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#### 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**.

### CP

#### TEXT: The Executive Branch should restrict require a Congressional policy trial prior to introducing United States armed forces into missions beyond self-defense, pursuant to the rules of engagement.

#### Executive action solves case and avoids our disads

Katyal 06 Neal Kumar Katyal, Yale Law Journal, Internal Separation of Powers: Checking Today’s Most Dangerous Branch from Within, http://www.yalelawjournal.org/pdf/115-9/Katyal.pdf

This Essay therefore outlines a set of mechanisms that create checks and ¶ balances within the executive branch. The apparatuses are familiar—separate ¶ and overlapping cabinet offices, mandatory review of government action by ¶ different agencies, civil-service protections for agency workers, reporting ¶ requirements to Congress, and an impartial decision-maker to resolve interagency conflicts. But these restraints have been informally laid down and ¶ inconsistently applied, and in the wake of September 11 they have been ¶ decimated.8¶ A general framework statute is needed to codify a set of practices. ¶ In many ways, the status quo is the worst of all worlds because it creates the ¶ façade of external and internal checks when both have withered. ¶ This Essay’s proposed reforms reflect a more textured conception of the ¶ presidency than either the unitary executivists or their critics espouse. In ¶ contrast to the unitary executivists, I believe that the simple fact that the ¶ President should be in control of the executive branch does not answer the ¶ question of how institutions should be structured to encourage the most robust ¶ flow of advice to the President. Nor does that fact weigh against modest ¶ internal checks that, while subject to presidential override, could constrain ¶ presidential adventurism on a day-to-day basis. And in contrast to the doubters ¶ of the unitary executive, I believe a unitary executive serves important values, ¶ particularly in times of crisis. Speed and dispatch are often virtues to be ¶ celebrated. ¶ Instead of doing away with the unitary executive, this Essay proposes ¶ designs that force internal checks but permit temporary departures when the ¶ need is great. Of course, the risk of incorporating a presidential override is that ¶ its great formal power will eclipse everything else, leading agency officials to ¶ fear that the President will overrule or fire them. But just as a filibuster does ¶ not tremendously constrain presidential action, modest internal checks, buoyed ¶ by reporting requirements, can create sufficient deterrent costs.

### Cp2

#### TEXT: The United States federal government should restrict 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.

#### 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 the U.N. 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.

### Cp 3

#### The United States federal government should restrict require a Congressional policy trial prior to introducing United States armed forces into missions, pursuant to the rules of engagement.

#### 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.

### DA 1

#### TPA will pass now despite Reid’s objection

CNI, Chemical News & Intelligence, Jan 30th 2014, Lexis

Dooley served as a member of Congress from 1991 to 2004, representing successively the 17th and 20th districts of California, and he was a leader in the House Democrat caucus on trade issues. "I worked with President Bush and President Clinton in advancing trade liberalisation issues," Dooley said on Thursday, "and in all that time Harry Reid never once supported TPA, so no one should be surprised at his opposition now." As majority leader in the Senate, Reid has considerable power, including the authority to decide what bills will be allowed a full floor vote in the Senate - or will not. His oppostion to fast-track trade authorisation is seen as linked to his close ties with constituents in labour and environmental movements. Those groups oppose fast-track on grounds that US employees must compete with under-represented and low-paid workers in other countries that also have weak or nonexistent environmental controls. the lack of which make production in those nations cheaper. Dooley indicated that despite Reid's opposition to TPA, fast-track trade authorisation could still be approved by Congress. "As in the past, to secure sufficient bipartisan support for TPA, it will require a strong, personal engagement by President Obama and a commitment by him to make this one of his highest priorities," Dooley said. Dooley noted that congressional votes on trade promotion authority "have always passed with just a handful of votes", which is why it is critical that Obama becomes engaged in the legislative process. He noted that Obama has committed to the TTIP and TPP deals and has directed Froman to move aggressively to secure both agreements. "If the president is committed to this, it has always been possible to get trade promotion authority through Congress," Dooley said.

#### 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.

#### Political capital is key to TPA – which solves global leadership and the economy

Thomas F. "Mack" McLarty was chief of staff to President Bill Clinton during the NAFTA ratification fight. Nelson W. Cunningham was also a Clinton White House aide, “A Critical Test of Leadership”, 2/2/14, http://www.huffingtonpost.com/thomas-f-mclarty/a-critical-test-of-leader\_b\_4705623.html

In his State of the Union address last week, President Obama took a good first step in asking Congress to provide the tools he needs to close two of the most ambitious trade deals in U.S. history. But he faces an immediate challenge from within his party that could imperil negotiations, with huge stakes for the U.S. globally and for our economy at home. At issue is Trade Promotion Authority (TPA), which allows the president to send a trade agreement to Congress for an up-or-down vote, without amendments. Many Republicans reflexively oppose granting any request from the administration. But the biggest opposition is coming from Democrats skeptical of the value of free trade. The day after the president's address, Senate Majority Leader Harry Reid said he opposed "fast track" authority. His remarks revealed the depth of a gulf among Democrats over trade, and sparked new criticism from Republicans as a sign that the president's party couldn't be lined up behind a major administration initiative. For President Obama, this is a critical test of his leadership. Can he muster enough support for his trade agenda within his own party, and then assemble a bipartisan majority in both houses of Congress? Failure would be a great setback for U.S. prestige internationally, and a dismal signal for the president's remaining three years in office. We've seen this movie before -- and it didn't end well. The last Democratic president to seek fast track authority on trade was Bill Clinton in 1997. The effort collapsed when then House Speaker Newt Gingrich was unable to marshal his Republican majority. It was an opportunity lost, ending a period of bipartisan cooperation on trade and stalling momentum created a few years earlier by the North American Free Trade Agreement. Repeating this history would be a mistake, especially as our economy struggles to create good jobs at high wages. But the president faces an uphill battle. Now is the moment for Democrats to pause and take full measure of the stakes involved in opposing fast track. It's time for Republican supporters of trade to rally. And it is essential that the president and his cabinet exert persistent, focused leadership to persuade the skeptics. President Obama deserves much credit for advancing the most far-reaching trade agenda in a generation. The administration is nearing the finish line in negotiations of the Trans Pacific Partnership, an agreement with 11 Pacific Rim nations, including Japan and perhaps South Korea and others. Simultaneous talks are underway between the United States and the European Union over the Transatlantic Trade and Investment Partnership -- creating an economic NATO and the largest liberalized trade zone in the world. Together, the agreements would lower barriers in markets accounting for more than 60 percent of the global economy. Neither negotiation would survive a failure to renew Trade Promotion Authority, which expired in 2007. TPA reassures our negotiating partners that they will not agree to difficult concessions only to see Congress later force unilateral changes. Under TPA, Congress establishes negotiating goals and must be regularly consulted by the president. In exchange, Congress promises an up-or-down vote without amendment. No major trade legislation has passed Congress in decades without it. President Clinton knew that because trade was so hard, its support had to be bipartisan. To push for NAFTA, he assembled a high-profile war room in the White House, led by a prominent Democrat, Bill Daley, and former Republican Congressman Bill Frenzel. The president worked members tirelessly. The bill eventually passed with 102 Democratic and 132 Republican votes, and a similarly bipartisan total in the Senate. By contrast, the 1997 effort to renew fast-track authority lacked that high-profile White House push -- helping seal its doom. Over the last decades, global trade has proven essential to building employment and reducing inequality at home. One of every five jobs in the United States is tied to exports. More significantly for the long run, 95 percent of the world's customers live outside our borders. While many Americans have concerns about free trade, they say the benefits of U.S. involvement in the global economy outweigh the risks (by a 2-1 margin in a poll last month by the Pew Research Center). Even so, last fall 151 House Democrats signed a letter expressing their opposition to granting President Obama Trade Promotion Authority. Almost three dozen House Republicans followed suit. When the bill to renew TPA was introduced earlier this month, a number of Democratic Senators announced their opposition. They have now been joined by Sen. Reid. The warning signs are clear, but so is the path forward. Now is the time for a full-court press from the White House. President Obama should be clear about the imperative of TPA and make the strong case for trade as a catalyst for job growth. Then he must press his cabinet to the task. Ambassador Froman is a skilled negotiator and advocate. His cabinet colleagues include many effective proponents of free trade and international engagement, including Secretary of State John Kerry, Treasury Secretary Jack Lew, and Commerce Secretary Penny Pritzker. Without a concerted effort, TPA may well fail, embarrassing us abroad, casting a shadow on the president's second term and hurting our economy in the long run. Why not instead show America and the world that the president and Congress, including leaders of his own party, can work together?

***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?***

### 1NC – Circumvention – D & O – Congress

#### Zero risk of solvency

#### 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 the 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 War Powers Resolution. 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 becoming something of a norm within 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 targeted killings, 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 Authorization for Use of Military Force 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 War Powers Resolution, 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 issue (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.

#### 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 War Powers Resolution, 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.

#### 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.

#### The US will act on this ambiguity

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.

### 1NC – Warfighting

#### ( ) Congressional authorization doesn’t improve war-fighting—if that were true, we would’ve decisively won Iraq and Vietnam

Nzelibe and Yoo 13(Jide Nzelibe, Assistant Professor of Law, Northwestern University Law School, and John Yoo, Professor of Law, University of California at Berkeley School of Law, “Rational War and Constitutional Design,” The Yale Law Journal, Vol. 115, No. 9, 12/8/13)

**Empirically testing the assertion that greater institutional participation produces more accurate decisions** **would require us to determine whether** **congressional participation**, ex ante, **correlates with positive outcomes for war. While a systematic review is outside the scope of this Essay, a quick review of the record does not seem to suggest any connection between success in war -** which itself could be the product of good conflict selection or better performance - **and congressional ex ante approval.** Declarations of war generally have marked victories for the United States. The first and second World Wars and the Mexican- and Spanish-American Wars ended with the United States prevailing, and the War of 1812 could be considered a draw. But **other wars that ended on an unpopular note, such as Vietnam and perhaps the current Iraq occupation, do not suggest a clear relationship between ex ante statutory authorization and American success**. These examples are anecdotes, and it remains possible that ex ante legislative authorization could help select the appropriate conflicts; but ultimately this is an empirical question, and it cannot be answered definitively through theoretical models.

#### Retrenchment doesn’t cause conflict, lashout, or draw-in---all their studies are wrong

Paul K. MacDonald 11, Assistant Professor of Political Science at Williams College, and Joseph M. Parent, Assistant Professor of Political Science at the University of Miami, Spring 2011, “Graceful Decline?: The Surprising Success of Great Power Retrenchment,” International Security, Vol. 35, No. 4, p. 7-44

How do great powers respond to acute decline? The erosion of the relative power of the United States has scholars and policymakers reexamining this question. The central issue is whether prompt retrenchment is desirable or probable. Some pessimists counsel that retrenchment is a dangerous policy, because it shows weakness and invites attack. Robert Kagan, for example, warns, "A reduction in defense spending . . . would unnerve American allies and undercut efforts to gain greater cooperation. There is already a sense around the world, fed by irresponsible pundits here at home, that the United States is in terminal decline. Many fear that the economic crisis will cause the United States to pull back from overseas commitments. The announcement of a defense cutback would be taken by the world as evidence that the American retreat has begun."1 Robert Kaplan likewise argues, "Husbanding our power in an effort to slow America's decline in a post-Iraq and post-Afghanistan world would mean avoiding debilitating land entanglements and focusing instead on being more of an offshore balancer. . . . While this may be in America's interest, the very signaling of such an aloof intention may encourage regional bullies. . . . [L]essening our engagement with the world would have devastating consequences for humanity. The disruptions we witness today are but a taste of what is to come should our country flinch from its international responsibilities."2 The consequences of these views are clear: retrenchment should be avoided and forward defenses maintained into the indefinite future.3¶ Other observers advocate retrenchment policies, but they are pessimistic [End Page 7] about their prospects.4 Christopher Layne, for instance, predicts, "Even as the globe is being turned upside down by material factors, the foreign policies of individual states are shaped by the ideas leaders hold about their own nations' identity and place in world politics. More than most, America's foreign policy is the product of such ideas, and U.S. foreign-policy elites have constructed their own myths of empire to justify the United States' hegemonic role."5 Stephen Walt likewise advocates greater restraint in U.S. grand strategy, but cautions, "The United States . . . remains a remarkably immature great power, one whose rhetoric is frequently at odds with its conduct and one that tends to treat the management of foreign affairs largely as an adjunct to domestic politics. . . . [S]eemingly secure behind its nuclear deterrent and oceanic moats, and possessing unmatched economic and military power, the United States allowed its foreign policy to be distorted by partisan sniping, hijacked by foreign lobbyists and narrow domestic special interests, blinded by lofty but unrealistic rhetoric, and held hostage by irresponsible and xenophobic members of Congress."6 Although retrenchment is a preferable policy, these arguments suggest that great powers often cling to unprofitable foreign commitments for parochial reasons of national culture or domestic politics.7¶ These arguments have grim implications for contemporary international politics. With the rise of new powers, such as China, the international pecking order will be in increasing flux in the coming decades.8 Yet, if the pessimists are correct, politicians and interests groups in the United States will be unwilling or unable to realign resources with overseas commitments. Perceptions of weakness and declining U.S. credibility will encourage policymakers to hold on to burdensome overseas commitments, despite their high costs in blood and treasure.9 Policymakers in Washington will struggle to retire from profitless military engagements and restrain ballooning current accounts and budget deficits.10 For some observers, the wars in Iraq and Afghanistan represent the ill-advised last gasps of a declining hegemon seeking to bolster its plummeting position.11¶ In this article, we question the logic and evidence of the retrenchment pessimists. To date there has been neither a comprehensive study of great power retrenchment nor a study that lays out the case for retrenchment as a practical or probable policy. This article fills these gaps by systematically examining the relationship between acute relative decline and the responses of great powers. We examine eighteen cases of acute relative decline since 1870 and advance three main arguments.¶ First, we challenge the retrenchment pessimists' claim that domestic or international constraints inhibit the ability of declining great powers to retrench. In fact, when states fall in the hierarchy of great powers, peaceful retrenchment is the most common response, even over short time spans. Based on the empirical record, we find that great powers retrenched in no less than eleven and no more than fifteen of the eighteen cases, a range of 61-83 percent. When international conditions demand it, states renounce risky ties, increase reliance on allies or adversaries, draw down their military obligations, and impose adjustments on domestic populations.¶ Second, we find that the magnitude of relative decline helps explain the extent of great power retrenchment. Following the dictates of neorealist theory, great powers retrench for the same reason they expand: the rigors of great power politics compel them to do so.12 Retrenchment is by no means easy, but [End Page 9] necessity is the mother of invention, and declining great powers face powerful incentives to contract their interests in a prompt and proportionate manner. Knowing only a state's rate of relative economic decline explains its corresponding degree of retrenchment in as much as 61 percent of the cases we examined.¶ Third, we argue that the rate of decline helps explain what forms great power retrenchment will take. How fast great powers fall contributes to whether these retrenching states will internally reform, seek new allies or rely more heavily on old ones, and make diplomatic overtures to enemies. Further, our analysis suggests that great powers facing acute decline are less likely to initiate or escalate militarized interstate disputes. Faced with diminishing resources, great powers moderate their foreign policy ambitions and offer concessions in areas of lesser strategic value. Contrary to the pessimistic conclusions of critics, retrenchment neither requires aggression nor invites predation. Great powers are able to rebalance their commitments through compromise, rather than conflict. In these ways, states respond to penury the same way they do to plenty: they seek to adopt policies that maximize security given available means. Far from being a hazardous policy, retrenchment can be successful. States that retrench often regain their position in the hierarchy of great powers. Of the fifteen great powers that adopted retrenchment in response to acute relative decline, 40 percent managed to recover their ordinal rank. In contrast, none of the declining powers that failed to retrench recovered their relative position.

### Sudan

#### No Africa war or they can’t solve

Straus 12—professor of politics at the University of Wisconsin (Scott, WARS DO END! CHANGING PATTERNS OF POLITICAL VIOLENCE IN SUB-SAHARAN AFRICA, afraf.oxfordjournals.org/content/early/2012/03/01/afraf.ads015.full)

The principal finding is that in the twenty-first century both the volume and the character of civil wars have changed in significant ways.5 Civil wars are and have been the dominant form of warfare in Africa, but they have declined steeply in recent years, so that today there are half as many as in the 1990s. This change tracks global patterns of decline in warfare.6 While some students of African armed conflicts, such as Paul Williams, note the recent trend,7 it is fair to say that the change in the prevalence of civil wars is not recognized by most Africanists and generalists. Equally important but even less noted is that the character of warfare in Africa has changed. Today's wars are typically fought on the peripheries of states, and insurgents tend to be militarily weak and factionalized. The large wars that pitted major fighting forces against each other, in which insurgents threatened to capture a capital or to have enough power to secede, and in which insurgents held significant territory – from the Biafra secessionists in Nigeria, to UNITA in Angola, RENAMO in Mozambique, the TPLF in Ethiopia, the EPLF in Eritrea, the SPLM in Sudan, the NRM in Uganda and the RPF in Rwanda – are few and far between in contemporary sub-Saharan Africa. Somalia's Al-Shabab holds territory and represents a significant threat to the Somali federal transitional government, but given the 20-year void at the centre of Somalia the case is not representative. In April 2011, rebel forces in Côte d'Ivoire captured Abidjan, but they did so with external help and after incumbent Laurent Gbagbo, facing a phalanx of domestic, regional, and international opposition, tried to steal an election.8 More characteristic of the late 2000s and the early 2010s are the low-level insurgencies in Casamance (Senegal), the Ogaden (Ethiopia), the Caprivi strip (Namibia), northern Uganda (the Lord's Resistance Army), Cabinda (Angola), Nigeria (Boko Haram), Chad and the Central African Republic (various armed groups in the east), Sudan (Darfur), and South Sudan, as well as the insurgent-bandits in eastern Congo (a variety of armed actors, including Rwandan insurgents) and northern Mali (al-Qaeda in the Maghreb). Although these armed groups are in some cases capable of sowing terror and disruption, they tend to be small in size, internally divided, poorly structured and trained, and without access to heavy weapons.9 Several of today's rebel groups have strong transnational characteristics, that is, insurgents move fluidly between states. Few are at present a significant military threat to the governments they face or in a position to seize and hold large swaths of territory.

#### No risk of great power conflict over Africa

Barrett, ’05 [Robert, PhD student Centre for Military and Strategic Studies, University of Calgary, June 1,

http://papers.ssrn.com/sol3/Delivery.cfm/SSRN\_ID726162\_code327511.pdf?abstractid=726162&mirid=1]

Westerners eager to promote democracy must be wary of African politicians who promise democratic reform without sincere commitment to the process. Offering money to corrupt leaders in exchange for their taking small steps away from autocracy may in fact be a way of pushing countries into anocracy. As such, world financial lenders and interventionists who wield leverage and influence must take responsibility in considering the ramifications of African nations who adopt democracy in order to maintain elite political privileges. The obvious reason for this, aside from the potential costs in human life should conflict arise from hastily constructed democratic reforms, is the fact that Western donors, in the face of intrastate war would then be faced with channeling funds and resources away from democratization efforts and toward conflict intervention based on issues of human security. This is a problem, as Western nations may be increasingly wary of intervening in Africa hotspots after experiencing firsthand the unpredictable and unforgiving nature of societal warfare in both Somalia and Rwanda. On a costbenefit basis, the West continues tobe somewhat reluctant to get to get involved in Africa’s dirty wars, evidenced by its political hesitation when discussing ongoing sanguinary grassroots conflicts in Africa. Even as the world apologizes for bearing witness to the Rwandan genocide without having intervened, the United States, recently using the label ‘genocide’ in the context of the Sudanese conflict (in September of 2004), hasonly proclaimed sanctions against Sudan, while dismissing any suggestions at actual intervention (Giry, 2005). Part of the problem is that traditional military and diplomatic approachesat separating combatants and enforcing ceasefires haveyielded little in Africa. No powerful nations want to get embroiled in conflicts they cannot win – especially those conflicts in which the intervening nation has very little interest.

### Egypt

#### 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 risk of Egypt instability---common goals

**Democracy Digest 2-1-12** (Muslim Brotherhood’s tacit deal with military ‘no surprise’http://www.demdigest.net/blog/2012/02/muslim-brotherhoods-tacit-deal-with-military-no-surprise/, jj)

**The Muslim Brotherhood’s support for the ruling military’s crackdown on Egypt’s pro-democracy groups confirms suspicions of a tacit pact to curtail the growth of democratic forces**, writes Khalil al-Anani. **The Brotherhood** – and its Freedom and Justice party- **share the military’s preference for stability over change, and for procedural instead of genuine democracy**. **The question is not how the Islamists’ leaders (right) will rule the country but rather how will they legitimize and justify their power**. Paradoxically, despite the outright majority attained by its Freedom and Justice Party (FJP), the MB is still thinking and acting as an opposition movement rather than a responsible power-holder. It seems reluctant to take full power over the country or as Nathan Brown aptly puts it, “the MB confronts its success.” Hence the MB’s leaders are grappling with making the shift from long-standing repressed mentalities to those of statesmen, or as one of the MB’s defectors has told me “they need a psychological rehabilitation” before ruling the country. The response of the MB’s leadership on the disputes with other forces provides a gloomy pattern. Strikingly, the statement the movement issued on Tahrir Square’s quarrel alarmed those who might disagree with its political stance. Whereas the movement should have apologized for its stark blunders over the past few months (e.g. disavowing Mohamed Mahmoud’s street events, condemning Tahrir protesters during the cabinet building clashes, frequently granting the Supreme Council of the Armed Forces legal and political immunity, etc.), it defied the mounting calls for an immediate transfer of power from the military to a civilian president. Ironically, **the MB’s** newly-issued **newspaper** al-hurriyya wal’adala **reiterated the rhetoric of notorious public newspapers toward Tahrir’s protesters when it dubbed them “anarchists [who] seek to destabilize the country**.” **The conformity between the MB and the SCAF in dealing with the revolution comes as no surprise due to their mutual interests.** **The MB seeks to consolidate the extraordinary gains it attained since Mubarak’s disposal without risking its internal coherence. And the junta wants to maintain their unusual privileges without any civilian oversight**. Clearly, both are exemplifying an obsolete mindset. **They promote “reform” over “revolution,” “stability” not “change,” and “procedural” instead of “genuine” democracy. Not surprisingly, they are involved in negotiating, compromising, and brokering the future of the country behind the scene.**

#### 4) The SCAF won’t reform and minor changes won’t appease anyone

**Fisher 8/12**

William, managed economic development programs for the U.S. State Department and the U.S. Agency for International Development in the Middle East, Latin America and elsewhere for the past 25 years. He has supervised major multi-year projects for AID in Egypt, The Public Record, <http://pubrecord.org/world/9614/egypt-education-generals/>

He added, “**The chronic human rights problem of the police and security establishment is** too **complex** to be solved by the creation of a deputy human rights post in the Interior Ministry. Indeed, the problem is closely linked to the extent to which people realize the need for radical, far-reaching reform in the Interior Ministry and other state institutions and ministries. The experience of the last few months contains little to indicate this realization among the Interior Ministry, the Prime Minster, or the Supreme Council of the Armed Forces.” If Egypt’s “January 25 revolution” is to succeed, **comprehensive security reform is required**, he said, **adding that making minor changes around the margins is unlikely to produce any positive change**. Unfortunately, he said, “**there is little indication that the** Supreme Council of the Armed Forces (**SCAF**) or the current Minister of Interior **is interested in undertaking such reforms**.” So far, he concluded, “**The SCAF has only changed the name of the SSIS and made promises of further reform**. More recently, **the government announced the dismissal of several hundred high ranking officers, and the commencement of trials against officers suspected of murdering protesters. None of these steps address the structural aspects of the problem at hand.”** He told The Public Record, “**Renaming the agency and promising some reforms is not enough. It needs to be disbanded**.”

#### 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.”

#### No Egypt/Israel war, even in the worst case scenario

**Tait 4-27-11** (Robert, Radio Free Europe, “The Ice Melts In Iran’s Cold War With Egypt” <http://www.rferl.org/content/iran_egypt_thaw_in_relations/16795361.html>)

**Egypt's commitment to the Camp David Accords, the lynchpin of its ties with the West, is also unlikely to be challenged**, Labbad says, despite Iran's unflinching hostility toward the Jewish state. **"I don't think relations between Israel and Egypt will be affected**. **Nobody in Egypt is questioning the Camp David treaty and nobody in Egypt is willing to have tension with Israel,"** Labbad says. "**Even the Muslim Brothers, if they will come to be a majority in the next Egyptian parliament, they are not capable and they are not willing even to challenge this treaty."** Yet whatever the limitations, a new relationship would be a real gain for Iran's theocratic system, which would stand to gain more than the new regime in Cairo, Javedanfar says.

# 2NC

## Circum PIC

### Kicking

#### Circumvented

***Punish them for reading a really general plan text***

**Sitkowski 6** (Andrzej, Independent Researcher and Consultant – United Nations, UN Peacekeeping: Myth and Reality, p. 14)

Non-use of force except in self-defense is the sole principle directly related to armed contingents and is the ***most ambiguous***. According to the UN interpretation, self-defense includes armed response to forceful actions of the warring parties preventing the peacekeepers from discharging their mandate. It boils down to nothing less than a ***blanket authorization to use force*** in defense of the mandates, thus. But as if an effort to offset such a conclusion, the Secretariat pronounces every use of force other than in self-defense to constitute peace enforcement which is inconsistent with peacekeeping and should be avoided at any costs: "The logic of peacekeeping Hows from premises that are quite distinct from enforcement and the dynamics of the latter are incompatible with the political process that peacekeeping is intended to facilitate. To *blur* the distinction between the two can *undermine* the viability of peacekeeping operation and endanger its personnel."4 The distinction looks good as long it is not exposed to the logic of war, the only logic to which the warring parties normally subscribe. Is removing by force of an illegal roadblock to enable the progress of a UN convoy an act of self-defense against an obstruction in discharging a peacekeeping mandate or an offensive action in peace enforcement? The UN distinction between the defensive and offensive use of force is ***blurred at the outset***.

#### No say anything

**“Defensive” exemption is narrow and defined in law---it’s a precise loophole that won’t be circumvented**

**Skaggs 8** – David Skaggs, Co-Chair of The War Powers Committee at The Constitution Project, “Congressional Perspective On War Powers”, CQ Congressional Testimony, 3-13, Lexis

I would like to cut to the chase. That is this. Except in very limited circumstances, it is Congress' inalienable responsibility and duty to determine when the nation uses force abroad.

It is not enough for the President to check in with Congress through some consultative process. The power to initiate war does not belong to the President. That power and responsibility belongs right here. It belongs to the people's representatives in Congress. It is not to be denied any more than it is to be avoided.

James Madison was as determined as anyone to warn against, and avoid the danger of, vesting in any one man the awesome power to make war. As Madison explained to Thomas Jefferson, "The constitution supposes, what the History of all Governments demonstrates, that the Executive is the branch of power most interested in war, and most prone to it. It has accordingly with studied care vested the question of war in the Legislature."

I do not want to get trapped in an absolutist corner. This is not the 18th Century, when nations had the courtesy to begin wars with formality and armies advanced over borders in disciplined ranks. We do have to read the Constitution's war powers in light of present reality. And there's a fine analysis in the Initiative's report of the nuanced situations we face these days - especially when non-state terrorism may pose the greatest threat.

The Congress needs to address those cases in a way which respects its war powers authority but also takes account of the operational need for the President to act against imminent attack. That necessarily will entail a delegation of authority to use force, but a limited delegation under conditions defined in law as precisely as possible and with requirements for immediate accountability. This will require some deft drafting. But the complexity of such cases should not be an excuse for Congress to punt the constitutional ball to the President.

Some here today may remember our former colleague from Illinois, the late Charlie Hayes. When things would get a little rambunctious in the House Chamber, we could count on Charlie in one of the back rows to give out the cry for "regular order."

What we need is a sense of regular order about war powers. There should be an accepted presumption that this is Congress' "call" - a matter certainly to be considered at the request of the President, but not at the direction of the President.

How many times do we have to relearn the lesson? Wars undertaken with an authentic endorsement from the people's representatives in Congress have a better prospect for success - political and military. A chief executive with an understanding of this regular constitutional order should welcome, not resist, it.

During my time here, it was always striking and odd how, when we faced a national security crisis, most Members became almost reflexively deferential toward presidential power and authority. That is understandable with respect to a President's grasp of military realities in the event of attack.

However, when we are proposing to start a fight, there is no excuse. Surely the after-action examination of the intelligence used to justify the invasion of Iraq should bolster Congress' confidence in its responsibility and capacity to examine and question the alleged grounds for war - and then, to make up its own mind.

If I may, Mr. Chairman, I would like to offer a couple of comments about House Joint Resolution 53, the legislation introduced by Mr. Jones of North Carolina to replace the War Powers Resolution. I commend him and his co-sponsors for their determination to try to restore regular order to this area of congressional jurisdiction.

I hope it is correct to read section 4(a) of the bill, requiring "consultation" prior to the initiation of hostilities under paragraph (1) or (2) of section 3(a), as assuming that Congress will already have acted under section 3(a) either to declare war or to give statutory authorization. With that reading, the bill would properly reinstate the primacy of congressional authority.

That reading may be called into some question by the policy declaration in paragraph 2(a)(1) that "the decision of the United States to provide for the initiation of hostilities by the Armed Forces, except for a limited range of defensive purposes, requires a collective judgment of the Congress and the President; . . ." If "collective judgment" there is meant simply to acknowledge that going to war takes both congressional authorization, as a matter of constitutional law, and a Commander- in-Chief willing to order military action, as a practical matter, then no problem. On the other hand, if this phrase is meant to suggest that the President has some share of the constitutional role in authorizing military action, I believe that is problematic.

## UN

#### The CP is not a blank check

Biden & Ritch ’88, SENATOR 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

But while generous in scope, this affirmation of authorities would also define and limit what the President can do and what justifications he can properly use -- as opposed to the current monarchist situation in which no limits are even acknowledged. n110 By outlining broad but specific authority, the law also would be constraining: in accord with Marshall's rule in Little v. Barreme, what is not authorized is prohibited.

This approach -- explicit authorization entailing implicit constraints -- provides a sound constitutional means by which Congress can step usefully into [\*400] Justice Jackson's "zone of twilight." By granting express authorities it would illuminate, in practical situations, when the President's authority is "at its maximum." Conversely, by implying which measures would be incompatible with the will of Congress, it would clarify those circumstances in which the President's power is "at its lowest ebb." n111 Thus, a Use of Force Act would serve not only to provide standards for evaluating actions already taken, but as a guide for action -- an important function of all law.

An obvious concern is that the President could abuse such authorities by presenting a distorted interpretation of events. But the Chief Executive can present his version of events now, and there are no standards against which this portrayal can be weighed. In a functioning joint decision framework, a blatant distortion of authorities or circumstances would entail a clear risk. For such a framework would -- except in an emergency directly imperiling the nation -- empower the President to use force only in the short-term, and his efforts to obtain congressional approval for sustaining the action would be greatly compromised by a provocative act of misrepresentation.

#### 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, 1997, 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.

### They made link for us

#### Concede Congress never say yes

**Plan keeps the U.S. out**

Hanania 12 – Richard Hanania, JD Candidate at the University of Chicago Law School and Writer at The Atlantic, “Humanitarian Intervention and the War Powers Debate”, The Journal Jurisprudence, (2012) J. JURIS 47, http://www.jurisprudence.com.au/juris13/Hanania.pdf

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 moral348 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.

## Case

### 2NC – A – Circumvention

#### And, the plan text is extremely vague – that was in CX – 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.

#### Statutory restrictions don’t restrict the president – they just force him to be more creative

Paul 2008 - Senior Social Scientist; Professor, Pardee RAND Graduate School Pittsburgh Office Education Ph.D., M.A., and B.A. in sociology, University of California, Los Angeles (September, Christopher, “US Presidential War Powers: Legacy Chains in Military Intervention Decisionmaking\* ,” Journal of Peace Research, Vol. 45, No. 5 (Sep., 2008), pp. 665-679)

Legacy Chains

Finegold & Skocpol (1995: 222) describe policy legacies: Past and present policies are connected in at least three different ways. First, past policies give rise to analogies that affect how public officials think about contemporary policy issues. Second, past policies suggest lessons that help us to understand the processes by which contemporary policies are formulated and implemented and by which the conse quences of contemporary policies will be determined. Third, past policies impose limi tations that reduce the range of policy choices available as responses to contemporary problems. All three of the ways in which they connect past policy to present policy can be viewed as changes in the institutional context in which policy is made. These legacies are institutionalized in two different ways: first, through changes in formal rules or procedures, and second, in the 'taken for granteds', 'schemas', and accepted wisdom of policy makers and ordinary citizens alike (Sewell, 1992: 1-29). While a policy or event can leave multiple legacies, it often leaves a single major legacy. For example, the War Powers Resolution for mally changed the relationship between the president and the congress with regard to war-making and the deployment of troops. Subsequent military interventions were influenced by this change and have, in turn, left their own legacy (legal scholars might call it precedent) as a link in that chain. Legacy chains can be modified, trans formed, or reinforced as they step through each 'link' in the chain. As another example, US involvement in Vietnam left a legacy in the sphere of press/military relations which affected the intervention in Grenada in 1983 (the press was completely excluded for the first 48 hours of the operation). The press legacy chain begun in Vietnam also affected the Panama invasion of 1989 (a press pool was activated, in country, but excluded from the action), but the legacy had been trans formed slightly by the Grenada invasion (the press pool system itself grew out of complaint regarding press exclusion in Grenada) (Paul & Kim, 2004). Because of the different ways in which policy legacies are institutionalized, some legacies have unintended institutional conse quences. The War Powers Resolution was intended to curtail presidential war-making powers and return some authority to the con gress. In practice, the joint resolution failed to force presidents to include congressional participation in their intervention decision making, but it had the unintended conse quence of forcing them to change the way they planned interventions to comply with the letter of the law (see the extended ex ample presented later in the article).1

### 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

#### Their ev presupposes that Congress has a mindset favoring restrictions --- they don’t and fiat can’t solve this

Gene Healy 9 (vice president at the Cato Institute) “Reclaiming the War Power” http://object.cato.org/sites/cato.org/files/serials/files/cato-handbook-policymakers/2009/9/hb111-10.pdf

Each of these proposals has the merit of demanding that Congress carry the burden the Constitution places upon it: responsibility for the decision to go to war. The Gelb-Slaughter plan shows particular promise. Although Congress hasn’t declared war since 1942, reviving the formal declaration would make it harder for legislators to punt that decision to the president, as they did in Vietnam and Iraq. Hawks should see merit in making declarations mandatory, since a declaration commits those who voted for it to support the president and provide the resources he needs to prosecute the war successfully. Doves too should find much to applaud in the idea: forcing Congress to take a stand might concentrate the mind wonderfully and reduce the chances that we will find ourselves spending blood and treasure in conflicts that were not carefully examined at the outset. But we should be clear about the difficulties that comprehensive war powers reform entails. Each of these reforms presupposes a Congress eager to be held accountable for its decisions, a judiciary with a stomach for interbranch struggles, and a voting public that rewards political actors who fight to put the presidency in its place. Representative Jones’s Consti- tutional War Powers Resolution, which seeks to draw the judiciary into the struggle to constrain executive war making, ignores the Court’s resistance to congressional standing, as well as the 30-year history of litigation under the War Powers Resolution, a history that shows how adept the federal judiciary is at constructing rationales that allow it to avoid picking sides in battles between Congress and the president. Even if Jones’s Constitutional War Powers Resolution or Ely’s Combat Authorization Act could be passed today, and even if the courts, defying most past practice, grew bold enough to rule on whether hostilities were imminent, there would be still another difficulty; as Ely put it: ‘‘When we got down to cases and a court remanded the issue to Congress, would Congress actually be able to follow through and face the issue whether the war in question should be permitted to proceed? Admittedly, the matter is not entirely free from doubt.’’ It’s worth thinking about how best to tie Ulysses to the mast. But the problem with legislative schemes designed to force Congress to ‘‘do the right thing’’ is that Congress seems always to have one hand free. Statutory schemes designed to precommit legislators to particular procedures do not have a terribly promising track record. Historically, many such schemes have proved little more effective than a dieter’s note on the refrigerator. No mere statute can truly bind a future Congress, and in areas ranging from agricultural policy to balanced budgets, Congress has rarely hesitated to undo past agreements in the pursuit of short-term political advantage. A : 14431$CH10 11-11-08 14:18:58 Page 113 Layout: 14431 : Odd 113 C ATO H ANDBOOK FOR P OLICYMAKERS If checks on executive power are to be restored, we will need far less Red Team–Blue Team politicking—and many more legislators than we currently have who are willing to put the Constitution ahead of party loyalty. That in turn will depend on a public willing to hold legislators accountable for ducking war powers fights and ceding vast authority to the president. Congressional courage of the kind needed to reclaim the war power will not be forthcoming unless and until American citizens demand it.

#### Legal constraints fail—their ev is too optimistic

Eric Posner, 13 a professor at the University of Chicago Law School, is a co-author of The Executive Unbound: After the Madisonian Republic and Climate Change Justice, Slate, The U.S. Has No Legal Basis to Intervene in Syria, <http://www.slate.com/articles/news_and_politics/view_from_chicago/2013/08/the_u_s_has_no_legal_basis_for_its_action_in_syria_but_that_won_t_stop_us.html>, jj

One can be cynical or realistic. I prefer the latter. The Romans had it right: It is not realistic to put legal constraints on war powers. Law works through general prospective rules that apply to a range of factual situations. International relations and national security are too fluid and unpredictable to be governed by a set of legal propositions that command general assent secured in advance. Laws governing war make us feel more secure but they don’t actually make us more secure. So while it is satisfying to fling the charge of hypocrisy at the president and his lawyers, and we might disagree about the wisdom of an attack on Syria, let’s just hope that when they invoke the law, they don’t actually believe what they are saying.

#### Their primary objective is blame avoidance. Congress will not check the president

Glennon 95—Professor of Law @ UC-Davis [Glennon, Michael J., “Too Far Apart: Repeal the War Powers Resolution,” University of Miami Law Review, Vol. 50, Issue 1 (October 1995), pp. 17-32

Since the high-water mark of congressional activism during which the Resolution was adopted, members of Congress have increasingly come to eschew controversial votes. Kent Weaver of the Brookings Institution has characterized this as "credit claiming" and "blame avoiding" behavior," and it has come to pervade vast stretches of legislative terrain beyond the war power: base-closing, interest rate regulation, and budget cuts have all been assigned to entities removed from the political process.12 The problem in recent years has been less and less an imperial presidency and more and more a monarchical legislature-a Congress whose members seek the trappings of office but flee from their traditional decision-making responsibilities.13 It is said to many new members of Congress that no one will ever regret a speech that one never gives; the same can be said for a vote that one never casts. The upshot, increasingly, is legislative autopilot, a process through which credit can be claimed but blame avoided. As Senator Robert Byrd has candidly said, "It is not just that the President is often reluctant to consult, but it is always the case that if we are honest with ourselves, we here sometimes do not want early responsibility."' 14 Pg. 19-21

#### Even if enforced initially, it will lose support over time

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 10, jj

The same holds for statutory constraints on the executive—unsurprisingly, ¶ as these constraints are the product of the very Madisonian system whose ¶ failure is apparent at the constitutional level. In the terms of the legal theorist David Dyzenhaus, the APA creates a series of legal “black holes” and ¶ “grey holes” that either de jure or de facto exempt presidential and administrative action from ordinary legal requirements, and hence from (one ¶ conception of) the rule of law. 19 The scope of these exemptions waxes and ¶ wanes with circumstances, expanding during emergencies and contracting ¶ during normal times, but it is never trivial, and the administrative state has ¶ never been brought wholly under the rule of law; periodically the shackles ¶ slip off altogether.¶ As we will also try to show, the subject-specific framework statutes ¶ intended to control delegations and to constrain presidential emergency ¶ powers have fallen into abeyance, de facto; the War Powers Resolution, for ¶ example, is said to have died when President Clinton, in clear defiance of ¶ its terms, conducted a 68-day bombing campaign in Kosovo—a conflict ¶ that was itself impossible to square with prevailing rules of international ¶ law. When the hour of crisis tolls, Congress has little incentive or capacity ¶ to enforce such attempted precommitments, which typically arise from ¶ an ephemeral political consensus and lose their base of political support ¶ over time.

### 2NC A2: Courts Will Enforce – only defense

#### Vagueness 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).

#### Even if Courts ruled against the president, it wouldn’t produce durable enforcement – court decisions aren’t self-executing!

Nzelibe ’05, Jide Nzelibe ¶ Northwestern University - School of Law¶ February 15, 2005¶ Northwestern Law & Econ Research Paper No. 05-03, A Positive Theory of the War Powers Constitution, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=667382 , jj

¶ B. Why the Courts are Unlikely to Tip the Balance of War¶ Powers in Congress’s Favor¶ Congress has for prudent political reasons often declined to use its formal powers¶ to constrain the President in war powers issues. But even if members of Congress seem to¶ face significant domestic audience constraints in participating in war-powers issues, one¶ might ask why the courts do not intervene to level the policy-making playing field.¶ Indeed, one oft-cited antidote to the perceived “imperial” actions of the President in the¶ war powers realm is judicial intervention.296 Judicial intervention, it is commonly argued,¶ will tip the institutional balance of powers in Congress’s favor and encourage it to exercise¶ its war powers prerogative.297¶ There are two compelling reasons why courts have resisted, and will likely¶ continue to resist, intervening in war powers disputes: (1) due to the political calculus¶ ¶ that many members of Congress face, the courts usually assume that it is unlikely that¶ there is a genuine confrontation between the two political branches on war powers¶ disputes; and (2) the courts are probably reluctant to intervene in inter-branch disputes¶ in a sphere where they might have low institutional authoritativeness.¶ On the first point, the courts have been generally reluctant to protect legislative¶ prerogatives in war powers when members of Congress have failed to do so. Indeed, given¶ that many members of Congress often have political incentives not to confront the¶ President on war powers controversies, many of the disputes regarding the division of warpowers¶ that come before the courts routinely involve what are essentially intra-legislative¶ disputes where a segment of Congress (often a minority) seems to disagree with the¶ majority’s decision. In most such cases a majority of Congress has either explicitly¶ accepted the President’s national security agenda or has implicitly acquiesced to the¶ agenda without taking formal legislative action. In other words, in those cases there has¶ not been a genuine constitutional impasse that might appropriately trigger court scrutiny.¶ Courts, probably anticipating the political spoils at stake, decline to participate in a¶ “political pass the blame” game by insisting that the courts will not do what Congress¶ refuses to do for itself.298¶ Where members of Congress are unwilling to constrain executive branch¶ authority through legislation, courts understandably recognize that judicial intervention¶ might prove to be meaningless. First, where there is insufficient congressional support for¶ a court decision that favors congressional intervention in war powers, members of¶ Congress will very likely lack the political will to implement such a decision. In other¶ words, members of Congress who fear that greater congressional intervention will expose¶ them to electoral risks will have every incentive to sidestep a judicial ruling that awards¶ them more powers in national security affairs.¶ Second, courts will often lack the opportunity to monitor effectively the successful¶ implementation of a bright-line judicial rule regarding the allocation of war powers.¶ Judicial monitoring will often be difficult because there are so many procedural and¶ jurisdictional hurdles to bringing a legal challenge to the allocation of war powers. Since¶ most citizens will lack standing to bring the lawsuit, most such lawsuits will probably have¶ to come from members of Congress. But even if disaffected members of Congress are able¶ to overcome significant standing obstacles of their own,299 they are still likely to face a¶ slew of other procedural obstacles, including ripeness,300 mootness,301 and the political¶ question doctrine.302¶ Thus, although greater political branch collaboration on use of force issues might¶ be normatively desirable, those who argue that judicial intervention will prompt Congress¶ to take a more active role in war powers are probably wrong. Members of Congress are¶ not likely going to embrace a war powers role that has significant electoral risks simply¶ because such a role has been judicially sanctioned. Indeed, not only will members of¶ Congress lack an incentive to comply with such judicial decisions but judicial monitoring¶ of legislative compliance will often prove very difficult to carry out. At most, if compelled¶ to take on a more active role by a judicial decision when it is not in their political interest¶ to do so, members of Congress will likely substitute legislative rubberstamping for silent¶ acquiescence as the preferred response to the President’s use of force initiatives. In sum,¶ if greater political accountability for use of force decisions is the end goal, there is little¶ evidence that judicially-prompted congressional intervention will change the current war¶ powers landscape.¶ Finally, the risk of non-compliance with judicial decisions also implicates the¶ institutional legitimacy of the courts to adjudicate on war powers claims. As some¶ commentators have observed, courts seem to be especially wary about intervening in¶ separation of powers issues in foreign affairs because the popular legitimacy that underlies¶ judicial Resolution of domestic constitutional disputes does not tend to extend to foreign¶ affairs disputes. 303 In other words, when issues involve the adjudication of individual¶ rights claims or domestic separation of powers disputes, courts can often tap into the¶ popular acceptance of their role in resolving such disputes.304 In disputes regarding the¶ allocation of war powers, however, it is unlikely that the judicial branch will be able to¶ draw on the popular underpinnings of its legitimacy to secure political branch compliance¶ with its decisions because there does not seem to much of a public appetite for increased¶ judicial involvement in foreign affairs disputes. 305 Moreover, unlike in the domestic realm¶ where the courts play a key legitimating function in separation of powers disputes, the¶ political branches have very little incentive to embrace a more active judicial role in¶ disputes over the allocation of war powers. 306

### 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.

### Siggy

#### Signal arguments are wrong – nations won’t perceive it

Kriner, Assistant Profess of Political Science at Boston University, 10

(Douglas, 2010, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 81-2, google books)

First, in many cases congressional signals will likely **have** only a modest influence on the calculations of the target state at the conflict conduct phase. Uses of force involving the United States are different from most other uses of force occurring in the international system because of the tremendous asymmetric advantages in military capabilities that the United States enjoys over almost every adversary. By the time that the military policymaking process enters the conflict conduct phase, the target state's leader has already decided that his or her interests are best served by refusing to capitulate to American demands, even at the risk of almost certain tactical defeat at the hands of a superior military force. Having made this cost-benefit calculation, congressional signals during the course of a conflict should have only a modest impact on the target state leader's subsequent behavior at the conflict conduct phase." Moreover, the types of states whose leaders are most likely to make this calculation—weak states (including those harboring non-state actors who are the true target of a proposed use of force), failed states, and vulnerable dictatorships—are in many cases very different from most other members of the international community. For these actors, the costs of capitulating to American demands are so high that their cost-benefit calculations should be more impervious to congressional signals.

#### 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 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.

#### Circumvention turns signal—War powers legislation inevitably controversial- undermines the perception of the plan—especially since Obama vetoes

Alan Greenblatt NPR.org writer 6-16-2011 <http://www.npr.org/2011/06/16/137222043/why-the-war-powers-act-doesnt-work>

Party Vs. Principle Both Hamilton and Adams say the War Powers Act is being used primarily as a political cudgel against Obama. "Is the War Powers Act about protecting the power of Congress relative to the president, or about the two political parties?" asks Noah Feldman, a professor of international law at Harvard University. While some members of Congress may use the law to criticize the president for political reasons, others will defend a president of their own party — even those who had invoked the War Powers Act the last time the other party held the White House. "It doesn't matter if you're [George W.] Bush or Obama, you want more power in the White House," Feldman says. "Everyone in Congress wants to protect Congress, but they also want to protect the president of their party." Power Of The Purse As a result, Congress never manages to speak with one voice and insist en masse to the courts that a president is in violation of the War Powers Act.

### 1NC – Policy Trials Fail

#### 2AC ev concedes it requires the house

#### Policy trials fail:

#### 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.

#### 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.

### A2: ROE

#### 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.

### 2NC A2: Can’t Circumvent, Definitions, etc

#### Even if there’s no statutory wiggle room, Obama will change definitions to create it

Hafetz, 11/5 --- law professor at Seton Hall

(11/5/2013, Jonathan, “Outrage Fatigue: The Danger of Getting Used to Gitmo,” http://www.worldpoliticsreview.com/articles/13311/outrage-fatigue-the-danger-of-getting-used-to-gitmo))

The Obama administration has shown no shortage of creative lawyering in justifying U.S. military involvement in Libya and Syria as well as in expanding America’s use of targeted drone strikes. In those instances, the administration has interpreted presidential authority robustly, while narrowly construing congressional attempts to cabin that authority, as in the War Powers Resolution. Yet, when it comes to releasing Guantanamo detainees, the administration remains sheepish. It has failed to apply the same interpretive approach to congressional transfer restrictions despite what the president has described as the clear national security interests in closing the prison. Only external events, such as the hunger strike, now seem to prompt any action. And even there, the urgency tends to dissipate once the public pressure and media attention fades.

### 2NC A2: Legacy Costs

#### Legacy costs go neg—Obama doesn’t want his legacy to be a weakened presidency—all historical evidence proves

Richard Lyon, Daily Kos, Obama, Congress and War Powers, 8/31/13, http://www.dailykos.com/story/2013/08/31/1235310/-Obama-Congress-and-War-Powers

I had just published an earlier version of this diary when it was announced that Obama was about to make a public statement. That statement required some revisions, so I took the diary into the shop and made some changes. Obama has now decided to wait until congress is back in session and to seek congressional authorization for military intervention in Syria, while maintaining that he still believes that he has the legal authority to proceed without such authorization. He has made a political decision rather than a legal one. Journalists are emerging from a background briefing with "senior administration officials" at the White House. CNN's Jim Acosta reports that the president came to his decision to consult Congress only at 7pm last night, and discussed it in a walk in the White House garden with his chief of staff, Denis McDonough. When Obama shared it with his national security team, there was a "robust discussion", according to Acosta, as his advisers were mindful of the risks involved in consulting a sceptical Congress. Kerry's speech yesterday had all the earmarks of a sales pitch to convince congress and the public of the necessity for immediate military action. Obviously White House staffers were frantically looking at chicken entrails and reading tea leaves in an attempt to divine the reaction to the pitch. One of the things that they would have heard is a definite push back from various congressional backbenchers in both parties. They cannot have been oblivious to the humiliating defeat suffered by David Cameron at the hands of his own coalition. Obama's statement today was clearly a decision to back off and take a different approach. The existing legal framework for this difference of opinion is the War Powers Resolution. It was passed in 1973 in an effort to rein in the excesses of Nixon's bellicosity in Southeast Asia. It has been a murky and contentious issue ever since and none of the players have ever been really happy with the arrangement. There is an ongoing debate over its constitutionality. The issue has never come directly before SCOTUS. Various congresses and presidents have played games of tag about it. The only thing that is clear as a practical reality that money to fund a military operation beyond the annual defense appropriation requires the act of congress. For limited operations like the one being presently contemplated that is not an issue. Had Obama chosen to proceed with a military intervention without congressional authorization, it seems very unlikely that there would have been legal consequences to follow. What Obama does have on his hands is a political problem. This is not the standard D vs R script of Obamacare or tax bills. We are seeing a coalition here somewhat similar to the one that almost passed the Amash-Conyers amendment to defund NSA bulk data collection. Conservative/libertarian Republicans are joining forces with liberal Democrats to oppose the plans of the centrist power brokers in both parties. It would seem that Obama is optimistic that he will be able to prevail in obtaining a vote for congressional authorization. Democratic representatives and senators who oppose military intervention will be in for some major arm twisting. Presidents from both parties have historically vigorously attempted to preserve the powers of the office in confrontations with congress and the courts. They have typically seen it as their duty to pass on the legacy they inherited to their successors. The power of the commander in chief to conduct foreign policy and take military action is absolutely central to that legacy. Nixon over played his hand resulting in constraints being imposed. Because of the political impact of 9/11, Bush was in the political position that he was confident of his ability to obtain congressional authorizations for the most ambitious military adventures since Vietnam and he did so. Nobody accused him of being weak and indecisive. It doesn't seem to require much of a stretch to draw parallels between the situation in Washington and that in London. Whatever the truth about events in Syria, the shadow of Iraq looms over the present leaders of the nations who got into that mess. The situation is somewhat like the political climate in the US after the disaster of the Vietnam war. Until 9/11 no US president could have much confidence of his ability to lead the nation into another war. It looks like the world is finally waking up to a post Iraq world. Barack Obama finds himself in a situation where he is holding the legacy of American presidential power in his hands. I'm not sure just how critical Syria in and of itself is in a geopolitical sense. However, this does look like a particularly interesting point in US political events. The vote taken Thursday night under Big Ben is being seen as having historical significance. It is possible that what happens between the president and the congress may as well.

#### Only fixed purpose is perceived internationally

Winik ’91 (Jay, Senior Research Fellow, Nat’l Defense U, Washington Quarterly, Autumn, via InformaWorld)

The U.S. stake In speaking and acting with one voice is enormous. Two former secretar- ies of state, themselves of different political parties and holding different political Ideologies, have warned: "The American national purpose must at some point be fixed. If it is redefined—or even subject to redefinition—with every Footnotes at end at article. change In Administration in Washington, the United States risks becoming a factor of in- constancy in the world. \* \* \* Other nations— friend or adversary—unable to gear their policies to American steadiness will go their own way, dooming the United States to growing irrelevancy.2" THE NEED FOR BIPARTISANSHIP IN THE NEW WORLD ORDER The urgent need for creating a new biparti- sanship is also an acknowledgment of the changed international system. In the early 1950s. the United States produced 52 percent of the world's gross national product. It en- joyed a nuclear monopoly and was without question the world's preponderant power militarily. The past 40 years, however, have witnessed a relative decline in U.S. wealth, dictating that the United States can no longer simply overwhelm any problem with its vast national resources. Economic reali- ties have also changed domestic political re- alities. forcing the- country to make very real choices between guns and butter and to establish its priorities. Indeed, in the ab- sence of a bipartisan consensus on the role of the United States in the world, public senti- ment-including among certain foreign pol- icy elites—is already calling for the United States to turn inward. The fact is. however, that the twilight of the Cold War actually creates a greater need for bipartisanship as the United States con- fronts a more anarchical International sys- tem. The transition of the postwar blocs from East-West bipolarity to multipolarity will significantly alter the structure of the international arena, making conflict more, not less, likely. With the passage of time, Japan and a re- united Germany will almost certainly emerge as more assertive and independent actors pursuing their own national Interests. China will continue to be a major player on the world stage and will have great sway over world events. Furthermore, as the two superpowers continue on the path of arms control and scale down their military efforts, as anticipated, the gap between their capa- bilities and those of rising powers will dimin- ish significantly. Additionally, by the year 2000. at least a handful of new countries will possess long-range delivery systems and weapons of mass destruction, and greater numbers of countries, including rogue states that do not adhere to or respect traditional standards of deterrence, will possess crude but nonetheless similarly daunting weapons. These countries will be capable of terrorizing other states or of sowing general chaos in the international system. The result will be a new international sys- tem characterized by highly dynamic Inter- action and. over time, shifting alliances and Interests more akin to the strife-ridden Eu- ropean balance of power system than the twentieth-century system, in which peace has been enforced by the nuclear balance of terror between the two superpowers. Al- though the risk of cataclysmic nuclear war between the United States and the Soviet Union is at its lowest point in history and Is likely to remain so. It is far from certain that this new international structure will be more stable than the one it replaces. Fixed lines between allies and adversaries will blur, and alliances will shift with greater regularity across different issues. At the same time, these changes will occur against the backdrop of a Soviet Union in decay. Itself a potential cause of vast insta- bility: the existence of nuclear weapons; and rising nationalistic, religious, and ethnic strife stretching from Europe to the Middle October 3, 1991 CONGRESSIONAL RECORD—SENATE 25239 East to Southeast Asia. To use Kaiser Wil- helm's words, the world may once again be made safe for “jolly little wars," the dif- ference this time being the existence of weapons of mass destruction. There are few— and really no—parallels in history to serve as a model or paradigm for guiding U.S. pol- icymakers in an international setting of this kind. Thus, at a time when bipartisanship is at its lowest ebb, U.S. policymakers are now being challenged in more ways intellectu- ally, politically, diplomatically, and mili- tarily than during the past 40 years. The United States does have the resources to continue to play a major world role and to deal with its domestic problems at the same time, although admittedly those resources are now constrained. In addition, when one looks at military, economic, and even cul- tural factors, the United states has no chal- lenger to its position as the preeminent world power should it choose this role. The problem for the United States is clearly not that epitomized by the apocalyptic cries of the "decline school” as portrayed by Paul Kennedy—that is, decline following upon "imperial overstretch."\* Rather, the prob- lem the United States faces Is an inter- national system in flux, characterized by the diffusion of military capabilities and power abroad, all of which will create far more complex, nuanced, and unpredictable chal- lenges. In the future, deterrence of conflict will be more difficult, and U.S. defense plan- ners and diplomats will have to address the capabilities and intentions of a wide array of actors far beyond that of the Soviet Union alone. Threats to U.S. Interests and those of its allies will often appear ambiguous, fall- ing In the greyer areas of "not war. not peace." Rather than following the well-de- flned and clearly understood rules of the road that largely governed U.S.-Soviet rela- tions. the U.S. political system will have to react to the varied crises of the new world order. Even when working at Its smoothest, it will have difficulty doing so effectively. Small-scale Sarajevos and Munlchs may well be the norm, and their prevention or con- tainment will require a cohesive nation, act- ing with a clear and consistent voice in the international arena, which will only happen if a new bipartisanship is forged. Thus. It Is demonstrably clear that, in the absence of bipartisanship, dealing with the new International system will be difficult at best and at times next to impossible. Friends and foes alike, watching U.S. indecision at home, will not see the United States as a credible negotiating partner, ally, or deter- rent against wanton aggression. This is a recipe for increased chaos, anarchy, and strife on the world scene. The appeal, then, to recreate anew as the hallmark of U.S. ef- forts abroad the predictability and resolve that can only come from bipartisanship at home is as critical as during the perilous days following World War II.

## Warfighting

### 1NC – Warfighting

#### ( ) Congressional authorization doesn’t improve war-fighting—if that were true, we would’ve decisively won Iraq and Vietnam

Nzelibe and Yoo 13(Jide Nzelibe, Assistant Professor of Law, Northwestern University Law School, and John Yoo, Professor of Law, University of California at Berkeley School of Law, “Rational War and Constitutional Design,” The Yale Law Journal, Vol. 115, No. 9, 12/8/13)

**Empirically testing the assertion that greater institutional participation produces more accurate decisions** **would require us to determine whether** **congressional participation**, ex ante, **correlates with positive outcomes for war. While a systematic review is outside the scope of this Essay, a quick review of the record does not seem to suggest any connection between success in war -** which itself could be the product of good conflict selection or better performance - **and congressional ex ante approval.** Declarations of war generally have marked victories for the United States. The first and second World Wars and the Mexican- and Spanish-American Wars ended with the United States prevailing, and the War of 1812 could be considered a draw. But **other wars that ended on an unpopular note, such as Vietnam and perhaps the current Iraq occupation, do not suggest a clear relationship between ex ante statutory authorization and American success**. These examples are anecdotes, and it remains possible that ex ante legislative authorization could help select the appropriate conflicts; but ultimately this is an empirical question, and it cannot be answered definitively through theoretical models.

#### Retrenchment doesn’t cause conflict, lashout, or draw-in---all their studies are wrong

Paul K. MacDonald 11, Assistant Professor of Political Science at Williams College, and Joseph M. Parent, Assistant Professor of Political Science at the University of Miami, Spring 2011, “Graceful Decline?: The Surprising Success of Great Power Retrenchment,” International Security, Vol. 35, No. 4, p. 7-44

How do great powers respond to acute decline? The erosion of the relative power of the United States has scholars and policymakers reexamining this question. The central issue is whether prompt retrenchment is desirable or probable. Some pessimists counsel that retrenchment is a dangerous policy, because it shows weakness and invites attack. Robert Kagan, for example, warns, "A reduction in defense spending . . . would unnerve American allies and undercut efforts to gain greater cooperation. There is already a sense around the world, fed by irresponsible pundits here at home, that the United States is in terminal decline. Many fear that the economic crisis will cause the United States to pull back from overseas commitments. The announcement of a defense cutback would be taken by the world as evidence that the American retreat has begun."1 Robert Kaplan likewise argues, "Husbanding our power in an effort to slow America's decline in a post-Iraq and post-Afghanistan world would mean avoiding debilitating land entanglements and focusing instead on being more of an offshore balancer. . . . While this may be in America's interest, the very signaling of such an aloof intention may encourage regional bullies. . . . [L]essening our engagement with the world would have devastating consequences for humanity. The disruptions we witness today are but a taste of what is to come should our country flinch from its international responsibilities."2 The consequences of these views are clear: retrenchment should be avoided and forward defenses maintained into the indefinite future.3¶ Other observers advocate retrenchment policies, but they are pessimistic [End Page 7] about their prospects.4 Christopher Layne, for instance, predicts, "Even as the globe is being turned upside down by material factors, the foreign policies of individual states are shaped by the ideas leaders hold about their own nations' identity and place in world politics. More than most, America's foreign policy is the product of such ideas, and U.S. foreign-policy elites have constructed their own myths of empire to justify the United States' hegemonic role."5 Stephen Walt likewise advocates greater restraint in U.S. grand strategy, but cautions, "The United States . . . remains a remarkably immature great power, one whose rhetoric is frequently at odds with its conduct and one that tends to treat the management of foreign affairs largely as an adjunct to domestic politics. . . . [S]eemingly secure behind its nuclear deterrent and oceanic moats, and possessing unmatched economic and military power, the United States allowed its foreign policy to be distorted by partisan sniping, hijacked by foreign lobbyists and narrow domestic special interests, blinded by lofty but unrealistic rhetoric, and held hostage by irresponsible and xenophobic members of Congress."6 Although retrenchment is a preferable policy, these arguments suggest that great powers often cling to unprofitable foreign commitments for parochial reasons of national culture or domestic politics.7¶ These arguments have grim implications for contemporary international politics. With the rise of new powers, such as China, the international pecking order will be in increasing flux in the coming decades.8 Yet, if the pessimists are correct, politicians and interests groups in the United States will be unwilling or unable to realign resources with overseas commitments. Perceptions of weakness and declining U.S. credibility will encourage policymakers to hold on to burdensome overseas commitments, despite their high costs in blood and treasure.9 Policymakers in Washington will struggle to retire from profitless military engagements and restrain ballooning current accounts and budget deficits.10 For some observers, the wars in Iraq and Afghanistan represent the ill-advised last gasps of a declining hegemon seeking to bolster its plummeting position.11¶ In this article, we question the logic and evidence of the retrenchment pessimists. To date there has been neither a comprehensive study of great power retrenchment nor a study that lays out the case for retrenchment as a practical or probable policy. This article fills these gaps by systematically examining the relationship between acute relative decline and the responses of great powers. We examine eighteen cases of acute relative decline since 1870 and advance three main arguments.¶ First, we challenge the retrenchment pessimists' claim that domestic or international constraints inhibit the ability of declining great powers to retrench. In fact, when states fall in the hierarchy of great powers, peaceful retrenchment is the most common response, even over short time spans. Based on the empirical record, we find that great powers retrenched in no less than eleven and no more than fifteen of the eighteen cases, a range of 61-83 percent. When international conditions demand it, states renounce risky ties, increase reliance on allies or adversaries, draw down their military obligations, and impose adjustments on domestic populations.¶ Second, we find that the magnitude of relative decline helps explain the extent of great power retrenchment. Following the dictates of neorealist theory, great powers retrench for the same reason they expand: the rigors of great power politics compel them to do so.12 Retrenchment is by no means easy, but [End Page 9] necessity is the mother of invention, and declining great powers face powerful incentives to contract their interests in a prompt and proportionate manner. Knowing only a state's rate of relative economic decline explains its corresponding degree of retrenchment in as much as 61 percent of the cases we examined.¶ Third, we argue that the rate of decline helps explain what forms great power retrenchment will take. How fast great powers fall contributes to whether these retrenching states will internally reform, seek new allies or rely more heavily on old ones, and make diplomatic overtures to enemies. Further, our analysis suggests that great powers facing acute decline are less likely to initiate or escalate militarized interstate disputes. Faced with diminishing resources, great powers moderate their foreign policy ambitions and offer concessions in areas of lesser strategic value. Contrary to the pessimistic conclusions of critics, retrenchment neither requires aggression nor invites predation. Great powers are able to rebalance their commitments through compromise, rather than conflict. In these ways, states respond to penury the same way they do to plenty: they seek to adopt policies that maximize security given available means. Far from being a hazardous policy, retrenchment can be successful. States that retrench often regain their position in the hierarchy of great powers. Of the fifteen great powers that adopted retrenchment in response to acute relative decline, 40 percent managed to recover their ordinal rank. In contrast, none of the declining powers that failed to retrench recovered their relative position.

### Sudan

#### No Africa war or they can’t solve

Straus 12—professor of politics at the University of Wisconsin (Scott, WARS DO END! CHANGING PATTERNS OF POLITICAL VIOLENCE IN SUB-SAHARAN AFRICA, afraf.oxfordjournals.org/content/early/2012/03/01/afraf.ads015.full)

The principal finding is that in the twenty-first century both the volume and the character of civil wars have changed in significant ways.5 Civil wars are and have been the dominant form of warfare in Africa, but they have declined steeply in recent years, so that today there are half as many as in the 1990s. This change tracks global patterns of decline in warfare.6 While some students of African armed conflicts, such as Paul Williams, note the recent trend,7 it is fair to say that the change in the prevalence of civil wars is not recognized by most Africanists and generalists. Equally important but even less noted is that the character of warfare in Africa has changed. Today's wars are typically fought on the peripheries of states, and insurgents tend to be militarily weak and factionalized. The large wars that pitted major fighting forces against each other, in which insurgents threatened to capture a capital or to have enough power to secede, and in which insurgents held significant territory – from the Biafra secessionists in Nigeria, to UNITA in Angola, RENAMO in Mozambique, the TPLF in Ethiopia, the EPLF in Eritrea, the SPLM in Sudan, the NRM in Uganda and the RPF in Rwanda – are few and far between in contemporary sub-Saharan Africa. Somalia's Al-Shabab holds territory and represents a significant threat to the Somali federal transitional government, but given the 20-year void at the centre of Somalia the case is not representative. In April 2011, rebel forces in Côte d'Ivoire captured Abidjan, but they did so with external help and after incumbent Laurent Gbagbo, facing a phalanx of domestic, regional, and international opposition, tried to steal an election.8 More characteristic of the late 2000s and the early 2010s are the low-level insurgencies in Casamance (Senegal), the Ogaden (Ethiopia), the Caprivi strip (Namibia), northern Uganda (the Lord's Resistance Army), Cabinda (Angola), Nigeria (Boko Haram), Chad and the Central African Republic (various armed groups in the east), Sudan (Darfur), and South Sudan, as well as the insurgent-bandits in eastern Congo (a variety of armed actors, including Rwandan insurgents) and northern Mali (al-Qaeda in the Maghreb). Although these armed groups are in some cases capable of sowing terror and disruption, they tend to be small in size, internally divided, poorly structured and trained, and without access to heavy weapons.9 Several of today's rebel groups have strong transnational characteristics, that is, insurgents move fluidly between states. Few are at present a significant military threat to the governments they face or in a position to seize and hold large swaths of territory.

#### No risk of great power conflict over Africa

Barrett, ’05 [Robert, PhD student Centre for Military and Strategic Studies, University of Calgary, June 1,

http://papers.ssrn.com/sol3/Delivery.cfm/SSRN\_ID726162\_code327511.pdf?abstractid=726162&mirid=1]

Westerners eager to promote democracy must be wary of African politicians who promise democratic reform without sincere commitment to the process. Offering money to corrupt leaders in exchange for their taking small steps away from autocracy may in fact be a way of pushing countries into anocracy. As such, world financial lenders and interventionists who wield leverage and influence must take responsibility in considering the ramifications of African nations who adopt democracy in order to maintain elite political privileges. The obvious reason for this, aside from the potential costs in human life should conflict arise from hastily constructed democratic reforms, is the fact that Western donors, in the face of intrastate war would then be faced with channeling funds and resources away from democratization efforts and toward conflict intervention based on issues of human security. This is a problem, as Western nations may be increasingly wary of intervening in Africa hotspots after experiencing firsthand the unpredictable and unforgiving nature of societal warfare in both Somalia and Rwanda. On a costbenefit basis, the West continues tobe somewhat reluctant to get to get involved in Africa’s dirty wars, evidenced by its political hesitation when discussing ongoing sanguinary grassroots conflicts in Africa. Even as the world apologizes for bearing witness to the Rwandan genocide without having intervened, the United States, recently using the label ‘genocide’ in the context of the Sudanese conflict (in September of 2004), hasonly proclaimed sanctions against Sudan, while dismissing any suggestions at actual intervention (Giry, 2005). Part of the problem is that traditional military and diplomatic approachesat separating combatants and enforcing ceasefires haveyielded little in Africa. No powerful nations want to get embroiled in conflicts they cannot win – especially those conflicts in which the intervening nation has very little interest.

### Egypt

#### 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 risk of Egypt instability---common goals

**Democracy Digest 2-1-12** (Muslim Brotherhood’s tacit deal with military ‘no surprise’http://www.demdigest.net/blog/2012/02/muslim-brotherhoods-tacit-deal-with-military-no-surprise/, jj)

**The Muslim Brotherhood’s support for the ruling military’s crackdown on Egypt’s pro-democracy groups confirms suspicions of a tacit pact to curtail the growth of democratic forces**, writes Khalil al-Anani. **The Brotherhood** – and its Freedom and Justice party- **share the military’s preference for stability over change, and for procedural instead of genuine democracy**. **The question is not how the Islamists’ leaders (right) will rule the country but rather how will they legitimize and justify their power**. Paradoxically, despite the outright majority attained by its Freedom and Justice Party (FJP), the MB is still thinking and acting as an opposition movement rather than a responsible power-holder. It seems reluctant to take full power over the country or as Nathan Brown aptly puts it, “the MB confronts its success.” Hence the MB’s leaders are grappling with making the shift from long-standing repressed mentalities to those of statesmen, or as one of the MB’s defectors has told me “they need a psychological rehabilitation” before ruling the country. The response of the MB’s leadership on the disputes with other forces provides a gloomy pattern. Strikingly, the statement the movement issued on Tahrir Square’s quarrel alarmed those who might disagree with its political stance. Whereas the movement should have apologized for its stark blunders over the past few months (e.g. disavowing Mohamed Mahmoud’s street events, condemning Tahrir protesters during the cabinet building clashes, frequently granting the Supreme Council of the Armed Forces legal and political immunity, etc.), it defied the mounting calls for an immediate transfer of power from the military to a civilian president. Ironically, **the MB’s** newly-issued **newspaper** al-hurriyya wal’adala **reiterated the rhetoric of notorious public newspapers toward Tahrir’s protesters when it dubbed them “anarchists [who] seek to destabilize the country**.” **The conformity between the MB and the SCAF in dealing with the revolution comes as no surprise due to their mutual interests.** **The MB seeks to consolidate the extraordinary gains it attained since Mubarak’s disposal without risking its internal coherence. And the junta wants to maintain their unusual privileges without any civilian oversight**. Clearly, both are exemplifying an obsolete mindset. **They promote “reform” over “revolution,” “stability” not “change,” and “procedural” instead of “genuine” democracy. Not surprisingly, they are involved in negotiating, compromising, and brokering the future of the country behind the scene.**

#### 4) The SCAF won’t reform and minor changes won’t appease anyone

**Fisher 8/12**

William, managed economic development programs for the U.S. State Department and the U.S. Agency for International Development in the Middle East, Latin America and elsewhere for the past 25 years. He has supervised major multi-year projects for AID in Egypt, The Public Record, <http://pubrecord.org/world/9614/egypt-education-generals/>

He added, “**The chronic human rights problem of the police and security establishment is** too **complex** to be solved by the creation of a deputy human rights post in the Interior Ministry. Indeed, the problem is closely linked to the extent to which people realize the need for radical, far-reaching reform in the Interior Ministry and other state institutions and ministries. The experience of the last few months contains little to indicate this realization among the Interior Ministry, the Prime Minster, or the Supreme Council of the Armed Forces.” If Egypt’s “January 25 revolution” is to succeed, **comprehensive security reform is required**, he said, **adding that making minor changes around the margins is unlikely to produce any positive change**. Unfortunately, he said, “**there is little indication that the** Supreme Council of the Armed Forces (**SCAF**) or the current Minister of Interior **is interested in undertaking such reforms**.” So far, he concluded, “**The SCAF has only changed the name of the SSIS and made promises of further reform**. More recently, **the government announced the dismissal of several hundred high ranking officers, and the commencement of trials against officers suspected of murdering protesters. None of these steps address the structural aspects of the problem at hand.”** He told The Public Record, “**Renaming the agency and promising some reforms is not enough. It needs to be disbanded**.”

#### 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.”

#### No Egypt/Israel war, even in the worst case scenario

**Tait 4-27-11** (Robert, Radio Free Europe, “The Ice Melts In Iran’s Cold War With Egypt” <http://www.rferl.org/content/iran_egypt_thaw_in_relations/16795361.html>)

**Egypt's commitment to the Camp David Accords, the lynchpin of its ties with the West, is also unlikely to be challenged**, Labbad says, despite Iran's unflinching hostility toward the Jewish state. **"I don't think relations between Israel and Egypt will be affected**. **Nobody in Egypt is questioning the Camp David treaty and nobody in Egypt is willing to have tension with Israel,"** Labbad says. "**Even the Muslim Brothers, if they will come to be a majority in the next Egyptian parliament, they are not capable and they are not willing even to challenge this treaty."** Yet whatever the limitations, a new relationship would be a real gain for Iran's theocratic system, which would stand to gain more than the new regime in Cairo, Javedanfar says.

# 1NR

**1NR Overview**

***We control global impact uniqueness – Interdependence checks war. Plan undermines this crucial form of restraint.***

Daniel **Griswold**, director of the Center for Trade Policy Studies, 4/20/**’7**, Trade, Democracy and Peace, p. http://www.freetrade.org/node/681

A second and even more potent way that trade has **promote**d **peace is by promoting** more **economic integration.** **As national economies become more intertwined with each other**, those **nations have** more to lose should war break out. War in a globalized world not only means human casualties and bigger government, but also **ruptured trade and investment ties that impose lasting damage on the economy.** In short, **globalization** has dramatically raised the economic cost of war.

***We outweigh on magnitude –Their impacts only escalate in a world of protectionism***

Valentin L. **Krustev**, Political Science -- Rice, **'6** (Journal of Peace Research, Vol. 43, No. 3)

According to the opportunity-cost argument, interdependence promotes peace by raising the costs of militarized conflict (Polachek, 1980; Polachek, Robst & Chang, 1999). Conflict becomes more costly, in turn, because the fighting parties, in addition to bearing the costs of waging warfare, forfeit the potential gains from trading, owing to government-imposed restrictions and increased business risks. However, these conflict-inhibiting effects of interdependence are not limited only to the pre-conflict phase of a dispute, and the opportunity-cost argument can explain how the prospect of further trade losses ***provides incentives*** for conflict termination as well. As some scholars have observed, any theory of the effect of interdependence on conflict should be grounded in a solid understanding of the occurrence and dynamic of conflict itself (Morrow, 1999, 2003; Gartzke, 2003b). While traditionally multiple theories of conflict have proliferated in the study of IR, recent scholarship has drawn attention to its informational origins (Fearon, 1995; Gartzke, 1999). As Fearon (1995) argues, if most conflicts end in some negotiated settlement over the disputed issue, rational states should prefer to conclude that settlement prior to incurring the conflict costs, as the bargaining range of mutually acceptable settlements is guaranteed to be non-empty when these costs are positive. A very common reason for states sometimes being unable to reach a rational pre-conflict settlement emerges in the asymmetry of information, combined with states’ incentives to misrepresent their reservation values. Conflict, on the other hand, helps states to credibly communicate these reservation values by demonstrating their willingness to incur its costs or revealing the true magnitude of the costs, as an expanding informational literature on war suggests (e.g. Wagner, 2000; Filson & Werner, 2002; Slantchev, 2003). The opportunity-cost logic implies that interdependence can enter the theoretical framework outlined above through the conflict-cost parameters, as interdependence increases these costs. Following Fearon’s (1995) discussion, higher conflict costs increase the pre-conflict bargaining range and should, therefore, decrease the probability of conflict. In their calculus, states balance the size of their demands against the probability that these demands exceed the opponent’s reservation value and are rejected. Higher conflict costs due to greater interdependence worsen states’ conflict payoffs and push them to lower their demands, which, in turn, results in a reduced probability of conflict onset.8 Signaling arguments, on the other hand, suggest that interdependence allows states to credibly communicate their resolve or reservation values by severing an advantageous economic relationship that an unresolved state would not terminate. The credible communication made possible by interdependence reduces the uncertainty existing over the bargaining range and ***increases the likelihood of a settlement short of war*** (e.g. Gartzke, 2003a,b; Morrow, 2003). Thus, if we adopt Fearon’s (1997) terminology, signaling implies that interdependence allows states to ‘sink costs’, while the opportunitycost logic is more reminiscent of ‘tying hands’; that is, interdependence affects states’ behavior by changing their incentives. The opportunity-cost argument for why interdependence inhibits militarized conflict can be easily extended to account for the effect of interdependence on the duration of conflict.

**Turns Heg**

***Protectionism kills hegemony***

**Blatt**, Book Reviewer for Futurecast, ‘**2** (Dan, Book Review of Joseph S. Nye’s “The Paradox of American Power”, http://www.futurecasts.com/book%20review%204-02.htm )

**Coalitions against particular U.S. international interests** have occurred and **are made more likely by unilateralist**, arrogant, and parochial U.S. **conduct. Protectionism is undoubtedly the most dangerous and divisive form of such conduct. "The United States must resist protectionism at home and support international economic institutions**" that facilitate international commerce. **Trade disputes must not be permitted to explode into disastrous trade wars (such as the trade war** during the 1920s and 1930s **that played a major role in the Great Depression**). U.S. economic and cultural supremacy may indeed erode as Asian and European markets prosper and grow. They may ultimately "loom larger than the American market." In several particular areas - such as international trade, antitrust regulation, the establishment of technical standards, and protection of intellectual property - Europe already shares predominance with the U.S. **Defining our national interest broadly** to include global interests **will be crucial to** the longevity of our power and **whether others see hegemony as benign or not. The various aspects of soft power must be a part of any effective foreign policy - and multilateralism is essential for the development and maintenance of the attributes of soft power**.

**Turns Mid East**

***Trade shocks fuel Mid East stability --- also applies to Africa***

**Hanelt & Möller, 11** – \*Senior Expert “Europe and the Middle East” in the Programme “Europe’s Future” and a Member of the Management Team at Bertelsmann Stiftung in Gütersloh, Germany, AND \*\*analyst on European Integration and European Foreign and Security Policy in the Middle East (February 2011, Christian-Peter Hanelt and Almut Moller, “How the European Union can Support Change in North Africa,” <http://www.isn.ethz.ch/isn/Digital-Library/Policy-Briefs/Detail/?lng=en&id=127838>)

**The collapse of the regimes and the speed with which it happened came as a surprise to all observers**. It is true, for example, that in its Transformation Index the Bertelsmann Stiftung has been pointing out for years that the democracy rankings for North Africa and the Middle East and the regional average lag far behind those of every other region in the world. And **in the countries concerned the benefits of economic liberalization have not as yet reached the majority of the population**. Since 2002 the Arab Human Development Reports of the United Nations have systematically described the deficiencies. **The regimes were nevertheless deemed to be “stable.”** However, trouble was brewing under the surface. “The deficiencies were known but the regimes were nevertheless deemed to be ‘stable’.” **The countries of North Africa were hit by the global economic crisis, which simply exacerbated the existing problems.** **On the one hand there was economic distress caused by rapidly rising food prices, unemployment and the lack of a future, especially among the rapidly increasing younger segment of the population**; there were the decades in which people were denied political rights; and there were corrupt governments and persistent and (now well documented) human rights abuses. On the other hand, there were new forms of communication and organization through social networks, and better access to the media and information. All **these factors contributed to the civic Arab revolutions which broke out in 2011**.

***----Turns Mid-East stability.***

**Harris and Burrows 9** Mathew, PhD European History @ Cambridge, counselor in the National Intelligence Council (NIC) and Jennifer is a member of the NIC’s Long Range Analysis Unit “Revisiting the Future: Geopolitical Effects of the Financial Crisis” http://www.ciaonet.org/journals/twq/v32i2/f\_0016178\_13952.pdf Increased Potential for Global Conflict

Of course, the report encompasses more than economics and indeed believes the future is likely to be the result of a number of intersecting and interlocking forces. With so many possible permutations of outcomes, each with ample Revisiting the Future opportunity for unintended consequences, there is a growing sense of insecurity. Even so, **history may be more instructive than ever.** While we continue to believe that **the Great Depression** is not likely to be repeated, the **lessons** to be drawn from that period **include the harmful effects on fledgling democracies and multiethnic societies (think Central Europe in 1920s and 1930s) and on the sustainability of multilateral institutions** (think League of Nations in the same period). **There is no reason to think that this would not be true in the twenty-first as much as in the twentieth century.** For that reason, the ways in which **the potential for greater conflict could grow** would seem to be even more apt **in a constantly volatile economic environment** as they would be if change would be steadier. In surveying those risks, the report stressed the likelihood that terrorism and nonproliferation will remain priorities even as resource issues move up on the international agenda. **Terrorism’s appeal will decline if economic growth continues in the Middle East and youth unemployment is reduced**. For those terrorist groups that remain active in 2025, however, the diffusion of technologies and scientific knowledge will place some of the world’s most dangerous capabilities within their reach. **Terrorist groups** in 2025 **will** likely be a combination of descendants of long established groups\_inheriting organizational structures, command and control processes, and training procedures necessary to conduct sophisticated attacks\_and newly emergent collections of the angry and disenfranchised that **become self-radicalized, particularly in the absence of economic outlets that would become narrower in an economic downturn. The most dangerous casualty of any economically-induced drawdown of U.S. military presence would** almost certainly **be the Middle East**. Although Iran’s acquisition of nuclear weapons is not inevitable, **worries** about a nuclear-armed **Iran** **could lead states in the region to develop new security arrangements with external powers, acquire additional weapons, and consider pursuing their own nuclear ambitions**. It is not clear that the type of stable deterrent relationship that existed between the great powers for most of the Cold War would emerge naturally in the Middle East with a nuclear Iran. Episodes of low intensity **conflict** and terrorism taking place under a nuclear umbrella **could lead to an unintended escalation and broader conflict** if clear red lines between those states involved are not well established. **The close proximity of potential nuclear rivals** combined with underdeveloped surveillance capabilities and mobile dual-capable Iranian missile systems also **will produce inherent difficulties** in achieving reliable indications and warning of an impending nuclear attack. The lack of strategic depth in neighboring states like Israel, **short warning and missile flight times, and uncertainty** of Iranian intentions **may place more focus on preemption** rather than defense, potentially **leading to escalating crises**. 36 Types of **conflict** that the world continues to experience, such as **over resources, could reemerge**, particularly if **protectionism grows and there is a resort to neo-mercantilist practices. Perceptions** of renewed energy scarcity will drive countries to take actions to assure their future access to energy supplies. In the worst case, this **could result in interstate conflicts if government leaders deem assured access to energy resources,** for example, to be **essential for** maintaining domestic stability and the **survival of their regime**. Even actions short of war, however, will have important geopolitical implications. Maritime security concerns are providing a rationale for naval buildups and modernization efforts, such as China’s and India’s development of blue water naval capabilities. **If** the **fiscal stimulus focus for** these **countries indeed turns inward, one of the most obvious funding targets may be military. Buildup of regional** naval **capabilities could lead to increased tensions, rivalries, and counterbalancing moves**, but it also will create opportunities for multinational cooperation in protecting critical sea lanes. **With water** also **becoming scarcer in Asia and the Middle East, cooperation to manage changing water resources is likely to be increasingly difficult both within and between states in a more dog-eat-dog world.**

### Turns Egypt

#### Turns Egypt

**Masoud, ’11** (Tarek, assistant professor of public policy at Harvard University’s John F. Kennedy School of Government and a Carnegie Scholar, “The Road to (and from) Liberation Square,” Journal of Democracy Volume 22, Number 3 July, http://www.journalofdemocracy.org/articles/gratis/Masoud-22-3.pdf, bgm)

**The success of democracy in Egypt will ultimately rest on the success of the country’s economy. The relationship between democracy and economic development remains a subject of dispute, but we do know that the two are correlated, and that no democracy has ever failed at a per capita GDP above that which Argentina enjoyed on the eve of the bloodless coup that toppled President Isabel Perón in 1976**.14 In constant 2005 dollars, Argentina’s 1976 GDP per capita was approximately $11,500. Today Egypt’s is just under half that. This is not the place to review theories of democracy and development—although some might argue that Egypt’s lack of a sizeable middle class renders it bereft of democracy’s civic and cultural underpinnings. **A more modest claim is simply that, just as poverty and unemployment were important drivers of the protests that brought down an autocratic government, so too could they drive protests against democratic ones.**

### Defense

***Rejection of TPA signals US isolationism and kills alliances—undermines global trade and the economy***

**Kennedy, 2/5/14** (Former Rep. Mark R. Kennedy (R-Minn.), served in the House of Representatives from 2001 to 2007, He leads George Washington University's Graduate School of Political Management and is chairman of the Economic Club of Minnesota. February 05, 2014, The Hill, Opposition to 'fast track' - small thinking with big downside, <http://thehill.com/blogs/congress-blog/foreign-policy/197454-opposition-to-fast-track-small-thinking-with-big-downside>, jj)

Reflexive opposition to President Obama’s push for Trade Promotion Authority (TPA or “fast track”) reflects a desire to prioritize parochial pandering over what is best for American workers, not to mention our closest allies around the world. **Pending economic agreements with European and Pacific nations, which have the potential to jumpstart global growth, need lawmakers to take a broader view.** Statements in opposition to fast track authority less than 24 hours after President Obama made the case for it during his State of the Union address thrilled union bosses and perhaps some vulnerable senators looking to get reelected in November. Unfortunately it also undercut a key bipartisan plank of the president’s economic agenda, while dismaying our negotiating partners in Europe, Japan, Canada, and Mexico. This is yet another sad case of special interest politics trumping the general national interest. **The downsides to this provincial posturing are legion.** Undermines one of the best opportunities to grow jobs and increase incomes. The **Obama** administration **has rightly identified that expanded trade grows jobs**. **Both of the deals in question would boost exports and help create high-value jobs in the manufacturing and service sectors**, though some occupations may be lost in areas where America is less competitive. Puts President Obama in a bind. **The president has made tightening America’s relationship with the fast growing Asian region a key plank of the nation’s economic and foreign policy**. During my recent travels to Asia, I was repeatedly told how damaging it was for America’s standing in the region and the progress of Trans Pacific Partnership trade negotiations for President Obama to miss the Asia-Pacific Economic Cooperation meeting in October 2013 due to the government shutdown. The administration had hoped to make up lost ground and reach agreement by the time President Obama visits the region in April. Tea Party Republicans caused the first self-inflicted wound. Democrats’ attempts to slow-roll TPA could be the next. Short circuits recent baby steps in the direction of bipartisan collaboration. After a fruitless faceoff that resulted in a government shutdown, Budget Committee leaders in both chambers came together to negotiate a compromise that removed the threat of another closure, while replacing some of sequestration’s blunt prescriptions with more targeted savings. That first step, coupled with a Republican desire to work on immigration reform, seemed to be the start of a foray into bipartisan consensus building. Overtly partisan opposition to fast track threatens that progress. **Drives a wedge between America and our most important allies**. If trade agreements represent a welcoming gesture to new suppliers and consumers, ***derailing the negotiations over a procedural matter such as fast track is tantamount to slamming the door in a guest’s face***. **As Europe continues to struggle to lift itself up off the mat, it is placing great hope in the *T*ransatlantic *T*rade and *I*nvestment *P*artnership to spark economic vitality on both sides of the Atlantic. It took great courage for Japan to agree to open up its economy and join with the United States and ten other Pacific Rim nations to pursue closer trade relationships**. Having taken this bold step forward, **Japan and others worry that America is turning inward and leaving them behind**. ***To abort these trade discussions would signal an isolationist turn by America.* Leaves America less competitive. Rejecting expanded trade to avoid competition will make American enterprise worse off in the long run.** As Jason Furman, chairman of the president’s Council of Economic Advisors stated, “If you’re not in an agreement – that trade will be diverted from us to someone else – we will lose out to another country.” **Succumbing to *protectionist* urges** for the sake of union support, defense of uncompetitive companies, or populist appeal **may seem attractive** in the short-term, **but its ultimate aftermath -- an American economy that is smaller, more sheltered, and less competitive -- is disastrous.** **If you seek to sacrifice job growth, hamstring the president**, return to non-stop partisan bickering, **alienate essential allies, and relegate America to being a second rate economy, the choice is clear: oppose TPA** and the pending European and Pacific trade accords. **If you believe that a core strength of America is that its open economy has created an environment that creates businesses able to take on all comers and that the spread of international prosperity through expanded trade makes us more secure, you should support TPA.**

***----Alliances independently check nuclear war***

**Ross, 1999** (Winter 1998/1999, Douglas – professor of political science at Simon Fraser University, Canada’s functional isolationism and the future of weapons of mass destruction, International Journal, p. lexis)

Thus, an easily accessible tax base has long been available for spending much more on international security than recent governments have been willing to contemplate. Negotiating the landmines ban, discouraging trade in small arms, promoting the United Nations arms register are all worthwhile, popular activities that polish the national self-image. But they should all be supplements to, not substitutesfor**,** a proportionately equitable commitment of resources tothe management and prevention of international conflict – andthus thecontainment oftheWMDthreat. FutureAmerican governments will not ‘police the world’ alone.For almost fifty years the Soviet threat compelled disproportionate military expenditures and sacrifice by the United States. That world is gone**.** Only by enmeshing the capabilities of the UnitedStatesand other leading powers in a co-operative security management regime where the burdens are widely shared does the world community have any plausible hope of avoiding warfare involving nuclear or other WMD.

## UQ

### 1NR Uniqueness

#### 1) Our evidence cites Dooley – a former Congressional Democratic leader on pushing the free trade agenda – he knows if it’s possible to persuade democrats – their evidence is by political commentators who write hyperbolic headlines – here’s more QUALIFIED evidence that speaks to the ability for the President to get TPA despite objections WITH political capital

Scott Miller, holds the William M. Scholl Chair in International Business at the Center for Strategic and International Studies in Washington, D.C, and Murray Hiebert, Senior fellow and deputy director of the Sumitro Chair for Southeast Asia Studies at CSIS. 1/23/14

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&ved=0CCkQFjAA&url=http%3A%2F%2Fcsis.org%2Fpublication%2Fachieving-trade-promotion-authority-will-require-heavy-lift-president&ei=bXD1UoLZL9SKkAezpoGYCA&v6u=https%3A%2F%2Fs-v6exp1-ds.metric.gstatic.com%2Fgen\_204%3Fip%3D70.158.103.11%26ts%3D1391816814380178%26auth%3D5xvwetbkj3ofg56bqdzxbwvuuyb57vi2%26rndm%3D0.5405165744014084&v6s=2&v6t=17092&usg=AFQjCNGaJWp6u66ESbcxbYXNJbu\_TLroIQ&sig2=KT17JRI5YSAOYBApFNO\_FA&bvm=bv.60983673,d.eW0

Most observers agree the Trans-Pacific Partnership (TPP) trade agreement will be tough to conclude because of the high-standard, comprehensive nature of the 12-country accord and the diversity of negotiating partners, ranging from highly developed Japan to lower-income Vietnam. Some U.S. partners in the negotiations are reluctant to close the talks without assurances that a deal with the United States will stick and will not be picked apart by Congress. Officials from TPP negotiating countries, from Mexico to Japan and Vietnam, say it will be difficult for them to make significant concessions on issues such as market access until the U.S. president demonstrates that he has the support of a majority in Congress. Before wrapping up the agreement, U.S. partners want to understand that the administration can conclude a deal without having Congress demand that negotiators reopen talks on issues such as intellectual property rights and labor and environmental standards. That is why President Barack Obama needs Trade Promotion Authority (TPA) to achieve the key economic plank of the U.S. rebalance to Asia. Congressional leaders have introduced bipartisan legislation in both the House of Representatives and the Senate to renew TPA, but to get it past the post will require a hefty dose of leadership, patience, and all-around goodwill. Congress will only manage to pass TPA with effective, consistent, and high-profile leadership from the president. While many members of Congress say that every president deserves TPA, no House member or senator believes advancing TPA will bolster his or her chances for reelection in November, when the full House and a third of the Senate will be up for grabs. In fact, many members of Congress would prefer never to cast a vote relating to the TPP to avoid criticism from voters who fear that free trade agreements export jobs overseas. TPA will become a priority in Congress only if the president makes it one. He must begin to make a strong public case for his trade agenda, the TPP, and its role in boosting the U.S. economy and U.S. ties with the most dynamic region of the world, beginning with next week’s State of the Union address. And he will have to keep repeating this call for TPA in speeches, including in the heartland of the country, until the bill is passed and he hosts a signing ceremony. The president must convince Congress that the TPP is a critical component of his strategy of engaging Asia. He needs to spell out the economic benefits of more open trade and investment and updated rules of commercial engagement with this high-growth region because it will tie the United States to a part of the world that is critical to both U.S. economic growth and security. The TPP’s potential is attracting attention from others, like China, Korea, the Philippines, and Thailand, who want to make sure they are not left out of moves in the region toward greater economic integration. The president must make clear to Congress that delaying moves to ratify TPA and complete the TPP could hurt Washington’s economic strategy and objectives in Asia. The drive toward regional economic integration is charging ahead in the Asia Pacific with or without the United States through vehicles like ASEAN+3, which includes China, Japan, and Korea, and the Regional Comprehensive Economic Partnership, an arrangement composed of the 10 ASEAN countries as well as Australia, China, India, Japan, Korea, and New Zealand. U.S. economic and strategic interests in the Asia Pacific are too important for TPA, and thus the TPP, to get delayed by squabbling in Washington. Obama’s arguments must address the free trade skeptics in his own Democratic Party. The president needs to articulate why the Republicans, who will supply the lion’s share of votes for TPA, should work with him on trade. And this message needs to be reinforced by speeches and congressional testimony by U.S. Trade Representative Michael Froman, Secretary of State John Kerry, Treasury Secretary Jack Lew, Commerce Secretary Penny Pritzer, and other cabinet members. Any hesitation or lack of consistent messaging from the president and his team will strengthen the opposition and communicate a lack of seriousness to allies who wonder why they should put serious market access offers on the table before the president has the authority from Congress to complete the agreement. The last time TPA was enacted, in 2002, the congressional legislative process took 10 months to complete. This time may be different, but advocates need to work patiently to address concerns and build support. U.S. trade policy has a much larger effect on the lives of Americans today than it did in 1974, 1988, or even 2002. Voting on TPA is made more complicated today because most current members of Congress were not serving the last time TPA legislation was debated. Members of Congress will have much to say about issues like consultation beyond the committees of jurisdiction, and a winning coalition will not be formed overnight. Support for the legislation will need to be built one member at a time. Partisan rivalry has reached a new high in Washington and will only increase as elections in November draw closer. But trade policy finds majority support in the political center. So far, the legislative process for TPA has been careful and centrist. It will need an outsized dose of goodwill to stay that way. TPA is essentially an agreement that cements cooperation between Congress and the administration. Members of Congress will need to take the long view to get past suspicions and concerns, and the president will need to choose cooperation over confrontation and pursue high-level, consistent engagement and prodding if the efforts to achieve TPA are to succeed.

#### They’re evidence is probably right that if the vote were held today, Obama would lose – but that’s not the standard for evaluating the uniqueness – the question is “is it possible for Obama to switch votes with a sustained push” – our uniqueness evidence is infinitely better at answering that question

John Kerry, US Secretary of State, Feb 3rd 2014, Kerry Says Reid's Comments On Fast Track 'Not Necessarily What Might Be The Situation In A Matter Of Months', <http://insidetrade.com/201402032459994/WTO-Documents/Text-Document/kerry-says-reids-comments-on-fast-track-not-necessarily-what-might-be-the-situation-in-a-matter-of-months/menu-id-174.html>

SECRETARY KERRY: Well, I don't – look, I respect Harry Reid. I've worked with him for a long time, obviously. Our colleagues are here – Lindsey Graham and John McCain and former Senator Joe Lieberman. And I think all of us have learned to interpret a comment on one day in the United States Senate as not necessarily what might be the situation in a matter of months or in some period of time. Let's get T-TIP done, put it in its context, then we wage the fight. And I'm not at all convinced that what we've heard is going to – I just think that there's a lot of room here still, so I wouldn't let it deter us one iota, not one iota. I've heard plenty of statements in the Senate on one day that are categorical, and we've wound up finding accommodation and a way to find our way forward. So this should not be a deterrent, and I hope nobody will let it stand in the way. On the merits, this is a major initiative for us, for Europe, for the relationship, for the world. And when you combine it with the TPP, it really has a capacity to achieve what the WTO has not been able to succeed in, and it could have a profound impact on jumpstarting the economies for all of us. It's worth millions of jobs, and in the end, jobs are a very powerful political persuasion.

#### 3) Prefer empirics - Every president who has invested political capital in TPA has won – this version is full of compromises to Democrats – it’s extremely likely to pass with a strong Obama push

CSM, Obama's trade agenda needs backing, Jan 29th 2014, <http://www.csmonitor.com/Commentary/the-monitors-view/2014/0129/Obama-s-trade-agenda-needs-backing>

Presidents since Nixon have been granted such authority in order to do the kind of horse-trading needed to complete today’s complex trade pacts. Other countries simply won’t negotiate with 535 members of Congress over every item. The presidential authority lapsed in 2007, but a bill introduced this month in the House and Senate would bring it back. Obama’s nod to it in his speech should help it pass – that is, if Congress wants the US to remain the global leader on free trade. Unlike past measures, the bill comes loaded with conditions for the negotiations – insisting on labor rights, environmental rules, curbs on currency manipulation, protection of intellectual property. Most of all, it gives Congress access to the talks in order to keep them transparent. With all that, the bill strikes a strong bipartisan tone. Yet many Democrats still contend free trade has contributed to income inequality in the US. Obama, who is hardly a champion of inequality, will need to convince them that the long-term benefits of trade – which go beyond economics to strategic interests – outweigh any necessary adjustments for the US in further opening its markets. “If we don’t stay in the game, we’ll be left out on the sidelines,” says Sen. Max Baucus, the chief Democratic sponsor of the bill in the Senate. “Our exports will face high tariffs, whereas our competitors will not.” America’s openness to the world – its people, goods, and ideas – remains one of its strengths. The pace of opening markets, and reciprocity in trade with other countries, are important and often difficult. But ever since the US stalled its economy with the Smoot-Hawley Tariff Act in 1930, it has sought more trade, not less. The talks with the EU and Asian nations are at a crucial stage. If Obama can get fast-track authority now, deals would be done by year’s end. Such an achievement could be Obama’s most bipartisan success of his eight years in office. More than that, it would mean greater prosperity for the world.

### 1NR Uniqueness A2: Reid Won’t Have a Vote

#### 2) Begs the question of political capital

KRISTA HUGHES AND THOMAS FERRARO, Reuters, Jan 30th 2014, <http://www.reuters.com/article/2014/01/31/us-usa-trade-analysis-idUSBREA0U05T20140131>

Aides insist that Reid, who controls what comes up on the Senate floor, has not decided to kill the bill but is not ready to embrace it either and has let the White House know he will not be an easy sell. That leaves the White House with a tough decision on how much political capital to expend lining up support on a politically contentious measure ahead of the elections. U.S. Trade Representative Michael Froman and his staff are lobbying lawmakers about the benefits of TPA and proposed trade pacts with Pacific Rim countries and the European Union, which would cover nearly two-thirds of global trade.

#### 3) Yes – vote coming – prefer the direction of the link – political capital is key

Humberto Sanchez, Roll Call, Feb 3rd 2014, <http://blogs.rollcall.com/wgdb/reid-on-obama-we-are-on-the-same-page-on-everything/>

White House Spokesman Jay Carney said Monday that Obama would continue to advocate for the measure. “The president believes we need to move forward on trade agreements that expand exports, that create jobs here for Americans that pay better than other jobs,” Carney said before the meeting with Reid. “Trade promotion authority is a means to getting those trade agreements done. And therefore, he believes it’s important to pursue it in order to get the best possible deal and to play the leadership role that should be playing around the world.” “Now, he’s going to work with members of Congress of both parties, members of the Senate of both parties in pressing for his view that we need to move forward on these trade agreements and expanding trade for the American economy and American workers,” Carney said. Sen. Rob Portman, R-Ohio, who supports trade promotion said he too believes the measure will get a vote on the Senate floor despite Reid’s opposition, given the White House’s backing. “Oh yeah, the president wants one,” Portman said of a vote.

## PC

### PC theory real

#### PC’s real, observable, and quantifiable---scholarly work proves

Kimberly L. Casey 8, Visiting Assistant Professor of Political Science at William Jewel College, 2008, “Defining Political Capital: A Reconsideration of Bourdieu’s Interconvertibility Theory,” http://lilt.ilstu.edu/critique/spring%202008/casey.pdf

Abstract: This article examines the concept “political capital” (PC) and its context in American politics. Political capital is ill-defined, little understood, yet an important concept for understanding political exchange and relationships in the political arena. I establish a definition based upon Pierre Bourdieu’s interconvertibility theory, which indicates that capital types, such as economic, social, and symbolic forms, interact and can be exchanged for one another. Since the material and non-material components of capital variations are transposable, it can be argued that no capital form is essentially “pure”—every type of capital contains elements of other varieties. Political capital, therefore, is an amalgamation of capital types combined in various ways for specific political markets. It is market demand that shapes capital formation. Capital elements from other capital types inherent in the candidacy market are identified as an example. An index for measuring this variant of political capital is created, demonstrating its conceptual viability. ¶ Introduction: After the 2004 U.S. presidential election, George W. Bush publicized his intent to utilize “political capital” for future projects garnered as a result of his victory. But what exactly is political capital? However much the term is bandied about by politicians or the press, political capital has no established definition in political science literature. Although it remains ill-defined and unmeasured, it is an important concept for understanding political exchange and relationships in the political arena despite the reservations some political scientists have expressed about its applicability because of its complex material and nonmaterial associations. An analysis of sociologist Pierre Bourdieu’s interconvertibility theory allows for conceptualization of material and non-material of interactions among capital forms making it possible to define political capital and design an index to measure it based upon previous capital literature.¶ To develop an empirical basis for political capital, this article first examines the associations it connotes in the popular press today. In contrast, a definition of political capital based upon capitalization literature and Bourdieu’s interconvertibility theory is presented. Then, a theory of political capital functions and markets are suggested. Theorizing leads to proposals for objective means of identification and measurement. To illustrate the market association between capital and politics, an index associated with the resources associated with the candidacy market is offered. The paper concludes with directions that studying the concept of political capital may take towards theory-building and framework creation.¶ Defining Political Capital ¶ It is erroneous to refer a “body” of PC literature when seeking a definition. Most writers and concerned actors who invoke the term political capital assume that its meaning is understood. It is inferred to be an entity which political actors possess, build up and spend. 1 However, a definition of “political capital” is typically never stated—the reader or observer is left to determine their own definition based upon the politician’s or journalist’s usage of the term (Suellentrop 2004; Kennicott 2004; “A Year of Setbacks” 2005; and Froomkin 2004). The subjectivity is not reflective of what political capital conceptually means in and to the political arena. Without a sound definition that accurately portrays the elements of political capital as it works within a political marketplaces, such as the electoral arena, and among office holders (executive, legislative, and judicial), bureaucracy, and in society in general, the concept is meaningless. ¶ Defining and utilizing PC as a viable political variable can evolve from the proliferation of capital theories in various fields of study. Political capital can and should be associated with a wide variety of previous “capital” interpretations. The key to explicating political capital is within capital literatures and how they address materialism, non-materialism, and combining the two elements.2¶ The theory of capital is traditionally associated with economics. There is no clear consensus in defining capital as an ideological function applicable beyond material exchange as expounded in economic capital theory, however. Yet nonmaterial forms of capital are well established in scholarly literature. Most of the “capital type” definitions hover around the meaning and terminology of economic capital. Certain theorists believe that all capital forms, regardless of their composition or purpose, connect in some way with economic capital. 3 Pierre Bourdieu’s work is invaluable in understanding capital as conceptually distinguishable from its individual aberrations as a material phenomenon. Bourdieu extends the ideas and metaphor of economic interest (material or physical pursuits) to include non-economic goods and services (symbolic or nonmaterial pursuits). Within this conceptualization, Bourdieu constructs a science of practices that “analyzed all human functions as ‘oriented towards the maximization of material or symbolic profit.’” 4 His theory of capital has limitations, however. He relies on ideal types and lacks the empirical research needed to support much theory. It is impossible to refer to capital-types and not acknowledge Bourdieu’s contributions to multiple capital species (Bourdieu1986; Kane 2001; Putnam 2001; Becker 1993); Fitz-Enz 2000; Davenport 1999; Marr 2005).

#### Presidents have variable and measurable effectiveness at bargaining and pushing their agenda with Congress---it’s useful to think of that influence in terms of PC

Ryan J. Barilleaux 12, professor and chair of the Department of Political Science at Miami University of Ohio, 2012, Tough Times for the President: Political Adversity and the Sources of Executive Power, Google Books (ebook edition so no page numbers)

The political resources of the president are more variable than constitutional and institutional ones. These resources correspond to what is usually termed "political capital"—their presence or absence can be important factors in influencing the dynamics of a political situation. These resources include the president's electoral margin, support in Congress, public support and approval, and interest groups (which can assist the president in promoting administration goals).¶ Beyond these resources, presidents are also able to draw on two other intangible factors that can and have been significant at many points in the history of the office: deference and crisis. The president is the beneficiary of deference, usually in foreign policy. Half a century ago, Aaron Wildavsky noted in "The Two Presidencies" that presidents are more likely to get their way from Congress in foreign affairs than in domestic policy,10 and that deference continues to apply and appeared throughout our case studies. Even in the midst of tough times, Congress tended to defer to the chief executive on international issues, even controversial wars. Of course, this deference was not absolute—as several presidents also found—but it was a significant resource for the president. This deference also enhances presidential influence in times of national crisis, when the ordinary pulling and hauling of politics gives way to consensus and rallying around the nation's leader. This has been the situation in Cold War crises, in the aftermath of September 11, 2001, and in the 2008 financial crisis.¶ Presidential Power Resources: Personal Skills¶ Presidents are also politicians and possess a variety of personal skills. These skills are the sorts that Neustadt focused on in his description of presidential power and include the chief executive's rhetorical skills, bargaining and negotiation skills, and ability to communicate through the media and relations with journalists. Personal resources include even the president's reputation—both professional and public—which can affect the likelihood of others to cooperate with the chief executive. Some presidents, such as Ronald Reagan and Bill Clinton, possessed an ability to connect with the public that helped each man survive a crisis that could have destroyed his presidency (Iran-Contra for Reagan, the Lewinsky scandal for Clinton); other presidents do not have such a rapport with the public and, like Jimmy Carter and George H. W. Bush, suffer for it. Finally, the president often has the ability to control timing and surprise to influence events; for example, Nixon used both to manage the diplomatic opening to China in 1972, thus contributing to his success in that endeavor.¶ Of course, presidents do not possess all of these personal resources in equal amount. Also, these personal resources are not uniform even in the same person. Even gifted politicians can find their personal skills failing them in certain circumstances (as happened to LBJ in the matter of Vietnam), whereas those who seem politically unskilled in one domain can be successful in another (as happened with Jimmy Carter and the Camp David Accords).¶ Weighing Risks, Obstacles, and Opportunities¶ Presidents must decide when and how to apply their power resources to gain leverage in specific contexts, and those decisions are made by weighing the risks, obstacles, and opportunities of action or inaction. Lyndon Johnson famously commented in frustration about his office,¶ "Power? The only power I've got is nuclear—and I can't use that."11 Whereas the legalistic approach to presidential powers tended to view the veto, pardons, and treaty power in isolation from the political circumstances in which they are exercised, presidents must employ their power resources in the real world of politics. That was the insight of LBJ's remark: the president's leverage is a matter of leverage in context.¶ The first contextual factor that a president must weigh are the risks of the situation: the risk of inaction, the risk of failure, the risk of a court challenge (especially in cases of venture constitutionalism) or other negative reaction, the risk of bad timing, and other risks. Weighing these risks is an eminently political decision, and consciousness of them has led chief executives to proceed with caution (e.g., Lincoln and the timing of the Emancipation Proclamation, Kennedy and civil rights legislation) or with boldness (e.g., Nixon's opening to China, Reagan's firing of striking air traffic controllers, or Clinton's willingness to shut down the government).¶ A second contextual factor that presidents must weigh is the obstacles that stand in their way. These include opposition to the president's goals: who opposes them, how numerous and how powerful the opposition is, what resources the opposition possesses, and other considerations. Other obstacles include constitutional and legal barriers to the president's plan and goals, bureaucratic resistance, economic constraints, and other obstacles imposed by the particular situation. For example, Barack Obama was able to overcome the obstacles that stood in the way of the health care reform plan (although some remained after the bill's passage that raised questions about its implementation), whereas Bill Clinton in 1994 was unable to overcome opposition to his plan and George W. Bush in 2005 could not attract support for his call for Social Security reform.¶ Obstacles also include the intensity of opposition to the president's goals, which can make the president's job even more difficult: in the cases of Truman and MacArthur, Eisenhower and Orville Faubus in Little Rock, or Kennedy confronting George Wallace at the University of Alabama in 1963, each chief executive had to contend with a highly motivated adversary. This fact is a key reason why each of these presidents had to rely on executive power (Neustadt's "command") in order to act as he believed the situation required.¶ Third, specific situations also present opportunities. These include opportunities to advance the president's policy goals (e.g., change environmental policy, support democracy abroad), promote their political goals (such as reelection), meet their responsibilities (which often motivates forays into venture constitutionalism),12 or seize other opportunities. ¶ Of course, obstacles, risks, and opportunities must be weighed in relation to one another. These calculations may be simple and obvious or complex and subtle, depending on the situation. Presidents must determine what power resources can be applied to advance their goals and how these contextual factors will affect the likelihood of success. Conversely, a president may believe that the situation requires action, even if the risks are very high and the obstacles to success are formidable (e.g., the Cuban Missile Crisis).¶ In any situation, the president's power resources, weighed against the risks, obstacles, and opportunities presented by circumstances, are applied as leverage toward advancing the president's goals. Obviously, the consequent leverage will not be the same in all circumstances but will vary according to the situation.

## Thumpers

### A2: Thumpers / Not Top of the Docket / Not Pushing

#### 1) Obama is full court press on TPA now – it is the only agenda item he is fighting with Democrats on – which means it is a unique instance of his Political Capital that none of their thumpers assume

MICHAEL C. BENDER, Bloomberg, Obama Wines House Democrats, Digs in on Trade, Feb 5th 2014, http://go.bloomberg.com/political-capital/2014-02-05/obama-wines-house-dems-digs-in-on-trade/

President Barack Obama was “adamant” in his push for Congress to speed approval of trade deals during a meeting yesterday with House Democrats, Rep. Chellie Pingree, a Maine Democrat, said. Fast-track authority was “brought up quite a bit” during the discussion, Pingree said. The meeting ended, for the first time, with the president mingling with lawmakers over cocktails. “I got the sense that the president still feels confident he’s got the votes to move forward,” she said at a Bloomberg Government breakfast today. Obama’s invitation to have a drink after the meeting signaled he is “very dedicated” to working with lawmakers, according to Pingree. “This is the first time I’ve ever been to a caucus at the White House where we had our hour-and-a-half caucus where we discussed all the issues — and kind of re-discussed what happened in the State of the Union — and then the president said, ‘You know, it’s time to get a drink,’ and he just opened up the doors and there was a huge reception for everybody,” Pingree said. “I had to get somewhere else by 7:00, and he was still milling around talking to people, as was most of his cabinet,” she said. “In some ways it signaled a different, like, we’ve-really-got-to-get-down-to-work, whatever the specifics, how do you want to work with me, here I am to talk to you about any possible thing we can do.”

#### 2) TPA is THE AGENDA right now – The White House wants to pass it before Baucus goes to China

ICTSD, International Center for Trade and Sustainable Development, “Bridges Weekly | US Congress Gears Up for “Fast Track” Trade Fight”, Jan 16th 2014, <http://ictsd.org/i/trade-and-sustainable-development-agenda/182349/>

Trade policy is set to headline the Washington congressional agenda in the coming months, after senior US lawmakers submitted last week a long-awaited bill that, if passed, would help in ratifying trade deals with 11 Pacific nations and the 28-member EU. The bill, which numbers at over 100 pages, aims to restore Trade Promotion Authority (TPA), which expired in 2007. The provision is also known as “fast track,” and allows the US executive branch to negotiate trade deals and then submit them to Congress for a straight up-or-down vote, without amendments. It also sets US “negotiating objectives,” while outlining requirements for the President’s consultations with Congress in this area. The new legislation was submitted in the Senate Finance Committee by its chairman, Max Baucus - a Democrat - together with the panel’s highest ranking Republican, Orrin Hatch. In the corresponding House committee, known as Ways and Means, the bill was submitted by Chairman Dave Camp, a Republican. “Renewing TPA will help advance a robust trade agenda that will help American businesses, workers, farmers, and ranchers by giving them greater access to overseas markets,” Hatch said. US Trade Representative Michael Froman welcomed the introduction of the legislation, pledging to work with Congress as discussions on TPA’s final shape unfold. “The United States cannot afford to stand on the sidelines,” Froman said. “USTR is negotiating agreements in new ways that will not only open markets, but will do a better job of supporting American jobs and reflecting our values around the world - on labour, the environment, access to medicines and other issues.” White House: Fast track a “priority” The latest version of TPA was in force from 2002 until 2007, and applied to the past three trade deals ratified by Congress - Colombia, Korea, and Panama. The legislation proposed last week would, if passed, be in force for four years, with the option of renewing for an additional three years. TPA has long been a controversial subject in Washington, with many lawmakers complaining that they do not have enough input into trade deals as they are being negotiated. The previous iteration of TPA barely passed Congress in 2002, and then only after a bitter legislative fight. Democrats have been particularly wary of the legislation, both due to transparency questions and concerns over the negative impacts that some sectors may experience from lower trade barriers. The top Democrat on the Ways and Means Committee, Sander Levin of Michigan, has openly criticised the legislation submitted by Baucus, Camp, and Hatch as falling “far short of adequately replacing the 2002 TPA model” in various areas, particularly regarding transparency and negotiating objectives. Levin has pledged instead to submit his own version of the legislation for consideration, stressing that the renewal of Trade Adjustment Assistance - which provides support to US workers displaced by the effects of trade - must go hand in hand with TPA. Some Republicans, including House Speaker John Boehner, have said that the Obama Administration has not been vocal enough in its support of TPA, particularly with the US President’s own Democratic Party. “I made clear to the President that this can’t pass unless there is bipartisan support for it,” Boehner said last week. “And this goes back months, and yet we’ve seen scant attention to this issue by the administration in terms of encouraging Democrat leaders and Democrat members to vote for it. White House officials, including Froman, have sought to allay such criticisms in recent months, particularly as the US and 11 other Pacific Rim countries have ramped up their efforts to conclude the Trans-Pacific Partnership (TPP) Agreement. Having missed their 2013 target for finishing the talks, TPP ministers are set to meet again in February in the hopes of resolving their outstanding issues. Last year’s launch of trade negotiations with the EU - known formally as the Transatlantic Trade and Investment Partnership - has imbued the TPA renewal efforts with an additional sense of urgency. The ability to send completed trade deals to Capitol Hill for a clean vote, without amendments, is seen as key for the US’ trading partners in order to avoid having these agreements unravelled in Washington. “Trade promotion authority is a priority, not in theory but in fact, for the administration,” White House Press Secretary Jay Carney told reporters last week, calling it a “key part” of Washington’s economic strategy. “[The] Trans-Pacific Partnership, the Transatlantic Trade and Investment Partnership, these are important proposals that we want to see acted on, and trade promotion authority is an important part of that,” Carney added. Transparency, currency manipulation In an effort to address transparency concerns, the legislation proposed last week would ensure that every member of Congress has access to the text of any trade deal under negotiation. The US Trade Representative would also be required to meet and consult with any interested US lawmaker upon their request. The bill also includes a clause saying that, should it be found that the President has “failed or refused to notify or consult” Congress on a specific trade deal, then fast track can be disapproved for that particular pact. In a notable first, the legislation includes as one of its negotiating objectives a provision regarding currency manipulation, specifically directing countries “to avoid manipulating exchange rates.” While the term has long been bandied about in the US Congress when discussing China’s strict valuation of the renminbi, or yuan, lately concerns have grown over the actions of Japan’s central bank, which has undertaken an aggressive course of monetary easing policies in an effort to combat the country’s long history of deflation. Japan recently become one of the TPP’s 11 members, giving additional incentive for some lawmakers to call for “fast track” provisions that would address the relationship between exchange rates and trade. Timeline? A hearing on the new legislation is already scheduled in the Senate Finance Committee for later this Thursday, though a hearing in the House Committee on Ways and Means has not yet been announced. Obama is set to give his annual State of the Union address on 28 January, and some analysts have speculated that the US President could make a public call to Congress to pass TPA quickly. The prospect of Senator Baucus soon leaving Congress to become the US’ next ambassador to China is also expected to spur TPA proponents to push its expedited approval.

#### 3) Top of the agenda – Obama is pushing for quick passage

ANTHEA MITCHELL, What will become of Obama’s free trade goals?, Jan 13th 2014, <http://wallstcheatsheet.com/stocks/what-will-become-of-obamas-free-trade-goals.html/?a=viewall>

Congress has a new piece of legislation on its plate, and the Obama Administration is hoping to get it pushed through quickly, according to Bloomberg. The legislation would give President Barack Obama the ability to finalize three enormous trade accords — or as those in the talks are calling it, trade-promotion authority. The House of Representative’s Ways and Means Committee Chair, Dave Camp (R-Mich.), and the heads of the Senate Finance Committee worked on the issue.

#### Thumpers don’t apply – Obama needs to get Democrats on board for TPA

Raum 1/25

Tom, The Times and Democrat, Foes of Obama trade pacts mostly fellow Democrats, 1/25/14, http://thetandd.com/news/national/government-and-politics/foes-of-obama-trade-pacts-mostly-fellow-democrats/article\_5fa63adb-c60c-5113-97f7-bfe92c9f653b.html

Debates on lowering trade barriers can turn Congress upside down for Democratic presidents promoting such legislation. Business-minded Republicans suddenly turn into allies and Democrats aligned with organized labor can become outspoken foes.¶ It's a reversal of the usual order of things, where a Democratic president can generally count on plenty of support from fellow Democrats in Congress along with varying levels of resistance from Republicans.¶ Now it is President Barack Obama's turn to experience such a role reversal. Already, he is encountering pockets of Democratic resistance, especially from those representing manufacturing states, to his efforts to win congressional approval for renewal of "fast track" negotiating authority.

**A2 minimum wage**

#### No ones pushing

**Star Tribune 1/30/14**, “Democrats' push to boost minimum wage remains long shot despite Obama's State of Union speech” <http://www.startribune.com/politics/national/242709091.html>, jj

WASHINGTON — A Democratic push to boost the federal minimum wage to $10.10 an hour is a long shot in Congress this election year, even after President Barack Obama made the increase a centerpiece his State of the Union address. There is little suspense over the outcome. Few expect Democrats to muster the 60 votes needed in a showdown Senate roll call that Majority Leader Harry Reid, D-Nev., wants on the minimum wage by early March. Even if they do, the Republican-run House rejected a similar plan last year and seems unlikely to revisit the issue soon.

**A2: Healthcare**

***State of the Union shields Obama on healthcare***

Alex **Lemieux, January 30**, 2014, Liberty Voice, “State of the Union Address: Obama Plays “Small Ball””http://guardianlv.com/2014/01/state-of-the-union-address-obama-plays-small-ball/, jj

President Obama’s signature bill, the Affordable Healthcare Act (ACA) was surprisingly not as prominent in his address as it has been in the media. He recognized that the ACA has had problems in its initial rollout, but wouldn’t offer any solutions – probably why it was buried in the second half of his address. **He also didn’t say he would be working with his Republicans colleagues to create a comprehensive solution**. Nonetheless, ***by not stemming away from the core principles of the ACA, he shielded himself from having to articulate any substantive concessions or expend any political capital.***

***Obamacare will be a non-factor***

Noam **Scheiber, 2/4/14**, New Republic, “Don't Go It Alone, Obama” <http://www.newrepublic.com/article/116475/obamas-executive-action-approach-political-mistake>, jj

Let me stipulate at this point that I think **most pundits**—including some very smart ones—**are way too pessimistic about the president’s political standing**. Yes, Obama’s approval ratings have suffered a steady decline since last fall. And yes, Democrats have to defend a bunch of Senate seats in states where Obama is substantially less popular than he is nationally. But it’s hard to believe the president isn’t at or very near his political low-point. **Over the next few months, the Obamacare rollout fiasco should mostly recede from memory, and public perceptions of the improving economy should start to catch up with reality**. I wouldn’t exactly bet on a Democratic rout in the midterms—there’s almost no way they’ll take back the House. But I’d expect Democrats to hang on to the Senate, and Obama’s favorability move into the black by the end of the year.

**A2: Guantanamo**

***Obama not spending PC on gitmo***

Stacy **Kaper** covers national security for National Journal. Previously Kaper covered financial services including the 2008 financial crisis and its resulting Wall Street reform law. **12/23-13**, Defense One, Obama and Congress Are One Step Closer to Closing Guantanamo Bay's Prison, <http://www.defenseone.com/management/2013/12/obama-and-congress-are-one-step-closer-closing-guantanamo-bays-prison/75896/>, jj

The political obstacles to closing the Guantanamo Bay detention center are not insignificant. "Obama chose not to spend the political capital he needed to get it done in the first two years when Democrats controlled the House and Senate," said Cully Stimson, a senior fellow in national security with the Heritage Foundation. He pointed out that next year is an election year and if Republicans take control of the Senate, additional policy changes towards closing Gitmo—like allowing transfers to the U.S.—will be hard to pass.

**A2: Immigration**

***Obama’s explicitly not pushing immigration***

**Siddiqui 2/6/14** (Sabrina Siddiqui is a politics reporter at the Huffington Post, Prior to that, she worked with the White House team at Bloomberg News and served as the editor in chief of South Asian news network Divanee.com. She also reported on higher education, personal finance and venture capital for BusinessWeek, 2/6/14, Nancy Pelosi: If GOP Can't Trust Obama On Immigration, Congress Should 'Pack Up And Go Home', <http://www.huffingtonpost.com/2014/02/06/nancy-pelosi-immigration-reform_n_4739705.html?utm_hp_ref=politics>, jj)

While the GOP claims Obama cannot be trusted to enforce immigration laws, deportations have hit record levels under his administration. Republicans haven't elaborated on what the president could do to build their trust, but the White House has said that Obama is trying to give them space and not say anything that might jeopardize negotiations.

***Not pushing***

Richard J **Epstein, 1/28/14**, Politico, State of the Union 2014: Barack Obama’s cautious approach to immigration, <http://www.politico.com/story/2014/01/state-of-the-union-2014-barack-obama-comprehensive-immigration-reform-102773.html>, jj

President Barack Obama’s dialed-down immigration push is much more of a nudge than a shove. With hope building at the White House and among immigration reform activists that House Republicans can produce some passable legislation, Obama devoted just a paragraph of his State of the Union address to what he once called the most important domestic policy agenda of his second term. Obama’s cautious tone comes at a sensitive time for immigration reform negotiations. House Republicans are due to discuss their immigration principles at a retreat this weekend. The White House is likely reluctant to do or say anything to jeopardize whatever GOP cooperation they can get.

**2NC – Fight to Defend**

#### War powers fights kill Obama’s capital – extend Kriner – the plan puts Obama on the defensive – Congress will jump at the opportunity to criticize him – imperils the whole agenda

***Plan drains capital – Obama use all his capital to resist the plan’s restriction on his authority***

**George ’10**, Daniel George, J.D., 2010, The George Washington University Law School, June, 2010¶ The George Washington Law Review¶ 78 Geo. Wash. L. Rev. 942, Note: That Is What We Said, but This Is What We Meant: Putting the Meaning Back into Use-of-Force Legislation, Lexis, jj

**There is a fundamental flaw**, however, **in assuming that Congress can manifest its will by enacting a *statute limiting the authority* of the President to act**. Enacting a statute requires either presidential approval [\*944] or a supermajority of Congress willing to override a presidential veto. n6 **A rational President would not sign such limiting legislation, and rarely does Congress have a supermajority to overcome such a veto**. n7 Likewise, a rational Congress would probably not waste time drafting and debating a bill guaranteed to face a veto, which again highlights the issue that Congress faces in deciding whether to continue the public debate, though meaningless, or move on to other matters.

#### Plan is a perceived loss for Obama that saps his capital

Loomis, 7 --- Department of Government at Georgetown

(3/2/2007, Dr. Andrew J. Loomis is a Visiting Fellow at the Center for a New American Security, “Leveraging legitimacy in the crafting of U.S. foreign policy,” pg 35-36, [http://citation.allacademic.com//meta/p\_mla\_apa\_research\_citation/1/7/9/4/8/pages179487/p179487-36.php](http://citation.allacademic.com/meta/p_mla_apa_research_citation/1/7/9/4/8/pages179487/p179487-36.php))

Declining political authority encourages defection. American political analyst Norman Ornstein writes of the domestic context,

In a system where a President has limited formal power, perception matters. The reputation for success—the belief by other political actors that even when he looks down, a president will find a way to pull out a victory—is the most valuable resource a chief executive can have. Conversely, the widespread belief that the Oval Office occupant is on the defensive, on the wane or without the ability to win under adversity can lead to disaster, as individual lawmakers calculate who will be on the winning side and negotiate accordingly. In simple terms, winners win and losers lose more often than not.

Failure begets failure. In short, a president experiencing declining amounts of political capital has diminished capacity to advance his goals. As a result, political allies perceive a decreasing benefit in publicly tying themselves to the president, and an increasing benefit in allying with rising centers of authority. A president’s incapacity and his record of success are interlocked and reinforce each other. Incapacity leads to political failure, which reinforces perceptions of incapacity. This feedback loop accelerates decay both in leadership capacity and defection by key allies.

The central point of this review of the presidential literature is that the sources of presidential influence—and thus their prospects for enjoying success in pursuing preferred foreign policies—go beyond the structural factors imbued by the Constitution. Presidential authority is affected by ideational resources in the form of public perceptions of legitimacy. The public offers and rescinds its support in accordance with normative trends and historical patterns, non-material sources of power that affects the character of U.S. policy, foreign and domestic.

This brief review of the literature suggests how legitimacy norms enhance presidential influence in ways that structural powers cannot explain. Correspondingly, increased executive power improves the prospects for policy success. As a variety of cases indicate—from Woodrow Wilson’s failure to generate domestic support for the League of Nations to public pressure that is changing the current course of U.S. involvement in Iraq—the effective execution of foreign policy depends on public support. Public support turns on perceptions of policy legitimacy. As a result, policymakers—starting with the president—pay close attention to the receptivity that U.S. policy has with the domestic public. In this way, normative influences infiltrate policy-making processes and affect the character of policy decisions.

#### President has to spend political capital defending war powers

Samples, 11 --- director of the Center for Representative Government at CATO

(10/27/2011, John, “Congress Surrenders the War Powers: Libya, the United Nations, and the Constitution,” <http://www.cato.org/sites/cato.org/files/pubs/pdf/pa687.pdf>))

But political representation has other fac-ets. It has given voice to public dissatisfaction about wars proper and limited wars. Con-gress “has historically been actively engaged in debates over the proper conduct of major military initiatives. It has proposed, publicly debated, and voted on various legislative initiatives to authorize or curtail the use of force.” Congress has also held hearings about the conduct of limited and proper wars. 215 Many believe that such legislative actions have little effect on the president. Yet such ac-tions can affect the cost-benefit calculations of the president in pursuing or failing to pur-sue a limited war. Congress can raise the costs of a policy by shaping and mobilizing public opinion against a war, thereby increasing the cost in political capital a president must pay to sustain a policy. Congressional actions also signal disunity (or unity) to foreign actors, who in turn act on their expectations, thereby raising the costs of a limited war. Congres-sional actions also affect presidential expec-tations about how the conduct of a war will be received in the legislature; Congress can thus influence presidential policies without directly overturning them. 216 Systematic evi-dence indicates that since 1945 Congress has been able to influence presidential policies through these means. 217 Although short of constitutional propriety, congressional voice can matter in war-making.

#### Plan causes massive fights – no Congressional consensus on war power restrictions

Alan **Silverleib**, CNN Congressional Producer, 5-23-**12**, CNN, Senator pushes clearer limits on presidential war powers, <http://www.cnn.com/2012/05/23/politics/webb-war-powers>, jj

**Last summer, a sharply divided Congress was unable to pass any legislation explicitly endorsing or rejecting America's involvement in NATO's Libyan intervention**. The matter was never voted on by the full Senate.¶ Deep congressional divisions over the mission stemmed in part from a belief among some representatives and senators on both sides of the aisle that Obama violated the War Powers Resolution. Passed in 1973, the law gives a president 60 days to get congressional approval for sending U.S. forces to war, followed by a 30-day extension to end hostilities.¶ While the combined 90-day period ended before hostilities concluded, White House officials insisted the mission -- backed by the United Nations -- did not violate the War Powers Act because it failed to meet the law's definition of combat. Previous administrations also resisted the law's restrictions.¶ "The (Obama) administration, which spent well over a billion dollars of taxpayer funds, dropped thousands of bombs on the country, and operated our military offshore for months, claimed that 'combat' was not occurring, and rejected the notion that the War Powers Act applied to the situation," Webb recently said on the Senate floor.¶ "I am not here to debate the War Powers Act. (But) I am suggesting that other statutory language that covers these kinds of situations must be enacted."¶ Webb's proposal notwithstanding**, a number of political analysts question the ultimate willingness of Congress to oppose any U.S. military action -- particularly in the post-9/11** era.¶ "**These attempts by Congress to *restrict* the *president's authority*** as commander-in-chief **are almost always *symbolic***, because presidents rarely enter conflicts without some expectation of public support," said Brown University political scientist Wendy Schiller.

***McCain, Graham, and Lieberman will oppose the plan, ensuring a congressional fight***

**Bandow ’11**, Doug Bandow is a senior fellow at the Cato Institute, specializing in foreign policy and civil liberties. He worked as special assistant to President Reagan and editor of the political magazine Inquiry. He writes regularly for leading publications such as Fortune magazine, National Interest, Wall Street Journal, and Washington Times. Bandow speaks frequently at academic conferences, on college campuses, and to business groups. Bandow has been a regular commentator on ABC, CBS, NBC, CNN, Fox News Channel, and MSNBC. He holds a J.D. from Stanford University. 6-6-11, CATO, It’s Time for Congress to Vote on the Illegal War in Libya, <http://www.cato.org/publications/commentary/its-time-congress-vote-illegal-war-libya>, jj

**In the Senate Rand Paul and several others pushed to hold the president accountable, but the leadership has indicated no interest in acting**. Moreover, **a war-happy triumvirate** — John **McCain**, Lindsey **Graham, and** Joseph **Lieberman** — **has been beating the war drums while advocating a resolution to support** President **Obama’s unconstitutional war**. Although the three journeyed to Tripoli a couple years ago to toast Moammar Qaddafi and discuss the provision of military aid, they recently discovered that he was an evil dictator who must be removed, the Constitution be damned.

#### Wins don’t spillover---capital is finite---prioritizing issues is key

Schultz 13 David Schultz is a professor at Hamline University School of Business, where he teaches classes on privatization and public, private and nonprofit partnerships. He is the editor of the Journal of Public Affairs Education (JPAE). “Obama's dwindling prospects in a second term,” MinnPost, 1/22, http://www.minnpost.com/community-voices/2013/01/obamas-dwindling-prospects-second-term

Four more years for Obama. Now what? What does Barack Obama do in his second term and what can he accomplish? Simply put, his options are limited and the prospects for major success quite limited. Presidential power is the power to persuade, as Richard Neustadt famously stated. Many factors determine presidential power and the ability to influence including personality (as James David Barber argued), attitude toward power, margin of victory, public support, support in Congress, and one’s sense of narrative or purpose. Additionally, presidential power is temporal, often greatest when one is first elected, and it is contextual, affected by competing items on an agenda. All of these factors affect the political power or capital of a president. Presidential power also is a finite and generally decreasing product. The first hundred days in office – so marked forever by FDR’s first 100 in 1933 – are usually a honeymoon period, during which presidents often get what they want. FDR gets the first New Deal, Ronald Reagan gets Kemp-Roth, George Bush in 2001 gets his tax cuts. Presidents lose political capital, support But, over time, presidents lose political capital. Presidents get distracted by world and domestic events, they lose support in Congress or among the American public, or they turn into lame ducks. This is the problem Obama now faces. Obama had a lot of political capital when sworn in as president in 2009. He won a decisive victory for change with strong approval ratings and had majorities in Congress — with eventually a filibuster margin in the Senate, when Al Franken finally took office in July. Obama used his political capital to secure a stimulus bill and then pass the Affordable Care Act. He eventually got rid of Don’t Ask, Don’t Tell and secured many other victories. But Obama was a lousy salesman, and he lost what little control of Congress that he had in the 2010 elections.