**T**

***Restrictions are prohibitions***

**Northglenn 11** (City of Northglenn Zoning Ordinance, “Rules of Construction – Definitions”, http://www.northglenn.org/municode/ch11/content\_11-5.html)

Section 11-5-3. Restrictions. As used in this Chapter 11 of the Municipal Code, the **term "restriction**" shall mean a prohibitive regulation. Any use, activity, operation, building, structure or thing which is the subject of a restriction is prohibited, and ***no*** such use, ***activity***, operation, building, structure or thing shall be **authorized by any permit or license**.

***They don’t prohibit – there are still circumstances that allow first use***

***Voting issue –***

***1) Ground – all DAs and CPs like self-restraint, flexibility, and politics compete based off restrictions on the presidential decision-making process – skews the topic in favor of the aff.***

***2) Limits – they allow infinite modifications to the program—undermines our ability to research and prepare for all debates***

**CP**

***Next off is CP***

***The United States Federal Government should require a Congressional policy trial prior to introducing United States Armed Forces into missions beyond self-defense of the United States or a country the United States is obligated to defend via a bilateral mutual defense treaty, pursuant to the Rules of Engagement.***

***Their plan text would devastate US alliances because it only allows an exception in the event of an attack on the United States but not our allies—only the CP allows us to maintain treaty obligations***

RICHARD **HANANIA**, University of Chicago Law School, HUMANITARIAN INTERVENTION AND THE WAR POWERS DEBATE, (20**12**) J.JURIS 47, <http://www.jurisprudence.com.au/juris13/Hanania.pdf>, jj

**The question of what shifting the war powers back to Congress would mean for a** ¶ **Wilsonian power can be explored from a variety of angles**. For example, future ¶ scholarship could investigate American commitments to preserve the world order ¶ and protect other developed democracies. **Under the North Atlantic Treaty, the** ¶ ***U*nited *S*tates is obligated to come to the defense of any other member nation** ¶ **under attack**.240 **Since its founding, NATO has expanded to include twenty-eight** ¶ **countries.**241 **The *U*nited *S*tates also has bilateral mutual defense treaties with the** ¶ **Philippines**,242 **South Korea,**243 **and Japan**.244 Finally, America is also arguably ¶ obliged to defend the four other members of the Southeast Asia Treaty ¶ Organization (SEATO) that are not in NATO and with which the United States ¶ does not have an independent mutual defense treaty.245 **The fact that there appears** ¶ **to be little appetite amongst the general public to live up to American defense commitments abroad**,246 **means that where the war powers are placed might be** ¶ ***very important* if an American ally suffered a classic state-on-state attack**.247

***Perception of non-commitment to intervention in defense of allies devastates our security guarantees***

**Anderson et. al, 13** [\*Justin V. Anderson is a Senior National Security Policy Analyst with SAIC in Arlington, VA, providing contract support to government clients on nuclear arms control, deterrence, and WMD proliferation issues. He is editor of the Headquarters Air Force, Strategic Plans and Policy (AF/A5XP) “emerging issues” report series and lead analyst for the portfolio’s nuclear arms control analyses. His past experience includes serving as Senior Editor of the DoD Law of War Manual and providing analysis to the DTRA, OSD AT&L Office of Treaty Compliance, and Missile Defense Agency. Dr. Anderson received his PhD in war studies from King’s College London. \*\*Jeffrey A. Larsen is a Senior Scientist with Science Applications International Corporation (SAIC) in Colorado Springs, CO. Dr. Larsen was the first Director of AF/INSS and continues to provide contract support to the Institute. He also works with Headquarters US Air Force, the Defense Threat Reduction Agency (DTRA), and US Strategic Command. He is widely published in the fields of national security, nuclear policy, arms control, NATO policy, and the role of airpower in recent conflicts. A retired Air Force Lt Colonel, Dr. Larsen earned his PhD in politics from Princeton University. \*\*\*Polly M. Holdorf (Annotated Bibliography) is a National Security Analyst with Toeroek Associates, Inc. at the US Air Force Academy where she provides on-site analysis, research and editorial support to INSS. Ms. Holdorf was a participant in the 2010 Project on Nuclear Issues (PONI) Nuclear Scholars Initiative program. Previously Ms. Holdorf worked as a Field Representative in Colorado’s 5th Congressional District. Ms. Holdorf received her M.A. in international security from the Josef Korbel School of International Studies, University of Denver. INSS Occasional Paper 69, September 2013, USAF Institute for National Security Studies, USAF Academy, Colorado, Extended Deterrence and Allied Assurance: Key Concepts and Current Challenges for U.S. Policy, <http://www.usafa.edu/df/inss/OCP/OCP69.pdf>, jj]

**The effectiveness of these strategies relies on** the **careful orchestration** of the full spectrum of geopolitical and military resources available to the United States. **Simultaneously assuring allies and deterring their enemies requires nimble diplomacy, strong relationships with allied political and military leaders**, well-equipped armed forces, **and *the consistent demonstration of the United States’ steadfast commitment to accept risks and, if necessary, bear costs, in order to protect its allies across the globe***. **Extended deterrence and assurance strategies** thus represent political-military frameworks whose maintenance **depends on** the **close coordination** of decision-makers, diplomats, intelligence officials, defense strategists, and military planners. **The scope of the task reflects the central importance of these strategies to international peace and security, and leads to constant scrutiny by foreign parties – both adversary and allied – of U.S. extended deterrence and assurance commitments in order to determine whether they show any signs of weakness or fatigue.**

Bedrock Security Commitments and Flexible Strategies

***Allies placing their trust in U.S. defense guarantees must believe the United States commitment to their security will not waver***; at the same time, **the strategies and plans that implement these commitments must flexibly adapt to geopolitical change and evolving regional security environments.**

***Credible security guarantees check global escalation and WMD conflict***

**Anderson et. al, 13** [\*Justin V. Anderson is a Senior National Security Policy Analyst with SAIC in Arlington, VA, providing contract support to government clients on nuclear arms control, deterrence, and WMD proliferation issues. He is editor of the Headquarters Air Force, Strategic Plans and Policy (AF/A5XP) “emerging issues” report series and lead analyst for the portfolio’s nuclear arms control analyses. His past experience includes serving as Senior Editor of the DoD Law of War Manual and providing analysis to the DTRA, OSD AT&L Office of Treaty Compliance, and Missile Defense Agency. Dr. Anderson received his PhD in war studies from King’s College London. \*\*Jeffrey A. Larsen is a Senior Scientist with Science Applications International Corporation (SAIC) in Colorado Springs, CO. Dr. Larsen was the first Director of AF/INSS and continues to provide contract support to the Institute. He also works with Headquarters US Air Force, the Defense Threat Reduction Agency (DTRA), and US Strategic Command. He is widely published in the fields of national security, nuclear policy, arms control, NATO policy, and the role of airpower in recent conflicts. A retired Air Force Lt Colonel, Dr. Larsen earned his PhD in politics from Princeton University. \*\*\*Polly M. Holdorf (Annotated Bibliography) is a National Security Analyst with Toeroek Associates, Inc. at the US Air Force Academy where she provides on-site analysis, research and editorial support to INSS. Ms. Holdorf was a participant in the 2010 Project on Nuclear Issues (PONI) Nuclear Scholars Initiative program. Previously Ms. Holdorf worked as a Field Representative in Colorado’s 5th Congressional District. Ms. Holdorf received her M.A. in international security from the Josef Korbel School of International Studies, University of Denver. INSS Occasional Paper 69, September 2013, USAF Institute for National Security Studies, USAF Academy, Colorado, Extended Deterrence and Allied Assurance: Key Concepts and Current Challenges for U.S. Policy, <http://www.usafa.edu/df/inss/OCP/OCP69.pdf>, jj]

**This paper** differentiated the concepts of deterrence, extended deterrence, and assurance (Part 2); provided an historical overview of U.S. deterrence, extended deterrence, and assurance strategies (Part 3); and assessed continuity and change with regard to these strategies over time (Part 4); discussed current U.S. extended deterrence and assurance strategies (Part 5); and **presented an overview of issues regarding extended deterrence and assurance in three regions of key importance to the United States: the Asia-Pacific, the Middle East, and Europe** (Part 6). Across these sections, **it has sought to communicate the enduring importance of U.S. allied assurance and extended deterrence strategies to allied security, *regional stability*, and, in turn, to U.S. peace and prosperity.** Despite significant geopolitical changes from the Cold War to the present day, **these strategies remain critical to U.S. allies across the globe**. **Many of those allies face potential adversaries fielding superior conventional capabilities, *WMD,* or both**. ***Global in scope***, **extended deterrence and allied assurance strategies require the *U*nited *S*tates to remain vigilant in protecting allies from a range of threats and flexible in fielding a variety of forces capable of conducting numerous (and often simultaneous) deterrence operations against a multiple potential adversaries.**

**Cp2**

***Next off is UN PIC***

***TEXT: The United States federal government should require a Congressional policy trial prior to introducing United States armed forces into missions beyond self-defense that are not approved by the UN Security Council, pursuant to the rules of engagement. The United States Congress should not utilize the power of purse to limit U.S. contributions to United Nations missions. The United States Congress should fully fund all necessary United Nations functions.***

***Solves the case and boosts UN Cred***

**Biden & Ritch ’88**, SENATOR [now V.P.] JOSEPH R. BIDEN, JR. \* AND JOHN B. RITCH III \*\*, \* Joseph R. Biden, Jr., is a United States Senator representing the State of Delaware. He is Chairman of the Senate Judiciary Committee, the Senate Foreign Relations Subcommittee on European Affairs, and the NATO Assembly's Special Committee on Alliance Strategy and Arms Control. Recently, Senator Biden served as Chairman of the Senate's Special Subcommittee on War Powers.¶ \*\* John B. Ritch III is deputy staff director of the Senate Foreign Relations Committee and the Committee's senior advisor on European and Soviet affairs, and served as staff director of the Senate's Special Subcommittee on War Powers.¶ This commentary is based on a speech delivered by Senator Biden at the Georgetown University Law Center on October 3, 1988. Georgetown Law Journal¶ December, 1988¶ 77 Geo. L.J. 367, COMMENTARY: The War Power at a Constitutional Impasse: A "Joint Decision" Solution., Lexis, jj

 [\*397] ENUMERATION OF PRESIDENTIAL AUTHORITIES

The key element of a new framework would be to move beyond the now sterile dispute over precisely what the Constitution, unembellished by legislation, allows and to accommodate practical reality by enumerating and affirming in law a broad range of soundly conceived presidential authorities. **Such authorities would be available to the President without incident-specific congressional action** -- but, except in emergencies, only for a limited period. This listing would include and subsume those emergency authorities to use force regarded as inherent presidential powers deriving from accepted constitutional practice. And **it would include additional authorities that Congress might wish, in the national interest, to grant**, such as a circumscribed authority to preempt or retaliate against clearly identified acts of terrorism.

It bears emphasis that Congress would not, through this technique, be conceding constitutional authority to the President, but rather exercising its own constitutional power to define and delegate authority. In the War Powers Resolution, enacted in an atmosphere of heated interbranch contention, Congress explicitly sought to confer no authority. Its intention was to rein the President in from assertions of unwarranted authority. In contrast, through a Use of Force Act, **Congress would affirmatively delegate authorities** that embrace and extend beyond those independently held by the President solely through the Constitution. In doing so, however, Congress would impose standards, limitations, and procedures pursuant to its own constitutional powers.

**One authority, clearly not inherent but which Congress might wish to provide, would empower the President to use force pursuant to a decision of the United Nations Security Council** n108 -- **as President Truman did in Korea,** with the difference that Truman acted unilaterally, asserting an inherent authority. n109 **It seems inconceivable that Congress would wish to thwart the United States' participation in any multilateral use of force on which the Security Council could unanimously agree, particularly if the President had consulted with the congressional leadership before participating in the United Nations' decision**. From the President's perspective, genuine consultation would be the essence of prudence, since an extended use of force would [\*398] eventually require congressional approval. **Such a pre-authorization to the President could**, in an international emergency such as the Korean intervention, ***prove useful and would serve, by its very existence, as a symbol of American support for multilateral, consensus-based U.N. action.***

A similar authority for multilateral action would empower the President to use force in cooperation with America's democratic allies under circumstances wherein military intervention could have decisive effect in protecting existing democratic institutions in a particular foreign country against a severe and immediate threat. As with the U.N.-related authority, **built-in constraints on the President would derive from the need to act multilaterally and the eventual need to obtain congressional authorization for a sustained use of force.**

In legislation creating a new framework, all such authorities would be placed under the conceptual heading of "confirming and conferring," so as to avoid an endless dispute over the exact location of the line between what the President already possesses independently and what Congress was bestowing upon him by this legislation. By way of example, this aggregation of authorities could take the following form:

AUTHORITY AND LIMITS

§ 1(a) **In the absence of a declaration of war or statutory authorization for a specific use of force, the President, through powers vested by the Constitution and by this law, is authorized to use force abroad --**

(1) to repel an armed attack upon the United States, its territories, or its armed forces;

(2) to respond to a foreign military threat that severely and directly jeopardizes the supreme national interests of the United States under extraordinary emergency conditions that do not permit sufficient time for Congress to consider statutory authorization;

(3) to protect and extricate citizens and nationals of the United States located abroad in situations involving a direct and imminent threat to their lives, provided they are being evacuated as rapidly as possible;

(4) to forestall an imminent act of international terrorism known to be directed at citizens or nationals of the United States, or to retaliate against the perpetrators of a specific act of international terrorism directed at such citizens or nationals;

(5) to protect, through defensive measures and with maximum emphasis on multilateral action, internationally recognized rights of innocent and free passage in the air and on the seas;

(6) **to participate in multilateral actions undertaken under urgent circumstances and pursuant to the approval of the United Nations Security Council**; and

 [\*399] (7) to participate in multilateral actions undertaken in cooperation with democratic allies under urgent circumstances wherein the use of force could have decisive effect in protecting existing democratic institutions in a particular nation against a severe and immediate threat.

***Unilateral presidential war-making key to U.S. participation in the U.N.***

**Linn ‘2k**, Alexander C. Linn, William & Mary Bill of Rights Journal¶ April, 2000¶ 8 Wm. & Mary Bill of Rts. J. 725, NOTE: INTERNATIONAL SECURITY AND THE WAR POWERS RESOLUTION, Lexis, jj

**The Framers' desire to vest the war power in the Congress could not anticipate the collective security scheme delineated by the U.N. Charter and UNPA**. Notwithstanding that the President's modern control over war conflicts with the Framers' intent, the problem is not the increase in executive power. **There are compelling reasons for the Executive to hold a quantum of war power that contradicts the Framers' intent**. **Presidential authority to make troop commitments to U.N. operations is necessary because the viability of policies designed to enhance** [\*746] **international security and thwart aggression may depend on the ability of the President's U.N. delegate to make concrete commitments in Security Council negotiations**. n92 Rather, the problem remains that the historical increase in the Executive's war power has taken place without a viable framework for checking that power. n93 Most profoundly, the Resolution has not been construed to balance two contradictory demands of the post-Cold War world: **the Constitution demands that Congress have authority to initiate war, but American obligations under the U.N., as well as American foreign policy, both demand that the President must have authority to commit troops to military hostilities**. The War in the Persian Gulf against Iraq illustrates these points.¶ The Persian Gulf War was precipitated by Iraqi leader Saddam Hussein's 1990 invasion of Kuwait. n94 President Bush quickly deployed a force that grew to more than 500,000 troops to thwart the aggression; this initial deployment was made without consulting Congress as a whole; however, he did consult, from the outset of the deployment, with selected members of Congress. n95 After American troops had [\*747] been deployed, President Bush garnered support for military action in Kuwait from the Security Council. n96 As a consequence, the Security Council passed Resolution 678, which justified military action against Iraq to restore the security of Kuwait and the Middle East. n97 President Bush used Resolution 678 and the Security Council's support for a military offensive to justify the executive initiation of war. n98 After American troops were deployed, President Bush sought and received approval for his action from Congress. n99¶ [\*748] ¶ Some congressional representatives and military personnel felt President Bush's actions were an unconstitutional usurpation of the war power by the Executive and a violation of the War Powers Resolution. Problematically, the executive initiation of military force in the Gulf War left discontented representatives without legal redress. n100 It seems clear that **the Resolution must be interpreted to reconcile contradictory goals: securing legislative authority to initiate war and securing the efficacy of the Executive to implement international security schemes under a U.N. aegis.**

***U.S. participation in these missions solves escalation in multiple hot-spots***

**Fréchette 09** Distinguished fellow at the Centre for International Governance Innovation in Waterloo, Ont. [Louise Fréchette (former deputy secretary-general of the United Nations.) “A new America, a new UN?,” From Wednesday's Globe and Mail Last updated on Thursday, Apr. 09, 2009 11:02PM EDT, pg. <http://www.theglobeandmail.com/news/opinions/article968894.ece>

Ms. Rice is thus likely to encounter considerable goodwill when she takes up her post. This will not be sufficient, however, to guarantee easy agreement on the many issues that will require her urgent attention. **Early out of the gate will be Iraq and Afghanistan, where Washington wants an expanded role for the UN, as well as Darfur and Congo, where the UN missions are struggling to cope with very challenging problems, inadequate resources and insufficient diplomatic support. Add to this list the ongoing concerns with Iran's nuclear program, a fragile ceasefire in Gaza and the rapid disintegration of what is left of Somalia as a functioning state.** **The Security Council cannot be effective if its key members are at loggerheads. America's relations with China and Russia usually set the tone in the council. If bilateral relations are set on a positive course, mutually acceptable solutions will be more easily found,** even though the three countries clearly do not share the same values or priorities. It will also be important for Washington to build support among the UN membership at large. The ability of the world body to perform effectively depends to a large extent on the perceived legitimacy of its decisions. **So long as they are seen as the expression of the common will, the organization has a potential for effectiveness that no other can have**. This legitimacy is now put in doubt in many quarters. **The Security Council is no longer representative of the world's reality** at the beginning of the 21st century, **and the failure**, so far, **to reform it increasingly serves as an excuse to ignore its decisions and challenge its interventions.** More and more people in developing countries, particularly in the Muslim world, view the UN as a tool of the United States and of the West. They see an organization that is insufficiently supportive of the Palestinians and is ganging up on Muslim countries from Sudan to Afghanistan and from Iraq to Iran, at the behest of the American imperial power. Meanwhile, in the United States and elsewhere, the public has the impression that the UN is a hopeless mess, totally under the thumb of non-democratic states. **Trust in the UN's legitimacy can be restored if its member states can be brought together around a common vision for the organization. The most powerful among them must take the time to listen, explain and persuade. History shows that when the member states are united in their purpose, the UN can deliver - if it's given the means to do the job.** Mr. Obama has an opportunity to get the UN back on the rails. Canada should do all it can to help him in this enterprise.

**DA**

***TPA will pass now—PC is key***

Thomas J. **Spulak** and Bonnie B. Byers, King & Spalding LLP, Expect Trade Promotion Authority Bill To Pass, **2/12/14**, http://www.law360.com/articles/509435/expect-trade-promotion-authority-bill-to-pass

***It is hard to imagine that a TPA bill will not be enacted***, but when it does, it will look different from the one now pending. President **Obama will have to work with Congress to add provisions that make the bill more palatable to Democrats*. There are a number of trade provisions that could attract democratic votes.*** One is legislation that would clarify that currency manipulation by a country can result in a countervailable subsidy under U.S. trade laws. The provision would help U.S. companies address the serious competitive disadvantage they face from Chinese exports that benefit from China’s undervalued currency. The provision has significant bipartisan support and similar versions have passed by wide margins in separate congresses in both the House and Senate. **There is** also **likely to be a push for full renewal of Trade Adjustment Assistance either as part of the TPA bill or as a separate provision.** Portions of TAA, which provides assistance to workers displaced by foreign trade, expired at the end of 2013. Members of the New Democratic Coalition are expected to introduce a TAA bill within the next several weeks. Other trade provisions that could be packaged with TPA include renewal of the Generalized System of Preferences, which expired last year, a Miscellaneous Tariff Bill that would temporarily lower the duties on imported products that are not produced in the United States, and other trade preference programs. **Like everything else in Washington, D.C., today**, ***nothing is easy***. In fact, the safest bet is to say that TPA will not be enacted. But **although there are significant challenges associated with negotiating trade agreements without TPA, it can and is being done.** In the end, Congress could gain more by being in the tent than outside trying to look in. **Thus,** we believe ***TPA will be enacted***. **Democrats will get some concessions** from the administration. **And in the end**, although not favored, side letters could be negotiated to address some issues that may already be concluded in the ongoing negotiations. **With rank and file Republicans on his side**, **Obama will have to work this out with his fellow Democrats**. We believe that ***he will.***

***Fighting to defend his war power will sap Obama’s capital, trading off with rest of agenda***

**Kriner, 10** --- assistant professor of political science at Boston University

(Douglas L. Kriner, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec 1, 2010, page 68-69)

**While congressional support leaves the president’s reserve of political capital intact, *congressional criticism saps energy from other initiatives* on the home front by *forcing the president to expend energy and effort* defending his international agenda. Political capital spent shoring up support for a president’s foreign policies is capital that is unavailable for his future policy initiatives**. Moreover, any weakening in the president’s political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races.59 Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War. 60

**In addition to boding ill for the president’s perceived political capital and reputation, such partisan losses in Congress only further *imperil his programmatic agenda*, both international and domestic.** Scholars have long noted that President Lyndon **Johnson’s dream of a Great Society also perished in the rice paddies of Vietnam. Lacking** the requisite funds in a war-depleted treasury and **the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away** as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, **many of** President **Bush’s highest second-term domestic proprieties, such as Social Security and *immigration reform*, failed perhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq.**61

**When *making their cost-benefit calculations*, presidents surely consider these wider political costs of congressional opposition to their military policies.** If congressional opposition in the military arena stands to derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena.

***TPA is key to US trade leadership and economic diplomacy—rejection signals isolationism and withdrawal***

**Zoellick, 1/12/14** (Robert Zoellick has served as president of the World Bank Group, U.S. trade representative and deputy secretary of state, Jan. 12, 2014, Wall Street Journal, “Leading From the Front on Free Trade” <http://online.wsj.com/news/articles/SB10001424052702303933104579302452830547782>, jj)

**America's commitment to free trade will be tested in 2014**. After years of indifference to trade policy, **the Obama administration now has an agenda**. **Congress must decide whether the U.S. will lead in opening markets and creating fair rules for free enterprise in a new international economy**. Where will Republicans stand? **The starting point will be Congress's consideration of *T*rade *P*romotion *A*uthority, which enables the president to negotiate agreements subject to an up-or-down vote by Congress**. Through TPA, Congress sets goals, procedures for working with the executive branch, and controls the details of the enabling legislation. The Obama administration has been slow to press for negotiating authority. Fortunately, Sens. Max Baucus and Orrin Hatch, the Democratic chairman and ranking Republican on trade in the Senate, respectively, and Rep. Dave Camp, Republican chairman in the House, introduced their bipartisan Trade Promotion Authority bill last Thursday. Chairman Baucus would like to move the bill through the Senate Finance Committee this month before his confirmation as ambassador to China. Successful action would offer a substantive thank you to Congress's Democratic leader on trade. The **Obama** administration **hopes to close a Trans-Pacific Partnership (TPP) deal this year**. Of the 11 other countries in this trade pact, six already have U.S. free-trade agreements, which were negotiated and passed by Republicans. **TPP would add important economies—especially Japan and Vietnam—while modernizing rules and better integrating all 12 economies**. **In addition to the growth benefits, TPP recommits America's strategic economic interests in the Asia-Pacific, complementing the U.S. security presence.** **The U.S. is also combining geoeconomics with geopolitics by negotiating a Trans-Atlantic Trade and Investment Partnership (TTIP) with the European Union**. **Together, TPP and TTIP could forge modern trade and investment rules with major economies of western and eastern Eurasia**. To offer opportunities for global trade liberalization, the U.S. is also negotiating in the World Trade Organization freer trade for services businesses and a Digital Economy compact that would update the successful Information Technology Agreement of the 1990s. These openings would be especially valuable for middle-income economies that want to boost productivity and reach high incomes through more competitive service and information industries. **The economic record of America's *f*ree-*t*rade *a***greement***s* argues for expansion**. **America's free-trade partners account for about 45% of all U.S. exports**, even though their economies amount to only 10% of global GDP. **On average, in the first five years of a new free-trade agreement, U.S. exports grew three to four times as rapidly as U.S. exports to others**. The **U.S. has a trade surplus with its 20 free-trade partners—in manufacturing, agriculture, and services—instead of the large deficit it runs with the world**. **These trade agreements serve principally to bring down the barriers of other countries, because U.S. restrictions are already relatively low**. U.S. free-trade agreements are also comprehensive—covering not only manufacturing and almost all agriculture, but also services, government procurement and transparency, investment and intellectual property, as well as dispute resolution. **These trade agreements encourage others to move toward greater compatibility with the U.S. economy and legal framework**. Republicans have provided most of the votes in Congress for free-trade accords in the past. Here is why: The deals cut taxes on trade. They expand individual freedom, consumer choice and opportunities for innovation. They reduce governmental barriers. They boost the private sector. **They enhance the rule of law and foster civil society**. **An active trade agenda also *signals* America's interest in the rest of the world at a time others are worried about U.S. withdrawal**. **Free trade boosts development and economic reformers around the world, while supporting U.S. growth. For much of the world, *America's commitment to stability seems more credible if built upon an economic foundation***. ***Economic diplomacy can be the basis for hard, soft and smart power***. Nevertheless, some Republicans are hesitant to grant negotiating authority to the president because they fear he will use it to impose stricter labor and environmental standards he couldn't otherwise get through Congress. But such fears can be addressed by circumscribing those provisions to the core labor and environmental standards that both parties agreed to in recent free trade agreements. Moreover, **such concerns should not prevent Republicans from showing they can govern, lead internationally and extend America's economic power globally through a vibrant private sector**. Republicans should also insist, as they did with President Clinton, that a reasonable number of Democrats in Congress back their president. We still have to see whether the Obama team can translate talk into action. It is not clear that this administration knows how to close deals—and take on its protectionist and isolationist constituencies in labor and manufacturing. Republicans should use TPA—and the process it creates—to set objectives that boost economic growth, pointing out that workers in U.S. export industries earn on average 18% more than other Americans because their labor is more productive. Republicans should also set the intellectual agenda for worker adjustment and jobs policies that help Americans adapt to change, whether triggered by trade or technology. The federal government spends about $18 billion a year on nearly 50 separate employment training programs, run by nine different agencies, with few ever evaluated for results. When the administration sends up trade agreements it should also propose options to transform this often inefficient spending. President **Obama** has tiptoed on trade, but he **is moving in the right direction**. He may hesitate when he recognizes that results require actions. Republicans should be pushing the president to deliver—and ***to make 2014 the year the U.S. reclaimed global leadership on trade.***

***US trade leadership solves extinction***

**Garten, 09** – professor at the Yale School of Management (Jeffrey, “The Dangers of Turning Inward”, 3/5, Wall Street Journal, http://www.business.illinois.edu/aguilera/Teaching/WSJ09\_Dangers\_of\_Turning\_Inward.pdf)

Yet if **historians** look back on today's severe downturn, with its crumbling markets, rising unemployment and massive government interventions, they could well be busy analyzing how globalization -- the spread of trade, finance, technology and the movement of people around the world -- went into reverse. They **would likely point to the growth of economic nationalism as the root cause**. Ordinary protectionism such as tariffs and quotas would be one aspect of this problem, but it won't be the worst of it because a web of treaties and the enforcement capabilities of the World Trade Organization will constrain the most egregious behavior. **Economic nationalism is more insidious because it is broader, more subtle and subject to fewer legal constraints**. It is a frame of mind that casts doubt on the very assumption that we live in a single international market, and that relatively open borders are a virtue. **It is based on a calculation that despite all the talk about economic interdependence, nations can go it alone, and could be better off in doing so**. True economic nationalists want above all to protect capital and jobs in their own countries. They see global commerce not as a win-win proposition but as a contest in which there is a victor and a loser. They are thus not focused on international agreements to open the world economy; to the contrary, they are usually figuring out how to avoid international commercial obligations. **The last time we saw sustained economic nationalism was in the 1930s, when capital flows and trade among countries collapsed, and every country went its own way. World growth went into a ditch, political ties among nations deteriorated, nationalism and populism combined to create fascist governments in Europe and Asia, and a world war took place. It took at least a generation for globalization to get back on track**. There have been some bouts of inwardlooking governmental action since then, such as the early 1970s when the U.S. cut the dollar from its gold base and imposed export embargoes on soybeans and steel scrap. However, the economic conditions were not sufficiently bad for the trend to sustain itself. The kind of economic nationalism we are seeing today is not yet extreme. It is also understandable. The political pressures could hardly be worse. Over the last decade, the global economy grew on average about 4% to 5%, and this year it will come to a grinding halt: 0.5% according to the International Monetary Fund, where projections usually err on the optimistic side. World trade, which has grown much faster than global gross domestic product for many years, is projected to decline this year for the first time since 1982. Foreign direct investment last year slumped by 10% from 2007. Most dramatically, capital flows into emerging market nations are projected to drop this year by nearly 80% compared to 2007. The aggregate figures don't tell the story of what is unraveling in individual countries. In the last quarter of 2008, U.S. GDP dropped by 6.2% at an annual rate, the U.K. by 5.9%, Germany by 8.2%, Japan by 12.7% and South Korea by 20.8%. Mexico, Thailand and Singapore and most of Eastern Europe are also in deep trouble. In every case, employment has been plummeting. So far popular demonstrations against government policies have taken place in theU.K., France, Greece, Russia and throughout Eastern Europe. And the governments of Iceland and Latvia have fallen over the crisis. Governments could therefore be forgiven if they are preoccupied above all with the workers and companies within their own borders. Most officials don't know what to do because they haven't seen this level of distress before. They are living from day to day, desperately improvising and trying to hold off political pressure to take severe measures they know could be satisfying right now but cause bigger damage later. Thinking about how their policies might affect other countries is not their main focus, let alone taking the time to try to coordinate them internationally. Besides, whether it's in Washington, Brussels, Paris, Beijing, Brazilia or Tokyo, it is hard to find many top officials who wouldn't say that whatever measures they are taking that may undermine global commerce are strictly temporary. They all profess that when the crisis is over, they will resume their support for globalization. They underestimate, however, how hard it could be to reverse course. Political figures take comfort, too, from the global institutions that were not present in the 1930s -- the IMF, the World Bank and the World Trade Organization, all of which are assumed to be keeping globalization alive. This is a false sense of security, since these institutions are guided by sovereign countries. Government officials often feel that because they are going to endless crisis summit meetings -- the next big one is in London on April 2, when the world's top 20 nations will be assembling -- that some international coordination is actually taking place. This is mostly an illusion. With a few exceptions, such as the so-called Plaza Agreements of 1984 when currencies were realigned, it is difficult to point to a meeting where anything major has been said and subsequently implemented. But as the pressure on politicians mounts, decisions are being made on an incremental and ad hoc basis that amounts to a disturbing trend. **Classic trade protectionism is on the rise**. In the first half of 2008, the number of investigations in the World Trade Organization relating to antidumping cases -- selling below cost -- was up 30% from the year before. Washington has recently expanded sanctions against European food products in retaliation for Europe's boycott against hormonetreated American beef -- an old dispute, to be sure, but one that is escalating. In the last several months, the E.U. reintroduced export subsidies on butter and cheese. India raised tariffs on steel products, as did Russia on imported cars. Indonesia ingenuously designated that just a few of its ports could be used to import toys, creating a trade-blocking bottleneck. Brazil and Argentina have been pressing for a higher external tariff on imports into a South American bloc of countries called Mercosur. Just this week, the E.U. agreed to levy tariffs on American exports of biodiesel fuel, possibly a first shot in what may become a gigantic trade war fought over different environmental policies -- some based on taxes, some on regulation, some on cap and trade -- being embraced by individual countries. Much bigger problems have arisen in more non-traditional areas and derive from recent direct intervention of governments. The much-publicized "Buy America" provision of the U.S. stimulus package restricts purchases of construction-related goods to many U.S. manufacturers, and although it is riddled with exceptions, it does reveal Washington's state of mind. The bailout of GM and Chrysler is a purely national deal. Such exclusion against foreign firms is a violation of so-called "national treatment" clauses in trade agreements, and the E.U. has already put Washington on notice that it will pursue legal trade remedies if the final bailout package is discriminatory. Uncle Sam is not the only economic nationalist. The Japanese government is offering to help a broad array of its corporations -- but certainly not subsidiaries of foreign companies in Japan -- by purchasing the stock of these firms directly, thereby not just saving them but providing an advantage over competition from non-Japanese sources. The French government has created a sovereign wealth fund to make sure that certain "national champions," such as carparts manufacturer Valeo and aeronautics component maker Daher, aren't bought by foreign investors. Government involvement in financial institutions has taken on an anti-globalization tone. British regulators are pushing their global banks to redirect foreign lending to the U.K. when credit is sorely needed and where it can be monitored. Just this past week, the Royal Bank of Scotland announced it was closing shop in 60 foreign countries. Western European banks that were heavily invested in countries such as Hungary, the Czech Republic and the Baltics have pulled back their credits, causing a devastating deflation throughout Eastern Europe. The Swiss are reportedly considering more lenient accounting policies for loans their banks make domestically as opposed to abroad. This de-globalizing trend could well be amplified by Washington's effort to exercise tight oversight of several big financial institutions. Already AIG's prime Asian asset, American International Assurance Company, is on the block. As the feds take an ever bigger stake in Citigroup, they may well force it to divest itself of many of its prized global holdings, such as Banamex in Mexico and Citi Handlowy in Poland. It appears that new legislation under the Troubled Asset Relief Program will also restrict the employment of foreign nationals in hundreds of American banks in which the government has a stake. Whether or not it goes into bankruptcy, General Motors will be pressed to sell many of its foreign subsidiaries, too. Even Chinese multinationals such as Haier and Lenovo are beating a retreat to their own shores where the risks seem lower than operating in an uncertain global economy. The government in Beijing is never far away from such fundamental strategic decisions. Then there is the currency issue. Economic nationalists are mercantilists. They are willing to keep their currency cheap in order to make their exports more competitive. China is doing just that. A big question is whether other Asian exporters that have been badly hurt from the crisis -- Taiwan, South Korea and Thailand, for example -- will follow suit. Competitive devaluations were a major feature of the 1930s. It's no accident that the European Union has called an emergency summit for this Sunday to consider what to do with rising protectionism of all kinds. **There are a number of reasons why economic nationalism could escalate**. The recession could last well beyond this year. It is also worrisome that the forces of economic nationalism were gathering even before the crisis hit, and have deeper roots than most people know. Congress denied President Bush authority to negotiate trade agreements two years ago, fearing that America was not benefiting enough from open trade, and an effort to reform immigration was ~~paralyzed~~ for years. Globally, international trade negotiations called the Doha Round collapsed well before Bear Stearns and Lehman Brothers did. Concerns that trade was worsening income distribution were growing in every major industrial nation since the late 1990s. ***Whenever countries turned inward over the past half-century, Washington was a powerful countervailing force, preaching the gospel of globalization and open markets for goods, services and capital***. As the Obama administration works feverishly to fire up America's growth engines, patch up its financial system and keep its housing market from collapsing further, and as its major long-term objectives center on health, education and reducing energy dependence on foreign sources, the country's preoccupations are more purely domestic than at any time since the 1930s. In the past, American business leaders from companies such as IBM, GE, Goldman Sachs and, yes, Citigroup and Merrill Lynch beat the drum for open global markets. As their share prices collapse, some voices are muted, some silenced. It is not easy to find anyone in America who has the stature and courage to press for a more open global economy in the midst of the current economic and political crosswinds. And given that the global rot started in the U.S. with egregiously irresponsible lending, borrowing and regulation, America's brand of capitalism is in serious disrepute around the world. Even if President Obama had the mental bandwidth to become a cheerleader for globalization, America's do-as-I-say-and-not-as-I-do leadership has been badly compromised. If economic nationalism puts a monkey wrench in the wheels of global commerce, the damage could be severe. The U.S. is a good example. It is inconceivable that Uncle Sam could mount a serious recovery without a massive expansion of exports -- the very activity that was responsible for so much of America's economic growth during the middle of this decade. But that won't be possible if other nations block imports. For generations, the deficits that we have run this past decade and the trillions of dollars we are spending now mean we will be highly dependent on foreign loans from China, Japan and other parts of the world. But these will not be forthcoming at prices we can afford without a global financial system built on deep collaboration between debtors and creditors -- including keeping our market open to foreign goods and services. The Obama administration talks about a super-competitive economy, based on high-quality jobs -- which means knowledge-intensive jobs. This won't happen if we are not able to continue to bring in the brightest people from all over the world to work and live here. Silicon Valley, to take one example, would be a pale shadow of itself without Indian, Chinese and Israeli brain power in its midst. More generally, without an open global economy, worldwide industries such as autos, steel, banking and telecommunications cannot be rationalized and restructured efficiently, and we'll be doomed to have excessive capacity and booms and busts forever. The big emerging markets such as China, India, Brazil, Turkey and South Africa will never be fully integrated into the world economy, depriving them and us of future economic growth. The productivity of billions of men and women entering the global workforce will be stunted to everyone's detriment. Of course, no one would say that globalization is without its problems. Trade surges and products made by low-priced labor can lead to job displacement and increasing income inequality. Proud national cultures can be undermined. But these challenges can be met by reasonable regulation and by domestic policies that provide a strong social safety net and the kind of education that helps people acquire new skills for a competitive world. With the right responses of governments, the benefits should far outweigh the disadvantages. **For thousands of years, globalization has increased global wealth, individual choice and human freedom**. The point is, **economic nationalism**, with its implicit autarchic and save-yourself character, **embodies exactly the wrong spirit and runs in precisely the wrong direction from the global system that will be necessary to create the future we all want**. **As happened in the 1930s, economic nationalism is also sure to poison geopolitics. Governments under economic pressure have far fewer resources to take care of their citizens and to deal with rising anger and social tensions.** **Whether or not they are democracies, their tenure can be threatened by popular resentment. The temptation for governments to whip up enthusiasm for something that distracts citizens from their economic woes -- a war or a jihad against unpopular minorities**, for example -- **is great**. That's not all. **As an economically enfeebled South Korea withdraws foreign aid from North Korea, could we see an even more irrational activity from Pyongyang? As the Pakistani economy goes into the tank, will the government be more likely to compromise with terrorists** to alleviate at least one source of pressure? **As Ukraine strains under the weight of an IMF bailout, is a civil war with Cold War overtones between Europe and Russia be in the cards**? And beyond all that, **how will economically embattled and inward-looking governments be able to deal with the critical issues that need global resolution such as *control of nuclear weapons*, or a treaty to manage *climate change, or* help to the hundreds of millions of people who are now falling back into *poverty?***

**DA2**

***Moderate GOP candidates will win their primaries now—but it could flip***

**Reinhard 2/18/14** (Beth Reinhard is a political correspondent for National Journal, and was a lead writer for the 2012 presidential race, Prior to joining National Journal in 2010, Reinhard was the political writer at The Miami Herald. She covered local, statewide and national campaigns and wrote a weekly column on politics for 11 years. She previously worked at The Palm Beach Post, Education Week and The Home News. Born and raised in Miami, Reinhard received her bachelor’s degree from the University of Pennsylvania and a master’s degree in journalism from Columbia University, 2/18/14, National Journal, “The Establishment Holds Fire in the GOP Civil War” <http://www.nationaljournal.com/politics/the-establishment-holds-fire-in-the-gop-civil-war-20140218>, jj)

***While there's still time for more challengers to gain traction***, **the Republican establishment is mostly holding its fire**, a dramatic comedown from the brash, anti-tea-party rhetoric of last year. The Crossroads offshoot, the Conservative Victory Project, hasn't spent a nickel on a Republican primary in 2014. Neither has the Republican Main Street Partnership, the moderate GOP group led by former Rep. Steve LaTourette of Ohio. The chamber of commerce has intervened so far only in Republican primaries in Alabama, Idaho, and Kentucky, where Senate Minority Leader Mitch McConnell faces a bigger threat from Democrat Alison Lundergan Grimes than from Republican Matt Bevin. Indeed, even as spring and summer primaries loom, most of the Republican and conservative spending targets Democrats on the ballot in November. At the forefront of the general-election assault is Americans for Prosperity, the group bankrolled by the Koch industrialist family. Most of its $30 million in spending has attacked Democrats over Obamacare, an issue that has proved far more unifying for the Republican Party than any of the issues that divide it. "The narrative of a Republican civil war is always enticing for the media and as a fundraising angle for groups, but **if you look at the number of contested, hot primaries this year, it doesn't seem atypical**," said Tim Phillips, president of Americans for Prosperity. **Despite the commotion raised over seven of 12 Republican senators drawing opposition from the tea-party movement, most of those incumbents look secure**. **One challenger**, Liz **Cheney, already dropped her bid** against Sen. Michael Enzi of Wyoming.

***Plan’s a wedge issue that causes Tea Party success in the midterms as rank-and-file GOP voters rebel against establishment candidates***

**Silver, ’13** [Nathaniel Read "Nate" Silver is an American statistician and writer who analyzes in-game baseball activity and elections. He is currently the editor-in-chief of ESPN's FiveThirtyEight blog and a Special Correspondent for ABC News. June 11, 2013, 538 – NYT, Domestic Surveillance Could Create a Divide in the 2016 Primaries, <http://fivethirtyeight.blogs.nytimes.com/2013/06/11/domestic-surveillance-could-create-a-divide-in-the-2016-primaries/?_r=0>, jj]

**A poll** released on Monday by the Pew Research Center and The Washington Post **found a partisan shift in the way Americans view the** **N**ational **S**ecurity **A**gency’s domestic surveillance programs. In the survey, **slightly more Democrats than Republicans said they found it acceptable for the N.S.A. to track Americans’ phone records and e-mails if the goal is to prevent terrorism**. By comparison, when Pew Research asked a similar question in 2006, Republicans were about twice as likely as Democrats to support the N.S.A.’s activities. The poll is a reminder that **many Americans do not hold especially firm views on some issues and instead may adapt them depending on which party controls the executive branch**. When it comes to domestic surveillance, a considerable number of **Democrats seem willing to support actions under** President **Obama that they deemed unacceptable under** George W. **Bush, while some Republicans have shifted in the opposite direction**. **What may be just as significant is the way in which attitudes toward the *security state* could split voters and elected officials within each party — possibly creating a *wedge issue*** in both party primaries in 2016. **Politicians who are normally associated with being on the far left and the far right may find common cause with grass-roots voters** in their objection to domestic surveillance programs, ***fighting against a party establishment*** that is inclined to support them. Take, for example, the House’s vote in May 2011 to extend certain provisions of the Patriot Act — including the so-called library records provision that the government has used to defend the legality of sweeping searches of telephone and e-mail records. The bill passed with 250 yes votes in the House against 153 no votes, receiving more of its support from Republicans. (In the Senate, the bill passed, 72-23, winning majority support from both parties.) However, the House vote was not well described by a traditional left-right political spectrum. In the chart below, I’ve sorted the 403 members of the House who voted on the bill from left to right in order of their overall degree of liberalism or conservatism, as determined by the statistical system DW-Nominate. Members of the House who voted for the bill are represented with a yellow stripe in the chart, while those who voted against it are represented in black. The no votes are concentrated at the two ends of the spectrum. The 49 most liberal members of the House (all Democrats) who voted on the bill each voted against it. But so did 14 of the 21 Republicans deemed to be the most conservative by DW-Nominate. By contrast, 46 of the 50 most moderate Republicans voted for the Patriot Act extension, as did 38 of the 50 most moderate Democrats. Perhaps, you might object, a one-dimensional spectrum doesn’t do a very good job of capturing all the nuances of what it means to be liberal or conservative in America today. In considering the surveillance state, for example, ***Republicans must weigh their traditional support for aggressive antiterrorism policies against their distrust of government***, while Democrats must weigh their trust of Mr. Obama, who so far has been unapologetic for the N.S.A.’s actions, against their concern about civil liberties violations. Or more broadly, what about libertarians who take conservative views on economic policy but liberal views on social policy — or conservative Democrats who support the welfare state but not policies like gay marriage? Where are they represented on the spectrum? I am sympathetic toward these objections as a theoretical matter. Without making this too much of an editorial comment, I find the platforms of both parties to be lacking in philosophical cohesion — why, for example, should views on abortion have much to do with preferences on tax policy? But when it comes to American political parties and their representatives in Congress, partisanship tends to dominate all other considerations. National Journal has a different system for ranking members of Congress from liberal to conservative. It is somewhat less statistically rigorous than DW-Nominate’s system, but it does have the advantage of breaking votes down into three categories: those on economic, social and foreign policy. The correlations between the three policy areas are very high (specifically, they are about 0.9, where 1 would represent a perfect correlation). Members of Congress who take conservative views on economic policy tend almost always to take conservative views on social policy and foreign policy as well, while members who are liberal on one set of issues tend to cast liberal votes on almost all other issues. This does leave the question of how liberal and conservative policy stances are defined. (Support for gun rights, for example, is generally seen as socially conservative rather than socially liberal, even though socially liberal stances are often thought of as promoting the rights of individuals against communities or governments.) Nevertheless, for members of Congress today, a vote on any one issue is highly predictable based upon his votes on other issues. There are extremely few mavericks in Congress who vote on each issue on an independent and nonpartisan basis. DW-Nominate uses a different method to classify Congressional votes. Instead of assigning a subjective definition to each vote as liberal or conservative, it instead uses an automated process called optimal classification. The goal of this process is essentially to explain the highest number of Congressional votes based on a one-dimensional scale, regardless of the content of the legislation that comprises it. Whichever votes are not well explained by this first dimension are then explained by additional dimensions. The process is more intuitive than it might sound. For example, during the 1960s, Congressional votes on civil rights policy toward African-Americans were not very strongly correlated with votes on other types of political issues. (For instance, Southern Democrats were often staunchly opposed to civil rights for blacks while casting very liberal votes on the welfare state.) Thus, you needed at least two dimensions to describe Congressional voting patterns in a reasonably comprehensive way. In recent years, however, this has been much less of a problem: the one-dimensional spectrum explains about 95 percent of Congressional voting, and votes on economic, social and foreign policy are highly correlated. But a few votes still fall outside of the spectrum — the 2011 vote on the Patriot Act among them. If the second dimension no longer represents a distinction between economic and social policy, then what does it reflect? The authors of DW-Nominate are interpreting it to measure a distinction between what they call “establishment” members of Congress and “outsiders.” Here at FiveThirtyEight, I have sometimes used the same labels when describing the ideological space occupied by different candidates during the presidential primaries. Some candidates, like Mitt Romney, run as insider or establishment politicians, offering some iteration of what they say are tried-and-true solutions, while others run as insurgents or outsiders, submitting a more profound critique of politics as usual and claiming they will topple an unacceptable status quo. In general, those politicians who rate as insurgents or outsiders are on the wings of the liberal-conservative scale. The Tea Party, Occupy Wall Street and Ron Paul movements probably all fit into the outsider or insurgent category, for example, even though they inhabit vastly different spaces on the traditional left-right political spectrum. Conversely, moderates in both parties tend to score as establishment politicians. There aren’t very many “radical centrist” members of Congress who offer a pronounced critique of the status quo while also coming down somewhere in the middle on most policy issues. In the case of the Patriot Act vote, the establishment-outsider axis makes nearly as much difference as the liberal-conservative or Democratic-Republican scales. Among the so-called establishment members of the House who voted on the bill, 78 percent voted to extend the Patriot Act, while only 41 percent of the so-called outsiders did, according to DW-Nominate’s classifications. You can find similar patterns in certain votes on policy toward the financial sector — for example, during the various bailout votes that were cast toward the end of 2008. More recently, votes on the federal debt ceiling have taken on some of the same contours. What is the link between the financial votes and those on the surveillance state? In both cases, members of Congress were asked to trust the assertions of elites that significant harms would result if the bills were not enacted: terrorist acts in the event that the Patriot Act was not extended, or financial calamity in the event that the bailout was not passed or the debt ceiling was not raised. As a matter of practice (but not necessarily theory), convincing someone that a future crisis must be averted requires a higher level of persuasion than making the case for a policy that is claimed to ameliorate some extant problem. Members of Congress who are members of their party establishments might be more inclined to trust testimony from financial or national security elites, and therefore might have been easier to pitch on these bills. We should be careful about extrapolating the voting behavior of Congress to policy views among the general public. But as I have suggested, **the establishment-outsider divide can loom large** in presidential primaries. **Particularly within the Republican Party, rank-and-file voters have increasingly lukewarm views of the party leadership**. But Democrats will also face a primary after Mr. Obama’s tenure in office. Highly liberal, activist voters who might ordinarily be inclined to critique the status quo could face some awkward questions given that the status quo has featured a Democratic president. ***Debates on domestic surveillance could serve as proxy battles for these intraparty factions***. Senator Rand **Paul** of Kentucky, perhaps **along with other Republican candidates, could use his opposition to surveillance programs to help consolidate the support of libertarian and Tea Party voters**, at the risk of alienating national security conservatives. Democratic candidates who criticize the Patriot Act or the N.S.A.’s actions will be finding fault with policies that Mr. Obama has defended – and Mr. Obama will very likely remain quite popular among Democrats three years from now.

***This costs GOP moderates their seats and swings the election to the Tea Party***

**PDT 8/7-’13** [Pakistan Daily Times, Republican rift seeping into US foreign policy, <http://www.dailytimes.com.pk/default.asp?page=2013%5C08%5C07%5Cstory_7-8-2013_pg4_7>, jj]

**Old-guard Republicans like** Senator John **McCain hew to the traditional line that the exertion of American power is the primary force of good in a chaotic world**. They advocate supplying weapons to rebels in Syria, aiding Egypt despite the turmoil of the recent military coup, and using all tools at US disposal, including the surveillance of hundreds of millions of citizens, to keep America safe. **But insurgent conservatives, led by libertarian-leaning** Senators Rand **Paul and** Ted **Cruz, are challenging that orthodoxy, and their influence has become difficult to ignore**. A case in point came before the Senate late last week when Paul introduced a measure that would block $1.5 billion in aid to Egypt. His amendment was handily defeated, but not before heated debate between him and McCain over the role of the United States abroad. Notably voting with Paul and 11 other core conservatives was Mitch McConnell, the Senate’s top Republican. Together their vote bucked the position of AIPAC, the pro-Israel lobby that often finds Republican support in Washington. Earlier this year **McCain derisively called Cruz and Paul “wacko birds**” **on the Senate floor, citing their procedural opposition to virtually anything supported by** President Barack **Obama, including** the US budget, immigration reform, **drone use**, the national health law and foreign aid. “There may be more wacko birds in the Senate than is suspected,” Cruz, 42, sniped back at the 2008 Republican presidential nominee who is 34 years his senior. Cruz passed a big test last month in Iowa, where he was warmly received by several hundred evangelical pastors, a group that carries huge influence over the outcome of the first-in-the-nation primaries. **Paul became a hero** for many in March **when he launched a 13-hour filibuster in the Senate to demand the Obama administration clarify its position on** domestic use of **drones**. ***Political observers see a test brewing ahead of the*** presidential race in 2016 and even the ***mid-term elections in 2014***, **when voters will be confronted with what appears to be two divergent Republican strains**. Michael Steele, a former chairman of the Republican National Committee, said **recent ideological clashes have highlighted the “fracturing within the party.” “*The question is will the John McCain view prevail ultimately going into 2014, or will the Ted Cruz view prevail?”*** he told MSNBC. The establishment’s growing unease with the upstarts, Paul led the Republican field in a recent PPP poll on the 2016 race, is likely what fueled a very public war of words late last month between two likely Republican contenders for the White House. New Jersey Governor Chris Christie blasted Paul’s position on domestic surveillance, and House of Representatives lawmakers who nearly de-funded the intelligence program that scoops up telephone records on millions of Americans. “This strain of libertarianism that’s going through both parties right now and making big headlines, I think, is a very dangerous thought,” Christie said at a mayoral panel. Paul shot back that “spying without warrants is unconstitutional.” The two carried on their bickering for days until reaching an uneasy truce. Congressman Peter King, the New York Republican who has chaired the House Homeland Security Committee, warned that the ***Tea Party favorites could threaten GOP aspirations*** for taking back the White House, especially if they were running against former secretary of state Hillary Clinton. “I think she’s very strong on foreign policy, and I think that if we nominate someone from our isolationist wing of the party, she’ll destroy them,” King told ABC News, adding that their pushing of the national debate is “harmful to the country.” Conservative columnist Charles Krauthammer argued in his Friday column that the return of conservative isolationism “was utterly predictable.” **After years of war in Afghanistan and Iraq, debate over countless drone strikes and the revelations of mass surveillance by the National Security Agency, “the natural tension between isolationist and internationalist tendencies has resurfaced**,” he wrote. Thomas Mann, a veteran congressional expert at the Brookings Institution, told AFP that while the Republican Party has largely accommodated the “economic libertarianism” of the Tea Party faithful in Congress,” **true isolationists have little support among Republicans in office. “With Americans weary of war, this could begin to change but it would presage a real crackup of the GOP,**” he said. afp

***Continued tea party influence blocks Obama’s climate agenda—electing moderates is key***

**Huq, ’13** [Saleemul Huq, irector, International Centre for Climate Change and Development, Independent University, Bangladesh, Dhaka, Responding to Climate Change, Comment: the US looks like it’s getting serious on climate change, <http://www.rtcc.org/2013/08/07/comment-the-us-looks-like-its-getting-serious-on-climate-change/>, jj]

**It is very clear that President Obama and his team of senior advisers all accept the scale of the climate change problem and recognise the US’s responsibilities.** This is in stark contrast to his predecessor President Bush who refused to take any significant action for eight years. **During** President **Obama’s first term** of office **he tried to bring Congress on board towards a national response to tackling climate change, which proved to be unsuccessful**. So in his second term he has decided to take whatever action he can by executive order and without requiring Congressional approval. While I have criticised his Climate Action Plan as being too little too late (when compared to the scale of the problem that has to be tackled), I must acknowledge that it is indeed a significant step forward compared to the past. State leverage The second important personality that is involved is the new Secretary of State (and former Senator) John Kerry who has a long and honourable history of engagement on this issue both at national as well as international levels. Unlike his predecessor, Hilary Clinton, he is very interested in this topic and is determined that the US plays a more positive role at the international level. He has already taken personal charge of US international relations on this topic. **The most difficult element of the political landscape in the US on the topic of climate change has always been, and continues to be, the Republican Party, who control the House of Representatives in Congress (and thus can, and do, block any attempts to bring legislation to tackle climate change**). **Within the Republican Party *the climate change denying tendency is led by the Tea Party* wing of the party and a handful of Congressmen and Senators. However, even here *there is a growing awareness amongst more sensible Republicans that they cannot continue to deny the reality of climate change***. **An example is the recent article** in the New York Times, jointly **authored by three former Republican heads of the** US Environmental Protection Agency (**USEPA), arguing for the Party to take sensible actions to tackle climate change.**

***Obama action on climate solves extinction***

Ashok **Khosla 9**, IUCN President, International Union for Conservation of Nature, A new President for the United States: We have a dream, 1-29-09, http://cms.iucn.org/news\_events/?uNewsID=2595

**A rejuvenated America, with a renewed purpose, commitment and energy to make its contribution once again towards a better world could well be the turning point that can reverse the current decline in** the state of the global economy, **the health of its life support systems** and the morale of people everywhere. This extraordinary change in regime brings with it the promise of a deep change in attitudes and aspirations of Americans, a change that will lead, hopefully, to new directions in their nation’s policies and action. In particular, **we can hope that from being a very reluctant partner in global discussions**, especially **on issues relating to environment and sustainable development, the *U*nited *S*tates will become an active leader in international efforts to address the** Millennial **threats now confronting civilization and even the *survival* of the human species**. **For the conservation of biodiversity, so essential to maintaining *life on Earth*, this promise of change has come not a moment too soon**. It would be a mistake to put all of our hopes on the shoulder of one young man, however capable he might be. The environmental challenges the world is facing cannot be addressed by one country, let alone by one man. At the same time, **an inspired US President** guided by competent people, **who does not shy away from exercising the true responsibilities and leadership his country is capable of, could do a lot to spur the international community into action**. To paraphrase one of his illustrious predecessors, “the world asks for action and action now.” What was true in President Roosevelt’s America 77 years ago is even more appropriate today. From IUCN’s perspective, the first signals are encouraging. The US has seriously begun to discuss constructive engagement in climate change debates. With Copenhagen a mere 11 months away, this commitment is long overdue and certainly very welcome. Many governments still worry that if they set tough standards to control carbon emissions, their industry and agriculture will become uncompetitive, a fear that leads to a foot-dragging “you go first” attitude that is blocking progress**. A positive intervention by the *U*nited *S*tates could provide the vital catalyst that moves the basis of the present negotiations beyond the narrowly defined national interests that lie at the heart of the current impasse**. **The logjam in international negotiations on climate change should not be difficult to break if the US were to lead the industrialized countries to agree that much of their wealth has been acquired at the expense of the environment** (in this case greenhouse gases emitted over the past two hundred years) **and that with the some of the benefits that this wealth has brought, comes the obligation to deal with the problems that have resulted as side-effects**. With equitable entitlement to the common resources of the planet, an agreement that is fair and acceptable to all nations should be easy enough to achieve. Caps on emissions and sharing of energy efficient technologies are simply in the interest of everyone, rich or poor. And both rich and poor must now be ready to adopt less destructive technologies – based on renewables, efficiency and sustainability – both as a goal with intrinsic merit and also as an example to others. But climate is not the only critical global environmental issue that this new administration will have to deal with. **Conservation of biodiversity, a crucial prerequisite for the *wellbeing of all humanity*, no less America, needs as much attention, and just as urgently**. **The United States’ self-interest in conserving living natural resources strongly converges with the global common good in every sphere: in the oceans, by arresting the precipitate decline of fish stocks and the alarming rise of acidification; on land, by regenerating the health of our soils, forests and rivers; and in the atmosphere by reducing the massive emission of pollutants from our wasteful industries, construction, agriculture and transport systems.**

**1NC – solvency**

***Zero risk of solvency***

1. ***Obama will circumvent – the past 5 years prove.***

**Cohen**, Fellow at the Century Foundation, **12**

(Michael, 3-28-12, “Power Grab,” http://www.foreignpolicy.com/articles/2012/03/28/power\_grab?page=full)

This month marks the one-year anniversary of the onset of U.S. military engagement in **the Libyan civil war**. While the verdict is still out on the long-term effects of the conflict for U.S. interests in the region, it's closer to home where one can point to the war**'s** greater **lasting impact** -- namely **in further increasing the power of the executive branch to wage war without congressional authorization. But don't expect to hear much about that issue** on the campaign trail this election year. Rather **the erosion of congressional oversight of the executive branch's war-making responsibilities has been something of a *bipartisan endeavor* -- and one that is *unlikely to end any time soon*.¶** It might seem like a bit of ancient history now, but **one of the more creative arguments to come out of the U.S. military intervention in Libya was t**he **Obama** administration**'s** **assertion** **that the war did not actually represent "hostilities."** Indeed, according to the president's argument to Congress, U.S. operations in Libya "do not involve sustained fighting or active exchanges of fire with hostile forces, nor do they involve U.S. ground troops" -- thus making them something less than war. On the surface this appears patently absurd. The United States was flying planes over Libyan air space and dropping bombs. Missiles were being fired from off-shore. An American military officer (Adm. James Stavridis) commanded the NATO effort. There were reports of forward air controllers on the ground spotting targets for U.S. bombers. In all, NATO planes flew more than 26,000 sorties in Libya, nearly 10,000 of which were strike missions. By what possible definition is this not considered "hostilities"?¶ As it turns out **the ambiguity over whether the war represented "hostilities" is one codified in U.S. law** -- namely **the** War Powers Resolution (**WPR**). Under the provisions of the WPR the President was required to notify Congress within 48 hours of the beginning of U.S. military involvement. He then had 60 days to receive authorization from Congress and if he failed to do he would have 30 days to end the fighting. (Of course, if U.S. military actions do not rise to the level of "hostilities," then the president does not have to go through this rigmarole and receive congressional approval.)¶ Now on the surface, **such an elastic view of what the word hostilities means is *hardly unusual*. Indeed, it is rather *par for the course* in discussions of the W**ar **P**owers **R**esolution. In 1975, the Ford administration claimed that "hostilities" only refers to a scenario in which U.S. forces are "actively engaged in exchanges of fire with opposing units." Similar efforts at defining down hostilities were attempted by the Carter, Reagan, and Clinton administrations when they sought to use military force. Still, these generally were in reference to peacekeeping missions like in Lebanon and Bosnia -- not offensive operations like those waged in Libya.¶ In a political vacuum, **Obama's stance on "hostilities" in Libya might represent the traditional push and pull of executive-legislative branch disagreements about presidential war-fighting prerogatives**.¶ But of course, on this issue we are far from being in a political vacuum. **Obama's broadening of executive power comes with the backdrop of** the George W. **Bush** administration**'s** **efforts** to expand the president's ability to wage war. Indeed, **the position taken by** the **Obama** administration **bears uncomfortable similarities to the one taken by** John **Yoo when he served at the Justice Department and argued** -- in the wake of 9/11 -- **that the Constitution granted the president practically unquestioned executive power to wage war**. Yet, **even Bush sought congressional approval for military actions in Afghanistan and Iraq; Obama didn't bother to do the same for Libya.** In addition, **Obama** also **overruled the opinion of his own** Office of Legal Counsel (**OLC) on the question of whether the president must abide by the War Powers Resolution in regard to the Libyan intervention.** The OLC said he did; the White House assembled legal opinions that said he didn't -- and the latter view won out. As Bruce Ackerman, a law professor at Yale University, noted at the time, "Mr. **Obama's** **decision** **to** **disregard** that office's opinion [**the OLC**] **and embrace the White House counsel's view is *undermining a key legal check* on arbitrary presidential power."¶** **So at a time when *the door has been opened rather wide on unaccountable war-waging* by the executive branch** -- **with minimal legislative checks and balances** -- the ***Obama*** administration has ***opened it even further.*** What is perhaps most surprising is that **it is being promulgated by a president who pledged as a candidate to put an end to such practices.¶** As Ackerman said to me, Obama came into office with a golden opportunity to reestablish some modicum of restraint over the actions of the executive branch in the pursuit of national security. Ironically, in a Boston Globe questionnaire in December 2007, Obama specifically rejected the argument that he used, in part, to justify going around Congress on Libya. "The President," wrote candidate Obama, "does not have power under the Constitution to unilaterally authorize a military attack in a situation that does not involve stopping an actual or imminent threat to the nation ... History has shown us time and again, however, that military action is most successful when it is authorized and supported by the Legislative branch."¶ While **Obama** has hardly gone as far down the road on expanding executive power as Bush did, it is also true that he "**consolidated many of the principles of executive power that were first described in the Bush administration**," says Ackerman. In effect, "Obama has done nothing to stop the return of another John Yoo." Indeed, with his actions on Libya, ***Obama has done more than consolidate Bush* administration *positions -- he has expanded them*.¶** These are negative developments, but it gets worse. In the president's initial letter to Congress, the airstrikes in Libya, "will be limited in their nature, duration, and scope. Their purpose is to support an international coalition as it takes all necessary measures to enforce the terms of U.N. Security Council Resolution 1973." The U.N. resolution specifically did not call for regime change and yet in July 2011, Secretary of Defense Leon Panetta made clear that the U.S. "objective" in Libya "is to do what we can to bring down the regime of Qaddafi." Moreover, as Micah Zenko, a fellow at the Council on Foreign Relations, said to me, NATO forces looked the other way at flights by the French government, among others, that re-supplied the Libyan rebels (in violation of the arms embargo mandated under Section 9 of Resolution 1970); sought to kill Qaddafi via airstrikes (eventually indirectly succeeding); helped to plan the operations that allowed the insurgents to capture Tripoli, and provided sensitive and secret satellite imagery to the rebels. In short, the United States went far beyond the mandate established by the Security Council and in effect lied when claiming that the operations in Libya were simply about protecting civilians. Putting aside the international law implications, the administration adopted a position of regime change of a foreign leader without any approval from Congress.¶ What is most surprising about the Obama administration's position is that it likely would not have been a heavy lift to get congressional backing for the operations in Libya in the early stages of the air campaign. But **by disregarding Congress's role on Libya -**- and shifting the intent of the U.S. mission without any congressional input into the decision -- **the president has set a new and potentially troubling precedent**. In contrast, by seeking congressional authorization Obama would have, ironically, restored some of the balance between the legislative and executive branch on issues of use of American military force.¶ ***Running roughshod over Congress has becom*ing something of *a norm*** **with**in the **Obama** administration. As one foreign-policy analyst close to the White House said to me "**they** generally **don't do a good job of keeping people in the Hill in the loop on what they are doing. *They see congressional oversight as a nuisance*** -- even within their own party." **Another analyst** I spoke to **had a one-word response to the question of the administration's attitude toward Congress's role in foreign policy: "Dismissive." Whether the lack of** proper **consultation over** the closing of **the detainee facility at Guantanamo** Bay, the **refusal to share** with intelligence committees **the rationale for *t***argeted ***k***illing***s***, **or even** **brief** Hill **staffers on changes in missile defense deployment, this sort of *ignoring of congressional prerogatives has often been the rule, not the exception.****¶* ***What has been Congress's response*** to this disregarding of its role in foreign policy decision-making***?* The usual hemming and hawing, but little in the way of concrete action.** During the Bush years, Republicans were more than happy to let the president expand his executive powers when it came to Iraq, Afghanistan, and the global war on terrorism. When Democrats took back the House and Senate from Republicans in 2006, they placed greater scrutiny on the Bush administration's conduct of the war in Iraq -- but still continued to fund the **conflict. Even in Washington's highly partisan current environment, little has changed; it's mostly sound and fury signifying *nothing*.**¶ **Republicans eschewed a constitutional confrontation with the White House over Libya**, though the House GOP did make a rather partisan effort to defund the Libya operations (a measure that failed) and still today House and Senate members raise their frustrations in committee hearings over their heavy-handed treatment by the White House.¶ But the actions of some **Republicans point in a different direction**. Last year, **House Armed Services Committee Chairman** Buck **McKeon actually tried to expand the** original **A**uthorization for **U**se of **M**ilitary **F**orce that granted U.S. kinetic actions just three days after 9/11 -- **which would have actually increased executive war-making power. While some** on the Hill have long **suspected** **the constitutionality of the W**ar **P**owers **R**esolution, it was one of the few checks that Congress maintained over the president (aside from ability to defund operations, which in itself is a difficult tool to wield effectively). Now **they have been complicit in its further watering down**.¶ Aside from Ron Paul, **there's been little mention of the president's overreach** in Libya by the GOP's presidential aspirants. And **why should there be? If any of them become president they too would want to enjoy the expanded executive power that Obama has helped provide for them**. Quite simply, **in a closely divided country in which each party has a fair shot to win the White House every four years, *there is little political incentive* for either Democrats or Republicans to say enough is enough.¶ And with a former constitutional law professor punting on the issu**e (along with the much abused and maligned Congress), **we're now even further from chipping away at the vast power the executive branch has been husbanded on national security issues**. In the end, that may be the greatest legacy of the U.S. intervention in Libya.

1. ***Non-enforcement – the plan creates the illusion of constraint with no practical effect***

**Posner & Vermeule ’11**, Eric Posner is Kirkland & Ellis Distinguished Service Professor of Law and Aaron Director Research Scholar at the University of Chicago. Adrian Vermeule - John H. Watson, Jr. Professor of Law – Harvard Law School, The Executive Unbound [electronic resource] : After the Madisonian Republic, Oxford University Press, USA, 2011. 01/01/2011 1 online resource (256 p.) Language: English, pg 87-89, jj

**Why did these statutes prove less effective than their proponents hoped**¶ **or, in the extreme, become *dead letters?*** In all the cases, **the basic pattern is**¶ **similar. The statutes were enacted during a high-water mark of political**¶ **backlash against strong executive power, which supermajorities in Congress**¶ **attempted to translate into binding legal constraints**. However, **once**¶ **the wave of backlash receded and the supermajorities evaporated, there**¶ **was insufficient political backing for the laws to ensure their continued**¶ **vigor over time**. **Later Congresses have not possessed sufficient political**¶ **backing or willpower to employ the override mechanisms that the statutes**¶ **create**, such as the override of presidential declarations of emergency created¶ by the National Emergencies Act.¶ **Even where the statutes attempt to change the legal default rule, so that**¶ **the president cannot act without legislative permission—as in the case of**¶ **the *W*ar *P*owers *R*esolution, after the 60- or 90-day grace period has**¶ **passed—the president may simply ignore the statutory command, and will**¶ **succeed if he has correctly calculated that Congress will be unable to**¶ **engage in ex post retaliation and the courts will be unwilling to engage in**¶ **ex post review**. President **Clinton’s implicit decision to brush aside the resolution**¶ **during the Kosovo conflict** (albeit with the fig leaf of a compliant¶ legal opinion issued by the Justice Department’s Office of Legal Counsel) 16¶ ***shows that what matters is what Congress can do after the fact, not what it***¶ ***says before the fact***.¶ Here a major problem for framework statutes is the “presidential power¶ of unilateral action” 17 to which we referred in the introduction. **Statutory**¶ **drafters may think they have cleverly closed off the executive’s avenues of**¶ **escape when they set the legal status quo to require legislative permission**.¶ **Because the president can act in the real world beyond the law books**,¶ **however—the armed forces did not threaten to stand down from their**¶ **Kosovo mission until Congress gave its clear approval, but instead simply**¶ **obeyed the President’s orders—the actual status quo may change regardless**¶ **of whether the legal situation does.** **Once armed forces are in action**,¶ **the political calculus shift s and legislators will usually be unable to find**¶ **enough political support to retaliate—especially not on the basis of an**¶ **arcane framework statute passed years or decades before**.¶ To be sure, **if the framework statutes are very specific, then violating them**¶ **may itself create a political cost for the president**, whose political opponents¶ will denounce him for Caesarism**. This cost is real, but in the type of**¶ **high-stakes matters that are most likely to create showdowns between the**¶ **president and Congress in the first place, the benefits are likely to be greater**¶ **than the costs** so long as the president’s action is popular and credible—the¶ crucial constraints we will discuss in chapter 4 . Moreover, **if the president**¶ **can credibly claim to the public that the violation was necessary, then the**¶ **public will be unlikely to care too much about the legal niceties**. As legal¶ theorist Frederick Schauer argues for constitutional violations 18 (and, we¶ add, the argument holds a fortiori for statutory violations), there is an¶ interesting asymmetry surrounding illegality: if the underlying action is unpopular,¶ then citizens will treat its illegality as an aggravating circumstance,¶ but if the underlying action is popular, its illegality usually has little independent¶ weight. Finally, **if the president credibly threatens to violate the**¶ **statute, then Congress will have strong incentives to find some face-saving**¶ **compromise that allows the president to do what he wishes without forcing**¶ **a showdown that, legislators anticipate, may well end badly**.¶ **The upshot is that subject-specific framework statutes have a Potemkin**¶ **quality: they stand about in the landscape, providing an *impressive facade***¶ **of legal constraint on the executive, but actually blocking very little action**¶ **that presidents care about**. In some cases presidents will have strictly political¶ incentives to obtain congressional permission before acting, even in¶ the domain of foreign affairs and national security. Yet this is not a consequence¶ of the legal structures erected by Madisonian theory, either through¶ constitutional rules or framework statutes. Rather, as an important recent¶ model suggests, it actually implies a very different regime in which presidents¶ may, but need not, obtain congressional consent. 19 The intuition¶ behind this result is that a regime of optional separation of powers puts¶ presidents to a revealing choice between proceeding unilaterally or instead¶ through Congress, and thus gives imperfectly informed voters the maximum¶ possible information and the greatest possible scope for rewarding or punishing presidents and legislators for their actions. Needless to say,¶ however, this political mechanism gives cold comfort to Madisonian liberal¶ legalists, who would blanch at the idea that an optional version of the¶ separation of powers is superior to a mandatory version.¶ Political scientist Andrew Rudalevige is correct to describe the collapse¶ of the constrained post-Watergate executive as the most significant contributor¶ in the growth of a “New Imperial Executive.” 20 **Framework statutes**¶ **are one of liberal legalism’s principal instruments of executive constraint**,¶ **in a world of litt le constitutional constraint. But having been tried, they**¶ **have been found wanting.**

***Policy trials fail:***

1. ***They require a majority vote of the House to begin the process:***

**Buchanan, their author, 8** – Bruce Buchanan, Professor of Government at the University of Texas at Austin, "Presidential Accountability for Wars of Choice", Issues in Governance Studies, Number 22, December, http://www.brookings.edu/~~/media/research/files/papers/2008/12/3020war20buchanan/1230\_war\_buchanan.pdf

**The model for policy trials is the impeachment process**, as described in Article 1 sections 2 and 3 of the Constitution, **where the prospective war policy, and not the president, is examined**. The power to establish a policy trial process is in Article 1 Section 4, which grants each House the right to determine the rules of its own proceedings.

**The process, *triggered by a majority vote of the House*, would impose special rules of order designed to create a debate on the merits before any congressional resolution or declaration of war is possible.**

1. ***That won’t happen—Boehner squashes it***

**Hendrickson**, professor of Political Science at Eastern Illinois University, **13**

(Ryan, 4-3-13, “Libya and American war powers: warmaking decisions in the United States,” Global Change, Peace and Security: formerly Pacifica Review: Peace, Security and Global Change, Volume 25, Issue 2, 2013, http://www.tandfonline.com/doi/pdf/10.1080/14781158.2013.765397)

What makes the American military operation in Libya and the war powers interplay equally¶ interesting is that President Barack Obama and Vice President Joseph Biden entered office with¶ records in the Senate for advocating for Congress’s, and not the president’s, war powers.1 In¶ addition, in his effort to justify presidential insulation from congressional oversight during the¶ strikes, Obama advanced a legal argument on the War Powers Resolution, which proved to be¶ controversial to many members of Congress, constitutional law experts and even top legal advisors¶ in his own administration.2 Moreover, this use of force is especially intriguing given that **a**¶ **number of substantive political and legal congressional challenges were advanced against the**¶ **commander in chief**, though, as it has done so many times before, **Congress chose to follow¶ Obama’s lead and avoided questions surrounding the constitutionality of the president’s¶ conduct.** Obama later referred to congressional concerns over his asserted authority to use¶ force in Libya dismissively as ‘noise about the process’.3

**While Congress’s challenges were considerable, this opposition had little meaningful impact¶** on how American forces were used or on Obama’s foreign policy. **These legislative war powers¶ insurgencies were generally *discouraged, co-opted or* simply *opposed by* the *House* and Senate¶ *leadership*, which worked to keep Congress’s constitutional and political *authority* for the¶ strikes *limited* and tertiary**. Though much has been written about the exercise of congressional¶ war powers, and more generally, Congress’s role in foreign policy, this paper examines the¶ role of **Congress’s** **institutional and party leaders**, who in this case **were central in keeping Congress’s¶ *war powers authority* subdued and avoiding congressional interference in the president’s¶ military operation. Speaker of the House** John ***Boehner*** (R-OH) ***played a critical role* in this¶ process of curtailing significant constitutional challenges to the *commander in chief*, and¶ instead continued the practice of congressional deference** to the president during military conflicts**.¶ A bipartisan group consisting of House Democrats and freshmen ‘Tea-Party’ Republicans¶ were unable to overturn the standard practice of Congress’s deference to the commander in chief.¶** This case also speaks to the United States’ ability, and more importantly, the American president’s¶ role in determining if force will be used abroad.

***Military officials determine ROE---and it can change***

**Corn**, Associate Professor of Law at South Texas College of Law, **10**

(Geoffrey, Previously Lieutenant Colonel, U.S. Army and Special Assistant to the U.S. Army Judge Advocate General for Law of War Matters, Summer, “ARTICLE: TRIGGERING CONGRESSIONAL WAR POWERS NOTIFICATION: A PROPOSAL TO RECONCILE CONSTITUTIONAL PRACTICE WITH OPERATIONAL REALITY,” 14 Lewis and Clark L. Rev. 687, lexis)

Despite these and numerous other historical examples of soldiers applying what would today be characterized as SROE, the actual term “rules of engagement” was not used in the United States until 1958 by the military’s Joint Chiefs of Staff (JCS).149 In 1981, the JCS produced a document titled the “JCS Peacetime ROE for Seaborne Forces,” which was subsequently expanded in 1986 into the “JCS Peacetime ROE” for all U.S. forces.150 Then, at the end of the Cold War, the JCS reconsidered their peacetime ROE and determined that the document should be ***amended*** to apply to all situations, including war and military operations other than war.151 In 1994, they promulgated the “Chairman of the Joint Chiefs of Staff Standing Rules of Engagement,”152 which were subsequently updated in 2000 and again in 2005. As will be discussed below in detail, it is the 2005 edition that governs the actions of U.S. military members today.

SROE have become key legal and policy aspects of modern warfare153 and key components of mission planning for U.S. forces.154 In preparation for military operations, the President and/or Secretary of Defense must personally review and approve the SROE, ensuring they meet military and political objectives.155 Because of this SROE approval requirement, mission-specific SROE provide the ultimate insight into the President’s perception of the nature of the mission and the use of military force required to accomplish the mission.

***Plan text allows a self-defense exception --- that causes massive circumvention***

**Neack 7** (Laura, Professor of Political Science – Miami University (Ohio), *Security: States First, People Last*, p. 106)

Although our discussion has been about the use of military force, we still are on the topic of defense and deterrence rather than on the offensive use of force. It is, though, in some sense hard to dispute the old axiom that what appear as defensive measures to some appear as offensive and therefore threatening measures to others. This is part of the dilemma in the security dilemma. Sometimes countries ***embrace this ambiguity*** to enhance the danger of underestimating them, and sometimes countries attempt to dispel this ambiguity by adopting policies that are overtly transparent and nonthreatening.

***And, this is offense for us:***

***Obama won’t let Congress restrict his power without a fight – the plan passes over his veto***

Howard **Fineman 9/14-13**, is editorial director of the Huffington Post Media Group. Huffington Post, Tim Kaine's Bold New War Proposal For Obama, <http://www.huffingtonpost.com/2013/09/14/tim-kaine-obama_n_3923450.html>, jj

**Conventional wisdom and history hold that presidents never willingly cede an angstrom of their power to wage war**, **which is grounded in their role as commander in chief**. The corollary is that ***they'll veto any efforts to limit such power*** -- **which is what even the embattled Richard Nixon did in 1973.**

***This triggers a constitutional showdown, independently collapses heg and military effectiveness, and causes intractable interbranch conflict***

**Posner and Vermeule, 8**

Eric A. Posner + & Adrian Vermeule, Professor of Law, University of Chicago, Professor of Law, Harvard Law School, U Penn LR, April, lexis

**The cost of a showdown is** simply **that the government does not act** - or, more precisely, that **the energy of government officials is diverted from the problem at hand to the problem of asserting authority** (in the case of top officials) or the problem of ascertaining the lines of authority (in the case of subordinate officials). Top officials ***stop arguing*** about whether the war ***should*** be terminated - a question involving difficult judgments about troop strength, home-front morale, and so forth - and ***start arguing about who should have the authority*** to terminate the war - a question involving difficult judgments about relative institutional advantage in conducting wars. Subordinate officials, like **generals and soldiers**, must **make predictions about how the argument** between top officials **will be resolved**. **If** they guess **wrong, they could find** themselves in **trouble for disobeying the institution that ends up winning the showdown**, or, if they temporize, failing to be prepared when the decision is made. Subordinate **officials might end up acting excessively cautiously**, so as to avoid offending the different authorities, or allowing policy and military judgments to be influenced by their implications for the resolution of the conflict about [\*1012] authority, to the extent that subordinate officials have preferences regarding such resolution. And a showdown over one issue, like executive privilege, might ***metastasize***, as ***each side refuses to cooperate in other policy dimensions*** (appointments, budgets, and ***other areas of substantive legislation)*** until the other side backs down with respect to the original source of dispute.

***Heg solves extinction***

**Barnett**, Professor, Warfare Analysis and Research Dept – U.S. Naval War College, 3/7/’**11**

(Thomas, “The New Rules: Leadership Fatigue Puts U.S., and Globalization, at Crossroads,” )

Let me be more blunt: **As the guardian of globalization, the U.S. military has been the greatest force for peace the world has ever known. Had America been removed from the global dynamics that governed the 20th century, the mass murder never would have ended.** Indeed, **it's entirely conceivable there would now be no identifiable human civilization left, once nuclear weapons entered the killing equation. But the world did not keep sliding down that path of perpetual war. Instead, America stepped up and changed everything by ushering in our now-perpetual great-power peace.** We introduced the international liberal trade order known as globalization and played loyal Leviathan over its spread. What resulted was the collapse of empires, an explosion of democracy, the persistent spread of human rights, the liberation of women, the doubling of life expectancy, a roughly 10-fold increase in adjusted global GDP and a profound and persistent reduction in battle deaths from state-based conflicts.

***IBC causes extinction***

Linda S. **Jamison**, Deputy Director of Governmental Relations @ CSIS, Spring 19**93**, 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 watchwor**d 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).

**UN**

***Status quo solves—Obama’s commitment to the UN is durable***

**UVA Law ’10**, University of Virginia Law School, 2/12, Cleveland Outlines Obama’s Effect on International Law, <http://www.law.virginia.edu/html/news/2010_spr/jbmoore_keynote.htm>, jj

The **Obama** administration **has renewed the country’s commitment to international engagement and is articulating a new Obama-Clinton doctrine for foreign relations**, one of the U.S. State Department’s top international law advisers said at the Law School on Friday. Sarah Cleveland, a Columbia Law School professor who is currently serving as counselor on international law with the State Department’s Office of the Legal Adviser, delivered the keynote address in Caplin Pavilion for a J.B. Moore Society-sponsored symposium on President Barack Obama’s effect on international law. “**The administration is committed in word and deed to a new era of principled engagement with the world**,” Cleveland said. The administration still faces stiff challenges, and its full effort in this area began in earnest more recently than it would seem, as several key appointments took time to fill, she said. “Despite the fact that the administration recently celebrated its first anniversary, the administration is still extremely young,” said Cleveland, who has been at her post for five months. “I’ve also now come to appreciate in a way that I could not have six months ago that it takes time to redirect the ship of state, and that it’s much more difficult to repair a system than it is to break it.” Cleveland said the new administration’s efforts in international law are best reflected in four areas: the law of 9/11, international justice, the country’s approach to treaties and international agreements, and human rights. “I would say that **the administration has articulated an Obama-Clinton doctrine, a vision that reflects commitments to four elements**,” Cleveland said. “**The first is multilateral engagement**. This was a consistent theme of the president’s campaign and has been a consistent theme of his first year in office.” **Other elements of the doctrine are universality, or the idea that all men are created equal, and the legitimating force of law, which suggests that law gives strength and legitimacy to government action. “Finally, these goals are to be achieved through a principled pragmatism and the exercise of smart power: the intelligent use of all means to our disposal, including diplomacy, promotion of democracy, development and human rights**,” Cleveland said. One of the main challenges facing the administration is the reformation of practices that emerged after Sept. 11, 2001, she said, including the closure of the prison at Guantanamo Bay and other international humanitarian questions. “As the president has observed himself, this area was just a mess, the product of a misguided experiment that set our principles aside as luxuries we could no longer afford,” she said. “If the last administration had responded to Sept. 11 consistently with international legal norms, the policies we are confronting would look different than they are.” She said the administration has been tasked with unwinding or ending practices that it would not have originally authorized, and is facing the difficulties involved in imposing legal constraints after questionable actions and policies had already been implemented. Elements of the president’s response have included ordering the prison at Guantanamo Bay closed, instructing the CIA to cease operation of any detention sites, and ordering that the International Committee of the Red Cross be given notice of and access to anyone detained in an armed conflict. “There are those who would say the Obama administration has not done enough, and the work is unquestionably ongoing,” Cleveland said. “But the fact of the matter is that for a scant 12 months, **these are not small achievements**. What might be appropriate with regard to a situation we did not create might not be appropriate with regard to what would be our future policy.” She also cited the administration’s efforts in the field of international justice, and said the country “has worked shoulder to shoulder with other countries to support accountability and end impunity for hauntingly brutal crimes in the former Yugoslavia, Sierra Leone, Lebanon and elsewhere.” Cleveland said the Obama administration has also made progress on one of the most difficult challenges any administration faces with regard to international law: getting congressional approval for international agreements. “We have in the United States an unusual constitutional arrangement that requires a supermajority of 67 senators in order to obtain the consent to ratification of a treaty,” she said. “Now the legal adviser, the dean of Yale Law School and a longstanding expert in international law, was confirmed with 62 votes in the Senate.” The vote illustrates the inherent difficulty of getting any international agreement approved in the form of a treaty, she said. “Now surprisingly, despite this, **in the past year the U.S. exchanged and deposited instruments of ratification on more international instruments than in any other year of U.S. history**,” Cleveland said. “This is not well known.” Finally, **the United States has made strides under the Obama administration in the realm of human rights**, she said. “**Notably, our decision at the beginning of the administration to join the U.N. Human Rights Council is an important element of that engagement,**” Cleveland said. “We are working for positive change there, not because we don’t see the council’s flaws, but because we recognize that multilateral institutions at their best leverage the efforts of many countries around a common purpose, and we believe that participating gives us the best chance to be a constructive influence.” While these are still the early days of the administration, the emerging Obama-Clinton doctrine is helping the country’s foreign policy better reflect national values, she said. “**This doctrine is based on the notion of international engagement, a commitment to multilateral diplomacy, a belief that smart power can achieve as much as hard power and most fundamentally, the view that global leadership flows to those who live their values, which make them stronger and safer.”**

***Their “now key” card just says that the status quo will boost UN legitimacy – Obama going through the UN on Syria solves***

Michale **Hirsh**, **9-24**-2013, “Why the United Nations Is Suddenly Relevant,” Defense One, http://www.defenseone.com/politics/2013/09/why-united-nations-suddenly-relevant/70738/?oref=d-skybox

But now **Russia has publicly committed itself to a U.N.-authorized dismantling of Syria's chemical** **weapons**—and **if Moscow follows through**, **that will achieve** the double victory of curtailing Assad's activities and **co-opting** an increasingly roguish **Russia** back, to some degree, **into the international system**. The fact is that, **as Obama is discovering** anew, **the Security Council remains the** main **repository for** international **legitimacy**—which is another way of saying it's the most effective way of getting other nations to ally with the United States. As we are finding out anew, **the *growing body* of U.N.** Security Council **resolutions is what gives American foreign-policy goals the heft of international law,** rather than the stigma of a diktat from Washington.

***Empirically Congress will block UN peacekeeping efforts—takes out their link turn***

**Holbrooke 05**

Richard Holbrooke was a professor at the Watson Institute for International Studies at Brown University and was a diplomat under four Presidents, Was Bosnia Worth It? <http://www.washingtonpost.com/wp-dyn/content/article/2005/07/18/AR2005071801329.html>

From 1991 to 1995 the United States had been reluctant to act in Bosnia. But after Srebrenica, President Bill **Clinton knew that although the American people would not like it, the United States could no longer avoid involvement there**. Thus began the diplomatic and military policy that led to the Dayton accords, to peace in Bosnia and, four years later, to the liberation of the Albanian people in Kosovo from Slobodan Milosevic's oppression. Sending 20,000 American troops to Bosnia as part of a NATO-led peacekeeping contingent to enforce Dayton took real political courage. There were widespread predictions that it would fail, and **there was opposition from most of Congres**s and the foreign policy elite. In a poll at the time, **Clinton's decision was supported by only 36 percent of the American public, who expected heavy U.S. casualties**. As it turned out, **that expectation was misplaced; in the 10 years since Dayton, no -- repeat, no -- American** or NATO military **personnel have been killed by hostile action in Bosnia**. It is a mark of the respect in which NATO -- that is, the United States -- is held. This was Clinton's most important action in regard to Europe -- an action opposed, incidentally, by most of his political advisers. **It was a classic commander-in-chief decision, made alone, without congressional support** and with only reluctant backing from the Pentagon. But it worked: Without those 20,000 troops, Bosnia would not have survived, 2 million refugees would still be wandering the face of Western Europe, a criminal state would be in power in Bosnia itself -- and we would probably have had to pursue Operation Enduring Freedom not only in Afghanistan but also in the deep ravines and dangerous hills of central Bosnia, where a shadowy organization we now know as al Qaeda was putting down roots that were removed by NATO after Dayton. Was Bosnia worth it? As we approach the 10th anniversary of Dayton, there should no longer be any debate. **Had we not intervened -- belatedly but decisively -- a disaster would have taken place with serious consequences for our national security and the war on terrorism**. **Dayton reasserted an American leadership role** in Europe after a period of drift and confusion. But the job is not yet finished, and it is encouraging to see President Bush and the new team at State recommit the nation, as they did last week at Srebrenica.

***Congress won’t cut-and-run --- Libya proves***

Tim **Fernholz**, March 22, 20**11**, National Journal, Congress Not Eager to Assert Power of Purse in Libya Operations, <http://www.nationaljournal.com/congress-not-eager-to-assert-power-of-purse-in-libya-operations-20110322>, jj

When President Obama proposed his 2012 budget, congressional Republicans were quick to criticize the spending increases included, even as they were busy hunting for cuts in 2011. But **when the president ordered the U.S. military to intervene in Libya’s civil war**, a decision that could end up costing billions, **the congressional leadership from both parties had little to say about the expense, preferring to let Obama make the decisions**. While a recess week and fast-moving events are partially to blame for Hill inactivity, **it’s a glaring example of the double standard between spending on defense and spending on anything else**. Though legislators from both parties have complained about the administration’s process in reaching decisions and lack of a clear endgame, **there is no clear consensus on what, if anything, Congress will do to use its power of the purse to limit the Libya campaign**. **The challenge is made especially difficult by the tensions, familiar to anti-war Democrats, between supporting troops in the field while disagreeing with policy decisions made in Washington.**

***AQIM is on the run—recent attacks are a sign of weakness not strength***

ADAM **NOSSITER, 9-24-’13**, New York Times, Increase in Jihadi Attacks in Africa May Reflect Movement’s Weakness, <http://www.nytimes.com/2013/09/25/world/africa/increase-in-jihadi-attacks-in-africa-may-reflect-movements-weakness.html?_r=0m> jj

As devastating as these **recent attacks** have been, they **may** actually **have more to do with the challenges confronting extremist groups than with any newfound jihadi strength in Africa, analysts contend**. In each instance, **these eruptions have occurred as radical Islamist movements were on the defensive, under threat by international, domestic or sometimes even local forces**. **Such bold assaults can therefore be read as flares in the night**, some analysts say — **the militants’ attempt to show that they are still out there**, and still capable of spilling blood. At the moment when they seem most menacing, ***the jihadists may in fact be on the run***. “**Movements that are retreating can** also **pull off big-time media splashes**,” said Jean-Pierre Filiu, a specialist at the Institute of Political Studies in Paris. Some analysts counter that the radical groups could simply be shifting tactics, positioning themselves for a new, stronger phase in the Islamist struggle — though they note that propaganda, rather than tactical gain, appears uppermost in the extremists’ thinking in these crises. But others argue that **weakness** — not just radical ideologies, loose borders and access to weapons — **could be another important factor behind these terror attacks scattered across a vast continent**. The deadly siege of a Nairobi shopping mall occurred after the Shabab, the radical Somali group that has claimed responsibility for the assault, were expelled from towns and territory they once controlled inside Somalia by Kenyan and African Union forces. “A weakened Shabab is a greater threat outside Somalia than a stronger Shabab,” wrote Ken Menkhaus, a specialist on the group at Davidson College. “**The Westgate attack is the latest sign of the group’s weakness**,” he said, referring to the Nairobi mall where the attack took place this weekend. “**It was a desperate, high-risk gamble by Shabab to reverse its prospects**.” That same logic was evident in the attack on the sprawling gas plant in the Algerian desert last January, in which 39 foreign hostages were killed. **France had begun its assault on the assortment of Islamist groups controlling northern Mali the week before, and was well into the process of evicting them from the region’s cities**. Even an Islamist military advance toward the Malian capital a week before that, which spurred the French incursion, came at a moment when the militants’ hold on northern Mali appeared threatened. Their harsh rule in the north was already provoking anger among the conquered Malians, who sometimes took to the street to express it. Similarly, militants attacked in Niger in May after the French campaign had dislodged them from their camps in Mali, and the jihadist fighters were scattered far and wide in the desert. **And in Nigeria, years of aggressive offensives by the army — particularly its recent four-month assault — appear to have pushed Boko Haram, the radical group waging war against the Nigeria state, out of its bastion of Maiduguri.** The group continues to fight back from the rural area surrounding the city, sometimes massacring civilians. The army uses similar tactics, killing large numbers of civilians and Boko Haram members alike. Some degree of cross-pollination between these groups may exist. For example, **a Boko Haram member may turn up in** Al Qaeda in the Islamic Maghreb, or **AQIM** — English was heard among the overlords who occupied Timbuktu last year. Algerians officials say some militants in the attack at the gas plant in Algeria also participated in the assault on the American diplomatic mission in Benghazi, Libya. **AQIM may train some Boko Haram members**, as some experts have asserted. ***But there is little to suggest grand cross-continental planning for specific operations, numerous analysts contend.***

***Their terminal impact (Jacobs) is from a far right Christian magazine talking about biblical prophecy – throw this out***

Cindy **Jacobs**, 4-13-**2011**, “Regional Conflict Could Spark World War III,” Charisma Magazine, http://www.charismamag.com/site-archives/570-news/featured-news/13249-regional-conflict-could-spark-world-war-iii

**Many people have been asking me to update them regarding** current events on several issues for which we have previously sent out alerts; notably, Egypt, a possible World War III, and Japan. In addition, there have been a number of **prophetic words** that seem to indicate that there is a very real threat of an earthquake on the west coast of America. Some of you might want to **review the prophetic word from the Apostolic Council of Prophets** that we sent out for 2011 (ACPE Word of the Lord 2011), **wherein we spoke of the potential for a regional escalating into a world war.** Considering this, I have felt the need to look at what is happening in the Middle East in the context of the ACPE word and report what could possibly transpire that might start a world war. I say possibly because I believe that **God warns his prophets so they can sound an alarm and call for intercessory prayer to avert what Satan might be trying to do.**

***Zero risk of Mid East war and it won’t go nuclear***

Judith **Miller 9/23**-‘13 is an award-winning writer and author. She is a Fox News contributor. September 23, 2013, Fox News, Don't expect a new Middle East war between the states, says Israel's Shimon Peres, <http://www.foxnews.com/opinion/2013/09/23/dont-expect-new-middle-east-war-between-states-says-israel-shimon-peres/>, jj

YALTA – **With the nuclear stand-off with Iran and Syrian chemical weapons still threatening the strife-torn Middle East, Israeli President** Shimon **Peres said he did not foresee a war between states erupting in the region any time soon**. Though he was speaking generally, and did not specifically mention either Israel or the United States, both of which have conducted military strikes against states seeking WMD and have threatened to carry out more strikes against Iran, Syria or others suspected of seeking unconventional weapons, Mr. Peres asserted that **military action was both increasingly costly and unlikely to resolve the challenges posed by terrorists or aggressive, authoritarian states.** “**I don’t foresee a war. It’s too expensive**,” he said, **referring to the cost not only in dollars but in human lives**. President Peres, who turned 90 this year, made his remarks at the 10th annual “Yalta European Strategy” conference in the Ukraine, known as “YES,” a political star-studded, two-day event sponsored by Victor Pinchuk, one of the Ukraine’s wealthiest businessmen and philanthropists. The two day meeting of more than 200 officials, former leaders, academics and analysts was held in Yalta this weekend as foreign officials and diplomats headed to New York for the annual meeting of the United Nations General Assembly. Diplomats said that Israel’s prime minister, Benjamin Netanyahu intended to warn the U.S. against signing accord with Teheran that would permit Iran to acquire a nuclear weapon, or improve its atomic weapons infrastructure, as North Korea did in 2005. Mr. Peres, approaching the end of his eventful life and waxing philosophically about the profound changes he has witnessed, said that **war’s soaring costs and decreasing payoff made it less attractive to state leaders, and hence less likely. “*There will not be another war***,” he said, “**because what can you win? Why spend hundreds of millions of dollars and cause thousands of deaths? For what?” Land, or “real estate,”** as he called it, **was becoming less important than science and “wisdom” in the competition among nations**. **The cost of such confrontations was escalating exponentially, with a single fighter jet, for instance, costing hundreds of millions of dollars, placing unsustainable burdens on national budgets**. “**I don’t foresee a war**,” he said more than once. “**It’s too expensive.” Nor did he see the use of a nuclear or other WMD between states**, he added. **After** the bombing of **Hiroshima**, he said, **a consensus had developed that nuclear, chemical, and biological weapons were too powerful to use.** **This explained why “we were so shocked” when the Syrians used chemical weapons and violated a ban that has become what he called “an accepted norm**.” He also questioned Iran’s assertion that its ambitious nuclear program was for purely peaceful purposes and that its state religion, Islam, forbade the development of nuclear weapons. If that were so, he said, “why build 6,000-kilometer, long-range missiles” capable of delivering them? He urged nations to monitor Iran’s atomic efforts carefully. The Iranians, he said, excelled at both making carpets, which requires attention to minute detail, and playing chess, which demands a firm grasp of strategy. But he declined to say the course he favored to persuade Teheran to comply with requirements of international inspectors and allay American and Western concerns about its nuclear intentions. Exploring other developments in his troubled region, he said he doubted that the upheavals which swept through the Arab Middle East two years ago had met the expectations of the Arab youth who helped foment them. “There is no Arab Spring,” he said. Egypt, the first Arab state to make peace with Israel over 30 years ago, faced particular national peril, he argued. The army had ousted Egypt’s elected Muslim Brotherhood government and its party’s president Mohammed Morsi, he said, because Egypt, whose land had never been divided, faced for the first time in its long history the potential loss of its Sinai Peninsula to terror. “The army took over because Morsi would not defend the integrity of the land,” Peres said. Moreover, the Muslim Brotherhood, which had been a powerful party in opposition, “had no plan to provide food, jobs, and hope” after it narrowly won a heavily contested free election two years ago. In the Midde East, young Arabs face world-wide competition for increasingly scarce jobs, so throughout the world, “young people are in revolt.” Fueled by a powerful mix of testosterone and technology, the Arab Spring protests were aimed at creating jobs, hope, and political space. Some 99 million of the Middle East’s 350 million Arabs were on line at their start, he said, a number that would grow to 200 million in the next few years, he added. More than 60 percent of the region’s inhabitants who are under 26 years old. “It may take them time to get organized, but the future is theirs.” **The winners in an increasingly globalized world would not be those with the most land**, said the president whose own land mass is among the smallest in the region, but the most creative, the best educated, and technologically productive. While terrorism remained a threat to the region’s stability and prosperity, he said, “**I can see the beginnings of a revolt against the terror” that has endangered the leadership and integrity of most Arab states**, he said. Mr. Peres, who often prides himself on his knowledge of and devotion to history, said that given the technological and scientific changes transforming the world, spending a lot of time teaching history was a “waste of time.” “**The future will not be a repetition of the past,**” he said. So “throw away Clausewitz.” **War**, he added, referring to a maxim of Carl von Clausewitz, a father of modern military strategy, **was no longer “an extension of politics by other means.”**

**Japan**

***US separation of powers changes not modeled internationally***

**Krotoszynski, 10** (Ronald J. Krotoszynski, Jr. – John S. Stone Chair and Director of Faculty Research and Professor of Law at the University of Alabama School of Law, 1/1, “The Shot (Not) Heard 'Round the World: Reconsidering the Perplexing U.S. Preoccupation with the Separation of Executive and Legislative Powers”, Boston College Law Review 51.1, http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=3103&context=bclr)

Clearly, then, the world’s rejection of the U.S. model of the proper separation of powers is far from total; instead, only the U.S. obsession with **prohibiting joint legislative and executive appointments has found** ***an indifferent audience***.138 Rather than resolving the question, however, it only makes the problem more confounding: even though U.S. concerns with separation of powers are widely shared in other democratic republics, **the specific U.S. concern with** the **conflation of legislative and executive power** has ***failed to gain any traction***, **not only in places like France or Germany, but** also **in neighboring** common law **jurisdictions** **like Canada**.139 It is difficult to offer any firm answers for the failure of separation of legislative and executive powers to catch the imagination of other polities. That said, I offer a few preliminary ob-servations about why the **separation of legislative and executive powers**, a concern with such salience in the United States, **represents a** kind of “***shot (not) heard ’round the world***.”

***No one cites the US for anything---there are too many other countries to look to---but the status quo solves their impacts because other countries reject excessive Presidentialism now***

Mila **Versteeg 13**, Associate Professor at the University of Virginia School of Law. Model, Resource, or Outlier? What Effect Has the U.S. Constitution Had on the Recently Adopted Constitutions of Other Nations?, 29 May 2013, www.heritage.org/research/lecture/2013/05/model-resource-or-outlier-what-effect-has-the-us-constitution-had-on-the-recently-adopted-constitutions-of-other-nations

Unsurprisingly, attempting to gauge one constitution’s “influence” on another involves various conceptual and methodological challenges. To illustrate, a highly generic constitution may be generic because others have followed its lead, because it has modeled others, or simply by coincidence. That said, **if two constitutions are becoming increasingly dissimilar,** by definition, **one cannot be following the other**. That is, **neither is exerting influence on the other** (at least not in a positive way).

This is the phenomenon we observed in comparing the U.S. Constitution to the rest of the world; based on the rights index, **the U.S. has become less similar to the world since 1946 and**, with a current index of 0.30, **is less similar now than at any point** during the studied period. **This** phenomenon **has occurred even among** current **American allies**; among countries **in regions with** close cultural and **historic ties to the U.S. (namely, Latin America and Western Europe);** and among democracies. Only among common law countries is constitutional similarity higher than it was after World War II, but even that similarity has decreased since the 1960s.

**Rights provisions are not the only** constitutional **elements that have lost favor with the rest of the world**; ***structural provisions*** **pioneered by American constitutionalism—such as federalism, *presidentialism*, and judicial review—have also been losing their global appeal.**

For instance, **in the early 20th century, 22 percent of constitutions provided for federalistic systems, while today, just 12 percent do.**

A similar trend has occurred for presidentialism, another American innovation. Since the end of World War II, **the *percentage of countries employing purely presidential systems has declined***, **mainly in favor of mixed systems,** which were a favorite of former Soviet bloc countries.

Finally, though judicial review is not mentioned in the U.S. Constitution, it has proved the most popular American structural innovation. But **though the popularity of judicial review** in general **has exploded** over the past six decades, ***most countries have opted for the European style of review*** (**which designates a single, constitutional court which alone has the power to nullify laws inconsistent with the constitution**) ***over the American model*** (**in which all courts are empowered to strike unconstitutional laws**). **In 1946, over 80 percent of countries exercised American-style** constitutional **review;** **today, fewer than half do.**

Reasons for the Decline

It appears that **several factors are driving the U.S. Constitution’s increasing atypicality**. First, while in 2006 the average national constitutions contained 34 rights (of the 60 we identify), the U.S. Constitution contains relatively few—just 21—and the rights it does contain are often themselves atypical.

Just one-third of constitutions provide for church and state separation, as does the U.S. Establishment Clause, and only 2 percent of constitutions (including, e.g., Mexico and Guatemala) contain a “right to bear arms.” Conversely, **the U.S. Constitution omits** some of **the most globally popular rights, such as women’s rights, the right to social security, the right to food, and the right to health care.**

These **peculiarities, together with the fact that the U.S. Constitution is** both **old and particularly hard to amend**, **have led some to characterize the Constitution as simply antiquated** or obsolete.

***No modeling or precedent—self-interest outweighs***

Victor Davis **Hanson**, editor, National Review Online, 9/20/**02**, <http://nationalreview.com/hanson/hanson092002.asp>

**But won't we set a bad precedent? Maybe India or Russia will do the same? This is the current conventional wisdom repeated ad nauseam**. ***But Russia went into Chechnya regardless of our wishes or example***. **And India will make a decision to act on the basis of its own self-interest, not whether they can cite "precedent" on the part of the United States**. **Strong nations evaluate** their **options from calculations of self-preservation and morality** — **choices not necessarily predicated on what the *U*nited *S*tates must do to ensure its own security**. The invasion of Iraq will have a deleterious effect on world peace only if it is seen as gratuitous or unnecessary — and neither presently happens to be true. So the danger is not preemption per se, but bellicosity for no good reason. **We must get away from stereotyped generalizations and look at specifics**. **Being inactive in the face of unprovoked attacks on Americans** — the Iranian embassy takeover and the Marine barracks bombing are good examples — **can establish precedents just as pernicious**. In that regard, President Carter's restraint in 1980, in combination with a failed raid, was a far more dangerous act than President Reagan's bombing of Libya — and makes his present moral objections to preempting Saddam as disturbing as they are hypocritical.

***No Senkaku war – trade***

**Beauchamp 2/7/2014** (Zach, Editor of TP Ideas and a reporter for ThinkProgress.org. He previously contributed to Andrew Sullivan’s The Dish at Newsweek/Daily Beast, and has also written for Foreign Policy and Tablet magazines. Zack holds B.A.s in Philosophy and Political Science from Brown University and an M.Sc in International Relations from the London School of Economics. “Why Everyone Needs to Stop Freaking Out About War With China”. Think Progress. <http://thinkprogress.org/world/2014/02/07/3222021/china-japan-war/>) [nagel]

It’s wrong to talk about incentives to go war in purely military terms. **A key component of the Senkaku/Diaoyou is economic**: the islands contain [a ton of natural resources](http://www.bbc.co.uk/news/world-asia-pacific-11341139), particularly oil and gas. But **far more valuable are the trade ties between the two countries. China is Japan’s largest export market**, so war would hurt Japan more than China, but[**it’d be pretty painful for both**](http://online.wsj.com/news/articles/SB10001424052970203406404578072174179491296). Proponents of the World War I parallel find a lot to criticize about this point. They like to cite Norman Angell, a pre-World War I international relations theorist [famous](http://www.gutenberg.org/files/38535/38535-h/38535-h.htm) for [arguing](http://www.gutenberg.org/files/38535/38535-h/38535-h.htm) that war was becoming economically obsolete. Angell is now often used interchangeably with Dr. Pangloss in international relations talk, a symbol of optimism gone analytically awry. But Angell gets a bad rap. He [didn’t actually say war was impossible](http://warontherocks.com/2014/01/disillusioned-by-the-great-illusion-the-outbreak-of-great-war/); he merely claimed that it no longer was worth the cost (if you remember the aftermath of World War I, he was right about that). The real upshot of Angell’s argument is that, unless there’s some other overwhelming reason to go to war, **mutually profitable trade ties will serve as a strong deterrent to war**. **Despite a year of heated rhetoric and economic tensions** over the Senkaku/Diaoyu dispute, **bilateral trade has been recovering nicely** of late. Angell may have been wrong about Europe, but he’s probably right about East Asia. M.G. **Koo**, a political scientist at Chung-Ang University, **surveyed several Senkaku-Diaoyu flareups between 1969 and 2009.** He [found](http://books.google.com/books?id=8Ac9hLAES18C&pg=PA102&lpg=PA102&dq=The+Senkaku/Diaoyu+dispute+and+Sino-Japanese+political-economic+relations:+cold+politics+and+hot+economics?&source=bl&ots=sa0ajJdDA9&sig=8I2xtqo8eofwQ3jczsumw2cnFJM&hl=en&sa=X&ei=M5rqUtHKEIuksQTZtoDgCQ&ved=0CGYQ6AEwBg#v=onepage&q=The%20Senkaku%2FDiaoyu%20dispute%20and%20Sino-Japanese%20political-economic%20relations%3A%20cold%20politics%20and%20hot%20economics%3F&f=false) that **economic ties between the two countries played an increasingly large role in defusing tensions as the trade relationship between the two countries deepened**. The 1978 crisis over the islands is a good example. Bilateral trade had grown substantially since the end of the last big dispute (1972), but they had entered into a new phase after Chinese Premier Deng Xiaoping’s economic reforms began in 1978. A key part of the early modernization plan was the Peace and Friendship Treaty (PFT) with Japan, a [diplomatic treaty](http://books.google.com/books?id=2QmCAAAAQBAJ&pg=PA47&lpg=PA47&dq=pft+china+japan&source=bl&ots=cBx7swmYd2&sig=aS4SNl5D3TNnHM11BSZbbu6bN1U&hl=en&sa=X&ei=9gvwUtfYNofKsQSV5oLgDA&ved=0CCkQ6AEwAA#v=onepage&q=pft%20china%20japan&f=false) that (among other things) “facilitated a rush of Japanese firms into the Chinese market.” According to Koo, “**policy circles in China and Japan” had “increasingly recognized that the [Senkaku/Diaoyu] sovereignty issue could possibly jeopardize the PFT negotiations, thus undermining economic gains.” The leadership tamped down tensions** and, afterwards, “**shelving territorial claims for economic development seemingly became the two countries’ diplomatic leitmotif** in the treatment of the island dispute.” **There’s reason to believe today’s China and Japan aren’t bucking the historical pattern**. Despite a year of heated rhetoric and economic tensions over the Senkaku/Diaoyu dispute, **bilateral trade has** [**been recovering nicely**](http://qz.com/163836/the-china-japan-trade-war-is-pretty-much-over-for-now/#/h/38673,1,38674,1,2,3/) **of late.** Quartz’s Matt Phillips, looking over the numbers, concluded that “the China-Japan trade war is pretty much over.” Sure, Chinese business leaders are making some [nationalistic noises](http://www.telegraph.co.uk/finance/china-business/10560302/Majority-of-Chinese-business-leaders-unwilling-to-trade-with-Japan-amid-tensions.html), but Phillips points out that **the “lack of mass, nationalistic protests in China suggests the powers-that-be have decided there’s no need for that to hurt an important business relationship.” *Trade really does appear to be calming the waves in the East China Sea.***

***It wouldn’t go nuclear***

**Park 12** (Sungtae, Security Policy Studies @ GWU, Also written articles for the CSIS, “Limits of China-Japan Tension Over the Senkaku/Diaoyu Islands”)

There are also logistical reasons why a war over the Senkaku/Diaoyu Islands is unlikely. **It is generally believed that neither China nor Japan at the moment has the military capability to wage a full-scale conventional war** against the other. If China and Japan were to fight a war, the initial fighting would take place on water. **The Chinese navy is mainly oriented towards coastal defense** and does not have effective naval capabilities to project its power beyond the so-called “first island chain.” **The Senkaku/Diaoyu Islands are part of the first island** **chain**, but the Chinese military would have to stretch its naval capability to the limit in order to fight a war at that point. **Even China’s on-going naval modernization is primarily for defensive purposes**. The Japanese navy, on the other hand, does have some capability to project its power, but it is very limited. **The Japanese military also does not have** adequate **ground forces to conduct fighting on the Chinese mainland**. Even if violence breaks out, ***such a conflict would be very limited in scope*** ***and is highly unlikely that it would turn into a general war or escalate to a nuclear conflict.***

# 2NC

**UN**

**2NC / 1NR --- Solvency**

***Executive authority over use of force causes huge blowback against the UN***

**Stromseth 95** – Jane E. Stromseth, Associate Professor of Law at the Georgetown University Law Center, “Collective Force and Constitutional Responsibility: War Powers in the Post-Cold War Era”, University of Miami, October, 50 U. Miami L. Rev. 145, Lexis

IV. Conclusion

**If Somalia and Haiti are any guide, we can expect to see several trends at work when the *U***nited ***S***tates **participates in U.N.-authorized military operations** in the years ahead. First, **Congress will scrutinize the objectives** of future U.N. operations **closely, and will demand a detailed, ongoing account** of their goals, costs, and benefits. **Even if the President acts unilaterally** in deploying U.S. forces, **the anticipated congressional scrutiny** that is ***sure to follow* will have *significant constraining effects***. In Haiti, for example, the Clinton Administration deliberately tailored the objectives for U.S. forces narrowly, insisted that a U.S. general be placed in charge of the second phase of the operation, and did a better job than in Somalia of anticipating the challenges involved in making the transition to a U.N.-led operation. In Rwanda, the Administration held back from making any substantial force deployment and opted for a very limited and short-term humanitarian role. More generally, the Administration has taken a cautious stance in the Security Council in voting for and shaping the mandate of future peacekeeping operations.

Second, **Congress will *use its power of the purse more aggressively* not only to limit U.S. contributions to peacekeeping in general, but also to limit U.S. involvement in ongoing conflicts, as in Somalia**. In the case of Rwanda, for example, Congress made sure that the President's decision to deploy U.S. forces on a limited humanitarian mission would not lead to another Somalia by imposing a funding cut-off and stipulating [\*180] that any change in the U.S. mission from one of strict refugee relief to "peace-enforcing" or "nation-building" not be implemented without the approval of Congress. n159 By virtue of its power of the purse, the **Congress ultimately cannot avoid taking a stand when** American **forces are deployed in U.N.** peacekeeping or peace enforcement **operations**.

Third, in situations involving delicate diplomacy and ongoing efforts to resolve a conflict peacefully, as in Haiti, Congress will be reluctant to impose binding prospective limits on the President's military options. This reflects a well-founded concern about undermining the President's ability to engage in coercive diplomacy in a fluid and flexible manner. If the President fails to pursue a coherent and well-articulated policy, however, Congress will step in to fill the policy vacuum, as it did toward the end of the Somalia operation.

In the end, the United States Congress, despite its newfound assertiveness, will continue to look to the President to play the leading role in shaping U.S. foreign policy goals for the post-Cold War period. Regardless of who is in the White House, one goal of U.S. foreign policy should be to strengthen the United Nations as a valuable instrument for conflict resolution. Yet because Congress is becoming more willing to challenge the President's foreign policy choices (at least in cases that do not involve threats to core U.S. security interests), the importance of sharing responsibility for decisions to send U.S. forces into hostile situations in U.N.-authorized military operations is increasing.

In the years ahead, a continuation of the Cold War "tacit deal" in the U.N. context would deprive the American people of full deliberation by both the executive and legislative branches before American forces are placed in harm's way. **A failure to secure and sustain strong domestic support for American involvement in U.N. operations** also **would leave American policy especially vulnerable to sudden reversal by Congress, which could *undermine U.S. credibility among*** both our ***allies and*** our ***adversaries, and erode the U***nited ***N***ation***'s ability to respond effectively to*** the ***conflict*** at hand. **Building** a **domestic consensus** in favor of American military involvement in U.N. operations often **will not be easy. But if Presidents choose to remain on *executive-power autopilot*, they risk *unleashing a congressional counterreaction* that could** ultimately **harm America's ability to maintain** a posture of **constructive international engagement** in the challenging times ahead.

***CP prevents unilateral war better than the plan, but allows participation in vital UN operations—the Security Council is comparatively less likely to be circumvented and solves groupthink better***

**Franck & Patel, 91** [THOMAS M. FRANCK AND FAIZA PATEL \*, \* Professor Franck is Editor in Chief of this Journal. Faiza Patel is a Fellow of the Center for International Studies, New York University School of Law., American Journal of International Law, January, 1991, 85 A.J.I.L. 63, ARTICLE: THE GULF CRISIS IN INTERNATIONAL AND FOREIGN RELATIONS LAW: UN POLICE ACTION IN LIEU OF WAR: "THE OLD ORDER CHANGETH", Lexis, jj]

**The United Nations is the most ambitious organic entity ever created by states. Its central purpose is to replace the outmoded, dangerous national self-reliance on unilateral force with a workable global police system, capable of protecting the weak against the strong and of responding, quickly, with levels of force appropriate to a specific circumstance of lawlessness**. It was thought at one time that the [\*74] force to carry out this policing function would be dedicated to the system by agreements between member states and the Security Council. This avenue has not been pursued, although it still may be. Meanwhile, the system has evolved a viable alternative, within the terms of its Charter, that permits the Council to authorize states to join in a police force ad hoc, instance by instance. It did so in Korea and it has done so again in connection with Iraq's invasion of Kuwait.

That police force must continue to operate under the general guidance of the Security Council for as long as the Council is able to exercise its supervisory role. For U.S. **hawks**, this meant that they **had to await the Council's consent before the United States could take offensive military action in the gulf. It also limits the purposes to which force may be directed**.

Implementing the new police power, however, also curbs the power of the doves in Congress. While the President was no doubt politically well-advised to consult fully with Congress in this instance, time allowing, he is not obliged to secure what the new system was created to make unnecessary: the nation's unilateral decision to go to war.

If **this** is the correct **position** in international law, it also **comports with the intent of the drafters of the Constitution**. **The purpose of the war-declaring clause was to ensure that this fateful decision did not rest with a single person**. ***The new system vests that responsibility in the Security Council, a body where the most divergent interests and perspectives of humanity are represented and where five of fifteen members have a veto power. This Council is far less likely to be stampeded by combat fever than is Congress.***

**The UN system seems politically to be developing the capacity to substitute police enforcement for vigilante violence**. This opinion may be too optimistic; but when, in our lifetime, have realism and optimism looked so much alike? **Now, surely, is the time to embrace, to encourage, the new policing system before settling forever for sovereign wars of self-proclaimed self-defense. Both hawks and doves, for now, should fold their wings and quietly await the change of seasons.**

***Even if prior congressional approval isn’t required, the president will still have incentives to consult and cooperate with Congress --- but, the plan’s encroachment on war powers hampers U.N. effectiveness***

John J. **Kavanagh**, Boston College International and Comparative Law Review, Winter, 19**97**, 20 B.C. Int'l & Comp. L. Rev. 159, U.S. War Powers and the United Nations Security Council, Lexis, jj

**The United Nations, while rightfully disparaged for its ineffectiveness on many global issues, has made a positive contribution for peace** [\*186] **and security by outlawing war and establishing a collective security system** under Chapter VII of the U.N. Charter. **The United States has been able to use the U.N. system to its advantage in Korea, the Persian Gulf and Haiti by pulling together member states to contribute forces for international police actions while fulfilling U.S. foreign policy objectives at the same time**. The relative success of this ad hoc collective security system has demonstrated that a more formal system under Article 43, with national forces set aside for Security Council duty, is unnecessary. **The current informal system also avoids the constitutional complications of the Article 43 system by allowing the President to retain his role as Commander in Chief of U.S. forces**. **This arrangement preserves freedom of action and permits the United States to decline involvement in conflicts where a vital national interest is not at stake.**

**While the congressional power to declare war has been rendered obsolete under the U.N. system and the WPR represents a failed attempt to encroach upon the President's right to conduct foreign policy**, Congress has an important supporting role to play in foreign affairs. Congress should abolish the controversial and procedurally complex WPR and instead exercise its influence in foreign affairs through its power of the purse. As the prospects for the long term success of initiatives often turn on the dependability of financial and political support from Congress, **the President will continue to have a strong interest in consultations and cooperation**. **The balance of power that the Founding Fathers envisioned thus continues to be maintained in the post-Cold War collective security system.**

***The president empirically consults with Congress on UN interventions***

Don **Pesci ‘11**, Works at various Connecticut newspapers, Attended Western Connecticut State University, 3-22-11, Connecticut Political Reporter, <http://connecticutpoliticalreporter.blogspot.com/2011/03/libya-connecticuts-congressional.html>, jj

Since its passage in 1973, **presidents have drafted reports to congress when appropriate stating that a commitment of troops to a live war theatre is “consistent with” the War Powers Act, thus satisfying the executive department position that the congressional resolution is unconstitutional**. **Since passage of the resolution, presidents have submitted 118 reports to congress**. However constitutionally defective The War Powers Act may be, **the congressional instrument has been fairly effective when invoked in requiring the president to keep congress in the loop whenever when troops are sent to various hot spots in the world to do the bidding of, say, the United Nations.**

***Consultation solves – the 1AC: --- doesn’t say veto is key --- this is the card with their 6 warrants***

**Plan locks in prior authorization for U.S. participation in UN operations---builds support and solves funding and management shortfalls that deck UN effectiveness**

**McGuinness 9** – Margaret E. McGuinness, Associate Professor at the University of Missouri Law School, “The President, Congress and The Security Council: Counterterrorism And The Use Of Force Through The Internationalist Lens”, Willamette Law Review, 45 Willamette L. Rev. 417, Spring, Lexis

A. The Value of More Explicit Ex Ante Congressional Involvement in U.S./U.N. Counterterrorism Measures

A shift in thinking toward involving the United States Congress in a more **formal method** of ex ante internal consultation on U.S. activities at the U.N. Security Council would have several salutary effects. First, it would reinforce and solidify the acceptance of U.N. Security Council substantive norms within the U.S. legal and political system. Second, it would create opportunities for **capacity building** within the U.N. Security Council on the question of parliamentary and legislative participation (which itself is an important dimension of the comprehensive counterterrorism policy, as well as important to addressing the democracy gap). This, in turn, has the potential to influence efforts to increase democratic accountability of other member states. Third, increased involvement of the U.S. Congress can also influence **accountability** and **coordination** of other transnational actors (in particular NGOs) who can "game" the accountability gap at the international and domestic level. Fourth, it may **increase "buy-in"** by the U.S. through Congress's power of the purse. The **U**nited **S**tates provides 25% of the **U**nited **N**ations' peacekeeping budget and already provides important outside accountability for management problems at the U.N. n134 Increased consultation can serve to **sharpen those processes** by providing early congressional input into the form and financing of particular U.N. measures.

Moreover, democratically grounded participation in U.N. counterterrorism policies will enable the United States to demonstrate its commitment to protection of human rights as consistent with counterterrorism policy. The U.N. Charter balances the mandate of maintaining peace and security with the mandate to uphold human rights and human dignity. n135 By recognizing that counterterrorism policy implicates the dual pillars of the U.N. Charter, the United States will go a long way in addressing the concerns of the human rights community regarding particular past national policies (e.g., [\*448] communications monitoring, creation of watch lists, and administrative or preventative detention). n136 Terrorist groups are allied against the universality of human rights espoused by the U.N. Charter and the central human rights instruments of the human rights system. n137 By working within that system to correct its problems and support its infrastructure, the United States will create a more effective bulwark against the nihilist ideologies of those terrorist and jihadist groups.

Finally, the strongest argument for more robust and ongoing congressional participation in Council military activities is that failure to secure and sustain strong domestic support for American involvement in U.N. operations would leave U.S. counterterrorism policy **especially vulnerable to sudden reversal** by Congress - and potentially also by the courts.Wobensmith While building a consensus in support of particular policies is not easy, Congress can serve as an **early warning** for programs that raise particular domestic constitutional or human rights concerns. Congressional backlash that can occur when consultation does not take place can be costly. n139 Judicial reversal, as with the Kadi case in Europe, is also costly to the effectiveness of Council measures. **Adding more voices** to the process **before** detailed enforcement measures are put in place may be one way to avoid these reversals.

 [\*449] There is of course, one significant cost to congressional participation in U.S. counterterrorism policies at the U.N.: the risk that Congress may block the President's preferred policy. The cost of obstruction of policies that are central to the security of the American people was cited by the Bush administration as a rationale for working around Congress, applying signing statements that restricted the effect of legislation in the area of national security, and invoking radical theories of presidential power in order to ignore statutory prohibitions against certain measures (including the use of torture). n140 That internally unilateralist approach created significant international ripples which were costly to the U.S.. While it is difficult to measure whether those costs outweigh any claimed security benefits gained through the policies (that judgment may belong only to history), it is clear that the United States' reputation for compliance with international human rights and humanitarian legal norms has been significantly harmed. Moreover, congressional objection to a particular U.N. policy that is made prior to U.S. support or votes at the Council can lead to ongoing negotiation over the form and content of the policy. After-the-fact objections, by contrast, may lead to congressionally imposed reversals that may prove more costly to the President.

**2NC / 1NR --- NB Link**

***Centralized war powers key --- president need to be able to act quickly and decisively through the U.S. delegate to the U.N.***

**Linn ‘2k**, Alexander C. Linn, William & Mary Bill of Rights Journal¶ April, 2000¶ 8 Wm. & Mary Bill of Rts. J. 725, NOTE: INTERNATIONAL SECURITY AND THE WAR POWERS RESOLUTION, Lexis, jj

**In recent history, the authority to commit U.S. troops to theaters of conflict has shifted from Congress to the President**. After the Vietnam War, the War Powers Resolution was written to reestablish balanced authority over war between the political branches of government. **In the post-Cold War era, forces frequently are deployed as part of multilateral U.N. operations. This trend creates two contradictory needs: first, the need for the Executive to be able to act swiftly and decisively in formulating military commitments to the United Nations, and second, the need for Congress to authorize potentially long-term military deployments.** To reconcile these contradictory needs, the President should be required to consult with a small group of key congressional actors before committing U.S. troops to multilateral U.N. military operations. There are both legal and security rationales for this. Centrally, Executive-congressional consultation re-solidifies the constitutional allocation of war powers and may bolster U.S. credibility in multilateral operations.¶ Introduction¶ The disintegration of Cold War bipolarity fundamentally has altered the dynamics of international security. As centrifugal political forces unleash new threats to international politics, policymakers devise new solutions from existing paradigms of diplomatic and strategic thought. **The end of the Cold War and the construction of the** United Nations ("**U.N.") as a framework for bolstering world security through multilateral military initiatives have each contributed to a new debate about the constitutionality of the American Executive's ability to deploy military force independent of congressional authorization**. n1¶ **American military deployments are increasingly part of a multilateral U.N. Security Council** ("Security Council") **effort to counter threats to international security and human rights**. n2 Arguably, ***this creates a mandate for a greater centralization of the war power*** n3 ***in the Executive, with authority to act swiftly and*** [\*726] ***decisively through the American delegate to the U.N***. n4 Such an argument seeks to expand executive authority in military affairs by relying on the President's constitutional role as "Commander in Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual Service of the United States." n5 Alternatively, the trend towards multilateral U.N. military actions may bolster the mandate for Congress to assert a stronger role in the use of the U.S. military to pursue U.N. objectives. If American military involvement is challenged by congressional discontent or even by congressional approval when approval comes too slowly to give certainty to American commitments, the commitment to protect international security may prove unenforceable when the Security Council decides to counter a belligerent state,. This argument seeks to expand legislative authority in military affairs by relying on the legislature's constitutional power to declare war and maintain military forces. n6 Arguably, a swift framework for assessing legislative approval would enhance international security by allowing for a more rapid deployment.

***Congressional control prevents US participation in humanitarian interventions --- history and psychological research prove***

RICHARD **HANANIA**, University of Chicago Law School, HUMANITARIAN INTERVENTION AND THE WAR POWERS DEBATE, (20**12**)J.JURIS 47, <http://www.jurisprudence.com.au/juris13/Hanania.pdf>, jj

IV.UPDATING THE WAR POWERS ANALYSIS

Any discussion on whether a system of war powers works on a functional level has ¶ to begin by specifying what the goals the system should seek are. With the ¶ exception of Schlesinger, all war powers scholars have assumed that the United ¶ States government acts as a realist power, simply trying to maximize its own power ¶ and the well-being of its citizens.306 As this is, at most, only partly true, **this Part** ¶ **clarifies what the results of giving the war powers back to Congress would mean** ¶ **for humanitarian intervention**. I begin by laying out the theoretical model in Part ¶ IV.A. Part IV.B spells out what the model would predict regarding humanitarian ¶ intervention. Finally, Part IV.C investigates public opinion and congressional and ¶ presidential action in the three humanitarian interventions reviewed in Part III. We ¶ find that in each case the president was more willing to use force to stop atrocities ¶ than Congress was, and this was generally true for the reasons predicted by the ¶ model.

A. Theoretical Model

**Recent history has shown that presidents have been more willing to engage in** ¶ **humanitarian intervention than Congress**. Here, I present a model that explains ¶ why, in the form of the five empirical claims on which it is based. **First of all, we** ¶ **see that the public weakly supports humanitarian intervention**. **Thus, in a system** ¶ **where intensity of preferences to a great extent determines the political pressure** ¶ **leaders face to act in certain ways, there will be little pressure for these kinds of** ¶ **wars. On the other hand, the second premise of the model assumes that political** ¶ **leaders seek approbation for their actions. This fact, when combined with the** ¶ **weak public preference for humanitarian intervention, indicates that American** ¶ **leaders will occasionally face sufficient incentives to engage in humanitarian wars**. ¶ **The final three premises explain why the executive is more inclined than the** ¶ **legislature to engage in humanitarian interventions. Individual congressmen face a** ¶ **collective action problem in receiving approbation for intervening in the affairs of** ¶ **other states in order to save lives**.307 **Any accolades and honors that Congress can** ¶ **be expected to receive for acting humanely would be shared with the institution as** ¶ **a whole, while any legislature who began championing humanitarian intervention** ¶ **would bear a disproportionate amount of the costs**. **A legislature’s opportunity** ¶ **cost of advocating humanitarian intervention might be delivering on a local** ¶ **project, the kind of legislative act for which constituents are more likely to give a** ¶ **congressman credit**.308

**Fourth**, we may believe that leaders genuinely care about foreigners killed by their ¶ own governments. **An executive will feel stronger psychological pressures to act** ¶ **when facing these kinds of tragedies, since individual legislatures are able to engage** ¶ **in a sort of psychological buck passing.** **There is historical evidence suggesting that** ¶ **presidents and others in the executive branch feel psychological pressure to act to** ¶ **stop atrocities overseas**,309 as **well as psychological literature indicating that** ¶ **individuals are less inclined to help others when they see bystanders in the same** ¶ **position to act behaving passively**. **Finally, even if a majority of Congress wants to** ¶ **undertake a humanitarian intervention and overcomes all the issues already** ¶ **mentioned, it may not be able to come to an agreement about the proper course to** ¶ **take**. This is different from the situation in a war fought in self-defense, where ¶ such issues are thought of as tactical and within the proper domain of executive ¶ power.

***1. The Public Weakly Supports Humanitarian Intervention***

**As foreign events generally have less of an influence on the public than domestic** ¶ **events, we would expect Americans to have less knowledge about what goes on** ¶ **overseas, as well as relatively weaker opinions on foreign policy**. This is indeed ¶ what we find.310 Those who oppose humanitarian intervention should not do so ¶ strongly, because the financial costs are distributed across society, rather than paid ¶ by a concentrated group with much to lose.311 At the same time, **Americans who** ¶ **support humanitarian intervention may not lobby all that effectively for their** ¶ **preferences because they do not financially gain from such wars**. How strong their¶ preferences are, however, is an empirical question.

It is possible that some foreigners would be able to make effective lobbyists, since ¶ they would be seeking concentrated benefits and the costs of military action are ¶ widely distributed across society.312 Indeed, scholars have made arguments that ¶ certain foreign lobbies have too much influence on the issues they care about.313¶ Yet these lobbies tend to be from groups that are relatively well-off by ¶ international standards, rather than being composed of groups that are subject to ¶ humanitarian atrocities in areas with little strategic interest to the United States. ¶ **There is no known “Somali lobby” or “Tutsi lobby**.” So while there may be groups ¶ who would have much to gain by lobbying Congress for the concentrated benefit ¶ of not being murdered, **the fact that they are in the position of being killed en masse**¶ **in the first place—even setting aside issues of language and cultural difficulties and** ¶ **distance—indicates that they would be in no position to make effective lobbyists.**

Humanitarian intervention is extremely popular among the American public. ¶ Polling has shown that between just under two-thirds to 83 percent of the ¶ American population believes that the United States should act to prevent ¶ atrocities committed by governments against their own people, at least as a general ¶ proposition.314 However, there are good reasons to believe that that **popularity** ¶ **does not translate into Congress taking steps to enact these preferences**, and much ¶ depends on the way the question is framed. In 2005, Eichenberg reviewed polling ¶ data on American attitudes towards foreign intervention. He found a difference in ¶ political support for humanitarian and peacekeeping missions, even when ¶ pertaining to the same conflict.315 For example, a survey question that asks whether ¶ the United States should participate in “stopping the fighting” in Rwanda is ¶ classified as a peacekeeping question, while one that asks whether the United ¶ States should simply deliver food aid is classified as gauging the public’s attitude ¶ on a humanitarian intervention.316 He finds that “support for almost any question ¶ that mentions peacekeeping is generally low and very stable”317 and “[o]verall ¶ public support does indeed vary with the purpose of the mission: support for ¶ traditional ‘realpolitik’ missions is generally higher than for ‘interventionist,’ ¶ humanitarian missions.”318 Surveyors have taken the humanitarian ¶ intervention/peacekeeping distinction into account and now often mention that ¶ Americans might become involved in the fighting when soliciting opinions on ¶ potential humanitarian interventions.

Western shows that public support for humanitarian intervention is a “permissive” ¶ condition; the American people support humanitarian interventions, but will not ¶ “demand” that their government carry them out. Nor will they penalize leaders for ¶ refusing to act.319 For example, the pressure to intervene in Somalia came from ¶ government bureaucrats and NGOs rather than the general public, and **the** ¶ **Clinton administration suffered no discernable political costs for ignoring the mass** ¶ **killings in Rwanda**.320 Jentleson and Britten note that “[**t]here is no standing** ¶ **constituency for using military force**, but there is also not an overwhelming ¶ blocking group.”321 **This argument is consistent with the finding that the public is** ¶ **relatively indifferent towards foreign policy**.322 **Another caveat that must be added** ¶ **is that the public will prefer just about any alternative to military force to deal with** ¶ **a problem**.323

**Thus, we can predict that American leaders will be passive in the face of** ¶ **humanitarian tragedies**. **This is indeed what we find**, and it is precisely this ¶ criticism of selectivity that critics of American policy point to.324 Still, there is a ¶ countervailing force pushing policy makers in the opposite direction. This is the ¶ second assumption of the model, and it explains the fact that we do actually see ¶ some humanitarian interventions in practice.

***2. Politicians Seek Approbation, Especially from the Elite***

Cowen and Sutter have constructed a model in which **presidents seek fame**, ¶ defined as “approbation at a national or global level.”325 The **Founders understood** ¶ **this motivation**, believing that war brings glory to the executive, making it the ¶ branch too eager to initiate hostilities.326 Jay reflected on the reasons that absolute ¶ monarchs made war, among them “purposes and objects merely personal, such as ¶ a thirst for military glory, revenge for personal affronts, [or] ambition.”327 Madison ¶ argued that in war, “laurels are to be gathered; and it is the executive brow they are ¶ to encircle.”328 In modern terms, **one manifestation of the executive desire for** ¶ **glory takes the form of presidents being concerned about their legacies**.329 Today, ¶ of course, glory does not come from being a great conqueror, but acting in ways ¶ that win approbation in the modern world.330

A corollary of this assumption is that **leaders will be especially concerned about** ¶ **how they are viewed by other elites, both during their term and after they retire**. ¶ Members of the elite will write the history books, decide whether future ¶ catastrophes are blamed on this administration or the next, and collectively decide ¶ what a leader’s legacy will be. **Humanitarian intervention in particular has wide** ¶ **acceptance among the modern Western establishment**.331 This reflects the fact that ¶ the contemporary elite culture of the West reinforces internationalist, humanitarian ¶ norms. Huntington has demonstrated that American elites, consistently and across ¶ a variety of issues, tend to be more internationalist than the general population.332¶ He coined the term “Davos man,” to refer to those who have more culturally and ¶ morally in common with other elites than they do with their own countrymen.333¶ Huntington writes that, within nations, “[s]omeone whose loyalties, identities and ¶ involvements are purely national is less likely to rise to the top in business, ¶ academia, the media and the professions than someone who transcends these ¶ limits.”334

Thus, despite the fact that there is no domestic American constituency that has a ¶ direct economic interest in humanitarian intervention, the existence of such ¶ undertakings is explained by cultural and ideological factors. The American people ¶ are generally indifferent to supportive of humanitarian intervention and the idea ¶ has wide acceptance among policy elites. These two assumptions, however, tells us ¶ nothing about whether the legislature or executive is more likely to support these ¶ kinds of wars.

***3. Congress Has a Collective Action Problem in Claiming Credit for***

***Humanitarian Interventions***

**Of course, legislatures are members of the elite, just as presidents are. But there** ¶ **are reasons why we may expect them to care less about approbation in the field of** ¶ **foreign affairs than the executive does**. **The most important reason is that there is** ¶ **a collective action problem in Congress, in that any individual Congressman would** ¶ **share the praise or blame for preventing or failing to prevent a humanitarian** ¶ **atrocity with the institution as a whole**. **This is implicit in the Founders’ arguments** ¶ **that the executive is more prone to war because of the “glory” it entails**. Indeed, ¶ the public judges the president on national issues, while evaluating members of¶ Congress based on their records on domestic and local concerns.335 **Legislatures** ¶ **are better to able to take credit for local, narrow accomplishments than** ¶ **achievements on the national and international plane**.336 Thus, **the president has** ¶ **more motivation to act to stop humanitarian atrocities**, whether he is seeking ¶ reelection, to be well liked generally, or both. This logic applies to claiming credit ¶ among the elite class as much as it does to gaining approbation among the general ¶ public.

**There is historical evidence for this assumption**. After leaving office, President ¶ **Clinton said that his biggest regret was not intervening in Rwanda**.337 In his final ¶ days in office, he had been frantically working on a solution to the PalestinianIsraeli problem, and commentators consider this use of time to have been ¶ motivated by legacy concerns.338 Clinton may very well have genuinely desired ¶ peace in the Middle East and regretted not stopping the Rwanda slaughter, but to ¶ the extent to which he sought approbation for his actions as president **he had an** ¶ **extra motivation to intervene in foreign states that would have had much less of an** ¶ **influence on individual legislatures.**

***4.The Psychology of Buck Passing***

Even if executives are completely altruistic, it makes sense that **an individual** ¶ **president will feel more psychological pressure to stop a humanitarian atrocity than** ¶ **a member of a large institution who can share in the guilt of remaining passive** ¶ **with others**. ***Psychological research*** **shows that individuals are less likely to act to** ¶ **help others when there are other bystanders around**.339 For example, when a ¶ person sees an individual stealing, he is less likely to report him when he sees other ¶ individuals witnessing the theft and remaining silent.340 **Further, as the number of** ¶ **passive individuals present increases, the less likely an individual is to behave** ¶ **altruistically**.341 This leads to the hypothesis that **a single executive might be more** ¶ **willing than any individual legislature to take action to stop a humanitarian** ¶ **catastrophe for psychological reasons unrelated to considerations of fame**. Of ¶ course, this is not meant to morally equate leaders who do not support¶ humanitarian interventions with bystanders who decline to help a stranger in ¶ distress; obviously, the moral questions surrounding humanitarian intervention are ¶ much more complex than those involved in day-to-day personal decision making. ¶ But to the extent that leaders genuinely believe in humanitarian intervention, **those** ¶ **who make up part of a collective body may feel less psychological pressure than a** ¶ **single executive to commit forces when they believe it is morally necessary.**

***5. The Nature of Humanitarian Interventions***

In a war of national defense, after Congress declares war, the Commander-inChief and the military determine the best way to defeat the enemy. **In a** ¶ **humanitarian intervention, however, the goals are usually less clear**.342 **Congress** ¶ **may therefore be less willing to explicitly delegate power in such situations**. For ¶ example, just days after the nation was attacked on 9/11, Congress passed a joint ¶ authorizing the president to go after the perpetrators.343 Similarly, after Congress ¶ became convinced that Saddam Hussein had weapons of mass destruction, it ¶ authorized the president to use force to enforce UN resolutions against his ¶ regime.344 In the case of Kosovo, however, the Clinton administration was placed ¶ in a difficult situation, being criticized by Congress before and after the war began ¶ both for doing too much and doing too little.345 **In a humanitarian intervention**, ¶ **questions arise over how victory is to be defined, whether ground troops should** ¶ **be used, how much the United States is to take responsibility for what goes on in** ¶ **the country, and how much risk members of the armed services are to take for the** ¶ **sake of civilians**. Saddam Hussein, the Taliban, or even Al Qaida may be defeated, ¶ but a nation can never be sure that it has permanently accomplished the mission of ¶ stopping the people of another country from killing one another.

**We can imagine a Congress divided into three camps of equal size. One faction** ¶ **wants to send ground troops** into a country to stop a government from ¶ committing humanitarian atrocities against its citizens, **another wants to simply** ¶ **conduct airstrikes, and the last wants to stay out of the conflict**. **While a majority** ¶ (two-thirds) of Congress **may want to intervene, nothing happens** **because no** ¶ **single position has majority support**. This could be the case even if all the ¶ interventionists would rather have some kind of action instead of none at all, ¶ because neither of the first two factions wants to give up on its first choice.

B. The Implications of the Model

What we see is a public that is generally indifferent to foreign affairs, but that ¶ weakly supports humanitarian intervention by large margins. **Congress will be** ¶ **unlikely to feel much pressure to act when facing such tragedies. The President**, on ¶ the other hand, **deals with the same public but has a few reasons why he would be** ¶ **more likely to intervene**. First of all, he is more likely to be judged by the public ¶ based on his performance in foreign affairs. Second, as the Founders wrote, ¶ presidents seek fame and the executive has more of a legacy interest in acting in ¶ ways that bring approbation in foreign affairs. Both these reasons for relative ¶ presidential initiative and congressional passivity are explained by the collective ¶ action problem Congress faces: individual members are less likely to receive praise ¶ or blame for any action, or inaction, they take. While the model also explains why ¶ the president is more likely to be willing to fight wars in the national interest, ¶ whether just or unjust, any gap in war-proneness between the president and ¶ Congress should be magnified in the case of humanitarian intervention for two ¶ reasons. First, there is the internationalist-nationalist division between the ¶ American elite and the masses.346 Second, in humanitarian intervention the goals ¶ are not as clear as they are in wars fought in self-defense, and Congress may have ¶ more difficulty agreeing on a proper course of action in the former.

Just as the model predicts that the president is more likely to take action to engage ¶ the United States in foreign wars in which the country has little national interest, it ¶ predicts that Congress will be relatively passive after the fact. The empirical data ¶ shows that the public weekly supports humanitarian intervention, and even when ¶ it does not the costs of such operations are widely distributed, indicating that there ¶ will not be any effective lobbies present to force Congress to take meaningful ¶ steps to stop the president once he commits the nation to these unwanted wars. ¶ The upshot of the analysis is that **when it comes to humanitarian intervention, the** ¶ **default rule for who gets to declare war is very important. Presidents will generally** ¶ **be much more willing to use military force than Congress is. If it was possible to** ¶ **construct a “war powers act that worked**,”347 **humanitarian interventions would** ¶ **become much less common, *if not nonexistent***.

**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 moral**348¶ **or** ¶ **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**.

**A2: No Link – Congress Say Yes**

***Congress won’t approve US participation in the UN intervention***

Jane E. **Stromseth 95** \*, Associate Professor of Law, Georgetown University Law Center, University of Miami, October, 1995, 50 U. Miami L. Rev. 145, WAR AND RESPONSIBILITY: A SYMPOSIUM ON CONGRESS, THE PRESIDENT, AND THE AUTHORITY TO INITIATE HOSTILITIES: Collective Force and Constitutional Responsibility: War Powers in the Post-Cold War Era, Lexis, jj

For three interrelated reasons, **Congress may play a more significant war powers role in the future, especially in the U.N. context**. First and foremost, the dissolution of the Soviet Union and the demise of the Cold War rivalry have ushered in a new era in American foreign policy in which there is no one overarching threat. Containing communism is no longer the unifying theme of American foreign relations. **In the absense of a foreign policy consensus and in the face of more ambiguous security threats, members of Congress generally will face fewer electoral risks in opposing the President's foreign policy decisions**. n97 **Accusations of being** "soft on communism" or "**weak on defense" will no longer constrain legislators from challenging presidential choices on defense policy or the use of force abroad**.

Second, in a world no longer dominated by Cold War tensions, **considerable uncertainty and disagreement exists among policy makers and among the American public at large about the nature of American interests in the world**. While traditional concerns about the physical and economic security of the United States will continue at the heart of American foreign policy, as will concerns about the security of our key allies, **questions about America's role in response to more indirect threats to our long-term well-being will be controversial and potentially divisive**. **Whether threats to core American values, such as democracy and basic human rights, merit committing American military forces in particular cases will be a question on which reasonable people will often disagree**. Moreover, **in cases that touch less directly on traditional American security concerns, the public will be less willing to tolerate American casualties**. **Congress, as a result, is likely to scrutinize such involvements closely and stand willing to challenge the President.**

Third, **in the face of more ambiguous and less immediate security** [\*168] **threats, Congress and the American public are likely to focus their attention on domestic economic priorities and to be cautious about expensive military commitments abroad that compete for scarce resources**. As a result, **Congress**'s power of the purse **will give it a major role in determining U.S. involvement in costly U.N. peacekeeping and peace enforcement operations.**

**UN Adv**

**2NC – Congress No Approve**

***Bosnia was not and would not have been approved by Congress***

**Troxell 06**

John F. Troxell, Research Professor of National Security and Military Strategy, with the Strategic Studies Institute, U.S. Army War College

MILITARY POWER AND THE USE OF FORCE, in the U.S. Army War College Guide to National Security Policy and Strategy, Strategic Studies Institute, July 2004 and 2nd Edition, 2006

**In the crisis in Bosnia, on the other hand, the United States participated without congressional authorization in humanitarian airlifts into Sarajevo, naval monitoring and sanctions, and aerial enforcement of no-fly zones and safe havens**. In late 1995, after President Clinton committed over 20,000 combat troops as part of the NATO-led peacekeeping force, **Congress considered several bills and resolutions authorizing this deployment, but failed to reach a consensus**. In 1999, President **Clinton ordered U.S. military forces to participate in the NATO-led military operation in Kosovo, without specific authorization from the Congress, a state of affairs that one analyst has termed. “virtual consent**,” in which the public is consulted but the formal institutions of democracy are bypassed: “The decay of institutional checks and balances on the war-making power of the executive has received almost no attention in the debate over the Kosovo conflict. This suggests that citizens no longer even care whether their elected politicians exercise their constitutional responsibilities. We have allowed ourselves to accept virtual consent in the most important political matter of all: war and peace.”85

***They give Congress control over US participation in UN operations—that’s a disaster***

**Kaufman 11/4-’13** [Ted Kaufman, Fmr. U.S. Senator from Delaware, Huffington Post, Time to Ratify the Global Disabilities Convention, <http://www.huffingtonpost.com/sen-ted-kaufman/time-to-ratity-the-global_b_4212503.html>, jj]

**Just what is the hang-up 38 Republicans had with CRPD last year? Three words: The United Nations**. **Despite the fact** -- and I stress the word fact -- **that there is not one word in the treaty that gives the U.N. any power to affect any U.S. law or court action, *the ideological hatred some feel for the institution trumped all***. Somehow, **they persuaded themselves that because the U.N. is involved the treaty threatens American independence**. The incoherence of some opponents was stunning. Rick Santorum famously wrote that the treaty could allow the U.N. to make medical decisions for his disabled child. **I don't think all of the 38 senators who voted against the treaty last year actually believe it is a threat to our sovereignty. I do know they have to worry about primary challenges from tea partiers like Rick Santorum who do**.

**Ext – no cut and run**

***No Congress has ever invoked the power of the purse mid-conflict—means funding for unilateral presidential operations through the UN are safe***

DOUG **MATACONIS** · FRIDAY, AUGUST 30, 20**13**, Outside The Beltway, Obama Won’t Go To Congress, Because History Has Taught Him He Doesn’t Have To, <http://www.outsidethebeltway.com/obama-wont-go-to-congress-because-history-has-taught-him-he-doesnt-have-to/>

During the Cold War, **Presidents became even more willing to engage in military action without prior Congressional approval in matters ranging from major conflicts like Korea and Vietnam1 to minor actions such as the deployment of Marines to Beirut, the invasions of Panama and Grenada.** The First Gulf War, meanwhile, was technically authorized by Congress but given that the vote occurred mere days before the air campaign began at a time when American and allied forces were literally waiting in the desert of Saudi Arabia to engage the enemy, it can hardly be said to have been deliberative in any way. Under President Clinton, we saw the U.S. military deployed to Somalia and the Balkans to engage in what might fairly be called the first “humanitarian” wars as well as military action against targets in Iraq, Afghanistan, and Somalia related to what we would soon come to call the “War On Terror.” Indeed, the seriousness of the September 11th attacks was made clear when President Bush formally asked Congress for authorization to pursue those responsible for the attack, as well as any nation giving them safe harbor. That Authorization for Use of Military Force Against Terrorists was passed overwhelmingly just three days after the attacks, remains in effect to this day, and has served as the justification for everything ranging the Afghanistan War itself to U.S. drone programs that have operated in nations such as Pakistan and Yemen as well as in the Horn of Africa. Finally, just two years ago, President **Obama sent American forces to aid the U.N./NATO mission in Libya without seeking authorization from Congress and, as Larison noted, did not suffer politically for it.**

For the most part, **these assertions of power by Presidents of both political parties have been acceded to by Congress, which has over the years acted more as a rubber stamp than a real check on Presidential power.** There was some effort to reign in Presidential war powers in the wake of the Vietnam War and President Nixon’s decision to spread that war into Cambodia with the passage of the War Powers Act. However, every President since Nixon has taken the position that the act is essentially a nullity even when they act in manners that are required under the law. More importantly, some scholars have suggested that **the War Powers Act** actually **expanded Presidential war powers because it created a number of circumstances under which Presidents could commit American forces to a hostile area for as long as 60 days, or longer under some circumstances, and then essentially dare Congress to utilize its power of the purse to deny funding for those troops once they were already in theater*. Even in cases of controversial actions where Congress has been controlled by the party opposing the President, no Congress has ever taken a President up on that particular dare***. Additionally**, numerous Congresses have failed to seriously question the wisdom of continuing ongoing military actions.**

**A2: AQIM**

***AQIM is on the run—recent attacks are a sign of weakness not strength***

ADAM **NOSSITER, 9-24-’13**, New York Times, Increase in Jihadi Attacks in Africa May Reflect Movement’s Weakness, <http://www.nytimes.com/2013/09/25/world/africa/increase-in-jihadi-attacks-in-africa-may-reflect-movements-weakness.html?_r=0m> jj

As devastating as these **recent attacks** have been, they **may** actually **have more to do with the challenges confronting extremist groups than with any newfound jihadi strength in Africa, analysts contend**. In each instance, **these eruptions have occurred as radical Islamist movements were on the defensive, under threat by international, domestic or sometimes even local forces**. **Such bold assaults can therefore be read as flares in the night**, some analysts say — **the militants’ attempt to show that they are still out there**, and still capable of spilling blood. At the moment when they seem most menacing, ***the jihadists may in fact be on the run***. “**Movements that are retreating can** also **pull off big-time media splashes**,” said Jean-Pierre Filiu, a specialist at the Institute of Political Studies in Paris. Some analysts counter that the radical groups could simply be shifting tactics, positioning themselves for a new, stronger phase in the Islamist struggle — though they note that propaganda, rather than tactical gain, appears uppermost in the extremists’ thinking in these crises. But others argue that **weakness** — not just radical ideologies, loose borders and access to weapons — **could be another important factor behind these terror attacks scattered across a vast continent**. The deadly siege of a Nairobi shopping mall occurred after the Shabab, the radical Somali group that has claimed responsibility for the assault, were expelled from towns and territory they once controlled inside Somalia by Kenyan and African Union forces. “A weakened Shabab is a greater threat outside Somalia than a stronger Shabab,” wrote Ken Menkhaus, a specialist on the group at Davidson College. “**The Westgate attack is the latest sign of the group’s weakness**,” he said, referring to the Nairobi mall where the attack took place this weekend. “**It was a desperate, high-risk gamble by Shabab to reverse its prospects**.” That same logic was evident in the attack on the sprawling gas plant in the Algerian desert last January, in which 39 foreign hostages were killed. **France had begun its assault on the assortment of Islamist groups controlling northern Mali the week before, and was well into the process of evicting them from the region’s cities**. Even an Islamist military advance toward the Malian capital a week before that, which spurred the French incursion, came at a moment when the militants’ hold on northern Mali appeared threatened. Their harsh rule in the north was already provoking anger among the conquered Malians, who sometimes took to the street to express it. Similarly, militants attacked in Niger in May after the French campaign had dislodged them from their camps in Mali, and the jihadist fighters were scattered far and wide in the desert. **And in Nigeria, years of aggressive offensives by the army — particularly its recent four-month assault — appear to have pushed Boko Haram, the radical group waging war against the Nigeria state, out of its bastion of Maiduguri.** The group continues to fight back from the rural area surrounding the city, sometimes massacring civilians. The army uses similar tactics, killing large numbers of civilians and Boko Haram members alike. Some degree of cross-pollination between these groups may exist. For example, **a Boko Haram member may turn up in** Al Qaeda in the Islamic Maghreb, or **AQIM** — English was heard among the overlords who occupied Timbuktu last year. Algerians officials say some militants in the attack at the gas plant in Algeria also participated in the assault on the American diplomatic mission in Benghazi, Libya. **AQIM may train some Boko Haram members**, as some experts have asserted. ***But there is little to suggest grand cross-continental planning for specific operations, numerous analysts contend.***

**Japan**

**A2: Accidents / Miscalc**

***No accidental war and US checks impact***

**Beauchamp 2/7/2014** (Zach, Editor of TP Ideas and a reporter for ThinkProgress.org. He previously contributed to Andrew Sullivan’s The Dish at Newsweek/Daily Beast, and has also written for Foreign Policy and Tablet magazines. Zack holds B.A.s in Philosophy and Political Science from Brown University and an M.Sc in International Relations from the London School of Economics. “Why Everyone Needs to Stop Freaking Out About War With China”. Think Progress. <http://thinkprogress.org/world/2014/02/07/3222021/china-japan-war/>) [nagel]

That also helps explain why the most commonly-cited Senkaku/Diaoyu spark, **accidental escalation**, **isn’t as likely as many suggest**. When The Wall Street Journal’s Andrew Browne writes that there’s a “real risk of an accident leading to a standoff from which leaders in both countries would find it hard to back down in the face of popular nationalist pressure,” [he’s not wrong](http://online.wsj.com/news/articles/SB10001424052702303553204579348124211733740). But **it won’t happen just because two planes happen across each other** in the sky. **In 2013, with tensions running high** the whole year, **Japan scrambled fighters against Chinese aircraft** [**433 times**](http://www.globalpost.com/dispatch/news/kyodo-news-international/140121/jets-scrambled-against-chinese-planes-138-times-oct-de). Indeed, **tensions have flared up a number of times** throughout the years (**often sparked by nationalist activists** on side of the other) **without managing to bleed over into war.** That’s because, as MIT East Asia expert M. Taylor Fravel argues, **there are** [**deep strategic reasons**](http://www.jcie.org/researchpdfs/Triangle/7_fravel.pdf) **why each side is**, broadly speaking, **OK with the status quo over and above nuclear deterrence. China has an interest in not seeming like an aggressor** state in the region, as that’s historically caused other regional powers to put away their differences and line up against it. **Japan currently has control** over the islands, which would make any **strong moves by China seem like an attempt to overthrow the status quo power balance. The United States also has a habit of constructive involvement, subtly reminding both** sides when tensions are spiking that **the United States** — and its rather powerful navy — **would prefer that there be no fighting between the two states**. Moreover, the whole idea of “accidental war” is also a little bit confusing. **Militaries don’t just start shooting each other by mistake and then decide it’s time to have a war**. Rather, an incident that’s truly accidental — say, a Japanese plane firing on a Chinese aircraft in one of the places where their Air Defense Identification Zones (ADIZs) [overlap](http://thinkprogress.org/security/2013/12/08/3036271/ieodo-socotra-suyan-boom/) — changes the incentives to go to war, as the governments start to think (perhaps wrongly) that war is inevitable and the only way to win it is to escalate. **It’s hard to envision this kind of shift in calculation in East Asia**, for all of the aforementioned reasons.

***Even if miscalc happened, it wouldn’t escalate***

Rational minds will prevail --- ensures de-escalation

Won’t resort to military force --- will retaliate economically against eachother

International pressure solves --- the US and UN will force them to stand down and restrain

No miscalculation --- economic interdependence and broad channels of communication check

**Sieg 12** (Linda Sieg, 9-23-12, Reuters, Japan, China military conflict seen unlikely despite strain <http://www.reuters.com/article/2012/09/23/us-china-japan-confrontation-idUSBRE88M0F220120923>, jj)

(Reuters) - Hawkish Chinese commentators have urged Beijing to prepare for military conflict with Japan as tensions mount over disputed islands in the East China Sea, but most **experts say chances the Asian rivals will decide to go to war are slim.**

A bigger risk is the possibility that an unintended maritime clash results in deaths and boosts pressure for retaliation, but even then **Tokyo and Beijing are expected to seek to manage the row before it becomes a full-blown military confrontation.**

"That's the real risk - a maritime incident leading to a loss of life. If a Japanese or Chinese were killed, there would be a huge outpouring of nationalist sentiment," said Linda Jakobson, director of the East Asia Program at the Lowy Institute for International Policy in Sydney.

"But **I still cannot seriously imagine it would lead to an attack on the other country. I do think rational minds would prevail,"** she said, **adding economic retaliation was more likely**.

A feud over the lonely islets in the East China Sea flared this month after Japan's government bought three of the islands from a private owner, triggering violent protests in China and threatening business between Asia's two biggest economies.

Adding to the tensions, China sent more than 10 government patrol vessels to waters near the islands, known as the Diaoyu in China and the Senkaku in Japan, while Japan beefed up its Coast Guard patrols. Chinese media said 1,000 fishing boats have set sail for the area, although none has been sighted close by.

**Despite the diplomatic standoff and rising nationalist sentiment in China especially, experts agree neither Beijing nor Tokyo would intentionally escalate to a military confrontation what is already the worst crisis in bilateral ties in decades.**

U.S. PRESSURE

"**The chances of a military conflict are very, very slim because neither side wants to go down that path**," said former People's Liberation Army officer, Xu Guangyu, now a senior consultant at a government-run think tank in Beijing.

**Pressure from the United States**, which repeated last week that the disputed isles were covered by a 1960 treaty obliging Washington to come to Japan's aid if it were attacked**, is also working to restrain both sides,** security experts said.

"**I very seriously do not think any of the involved parties - Japan, China and including the United States because of its defense treaty (with Japan) - want to see a military conflict over this dispute**," said the Lowy Institute's Jakobson.

**"They don't want to risk it, they don't seek it and they do not intend to let it happen."**

Still, the possibility of a clash at sea remains.

While the presence of the Chinese surveillance ships - none of which is a naval vessel - and Japan Coast Guard ships in the area might appear to set the stage for trouble, **military experts said each side would try to steer clear of the other.**

"The bad news is that China sent ships to the area. The good news is that they are official ships controlled by the government," said Narushige Michishita at the National Graduate Institute for Policy Studies in Tokyo.

"This is good news because **they are not likely to engage in aggressive action because that would really exacerbate the situation and turn it into a major crisis**," said Michishita.

The Chinese ships, he said, had another mission besides asserting China's claims to the islands and nearby waters.

"My guess is that some (Chinese) official patrol boats are there to watch out for fishing boats ... to stop them from making problems," Michishita said.

FISHING BOATS WILD CARD

Military specialists say the Chinese patrol vessels are well disciplined as are the Japan Coast Guard ships, while the two sides have grown accustomed to communicating.

"Both sides are ready, but **both sides are very well under control**," said a former senior Japanese military official.

What worries observers most is the risk that a boat carrying Chinese fishermen slips through or activists try to land, sparking clashes with Japan's Coast Guard that result in deaths - news of which would spread like wildfire on the Internet.

In 1996, a Hong Kong activist drowned in the nearby waters.

Diplomatic and economic relations chilled sharply in 2010 after Japan arrested a Chinese trawler captain whose boat collided with a Japan Coast Guard vessel. This time, tensions are already high and China is contending with a tricky once-in-a-decade leadership change while Japan's ruling party faces a probable drubbing in an election expected in months.

"***Two rational governments of major countries would not intentionally decide to enter into a major war with each other over a few uninhabited rocks***," said Denny Roy, an Asia security expert at the East-West Center in Hawaii.

"But unfortunately, you can arrive at war in ways other than that - through unintended escalation, in which both countries start out at a much lower level, but each of them think that they must respond to perceived provocation by the other side, both very strongly pushed into it by domestic pressure. That seems to be where we are now and it is difficult to see how countries can get out of that negative spiral."

**Others,** however, **were** more **confident that an unplanned clash could be kept from escalating into military conflict.**

"**That's not really a major possibility, because there are still *broad channels of communication* between the two sides, and they would help prevent that happening. Both sides could still talk to each other**," said former senior PLA officer Xu.

"**Even before anything happened, you would also have the U.N Secretary General and others stepping in to ensure that the situation does not get out of control."**

# 1NR

### A2: Barron

#### They conlude neg—trends, institutional incentives, public sentiment and weak congressional checks make non-compliance inevitable

Barron and Lederman, 2008 (David, Professor of Law at Harvard Law School; Martin, Visiting Professor of Law at Georgetown University Law Center; “The Commander in Chief at the Lowest Ebb – A Constitutional History”, Harvard Law Review, 121 Harv. L. Rev. 941, Lexis)

VII. CONCLUSION

Powers once claimed by the Executive are not easily relinquished. One sees from our narrative how, in a very real sense, the constitutional law of presidential power is often made through accretion. A current administration eagerly seizes upon the loose claims of its predecessors, and applies them in ways perhaps never intended or at least not foreseen or contemplated at the time they were first uttered. The unreflective notion that the “conduct of campaigns” is for the President alone to determine has slowly insinuated itself into the consciousness of the political departments (and, at times, into public debate), and has gradually been invoked in order to question all manner of regulations, from requirements to purchase airplanes, to limitations on deployments in advance of the outbreak of hostilities, to criminal prohibitions against the use of torture and cruel treatment. In this regard, the claims of the current Administration represent as clear an example of living constitutionalism in practice as one is likely to encounter. There is a radical disjuncture between the approach to constitutional war powers the current President has asserted and the one that prevailed at the moment of ratification and for much of our history that followed.

But that dramatic deviation did not come from nowhere. Rarely does our constitutional framework admit of such sudden creations. Instead, the new claims have drawn upon those elements in prior presidential practice most favorable to them. That does not mean our constitutional tradition is foreordained to develop so as to embrace unchecked executive authority over the conduct of military campaigns. At the same time, it would be wrong to assume, as some have suggested, that the emergence of such claims will be necessarily selfdefeating, inevitably inspiring a popular and legislative reaction that will leave the presidency especially weakened. In light of the unique public fears that terrorism engenders, the more substantial concern is an opposite one. It is entirely possible that the emergence of these claims of preclusive power will subtly but increasingly influence future Executives to eschew the harder work of accepting legislative constraints as legitimate and actively working to make them tolerable by building public support for modifications. The temptation to argue that the President has an obligation to protect the prerogatives of the office asserted by his or her predecessors will be great. Congress’s capacity to effectively check such defiance will be comparatively weak. After all, the President can veto any effort to legislatively respond to defiant actions, and impeachment is neither an easy nor an attractive remedy.

The prior practice we describe, therefore, could over time become a faint memory, recalled only for the proposition that it is anachronistic, unsuited for what are thought to be the unique perils of the contemporary world. Were this to happen it would represent an unfortunate development in the constitutional law of war powers. Thus, it is incumbent upon legislators to challenge efforts to bring about such a change. Moreover, executive branch actors, particularly those attorneys helping to assure that the President takes care the law is faithfully executed, should not abandon two hundred years of historical practice too hastily. At the very least, they should resist the urge to continue to press the new and troubling claim that the President is entitled to unfettered discretion in the conduct of war.

**A2: court enforcement**

***Vagueness takes out the aff—***

**Patera ’12**, John Patera, J.D., May 2012, Hamline University School of Law, Spring, 2012¶ Hamline Journal of Public Law & Policy¶ 33 Hamline J. Pub. L. & Pol'y 387, CURRENT PUBLIC LAW AND POLICY ISSUE: War Powers Resolution in the Age of Drone Warfare: How Drone Technology has Dramatically Reduced the Resolution's Effectiveness as a Curb on Executive Power, Lexis, jj

 The vague term "hostilities" is **undefined** by the statute, and therefore **subject to debate**. n50 As will be discussed infra, the Resolution's **loose language** gives presidents largely unfettered discretion in defining its terms of art and deciding when to comply with its strictures.

***means they don’t access Court Enforcement***

**Quint, 84** (Peter E. Quint \*, \* Professor of Law, University of Maryland School of Law, A.B. 1961, LL.B. 1964, Harvard University; Dipl. in Law 1965, Oxford University, Texas Law Review, February, 1984, ARTICLE: The Separation of Powers Under Carter, 62 Tex. L. Rev. 785, Lexis, jj)

In Haig v. Agee, n329 the Supreme Court agreed and reversed the judgment below. The Court adopted the government's view that **ambiguous or vague statutes** relating to foreign policy and national security **should be construed to favor executive authority**. n330 The Court quoted from earlier cases that endorsed broad presidential power in foreign affairs, n331 and emphasized that "'Congress -- in giving the Executive authority over matters of foreign affairs -- must of necessity paint with a brush broader than that it customarily wields in domestic areas.'" n332 The Court also noted that the judiciary has a minimal role in reviewing foreign policy and national security matters. n333 After this prologue, the Court found that Congress had tacitly adopted the Executive's administrative construction of the statute to allow passport withholding for reasons of foreign policy and national security. Therefore, [\*850] the regulation was authorized by the Passport Act. n334

#### The courts aren’t an effective check – circumvention’s likely.

Wheeler, associate professor of political science at Ball State University, 9

**(**Darren A., “Checking Presidential Detention Power in the War on Terror: What Should We Expect from the Judiciary?” Presidential Studies Quarterly 39.4 (Dec 2009): 677-700, ebsco)

This article argues that there are four specific reasons why those expecting the Supreme Court to be a significant check on presidential detention power in the war on terror are likely to be disappointed. The first reason is that the judiciary makes decisions in what can be referred to as "judicial time." In short, the courts are slow. The judicial decision-making process is often one that takes years to complete (Rehnquist 1998). Few political actors conceptualize the decision-making process in such an extended manner. If the president can respond more quickly to matters of policy than the courts, it might be difficult for the judiciary to act as a check on the president. The second factor that limits the judiciary's ability to check presidential detention power is the fact that courts usually answer specific narrow legal questions as opposed to larger, "big picture" policy questions (Baum 2007; Rehnquist 1998; Rosenberg 1991). As a result, even when the Court makes a decision on a matter, it is often a narrow one that addresses only a small part of the overall policy picture. This can limit the impact that the courts have on the policymaking process, as other policy makers often find different means to accomplish their desired goals regardless of the roadblocks presented by the courts on particular details. The third factor that potentially limits judicial impact on the president's desired detention policies is the fact that the judicial implementation process is fraught with uncertainty (Baum 2007; Canon and Johnson 1999; Carp, Stidham, and Manning 2004; Stumpf 1998). Even when the courts make a decision, it is possible for other political actors (including the president) to shape the implementation process in such a way as to minimize the impact that the particular decision might have on the president's preferred policies. Finally, the judiciary, especially since the second half of the twentieth century, has adopted a general posture of deference to the executive in matters of war powers and foreign affairs (Fisher 2005; Howell 2003; Rossiter and Longaker 1976). This deference might lead the Court to refuse to even hear challenges to presidential detention power. Even when the Court does hear cases, it may dispose of them in ways that illustrate this historical pattern of deference. Any combination of these factors **may limit the ability of the judiciary to check presidential initiatives**, **especially in** a policy area - **the war on terror** - in which the Bush administration clearly demonstrated an intense willingness and desire to exert unilateral control over matters (Fisher 2004; Goldsmith 2007; Kassop 2007; Savage 2007; Wheeler 2008).

### 2NC – A – Circumvention

#### And, the plan text is extremely vague – plantext does not inclue a def of rules of engagement, policy trial, or mission – that guarantees circumvention

Mitchell, Assistant Professor of Law, George Mason University School of Law, 9

(Jonathan, Jan, “Legislating Clear-Statement Regimes in National- Security Law,” http://works.bepress.com/cgi/viewcontent.cgi?article=1000&context=jonathan\_mitchell)

The challenge for these efforts to strengthen the War Powers Resolution and FISA¶ is that any future ambiguous statute will provide rope for executive-branch lawyers to¶ concoct congressional “authorization” for the President’s actions, no matter what¶ restrictions or interpretive instructions Congress provides in framework legislation. None¶ of these proposed reforms will disable the executive from using its expansive theories of¶ constitutional avoidance and implied repeal to provide a veneer of legality for the¶ President’s actions, and to minimize the prospect of future criminal sanctions and¶ political reprisals against executive-branch employees.

### 2NC – B – Non-Enforcement

#### Their restriction is a smokescreen and won’t be enforced—prefer ev which accounts for institutional incentives

Nzelibe 7—Professor of Law @ Northwestern University [Jide Nzelibe, “Are Congressionally Authorized Wars Perverse?” Stanford Law Review, Vol. 59, 2007]

These assumptions are all questionable. As a preliminary matter, there is not much causal evidence that supports the institutional constraints logic. As various commentators have noted, Congress's bark with respect to war powers is often much greater than its bite. Significantly, skeptics like Barbara Hinckley suggest that any notion of an activist Congress in war powers is a myth and members of Congress will often use the smokescreen of "symbolic resolutions, increase in roll calls and lengthy hearings, [and] addition of reporting requirements" to create the illusion of congressional participation in foreign policy.' 0 Indeed, even those commentators who support a more aggressive role for Congress in initiating conflicts acknowledge this problem," but suggest that it could be fixed by having Congress enact more specific legislation about conflict objectives and implement new tools for monitoring executive behavior during wartime. 12

Yet, even if Congress were equipped with better institutional tools to constrain and monitor the President's military initiatives, it is not clear that it would significantly alter the current war powers landscape. As Horn and Shepsle have argued elsewhere: "[N]either specificity in enabling legislation ... nor participation by interested parties is necessarily optimal or self-fulfilling; therefore, they do not ensure agent compliance. Ultimately, there must be some enforcement feature-a credible commitment to punish ....Thus, no matter how much well-intentioned and specific legislation Congress passes to increase congressional oversight of the President's military initiatives, it will come to naught if members of Congress lack institutional incentives to monitor and constrain the President's behavior in an international crisis.

Various congressional observers have highlighted electoral disincentives that members of Congress might face in constraining the President's military initiatives. 14 Others have pointed to more institutional obstacles to congressional assertiveness in foreign relations, such as collective action problems. 15 Generally, lawmaking is a demanding and grueling exercise. If one assumes that members of Congress are often obsessed with the prospect of reelection, 16 then such members will tend to focus their scarce resources on district-level concerns and hesitate to second-guess the President's response in an international crisis. 17 Even if members of Congress could marshal the resources to challenge the President's agenda on national issues, the payoff in electoral terms might be trivial or non-existent. Indeed, in the case of the President's military initiatives where the median voter is likely to defer to the executive branch's judgment, the electoral payoff for members of Congress of constraining such initiatives might actually be negative. In other words, regardless of how explicit the grant of a constitutional role to Congress in foreign affairs might be, few members of Congress are willing to make the personal sacrifice for the greater institutional goal. Thus, unless a grand reformer is able to tweak the system and make congressional assertiveness an electorally palatable option in war powers, calls for greater congressional participation in war powers are likely to fall on deaf ears. Pg. 912-913

### 2NC A2: Political Costs / Deterrence

#### Political costs are exaggerated – this card will smoke them

Schauer, Distinguished Professor of Law, University of Virginia, 12

(Frederick, “ARTICLE: THE POLITICAL RISKS (IF ANY) OF BREAKING THE LAW,” 4 J. of Legal Analysis 83, lexis)

Consider, for example, the legality of American involvement in Libya. Factually, the issue arises from the situation in which the Obama Administration directed strikes against Libyan air defenses, some by aircraft and some by remotely operated drones, in conjunction with NATO, but without prior consultation with Congress and without approval by Congress, either in advance or to this day (Morrison 2011). In defending its refusal to consult with Congress or secure its approval, the Administration relied, in part, on now-routine presidential claims to have independent constitutional authority, under the explicit commander-in-chief and executive powers and under the implicit war-making and national defense and foreign policy and emergency powers, to engage in such actions. But in seeking to explain its disregard of the plain mandates of the War Powers Resolution, the Administration also claimed, in the face of a clear Office of Legal Counsel opinion to the contrary, that the military actions in Libya did not constitute "hostilities", as that term is used in the Resolution, because no American ground troops were placed in Libya and also because the likelihood of American casualties was essentially nonexistent.¶ The claim that the War Powers Resolution is in some or all dimensions an unconstitutional infringement on the President's independent powers is seriously debatable, and in fact this is the position that has been taken, in one form or another, by every President, regardless of party, since the Resolution was first enacted in 1973 (Posner & Vermeule 2011). The claim that the Resolution did not even apply to this situation because of the absence of hostilities, however, was widely mocked as legally implausible (Ackerman 2011; Ackerman & Hathaway 2011; Fisher 2012; Morrison 2011), especially in the several days after the Administration's written statement to this effect was issued, and after the claim was defended before the Senate Foreign Relations Committee by Harold H. Koh, Legal Advisor to the State Department.¶ For purposes of this article, it seems more than plausible to treat the legal defense of the actions over and against Libyan forces as so weak as to permit the claim that the actions simply violated the law in a straightforward way. Yet although the actions violated the law, they were plainly preferred by the Administration on policy and, presumably, political grounds. And as events have ensued, it is clear that the Administration's policy and political positions have largely been borne out. The air attacks were successful, the forces of a very [\*91] bad person were defeated, the regime seems to have changed, at least for now, for the better, and there were no American casualties. The entire scenario, therefore, seems a good example of one in which, faced with a choice between the law-independent policy preferences and the clear constraints of the law, the Administration chose the former.¶ What makes the example especially interesting, however, is not just the favorable policy outcome, but the fact that the policy and political success, even in the face of relatively plain illegality, has produced virtually no negative political consequences. Public and press attention to the illegality has disappeared (Wang 2011), and the political evaluation of the action has been largely positive. As the events have played out, the illegality has played essentially no role in the larger politics of the situation. To put it differently, not only has the illegality produced no formal legal sanctions, as it could not (short of impeachment), but it also seems to have produced virtually no political or reputational sanctions for the Administration. As of this writing, it remains logically possible that the Administration's violation of the law will be a campaign issue in 2012, but the likelihood of such an eventuality seems vanishingly small.¶ ¶ As I have discussed in previous writings (Schauer 2007, 2010c, 2011b), there are many other examples of illegal policy actions or positions that have seemingly produced no or few negative political consequences. One such example is the decision by the mayors of San Francisco and of New Paltz, New York, to marry same-sex couples in violation of the then-applicable state law. With sympathies in both States in the direction of legalizing same-sex marriage, however, the illegality was taken then, and is taken now, as being somewhere between inconsequential and courageous. And on the same issue, when Governor Deval Patrick of Massachusetts explicitly urged members of the legislature to disregard a decision by the Massachusetts Supreme Judicial Court mandating that they vote on a referendum proposal to amend the state constitution to prohibit same-sex marriage, his actions have produced no negative political fallout. In numerous other instances, from New Orleans Mayor Ray Nagin's public call for immediate federal military assistance in the wake of Hurricane Katrina, to Mayor (now Senator) Ray Menendez's support for Americans who would have illegally launched military actions against the Cuban regime, to the violation of New York's Taylor Law by leaders of the Transit Workers Union and other public employee unions, the fact of illegality in the face of popular policy initiatives or positions has yielded few or no negative political or reputational consequences. Less saliently, the frequent willingness of Congress to ignore the law of law-making seems a matter of virtually no political consequence and thus a practice that has produced no negative political consequences for anyone (Bar-Simon-Tov 2010).

#### No political costs – public will always side with the president, and Congress will try to save face

Posner & Vermeule ’11, Eric Posner is Kirkland & Ellis Distinguished Service Professor of Law and Aaron Director Research Scholar at the University of Chicago. Adrian Vermeule - John H. Watson, Jr. Professor of Law – Harvard Law School, The Executive Unbound [electronic resource] : After the Madisonian Republic, Oxford University Press, USA, 2011. 01/01/2011 1 online resource (256 p.) Language: English, pg 88, jj

To be sure, if the framework statutes are very specific, then violating them¶ may itself create a political cost for the president, whose political opponents¶ will denounce him for Caesarism. This cost is real, but in the type of¶ high-stakes matters that are most likely to create showdowns between the¶ president and Congress in the first place, the benefits are likely to be greater¶ than the costs so long as the president’s action is popular and credible—the¶ crucial constraints we will discuss in chapter 4 . Moreover, if the president¶ can credibly claim to the public that the violation was necessary, then the¶ public will be unlikely to care too much about the legal niceties. As legal¶ theorist Frederick Schauer argues for constitutional violations 18 (and, we¶ add, the argument holds a fortiori for statutory violations), there is an¶ interesting asymmetry surrounding illegality: if the underlying action is unpopular,¶ then citizens will treat its illegality as an aggravating circumstance,¶ but if the underlying action is popular, its illegality usually has little independent¶ weight. Finally, if the president credibly threatens to violate the¶ statute, then Congress will have strong incentives to find some face-saving¶ compromise that allows the president to do what he wishes without forcing¶ a showdown that, legislators anticipate, may well end badly.

### A2: Signal Solves/Sufficient

#### Compliance is key to check domestic and international backlash – otherwise the plan just creates rising expectations that inevitably falter.

Chesney, Professor in Law, University of Texas School of Law, 14

(Robert, January, “Postwar,” Harvard National Security Journal / Vol. 5, http://harvardnsj.org/wp-content/uploads/2014/01/Chesney-Final.pdf)

Three stand out as particularly important and likely to be impacted by a formal shift to a postwar model. First, consider the domestic political climate. This does not mean partisan politics as such, though this can matter, too. Rather, “domestic politics” simply refers to the influence of American public opinion on the calculations of legislators and Executive Branch officials. On that dimension, what impact might follow from a formal proclamation recognizing an end to the armed conflict with al Qaeda? Such a move would be widely publicized and endlessly discussed in the media, and for at least some members of the public, it would likely alter baseline assumptions regarding the sorts of activities they might expect to see the government engaging in for counterterrorism purposes going forward. The continued use of military detention would surely seem incongruous to many, for example, or at least it would begin to seem increasingly so as time passed. Likewise, the further use of armed attacks—whether using drones, manned aircraft, or some other weapons platform— would also be surprising to some under the postwar rubric.

Such incongruities would not necessarily spark a negative reaction in every quarter. Those who would prefer not to move to a postwar model, after all, might be pleasantly surprised by them. But there is little doubt that incongruous actions would generate a negative reaction in at least some quarters, and it is possible that the negative reaction would in fact be substantial—particularly if the surrounding circumstances contributed to a perception that the government must have been acting hypocritically all along § Marked 19:25 § in proclaiming an end to the armed conflict. Of course, insofar as incongruous actions are conducted in secret—a quite likely state of affairs for a postwar model, given the extensive reliance on the CIA and Joint Special Operations Command to conduct lethal operations on a covert or clandestine basis even while still under the armed-conflict model75—the constraining impact of public opinion would be substantially muted. Even then, though, the possibility of eventual public disclosure would remain, as the Snowden affair in the summer of 2013 reminds us. Government officials operating in the shadow of these considerations could be expected to take them into account, even if they would not be dispositive. In that sense, domestic political considerations would be more constraining in the postwar context than they are under the status-quo model of armed conflict.

Something similar can be said about the constraining impact of diplomatic considerations. “Diplomatic considerations” refers broadly to the full spectrum of actions other governments might take in order to express displeasure with American policy, whether out of actual disagreement or in response to their own domestic political considerations. There are many possibilities in addition to the easily belittled example in which a state merely expresses displeasure, privately or publicly. A given country may be in a position to decrease cooperation on security issues (decreased sharing of intelligence, for example, or withdrawal of personnel from a joint deployment), or it might reduce or refuse valuable cooperation on unrelated subjects. Two points follow from all this. First, proclaiming the end to the armed conflict with al Qaeda unquestionably will be very well-received in most foreign capitals and among most foreign populations. Second, if the U.S. government ended up persisting in the use of military detention or lethal force for counterterrorism purposes despite such a proclamation, it seems likely that the aforementioned diplomatic costs will be higher than is currently the case, for the same reasons of incongruity and surprise mentioned above in the context of domestic politics. This suggests that diplomatic pressure, too, will be more constraining postwar than currently.

### 2NC – Policy Trials Fail

#### House leaders empirically block accountability over war powers—they’ll stonewall the policy trial

Nichols, 13 (John Nichols is the associated editor of The Capital Times. He is the co-author, with Robert W. McChesney, of "Dollarocracy: How the Money and Media Election Complex Is Destroying America" (The Nation), 7-30-13, The Cap Times, John Nichols: Boehner blocks real action to limit Syria entanglement, <http://host.madison.com/ct/news/opinion/column/john_nichols/john-nichols-boehner-blocks-real-action-to-limit-syria-entanglement/article_66530c3d-03d0-5175-980d-ab71cba7ceab.html>, jj)

President Obama and House Speaker John Boehner are agreed on one thing: They both want to get the United States more actively engaged in the fighting in Syria. Obama announced last month that he hopes to ship arms to the Syrian opposition forces that are fighting to oust President Bashar al-Assad. Boehner said last week that the president’s Syrian gambit “is in our nation’s best interest.” Boehner’s endorsement of the move came as House Intelligence Committee Chairman Mike Rogers, R-Mich., announced, “After much discussion and review, we got a consensus that we could move forward with what the administration’s plans and intentions are in Syria consistent with committee reservations.” But, make no mistake, an “in our nation’s best interest” quote from Boehner and an Intelligence Committee “consensus” ought not be read as congressional approval for a project that threatens to involve the United States in another war in another Middle Eastern country. That’s a point made by a key Intelligence Committee member, California Democrat Adam Schiff, who announced last week, “I do not share that consensus, however, and wish to make my dissent clear. In my view, the modest chance for success of these plans does not warrant the risk of becoming entangled in yet another civil war.” Schiff’s concerns are well-founded. And he is not alone. Polling shows that only 11 percent of Americans favor U.S. moves to aid the rebels. And there are many in Congress — Republicans and Democrats, Obama critics and frequent Obama allies — who express profound reservations about the course chosen by the administration. That ought to create a checking-and-balancing moment. After all, the Constitution clearly affords Congress the power to declare wars — and to define the scope and character of military interventions. But, as Vermont Congressman Peter Welch asked this week, “Does Congress play a role?” The answer, because of manipulations of the process by Boehner and his allies, is basically “no.” Welch, a Democrat who recently visited the Syrian border region, has emerged as an outspoken critic of moves to involve the United States in the conflict. He warns that “this is a significant military action. We are taking sides in a civil war.” It is this concern that led Welch and a number of Republican representatives to try to force Congress to engage in a serious debate about whether to get entangled in the Syria fight. Unfortunately, Boehner has manipulated the rules to aid Obama’s quest. As part of last week's debate over the 2014 Pentagon spending bill, Welch and a bipartisan coalition he helped to assemble had hoped to get a vote on an amendment that would have barred the use of Department of Defense money to arm the rebels — or to otherwise pull the United States into the Syrian conflict. But House leaders blocked consideration of the proposal. Boehner’s allies on the Rules Committee wanted to allow debate on only four narrowly drawn amendments to the broader spending bill. In addition to amendments that discuss limiting National Security Agency spying and aid to Egypt, a watered-down amendment on Syria was considered. Sponsored by Republican Congressman Trey Radel, of Florida, the Syria amendment passed on a voice vote July 24. But it only prohibits the use of Pentagon funds for Syrian projects that are defined as “inconsistent” with the War Powers Resolution. The wording of Radel’s amendment makes it essentially symbolic, as it does little more than restate existing law. It is important to remind the White House of the rules. Indeed, as Robert Naiman, the policy director for the group Just Foreign Policy, notes, “the Radel amendment can help achieve two things: It can be cited as congressional opposition to deeper U.S. military involvement, and it specifically can be used to argue against continuation of the recent deployment of U.S. troops to Jordan, widely perceived as related to the threat of U.S. military intervention in Syria.” But the Radel amendment does not achieve the sort of meaningful congressional action that the Founders imagined as a necessary tool to check and balance military adventurism. It’s a facade of oversight rather than the real thing. Just as when Russian officials were accused of erecting fake “Potemkin villages” to fool foreign ambassadors into thinking impoverished regions were thriving, Boehner and his team are erecting Potemkin checks and balances. “The Republican leadership ducked a real important debate when it comes to Syria,” complained Congressman James McGovern, D-Mass.

### 2NC – Rules of Engagement Trigger Fails

#### Their “rules of engagement” trigger doesn’t check—the ROE are highly fluid and constantly modified for political reasons

Addicott 1/8/14 (JEFFREY F. ADDICOTT∗, \*Lt. Colonel (U.S. Army, JAGC, ret.), Professor of Law & Director, Center for Terrorism Law, St. Mary’s University School of Law, B.A. (with honors), University of Maryland; J.D., University of Alabama School of Law; L.L.M., The Judge Advocate General’s Legal Center and School; L.L.M. and S.J.D., University of Virginia School of Law, 1/8/2014, ST. MARY’S LAW JOURNAL, THE STRANGE CASE OF LIEUTENANT WADDELL: HOW OVERLY RESTRICTIVE RULES OF ENGAGEMENT ADVERSELY IMPACT THE AMERICAN WAR FIGHTER AND UNDERMINE MILITARY VICTORY, <http://www.stmaryslawjournal.org/pdfs/Addicott_Step13.pdf>, jj)

A student of history cannot fail to address the issue of how the United States failed so miserably in Afghanistan. While there are many facets to this question, one that directly contributed to the failure was the selfimposed so-called “Rules of Engagement” (ROE).

In tandem with the strict mandates associated with the law of war, all Western democracies, including the United States, self-impose ROE as restrictive additions to the law of war.10 These ROE are designed to further limit the application of the use of force in combat apart from the law of war.11 In both Iraq and Afghanistan, the United States promulgated numerous ROE to further limit the use of force associated with combat operations.12 Furthermore, ROE have been changed many times over the years as dictated by political considerations.13 Indeed, as the fighting in Afghanistan continues, ROE are still subject to constant revision.14 While the efficacy of ROE can be argued as a matter of premise, it appears certain that some of the ROE promulgated are simply patronizing in nature, and their overbroad restrictions on the use of force have directly contributed to large numbers of American causalities.15 For the sake of distinction, this paper will refer to this category of ROE as “overly restrictive.”16

Unlike the law of war, which is static in nature until revised by international treaty or customary practice, ROE can be changed at any time based on political or policy objectives.17 While the rule of law provisions related to the law of war reflect fundamental concepts of human behavior that comport with universal moral values—do not kill civilians, do not kill enemies who surrender, do not destroy civilian property, etc.—ROE address restrictions on behavior that are not necessarily common sense.18 In many instances, the behavior prohibited by a rule of engagement is extremely subtle and invariably produces random outcomes.19 Micromanaging the otherwise lawful use of force under the law of war, as ROE require, can result in confusion on the one hand and inaction on the other.20 Consequently, service members are often unsure what the ROE entail and may simply choose to do nothing for fear of violating them.21 Ultimately, ROE should not exceed, and must comport with, the restrictions of the law of war.22

#### ROE will be politically manipulated by the executive and the military to avoid triggering the consultation provision

Corn & Jensen, 8 (Geoffrey S. Corn∗, Eric Talbot Jensen∗∗, ∗ Associate Professor of Law, South Texas College of Law, Prior to joining the faculty at South Texas, Professor Corn served as the U.S. Army Special Assistant for Law of War Matters. Professor Corn also served as an officer in the U.S. Army from 1984 to 2004, including assignments as a supervisory defense counsel for the Western United States, Chief of International Law for U.S. Army Europe, Professor of International and National Security Law at the U.S. Army Judge Advocate General’s School, Chief Prosecutor for the 101st Airborne Division, and as a Tactical Intelligence Officer in Panama. Professor Corn has been an expert consultant and witness for defendants before the Military Commission and for other Guantanamo detainees challenging the legality of their detention. He has published numerous articles in the field of national security law and is a co-author of a forthcoming book titled The Law of War and the War on Terror. He is a graduate of Hartwick College and the U.S. Army Command and General Staff College, and earned his J.D., highest honors, at George Washington University and his LL.M., distinguished graduate, at the Judge Advocate General’s School. He frequently lectures on law of war and national security law topics. \*\* Lieutenant Colonel, Chief, International Law Branch, Office of the Judge Advocate General, U.S. Army. B.A., Brigham Young University, 1989; J.D., University of Notre Dame, 1994; LL.M., The Judge Advocate General’s Legal Center and School, 2001; LL.M., Yale Law School, 2006. Operational Law Attorney, Task Force Eagle, Bosnia, 1996, Command Judge Advocate, Task Force Able Sentry, Macedonia, 1997, Chief Military Law, Task Force Eagle, Bosnia, 1998. Professor, International and Operational Law Department, the Judge Advocate General’s Legal Center and School, 2001 to 2004, Deputy Staff Judge Advocate, 1st Cavalry Division, Baghdad, Iraq, 2004 to 2005, Member of the Bars of Indiana and the United States Supreme Court. The views expressed in this Article are those of the Authors and not the Judge Advocate General’s Corps, the United States Army, or the Department of Defense. TEMPLE LAW REVIEW, “UNTYING THE GORDIAN KNOT: A PROPOSAL FOR DETERMINING APPLICABILITY OF THE LAWS OF WAR TO THE WAR ON TERROR”, online pdf, jj)

This new triggering paradigm is not without its risks. As described earlier in the diagram, one of the inputs into ROE is national policy. Policy is by definition a political input. That means that, by definition, ROE are already subject to political inputs. Naturally, in a nation such as the United States, which strongly believes that its military must be subject to civilian control, the inputs are not only important, but necessary. However, it is equally important that ROE remain a functional tool that the military can apply to achieve the end state desired by the political leadership.

History has already provided at least one occasion where military leaders felt the ROE were too constrained to allow military victory

marked

. In the midst of the Vietnam War, President Johnson proudly proclaimed that the military could not “bomb an outhouse without my approval.”198 Many military leaders chafed under such controls and argued that this level of review and approval prevented the military from successfully carrying out its mission.199 Some of this may be the military leaders not recognizing that the political end state may not always include a complete military victory and the total destruction of the enemy. However, there is certainly a valid concern that the ROE can be overpoliticized at the expense of blood and treasure.

Given that ROE are already a policy issue, this new paradigm could result in the overpoliticization of the ROE, placing military forces in grave danger. It is easy to envision a situation where the executive branch might not want to be seen as going to “war” or taking actions that might trigger the War Powers Act, regardless of the realities on the ground. In an effort to avoid such a trigger, the military could be given only self-defense ROE, making the claim that, based on the ROE, this was less than war and therefore there was no requirement to report to Congress. The military would then be sent to a hostile environment with ROE that would not provide sufficient authority to adequately accomplish the mission, nor possibly provide adequate protections in the face of an armed enemy. As mentioned above, while this situation is unlikely under current circumstances due to the short-lived patience of the American people to the inevitably mounting U.S. casualties that would result, it is still a risk that must be recognized with the adoption of the new paradigm.

### A2: Huq

#### Huq votes neg

Aziz Z. Huq 12, Chicago law prof, “binding the executive (by law or by politics)”, August, <http://www.law.uchicago.edu/files/file/400-ah-binding.pdf>

First, the capacity of our political system to generate meaningful checks on the national executive may be waning. National legislative politics in the United States are characterized by growing polarization between the two main parties. Legislative caucuses for both parties are more ideologically coherent than they were a generation ago; ideological overlap between the parties has vanished.229 The combination of ideologically homogenous and distinct parties with bicameralism and presentment predictably generates legislative gridlock.230 Either one side or the other can be relied upon to leverage vetogates in the legislative process. This affects not only fiscal matters—as the 2011 debt ceiling debate illustrated—but also impedes the possibility of effective political checks on the executive. In the absence of a major partisan realignment, the conditions for neither significant political nor legal constraint may be met.231 More subtly, deepening ideological commitments may render voters less receptive to new information. Revelation of executive abuse—whether it is the exploitation of Chrysler’s creditors or Guantánamo detainees—may consequently be less likely to influence a chief executive’s credibility or popularity. It may not be law’s weakness but the short-term deliquescence of American politics that drives changes to the scope of executive power in coming decades. Second, the exercise of executive discretion, especially in emergencies, may have troubling distributional consequences. If politics plays a role in shaping executive constraint, it is to be expected that the distribution of losses among social groups will be a function of those groups’ influence in national politics. In the current structure of national politics, “affluent people have considerable clout, while the preferences of people in the bottom third of the income distribution have no apparent impact on the behavior of their elected officials.” 232 Information about national politics is similarly unevenly distributed within the electorate. 233 As a result, “policy outcomes strongly reflect the preferences of the most affluent but bear virtually no relationship to the preferences of poor or middle-income Americans.” 234 In moments of crisis, when § Marked 19:23 § the politically ill-connected have the least opportunity to compensate for their impoverished leverage through time-consuming political mobilization, the effects of asymmetrical influence may be especially pronounced. Emergencies often impose sudden, large losses on the polity though their immediate impact (for example, Hurricane Katrina) or indirectly due to a costly government response (for example, 9/11). In a world in which political mechanisms bear heavily on executive responses, losses will be allocated disproportionately to those with the least political influence, exacerbating their ex ante disenfranchisement.235 Returning to that fraught Thursday in September 2008, consider again the Troubled Asset Relief Program236 (TARP) created by Congress in response to Treasury Secretary Paulson’s pleas. 237 TARP provides a useful platform for analysis here because its implementation was largely a matter of executive discretion rather than legislative direction. Although losses on TARP were not as great as feared,238 the primary beneficiaries of the intervention were “creditors and counterparties” of financial institutions.239 By contrast, elements of TARP meant to serve broad swaths of the public, such as its mortgage restructuring program, were later deemed at best a “qualified” success.240 TARP also aggravated the “too big to fail” problem, leaving the financial industry more concentrated and more confident of its implicit taxpayer-funded subsidy.241 The risk of a future crisis, which will likely be remedied from the public purse, is thus greater at the time of this writing than it was in early 2008. The political foundations of executive constraint, in short, may be fraying as greater legislative polarization and political inequality create political dynamics in which political elites are increasingly unlikely to converge on opposition to a President. This in turn will change both the quantity of constraint and the downstream distributive effects of executive initiatives.

CONCLUSION

The general tenor of The Executive Unbound is optimistic. Increased presidential authority is a boon. When it is not, there are political checks in reserve. The book’s normative implication is quietist. Effort to constrain the executive is pointless and unnecessary. But the account developed in this Review suggests more cause for pessimism about both the current state of affairs and future prospects for national governance. Just as liberal legalists hoped for too much from the law, so PV’s aspirations for politics may be disappointed. Rather than emphasizing law alone or politics alone, I have argued that the executive is constrained most by complementary action of legal and political mechanisms. My primary goal has been to posit an alternative description of executive restraint and to suggest that much more work needs to be done specifying the precise mechanics whereby legal and political mechanisms interact to produce checks under diverse background institutional and political circumstances. In closing I have also suggested that my alternative account of executive checks has normative implications. This account at a minimum implies that the current optimality of executive action cannot be assumed. And it hints that talk of an “unbounded” executive may be increasingly descriptively correct because national politics is becoming more polarized and more elite-driven. The burden of this emerging political economy of executive power, I suspect, will fall hardest on those who can least afford to bear its costs. Inevitable or not, this to me hardly seems cause for celebration.