj

The second cost of presidents going to war rather than Congress doing so is that major mistakes result when decisions are made so quickly. When there is not an immediate national security risk involved, the slowness of the legislative process does offer an opportunity to force policymakers to prove their case before going to war.¶ Speed is not always a virtue. In the case of Iraq, the president started the war based on the shoddiest of evidence about WMD. The result was an embarrassment for the nation, an operation that undermined U.S. credibility abroad.¶ Even in military actions that have stronger justifications, there are downsides to speed. With President Obama and the surge in Afghanistan, there is considerable evidence that the administration went in without a clear strategy and without a clear objective. With Libya, there are major concerns about what the administration hopes to accomplish and whether we are supporting rebel forces that might be connected with terrorist networks intent on harming the U.S.

#### We improve war-making --- congressional approval causes public confidence and support

Whitman ’10, Alex J. Whitman, Judicial Clerk to the Honorable W. Royal Furgeson, Jr., United States Senior District Judge for the Northern District of Texas; J.D., with honors, Emory University School of Law (2010); B.A., cum laude, University of Florida (2007), FROM THE SHORES OF TRIPOLI TO THE DESERTS OF IRAQ: CONGRESS AND THE PRESIDENT IN OFFENSIVE AND DEFENSIVE WARS, <http://ehis.ebscohost.com/eds/pdfviewer/pdfviewer?sid=5e2a18f5-c9b4-40ff-ab6a-def73487309d%40sessionmgr104&vid=1&hid=115>, jj

One could plausibly argue that such a system would restrict the ¶ President’s ability to effectively prosecute a war initiated by another ¶ nation.135 Indeed, certain scholars have rejected the necessity of congressional involvement of any sort when war is imposed upon the nation. John C. Yoo, in the context of the Barbary Wars, argued that ¶ “Presidents should not have to wait to seek authorization from Congress when another nation has already attacked or declared war upon ¶ the United States.”136 This criticism of a deferential approach to ¶ Congress reflects Alexander Hamilton’s concern that the President ¶ would need to exercise the full might of the nation’s military to respond to attack without restriction.137 This can be countered in two ¶ ways. First, the nature and importance of the substantive policy implications of extending a war to an offensive posture is the reason ¶ that the power was placed in the hands of Congress in the first ¶ place.138 Second, throughout the history of the nation, Congress has ¶ consistently acquiesced to a presidential request for authorization to ¶ use force when the nation has been attacked.139 Even dubious assertions of foreign attacks on American troops abroad, such as the supposed North Vietnamese attacks on American patrol boats in the Gulf ¶ of Tonkin in August of 1964, have led to congressional acquiescence ¶ for the use of force.140 If the President can effectively make a case ¶ that a foreign attack on the United States requires an offensive reaction, he still has the ability to convince Congress of the legitimacy of that position.141 Further, the symbolic power of congressional approval of war can be essential to public confidence and approval.142¶ Even Alexander Hamilton, who was among the foremost proponents ¶ of executive power in the years after the Constitutional Convention, ¶ recognized the symbolic importance of a congressional role in the ¶ decision to use force; as Kenneth B. Moss observed, “[a] congressional decision to use force or declare war was a check on executive power that Hamilton realized needed to be in place to ensure public confidence and trust in the decision itself.”143 The question of whether ¶ war is desirable, as John Hart Ely observed, “is precisely what Congress is supposed to decide.”144

#### Turns the disad

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T¶ here is an imbalance of constitutional power across the branches of the ¶ US government. Congress has failed to preserve its constitutional privileges, specifically its sole authority to declare war.1¶ Over the past 60 years, ¶ through a combination of executive initiative and congressional abdication, the ¶ United States has engaged in large scale offensive wars absent congressional ¶ war declarations, despite Congress’s constitutional authority and requirement ¶ to formally declare the nation’s wars.2¶ For the 162 notable military deployments after World War II, Congress ¶ never declared war, opting instead to pass resolutions that effectively circumvented the constitutional war declaration process. Arguably, in its major ¶ military actions since 1950, the nation has failed to articulate political objectives commensurate with its sacrifice of blood and resources.3¶ This dubious ¶ record stands in stark contrast to the ends obtained from wars that Congress ¶ actually declared. ¶ Congressional resolutions are an insufficient substitute for war declarations for a number of reasons. The resolution process undercuts the framers’ ¶ well-conceived declaration process designed to assure popular support for the ¶ nation’s wars. Thorough congressional deliberation is imperative for arguably ¶ the most important decision the Congress has the authority to make—committing the nation to war.¶ The executive branch’s recent practice of engaging in war without ¶ exercising the process of declaring war has left the nation’s military repeatedly engaged in open-ended conflict. The ensuing uncertainty exacerbates an ¶ already complicated strategy formulation process and often leads to truncated, ¶ incoherent, or episodic military strategies. As the keeper of the nation’s treasury, Congress determines the sustainability of any military effort. Ultimately, ¶ all war strategy depends on the nation’s ways and means, along with the national ¶ will to sustain the effort to meet desired ends.¶ Whether a result of executive ambition, congressional abdication, or a ¶ combination of the two, committing US military forces to “war” without the ¶ benefit of the constitutional declaration process has not served the long-term ¶ interests of the nation. In addition to its questionable constitutionality, the resolution process has led to insufficiently defined national objectives. It constantly ¶ exposes strategy to political machinations. Finally, it fails over time to provide ¶ sufficient resources to achieve the uncertain objectives of the military actions ¶ that began extraconstitutionally.

#### Congressional co-op k2 deterrence --- they only read part of the card – it concludes aff

**Newton ’12**, Michael A. Newton, Professor of the Practice of Law, Vanderbilt University Law School, CASE WESTERN RESERVE JOURNAL OF INTERNATIONAL LAW·VOL.45·2012, Inadvertent Implications of the ¶ War Powers Resolution, <http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1&2.10.Article.Newton.pdf>, jj

The corollary to this modern reality, and the second of three ¶ inadvertent implications of the Resolution, is that our enemies now ¶ focus on American political will as the Achilles heel of our vast ¶ capabilities. Prior to the War Powers Resolution, President ¶ Eisenhower understood that it was necessary to “seek the cooperation ¶ of the Congress. Only with that can we give the reassurance needed ¶ to deter aggression.”62 President Clinton understood the importance of ¶ clear communication with the Congress and the American people in ¶ order to sustain the political legitimacy that is a vital element of ¶ modern military operations. Justifying his bombing of targets in ¶ Sudan, he argued that the “risks from inaction, to America and the ¶ world, would be far greater than action, for that would embolden our ¶ enemies, leaving their ability and their willingness to strike us ¶ intact.”¶ 63 In his letter to Congress “consistent with the War Powers ¶ Resolution,” the president reported that the strikes “were a necessary ¶ and proportionate response to the imminent threat of further terrorist ¶ attacks against U.S. personnel and facilities” and “were intended to ¶ prevent and deter additional attacks by a clearly identified terrorist ¶ threat.”¶ 64 The following day, in a radio address to the nation, the ¶ president explained his decision to take military action, stating, “Our ¶ goals were to disrupt bin Laden’s terrorist network and destroy ¶ elements of its infrastructure in Afghanistan and Sudan. And our goal ¶ was to destroy, in Sudan, the factory with which bin Laden’s network ¶ is associated, which was producing an ingredient essential for nerve ¶ gas.”¶ 65 Citing “compelling evidence that the bin Laden network was ¶ poised to strike at us again” and was seeking to acquire chemical ¶ weapons, the president declared that we simply could not ignore the ¶ threat posed, and hence ordered the strikes.66 Similarly, President ¶ Clinton understood that intervention in Bosnia could not be ¶ successful absent some national consensus, which had been slow to ¶ form during the long Bosnian civil war.67¶ Secretary of State George Schultz provided perhaps the most ¶ poignant and pointed example of this truism in his testimony to ¶ Congress regarding the deployment of US Marines into Lebanon to ¶ separate the warring factions in 1982. On September 21, 1983, he ¶ testified before the Senate Foreign Relations Committee and provided ¶ a chilling premonition of the bombing that would come only one ¶ month later and kill 241 Americans, which was the bloodiest day in ¶ the Marine Corps since the battle of Iwo Jima.68 Seeking to bolster ¶ legislative support and to better explain the strategic objectives, he ¶ explained that:¶ It is not the mission of our marines or of the [Multinational ¶ Force in Lebanon] as a whole to maintain the military balance ¶ in Lebanon by themselves. Nevertheless, their presence remains ¶ one crucial pillar of the structure of stability. They are an ¶ important deterrent, a symbol of the international backing ¶ behind the legitimate Government of Lebanon, and an ¶ important weight in the scales.¶ To remove the marines would put both the Government and ¶ what we are trying to achieve in jeopardy. This is why our ¶ domestic controversy over the war powers has been so ¶ disturbing. Uncertainty about the American commitment can ¶ only weaken our effectiveness. Doubts about our staying power ¶ can only cause political aggressors to discount our presence or to ¶ intensify their attacks in hopes of hastening our departure.¶ An accommodation between the President and Congress to ¶ resolve this dispute will help dispel those doubts about our ¶ staying power and strengthen our political hand.69

### 2AC A2: Congress Doesn’t Care / Won’t Enforce

#### Assumes SQ --- plan revitalizes congressional deliberation

#### Disregard ev from before Obama’s Syria decision --- Congress is willing to play this role

Walter Rubel is managing editor of the Sun-News, 08/31/2013, Las Cruces Sun-News, Congress should share in war decision regarding Syria, <http://www.lcsun-news.com/las_cruces-opinion/ci_23991104/congress-should-share-war-decision-regarding-syria>, jj

I agree with Steve Pearce on this one. And so, it was announced Saturday, does President Barack Obama.¶ On Thursday, Pearce reported that he had added his signature to a growing list of House members who have signed a letter urging Obama not to take military action in Syria without the consent of Congress.¶ "If you deem that military action in Syria is necessary, Congress can reconvene at your request," the letter states. "We stand ready to come back into session, consider the facts before us, and share the burden of decisions made regarding U.S. involvement in the quickly escalating Syrian conflicts.'¶ The letter was signed by more than 100 House members, most Republicans. One might reasonably ask why they are requesting the president to call them back into session, and not their own speaker. It's also fair to ask if Pearce would be as ready to buck the president had it been a member of his own party.¶ But those questions are about politics. What's at stake here is more important.¶ Pearce announced his decision to sign the letter the same day the British Parliament voted 285-272, after a spirited eight-hour debate, to reject a call by Prime Minister David Cameron to authorize the use of force against Syria.¶ "The well of public opinion has been well and truly poisoned by the Iraq episode," Cameron explained.¶ Our well has been just as poisoned, if not more. But our legislative body has not typically had that spirited debate in the past before the president marches us off to war, often with unfortunate consequences.¶ Obama has argued that if Syrian President Bashar al-Assad is allowed to use chemical weapons with impunity, it will send a dangerous message to despots all over the world. While that is true, the larger question is by what means should the United States and the world community respond, and what will the long-term implications for that response be.¶ That truly is a burden worth sharing.¶ The letter criticizes Obama for previously taking action in Libya without getting authorization. Responding to the memo from the administration's Office of legal Counsel justifying military force against Libya, House members now write, "We view the precedent this opinion sets, where 'national interest' is enough to engage in hostilities without congressional authorization, as unconstitutional."¶ In fact, Obama's action in Libya was anything but precedent-setting. It was, rather, a continuation of a decades-long trend: Harry Truman in Korea, Jimmy Carter in Lebanon, Ronald Reagan in Lebanon and Grenada, Bill Clinton in Kosovo and George W. Bush in Haiti.¶ The last formal declaration of war by Congress was in 1942.¶ Congress attempted to regain some control with the War Powers Act of 1973. But there have always been questions as to its constitutionality, and presidents have felt free to ignore it.¶ Now with Obama in office, Congress suddenly wants to exert its authority. While I question their motives, I welcome the results.¶ There are lots of bad options in Syria, and may be no good ones. The possibilities for blowback and unintended consequences are endless. Anything we do carries the strong possibility of turning out badly. The same is true if we do nothing.¶ They had an intelligent, impassioned debate on the issue last week in England, at the end of which the prime minister had been given a clear direction.¶ We need to do the same thing here.

#### BACK TO FLOW

## Terror

### 2AC – A2: Terror NB

#### Non UQ – US losing war on terror now

Marc Lynch 8/8, professor of political science and international affairs at George Washington University and an editor of Foreign Policy's Middle East Channel, 8/8/13, "The Gift", Foreign Policy, www.foreignpolicy.com/articles/2013/08/08/the\_gift\_al\_qaeda\_arab\_spring

The failure of most of the Arab uprisings has therefore been an extraordinary gift to al Qaeda. It has restored the potency of the terror organization's arguments, while the distraction or disintegration of state security agencies has given it more space to operate. The shift to armed insurgency in Syria galvanized its moribund global jihad. The spectacular collapse of the Muslim Brotherhood badly weakened its most powerful Islamist rival. It has found unprecedented new opportunities to reposition itself within the turbulent, hyperactive new Arab politics.

#### Adopting a restrained foreign policy is key to the war on terror --- excessive intervention causes blowback which turns their offense

Choi ’11, Seung-Whan Choi, Ph.D. Assistant Professor, Department of Political Science (M/C 276), University of Illinois at Chicago, Prepared for the American Political Science Association Annual Meeting in Seattle, Washington, September 1-4, 2011, Does U.S. Military Intervention Reduce or Increase Terrorism?, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1900375>, jj

Conclusion¶ The current literature on terrorism pays little attention to U.S. military intervention as a potential¶ cause of terrorist violence. Quite often, empirical studies of U.S. military intervention overlook¶ its impact on the occurrence of terrorist events despite the fact that during the past four decades,¶ a high portion of terrorism was aimed at U.S. targets in other countries (e.g., U.S. soldiers,¶ embassies, or multinational corporations) (see LaFree, Yang, and Crenshaw 2009). This study¶ makes four contributions to the existing literature. First, it examines this understudied area by¶ providing a conceptualization of the U.S. military intervention-terrorism connection. Second, it¶ explores the overall consequence of U.S. military intervention, as well as the four specific¶ intervention missions that the U.S. has carried out over the world during the past four decades.¶ Third, it examines short versus long-term trends in terrorist attacks. Fourth, it underscores some¶ significant differences between terrorist incidents and terrorist casualties and also distinguishes¶ between homeland and foreign terrorism as a response to U.S. military intervention.¶ The empirical results indicate that indiscriminate U.S. military intervention is, in general,¶ liable to increase terrorist incidents if not more terrorist casualties. Rather than providing global¶ security and economic prosperity for the world, U.S. military action results in blowback. When¶ the U.S. meddles in other countries’ internal affairs by military force, its actions cause retaliatory¶ terrorist attacks against U.S. as well as local targets, and helps the terrorist network recruit new¶ members for future terrorist operations, as evidenced in Lebanon in the 1980s, Somalia in the¶ early 1990s, as well as Pakistan and Yemen in the late 2000s. However, it appears that the¶ foreign policy goals regarding the War on Terrorism are still achievable if the U.S. exercises its¶ military might directly against terrorists while adopting a policy of military restraint on other¶ occasions such as changing the political regime of the target country (Eland 1998, 2007).¶ Alternatively, the U.S. should help in training and providing intelligence information, weapons,¶ and equipment to counterterrorism units in terrorism-prone countries rather than directly¶ intervening in their domestic affairs. In this way, other countries become capable of fighting¶ terrorism with their own people. Consequently, the U.S. can avoid direct military involvements¶ and any potential backfiring of its missions.¶

#### Status quo solves --- Al Qaeda is weak and doesn’t threaten the U.S.

Roth 8-2-’13, Kenneth Roth is executive director of Human Rights Watch, 8-2-’13, Washington Post, The war against al-Qaeda is over, <http://www.washingtonpost.com/opinions/the-war-against-al-qaeda-is-over/2013/08/02/3887af74-f975-11e2-b018-5b8251f0c56e_story.html>, jj

The al-Qaeda threat to the United States, while still real, no longer meets those standards. At most, al-Qaeda these days can mount sporadic, isolated attacks, carried out by autonomous or loosely affiliated cells. Some attacks may cause considerable loss of life, but they are nothing like the military operations that define an armed conflict under international law.¶ Obama himself has said that the core of al-Qaeda — the original enterprise now based, if anywhere, in the tribal areas of northwestern Pakistan — has been “decimated.” Its affiliates, such as al-Qaeda in the Arabian Peninsula and al-Qaeda in the Islamic Maghreb, are more robust armed groups but have limited capacity to pro­ject their violence beyond their regions.¶ These affiliates are significant actors in Yemen and northern Africa, but it is far from clear that they pose a threat to the United States greater than, for example, Mexican drug cartels or international ­organized-crime networks — organizations for which few would characterize U.S. containment efforts as “war.” That the United States continues to deploy military force against al-Qaeda is not enough to qualify that effort as an armed conflict, because if it were, a government could justify the summary killing of “combatants” simply by using its armed forces to do so.

#### No risk of nuclear or WMD terror

John Mueller and Mark G. Stewart 12, Senior Research Scientist at the Mershon Center for International Security Studies and Adjunct Professor in the Department of Political Science, both at Ohio State University, and Senior Fellow at the Cato Institute AND Australian Research Council Professorial Fellow and Professor and Director at the Centre for Infrastructure Performance and Reliability at the University of Newcastle, "The Terrorism Delusion," Summer, International Security, Vol. 37, No. 1, politicalscience.osu.edu/faculty/jmueller//absisfin.pdf, jj

Over the course of time, such essentially delusionary thinking has been internalized and institutionalized in a great many ways. For example, an extrapolation of delusionary proportions is evident in the common observation that, because terrorists were able, mostly by thuggish means, to crash airplanes into buildings, they might therefore be able to construct a nuclear bomb. Brian Jenkins has run an internet search to discover how often variants of the term “al-Qaida” appeared within ten words of “nuclear.” There were only seven hits in 1999 and eleven in 2000, but the number soared to 1,742 in 2001 and to 2,931 in 2002.47

By 2008, Defense Secretary Robert Gates was assuring a congressional committee that what keeps every senior government leader awake at night is “the thought of a terrorist ending up with a weapon of mass destruction, especially nuclear.” 48

Few of the sleepless, it seems, found much solace in the fact that an al-Qaida computer seized in Afghanistan in 2001 indicated that the group’s budget for research on weapons of mass destruction (almost all of it focused on primitive chemical weapons work) was $2,000 to $4,000.49

In the wake of the killing of Osama bin Laden, officials now have many more al-Qaida computers, and nothing in their content appears to suggest that the group had the time or inclination, let alone the money, to set up and staff a uranium-seizing operation, as well as a fancy, super-high-technology facility to fabricate a bomb. This is a process that requires trusting corrupted foreign collaborators and other criminals, obtaining and transporting highly guarded material, setting up a machine shop staffed with top scientists and technicians, and rolling the heavy, cumbersome, and untested finished product into position to be detonated by a skilled crew—all while attracting no attention from outsiders.50

If the miscreants in the American cases have been unable to create and set off even the simplest conventional bombs, it stands to reason that none of them were very close to creating, or having anything to do with, nuclear weapons—or for that matter biological, radiological, or chemical ones. In fact, with perhaps one exception, none seems to have even dreamed of the prospect; and the exception is José Padilla (case 2), who apparently mused at one point about creating a dirty bomb—a device that would disperse radiation—or even possibly an atomic one. His idea about isotope separation was to put uranium into a pail and then to make himself into a human centrifuge by swinging the pail around in great arcs.51 Even if a weapon were made abroad and then brought into the United States, its detonation would require individuals in-country with the capacity to receive and handle the complicated weapons and then to set them off. Thus far, the talent pool appears, to put mildly, very thin. There is delusion, as well, in the legal expansion of the concept of “weapons of mass destruction.” The concept had once been taken as a synonym for nuclear weapons or was meant to include nuclear weapons as well as weapons yet to be developed that might have similar destructive capacity. After the Cold War, it was expanded to embrace chemical, biological, and radiological weapons even though those weapons for the most part are incapable of committing destruction that could reasonably be considered “massive,” particularly in comparison with nuclear ones. 52

And as explicitly rendered into U.S. law, the term was extended even further to include bombs of any kind, grenades, and mines; rockets having a propellant charge of more than four ounces; missiles having an explosive or incendiary charge of more than onequarter ounce; and projectile-spewing weapons that have a barrel with a bore more than a half inch in diameter.53

It turns out then that the “shot heard round the world” by revolutionary war muskets was the firing of a WMD, that Francis Scott Key was exultantly, if innocently, witnessing a WMD attack in

1814; and that Iraq was full of WMD when the United States invaded in 2003—and still is, just like virtually every other country in the world.

After September 11, the delusional—or at least preposterous—expanded definition of WMD has been routinely applied in the United States. Many of those arrested for terrorism have been charged with planning to use “weapons of mass destruction” even though they were working, at most, on small explosives or contemplating planting a hand grenade in a trash bin.

### 2ac debt ceiling

#### No PC on debt ceiling

Mike Lillis, The Hill, 9/15/13, http://thehill.com/video/sunday-shows/322313-obama-vows-no-debate-on-debt-ceiling

President Obama in an interview broadcast Sunday amplified his warning that he won't negotiate with GOP leaders on raising the debt ceiling. With the government expected to hit its spending limit in mid-October, Speaker John Boehner (R-Ohio) and other Republicans are planning to use that deadline as leverage to exact steep spending cuts from the Democrats. But Obama in the interview, recorded Friday, vowed that the strategy won't work. "I’m happy to have a conversation with him [Boehner] about how we can deal with the so-called sequester, which is making across-the-board cuts on stuff that we shouldn’t be cutting," Obama said in an interview with ABC's "This Week" program. "What I haven’t been willing to negotiate, and I will not negotiate, is on the debt ceiling."

#### A) Shutdown is inevitable

Ezra Klein, Washington Post, “A government shutdown just became a bit more likely. That might be a good thing.”, Sept 12th 2013, http://www.washingtonpost.com/blogs/wonkblog/wp/2013/09/12/a-government-shutdown-just-became-a-bit-more-likely-that-might-be-a-good-thing/?wprss=rss\_ezra-klein&clsrd

1) House Republicans pulled their bill to fund the government. The House was expected to vote Wednesday on a bill to continue funding the federal government. The initial whip count showed the bill 18 votes short of passage, so the vote didn't happen. Why is the bill 18 votes short of passage? Obamacare, of course. 2) The GOP's small Obamacare problem. The vote was delayed because the House GOP can't decide on what to do about Obamacare. Hardcore conservatives want to refuse to fund the government as long as any of that funding goes to Obamacare — which is to say, they want to shut down the government over Obamacare. This is a fight that House leadership believes they will lose, and lose very badly. So Team Boehner tried to finesse it. The funding bill required a vote on defunding Obamacare. But House conservatives quickly realized that they would lose the vote in the Senate and the result would be the federal government would get funded, and Obamacare would be funded along with it. So they turned on the bill, and, fearing for its passage, House leadership delayed the vote. 3) The GOP's big Obamacare problem. Behind all this is a simple fact: The GOP has lost on Obamacare. They didn't have the votes to stop it from passing in 2010. They didn't have the votes to repeal it in 2011. They didn't have the votes to win the presidency and the Senate by campaigning against it in 2012. And they really have no way to stop it in 2013. Now it's going into effect, and once it goes into effect and begins delivering health insurance to tens of millions of people, it's pretty much here to stay. But conservatives don't want to believe they've lost on Obamacare, and the rest of the Republican Party is scared to admit they've lost on Obamacare. So as their situation becomes more desperate their tactics become more desperate, too. That's what you get when your position is a mixture of delusion and fear. 4) There isn't much time to pass a bill funding the government. So the GOP doesn't know how to pass a bill funding the government because they don't know what to do about Obamacare — and they don't seem on the verge of figuring it out, either. Meanwhile, time is running short. As Jonathan Chait writes, "a bill needs to pass by September 30, and Congress has a rigorous vacation schedule to adhere to, giving it precious little time to accomplish the goal of not shutting down the government."

#### B) That makes Debt Ceiling increase inevitable regardless of political capital

Ezra Klein, Washington Post, “A government shutdown just became a bit more likely. That might be a good thing.”, Sept 12th 2013, http://www.washingtonpost.com/blogs/wonkblog/wp/2013/09/12/a-government-shutdown-just-became-a-bit-more-likely-that-might-be-a-good-thing/?wprss=rss\_ezra-klein&clsrd

5) A government shutdown wouldn't be the worst thing in the world. It's breaching the debt ceiling that would be a disaster. There are two fiscal crack-ups on offer this fall. One is a government shutdown. That's bad, but it's not a catastrophe. The other is breaching the debt ceiling. That's a complete and utter catastrophe. The timeline here is cold and unforgiving: Absent action, the government shutdown will happen at the end of this month. The debt ceiling could collapse as soon as Oct. 18. If the GOP needs to lose a giant showdown in order to empower more realistic voices and move forward, it's better that showdown happens over a government shutdown then a debt-ceiling breach. A government shutdown is highly visible and dramatic, but it won't actually destroy the economy. So an "optimistic" case might be that there's a shutdown for the first few days of October, the GOP gets creamed in public opinion, the hostage-taking strategies of the party's right flank are discredited, and Washington is at a much better equilibrium by the time the debt ceiling needs to be raised.

#### The agenda is dead despite shift on Syria

* No PC despite focus shift to Syria. It will still dominate and overshadow the agenda. Gop and dems still mad at him
* Job creation stagnant – hurts Obama’s credibility and messaging
* Obama has no major accomplishments

Doug Schoen 9/18, Contributor, I'm a political strategist, pollster, author and commentator, Obama's Path Forward, <http://www.forbes.com/sites/dougschoen/2013/09/18/obamas-path-forward/>, jj

It goes without saying that President Obama has had a rough summer. Despite what appears to be a favorable development with Syria, few Democrats and Republicans are supportive of the administration. As Congress braces for a divisive debate over the debt ceiling, job creation remains stagnant, with August coming in below expectations and the Labor Department revising its July numbers to reflect a significantly weaker report. Given that both Syria and the debt ceiling are likely to dominate Washington’s agenda for the remainder of September, it’s highly unlikely that Mr. Obama will advance key elements of his domestic policy agenda before the end of the year. This couldn’t come at a worse time: less than a year ago, the administration was approaching its second term with great ambition. Today, it’s not only digging itself out of self-inflicted holes, but it’s also left without strong policy accomplishments heading into the 2014 election. By this time in his second term, President Clinton had successfully negotiated with a Republican-led Congress both the State Children’s Health Insurance Program and Balanced Budget Act of 1997. Despite the scandals that plagued his final years in the White House, historians broadly agree on his ability to move legislation through a tough political climate.

#### And Obama’s being blasted on war powers now

Nelson, 9/5 (Colleen, 9/5/2013, “Obama's Curbs on Executive Power Draw Fire,” <http://online.wsj.com/article/SB10001424127887323893004579057463262293446.html>))

President Barack Obama, who pledged to push his second-term domestic agenda through executive actions when Congress wouldn't cooperate, has moved in the opposite direction on international affairs in recent months as he created new checks on executive authority.

By asking Congress to authorize military action against Syria, proposing some constraints on National Security Agency surveillance programs and placing limits on drone strikes, the president voluntarily has ceded some authority in foreign policy and national security, legal experts say.

The president's moves on national-security issues reflect a mix of political pragmatism as well as personal principles, and exactly how much power Mr. Obama actually has given up is the subject of debate. He has walked a fine line on Syria, for example, saying he wasn't required to seek sign-off from lawmakers for a military strike but asking for their approval anyway.

A senior administration official said that while the new drone-strike policy does rein in executive authority, the NSA and Syria proposals weren't a reduction of power but an effort to increase transparency and build public confidence.

Still, the president, who was criticized for seizing too much power through recess appointments and other steps that some said circumvented Congress, now is being criticized by veterans of past Republican administrations for weakening the presidency.

John Yoo, a Justice Department official in the George W. Bush administration, said Mr. Obama had unnecessarily limited his own authority. He noted that it is rare to see a president restrict his powers.

Mr. Obama "has been trying to reduce the discretion of the president when it comes to national security and foreign affairs," said Mr. Yoo, now a law professor at the University of California at Berkeley. "These proposals that President Obama is making really run counter to why we have a president and a constitution."

#### \*Energy floor debates thump

Amy Harder 9/12, and Clare Foran, National Journal, "The Energy Debate That Wasn't", 2013, www.nationaljournal.com/daily/the-energy-debate-that-wasn-t-20130912?mrefid=mostViewed

The second day of the Senate's first floor debate on an energy bill in six years was marked by obstruction, opposition, and frustration.¶ Sen. David Vitter, R-La., held firm in his refusal to allow debate to move forward to an energy-efficiency bill until Senate leaders agree on a time to vote on his amendment related to President Obama's health care law. Vitter first interfered with the energy debate Wednesday afternoon, shortly after Senate Majority Leader Harry Reid, D-Nev., moved to the bill in place of the Syria resolution that was put on hold.¶ Vitter's stance put an uncontroversial measure with broad support on a difficult legislative obstacle course.¶ "Senators who have talked about energy policy for years and years now say they want to have their issues that are unrelated to energy advance today, even though they have the potential to undermine this bill," Senate Energy and Natural Resources Chairman Ron Wyden, D-Ore., said on the floor, showing clear frustration. "I don't know how that adds up, if you give a lot of speeches at home about sensible energy policy and then take steps to undermine it."¶ Wyden didn't name any names, but he didn't have to.¶ "Since they were all directed at my activity, I want to respond," said Vitter just moments after Wyden concluded his comments. "I have nothing against this bill, I applaud that work. I did hear a lot this summer—quite frankly, I didn't hear about this bill or any provision of this bill. But I'm not denigrating it."¶ Vitter isn't the only Republican seeking to pivot the debate. Senate Minority Leader Mitch McConnell, R-Ky., also filed an amendment to the energy bill seeking to delay a key part of Obamacare. He spoke about the amendment Thursday morning but didn't mention the energy bill at all.¶ A number of other Republican senators also used floor time to voice opposition to the health care law, including John Barrasso of Wyoming, Dan Coats of Indiana, and Jeff Flake of Arizona.¶ Among the GOP voices, Vitter's was the loudest. Whether senators will actually get to debate energy—even controversial issues like the Keystone XL pipeline and climate-change regulations—now hinges on whether Vitter either backs down from his amendment or comes to an agreement with Senate leaders on another path to vote on it down the road.¶ Even if a deal is reached with Vitter, more obstacles await. Sens. John Hoeven, R-N.D., and Mary Landrieu, D-La., introduced an amendment Thursday that would declare the Keystone pipeline to be in the national interest. A decision on a permit for the controversial project is still pending at the State Department.¶ On another thorny issue, Sens. Joe Donnelly, D-Ind., and Roy Blunt, R-Mo., introduced an amendment that would ban the Environmental Protection Agency from requiring costly carbon-capture and sequestration technology to be used in order to comply with climate-change regulations. The amendment would instead require the EPA to develop technology standards for different fuels and different sources of emissions.¶ Barrasso is also pushing an amendment to block the agency's upcoming climate rules unless they are approved by Congress. The EPA is expected to issue regulations limiting carbon emissions for new power plants very soon.

#### Plan doesn’t cost political capital --- Obama wouldn’t push the plan

#### The plan pits moderate republicans against conservative republicans

Denver Post ’11, 6-20, Libya has exposed GOP divide over U.S. role in world, <http://www.denverpost.com/ci_18312620>, jj

WASHINGTON — Republicans are facing a widening fissure over the U.S. role on the world stage as party leaders decide whether to confront President Barack Obama this week over U.S. policy toward Libya.¶ House Speaker John Boehner, R-Ohio, and other congressional Republican leaders have said that U.S. involvement in NATO's bombing campaign, which hit the 90-day mark Sunday, violates the War Powers Act. The House could seek to cut off money for the war as it takes up the annual Pentagon spending bill late this week.¶ Meantime, several of the party's potential presidential candidates have called for the U.S. to quit the fight in Libya and questioned the depth of U.S. involvement in Afghanistan.¶ Other Republican¶ figures have begun pushing back, criticizing what they see as a growing "isolationist" agenda within the party. The result is that ¶ Republicans, once relatively unified on foreign policy issues, now have a division that parallels the long-standing split in Democratic ranks.¶ Divide out in open¶ The debate was on public display Sunday as two of the GOP's leading figures on defense and foreign policy, Sens. John McCain of Arizona and Lindsey Graham of South Carolina, sharply criticized Republican presidential hopefuls and congressional figures who question the country's military intervention around the world.¶ "There has always been an isolationist strain in the Republican Party," McCain said on ABC's "This Week," "but now it seems to have moved more center stage. . . . That is not the Republican Party that has been willing to stand up for freedom for people all over the world."¶ Graham said on NBC's "Meet the Press" that any debate over cutting money for the Libya war would encourage resistance by Libyan leader Moammar Khadafy.¶ "Congress should sort of shut up," he said.¶ McCain and Graham also criticized the apparent front- runner for the party's presidential nomination, former Massachusetts Gov. Mitt Romney, for referring to the fighting in Afghanistan as a "war for independence" that the U.S. should leave to others.¶ "I wish that candidate Romney and all the others would sit down" with U.S. commanders "and understand how this counterinsurgency is working and succeeding," McCain said.¶ Timing sharpens rift¶ The rift among Republicans has been developing for some time but is coming into sharper relief as the wars become increasingly unpopular and as the election year nears. The arguments became louder last week after the White House released its rationale for not asking Congress to authorize the Libya conflict.¶ Boehner, who is trying to balance the conflicting positions within the Republican caucus, gave a carefully worded answer on the subject late last week, hinting at a possible move to cut off money.¶ The Republican skeptics about Libya and Afghanistan tend to frame their arguments in fiscal rather than foreign policy terms. The $700 million cost of the Libya operation has fueled their opposition to what Sen. Rand Paul, R-Ky., called "an overreaching and sometimes unnecessary foreign policy."¶ At the same time, the GOP has a strong interventionist faction that has long opposed most efforts to restrain presidential power. Many prominent Republicans have argued for years, for example, that the War Powers Act is unconstitutional, a position Graham repeated Sunday.

#### That’s key to the agenda

Dickerson 1/18/13 (John, Chief Political Correspondent at the Slate, Political Director of CBS News, Covered Politics for Time Magazine for 12 Years, Previous White House Correspondent, Go for the Throat!, http://tinyurl.com/b7zvv4d)

On Monday, President Obama will preside over the grand reopening of his administration. It would be altogether fitting if he stepped to the microphone, looked down the mall, and let out a sigh: so many people expecting so much from a government that appears capable of so little. A second inaugural suggests new beginnings, but this one is being bookended by dead-end debates. Gridlock over the fiscal cliff preceded it and gridlock over the debt limit, sequester, and budget will follow. After the election, the same people are in power in all the branches of government and they don't get along. There's no indication that the president's clashes with House Republicans will end soon.

Inaugural speeches are supposed to be huge and stirring. Presidents haul our heroes onstage, from George Washington to Martin Luther King Jr. George W. Bush brought the Liberty Bell. They use history to make greatness and achievements seem like something you can just take down from the shelf. Americans are not stuck in the rut of the day.

But this might be too much for Obama’s second inaugural address: After the last four years, how do you call the nation and its elected representatives to common action while standing on the steps of a building where collective action goes to die? That **bipartisan** bag of tricks has been tried and it didn’t work. People don’t believe it. Congress' approval rating is 14 percent, the lowest in history. In a December Gallup poll, 77 percent of those asked said the way Washington works is doing “serious harm” to the country.

The challenge for President Obama’s speech is the challenge of his second term: how to be great when the **environment stinks**. Enhancing the president’s legacy requires something more than simply the clever application of predictable stratagems. Washington’s **partisan rancor**, the size of the problems facing government, and the limited amount of **time** before Obama is a lame duck all point to a single conclusion: The president who came into office speaking in lofty terms about **bipartisanship** and cooperation can only cement his legacy if he **destroys the GOP**. If he wants to transform American politics, he must **go for the throat**.

President Obama could, of course, resign himself to tending to the achievements of his first term. He'd make sure health care reform is implemented, nurse the economy back to health, and put the military on a new footing after two wars. But he's more ambitious than that. He ran for president as a one-term senator with no executive experience. In his first term, he pushed for the biggest overhaul of health care possible because, as he told his aides, he wanted to make history. He may already have made it. There's no question that he is already a president of consequence. But there's no sign he's content to ride out the second half of the game in the Barcalounger. He is approaching gun control, climate change, and immigration with wide and excited eyes. He's not going for caretaker.

How should the president proceed then, if he wants to be bold? The Barack Obama of the first administration might have approached the task by finding some Republicans to deal with and then start agreeing to some of their demands in hope that he would win some of their votes. It's the traditional approach. Perhaps he could add a good deal more schmoozing with lawmakers, too.

That's the old way. **He has abandoned that**. He doesn't think it will work and he doesn't have the time. As Obama explained in his last press conference, he thinks the Republicans are dead set on opposing him. They cannot be unchained by schmoozing. Even if Obama were wrong about Republican intransigence, other constraints will limit the chance for cooperation. Republican lawmakers worried about primary challenges in 2014 are not going to be willing partners. He probably has at most 18 months before people start dropping the lame-duck label in close proximity to his name.

Obama’s **only remaining option is to pulverize**. Whether he succeeds in passing legislation or not, given his ambitions, his goal should be to delegitimize his opponents. Through a series of **clarifying fights over controversial issues**, he can force Republicans to either side with their coalition's most extreme elements or cause a rift in the party that will leave it, at least temporarily, in disarray.

This theory of political transformation rests on the weaponization (and slight bastardization) of the work by Yale political scientist Stephen Skowronek. Skowronek has written extensively about what distinguishes transformational presidents from caretaker presidents. In order for a president to be transformational, the old order has to fall as the orthodoxies that kept it in power exhaust themselves. Obama's gambit in 2009 was to build a new post-partisan consensus. That didn't work, but by exploiting the weaknesses of today’s Republican Party, Obama has an opportunity to hasten the demise of the old order by increasing the political cost of having the GOP coalition defined by Second Amendment absolutists, climate science deniers, supporters of “self-deportation” and the pure no-tax wing.

#### The plan is popular

Gelb & Slaughter, 05 (Leslie H. Gelb, is a former correspondent for [The New York Times](http://en.wikipedia.org/wiki/The_New_York_Times) and is currently President Emeritus of the [Council on Foreign Relations](http://en.wikipedia.org/wiki/Council_on_Foreign_Relations). ¶ & Anne-Marie Slaughter, contributing editor at the Atlantic, the Bert G. Kerstetter '66 University Professor of Politics and International Affairs at Princeton University. Beginning in September 2013, she will assume the presidency of the New America Foundation, , and will become a professor emerita at Princeton. From 2009–2011 she served as Director of Policy Planning for the United States Department of State, Prior to her government service, Dr. Slaughter was the Dean of Princeton's Woodrow Wilson School of Public and International Affairs from 2002–2009 and the J. Sinclair Armstrong Professor of International, Foreign, and Comparative Law at Harvard Law School from 1994-2002.¶ November 07, 2005, American Foreisng Policy: “It’s Time to Stop slipping into armed conflict,” http://www.theatlantic.com/doc/200511/declare-war)

Passing this legislation might not be easy. But the time is right. Liberals and conservatives alike have become increasingly concerned about the carelessness and costs of wars over the past forty years. A law that established a clear and solemn process for taking the nation to war, while acknowledging the joint responsibility of Congress and the president, could command broad support—especially if it were framed as a return to our constitutional roots. Moderates and liberals would presumably go along. The bill would satisfy their concerns about how easily the United States has gone to war, with subsequent regrets about either the war itself or how it was fought. But in the wake of the Iraq War such a law might also appeal to many conservatives and neo-conservatives—particularly those who have come to feel that the United States is not getting the foreign-policy results it should, despite its awesome military power. Since the Vietnam War, hawks have felt that we tend to lose wars not on the battlefield but at home. The public, they correctly argue, becomes disenchanted with combat as casualties and costs mount, particularly if no steady progress toward victory can be seen. Demands to bring the troops home begin. The enemy becomes emboldened, and we begin to lose—first psychologically and then literally.

**( ) No link - The disad is not an opportunity cost – Congress could do the plan and pass CIR**

***PC theory is wrong***

**Hirsh, 2-7** – National Journal chief correspondent, citing various political scientists

[Michael, former Newsweek senior correspondent, "There’s No Such Thing as Political Capital," National Journal, 2-9-13, www.nationaljournal.com/magazine/there-s-no-such-thing-as-political-capital-20130207]

**There’s No Such Thing as Political Capital**

The idea of political capital—or mandates, or momentum—is so poorly defined that presidents and pundits often get itwrong. On Tuesday, in his State of the Union address, President Obama will do what every president does this time of year. For about 60 minutes, he will lay out a sprawling and ambitious wish list highlighted by gun control and immigration reform, climate change and debt reduction. In response, the pundits will do what they always do this time of year: They will talk about how unrealistic most of the proposals are, discussions often informed by sagacious reckonings of how much “political capital” Obama possesses to push his program through. Most of **this** talk **will have no bearing on what actually happens** over the next four years. Consider this: Three months ago, just before the November election, if someone had talked seriously about Obama having enough political capital to oversee passage of both immigration reform and gun-control legislation at the beginning of his second term—even after winning the election by 4 percentage points and 5 million votes (the actual final tally)—this person would have been called crazy and stripped of his pundit’s license. (It doesn’t exist, but it ought to.) In his first term, in a starkly polarized country, the president had been so frustrated by GOP resistance that he finally issued a limited executive order last August permitting immigrants who entered the country illegally as children to work without fear of deportation for at least two years. Obama didn’t dare to even bring up gun control, a Democratic “third rail” that has cost the party elections and that actually might have been even less popular on the right than the president’s health care law. And yet, for reasons that have very little to do with Obama’s personal prestige or popularity—variously put in terms of a “mandate” or “political capital”—chances are fair that both will now happen. What changed? In the case of gun control, of course, it wasn’t the election. It was the horror of the 20 first-graders who were slaughtered in Newtown, Conn., in mid-December. The sickening reality of little girls and boys riddled with bullets from a high-capacity assault weapon seemed to precipitate a sudden tipping point in the national conscience. One thing changed after another. Wayne LaPierre of the National Rifle Association marginalized himself with poorly chosen comments soon after the massacre. The pro-gun lobby, once a phalanx of opposition, began to fissure into reasonables and crazies. Former Rep. Gabrielle Giffords, D-Ariz., who was shot in the head two years ago and is still struggling to speak and walk, started a PAC with her husband to appeal to the moderate middle of gun owners. Then she gave riveting and poignant testimony to the Senate, challenging lawmakers: “Be bold.” As a result, momentum has appeared to build around some kind of a plan to curtail sales of the most dangerous weapons and ammunition and the way people are permitted to buy them. It’s impossible to say now whether such a bill will pass and, if it does, whether it will make anything more than cosmetic changes to gun laws. But one thing is clear: The **political tectonics** have **shift**ed **dramatically in very little time**. Whole new possibilities exist now that didn’t a few weeks ago. Meanwhile, the Republican members of the Senate’s so-called Gang of Eight are pushing hard for a new spirit of compromise on immigration reform, a sharp change after an election year in which the GOP standard-bearer declared he would make life so miserable for the 11 million illegal immigrants in the U.S. that they would “self-deport.” But this turnaround has very little to do with Obama’s personal influence—his political mandate, as it were. It has almost entirely to do with just two numbers: 71 and 27. That’s 71 percent for Obama, 27 percent for Mitt Romney, the breakdown of the Hispanic vote in the 2012 presidential election. Obama drove home his advantage by giving a speech on immigration reform on Jan. 29 at a Hispanic-dominated high school in Nevada, a swing state he won by a surprising 8 percentage points in November. But the movement on immigration has mainly come out of the Republican Party’s recent introspection, and the realization by its more thoughtful members, such as Sen. Marco Rubio of Florida and Gov. Bobby Jindal of Louisiana, that without such a shift the party may be facing demographic death in a country where the 2010 census showed, for the first time, that white births have fallen into the minority. It’s got nothing to do with Obama’s political capital or, indeed, Obama at all. The point is not that “political capital” is a meaningless term. Often it is a synonym for “mandate” or “momentum” in the aftermath of a decisive election—and just about every politician ever elected has tried to claim more of a mandate than he actually has. Certainly, Obama can say that because he was elected and Romney wasn’t, he has a better claim on the country’s mood and direction. Many pundits still defend political capital as a useful metaphor at least. “It’s an unquantifiable but meaningful concept,” says Norman Ornstein of the American Enterprise Institute. “You can’t really look at a president and say he’s got 37 ounces of political capital. But the fact is, it’s a concept that matters, if you have popularity and some momentum on your side.” The real problem is that the idea of **political capital**—or mandates, or momentum—is so poorly defined that presidents and pundits often get it wrong. “Presidents usually over-estimate it,” says George Edwards, a presidential scholar at Texas A&M University. “The best kind of political capital—some sense of an electoral mandate to do something—is very rare. It almost never happens. In 1964, maybe. And to some degree in 1980.” For that reason, **political capital** is a concept that **misleads** far more than it enlightens. **It is** **distortionary**. It conveys the idea that we know more than we really do about the ever-elusive concept of political power, and it ***discounts the way unforeseen events can suddenly change everything***. Instead, it suggests, erroneously, that a political figure has a concrete amount of political capital to invest, just as someone might have real investment capital—that a particular leader can bank his gains, and the size of his account determines what he can do at any given moment in history. Naturally, any president has practical and electoral limits. Does he have a majority in both chambers of Congress and a cohesive coalition behind him? Obama has neither at present. And unless a surge in the economy—at the moment, still stuck—or some other great victory gives him more momentum, it is inevitable that the closer Obama gets to the 2014 election, the less he will be able to get done. Going into the midterms, Republicans will increasingly avoid any concessions that make him (and the Democrats) stronger. But the abrupt emergence of the immigration and gun-control issues illustrates how suddenly shifts in mood can occur and how political interests can align in new ways just as suddenly. Indeed, the pseudo-concept of political capital masks a larger truth about Washington that is kindergarten simple: You just don’t know what you can do until you try. Or as Ornstein himself once wrote years ago, “**Winning wins.”** In theory, and in practice, depending on Obama’s handling of any particular issue, even in a polarized time, he could still deliver on a lot of his second-term goals, depending on his skill and the breaks. Unforeseen catalysts can appear, like Newtown. Epiphanies can dawn, such as when many Republican Party leaders suddenly woke up in panic to the huge disparity in the Hispanic vote. Some **political scientists** **who study** the elusive calculus of **how to pass legislation** and run successful presidencies **say** that **political capital is**, at best, **an empty concept**, and that **almost nothing in** the **academic literature** successfully quantifies or even defines it. “It can refer to a very abstract thing, like a president’s popularity, but there’s no mechanism there. That makes it kind of useless,” says Richard Bensel, a government professor at Cornell University. Even Ornstein concedes that the calculus is far more complex than the term suggests. **Winning** on one issue often **changes the** **calculation** for the next issue; there is never any known amount of capital. “The idea here is, if an issue comes up where **the conventional wisdom is that president is not going to get what he wants**, and [they]he gets it, then each time that happens, it changes the calculus of the **other actors**” Ornstein says. “If they think he’s going to win, they may **change positions to get on the winning side**. **It’s a bandwagon effect**.” ALL THE WAY WITH LBJ Sometimes, a clever practitioner of power can get more done just **because [they’re]*he’s*** aggressive and knows the hallways of Congress well. Texas A&M’s Edwards is right to say that the outcome of the 1964 election, Lyndon Johnson’s landslide victory over Barry Goldwater, was one of the few that conveyed a mandate. But one of the main reasons for that mandate (in addition to Goldwater’s ineptitude as a candidate) was President Johnson’s masterful use of power leading up to that election, and his ability to get far more done than anyone thought possible, given his limited political capital. In the newest volume in his exhaustive study of LBJ, The Passage of Power, historian Robert Caro recalls Johnson getting cautionary advice after he assumed the presidency from the assassinated John F. Kennedy in late 1963. Don’t focus on a long-stalled civil-rights bill, advisers told him, because it might jeopardize Southern lawmakers’ support for a tax cut and appropriations bills the president needed. “One of the wise, practical people around the table [said that] the presidency has only a certain amount of coinage to expend, and you oughtn’t to expend it on this,” Caro writes. (Coinage, of course, was what political capital was called in those days.) Johnson replied, “Well, what the hell’s the presidency for?” Johnson didn’t worry about coinage, and he got the Civil Rights Act enacted, along with much else: Medicare, a tax cut, antipoverty programs. He appeared to understand not just the ways of Congress but also the way to maximize the momentum he possessed in the lingering mood of national grief and determination by picking the right issues, as Caro records. “Momentum is not a mysterious mistress,” LBJ said. “It is a controllable fact of political life.” Johnson had the skill and wherewithal to realize that, at that moment of history, he could have unlimited coinage if he handled the politics right. He did. (At least until Vietnam, that is.)

[Matt note: gender paraphrased]

**Issues compartmentalized**

**Edwards 2k** [Distinguished Professor of Political Science, director of the Center for Presidential Studies, Texas A&M University (George C. III, March. “Building Coalitions.” Presidential Studies Quarterly, Vol. 30, Iss. 1.)]

Besides not considering the full range of available views, members of Congress are **not** generally **in a position to make trade-offs** between policies. Because of its **decentralization**, Congress usually considers policies **serially**, that is, **without reference to other policies**. Without an integrating mechanism, members have few means by which to set and enforce priorities and to emphasize the policies

#### No debt ceiling econ impact

Michael Tanner 11, National Review, “No Surrender on Debt Ceiling”, Jan 19, <http://www.nationalreview.com/articles/257433/no-surrender-debt-ceiling-michael-tanner>

Of course the Obama administration is already warning of Armageddon if Congress doesn’t raise the debt ceiling. Certainly it would be a shock to the economic system. The bond market could crash. The impact would be felt at home and abroad. But would it necessarily be worse than the alternative? While Congress has never before refused to raise the debt ceiling, it has in fact frequently taken its time about doing so. In 1985, for example, Congress waited nearly three months after the debt limit was reached before it authorized a permanent increase. In 1995, four and a half months passed between the time that the government hit its statutory limit and the time Congress acted. And in 2002, Congress delayed raising the debt ceiling for three months. It took three months to raise the debt limit back in 1985 as well. In none of those cases did the world end. More important, what will be the consequences if the U.S. government fails to reduce government spending? What happens if we raise the debt ceiling then continue merrily on our way spending more and running up ever more debt? Already Moody’s and Standard & Poor’s have warned that our credit rating might be reduced unless we get a handle on our national debt. We’ve heard a lot recently about the European debt crisis, but, as one senior Chinese banking official recently noted, in some ways the U.S. financial position is more perilous than Europe’s. “We should be clear in our minds that the fiscal situation in the United States is much worse than in Europe,” he recently told reporters. “In one or two years, when the European debt situation stabilizes, [the] attention of financial markets will definitely shift to the United States. At that time, U.S. Treasury bonds and the dollar will experience considerable declines.” Moreover, unless we do something, federal spending is on course to consume 43 percent of GDP by the middle of the century. Throw in state and local spending, and government at all levels will take 60 cents out of every dollar produced in this country. Our economy will not long survive government spending at those levels.

#### No food wars

Eland ’11 – Ivan Eland, American defense analyst and author. He is currently a Senior Fellow and Director of the Center on Peace and Liberty at the Independent Institute. Global Warming, Environmental Threats, and U.S. Security: Recycling the Domino Theory, Climate Coup: Global Warming’s Invasion of Our Government and Our Lives, edited by Patrick J. Michaels, pg. 110, jj

Food scarcity, like water shortages, is a dubious cause of conflict.¶ The blithe assertion that environmentally induced famine will cause¶ increased conflict over scarce food supplies overlooks the aforementioned fact that widespread hunger reduces the capacity of nations¶ or groups to make war effectively.39

#### Heg will survive econ decline – also overall resilience

**Ferguson 2009** – Laurence A. Tisch Professor at Harvard University and a member of the AI editorial board (Niall, The American Interest, Jan-Feb 09, “What “Chimerica” Hath Wrought”, http://www.the-american-interest.com/article.cfm?piece=533, WEA)

Yet **commentators should hesitate before prophesying the decline** and fall **of the United States. It has come through disastrous financial crises before—not just the Great Depression, but also** the Great **Stagflation of the 1970s—and emerged with its geopolitical position enhanced. That happened in the 1940s and again in the 1980s.**

Part of the reason it happened is that **the United States has long offered the world’s most benign environment for technological innovation and entrepreneurship.** The Depression saw a 30 percent contraction in economic output and 25 percent unemployment. But **throughout the 1930s American companies continued to pioneer new ways of making and doing things**: think of DuPont (nylon), Proctor & Gamble (soap powder), Revlon (cosmetics), RCA (radio) and IBM (accounting machines). In the same way, the **double-digit inflation of the 1970s didn’t deter** Bill Gates from founding **Microsoft** in 1975, **or** Steve Jobs from founding **Apple a year** **later**.

Moreover, **the** **American** political **system has repeatedly proved itself capable of producing leadership in a crisis**—leadership not just for itself but for the world. Both Franklin Roosevelt and Ronald Reagan came to power focused on solving America’s economic problems. But by the end of their presidencies they dominated the world stage, FDR as the architect of victory in World War II, Reagan performing a similar role in the Cold War. It remains to be seen whether Barack Obama will be a game-changing president in the same mold. But Americans voted for him in the hope that he is. Would Obama have won without the credit crunch, which destroyed what little remained of the Republican reputation for economic competence?

But the most important reason why **the United States bounces back from even the worst financial crises** is that **these crises, bad as they seem at home, always have worse effects on America’s rivals**. Think of the Great Depression. Though its macroeconomic effects were roughly equal in the United States and Germany, the political consequence in the United States was the New Deal; in Germany it was the Third Reich. Germany ended up starting the world’s worst war; the United States ended up winning it. The American credit crunch is already having much worse economic effects abroad than at home. It will be no surprise if it is also more politically disruptive to America’s rivals.

#### Economy turns heg – that’s Mack – keeps sea lanes open and maintains trade.

#### Intervention makes economic collapse inevitable

Bandow ’12, Doug Bandow is a senior fellow at the Cato Institute and former special assistant to President Ronald Reagan. March 12, 2012, CATO Institute, Americans for Permanent War: Target Syria, <http://www.cato.org/publications/commentary/americans-permanent-war-target-syria>, jj

Moreover, the U.S. would have to act without international sanction. It is one thing to war unilaterally to defend America. It is quite another to initiate another illegal attempt at international social engineering. And every time Washington acts lawlessly it loses credibility to criticize other states — say China or Russia — for doing the same.¶ Finally, Americans cannot afford to continue a policy of promiscuous military intervention. Washington’s authority and resources are increasingly limited. The best way to husband them would be to avoid unnecessary wars — starting with Syria.

#### Even massive economic decline has zero chance of war

Robert Jervis 11, Professor in the Department of Political Science and School of International and Public Affairs at Columbia University, December 2011, “Force in Our Times,” Survival, Vol. 25, No. 4, p. 403-425

Even if war is still seen as evil, the security community could be dissolved if severe conflicts of interest were to arise. Could the more peaceful world generate new interests that would bring the members of the community into sharp disputes? 45 A zero-sum sense of status would be one example, perhaps linked to a steep rise in nationalism. More likely would be a worsening of the current economic difficulties, which could itself produce greater nationalism, undermine democracy and bring back old-fashioned beggar-my-neighbor economic policies. While these dangers are real, it is hard to believe that the conflicts could be great enough to lead the members of the community to contemplate fighting each other. It is not so much that economic interdependence has proceeded to the point where it could not be reversed – states that were more internally interdependent than anything seen internationally have fought bloody civil wars. Rather it is that even if the more extreme versions of free trade and economic liberalism become discredited, it is hard to see how without building on a preexisting high level of political conflict leaders and mass opinion would come to believe that their countries could prosper by impoverishing or even attacking others. Is it possible that problems will not only become severe, but that people will entertain the thought that they have to be solved by war? While a pessimist could note that this argument does not appear as outlandish as it did before the financial crisis, an optimist could reply (correctly, in my view) that the very fact that we have seen such a sharp economic down-turn without anyone suggesting that force of arms is the solution shows that even if bad times bring about greater economic conflict, it will not make war thinkable.

#### Resilience makes the impact impossible

Zakaria 2009 – PhD in political science from Harvard, editor of Newsweek International, former managing editor of Foreign Affairs (12/12, Fareed, Newsweek, “The Secrets of Stability”, http://www.newsweek.com/id/226425/page/2, WEA)

One year ago, the world seemed as if it might be coming apart. The global financial system, which had fueled a great expansion of capitalism and trade across the world, was crumbling. All the certainties of the age of globalization—about the virtues of free markets, trade, and technology—were being called into question. Faith in the American model had collapsed. The financial industry had crumbled. Once-roaring emerging markets like China, India, and Brazil were sinking. Worldwide trade was shrinking to a degree not seen since the 1930s.

Pundits whose bearishness had been vindicated predicted we were doomed to a long, painful bust, with cascading failures in sector after sector, country after country. In a widely cited essay that appeared in The Atlantic this May, Simon Johnson, former chief economist of the International Monetary Fund, wrote: "The conventional wisdom among the elite is still that the current slump 'cannot be as bad as the Great Depression.' This view is wrong. What we face now could, in fact, be worse than the Great Depression."

Others predicted that these economic shocks would lead to political instability and violence in the worst-hit countries. At his confirmation hearing in February, the new U.S. director of national intelligence, Adm. Dennis Blair, cautioned the Senate that "the financial crisis and global recession are likely to produce a wave of economic crises in emerging-market nations over the next year." Hillary Clinton endorsed this grim view. And she was hardly alone. Foreign Policy ran a cover story predicting serious unrest in several emerging markets.

Of one thing everyone was sure: nothing would ever be the same again. Not the financial industry, not capitalism, not globalization.

One year later, how much has the world really changed? Well, Wall Street is home to two fewer investment banks (three, if you count Merrill Lynch). Some regional banks have gone bust. There was some turmoil in Moldova and (entirely unrelated to the financial crisis) in Iran. Severe problems remain, like high unemployment in the West, and we face new problems caused by responses to the crisis—soaring debt and fears of inflation. But overall, things look nothing like they did in the 1930s. The predictions of economic and political collapse have not materialized at all.

A key measure of fear and fragility is the ability of poor and unstable countries to borrow money on the debt markets. So consider this: the sovereign bonds of tottering Pakistan have returned 168 percent so far this year. All this doesn't add up to a recovery yet, but it does reflect a return to some level of normalcy. And that rebound has been so rapid that even the shrewdest observers remain puzzled. "The question I have at the back of my head is 'Is that it?' " says Charles Kaye, the co-head of Warburg Pincus. "We had this huge crisis, and now we're back to business as usual?"

This revival did not happen because markets managed to stabilize themselves on their own. Rather, governments, having learned the lessons of the Great Depression, were determined not to repeat the same mistakes once this crisis hit. By massively expanding state support for the through central banks and national treasuries—they buffered the worst of the damage. (Whether they made new mistakes in the process remains to be seen.) The extensive social safety nets that have been established across the industrialized world also cushioned the pain felt by many. Times are still tough, but things are nowhere near as bad as in the 1930s, when governments played a tiny role in national economies.

It's true that the massive state interventions of the past year may be fueling some new bubbles: the cheap cash and government guarantees provided to banks, companies, and consumers have fueled some irrational exuberance in stock and bond markets. Yet these rallies also demonstrate the return of confidence, and confidence is a very powerful economic force. When John Maynard Keynes described his own prescriptions for economic growth, he believed government action could provide only a temporary fix until the real motor of the economy started cranking again—the animal spirits of investors, consumers, and companies seeking risk and profit.

Beyond all this, though, I believe there's a fundamental reason why we have not faced global collapse in the last year. It is the same reason that we weathered the stock-market crash of 1987, the recession of 1992, the Asian crisis of 1997, the Russian default of 1998, and the tech-bubble collapse of 2000. The current global economic system is inherently more resilient than we think. The world today is characterized by three major forces for stability, each reinforcing the other and each historical in nature.

The first is the spread of great-power peace. Since the end of the Cold War, the world's major powers have not competed with each other in geomilitary terms. There have been some political tensions, but measured by historical standards the globe today is stunningly free of friction between the mightiest nations. This lack of conflict is extremely rare in history. You would have to go back at least 175 years, if not 400, to find any prolonged period like the one we are living in. The number of people who have died as a result of wars, civil conflicts, and terrorism over the last 30 years has declined sharply (despite what you might think on the basis of overhyped fears about terrorism). And no wonder—three decades ago, the Soviet Union was still funding militias, governments, and guerrillas in dozens of countries around the world. And the United States was backing the other side in every one of those places. That clash of superpower proxies caused enormous bloodshed and instability: recall that 3 million people died in Indochina alone during the 1970s. Nothing like that is happening today.

Peace is like oxygen, Harvard's Joseph Nye has written. When you don't have it, it's all you can think about, but when you do, you don't appreciate your good fortune. Peace allows for the possibility of a stable economic life and trade. The peace that flowed from the end of the Cold War had a much larger effect because it was accompanied by the discrediting of socialism. The world was left with a sole superpower but also a single workable economic model—capitalism—albeit with many variants from Sweden to Hong Kong.

This consensus enabled the expansion of the global economy; in fact, it created for the first time a single world economy in which almost all countries across the globe were participants. That means everyone is invested in the same system. Today, while the nations of Eastern Europe might face an economic crisis, no one is suggesting that they abandon free-market capitalism and return to communism. In fact, around the world you see the opposite: even in the midst of this downturn, there have been few successful electoral appeals for a turn to socialism or a rejection of the current framework of political economy. Center-right parties have instead prospered in recent elections throughout the West.

The second force for stability is the victory—after a decades-long struggle—over the cancer of inflation. Thirty-five years ago, much of the world was plagued by high inflation, with deep social and political consequences. Severe inflation can be far more disruptive than a recession, because while recessions rob you of better jobs and wages that you might have had in the future, inflation robs you of what you have now by destroying your savings. In many countries in the 1970s, hyperinflation led to the destruction of the middle class, which was the background condition for many of the political dramas of the era—coups in Latin America, the suspension of democracy in India, the overthrow of the shah in Iran. But then in 1979, the tide began to turn when Paul Volcker took over the U.S. Federal Reserve and waged war against inflation. Over two decades, central banks managed to decisively beat down the beast. At this point, only one country in the world suffers from -hyperinflation: Zimbabwe. Low inflation allows people, businesses, and governments to plan for the future, a key precondition for stability.

Political and economic stability have each reinforced the other. And the third force that has underpinned the resilience of the global system is technological connectivity. Globalization has always existed in a sense in the modern world, but until recently its contours were mostly limited to trade: countries made goods and sold them abroad. Today the information revolution has created a much more deeply connected global system.

Managers in Arkansas can work with suppliers in Beijing on a real-time basis. The production of almost every complex manufactured product now involves input from a dozen countries in a tight global supply chain. And the consequences of connectivity go well beyond economics. Women in rural India have learned through satellite television about the independence of women in more modern countries. Citizens in Iran have used cell phones and the Internet to connect to their well-wishers beyond their borders. Globalization today is fundamentally about knowledge being dispersed across our world.

This diffusion of knowledge may actually be the most important reason for the stability of the current system. The majority of the world's nations have learned some basic lessons about political well-being and wealth creation. They have taken advantage of the opportunities provided by peace, low inflation, and technology to plug in to the global system. And they have seen the indisputable results. Despite all the turmoil of the past year, it's important to remember that more people have been lifted out of poverty over the last two decades than in the preceding 10. Clear-thinking citizens around the world are determined not to lose these gains by falling for some ideological chimera, or searching for a worker's utopia. They are even cautious about the appeals of hypernationalism and war. Most have been there, done that. And they know the price.

### 2AC – XO CP – Generic [1:30]

#### Perm – do both

#### Solves none of the aff --- exclusive executive war authority causes wars of choice that decimate US leadership --- congress is key:

#### Group think --- Extend Martin --- only dispersing war power throughout the legislature solves irrational executive decision-making

#### Statutory definition key --- extend Farley & Cowan --- only congressional clarification of the WPR provides a meaningful standard that facilitates judicial intervention

#### Unambiguous congressional re-definition key --- otherwise executive circumvents

Hemesath ‘2k, Paul A. Hemesath \*, \* J.D./M.S.F.S. Georgetown University Law Center, School of Foreign Service, 2001; B.A. University of California at Los Angeles, 1996, Georgetown Law Journal¶ August, 2000¶ 88 Geo. L.J. 2473, NOTE: Who's Got the Button? Nuclear War Powers Uncertainty in the Post-Cold War Era, Lexis, jj

Second, based on this consensus, the Congress must enact a new War Powers Act, perhaps of the style suggested by Professor Ely, with the goal of drafting a law that is unambiguous and not subject to subtle points of misinterpretation. Such a law would grant the Congress an unequivocal basis for opposing unilateral presidential military action that would not be vulnerable to definitional objections or timing ambiguities. n199 Explicit exceptions should be made, however, as was the intention of the Framers, for situations that require the Executive to repel sudden attacks. n200

#### The CP is Syria --- its an informal, self-restraint that won’t deter future presidents --- it gives Obama to much leeway – that’s Rudalevidge and Franke-Ruta

#### Executive action doesn’t solve --- congressional restrictions key to create binding policy

Friedersdorf 5-28-13, Conor Friedersdorf is a staff writer at The Atlantic, where he focuses on politics and national affairs. MAY 28 2013, The Atlantic, Does Obama Really Believe He Can Limit the Next President's Power?, <http://www.theatlantic.com/politics/archive/2013/05/does-obama-really-believe-he-can-limit-the-next-presidents-power/276279/>

Standards he sets within the executive branch to govern drone strikes won't bind the next person who orders them.¶ Over at Fox News, Chris Wallace and Brit Hume are musing about President Obama's aims on national security. What exactly does he hope to accomplish before leaving office in January 2017? Let's listen in:¶ Chris Wallace: It's been suggested that that's exactly what the president wants to do. He wants to leave a different national-security structure, different rules of the road, different limits, for the next president than what he inherited when he came in.¶ Brit Hume: Not only what he inherited, but what he made generous use of for the purposes of fighting this conflict. There's an odd quality, Chris, to this whole thing. And it its almost like he's saying with regard to the drone policy, 'We need something to stop me before I kill again.' You see that in his support -- on an unrelated matter -- of this shield law for journalists. He's carried out these oversteps in pursuing journalists who are doing their jobs. And now he says, 'We need a shield law,' as if to say, a law to protect them from us. I think it's peculiar. ¶ I admit to being a bit puzzled myself, if for slightly different reasons. It's perfectly understandable to serve in a position, appreciate its power, and believe it should be limited by outside constraints, even when they'd constrain you. George Washington and Thomas Jefferson both felt that way at times. If Obama feels that way about a shield law, good for him. And it isn't as if he personally approves every interaction the Department of Justice has with journalists. ¶ But something puzzles me about his behavior with regard to the War on Terrorism. It does sometimes appear, as Wallace suggests, that he wants to leave a different national-security structure to his predecessor that limits him or her more than Obama himself was limited in 2009.¶ Administration officials have said as much. A disposition matrix! Strict protocol for putting an American citizen on the kill list! That sort of thing. There was talk, before Election 2012, of Team Obama hurriedly developing changes just in case. ¶ So unlike Hume, I don't think it's "stop me before I kill again," so much as, "I trust myself with this power more than anyone. You won't always be so lucky as to have me, but don't worry, I'm leaving instructions."¶ Will anyone follow them? That's what I don't understand. Why does Obama seem to think his successors will constrain themselves within whatever limits he sets? Won't they just set their own limits? Won't those limits be very different? What would Chris Christie do in the White House? I have no idea, but I'm guessing that preserving the decisionmaking framework Obama established isn't what he'd do.¶ Does anyone think Hilary Clinton would preserve it?¶ Obama doesn't seem to realize that his legacy won't be shaped by any perspicacious limits he places on the executive branch, if he ever gets around to placing any on it. The next president can just undo those "self-imposed" limits with the same wave of a hand that Obama uses to create them. His influence in the realm of executive power will be to expand it. By 2016 we'll be four terms deep in major policy decisions being driven by secret memos from the Office of Legal Counsel. The White House will have a kill list, and if the next president wants to add names to it using standards twice as lax as Obama's, he or she can do it, in secret, per his precedent.¶ Some new John Brennan-like figure, with different values and a different personality, will serve as Moral Rectitude Czar.¶ Even ending torture was done by executive order. The folks guilty of perpetrating it weren't punished. Congress wasn't asked to act. (There was an ambitious domestic agenda to focus on!) So who knows what we'll get next, save for a new president who witnessed all the previously unthinkable things post-9/11 presidents got away with so long as they invoked fighting "terror."¶ The fact that every new president is likely to be a power-seeking egomaniac seems like too obvious a flaw in Obama's plan for a smart guy like him not to see it. So what gives? Is all the talk of limiting the executive branch just talk? But why even talk at this point, if so? He isn't running again. Yet if he really does think his office wields too much power, why is he putting in place safeguards the next president can and probably will undo instead of zealously trying to get Congress to act? Yet he does seem to be concerned. Here's Peter Baker reporting in The New York Times:¶ For nearly four years, the president had waged a relentless war from the skies against Al Qaeda and its allies, and he trusted that he had found what he considered a reasonable balance even if his critics did not see it that way. But now, he told his aides, he wanted to institutionalize what in effect had been an ad hoc war, effectively shaping the parameters for years to come "whether he was re-elected or somebody else became president," as one aide said.¶ Ultimately, he would decide to write a new playbook that would scale back the use of drones, target only those who really threatened the United States, eventually get the C.I.A. out of the targeted killing business and, more generally, begin moving the United States past the "perpetual war" it had waged since Sept. 11, 2001. Whether the policy shifts will actually accomplish that remains to be seen, given vague language and compromises forced by internal debate, but they represent an effort to set the rules even after he leaves office. ¶ "We've got this technology, and we're not going to be the only ones to use it," said a senior White House official who, like others involved, declined to be identified talking about internal deliberations. "We have to set standards so it doesn't get abused in the future."¶ There's that same obvious flaw, but everyone seems oblivious to it. The standards you're setting? The next president can just change them. In secret, even! That's the problem with extreme executive power: It is capricious, prone to abuse, and difficult to meaningfully check. Does Obama think the next man or woman will just behold the wisdom of his approach and embrace it? That error, unthinkable as it seems, would not be without precedent for this president.

#### If the CP solves the aff, then there’s no net benefit --- if they restore war-making authority to Congress then they trigger the executive flexibility link

#### Perm do the CP

***5) Agent CPs are a voting issue***

***A. Aff ground --- agent CP’s moot the 1AC, uniquely abusive since they fiat the object of the resolution***

***B. Trivializes Debate – their net benefits rely on minute distinctions in process rather than the heart of policy substance which forms the basis for different topics***

***C. No Offense – agent DAs, Federal Government ground, and years of agent debates check any ground or education loss***

#### Links to politics

Ulrich ’08, Marybeth P. Ulrich, European Studies – Wilson Center, June 2008, Strategic Studies Institute of the US Army War College (SSI), National Security Powers: Are the Checks in Balance?, online, jj

Executive orders have mainly been used in three areas: to combat various forms of discrimination¶ against citizens, to increase White House control over the executive branch, and to maintain secrets.21 When Congress perceives that executive orders are taken to bypass Congress on controversial¶ issues, they may elicit great political controversy and be a source of conflict between the two¶ branches. This is why the congressional reaction to President George W. Bush’s series of executive¶ orders authorizing the National Security Agency (NSA) to eavesdrop on the conversations of¶ Americans without warrants as required in the Foreign Intelligence Surveillance Act (FISA) has¶ been uncharacteristically strong. Members of Congress on both sides of the aisle saw the action as a¶ challenge to the Congress’ power vis-à-vis the executive.¶ Even the prospect of an executive order being issued can erupt in major political controversy as¶ was the case with President Bill Clinton’s proposal to lift the ban on gays serving in the military.¶ There was no question that the President had the legitimate authority to issue such an order as¶ President Truman had done to integrate the armed forces in 1948, but the political backlash was so¶ strong in 1993 that President Clinton abandoned the idea in order to salvage his domestic agenda¶ before Congress.22

#### Condo is bad – causes 2ac time and strat skew and argument irresponsibility which jacks ground – dispo solves

### 2AC – I-Law

#### Plan’s key to international law

Martin ’11, Craig Martin, Visiting Assistant Professor, University of Baltimore School of Law, Winter, 2011¶ Brooklyn Law Review¶ 76 Brooklyn L. Rev. 611, ARTICLE: Taking War Seriously: A Model for Constitutional Constraints on the Use of Force in Compliance with In-ternational Law, Lexis, jj

The requirement to consider the legality of the proposed action under international law, as mandated by the first element of the Model, would of course inject precisely the kind of exogenous criteria and divergent perspectives that could operate to reduce the effects of the domestic causes of war. And conversely, the requirement for legislative approval, bringing to bear the foregoing parliamentary functions on the considerations of legality, would vastly increase the traction of that aspect of the process. Evidence has recently emerged, for instance, on the extent to which disputes within the British cabinet over the legality of the contemplated invasion of Iraq [\*685] severely complicated the prime minister's decision making, even in the absence of any constitutional or statutory to consider such issues. Had there been such a legal obligation, and in addition a requirement to take the debate of that issue to parliament, it is quite conceivable that the decision would have gone the other way. n272¶ Finally, the requirement to obtain legislative approval will also serve to enhance international law objectives and engage the Image III causes of war. Thus far in our discussion of this element of the Model we have been looking pri-marily at the domestic perspective--the extent to which legislative involvement assists the state in avoiding the ruinous costs of military misadventure. But Kant in particular contemplated the benefits that such a government structure would provide to the international system as a whole. n273 The spread of a constitutional system that included representative government and a separation of powers between the executive and the legislature would lead to an ever-widening circle of peace among these like-minded states. It is ironic that he has been proved prescient, with the actual spread of constitutional democracy and the realization of the democratic peace, while at the same time the feature of his model involving the separation of powers with respect to the decision to go war has been very imperfectly realized among the world's community of liberal democracies. n274 It has been argued that this is changing, and indeed as already discussed, there is some significant evidence that a trend is developing, with legislatures in many liberal democracies around the world increasingly addressing the [\*686] issue and mobilizing for change. n275 The proposed Model merely builds on the theory and seeks to encourage this actual trend.

***Extinction***

**Krieger** 20**02** (David, Current President of the Nuclear Age Peace Foundation and former Professor at the University of Hawaii and San Francisco State University)

<http://www.wagingpeace.org/articles/2002/07/10_krieger_law-force.htm>

**An important marker of civilization has always been the ascendancy of law over the unbridled use of force. At the outset of the 21st century, we are faced with a pervasive dilemma. Reliance on force given the power of our destructive technologies could destroy civilization as we know it.** The trials at Nuremberg and Tokyo following World War II were an attempt to elevate the force of law over the law of force. The newly created International Criminal Court, which will bring the Principles of Nuremberg into the 21st century, is supported by all major US allies. Unfortunately US leaders are opposing the Court and seem to fear being held to the same level of accountability as they would demand for other leaders. Of course, law does not prevent all crime. It simply sets normative standards and provides that those who violate these standards will be punished. In the case of the most heinous crimes, the remedies of law are inadequate. But even inadequate remedies of law are superior to the unbridled use of force that compounds the injury by inflicting death and suffering against other innocent people. Perpetrators of crime must be brought before the bar of justice, but there must also be safeguards that protect the innocent from being made victims of generalized retribution. When an individual commits a crime, there should be clear liability. When a state commits a crime, however, who is to be held to account? According to the Principles of Nuremberg that were applied to the Axis leaders after World War II, it should be the responsible parties, whether or not they were acting in the service of the state. At Nuremberg, it was determined that sovereignty has its limits, and that leaders of states who committed serious crimes under international law would be held to account before the law. These crimes included crimes against peace, crimes against humanity and war crimes. **Without the international** norms **that are established by law, the danger exists of reverting to international anarchy, in which each country seeks its own justice by its own means. Only established legal norms, upheld by the international community and supported by the most powerful nations, can prevent such chaos and the ultimate resort to war to settle disputes. International legal norms are essential in a world in which violence can have even more fearful results than were first experienced at Hiroshima and Nagasaki.** International law is needed if we are to abolish war before war abolishes us. We cannot have it both ways. If we choose law, the nations of the world must join together in a common effort to support and enforce the law. Albert Einstein, the great 20th century scientist and humanitarian, wrote, “Anybody who really wants to abolish war must resolutely declare himself in favor of his own country’s resigning a portion of its sovereignty in favor of international institutions: he must be ready to make his own country amenable, in case of a dispute, to the award of an international court. He must in the most uncompromising fashion support disarmament all around….” In recent years, the United States has pulled away from international law by disavowing treaties, particularly in the area of disarmament, and by withdrawing its support from the International Criminal Court. **Without US leadership in support of international law, force rather than law will gain strength as the international norm. Relying on force may be tempting to the most powerful country on the planet, but it portends disaster, not least for the United States itself.**

### 2AC R2P

#### Restoring congressional war power ends the responsibility to protect doctrine

RICHARD HANANIA, University of Chicago Law School, HUMANITARIAN INTERVENTION AND THE WAR POWERS DEBATE, (2012)J.JURIS 47, <http://www.jurisprudence.com.au/juris13/Hanania.pdf>, jj

Partisans of the R2P may seek to harness the presidential desire for glory, discussed by the Founders, towards humanitarian goals. While this is certainly not the kind of glory or fame that the framers had in mind, we may believe that the change in values since their time makes executive thirst for glory a reason to put the wars powers in the hands of the president, instead of keeping it away from him. Those skeptical of humanitarian intervention, whether on moral348or practical grounds,349 may argue that the growth of the concept makes it more necessary than ever to have Congress decide when the nation commits to war.

#### Only ending R2P makes non-proliferation effective

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Eight years after Moammar Gadhafi gave up his mail-order nuclear weapons program and chemical munitions in exchange for détente with the West, he has been chased from power by a ragtag rebel army backed by Western airpower. Chances are that Gadhafi regrets his decision to forgo his WMD programs. If he had been armed with nuclear or chemical weapons, NATO might not have intervened when he threatened to massacre his own people.

While Gadhafi's fall is good news, the end of the eccentric colonel's dictatorship now heightens the challenge of getting the Irans and North Koreas of the world to give up their nuclear ambitions in exchange for better relations with the West.

Before the bombs started falling on Tripoli, the intellectual and legal momentum behind such an intervention had been building for years. Through the work of academics and humanitarian advocates, the idea known as the "responsibility to protect," or R2P, has emerged as an increasingly mainstream norm among Western policymakers. R2P emphasizes the responsibility of states to protect their populations and permits international intervention if a government is unable or unwilling to prevent mass atrocities against its people.

In March, the international community did not dither when Gadhafi appeared to be preparing a massacre in Benghazi. R2P was used to justify the first U.N.-sanctioned humanitarian intervention in a sovereign country against the wishes of its government. The architects of the intervention were some of the very same countries that had convinced Gadhafi to give up his weapons of mass destruction eight years earlier: France, Britain and the United States.

Parallel to the humanitarian community's development of the R2P doctrine, another community of foreign policy thinkers, those worried about the spread of nuclear weapons, had worked to promote an idea with very different implications for sovereignty. They reached the conclusion that fear of outside intervention was among the many factors driving governments to build weapons of mass destruction. For this reason, they argued, it was necessary to assuage that fear with the offer of a security guarantee once the government could prove it had abandoned its WMD ambitions. In Libya, this security-assurance principle successfully brought the archpariah of the 1980s back into the international fold in 2003.

The contradictory doctrinal developments in humanitarian and security circles are not abstract intellectual exercises; they have practical implications. In light of the Islamic Republic's crushing of the Green Movement in 2009, it takes little imagination to see a Libya-like situation emerge in Iran. Iranian leaders weighing the pros and cons of coming clean over their country's nuclear program might look closely at what happened to Gadhafi after he surrendered his weapons program. They might also consider Saddam Hussein and his nonexistent weapons of mass destruction, while contrasting both these dictators with Kim Jong Il and his unpunished nuclear roguery and human rights violations. They might come to the conclusion that nuclear weapons are useful. In fact, we need not speculate about such a scenario, for this is essentially what Iranian Supreme Leader Ayatollah Ali Khamenei said at the start of the Libyan campaign.

The Iranians are not the only ones learning this lesson, one that sets the stage for a future in which nuclear weapons are prized as a counterweight to the threat of international intervention represented by R2P and its inherent challenge to state sovereignty. Instead of greater openness and West-friendly behavior, the response of the rogue states would be deeper retrenchment under the cover of asymmetric WMD capabilities.

How can the West make clear that these governments do not need such weapons to protect themselves, while at the same time emphasizing that mass violence against civilians is intolerable?

#### Extinction

Martin **Hellman 8**, Prof Emeritus of Engineering @ Stanford, “Defusing the Nuclear Threat: A Necessary First Step,” <http://www.nuclearrisk.org/statement.php>

Nuclear deterrence has worked for over fifty years, while attempts at nuclear disarmament have borne very limited fruit. The success of deterrence combined with the failure of disarmament has fostered the belief that, repulsive as nuclear deterrence might be, it is the only strategy we can depend on for the indefinite future. Given the horrific consequences of even a single failure, the real question is whether deterrence will work until it is no longer needed. Anything less is a modern day version of Neville Chamberlain’s infamous 1938 statement promising “Peace in our time,” implicitly leaving the problem and likely destruction to our children’s generation. And, as occurred to Chamberlain’s Britain, devastation could come much sooner than anticipated. **The danger increases with each new entrant into the nuclear weapons club and more new members, including terrorist groups, are likely in the near future. Given that the survival of humanity is at stake**, **it is surprising that risk analysis studies of nuclear deterrence are incomplete.** **A number of studies have estimated the cost of a failure, with estimates ranging from megadeaths for a limited exchange or terrorist act, through possible human extinction for a full-scale nuclear war.** But there is a lack of studies of an equally important component of the risk, namely the failure rate of deterrence.

### 2AC – CMR

#### Plan’s key to CMR

Yingling, 2010 (Februrary, LT. COL. PAUL L. YINGLING is an Army officer who has served three tours of duty in Iraq and who is currently a professor of security studies at the George C. Marshall Center in Garmisch, Germany. The views expressed here are the author’s own and do not necessarily reflect those of the Army or Defense Department., “The Founders’ wisdom“ http://armedforcesjournal.com/article/2010/02/4384885)

The Founders also extended legislative oversight to the conduct of war itself. By vesting the power to declare war with Congress, the Founders ensured that America would choose its wars carefully. While Congress may be less well-suited to vigorous unitary action than the executive, it is far better-suited to engage in deliberation over the purpose and necessity of committing the nation to war. At the same time, entrusting Congress with the power to declare war ensured that America would prosecute its wars vigorously. The Founders expected that the prosecution of war would require the mobilization of the militia under federal service paid for under the federal budget.

The president alone is the commander in chief, but he is dependent on the Congress to raise and maintain military forces and to mobilize the militia. The president may appoint officers to positions of command, but such appointments are dependent on Senate confirmation. Most importantly, the president cannot commit the nation to war without congressional authority. While in practice the president may act in the interest of public safety, Congress’ power of the purse limits such actions to brief expeditionary operations.

Many of the difficulties in civil-military relations today are attributable to our departure from the elegant system of checks and balances established in the Constitution. Congress has all but abdicated many of its war powers, including raising forces, confirming the appointment of officers, providing oversight to operations and declaring war. This has made the U.S. weaker by allowing hasty, ill-considered and poorly supported executive actions to imperil national security. The remedy for these failures requires not innovation, but rather a return to the time-tested principles of America’s founding.

#### Breakdown of CMR leads to global conflict

Cohen 97 (Eliot, “Civil-military relations – Are U.S. Forces Overstretched”, http://findarticles.com/p/articles/mi\_m0365/is\_n2\_v41/ai\_19416332/?tag=content;col1)

Left uncorrected, the trends in American civil-military relations could breed certain pathologies. **The most serious possibility is that of a dramatic civil-military split** during a crisis involving the use of force. In the recent past, such tensions did not result in open division; for example, Franklin Roosevelt insisted that the United States invade North Africa in 1942, though the chiefs of both the army and the navy vigorously opposed such a course, favoring instead a buildup in England and an invasion of the continent in 1943. Back then it was inconceivable that a senior military officer would leak word of such a split to the media, where it would have reverberated loudly and destructively. To be sure, from time to time individual officers broke the vow of professional silence to protest a course of action, but in these isolated cases the officers paid the accepted price of termination of their careers. In the modern environment, such cases might no longer be isolated. Thus, presidents might try to shape U.S. strategy so that it complies with military opinion, and rarely in the annals of statecraft has military opinion alone been an adequate guide to sound foreign policy choices. Had Lincoln followed the advice of his senior military advisors there is a good chance that the Union would have fallen. Had Roosevelt deferred to General George C. Marshall and Admiral Ernest J. King there might well have been a gory debacle on the shores of France in 1943. Had Harry S Truman heeded the advice of his theater commander in the Far East (and it should be remembered that the Joint Chiefs generally counseled support of the man on the spot) there might have been a third world war. Throughout much of its history, the U.S. military was remarkably politicized by contemporary standards. One commander of the army, Winfield Scott, even ran for president while in uniform, and others (Leonard Wood, for example) have made no secret of their political views and aspirations. But until 1940, and with the exception of periods of outright warfare, the military was a negligible force in American life, and America was not a central force in international politics. That has changed. Despite the near halving of the defense budget from its high in the 1980s, it remains a significant portion of the federal budget, and the military continues to employ millions of Americans. More important, civil-military relations in the United States now no longer affect merely the closet-room politics of Washington, but **the relations of countries around the world.** American choices about the use of force, the shrewdness of American strategy, the soundness of American tactics, and the will of American leaders **have global consequences.** What might have been petty squabbles in bygone years are now magnified into **quarrels of a far larger scale**, and conceivably with far more grievous consequences. To ignore the problem would neglect one of the cardinal purposes of the federal government: "to provide for the common defense" in a world in which security cannot be taken for granted.

### 2AC – IBC

#### Congressional WPR reform checks inter-branch conflict

Ryland, 12 (July 9th, Alexander, “[Executive-Legislative Conflict over the War Powers Resolution](http://www.e-ir.info/2012/07/09/executive-legislative-conflict-over-the-war-powers-resolution/)” http://www.e-ir.info/2012/07/09/executive-legislative-conflict-over-the-war-powers-resolution/)

After deploying assets, Obama gave notice to Congress of the intervention. However, when the Office of Legal Counsel (OLC) informed the president of the need to comply with the WPR if Congress requested withdrawal, he sought alternative opinions to exempt the intervention from congressional authorisation (Ackerman 2011). In a legislative power play the president publicly attempted to appropriate full war powers and marginalise Congress in order to achieve his policy preference unimpeded. During his testimony to the Senate Committee on Foreign Relations, State Department legal advisor Harold Koh argued that the limited scope and aims of the intervention neither met the definition of hostilities nor of war thereby offering the president full authority over the intervention (Koh 2011).¶ Despite this, precedent set as early as Bas v. Tingy (1800) asserted that ‘imperfect’ or ‘limited’ wars which did not commit the full resources of the US still required congressional approval, a position consistently supported in jurisprudence thereafter (Ackerman and Hathaway 2011, 453-7). As such the WPR mandated the president to consult with Congress on the engagement and adhere to its request if withdrawal was ordered. In rejecting the advice of the OLC, whose reputation as an independent legal advisor lends it substantial legitimacy, the president acted against established norms creating a political furore (Morrison 2011, 64). Despite latent support for the intervention from many senior Republicans (such as Sen. John McCain), they determined to hold the president to account (Savage and Steinhauer 2011). This attempted display of power by Congress is symptomatic both of its general relationship with the president after the election of the Republican majority in the House of Representatives in 2010 and of the clear presidential imperialism taking place.¶ A bipartisan resolution supporting the war passed the Senate in June 2011, limiting military action to prevent ‘boots on the ground’, but was rejected by the House citing concern over the constitutionality of the engagement and the president’s attempts to bypass the WPR. In the same instance it also rejected proposals to cut funds from the operation despite its cost reaching almost $1bn (Steinhauer 2011). Failing to exercise this key power of budgetary appropriation demonstrated the politicking taking place in Congress and the complexity of the decision-making process. Although Congress was trying to assert its authority and prevent the presidential usurpation of power, it found itself rife with indecision when a joint resolution could not be passed.¶ The intervention was governed by a similar approach to grand strategy to the Bush administration. While the concept of primacy may have been scrapped resulting in a more passive approach to international relations, the liberal peace strategy fuelled policy decisions on Libya. In order to enhance security and promote both political and economic interests abroad, democratisation was a key feature of the intervention. However, the decision-making process was quite different. With divided opinion between the executive and legislature leading to no clear policy outcome, the process of bargaining and negotiation had failed. In this instance the bureaucratic model offers a corollary to its core position: as chief diplomatic representative the president ultimately wields the most power when decisions cannot be reached (Halperin and Kanter 1973, 6-7; Art 1973, 475).¶ It is worth consideration that the initial war in Iraq may have caused a ripple effect which ultimately resulted in the wave of democratisation in the Arab world during 2011-2. The liberalisation of regimes experienced during the Arab Spring is comparable to Huntington’s idea of democratic waves (Huntington 1991, 15-6). While there is still time for a reverse effect to occur (as in Latin America during the 1960s (Huntington 1991, 19)), this explains the intervention in Libya as a direct consequence of the invasion of Iraq. Justifying the decision to invade, Bush said that “a liberated Iraq can show the power of freedom to transform that vital region” (quoted in Dueck 2004, 531), demonstrating the liberal peace strategy and his intent to enhance US security through the democratisation of the Middle East. By this measure the intervention in Libya – while a marked departure from the head-first approach of the Bush administration in Iraq – was consistent with a grand strategy which can be seen practiced as early as the 1970s (Huntington 1991, 93-5). The congressional opposition suggests inconsistencies in responses to war and puts the relevance of the WPR into question. As Congress ultimately mandated the use of force in both theatres, the WPR stagnates as a key component of the congressional arsenal against a powerful president.¶ The Decline of Congress¶ The contradictions in congressional challenges to the president’s authority under the WPR show definite decline in power evidenced which enables the president to enact policy decisions without effective oversight from the legislature. While presidential grand strategy remains broadly similar through both case studies, Congress appear unable to maintain a consistent approach to foreign policy. Instead it is constrained by a combination of partisan politicking and other domestic pressures beyond the executive-legislative bargaining which the resolution seeks to encourage. Whether through campaign financing, authoring legislation, or bargaining over strike action, politicians can become embroiled in complex relationships with lobbyists and special interests undermining the effectiveness of the legislative agenda of Congress. Especially in election years, intra-governmental conflict can become heated. The relationship between the president and the opposition party in Congress created the inflammation surrounding the legality of the Libyan intervention and could have led to the end of US engagement if sufficient pressure were applied.¶ Epistemic communities of ‘experts’ and practitioners seek to influence policy-makers in both branches of government to take certain courses of action identified with their particular professional interests and capabilities (Jacob and Page 2005, 108), often including officials in government agencies at both domestic and international level. Clear examples can be found during the preparations for the invasion of Iraq where CIA intelligence had a definitive influence on the administration’s decision to go to war (Pillar 2006). The notion of ‘iron triangles’ expresses this relationship between legislators, special interests and bureaucrats working to influence the policy process for mutually beneficial arrangements (Jordan 1981, 99-100); they are common across policy subsystems but their entrenchment in foreign policy especially facilitates the growth of presidential power and its development as a norm.¶ The bargaining and negotiating described by the bureaucratic model is influenced to a great extent by domestic pressures on both Congress and the president, resulting in conflict and indecision as demonstrated clearly in the Libya case study, leading to a need for presidential leadership in decision-making. The WPR is intended to prevent such a situation and afford Congress a mechanism by which it can reign in the president and ensure that its position at the negotiating table is maintained. However, the relevance of the resolution is called into question when it fails to be implemented effectively. As the cases discussed show, executive-legislative conflict in foreign policy decision-making remains a power struggle, but the outcome is increasingly a foregone conclusion.¶ Conclusion¶ The deference toward presidential opinion which Congress exhibits in foreign affairs imposes a severe limitation on its ability to engage in effective oversight of executive actions. The ambiguity in the constitutional division of powers between the two branches inevitably leads to appropriation by one from the other, creating the imperial presidency. In foreign affairs there is now little scope for congressional intervention where decisions are made informally with foreign leaders, ambassadors are increasingly reduced to little more than cultural representatives, and the political pressure to pass defence budgets becomes insurmountable. It is no longer realistic to use traditional budgetary and approval mechanisms to constrain a charismatic and popular president in times of war.¶ The policy process should be an arena of conflict between the executive and legislature with each branch attempting to gain power and influence over the decision-making process and project their preferred policy images. However, both case studies show that the leadership of the president in times of crisis has become an irreversible norm, a feature which the bureaucratic model also predicts when indecision occurs in foreign policy issues further marginalising the role of Congress. While conflict does exist when Congress attempts to save face and stand up to the imperial appropriation of powers by the Commander-in-Chief by invoking the WPR, this has become ineffective. The WPR does not provide the necessary mechanism for oversight, especially when presidents attempt to circumvent compliance. In the post-9/11 era Congress has failed to arrest the growth of the imperial presidency in foreign policy, rendering the WPR little more than a symbolic declaration of lost power.

#### Extinction

Linda S. Jamison, Deputy Director of Governmental Relations @ CSIS, Spring 1993, Executive-Legislative Relations after the Cold War, Washington Quarterly, v.16, n.2, p. 189

Indeed there are very few domestic issues that do not have strong international implications, and likewise there are numerous transnational issues in which all nations have a stake. Environmental degradation, the proliferation of weapons of mass destruction, population control, migration, international narcotics trafficking, the spread of AIDS, and the deterioration of the human condition in the less developed world are circumstances affecting all corners of the globe. Neither political isolation nor policy bifurcation is an option for the United States. Global circumstances have drastically changed with the end of the Cold War and the political and policy conditions that sustained bipartisan consensus are not applicable to the post-war era. The formulation of a new foreign policy must be grounded in broad-based principles that reflect domestic economic, political and social concerns while providing practical solutions to new situations. Toward a cooperative US Foreign Policy for the 1990s: If the federal government is to meet the new international policy challenges of the post-cold war era, institutional dissension caused by partisan competition and executive-legislative friction must give way to a new way of business. Policy flexibility must be the watchword of the 1990s in the foreign policy domain if the United States is to have any hope of securing its interests in the uncertain years ahead. One former policymaker, noting the historical tendency of the United States to make fixed “attachments,” has argued that a changing world dictates policy flexibility, where practical solutions can be developed on principles of broad-based policy objectives (Fulbright 1979). Flexibility, however, will not be possible without interbranch cooperation. The end of the Cold War and the new single-party control of the White House and Congress provide a unique opportunity to reestablish foreign policy cooperation. Reconfiguring post cold war objectives requires comprehension of the remarkable transformations in world affairs and demands an intense political dialogue that goes beyond the executive branch (Mann 1990, 28-29).