## 1

#### Solicitor general appealing to uphold recess appointments now-key to executive nominations, functioning agencies and NLRB

**Richey, Christian Science Monitor, 2013**

(Warren, “Were Obama recess appointments constitutional? Supreme Court takes case”, 6-24, <http://www.csmonitor.com/USA/Justice/2013/0624/Were-Obama-recess-appointments-constitutional-Supreme-Court-takes-case>)

. In his brief urging the high court to take up the case, Noel Canning’s lawyer, Noel Francisco, suggested that in addition to considering the appeals court’s decision concerning intersessional recesses, the court should also examine whether the president’s authority to make recess appointments applies when the Senate is convening every three days in pro forma sessions. In its brief order on Monday, the court agreed to examine that issue as well as the broader question raised in the case. “Until January 4, 2012 – when the President made the appointments at issue – no President had ever attempted to make recess appointments where the Senate was convening in pro forma sessions every three days,” Mr. Francisco wrote in his brief. He said Obama’s actions made him “the first President in history to attempt an intrasession recess appointment while the Senate was convening sessions every three days.” Solicitor General Verrilli also urged the high court to take up the case, but for a different reason. He said the appeals court decision, if allowed to stand, would “dramatically curtail the scope of the President’s authority” to make recess appointments. “Before that decision, Executive practice had long been predicated on the understanding that the Recess Appointments Clause authorizes the President to fill vacancies that exist during a recess of the Senate, regardless of whether the recess occurs between two enumerated sessions of Congress or during a session, and regardless of when the vacancies first arose,” the solicitor general said in his brief. He warned that the appeals court decision, if upheld, would “deem invalid hundreds of recess appointments made by Presidents since early in the nation’s history.” The solicitor general added: “It potentially calls into question every order issued by the National Labor Relations Board since January 4, 2012, and similar reasoning could threaten past and future decisions of other federal agencies.” A friend-of-the-court brief filed on behalf of Senate Republican leader Mitch McConnell and 44 other senators denounced Obama’s use of the recess appointment authority as a “presidential power-grab. “The President usurped two powers that the Constitution confers explicitly, and exclusively, on the Senate,” Washington lawyer Miguel Estrada wrote in the McConnell brief. The two Senate powers are the ability to reject an appointment and the authority of the Senate to write its own rules for when the Senate is in session and when it is in recess. Mr. Estrada said that the president “resorted to recess appointments in January 2012 not because the Senate was unable to give an answer on nominations, but because he did not like the answer he received.”

#### War on terror cases increase perception of SG politicization-uniquely polarized, ideological and empirics prove

**Lewis, American University government instructor, 2009**

(Andrew, “The Role of the Solicitor General in Church-State Cases within the Clinton and Bush Administrations: A Case Study Supporting the Politicization of the Solicitor General”, <http://www.american.edu/spa/publicpurpose/upload/The-Role-of-the-Solicitor-General.pdf>)

While the solicitors general for both administrations were politicized, adhering to the policy agendas of the president, the Office of the Solicitor General under Bush was more polarized than the Clinton administration was. Bush’s solicitors general filed briefs and made arguments in controversial and political cases regarding religious displays and expression, while Clinton’s solicitors general decided to refrain from being involved in similar cases. This is congruent with Bush’s agenda of promoting policies favorable to conservative Christians and supporting government programs such as the faith-based initiatives that expand the relationship between government and religion. The solicitors general under Bush went beyond supporting government laws, as the Clinton solicitors general did, supporting individual rights and the expansion of the government’s relationship with religion. This was a result the Office of the Solicitor General being more ideological on church-state issues under the Bush administration, and is consistent with the growing view that Bush not only significantly politicized the solicitor general’s office into supporting his agenda, but that it used the solicitor general to promote ideologically conservative issues such as church-state policy and the war on terror (Blum 2004). To further support this argument, both Olson and Clement are known for their partisan and ideological activity. Olson was rewarded with the solicitor general position after supporting Bush and Cheney before the Court during the 2000 election, and Clement has gained a reputation in Washington and in legal circles for is partisan actions in defending the Bush Administration’s polices used to fight the War on Terror in multiple court cases. Therefore, while both the Clinton and Bush Administrations politicized the solicitor general to achieve their policy goals, the Bush Administration used the solicitor general in a much more polarizing way in church-state cases. It is likely that this is predominantly due to Bush’s agenda on certain conviction issues such as the role of religion in the public square. Clinton, by contrast, took a moderate approach to church-state policy, not opposing the expansion of religion into public life, but only favoring it when it provided political rewards or coincided with his more important agenda items—education and civil rights.

#### Solicitor General’s finite influence determines outcome – plan drains it and spills over – best studies prove

**Wohlfarth, Maryland politics professor, 2009**

(Patrick, “The Tenth Justice? Consequences of Politicization in the Solicitor General’s Office”, <http://www.gvpt.umd.edu/wohlfarth/Wohlfarth%202009%20JOP.pdf>)

The solicitor general (S.G.), as the executive branch’s chief lawyer on the U.S. Supreme Court, represents perhaps the most important inﬂuence on the Court’s decisions beyond the justices themselves. While ofﬁcially a presidential appointee and member of the Justice Department, scholars widely regard the S.G. as the independent bridge connecting the executive branch to the Court. As a result, Court observers view the S.G. as an informational tool the justices utilize throughout the decision-making process. Perry (1991) claims that the solicitor general, on many cases at the agenda setting stage, functions as a ‘‘surrogate of the Court’’ in signaling the merit for granting certiorari. This unique status affords the S.G. unmatched success when seeking the Court’s support for legal positions (Caldeira and Wright 1988; Caplan 1987; McGuire 1998; O’Connor 1983; Salokar 1992; Scigliano 1971; Segal 1988). In fact, the S.G.’s success on the merits as a litigant and amicus curiae, and the deference commonly received from the Court, is so well established that scholars often refer to the solicitor general as the ‘‘Tenth Justice’’ (Caplan 1987). Judicial scholars offer several explanations for the Court’s disproportionate attention to the ofﬁce’s arguments and commonly view the S.G. as a representative of both executive and judicial interests. Historically, solicitors general have acknowledged and respected the ofﬁce’s reputation for legal integrity and relative independence from partisan inclinations. Yet by many accounts, recent solicitors general have increasingly politicized the ofﬁce by frequently behaving as a direct advocate of the executive’s often narrow legal philosophy (Caplan 1987; Ubertaccio 2005). Solicitors general commonly enter the ofﬁce with a reservoir of decision-making capital. The ofﬁce’s esteemed reputation affords the S.G. a degree of freedom to act as the president’s political advocate. The heightened sense of political behavior within the contemporary ofﬁce suggests that solicitors general are indeed willing to utilize this discretion and expend such resources. However, the S.G. who exhausts that capital and excessively politicizes the ofﬁce might jeopardize both the president’s immediate ability to advance the administration’s policy agenda through the Court as well as the longterm integrity of the S.G.’s ofﬁce as an institution. The recent controversy surrounding the ﬁring of several U.S. attorneys and Attorney General Alberto Gonzales’ eventual resignation further illustrates the consequences that may arise when perceptions of excessive political bias pervade the Justice Department. The S.G., even more so than the attorney general, stands at the intersection of law and politics. This unique position carries an expectation that its ofﬁce holders will maintain an independent balance. Existing empirical accounts of the S.G.’s behavior have not fully explored the degree to which the Court’s perceptions of political bias may jeopardize the ofﬁce’s reputation as an unbiased informational cue. In this article, I examine the extent to which the S.G.’s politicization adversely affects the ofﬁce’s credibility. If the Court perceives that solicitors general repeatedly abuse their discretion by acting as the president’s political advocate, then it should not trust the information provided and, thus, discount the ofﬁce’s arguments. I employ an individual-level analysis of all solicitor general amici between 1961 and 2003. The results reveal that increased politicization diminishes the likelihood that the Court will support the S.G.’s positions on the merits. In addition, I demonstrate that politicization’s negative impact yields a spillover effect by endangering the success of the United States as a litigant beginning with Reagan’s solicitors general.

#### Crushes economy, US leadership, functioning democratic government and judicial appointments

**Millhiser, American Progress senior constitutional policy analyst, 2013**

(Ian, “Everything You Need To Know About The ‘Nuclear Option’ And Harry Reid’s Plan To Fix The Senate”, 7-12, <http://thinkprogress.org/justice/2013/07/12/2291781/everything-you-need-to-know-about-the-nuclear-opinion-and-harry-reids-plan-to-fix-the-senate/>)

They did, but circumstances have changed quite a bit since then. Democrats filibustered nominees like Owen, Pryor and Brown because they viewed them as uniquely offensive nominees justifying the use of unusual tactics. Republicans under Obama, by contrast, say that there are some jobs that they will confirm no one to, no matter who President Obama nominates. Many Democrats who still believe that the filibuster can exist if it is only used, in the words of the Gang of 14 agreement, in “extraordinary circumstances,” now see that filibusters are being used in extraordinarily ordinary circumstances. They believe this is a bridge too far. If Republicans succeed in maintaining the filibuster, moreover, it will cripple much of the government’s ability to function and lead to severe consequences for many American workers and consumers. By refusing to confirm anyone to the National Labor Relations Board, Republicans will likely shut down nearly all of federal labor law. Without the NLRB, there will be no one to enforce workers’ rights to join a union without intimidation from their employer. No one to enforce workers’ rights to join together to oppose abusive work conditions. And no one to make an employer actually bargain with a union. Without an NLRB to enforce the law, it may be possible for an employer to round up all of their pro-union workers, fire them, and then replace them with anti-union scabs who will immediately call a vote to decertify the union. Similarly, a Republican filibuster of Consumer Financial Protection Bureau Director Richard Cordary will likely shut down that agency’s new authority to regulate Wall Street. Anticipated filibusters of three nominees to the United States Court of Appeals for the District of Columbia Circuit will enable Republicans to strike numerous rules promulgated by the Obama Administration to protect workers, consumers and the environment. The filibuster is no longer being used to block unusually offensive nominees, it’s being used to hobble America’s ability to govern itself.

#### Economic stagnation undercuts leadership—it causes nuclear war, proliferation, and the collapse of U.S. foreign policy turning the case

O Hanlon et al. 12 (O’Hanlon 12 Kenneth G. Lieberthal, Director of the John L. Thornton China Center and Senior Fellow in Foreign Policy and Global Economy and Development at the Brookings Institution, former Professor at the University of Michigan [“The Real National Security Threat: America's Debt,” Los Angeles Times, July 10th, <http://www.brookings.edu/research/opinions/2012/07/10-economy-foreign-policy-lieberthal-ohanlon>]

Alas, globalization and automation trends of the last generation have increasingly called the American dream into question for the working classes. Another decade of underinvestment in what is required to remedy this situation will make an isolationist or populist president far more likely because much of the country will question whether an internationalist role makes sense for America — especially if it costs us well over half a trillion dollars in defense spending annually yet seems correlated with more job losses. Lastly, American economic weakness undercuts U.S. leadership abroad. Other countries sense our weakness and wonder about our purport 7ed decline. If this perception becomes more widespread, and the case that we are in decline becomes more persuasive, countries will begin to take actions that reflect their skepticism about America's future. Allies and friends will doubt our commitment and may pursue nuclear weapons for their own security, for example; adversaries will sense opportunity and be less restrainedin throwing around their weight in their own neighborhoods. The crucial Persian Gulf and Western Pacific regions will likely become less stable. Major war will become more likely. When running for president last time, Obama eloquently articulated big foreign policy visions: healing America's breach with the Muslim world, controlling global climate change, dramatically curbing globalpoverty through development aid, **moving toward a world free of** nuclear weapons. These were, and remain, worthy if elusive goals. However, for Obama or his successor, there is now a muchmore urgent big-pictureissue:restoring U.S. economic strength.Nothing else isreallypossibleif thatfundamental prerequisite toeffectiveforeign policyis not reestablished.

## 2

#### Obama has successfully fended off sanctions, FOR NOW, any lags create an aggressive push that will be veto proof

Rubin 2-7

(Jennifer, Washington Post. “Menendez’s blasts Obama’s Iran policy” 2-7-14 http://www.washingtonpost.com/blogs/right-turn/wp/2014/02/07/menendezs-blasts-obamas-iran-policy///wyoccd)

The administration has a big problem on Iran. It has for now successfully fended off sanctions, but in doing so it helped forge consensus about the flaws in its approach and set the scene for a major showdown with Congress when, as everyone but Secretary of State John Kerry expects, Iran refuses to agree to even minimal steps to dismantle its nuclear weapons program. In other words, it has set itself up for failure with no back-up plan.Thursday, Sen. Robert Menendez (D-N.J.), denied by his majority leader a vote on a sanctions bill that would pass with more than 70 votes, explained in detail the administration’s gross mishandling of negotiations. It is worth reading in full, but some portions deserve emphasis. After describing in detail the requirements the administration, the United Nations and former administration official Dennis Ross have confirmed are needed to prevent a nuclear-capable Iran, the New Jersey Democrat summed up the flaws in the interim deal:¶ Iran is insisting on keeping core elements of its programs – enrichment, the Arak heavy-water reactor, the underground Fordow facility, and the Parchin military complex. And, while they may be subject to safeguards — so they can satisfy the international community in the short-run – if they are allowed to retain their core infrastructure, they could quickly revive their program sometime in the future. At the same time, Iran is seeking to reverse the harsh international sanctions regimes against them. Bottom line: They dismantle nothing. We gut the sanctions.¶ Directly contradicting Kerry’s assurances, Menendez states:¶ Since the interim deal was signed there was an immediate effort by many nations – including many European nations — to revive trade and resume business with Iran. There have been recent headlines that the Russians may be seeking a barter deal that could increase Iran’s oil exports by 50 percent. That Iran and Russia are negotiating an oil-for-goods deal worth $1.5 billion a month — $18 billion a year – which would significantly boost Iran’s oil exports by 500,000 barrels a day in exchange for Russian goods . . . Iran’s economy is recovering. . . . Sanctions relief — combined with the “open for business sign” that Iran is posting — is paying returns.¶ And as for the potential for sanctions at the end of the six months, Menendez states definitively that this would be too late. It is quite an extraordinary assertion — in essence, that barring a miraculous negotiated solution, we’re now in the mode of “containment,” precisely what the president swore up and down he’d never allow:¶ My legislation – cosponsored by 59 Senators – would simply require that Iran act in good faith, adhering to the implementing agreement, not engage in new acts of terror against American citizens or U.S, property — and not conduct new ballistic missile tests with a range beyond 500 kilometers.¶ The legislation is not the problem. Congress is not the problem. Iran is the problem. We need to worry about Iran, not the Congress. We need to focus on Iran’s long history of deception surrounding its nuclear program and how this should inform our approach to reaching a comprehensive deal. . . .New sanctions are not a spigot that can be turned off-and-on as has been suggested.¶ Even if Congress were to take-up and pass new sanctions at the moment of Iran’s first breach of the Joint Plan of Action, there is a lag time of at least 6 months to bring those sanctions on line — and at least a year for the real impact to be felt.¶ This would bring us beyond the very short-time Iran would need to build a nuclear bomb, especially since the interim agreement does not require them neither to dismantle anything, and freezes their capability as it stands today.¶ So let everyone understand — if there is no deal we won’t have time to impose new sanctions before Iran could produce a nuclear weapon. . . .¶ The simple and deeply troubling fact is — Iran is literally weeks to months away from breakout, and the parameters of the final agreement — laid out in the Joint Plan of Action — do not appear to set Iran’s development-capacity back by more than a few weeks. [Emphasis added.]¶ He concludes, “The concerns I have raised here are legitimate. They are not — as the President’s press secretary has said – ‘war-mongering.’ . . . Iran says it won’t negotiate with a gun to its head. Well, I would suggest it is Iran that has put a nuclear gun to the world’s head. So, at the end of the day, name-calling is not an argument, nor is it sound policy. It is a false choice to say a vote for sanctions is equivalent to war-mongering. . . . The ball is in the Administration’s court, not in Congress’.”¶ So then, in the estimation of the Senate’s Democratic foreign affairs chairman the interim deal is fatally flawed, a final deal must achieve things Iran has no intention of giving us and it will be too late to pass sanctions in six months. He has in essence accused the president of setting us on a road to containment since the president and Senate Majority Leader Harry Reid will not permit a sanctions vote that is the last hope to bring Iran to heel.¶ I wonder what the point of the speech really was. Does he think Reid will bend? Does he have more Democrats on board to force a vote? Does he think sanctions proponents will say, ‘What a nice speech. He’ll be on the ball when the talks fail“? (But Menendez’s entire point was when the talks fail, it will be too late.)¶ In six-months, when the talks fail and/or another six-months are declared necessary for a deal, Congress then can try to restart sanctions, I suppose. But Menendez says that won’t be effective. The alternative is accepting a nuclear-capable Iran or an Israeli military strike. The latter is becoming the most likely scenario if Menendez’s assessment of the timeline is correct. Obama will therefore have brought about the one thing he was desperate to avoid — a Middle East war.

**An adverse Court ruling will cause Obama defiance – triggers a Constitutional showdown**

**Posner and Vermeule, 10** - \*professor of law at the University of Chicago AND \*\*professor of law at Harvard (Eric and Adrian, The Executive Unbound, p. 207-210)

The **9/11** attack **provided a reminder of just how extensive the president’s power is.** The executive claimed the constitutional authority to, in effect, use emergency powers. Because Congress provided redundant statutory authority, and **the Supreme Court has steadfastly refused to address the ultimate merits of the executive’s constitutional claims**, these claims were never tested in a legal or public forum. But **it is worth trying to imagine what would have happened if Congress had refused to pass the Authorization for Use of Military Force and the Supreme Court had ordered the executive to release detainees** in a contested case. We think that **the executive, backed up as it was by popular opinion, would have refused to obey**. And, indeed, **for just that reason, Congress would never have refused** its imprimatur **and the Supreme Court would never have stood in the executive’s way**. **The major check on the executive’s power to declare an emergency and to use emergency powers is—political**.

#### Loss of political capital causes Democrats flop and support sanctions

Kraushaar 1-22

(Josh Kraushaar, staff writer at the National Journal. “The Iran Deal Puts Pro-Israel Democrats in a Bind” 1-22-14 http://www.nationaljournal.com/magazine/the-iran-deal-puts-pro-israel-democrats-in-a-bind-20131122//wyoccd)

All of this puts Democrats, who routinely win overwhelming support from Jewish Americans on Election Day, in an awkward position. Do they stand with the president on politically sensitive foreign policy issues, or stake their own course? That difficult dynamic is currently playing out in Congress, where the Obama administration is resisting a Senate push to maintain tough sanctions against Iran. This week, Obama met with leading senators on the Banking and Foreign Relations committees to dissuade them from their efforts while diplomacy is underway. "There's a fundamental disagreement between the vast majority of Congress and the president when it comes to increasing Iran sanctions right now," said one Democratic operative involved in the advocacy efforts. "Pro-Israel groups, like AIPAC, try to do things in a bipartisan way; they don't like open confrontation. But in this instance, it's hard." That awkwardness has been evident in the lukewarm reaction from many of Obama's Senate Democratic allies to the administration's outreach to Iran. Senate Foreign Relations Committee Chairman Robert Menendez of New Jersey said last week he was concerned that the administration seems "to want the deal almost more than the Iranians." Normally outspoken Sen. Chuck Schumer of New York, a reliable ally of Israel, has been conspicuously quiet about his views on the negotiations. In a CNN interview this month, Democratic Rep. Debbie Wasserman Schultz of Florida, whose job as chairwoman of the Democratic National Committee is to defend the president, notably declined to endorse the administration's approach, focusing instead on Obama's past support of sanctions. This, despite the full-court press from Secretary of State John Kerry, a former congressional colleague. On Tuesday, after meeting with Obama, Menendez and Schumer signed a bipartisan letter to Kerry warning the administration about accepting a deal that would allow Iran to continue its nuclear program. The letter was also signed by Sens. John McCain, R-Ariz., Lindsey Graham, R-S.C., Susan Collins, R-Maine, and Robert Casey, D-Pa. Democrats, of course, realize that the president plays an outsized role in the policy direction of his party. Just as George W. Bush moved the Republican Party in a more hawkish direction during his war-riven presidency, Obama is nudging Democrats away from their traditionally instinctive support for the Jewish state. "I can't remember the last time the differences [between the U.S. and Israel] were this stark," said one former Democratic White House official with ties to the Jewish community. "There's now a little more freedom [for progressive Democrats] to say what they want to say, without fear of getting their tuchus kicked by the organized Jewish community." A Gallup survey conducted this year showed 55 percent of Democrats sympathizing with the Israelis over the Palestinians, compared with 78 percent of Republicans and 63 percent of independents who do so. A landmark Pew poll of American Jews, released in October, showed that 35 percent of Jewish Democrats said they had little or no attachment to Israel, more than double the 15 percent of Jewish Republicans who answered similarly. At the 2012 Democratic National Convention, many delegates booed a platform proposal supporting the move of the U.S. Embassy in Israel from Tel Aviv to Jerusalem. In 2011, Democrats lost Anthony Weiner's heavily Jewish, solidly Democratic Brooklyn House seat because enough Jewish voters wanted to rebuke the president's perceived hostility toward Israel. Pro-Israel advocacy groups rely on the mantra that support for Israel carries overwhelming bipartisan support, a maxim that has held true for decades in Congress. But most also reluctantly acknowledge the growing influence of a faction within the Democratic Party that is more critical of the two countries' close relationship. Within the Jewish community, that faction is represented by J Street, which positions itself as the home for "pro-Israel, pro-peace Americans" and supports the Iran negotiations. "Organizations that claim to represent the American Jewish community are undermining [Obama's] approach by pushing for new and harsher penalties against Iran," the group wrote in an action alert to its members. Some supporters of Israel view J Street with concern. "There's a small cadre of people that comes from the progressive side of the party that are in the business of blaming Israel first. There's a chorus of these guys," said a former Clinton administration foreign policy official. "But that doesn't make them the dominant folks in the policy space of the party, or the Hill." Pro-Israel activists worry that one of the ironies of Obama's situation is that as his poll numbers sink, his interest in striking a deal with Iran will grow because he'll be looking for any bit of positive news that can draw attention away from the health care law's problems. Thus far, Obama's diminished political fortunes aren't deterring Democrats from protecting the administration's prerogatives. Congressional sources expect the Senate Banking Committee, chaired by South Dakota Democrat Tim Johnson, to hold off on any sanctions legislation until there's a resolution to the Iranian negotiations. But if Obama's standing continues to drop, and if Israel doesn't like the deal, don't be surprised to see Democrats become less hesitant about going their own way.

#### Tanks Geneva and causes Israel strikes

**Leubsdorf, 1/22/14 –** former Washington Bureau chief of The Dallas Morning News (Carl, Dallas Morning News, “Hard-liners’ mischief-making threatens Iran nuke talks” <http://www.dallasnews.com/opinion/columnists/carl-p-leubsdorf/20140122-carl-leubsdorf-hard-liners-mischief-making-threatens-iran-nuke-talks.ece>)

The measure’s most dangerous provision, according to various published reports, reads as follows:¶ “If the government of Israel is compelled to take military action in legitimate self-defense against Iran’s nuclear weapon program, the United States should stand with Israel and provide in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic and economic support to the Government of Israel in the defense of its territory, people and existence.”¶ While not requiring U.S. action, critics note the language suggests the mere existence of an Iranian “nuclear weapon program” would be sufficient to compel Israel to attack “in legitimate self-defense.” And it says the U.S. “should” provide such an Israeli attack with “military, diplomatic and economic support” according to U.S. laws and congressional constitutional responsibility.¶ In effect, that could enable the hard-liners who control the Israeli government to kill the talks or try to drag the United States into a war against Iran if they decide that Iranian compliance with the current agreement is insufficient to protect Israel.¶ The measure would also enable Congress to kill any agreement the West reaches with Iran by overriding Obama’s decision to waive existing sanctions.

#### Global war

-Strikes fail: intel gap and buried

-Iran second strike = nuclear

-Economy: stops oil

-Hegemony: Balancers

-Miscalc/Escalation: Forces on nuclear alter

**Reuveny, 10** – professor in the School of Public and Environmental Affairs at Indiana University (Rafael, “Unilateral strike could trigger World War III, global depression” Gazette Xtra, 8/7, - See more at: <http://gazettextra.com/news/2010/aug/07/con-unilateral-strike-could-trigger-world-war-iii-/#sthash.ec4zqu8o.dpuf>)

A unilateral Israeli strike on Iran’s nuclear facilities would likely have dire consequences, including a regional war, global economic collapse and a major power clash.¶ For an Israeli campaign to succeed, it must be quick and decisive. This requires an attack that would be so overwhelming that Iran would not dare to respond in full force.¶ Such an outcome is extremely unlikely since the locations of some of Iran’s nuclear facilities are not fully known and known facilities are buried deep underground.¶ All of these widely spread facilities are shielded by elaborate air defense systems constructed not only by the Iranians but also the Chinese and, likely, the Russians as well.¶ By now, Iran has also built redundant command and control systems and nuclear facilities, devloped early warning systems, acquired ballistic and cruise missiles and upgraded and enlarged its armed forces.¶ Because Iran is well-prepared, a single, conventional Israeli strike—or even numerous strikes—could not destroy all of its capabilities, giving Iran time to respond.¶ Unlike Iraq, whose nuclear program Israel destroyed in 1981, Iran has a second-strike capability comprised of a coalition of Iranian, Syrian, Lebanese, Hezbollah, Hamas, and, perhaps, Turkish forces. Internal pressure might compel Jordan, Egypt and the Palestinian Authority to join the assault, turning a bad situation into a regional war.¶ During the 1973 Arab-Israeli War, at the apex of its power, Israel was saved from defeat by President Nixon’s shipment of weapons and planes. Today, Israel’s numerical inferiority is greater, and it faces more determined and better-equipped opponents. After years of futilely fighting Palestinian irregular armies, Israel has lost some of its perceived superiority—bolstering its enemies’ resolve.¶ Despite Israel’s touted defense systems, Iranian coalition missiles, armed forces, and terrorist attacks would likely wreak havoc on its enemy, leading to a prolonged tit-for-tat.¶ In the absence of massive U.S. assistance, Israel’s military resources may quickly dwindle, forcing it to use its alleged nuclear weapons, as it had reportedly almost done in 1973.¶ An Israeli nuclear attack would likely destroy most of Iran’s capabilities, but a crippled Iran and its coalition could still attack neighboring oil facilities, unleash global terrorism, plant mines in the Persian Gulf and impair maritime trade in the Mediterranean, Red Sea and Indian Ocean.¶ Middle Eastern oil shipments would likely slow to a trickle as production declines due to the war and insurance companies decide to drop their risky Middle Eastern clients. Iran and Venezuela would likely stop selling oil to the United States and Europe.¶ From there, things could deteriorate as they did in the 1930s. The world economy would head into a tailspin; international acrimony would rise; and Iraqi and Afghani citizens might fully turn on the United States, immediately requiring the deployment of more American troops.¶ Russia, China, Venezuela, and maybe Brazil and Turkey—all of which essentially support Iran—could be tempted to form an alliance and openly challenge the U.S. hegemony.¶ Russia and China might rearm their injured Iranian protege overnight, just as Nixon rearmed Israel, and threaten to intervene, just as the U.S.S.R. threatened to join Egypt and Syria in 1973. President Obama’s response would likely put U.S. forces on nuclear alert, replaying Nixon’s nightmarish scenario.¶ Iran may well feel duty-bound to respond to a unilateral attack by its Israeli archenemy, but it knows that it could not take on the United States head-to-head. In contrast, if the United States leads the attack, Iran’s response would likely be muted.¶ If Iran chooses to absorb an American-led strike, its allies would likely protest and send weapons but would probably not risk using force.¶ While no one has a crystal ball, leaders should be risk-averse when choosing war as a foreign policy tool. If attacking Iran is deemed necessary, Israel must wait for an American green light. A unilateral Israeli strike could ultimately spark World War III.

## 3

#### The United States Executive Branch should make a public declaration that the United States’ indefinite detention policy guarantees Article 75 protections of the First Geneva Protocol. The Executive should issue an executive order that orders the release of individuals that have won their habeas hearing

#### The United States Congress should enact a resolution and issue a white paper stating that, in the conduct of its oversight it has reviewed ongoing indefinite detention and determined that the United States government is conducting indefinite detention in full compliance with Geneva Article 75 Protections

#### Solves HR credibility and legitimacy

John Bellinger 10, **headed the U.S. delegation for the negotiation of the Third Additional Protocol to the Geneva Conventions**; an adjunct senior fellow in International and National Security Law at the Council on Foreign Relations. As the legal adviser for Department of State from 2005 to 2009. Obama, Bush, and the Geneva Conventions, shadow.foreignpolicy.com/posts/2010/08/11/obama\_bush\_and\_the\_geneva\_conventions

Today, 12 August, is the 61st anniversary of the signing of the Geneva Conventions of 1949, the international treaties designed to protect soldiers and civilians during armed conflicts. The treaties became the focus of international attention in 2002 when the Bush administration controversially concluded that al Qaeda and the Taliban were not entitled to their protections. President Obama has reaffirmed America's "commitment" to the Geneva Conventions but has not been specific about how the Conventions apply to al Qaeda and Taliban detainees. To re-assert U.S. leadership with respect to the laws of war, the Obama administration should announce that the United States accepts specific provisions of the Conventions and engage other countries to develop new rules where the Geneva Conventions do not apply.¶ The 1949 Geneva Conventions consist of four separate treaties originally signed by 59 countries in Geneva, Switzerland. In light of the horrific experiences of World War II, the first three agreements revised previous treaties dating from 1864, 1906, and 1929 that provided humanitarian protections for sick or wounded soldiers on land, sailors at sea, and prisoners of war. The fourth agreement, added in 1949, establishes protections for civilians in conflict zones. The best known of the agreements is the Third Geneva Convention, which provides detailed articles of protection for those who qualify as Prisoners of War (POWs).¶ The Geneva Conventions apply to conflicts between the 194 countries that are now party to them. Since 1949, three Additional Protocols have been added to the Conventions to provide further protections in light of changes in modern warfare. The United States has long objected to certain provisions in the First Protocol, although it has stated its support for others. President Reagan submitted the Second Protocol to the Senate in 1987, but the Senate has not acted on it. The Bush administration was a driving force behind (and signed and ratified) the Third Protocol, which created an alternative protective symbol (a Red Diamond) for countries (primarily Israel) that do not use the Red Cross or Red Crescent.¶ Together, the four 1949 Conventions and the three protocols form the bedrock of the international laws of war.¶ The United States applied the Geneva Conventions in the Korean, Vietnam, and first Gulf Wars. After the September 11 attacks, however, President Bush concluded that the Conventions did not apply to the United States conflict with al Qaeda because al Qaeda was not a party to the Conventions. He also determined that while Afghanistan was a party to the Conventions, the Taliban were not entitled to POW protections. The Bush administration's refusal to apply the Geneva Conventions (and certain provisions in human rights treaties) was condemned by U.S. allies and human rights groups as an effort to place al Qaeda and Taliban detainees into a "legal black hole." In its second term, the Bush administration made significant efforts to clarify the legal rules applicable to detention and engage U.S. allies in discussions on international legal issues. But the administration still resisted application of the Geneva Conventions. ¶ In 2006, the Supreme Court rejected the Bush administration's arguments and held that even if the Geneva Conventions did not apply in their entirety, at least one provision -- Common Article 3, which prohibits torture and inhuman or degrading treatment of detainees -- applies to the conflict between the United States and al Qaeda.¶ President Obama entered office pledging to "restore" U.S. respect for international law. He immediately banned coercive interrogation methods and rescinded the Bush administration's strained interpretations of Common Article 3. Last December, Obama reaffirmed the U.S. "commitment to abide by the Geneva Conventions" in his Nobel Prize remarks. These statements have helped improve America's image internationally. But the Obama administration has yet to apply the Geneva Conventions as a legal framework differently than the Bush administration. The administration continues to hold hundreds of al Qaeda and Taliban detainees as enemy combatants in Guantanamo and Afghanistan but has not determined that they are POWs under the Third Convention or civilian "protected persons" under the Fourth Convention.¶ The Obama administration has been studying for nearly twenty months whether to give additional Geneva protections to these detainees. Although al Qaeda detainees clearly are not entitled to POW status, the administration should agree to be bound by Article 75 of the First Protocol to the Conventions, which specifies minimum protections for detained persons, such as the right to be told the reasons for one's detention. The administration should also urge the Senate to approve the Second Protocol to the Conventions, which spells out rules for internal wars such as in Afghanistan today. Applying these provisions from the First and Second Protocols would demonstrate the U.S. commitment to holding detainees under an internationally recognized set of rules.¶ For more than a hundred years, the United States has been a respected leader in developing the international laws of war. The Bush administration stumbled by straining to avoid application of the Geneva Conventions as a whole and refusing to adopt even the minimum international standards set forth in Common Article 3 and Article 75. But it is true that the Conventions, and even the Additional Protocols, do not provide clear guidance for countries engaged in conflicts with terrorist groups like al Qaeda, such as who qualifies as a combatant and what legal process should be given. The Obama administration should continue to engage our allies in dialogue about which existing rules of international humanitarian and human rights law apply and where additional rules should be developed. The administration should use its considerable political capital in the international community to clarify and expand the international law applicable to modern warfare.

## Deference

#### All of their uniqueness claims are flawed – there’s a new type of deference in the status quo – prefer this evidence because it cites the Habeas delay strategy as a central component of new deference

Scheppele, 12 (Kim Lane, Laurance S. Rockefeller Professor of Sociology and Public Affairs in the Woodrow Wilson School and University Center for Human Values, “THE NEW JUDICIAL DEFERENCE,” Boston University Law Review, January 2012, 92 B.U.L. Rev. 89, Lexis)

 [\*93] But, I will argue, deference is still alive and well. We are simply seeing a new sort of deference born out of the ashes of the familiar variety. While governments used to win national security cases by convincing the courts to decline any serious review of official conduct in wartime, now governments win first by losing these cases on principle and then by getting implicit permission to carry on the losing policy in concrete cases for a while longer, giving governments a victory in practice. n9 Suspected terrorists have received [\*94] from courts a vindication of the abstract principle that they have rights without also getting an order that the abusive practices that have directly affected them must be stopped immediately. Instead, governments are given time to change their policies while still holding suspected terrorists in legal limbo. As a result, despite winning their legal arguments, suspected terrorists lose the practical battle to change their daily lives. Courts may appear to be bold in these cases because they tell governments to craft new policies to deal with terrorism. But because the new policies then have to be tested to see whether they meet the new criteria courts have laid down, the final approval may take years, during which time suspected terrorists may still be generally subjected to the treatment that courts have said was impermissible. Because judicial review of anti-terrorism policies itself drags out the time during which suspected terrorists may be detained, suspected terrorists win legal victories that take a very long time to result in change that they can discern. As a result, governments win the policy on the ground until court challenges have run their course and the courts make decisions that contribute to the time that the litigation takes. This is the new face of judicial deference.

#### Non-deferential judicial review hurts readiness

Chensey 9 (Robert M. is a Professor at University of Texas School of Law, NATIONAL SECURITY FACT DEFERENCE, VIRGINIA LAW REVIEW, 17 September 2009, http://www.virginialawreview.org/content/pdfs/95/1361.pdf, pg. 1426-1428)

Advocates of deference at times also emphasize the collateral ¶ consequences that non-deferential judicial review of executive ¶ branch factual judgments might have on related government operations or activities. On this view, the benefits of judicial review—¶ measured in terms of enforcement of separation of powers values ¶ or even enhancement of accuracy—in some circumstances may be ¶ outweighed by collateral costs entailed by the very process of nondeferential, or insufficiently deferential, review. ¶ When precisely does this argument come into play? Advocates ¶ of deference do not contend that collateral costs outweigh potential benefits in all national security related litigation. Indeed, the ¶ argument played no significant role in most of the examples surveyed in Part I. Most if not all judicial review of government action, after all, entails some degree of disruption to government operations. Government personnel, for example, often are obliged to ¶ spend some amount of time and resources participating, directly or ¶ indirectly, in the process of litigation, whether by serving as witnesses in a formal sense, gathering and reviewing documents, ¶ speaking informally with attorneys or investigators, and so forth. ¶ These litigation related activities to some extent are bound to disrupt the performance of ordinary government functions. ¶ But some such disruptions are more serious than others. Disruption of military activity, for example, may impose unusually high ¶ costs. So said Justice Jackson in Johnson v. Eisentrager,¶ 218 a postWorld War II decision denying habeas rights to a group of Ger-[page 1427] mans convicted of war crimes and detained in a U.S. controlled facility in Germany. Jackson gave many reasons for the decision, but ¶ placed particular emphasis on the undesirable practical consequences that would, in his view, follow from permitting any judicial ¶ review in this setting. These included: disruption of ongoing military operations, expenditure of scarce military resources, distraction of field commanders, harm to the prestige of commanders, and ¶ comfort to armed enemies.219 The government not surprisingly emphasized such concerns in the Hamdi litigation as well, though with ¶ much less success; and similar arguments continue to play a significant role today as courts grapple with still unresolved questions regarding the precise nature of habeas review of military determinations of enemy combatant status.220¶ But even in the enemy combatant setting, where disruption concerns arguably are near their zenith, this argument does not necessarily point in the direction of fact deference as the requisite solution. It did not persuade the Supreme Court in Hamdi to defer to ¶ the government’s factual judgment, nor did it do so in the more recent decision in Boumediene v. Bush dealing with noncitizen detainees held at Guantánamo. The impact of the argument in those ¶ cases instead was to prompt the Court to accept procedural innovations designed to ameliorate the impact of judicial review, rather ¶ than seeking to avoid that impact via deference.221 This is a useful ¶ reminder that even when the executive branch raises a legitimate ¶ concern in support of a fact deference argument, it does not follow ¶ automatically that deference is the only mechanism by which the ¶ judiciary can accommodate the concern. ¶ This leaves the matter of secrecy. Secrecy relates to the collateral consequences inquiry in the sense that failure to maintain secrecy with respect to national security information can have extralitigation consequences for government operations—as well as for [page 1428] individuals or even society as a whole—ranging from the innocuous ¶ to the disastrous. Without a doubt this is a significant concern. But, ¶ again, it is not clear that deference is required in order to address ¶ it. Preservation of secrecy is precisely the reason that the state secrets privilege exists, of course, and it also is the motive for the ¶ Classified Information Procedures Act, which establishes a process ¶ through which judges work with the parties to develop unclassified ¶ substitutes for evidence that must be withheld on secrecy ¶ grounds.222

#### CMR Low – Military and Civilian officials ignore each other, fight in public, and leak stories to the media

Zenko 9-25 [MICAH ZENKO, Douglas Dillon fellow in the Center for Preventive Action at the Council on Foreign Relations; worked for Harvard’s Kennedy School of Government, at Congressional Research Service, and State Department's Office of Policy Planning, “The Soldier and the State Go Public: Civil-military relations haven't been this bad in decades,” SEPTEMBER 25, 2013, <http://www.foreignpolicy.com/articles/2013/09/25/the_soldier_and_the_state_go_public>, wyo-sc]

Washington has found itself in a crisis over the proper relationship between senior civilian and military officials. This has played out in recent op-eds ("[**A War the Pentagon Doesn't Want**](http://articles.washingtonpost.com/2013-09-05/opinions/41798832_1_u-s-army-war-college-syria-next-war)") and articles ("[**Some U.S. Military Officers Not Happy With Syrian War Prep**](http://swampland.time.com/2013/09/09/mal-shaping-the-syrian-battlefield/#ixzz2fYJlVC8Y)"), which have been countered by other op-eds ("[**No Military Consensus on Syria**](http://www.theatlantic.com/politics/archive/2013/09/it-isnt-the-militarys-place-to-weigh-in-on-the-syria-debate/279759/)" and "[**U.S. War Decisions Rightfully Belong to Elected Civilian Leaders, Not the Military**](http://articles.washingtonpost.com/2013-09-12/opinions/42006453_1_u-s-army-war-college-civilian-control-consensus)"). It's a tension that shows little sign of abating, regardless of how the Syria issue plays out: Underlying forces seem guaranteed to make it worse.¶ Every administration has its share of disputes with the Pentagon, but when it comes to where and how U.S. armed forces will be used, civil-military relations have not been this tense and precarious since the end of the Cold War. Military officers are increasingly willing to express their personal opinions about interventions, while civilian policymakers are increasingly willing to disregard professional military advice. Worse, a growing number of individuals from both "sides" seem unaware of the appropriate civilian and military roles and relationships, and their conflicts play out in public more prominently and immediately than ever before.¶ For example, senior civilian officials have strongly contested Gen. Martin Dempsey's doubts about intervening in the Syrian civil war. The *New York Times*[**reported**](http://www.nytimes.com/2013/09/14/us/politics/syria-crisis-underlines-pentagons-move-to-the-back-seat.html?pagewanted=all) last week that Dempsey, the chairman of the Joint Chiefs of Staff, is "adamant that he not influence the public debate about whether to strike Syria," but Obama administration civilians and Capitol Hill staffers will tell you that the general has emphasized only the risks and costs associated with intervening. "They," meaning the military, "just don't want to do it" is a common refrain. Sen. John McCain has even characterized Dempsey's assessment as "beyond anything that any rational military thinker that I know would ever contemplate," and earlier this month he [said](http://www.thedailybeast.com/articles/2013/09/03/dempsey-obama-s-delay-impacts-syria-strike.html): "I really don't pay a lot of attention to General Dempsey anymore. With me he just doesn't have any credibility."¶ The Pentagon has taken to selectively leaking its strong opposition to intervening to journalists and think tank analysts. (I have not met a senior officer who supports a direct military role in Syria.) Similarly, a certain State Department bureau that covers the territory including Syria, as well as those who work closely with Secretary John Kerry, will tell anyone who listens about their enthusiasm for no-fly zones or airstrikes.

#### And multiple issues thump the adv—political change, demographic and economic pressure and allies

Munson, 2012

[Peter, Peter J. Munson is a Marine officer, author, and Middle East specialist. He is the author of War, Welfare, and Democracy: Rethinking America's Quest for the End of History (Potomac, 2013) and Iraq in Transition: The Legacy of Dictatorship and the Prospects for Democracy (Potomac, 2009) and . A frequent contributor to multiple journals and blogs, including his own, he was also the Editor of the Small Wars Journal from January 2012 to June 2013, A Caution on Civil-Military Relations, 11-12-12, http://smallwarsjournal.com/jrnl/art/a-caution-on-civil-military-relations] /Wyo-MB

In this it is important to recognize that our political institutions are undergoing a crisis of their own. Trust in government is at its lowest ebb in recent history. Political polarization is at its highest mark since the Great Depression. Demographic and economic pressures will multiply in coming years not only on the US, but more significantly on its key allies in Europe. The world will see a significant transformation of its power structure in the coming decades, all of which will put great strain on the country’s civil-military relations. Thus, it is of critical importance that we discuss, address, and correct any flaws in this dynamic now before they reach crisis proportions in the years to come.

#### CMR resilient- Public is lenient and understanding

Hooker 11

[Colonel Richard D. Hooker, Graduated from the National War College in 2003 and is currently assigned to the Army Staff. He previously commanded 2/505 Parachute Infantry Regiment in the 82d Airborne Division and has served in the Office of the Chairman of the Joint Chiefs and with the National Security Council. Colonel Hooker holds a Ph.D. from the University of Virginia in international relations and is a member of the Council on Foreign Relations. “Soldiers of the State: Reconsidering American Civil-Military Relations”, Parameters41.4 (Winter 2011/2012): 1-14., Proquest, \\wyo-bb]

Though the primary function of the military is often described as "the application of organized violence," the military's conservative and group-centered bias is based on something even more fundamental. In the combat forces which dominate the services, in ethos if not in numbers, the first-order challenge is not to achieve victory on the battlefield. Rather it is to make the combat soldier face his own mortality. Under combat conditions the existence of risk cannot be separated from the execution of task. The military culture, while broadly conforming to constitutional notions of individual rights and liberties, therefore derives from the functional imperative and by definition values collective over individual good.¶ The American public intuitively understands this, as evidenced by polling data which demonstrate conclusively that a conservative military ethic has not alienated the military from society.13 On the contrary, public confidence in the military remains consistently high, more than a quarter century after the end of the draft and the drawdown of the 1990s, both of which lessened the incidence and frequency of civilian participation in military affairs. There is even reason to believe that the principal factors cited most often to explain the existence of the "gap"-namely the supposed isolation of the military from civilian communities and the gulf between civilian and military values-have been greatly exaggerated.¶ The military "presence" in civil society is not confined to serving members of the active-duty military. Rather, it encompasses all who serve or have served, active and reserve. For example, millions of veterans with firsthand knowledge of the military and its value system exist within the population at large. The high incidence of married service members and an increasing trend toward off-base housing mean that hundreds of thousands of military people and their dependents live in the civilian community. Reserve component installations and facilities and the reserve soldiers, sailors, airmen, and marines who serve there bring the military face to face with society every day in thousands of local communities across the country. Commissioned officers, and increasingly noncommissioned officers (NCOs), regularly participate in civilian educational programs, and officer training programs staffed by active, reserve, and retired military personnel are found on thousands of college and high school campuses. Military recruiting offices are located in every sizable city and town. Many military members even hold second jobs in the private sector. At least among middle-class and working-class Americans, the military is widely represented and a part of everyday life.14¶ Just as the military's isolation from society is often overstated, differences in social attitudes, while clearly present, do not place the military outside the mainstream of American life. The dangers posed by a "values gap" are highly questionable given the wide disparity in political perspectives found between the east and west coasts and the American "heartland"; between urban, suburban, and rural populations; between north and south; between different religious and ethnic communities; and between social and economic classes. It may well be true that civil society is more forgiving than the military for personal failings like personal dishonesty, adultery, indebtedness, assault, or substance abuse. But society as a whole does not condone these behaviors or adopt a neutral view. To the extent that there are differences, they are differences of degree. On fundamental questions about the rule of law, on the equality of persons, on individual rights and liberties, and on civilian control of the military in our constitutional system, there are no sharp disagreements with the larger society. Indeed, there is general agreement about what constitutes right and wrong behavior.15 The difference lies chiefly in how these ideals of "right behavior" are enforced. Driven by the functional imperative of battlefield success, the military as an institution views violations of publicly accepted standards of behavior more seriously because they threaten the unity, cohesion, or survival of the group.16 Seen in this light, the values "gap" assumes a very different character.¶ To be sure, sweeping events have altered the civil-military compact. The advent of the all-volunteer force, the defeat in Vietnam, the end of the Cold War, the drawdown of the 1990s, the impact of gender and sexual orientation policies, and a host of other factors have influenced civil-military relations in important ways. The polity no longer sees military service as a requirement of citizenship during periods of national crisis, or a large standing military as a wartime anomaly. Despite such fundamental changes, over time public support for the military and its values has remained surprisingly enduring, even as the level of public participation in military affairs has declined.

**The worst case scenario happened for bioweapons– no extinction**

**Dove 12** [Alan Dove, PhD in Microbiology, science journalist and former Adjunct Professor at New York University, “Who’s Afraid of the Big, Bad Bioterrorist?” Jan 24 2012, http://alandove.com/content/2012/01/whos-afraid-of-the-big-bad-bioterrorist/]

The second problem is much more serious. Eliminating the toxins, we’re left with a list of infectious bacteria and viruses. With a single exception, these organisms are probably near-useless as weapons, and history proves it.¶ There have been at least three well-documented military-style deployments of infectious agents from the list, plus one deployment of an agent that’s not on the list. I’m focusing entirely on the modern era, by the way. There are historical reports of armies catapulting plague-ridden corpses over city walls and conquistadors trying to inoculate blankets with Variola (smallpox), but it’s not clear those “attacks” were effective. Those diseases tended to spread like, well, plagues, so there’s no telling whether the targets really caught the diseases from the bodies and blankets, or simply picked them up through casual contact with their enemies.¶Of the four modern biowarfare incidents, two have been fatal. The first was the 1979 Sverdlovsk anthrax incident, which killed an estimated 100 people. In that case, a Soviet-built biological weapons lab accidentally released a large plume of weaponized Bacillus anthracis (anthrax) over a major city. Soviet authorities tried to blame the resulting fatalities on “bad meat,” but in the 1990s Western investigators were finally able to piece together the real story. The second fatal incident also involved anthrax from a government-run lab: the 2001 “Amerithrax” attacks. That time, a rogue employee (or perhaps employees) of the government’s main bioweapons lab sent weaponized, powdered anthrax through the US postal service. Five people died.¶ That gives us a grand total of around 105 deaths, entirely from agents that were grown and weaponized in officially-sanctioned and funded bioweapons research labs. Remember that.¶Terrorist groups have also deployed biological weapons twice, and these cases are very instructive. The first was the 1984 Rajneeshee bioterror attack, in which members of acult in Oregon inoculated restaurant salad bars with Salmonella bacteria (an agent that’s not on the “select” list). 751 people got sick, but nobody died. Public health authorities handled it as a conventional foodborne Salmonella outbreak, identified the sources and contained them. Nobody even would have known it was a deliberate attack if a member of the cult hadn’t come forward afterward with a confession. Lesson: our existing public health infrastructure was entirely adequate to respond to a major bioterrorist attack.¶ The second genuine bioterrorist attack took place in 1993. Members of the Aum Shinrikyo cult successfully isolated and grew a large stock of anthrax bacteria, then sprayed it as an aerosol from the roof of a building in downtown Tokyo. The cult was well-financed,and had many highly educated members, so **this** release over the world’s largest city really **represented a worst-case scenario**.¶ **Nobody got sick** or died. From the cult’s perspective, it was a complete and utter failure. Again, the only reason we even found out about it was a post-hoc confession. Aum members later demonstrated their lab skills by producing Sarin nerve gas, with far deadlier results. Lesson: one of the top “select agents” is extremely hard to grow and deploy even for relatively skilled non-state groups. It’s a really crappy bioterrorist weapon.¶ Taken together, these events point to an uncomfortable but inevitable conclusion: our biodefense industry is a far greater threat to us than any actual bioterrorists.

#### No bioweapons

Eli Jacobs Staff Writer for CSIS 4-24-12 Why Does Nobody Talk about Bioweapons Proliferation http://csis.org/blog/why-does-nobody-talk-about-bioweapons-proliferation

Bioweapons and nuclear weapons are both weapons of mass destruction (WMD), but they are not weapons of equal effect. There are two primary differences: (1) nuclear weapons are more useful for strikes against strategic military targets (as opposed to civilian populations), and (2) nuclear weapons have more predictable effects. Strikes against Military Targets Like nuclear weapons, bioweapons can be delivered atop a missile and their delivery can entail the explosion of a primary that results in the distribution of a biological agent. Unlike nuclear weapons, the mass destruction caused by bioweapons occurs days (at minimum) after a strike, as individuals in affected areas are infected with deadly pathogens. Whereas a kinetic explosion is primarily responsible for the damage done by a nuclear weapon, no explosion is necessary for a devastating bioattack; a crop duster or van could quietly distribute aerosolized pathogens throughout densely-populated areas. This difference restricts the usefulness of bioweapons in achieving military goals. Nuclear weapons, for example, can be used to destroy hard-to-reach strategic targets such as leadership bunkers, command and control facilities, or adversary nuclear weapons. Biological weapons do not share these strategic benefits. They kill much more slowly than nuclear weapons, allowing a fairly large window for retaliation—which undercuts the rationale for strategic strikes in the first place. Further, bioweapons are not particularly useful for eliminating strategic targets themselves. Even if the operators of a missile silo were killed, for example, others could come – vaccinated, wearing containment-appropriate clothing, or simply after the pathogens had dissipated – and retaliate as usual. Both types of weapons can be used tactically to isolate the battlefield by targeting potential adversary reinforcements. Similarly, both can be used to incapacitate a staging area such as an aircraft carrier or military base on land. However, bioweapons offer one tactical possibility that nuclear weapons do not: the potential for use on a contested battlefield. One could, for instance, immunize or otherwise protect one’s soldiers against a particular pathogen and widely disperse that pathogen across the battlefield. While compelling in theory, the vagaries of combat and potential adversary countermeasures make adoption of such tactics quite difficult in practice. In brief, nuclear weapons are much more useful for achieving military objectives—the marginal tactical advantages of bioweapons are insufficient to overwhelm the significant strategic advantages of nukes.

## Blowback

#### Drones outweigh

Linked to Obama, and sufficiency

Holmes, 13 [Stephen, the Walter E. Meyer Professor of Law, New York University School of Law, July 2013, “What’s in it for Obama?” The London Review of Books, <http://www.lrb.co.uk/v35/n14/stephen-holmes/whats-in-it-for-obama>]

Obama rightly boasts that he has extracted the country from land wars. But he is simultaneously sleepwalking it into new conflict zones around the world. He would presumably not be doing this had drone warfare not been an available option. In his 23 May speech, speaking about the war America launched in the wake of 9/11, he said: ‘this war, like all wars, must end. That’s what history advises. That’s what our democracy demands.’ What he apparently meant to say was that he has found a way for this war to continue without penetrating the consciousness of US citizens. That is apparently what American democracy demands. The instrument that has allowed him to narrow the fight guarantees that the fight will go on. Obama came into office promising to restrict and reconfigure the country’s counterterrorism efforts, to bring them back within the rule of law. Instead, he too is fighting fire with fire. He continues to play according to bin Laden’s archaic playbook, perpetuating an endless post-9/11 revenge cycle, tit for tat. The Khost tragedy, where revenge against drone strikes justified further revenge strikes by drone, is a case in point. On the basis of undisclosed evidence, evaluated in unspecified procedures by rotating personnel with heterogeneous backgrounds, the US is continuing to kill those it classifies as suspected terrorists in Somalia, Yemen and Pakistan. It has certainly been eliminating militants who had nothing to do with 9/11, including local insurgents fighting local battles who, while posing no realistic threat to America, had allied themselves opportunistically with international anti-American jihadists. By following the latter wherever they go, the US is allowing ragtag militants to impose ever new fronts in its secret aerial war. Mistakes are made and can’t be hidden, at least not from local populations. Nor can the resentment of surrounding communities be easily assuaged. This is because, even when it finds its target, the US is killing not those who are demonstrably guilty of widely acknowledged crimes but rather those who, it is predicted, will commit crimes in the future. Of course, the civilian populations in the countries where these strikes take place will never accept the hunches of CIA or Pentagon futurologists. And so they will never accept American claims about the justice of Obama’s slimmed-down war on terror, but instead claim the right of self-defence, and this would be true even if drone operators could become as error-free as Brennan once claimed they already are. But of course collateral damage and mistaken-identity strikes will continue. They are inevitable accompaniments of all warfare. And they, too, along with intentional killings that are never publicly justified, will communicate resoundingly to the world that the arbitrary and unpredictable killing of innocent Muslims falls within America’s commodious concept of a just war. The rage such strikes incite will be all the greater if onlookers believe, as seems likely, that the killing they observe makes relatively little contribution to the safety of Americans. Indeed, this is already happening, which is the reason that the drone, whatever its moral superiority to land armies and heavy weaponry, has replaced Guantánamo as the incendiary symbol of America’s indecent callousness towards the world’s Muslims. As Bush was the Guantánamo president, so Obama is the drone president. This switch, whatever Obama hoped, represents a worsening not an improvement of America’s image in the world.

**No spillover — lack of credibility in one commitment doesn’t affect others**

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

Second, **pessimists** **overstate** **the extent to which a policy of retrenchment can** **damage a great power's capabilities or prestige**. Gilpin, in particular, assumes that a great power's commitments are on equal footing and interdependent. **In practice**, however, **great powers make commitments of varying degrees that are** **functionally independent** of one another. **Concession in one area need not be seen as** **influencing a commitment in another area**.25 **Far from being perceived as interdependent**, **great power commitments are often** **seen as** being **rivalrous**, **so that** **abandoning commitments in one area may actually** **bolster the strength of a commitment in another area**. During the Korean War, for instance, President Harry Truman's administration explicitly backed away from total victory on the peninsula to strengthen deterrence in Europe.26 **Retreat in an area of lesser importance** **freed up resources** **and** **signaled a strong commitment to an area of greater significance**.

#### Data disproves hegemony impacts

Fettweis, 11

Christopher J. Fettweis, Department of Political Science, Tulane University, 9/26/11, Free Riding or Restraint? Examining European Grand Strategy, Comparative Strategy, 30:316–332, EBSCO

It is perhaps worth noting that there is no evidence to support a direct relationship between the relative level of U.S. activism and international stability. In fact, the limited data we do have suggest the opposite may be true. During the 1990s, the United States cut back on its defense spending fairly substantially. By 1998, the United States was spending $100 billion less on defense in real terms than it had in 1990.51 To internationalists, defense hawks and believers in hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities,” argued Kristol and Kagan, “doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace.”52 On the other hand, if the pacific trends were not based upon U.S. hegemony but a strengthening norm against interstate war, one would not have expected an increase in global instability and violence. The verdict from the past two decades is fairly plain: The world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable United States military, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums, no security dilemmas drove insecurity or arms races, and no regional balancing occurred once the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in U.S. capabilities. Most of all, the United States and its allies were no less safe. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and kept declining as the Bush Administration ramped the spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated. Military spending figures by themselves are insufficient to disprove a connection between overall U.S. actions and international stability. Once again, one could presumably argue that spending is not the only or even the best indication of hegemony, and that it is instead U.S. foreign political and security commitments that maintain stability. Since neither was significantly altered during this period, instability should not have been expected. Alternately, advocates of hegemonic stability could believe that relative rather than absolute spending is decisive in bringing peace. Although the United States cut back on its spending during the 1990s, its relative advantage never wavered. However, even if it is true that either U.S. commitments or relative spending account for global pacific trends, then at the very least stability can evidently be maintained at drastically lower levels of both. In other words, even if one can be allowed to argue in the alternative for a moment and suppose that there is in fact a level of engagement below which the United States cannot drop without increasing international disorder, a rational grand strategist would still recommend cutting back on engagement and spending until that level is determined. Grand strategic decisions are never final; continual adjustments can and must be made as time goes on. Basic logic suggests that the United States ought to spend the minimum amount of its blood and treasure while seeking the maximum return on its investment. And if the current era of stability is as stable as many believe it to be, no increase in conflict would ever occur irrespective of U.S. spending, which would save untold trillions for an increasingly debt-ridden nation. It is also perhaps worth noting that if opposite trends had unfolded, if other states had reacted to news of cuts in U.S. defense spending with more aggressive or insecure behavior, then internationalists would surely argue that their expectations had been fulfilled. If increases in conflict would have been interpreted as proof of the wisdom of internationalist strategies, then logical consistency demands that the lack thereof should at least pose a problem. As it stands, the only evidence we have regarding the likely systemic reaction to a more restrained United States suggests that the current peaceful trends are unrelated to U.S. military spending. Evidently the rest of the world can operate quite effectively without the presence of a global policeman. Those who think otherwise base their view on faith alone.

#### No scenario for nuclear terror---consensus of experts

Matt Fay ‘13, PhD student in the history department at Temple University, has a Bachelor’s degree in Political Science from St. Xavier University and a Master’s in International Relations and Conflict Resolution with a minor in Transnational Security Studies from American Military University, 7/18/13, “The Ever-Shrinking Odds of Nuclear Terrorism”, webcache.googleusercontent.com/search?q=cache:HoItCUNhbgUJ:hegemonicobsessions.com/%3Fp%3D902+&cd=1&hl=en&ct=clnk&gl=us&client=firefox-a

For over a decade now, one of the most oft-repeated threats raised by policymakers—the one that in many ways justified the invasion of Iraq—has been that of nuclear terrorism. Officials in both the Bush and Obama administrations, including the presidents themselves, have raised the specter of the atomic terrorist. But beyond mere rhetoric, how likely is a nuclear terrorist attack really?¶ While pessimistic estimates about America’s ability to avoid a nuclear terrorist attack became something of a cottage industry following the September 11th attacks, a number of scholars in recent years have pushed back against this trend. Frank Gavin has put post-9/11 fears of nuclear terrorism into historical context (pdf) and argued against the prevailing alarmism. Anne Stenersen of the Norwegian Defence Research Establishment has challenged the idea that al Qaeda was ever bound and determined to acquire a nuclear weapon. John Mueller ridiculed the notion of nuclear terrorism in his book Atomic Obsessions and highlighted the numerous steps a terrorist group would need to take—all of which would have to be successful—in order to procure, deliver, and detonate an atomic weapon. And in his excellent, and exceedingly even-handed, treatment of the subject, On Nuclear Terrorism, Michael Levi outlined the difficulties terrorists would face building their own nuclear weapon and discussed how a “system of systems” could be developed to interdict potential materials smuggled into the United States—citing a “Murphy’s law of nuclear terrorism” that could possibly dissuade terrorists from even trying in the first place.¶ But what about the possibility that a rogue state could transfer a nuclear weapon to a terrorist group? That was ostensibly why the United States deposed Saddam Hussein’s regime: fear he would turnover one of his hypothetical nuclear weapons for al Qaeda to use.¶ Enter into this discussion Keir Lieber and Daryl Press and their article in the most recent edition of International Security, “Why States Won’t Give Nuclear Weapons to Terrorists.” Lieber and Press have been writing on nuclear issues for just shy of a decade—doing innovative, if controversial work on American nuclear strategy. However, I believe this is their first venture into the debate over nuclear terrorism. And while others, such as Mueller, have argued that states are unlikely to transfer nuclear weapons to terrorists, this article is the first to tackle the subject with an empirical analysis.¶ The title of their article nicely sums up their argument: states will not turn over nuclear weapons terrorists. To back up this claim, Lieber and Press attack the idea that states will transfer nuclear weapons to terrorists because terrorists operate of absent a “return address.” Based on an examination of attribution following conventional terrorist attacks, the authors conclude:¶ [N]either a terror group nor a state sponsor would remain anonymous after a nuclear attack. We draw this conclusion on the basis of four main findings. First, data on a decade of terrorist incidents reveal a strong positive relationship between the number of fatalities caused in a terror attack and the likelihood of attribution. Roughly three-quarters of the attacks that kill 100 people or more are traced back to the perpetrators. Second, attribution rates are far higher for attacks on the U.S. homeland or the territory of a major U.S. ally—97 percent (thirty-six of thirty-seven) for incidents that killed ten or more people. Third, tracing culpability from a guilty terrorist group back to its state sponsor is not likely to be difficult: few countries sponsor terrorism; few terrorist groups have state sponsors; each sponsor terrorist group has few sponsors (typically one); and only one country that sponsors terrorism, has nuclear weapons or enough fissile material to manufacture a weapon. In sum, attribution of nuclear terror incidents would be easier than is typically suggested, and passing weapons to terrorists would not offer countries escape from the constraints of deterrence.¶ From this analysis, Lieber and Press draw two major implications for U.S. foreign policy: claims that it is impossible to attribute nuclear terrorism to particular groups or potential states sponsors undermines deterrence; and fear of states transferring nuclear weapons to terrorist groups, by itself, does not justify extreme measures to prevent nuclear proliferation.¶ This is a key point. While there are other reasons nuclear proliferation is undesirable, fears of nuclear terrorism have been used to justify a wide-range of policies—up to, and including, military action. Put in its proper perspective however—given the difficulty in constructing and transporting a nuclear device and the improbability of state transfer—nuclear terrorism hardly warrants the type of exertions many alarmist assessments indicate it should.

**Terrorists don’t have the technical know-how or resources for nuclear weapons**

**Umana 11 –** Felipe Umana is a contributor to Foreign Policy In Focus, from the Institute for Policy Studies. August 17, 2011, "Loose Nukes: Real Threat?" http://www.fpif.org/articles/loose\_nukes\_real\_threat

**Actors seeking to acquire an atomic weapon** – or the capability to produce one – generally **do not have the essential training, knowledge, or materials. Nor do they** generally **have the necessary resources** to achieve nuclear capabilities. In fact, for non-state actors, smuggling already-manufactured weapons or available materials is the only practical way to go nuclear. **Terrorist organizations** like Aum Shinrikyo (now known as Aleph) and al-Qaeda **are typically composed of men with little scientific training and ersatz scientific knowledge, if any.** Unless they steal blueprints, these actors can't construct a usable fissile weapon. Moreover, **it's not easy to move such sensitive materials around.** Anatoly Bulochnikov, director of the Center for Export Controls in Moscow, contrasted nuclear materials with mundane goods: “[These items are] not potatoes, not something you can keep anywhere.” **Another hindrance is a lack of steady funds and resources. Non-state actors simply don't have the money to purchase bomb-grade nuclear material** (in 1991, a kilogram of enriched uranium went for $700,000), **the means to enrich uranium, or the storage facilities to contain the material.**

#### No US nuclear retaliation

Neely 13—Meggaen Neely, The George Washington University Master of Arts (M.A.), Security Policy Studies 2012—2014 (expected) Baylor University Master of Arts (M.A.), Public Policy and Administration 2010—2012, Richard D. Huff Distinguished Masters Student in Political Science (2012) Baylor University Bachelor of Arts (B.A.), Political Science and Government, Research Assistant, Elliott School at George Washington University, Research Intern, Project on Nuclear Issues (PONI) at Center for Strategic and International Studies (CSIS) Communications Intern at Federation of American Scientists Graduate Assistant at Department of Political Science, Baylor University [March 21, 2013, “Doubting Deterrence of Nuclear Terrorism,” http://csis.org/blog/doubting-deterrence-nuclear-terrorism]

Because of the difficulty of deterring transnational actors, many deterrence advocates shift the focus to deterring state sponsors of nuclear terrorism. The argument applies whether or not the state intended to assist nuclear terrorists. If terrorists obtain a nuclear weapon or fissile materials from a state, the theory goes, then the United States will track the weapon’s country of origin using nuclear forensics, and retaliate against that country. If this is U.S. policy, advocates predict that states will be deterred from assisting terrorists with their nuclear ambitions. Yet, let’s think about the series of events that would play out if a terrorist organization detonated a weapon in the United States. Let’s assume forensics confirmed the weapon’s origin, and let’s assume, for argument’s sake, that country was Pakistan. Would the United States then retaliate with a nuclear strike? If a nuclear attack occurs within the next four years (a reasonable length of time for such predictions concerning current international and domestic politics), it seems unlikely. Why? First, there’s the problem of time. Though nuclear forensics is useful, it takes time to analyze the data and determine the country of origin. Any justified response upon a state sponsor would not be swift. Second, even if the United States proved the country of origin, it would then be difficult to determine that Pakistan willingly and intentionally sponsored nuclear terrorism. If Pakistan did, then nuclear retaliation might be justified. However, if Pakistan did not, nuclear retaliation over unsecured nuclear materials would be a disproportionate response and potentially further detrimental. Should the United States launch a nuclear strike at Pakistan, Islamabad could see this as an initial hostility by the United States, and respond adversely. An obvious choice, given current tensions in South Asia, is for Pakistan to retaliate against a U.S. nuclear launch on its territory by initiating conflict with India, which could turn nuclear and increase the exchanges of nuclear weapons. Hence, it seems more likely that, after the international outrage at a terrorist group’s nuclear detonation, the United States would attempt to stop the bleeding without a nuclear strike. Instead, some choices might include deploying forces to track down those that supported the suicide terrorists that detonated the weapon, pressuring Pakistan to exert its sovereignty over fringe regions such as the Federally Administered Tribal Areas, and increasing the number of drone strikes in Waziristan. Given the initial attack, such measures might understandably seem more of a concession than the retaliation called for by deterrence models, even more so by the American public. This is not an argument against those technologies associated with nuclear forensics. The United States and International Atomic Energy Agency (IAEA) should continue their development and distribution. Instead, I question the presumed American response that is promulgated by deterrence advocates. By looking at possibilities for a U.S. response to nuclear terrorism, a situation in which we assume that deterrence has failed, we cast doubt on the likelihood of a U.S. retaliatory nuclear strike and hence cast doubt on the credibility of a U.S. retaliatory nuclear strike as a deterrent. Would the United States launch a nuclear weapon now unless it was sure of another state’s intentional sponsorship of nuclear terrorism? Any reasonable doubt of sponsorship might stay the United States’ nuclear hand. Given the opaqueness of countries’ intentions, reasonable doubt over sponsorship is inevitable to some degree. Other countries are probably aware of U.S. hesitance in response to terrorists’ use of nuclear weapons. If this thought experiment is true, then the communication required for credible retaliatory strikes under deterrence of nuclear terrorism is missing.

**Russian stability is resilient – Their authors don’t assume the internal conditions of Russia and its middle class.**

Stephen **Kotkin 07** March. Prof. of history and the director of Russian and Eurasian Studies program at Princeton U. “Russia under Putin: Toward Democracy or Dictatorship?” Foreign Policy Research Institute, http://www.fpri.org/enotes/200703.kotkin.russiademocracydictatorship.html

**The part of Russia that is stable is the society.** Russian society is enormously dynamic**. According to professional studies by the Institute of Sociology of the Russian Academy of Sciences, something like** 20-25 percent of Russian society qualifies as solidly middle class**. Other studies-similarly measuring everything from level of education, foreign language knowledge, travel and abroad to income, lifestyle and, most important, property ownership-confirm this general picture. But the Russian middle class is something we hear too little about (unlike the middle class in, say, China or India). Instead, we hear about “oligarchs.” The latter number in the dozens, while the middle class numbers in the dozens of millions. Russia’s middle class is not limited to the capital, although it’s biggest there. You see it in all the regional centers that have a dynamic economy. You see it in western Siberia, in St. Petersburg and in the north around St. Petersburg, in pockets of central Russia, and in some border areas. That doesn’t mean that the society has no poverty, that there aren’t deep problems like an overall decline of the population at all ages -down to 142 million, and still shrinking, despite the immigration. But the country has a dynamic, stable society, and it owns property.** We tend to assume that there cannot be property ownership without rule of law. But if that were true**, Chinese society or** Russian society would not exist. But they do exist. There is no rule of law. But there is widespread ownership of property. For all the deep social problems**—from drug-resistant TB to persistent alcoholism—Russian society is simultaneously a source of dynamism and stability. About half of the Russian middle class works for the state. They’re bureaucrats and functionaries, law enforcement officials and tax collectors, inspectors and education overseers. They work in the KGB successor, the FSB, and in the big state-owned gas, oil, automobile, or defense companies. There’s a gigantic private economy in Russia (Russia’s economy is more private than China’s). But even those who work in private companies usually work in very large corporations. A tiny fraction of the Russian middle class owns their own businesses, but by and large, Russia’s middle class is not independent, small- or medium-sized business owners. Whereas in the United States and Western Europe, 70 percent of employment is in small and medium-sized businesses, Russia doesn’t even approach 25 percent for such employment. Still,** Russia has a **stable, dynamic, growing, state and corporate** middle class that has a tremendous stake in stability. Putin deserves some credit for the current sense of **and desire for continued** social stability**, and he gets such credit from middle class Russians and those aspiring to become so. Again, however,** outsiders **sometimes miss or** misinterpret this point, because they are looking for democracy. American political science teaches that if a country gets a stable middle class, it is on the road to the rule of law and democracy**. This is true except in all the cases where it’s not true, which is most of the world.** The Russian middle class knows Europe firsthand **from traveling there,** and for **the most part** its members identify with **the values and institutions of** democratic Europe. But the Russian middle class is smart, and it knows that if it gets political, it could lose **its property and** status**. Individuals respond to incentives very well (economists are not totally wrong), and for the most part** Russia’s middle class is not ready to sacrifice its position to push **for the rule of law and** democracy**; rather,** it is interested in preserving its wealth**, in privileged access for its children to educational institutions and to career paths.** So there is no push **in Russia** for democracy **either from the top or the middle, even though much of the middle identifies strongly with European values and institutions. Consolidation of dictatorship is not happening either, and society is a factor in that as well.** Russia has no ideology like communism to unify people around a strong dictator, the Russian state lacks the capacity to impose military-style discipline on itself, and Russia has a market economy that is extremely complex to subordinate in part because it’s globalized**. Even though there is a strong current in Russian society appreciative of order, few people mistake order for dictatorship. In fact, in conversations there is quite a lot of criticism in Russia of Putin and of the country’s direction, especially from people who comprise the Russian state. Meanwhile,** Russian society is transforming the country’s socioeconomic landscape with its hard work, entrepreneurialism**, consumption patterns and tastes, demand for education, foreign travel,** and networking both domestically and globally**. Russia’s social transformation is a big story, hiding, once again, in plain view. It is enough to take in the commercial advertising throughout society and media, including on pro-Kremlin Russian television, to see that business interests are targeting something commentators are not: Russia’s middle class.**

# 2NC

## CP

### 2NC- Courts Not Key

#### Congressional enforcement of treaties solves ILAW---court key and perception arguments are made up nonsense---other countries care about US compliance with treaties, not which actor causes that compliance

Curtis Bradley 9, Horvitz Professor of Law, Duke Law School, SELF-EXECUTION AND TREATY DUALITY, http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5505&context=faculty\_scholarship

My second claim is that, in discerning whether a treaty is self-executing, the relevant intent is that of the U.S. treatymakers (i.e., the Senate and President), not the collective intent of the treaty parties. As I will explain, my claim does not depend on any particular view about the relevance of ratification history or other non-textual materials in the self-execution analysis. Indeed, my claim is compatible even with a pure “public meaning” approach to interpretation.64

As Professor Vázquez has noted, “Courts and commentators seem to agree that a treaty’s self-executing character is largely, if not entirely, a matter of intent.”65 There has been substantial uncertainty, however, over whose intent counts – the collective intent of the parties to the treaty, or just the intent of the U.S. Senate and President. Before Medellín, some lower courts had suggested, without analysis, that the collective intent of the parties is what matters,66 and this is also the view of some commentators.67 By contrast, the Restatement (Third) of Foreign Relations Law reasons that the intent of the U.S. treatymakers should be dispositive. As the Restatement explains:

 “In the absence of special agreement, it is ordinarily for the United States to decide how it will carry out its international obligations. Accordingly, the intention of the United States determines whether an agreement is to be self-executing in the United States or should await implementation by legislation or appropriate executive or administrative action.”68

 Although I do not always agree with the Restatement’s claims, on this issue the Restatement is persuasive. Nations have widely varying approaches to the domestic status of treaties, with some nations (such as Great Britain) always requiring legislative implementation before treaties can be enforced by domestic courts, other nations allowing most or all treaties to be enforced directly by their courts, and still other nations allowing only some treaties to be enforced in this way.69 Furthermore, international law generally does not concern itself with the particular institutions a nation uses to implement international obligations; nations are simply required to comply with their treaty obligations, and it does not matter whether they do so through their courts or through some other mechanism. As a leading international law casebook notes, “International law requires a state to carry out its international obligations but, in general, how a state accomplishes that result is not of concern to international law or to the state system.”70 For these reasons, nations almost never negotiate about treaty self-execution, especially for multilateral treaties. Moreover, parties negotiating a treaty are typically indifferent to the issue, so even tools used for contract gap filling would not work here. If the search for self-execution turned on the collective intent of the parties, it would almost always be a meaningless exercise.

### 2NC- Rollback

**CP constrains future Presidents – it creates a legal framework**

**Brecher**, JD University of Michigan, December **2012**

(Aaron, Cyberattacks and the Covert Action Statute, 111 Mich. L. Rev. 423, Lexis)

The executive might also issue the proposed order, even though it would limit her freedom in some ways, because of the possible benefits of **constraining future administrations** or preempting legislative intervention. n149 For example, in this context, an administration may choose to follow the finding and reporting requirements in order to convince Congress that legislative intervention is unnecessary for proper oversight. This is acceptable if the covert action regime is in fact adequate on its own. Moreover, if greater statutory control over cyberattacks is needed, the information shared with Congress may give Congress the tools and knowledge of the issue necessary to craft related legislation. n150 Additionally, while executive orders are hardly binding, **the inertia following adoption of an order may help constrain future administrations**, which may be more or less trustworthy than the current one. **Creating a presumption through an executive order** also **establishes a stable legal framework** for cyberattacks that allows law to follow policy in this new field, and permits decisionmakers to learn more about the nature of cyberoperations before passing detailed statutes that may result in unintended consequences.

**Epirics prove**

**Jensen**, JD Drake University, Summer **2012**

(Jase, FIRST AMERICANS AND THE FEDERAL GOVERNMENT, 17 Drake J. Agric. L. 473, Lexis)

At the historic 1994 meeting with the tribes, President Clinton signed a Presidential memorandum which provided executive departments and agencies with principles to guide interaction with and policy concerning Indian tribes. n83 President Clinton sought to ensure that the government recognizes that it operates on a government-to-government relationship with the federally recognized tribes. n84 Agencies were to consult with tribes prior to taking action which would affect them, consider tribal impact regarding current programs and policies, and remove barriers to communication. n85

Toward the end of Clinton's second term he issued an executive order which provided the executive branch with more detailed directions on how to implement the broader policy of government-to-government tribal consultation set forth in the 1994 memorandum. n86 **The order had a stronger binding effect on future administrations**. President Clinton signed Executive Order 13175 on November 6, 2000, and the order went into effect on January 5, 2001. n87 The order was binding upon all executive departments and executive agencies and all independent agencies were encouraged to comply with the order on a voluntary basis. n88 Each agency was required to designate an official which is to head the crea [\*486] tion of a tribal consultation plan, prepare progress reports, and ensure compliance with Executive Order 13175. n89

### Courts Key

Savage 12-31

(Charlie, NYT. “U.S. Frees Last of the Chinese Uighur Detainees From Guantánamo Bay” 12-31-13 http://www.nytimes.com/2014/01/01/us/us-frees-last-of-uighur-detainees-from-guantanamo.html//wyoccd)

¶ WASHINGTON — In what the Pentagon called a “significant milestone” in the effort to close the prison at Guantánamo Bay, Cuba, the military announced Tuesday that the United States had transferred three Chinese detainees to Slovakia.¶ ¶ The three were the last of 22 ethnic Uighurs from China who were captured after the American invasion of Afghanistan in 2001 and taken to Guantánamo.¶ ¶ Although the military had decided that the three men were not at war with the United States and that they should be released — and a judge ordered them freed in 2008 — they remained stranded because of difficulties in finding a safe and agreeable place to send them.¶ ¶ “The United States is grateful to the government of Slovakia for this humanitarian gesture and its willingness to support U.S. efforts to close the Guantánamo Bay detention facility,” said Rear Adm. John Kirby, the Pentagon press secretary. “The United States coordinated with the government of Slovakia to ensure the transfer took place in accordance with appropriate security and humane treatment measures.”

### 2NC- Links to Tix

#### First, CP is executive action—obviously avoids Congressional fights

Fine 12

Jeffrey A. Fine, assistant professor of political science at Clemson University. He has published articles in the Journal of Politics, Political Research Quarterly, and Political Behavior. Adam L. Warber is an associate professor of political science at Clemson University. He is the author of Executive Orders and the Modern Presidency, Presidential Studies Quarterly, June 2012, " Circumventing Adversity: Executive Orders and Divided Government", Vol. 42, No. 2, Ebsco

We also should expect presidents to prioritize and be strategic in the types of executive orders that they create to maneuver around a hostile Congress. There are a variety of reasons that can drive a president’s decision. For example, presidents can use an executive order to move the status quo of a policy issue to a position that is closer to their ideal point. By doing so, presidents are able to pressure Congress to respond, perhaps by passing a new law that represents a compromise between the preferences of the president and Congress. Forcing Congress’s hand to enact legislation might be a preferred option for the president, if he perceives Congress to be unable or unwilling to pass meaningful legislation in the ﬁrst place. While it is possible that such unilateral actions might spur Congress to pass a law to modify or reverse a president’s order, such responses by Congress are rare (Howell 2003, 113-117; Warber 2006, 119). Enacting a major policy executive order allows the president to move the equilibrium toward his preferred outcome without having to spend time lining up votes or forming coalitions with legislators. As a result, and since reversal from Congress is unlikely, presidents have a greater incentive to issue major policy orders to overcome legislative hurdles.

#### Second, unilateral executive action shifts incentives for opposition to sway to the President’s will—diffuses tensions in congress, avoiding a fight and lowering PC cost.

Bernstein 2013

[Jonathan Bernstein is a political scientist who writes about American politics, especially the presidency, Congress, parties and elections., January 17th, 2013, In the Three Branches, Sharing is Caring, http://prospect.org/article/three-branches-sharing-caring, uwyo//amp]

Given all that, both sides really can have incentives to cut a deal in many cases. It takes a president who is willing to use all the tools of his office…but also one who is good at negotiating. It also, and this might be the biggest problem for Obama, requires an opposition which is willing to cut a deal for incremental gains, even if it allows the president to walk away a winner (albeit less of an immediate policy winner than he might have been acting alone). It’s not clear that House Republicans are willing to do that. Congressional Republicans might not look right now as if they could be real bargaining partners, but we don’t really know how it will play out. Presidents can never force Congress to act – they can’t even always force the bureaucracy to act. And there’s little that they can do to affect public opinion; in this case, it’s especially unlikely that Barack Obama can affect the views of those constituents House Republicans are most responsive to. What presidents can do is to act where they have the authority to do so, and there’s plenty that entails in gun safety, for climate, for immigration, and on many other issues. And by threatening to act, they can at least try to change the incentives for opposition Members of Congress, pushing them to see that legislative gridlock might not be their best option. Obama hasn’t done nearly as much as he could do so far, but perhaps his efforts on gun violence are a sign of things to come in his second term. If so, it might be a lot more productive than a lot of people expect. All in all, however, whether it’s gun violence, immigration, or even health care, the combination of executive orders and negotiation with Congress can be a potent tool for any president. Barack Obama hasn’t used it much, yet; he didn’t need it too often in his first two years, and he didn’t turn to it much once Republicans took the House. But I suspect it’s going to be a major weapon for him during his second term. At least, it certainly should be.

## Deference

#### No deference from Bouinediene now, it was overruled in district court

Jose Irias, 13

Jose F. Irias. J.D., 2013, New York University School of Law, WARTIME DETENTION AND THE¶ EXTRATERRITORIAL HABEAS CORPUS¶ DOCTRINE: REFINING THE BOUMEDIENE¶ FRAMEWORK IN LIGHT OF ITS GOALS¶ AND ITS FAILURES, <http://www.nyulawreview.org/sites/default/files/pdf/NYULawReview-88-4-Irias.pdf>, accessed 10/21/13,WYO/JF

Despite the Court’s lengthy opinion, however, it only dedicated a¶ few short pages to formulating and applying its functional framework. The Court provided little guidance to lower courts ¶ applying the framework in later litigation, as it did not explain how to ¶ weigh the factors, identify which practical obstacles should matter, or ¶ explain how much control was necessary to a finding of de facto sover ¶ eignty. The lack of guidance would lead to conflicting applications of ¶ the Boumediene framework when D.C. federal courts later sought to ¶ determine whether to extend habeas corpus to the Bagram Theater ¶ Internment Facility in Ai Maqaleh v. Gares. In the end, the circuit ¶ court overruled the district court’s decision to extend the writ. The ¶ circuit court’s application of the Bouinediene framework and its ulti ¶ mate holding denying habeas jurisdiction in Ai Maqaleh (and every ¶ other Guantánamo habeas case to come before it) evinces ¶ Boumedienes failure to meaningfully check the Executive’s detention ¶ power.

### 2NC – CMR UQ Non Unique

#### CMR Low—Benghazi proves State Department officials are taking over mission operations

Zenko 9-25 [MICAH ZENKO, Douglas Dillon fellow in the Center for Preventive Action at the Council on Foreign Relations; worked for Harvard’s Kennedy School of Government, at Congressional Research Service, and State Department's Office of Policy Planning, “The Soldier and the State Go Public: Civil-military relations haven't been this bad in decades,” SEPTEMBER 25, 2013, <http://www.foreignpolicy.com/articles/2013/09/25/the_soldier_and_the_state_go_public>, wyo-sc]

These civil-military tensions have also been revealed in reviews of what military responses -- if any -- were available on the night of the terrorist attacks on the temporary mission facility and CIA annex in Benghazi, Libya. In May, during one of many House hearings, Gregory Hicks, the deputy chief of mission to Libya, was asked about the alleged order that prohibited four special operators from flying to Benghazi to try to rescue the besieged facilities. Hicks replied: "They were furious. I will quote Lt. Col. Gibson [commander of the site security team]. He said: ‘This is the first time in my career that a diplomat has more balls than somebody in the military'." But if by "balls" Hicks meant a propensity to propose risky military operations, then State Department civilians have actually shown them quite often. (Gibson later [**testified**](http://armedservices.house.gov/index.cfm/press-releases?ContentRecord_id=2da7b67e-088e-462f-93c2-01cab80c562a) to a House Armed Services subcommittee that, in fact, he "was not ordered to ‘stand down' by higher command authorities.")¶ Gen. Dempsey has testified several times that no U.S. military forces could have been deployed in time to make a difference. His predecessor, retired Adm. Michael Mullen, investigated potential military responses in his capacity as co-chair of the Benghazi Accountability Review Board and agreed with Dempsey. In testimony released last week, Mullen [**denounced**](http://blogs.cfr.org/zenko/2013/09/20/you-might-have-missed-benghazi-syria-and-chinas-aid/) the idea "that you can somehow [intervene] instantly when you really are completely surprised, that you could generate a force to have that kind of impact -- it's just not reasonable." He said a "time-distance physics problem ... would have prevented us from getting there."¶ Despite the military's repeated explanations, policymakers (primarily Republicans) have refused to accept that force could not have been deployed in Benghazi. In May, Rep. Jason Chaffetz said to Charlie Rose: "Why is it that the military could not get there until almost 24 hours after the attack? You can get on a Delta flight here at the Dulles Airport outside Washington, D.C. and fly there faster than our military was able to get there." In closed and open sessions, military commanders have described the distance, logistics, and force-protection challenges that prevented combat aircraft and special operations forces from deploying. Yet, even as late as last Thursday, House members expressed their disbelief that no military assets could have saved the day. As Rep. John Mica told Adm. Mullen: "I'm not the greatest military strategist, but Mr. [Darrell] Issa and I in January were at least at one post -- I know of at least three other posts, we could have launched an attack."

#### CMR Low- Civilians took over military expertise post 9-11

Zenko 9-25 [MICAH ZENKO, Douglas Dillon fellow in the Center for Preventive Action at the Council on Foreign Relations; worked for Harvard’s Kennedy School of Government, at Congressional Research Service, and State Department's Office of Policy Planning, “The Soldier and the State Go Public: Civil-military relations haven't been this bad in decades,” SEPTEMBER 25, 2013, <http://www.foreignpolicy.com/articles/2013/09/25/the_soldier_and_the_state_go_public>, wyo-sc]

Duke University scholar (and **FP**contributor) Peter Feaver has described this civil-military tension as a principal-agent problem, where theoretically only civilian principals have the authority and only military agents have the expertise. Since the September 11, 2001, attacks, however, many civilian officials have helped to develop and implement U.S. counterinsurgency and counterterrorism operations around the world. They now believe that they have a clearer and more realistic understanding of what military force can achieve. Subsequently, my impression is that civilians increasingly think they possess the expertise to assess operational plans and that professional military advice is merely another opinion to consider when evaluating use-of-force options. In effect, civilians have become both principal and agent.¶ Meanwhile, military officials who might have once refrained from discussing sensitive issues are now more willing to share their opinions. After surviving multiple deployments to combat zones in Iraq and Afghanistan, where inadequate political guidance and flawed military strategies hindered U.S. policies, they feel obliged to speak their minds. They also track proposals for using force -- via op-eds and blogs -- at a much greater level of detail than they did a decade ago. One Marine colonel explained to me recently: "We [meaning the military] need to know what they [meaning civilians] are getting us into next time." Furthermore, throughout the professional military education system, officers are taught to think critically and divergently, and to candidly express their opinions through their chain of command.

#### **CMR Low- Reporters use pentagon officials to condemn civilian military policy**

Zenko 9-25 [MICAH ZENKO, Douglas Dillon fellow in the Center for Preventive Action at the Council on Foreign Relations; worked for Harvard’s Kennedy School of Government, at Congressional Research Service, and State Department's Office of Policy Planning, “The Soldier and the State Go Public: Civil-military relations haven't been this bad in decades,” SEPTEMBER 25, 2013, <http://www.foreignpolicy.com/articles/2013/09/25/the_soldier_and_the_state_go_public>, wyo-sc]

This civil-military split is further promoted by the insatiable demand for news. An increasing number of journalists stalk the tunnels under Capitol Hill, where policymakers are happy to expound on sensitive foreign policy issues. Similarly, as a result of embedded reporting from the wars of the past dozen years, journalists have deeper relationships with now-senior military officials than they did in the past, and they can find a "senior Pentagon official" to condemn White House policy.

#### CMR Low - Partisanship

Zenko 9-25 [MICAH ZENKO, Douglas Dillon fellow in the Center for Preventive Action at the Council on Foreign Relations; worked for Harvard’s Kennedy School of Government, at Congressional Research Service, and State Department's Office of Policy Planning, “The Soldier and the State Go Public: Civil-military relations haven't been this bad in decades,” SEPTEMBER 25, 2013, <http://www.foreignpolicy.com/articles/2013/09/25/the_soldier_and_the_state_go_public>, wyo-sc]

The split will likely be deepened by the worsening partisanship in Washington. The impression one gets is that the party out of power no longer perceives the military as a neutral institution, but rather as the uniformed face of the White House it serves. Democrats demonized the military and its operations during the Bush administration -- remember the "General Betray Us" Moveon.org ads from 2007? Now, it is Democrats who embrace President Obama's drone strikes and interventions, while Republicans harshly question the expertise and motivations of uniformed officials. The military is supposed to be above partisanship, but Washington might not allow it to be.

#### CMR resilient- Public is lenient and understanding

Hooker 11

[Colonel Richard D. Hooker, Graduated from the National War College in 2003 and is currently assigned to the Army Staff. He previously commanded 2/505 Parachute Infantry Regiment in the 82d Airborne Division and has served in the Office of the Chairman of the Joint Chiefs and with the National Security Council. Colonel Hooker holds a Ph.D. from the University of Virginia in international relations and is a member of the Council on Foreign Relations. “Soldiers of the State: Reconsidering American Civil-Military Relations”, Parameters41.4 (Winter 2011/2012): 1-14., Proquest, \\wyo-bb]

Though the primary function of the military is often described as "the application of organized violence," the military's conservative and group-centered bias is based on something even more fundamental. In the combat forces which dominate the services, in ethos if not in numbers, the first-order challenge is not to achieve victory on the battlefield. Rather it is to make the combat soldier face his own mortality. Under combat conditions the existence of risk cannot be separated from the execution of task. The military culture, while broadly conforming to constitutional notions of individual rights and liberties, therefore derives from the functional imperative and by definition values collective over individual good.¶ The American public intuitively understands this, as evidenced by polling data which demonstrate conclusively that a conservative military ethic has not alienated the military from society.13 On the contrary, public confidence in the military remains consistently high, more than a quarter century after the end of the draft and the drawdown of the 1990s, both of which lessened the incidence and frequency of civilian participation in military affairs. There is even reason to believe that the principal factors cited most often to explain the existence of the "gap"-namely the supposed isolation of the military from civilian communities and the gulf between civilian and military values-have been greatly exaggerated.¶ The military "presence" in civil society is not confined to serving members of the active-duty military. Rather, it encompasses all who serve or have served, active and reserve. For example, millions of veterans with firsthand knowledge of the military and its value system exist within the population at large. The high incidence of married service members and an increasing trend toward off-base housing mean that hundreds of thousands of military people and their dependents live in the civilian community. Reserve component installations and facilities and the reserve soldiers, sailors, airmen, and marines who serve there bring the military face to face with society every day in thousands of local communities across the country. Commissioned officers, and increasingly noncommissioned officers (NCOs), regularly participate in civilian educational programs, and officer training programs staffed by active, reserve, and retired military personnel are found on thousands of college and high school campuses. Military recruiting offices are located in every sizable city and town. Many military members even hold second jobs in the private sector. At least among middle-class and working-class Americans, the military is widely represented and a part of everyday life.14¶ Just as the military's isolation from society is often overstated, differences in social attitudes, while clearly present, do not place the military outside the mainstream of American life. The dangers posed by a "values gap" are highly questionable given the wide disparity in political perspectives found between the east and west coasts and the American "heartland"; between urban, suburban, and rural populations; between north and south; between different religious and ethnic communities; and between social and economic classes. It may well be true that civil society is more forgiving than the military for personal failings like personal dishonesty, adultery, indebtedness, assault, or substance abuse. But society as a whole does not condone these behaviors or adopt a neutral view. To the extent that there are differences, they are differences of degree. On fundamental questions about the rule of law, on the equality of persons, on individual rights and liberties, and on civilian control of the military in our constitutional system, there are no sharp disagreements with the larger society. Indeed, there is general agreement about what constitutes right and wrong behavior.15 The difference lies chiefly in how these ideals of "right behavior" are enforced. Driven by the functional imperative of battlefield success, the military as an institution views violations of publicly accepted standards of behavior more seriously because they threaten the unity, cohesion, or survival of the group.16 Seen in this light, the values "gap" assumes a very different character.¶ To be sure, sweeping events have altered the civil-military compact. The advent of the all-volunteer force, the defeat in Vietnam, the end of the Cold War, the drawdown of the 1990s, the impact of gender and sexual orientation policies, and a host of other factors have influenced civil-military relations in important ways. The polity no longer sees military service as a requirement of citizenship during periods of national crisis, or a large standing military as a wartime anomaly. Despite such fundamental changes, over time public support for the military and its values has remained surprisingly enduring, even as the level of public participation in military affairs has declined.

### 2NR – Thumpers

#### Civil Military relations low—multiple alt causes thump the disad

Munson, 2012

[Peter, Peter J. Munson is a Marine officer, author, and Middle East specialist. He is the author of War, Welfare, and Democracy: Rethinking America's Quest for the End of History (Potomac, 2013) and Iraq in Transition: The Legacy of Dictatorship and the Prospects for Democracy (Potomac, 2009) and . A frequent contributor to multiple journals and blogs, including his own, he was also the Editor of the Small Wars Journal from January 2012 to June 2013, A Caution on Civil-Military Relations, 11-12-12, http://smallwarsjournal.com/jrnl/art/a-caution-on-civil-military-relations] /Wyo-MB

This brief post represents only a few quickly dashed thoughts in the hope of getting something on paper that might morph into a longer and more useful essay on civil-military relations. I believe that civil-military relations in the United States are deeply troubled. The issues are lurking mostly in the background right now. On the surface, our leadership—civilian and military—has been able to negotiate some relatively complex rapids without any of the major drama that has cropped up in the past. The falling out between Truman and MacArthur comes to mind. Nonetheless, there are serious background issues that will only get worse in 2014 and beyond. There are several reasons for concern. ¶ The all-volunteer force has fought two brutal wars for over a decade while a (guilty or thankful) American population has stood by with very little involvement. There have been no war bonds, no victory gardens, no bandage wrapping drives, no air raid drills—nothing to make them feel a part of the conflict other than the human interest stories about killed and wounded veterans and the once-nightly footage of shattered HMMWVs and burning convoys. This has created an inequality in experience and sacrifice that the public has generally attempted to repay through extreme deference and ever-multiplying shows of thankfulness, the likes of which have never been seen in American society. Part of this is as a corrective to the disgraceful treatment of our Vietnam veterans, to be sure, but it has consequences nonetheless. In the face of such an inequality of experience and service and in such a deferential environment, public criticism of the military is all too easily dismissed as unpatriotic. Not only is this foil used to deflect criticism, but its threat deters many from bringing up much needed commentary and dissent. Likewise, unquestioning support of the military plays no small factor in making any discussion of rationalizing military budgets and targeting wasteful military spending difficult, if not impossible.

### A2 Internal Link

#### Aff makes war powers a justiciable issue – this case-specific exception causes a slippery slope that breaks the entire doctrine

Miller 10 (Mathew Edwin, JD – University of Michigan Law School, Associate – Latham & Watkins LLP, “The Right Issue, the Wrong Branch: Arguments against Adjudicating Climate Change Nuisance Claims,” Michigan Law Review, November, 109 Mich. L. Rev. 257, Lexis)

However, to say that cases like American Electric Power are justiciable just because plaintiffs allege a public nuisance begs the question: Why should such claims automatically be justiciable? It contravenes the purpose and articulation of the political question doctrine to suggest that nuisances are categorically justiciable because political questions have historically excluded torts between private parties and have focused instead on governmental issues like gerrymandering, foreign policy, and federal employment. n70 Again, Baker demanded "discriminating" case-by-case inquiries, rejecting "resolution by any semantic cataloguing." n71 Similarly, the fact that other public nuisance claims have not presented political questions in the past should not preclude such a finding in the climate context. n72 Indeed, the argument for nonjusticiability rests on the notion that climate suits are unique and therefore defy classification among tort precedent. n73¶ [\*271] Extending the political question doctrine to a public nuisance allegation would surpass precedent in terms of claim-category application. Yet with respect to the theory behind the doctrine, such an extension is proper because cases like American Electric Power would push existing nuisance law to embrace a complex, qualitatively unique phenomenon that cannot be prudentially adjudicated. n74 The Supreme Court has never held that torts cannot present political questions, so prudential constitutional principles should similarly apply to them. This Note simply argues that the facts, claims, parties, and relief demanded in this particular mode of litigation should fall under the nonjusticiability umbrella, wherever its limits may lie. n75 The following analysis of Baker invokes the American Electric Power situation specifically for the sake of convenience, but the arguments therein should be read to apply to injunctive climate nuisance claims generally.¶ [Continues to Footnore]¶ n75. This Note does not purport to suggest exactly where the line ought to be drawn in applying the political question doctrine to tort claims. A consideration of the potential doctrinal "slippery slope" - where courts might improperly refuse to adjudicate claims solely on the basis of complexity - is beyond the scope of the present discussion.

#### Perception of weak Presidential crisis response collapses heg

John R. **Bolton 9**, Senior fellow at the American Enterprise Institute & Former U.S. ambassador to the United Nations, “The danger of Obama's dithering,” Los Angeles Times, October 18, http://articles.latimes.com/2009/oct/18/opinion/oe-bolton18

Weakness in American foreign policy in one region often **invites challenges elsewhere**, because our **adversaries carefully follow diminished American resolve**. Similarly, **presidential indecisiveness, whether because of uncertainty or internal political struggles, signals that the United States may not respond to international challenges in clear and coherent ways.** Taken together, **weakness and indecisiveness have proved historically to be a toxic combination for America's global interests.** That is exactly the combination we now see under President Obama. If anything, his receiving the Nobel Peace Prize only underlines the problem. All of Obama's campaign and inaugural talk about "extending an open hand" and "engagement," especially the multilateral variety, isn't exactly unfolding according to plan. Entirely predictably, we see more clearly every day that diplomacy is not a policy but only a technique. **Absent presidential leadership, which at a minimum means clear policy direction and persistence in the face of criticism and adversity, engagement simply embodies weakness and indecision.**

#### Perception outweighs judicial legitimacy.

TR 9—Air Force Academy graduate. Master’s in Unconventional Warfare, American Military U. Co-founder of The PULSE Review (The Realist, Why We Are Called the Paper Tiger, 7 June 2009, http://pulsereview.com/?p=1111)

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

### Bioweapons

####  [1] They can’t win an extinction level claim- worst case biological warefare already happened in Japan and didn’t cause any fatalities, and U.S. infrastructure will mitigate the impact –That’s Dove

#### Unreliability of bioweapons prevents use and precludes impact

(easily backfire or have no effect; high risk to attackers; affected by weather/win; limited lifespan; no means delivery; hard to contaminate water/food)

Walter **Laqueur**, Cochairman, International Research Council, The Center for Strategic and International Studies, The New Terrorism, 19**99**, pg. 69

The attractions of biological weapons are obvious: easy access, low cost, toxicity, and the panic they can cause. But there are drawbacks of various kinds that explain why almost no successful attacks have occurred. While explosive or nuclear devices or even chemical agents, however horrific, affect a definite space, biological agents are unpredictable: they can easily get out of control, backfire, or have no effect at all. They constitute a high risk to the attackers, although the same, of course, is true of chemical weapons. This consideration may not dissuade people willing to sacrifice their own lives, but the possibility that the attacker may kill himself before being able to launch an attack may make him hesitate to carry it out. Biological agents, with some notable exceptions, are affected by changes in heat or cold, and, like chemical agents, by changes in the direction of the wind. They have a limited life span, and their means of delivery are usually complicated. The process of contaminating water res­ervoirs or foodstuffs involves serious technical problems. Even if an agent survives the various purification systems in water reservoirs, boiling the water would destroy most germs. Dispersing the agent as a vapor or via an aerosol system within a closed space‑for instance, through the air conditioning system of a big building or in a subway‑would ear to offer better chances of success, but it is by no mens foolproof.

H. Patricia Hynes, retired Professor, Environmental Health, Boston University, “Biological Weapons: Bargaining with the Devil,” TRUTHOUT, 8—18—11, http://www.truth-out.org/news/item/2693:biological-weapons-bargaining-with-the-devil

The earliest recorded use of biological warfare was that of Romans putting dead horses into an enemy's water supply. Other documented examples include combatants hurling plague-ridden human corpses into enemy garrisons; giving blankets contaminated with smallpox to hostile forces; infecting enemy livestock with anthrax and the equine disease, glanders; and poisoning an adversary's water supply with intestinal typhoid bacteria. These heinous war practices may seem pre-modern; yet, readiness for biological warfare continues, aggressively and in extreme secrecy, today. Up to a dozen countries are suspected of offensive, or "first use," biological weapons programs, chief among them the United States.¶ From 1942 until the late '60s, a highly secretive, offensive, biological weapons research program, begun at the US Army's research facility at Fort Detrick in Frederick, Maryland, gained momentum in the United States. World War II German and Japanese scientists (whose war crimes were overlooked for their expertise in bacteria and viruses capable of sickening and killing livestock, plants and humans) were recruited and employed in it. In 1969, President Nixon learned of the large-scale biowarfare program and halted it, given its gruesome risks and the already existing overkill capacity of the US nuclear weapons arsenal.(1) Soon after, the US government signed and ratified the 1972 UN International Biological and Toxin Weapons Convention that outlaws all offensive biological weapons programs, that is, programs with first-strike intent and capability.¶ In late 2001, the US Department of Homeland Security rapidly resurrected research on biological warfare agents. The new agency seized upon the anthrax attack in October of that year, in which inhalable anthrax was sent through the US mail to certain Congressional politicians and journalists (but ultimately killed five postal workers), to warrant and market a bioweapons research agenda. The FBI alleged (yet never proved with direct evidence) that the source of the anthrax letters was Fort Detrick biodefense scientist, Bruce Ivins, who committed suicide as federal agents were pursuing him. The resurgence of biowarfare research in 2001 is one of the many militaristic actions taken under the banner of fighting terrorism, and it is strongly suspected to be in violation of the biological weapons convention. Some have suggested that this domestic terrorism was a deliberate act to pre-dispose the public for a new wave of biological warfare research.(2)

# 1NR

#### Turns Heg- Independent of successful deal - new sanctions undermine US credibility - makes US look like intransigent party

Nader 1-22

(Alireza Nader, senior international policy analyst at the nonprofit, nonpartisan RAND Corporation, “Why New Sanctions on Iran Won't Work” 1-22-14 http://nationalinterest.org/commentary/why-new-sanctions-iran-wont-work-9753//wyoccd)

The imposition of new sanctions will only make the job of American negotiators more difficult, and perhaps even damage U.S. credibility among the other P5+1 members. The United States, and not Iran, could be viewed as the more intransigent party, winning Tehran more sympathy from Russia and China, which are both itching for sanctions to end. The rest of the world is watching the nuclear drama carefully, and not only the actions of Iran, but also those of the world’s remaining superpower. China and Russia signed on to sanctions in order to resolve the nuclear issue peacefully. They do not like the idea of sanctions being used to influence the foreign policies of “rogue” states opposed to U.S. ambitions and to punish authoritarian regimes similar to their own. Iran and Russia are on the same side in Syria, and may become even closer now that Rouhani is president (Ahmadinejad was too openly critical of Moscow). New U.S. sanctions could actually bolster Iran’s standing among other world powers such as Russia. After all, Rouhani can claim, with justification, that he engaged the United States in good faith, but was only met with more punishment. Iran may then have an easier time convincing other countries that the time has come to loosen the sanctions regime.Sanctions are not a button that can be pushed to strengthen the U.S. position automatically; they must be used in tandem with diplomacy, and a deeper understanding of Iranian, Chinese and Russian motivations.¶ Geneva provides a good framework to resolve the Iranian nuclear challenge. And it will buy the United States time to address Iran’s human-rights abuses and its support for terrorism. But these objectives are best addressed one at a time. Sanctions may have had an important effect on negotiations, but it is U.S. diplomacy that will ultimately win the day.

#### Turns Terror- Iran war escalates – factional coalitions increase terrorism

White, July/August 2011 (Jeffrey—defense fellow at the Washington Institute for Near East Policy, What Would War With Iran Look Like, National Interest, p. <http://www.the-american-interest.com/article-bd.cfm?piece=982>)

A U.S.-Iranian war would probably not be fought by the United States and Iran alone. Each would have partners or allies, both willing and not-so-willing. Pre-conflict commitments, longstanding relationships, the course of operations and other factors would place the United States and Iran at the center of more or less structured coalitions of the marginally willing. A Western coalition could consist of the United States and most of its traditional allies (but very likely not Turkey, based on the evolution of Turkish politics) in addition to some Persian Gulf states, Jordan and perhaps Egypt, depending on where its revolution takes it. Much would depend on whether U.S. leaders could persuade others to go along, which would mean convincing them that U.S. forces could shield them from Iranian and Iranian-proxy retaliation, or at least substantially weaken its effects. Coalition warfare would present a number of challenges to the U.S. government. Overall, it would lend legitimacy to the action, but it would also constrict U.S. freedom of action, perhaps by limiting the scope and intensity of military operations. There would thus be tension between the desire for a small coalition of the capable for operational and security purposes and a broader coalition that would include marginally useful allies to maximize legitimacy. The U.S. administration would probably not welcome Israeli participation. But if Israel were directly attacked by Iran or its allies, Washington would find it difficult to keep Israel out—as it did during the 1991 Gulf War. That would complicate the U.S. ability to manage its coalition, although it would not necessarily break it apart. Iranian diplomacy and information operations would seek to exploit Israeli participation to the fullest. Iran would have its own coalition. Hizballah in particular could act at Iran’s behest both by attacking Israel directly and by using its asymmetric and irregular warfare capabilities to expand the conflict and complicate the maintenance of the U.S. coalition. The escalation of the Hizballah-Israel conflict could draw in Syria and Hamas; Hamas in particular could feel compelled to respond to an Iranian request for assistance. Some or all of these satellite actors might choose to leave Iran to its fate, especially if initial U.S. strikes seemed devastating to the point of decisive. But their involvement would spread the conflict to the entire eastern Mediterranean and perhaps beyond, complicating both U.S. military operations and coalition diplomacy.

#### Turns Russia War- Deal failure draws in global powers and goes nuclear within months

PressTV 11/13

Global nuclear conflict between US, Russia, China likely if Iran talks fail, 11/13/13,<http://www.presstv.ir/detail/2013/11/13/334544/global-nuclear-war-likely-if-iran-talks-fail/>A global conflict between the US, Russia, and China is likely in the coming months should the world powers fail to reach a nuclear deal with Iran, an American analyst says.¶ “If the talks fail, if the agreements being pursued are not successfully carried forward and implemented, then there would be enormous international pressure to drive towards a conflict with Iran before [US President Barack] Obama leaves office and that’s a very great danger that no one can underestimate the importance of,” senior editor at the Executive Intelligence Review Jeff Steinberg told Press TV on Wednesday. ¶ “The United States could find itself on one side and Russia and China on the other and those are the kinds of conditions that can lead to miscalculation and general roar,” Steinberg said. ¶ “So the danger in this situation is that if these talks don’t go forward, we could be facing a global conflict in the coming months and years and that’s got to be avoided at all costs when you’ve got countries like the United States, Russia, and China with” their arsenals of “nuclear weapons,” he warned.

#### [2.] Sanctions force march to war

Mathes and Collinson, 11-12

[Michael Mathes and Stephen Collinson AFP writers, “New Iran sanctions would risk war, White House warns,” AFP, <http://news.yahoo.com/white-house-warns-congress-opposing-iran-deal-could-183651386.html> //uwyo-baj]

Washington (AFP) - The White House has warned US lawmakers that tightening sanctions on Iran could derail a diplomatic drive for a nuclear deal with Iran, boxing America into a "march to war." The US president has vowed he will not allow Tehran's leaders to develop an atomic weapon, but last week's negotiations in Geneva between Iran and six world powers failed to reach an interim deal to halt its program. Fresh from the talks, Secretary of State John Kerry heads to Capitol Hill on Wednesday to make the case for continued diplomacy. Key senators from both US parties, some responding to Israel's savaging of the proposed agreement, are proposing stiffer sanctions or may curtail Obama's power to ease current measures, which have crippled the Iranian economy. But the White House said any new sanctions could scupper the diplomatic process and leave little option but the use of military force against Iran. "The American people do not want a march to war," White House spokesman Jay Carney told reporters, saying US citizens "justifiably and understandably prefer a peaceful solution that prevents Iran from obtaining a nuclear weapon." "This agreement, if it's achieved, has the potential to do that. The alternative is military action," Carney said. "If pursuing a resolution diplomatically is disallowed or ruled out, what options then do we and our allies have to prevent Iran from acquiring a nuclear weapon?" The White House believes in offering Iran some "modest" and "reversible" steps to ease the pain of some sanctions as part of an interim deal to bolster Tehran's negotiators against hardliners who are skeptical of new President Hassan Rouhani's diplomatic opening. But many US lawmakers believe that tightening sanctions will give the administration more leverage -- and doubt Tehran is serious about standing down its nuclear program. Republican Senator Mark Kirk maintains that sanctions are the best way to avoid war. "The American people should not be forced to choose between military action and a bad deal that accepts a nuclear Iran," he said. White House aides, however, privately say that once war-weary Americans understand the alternative to a deal with Iran means another Middle East conflict, they will warm to Obama's approach. Tehran denies Western claims it is trying to develop a nuclear weapon. Kerry will take the administration's position directly to the Senate Banking Committee, which is mulling a new sanctions package. "The secretary will be clear that putting new sanctions in place would be a mistake," State Department spokeswoman Jen Psaki said. "What we are asking for right now is a pause, a temporary pause in sanctions," she told reporters. "We are not rolling them back."

#### [3.] Causes Israel strikes

**Perr, 12/24/13 –** B.A. in Political Science from Rutgers University; technology marketing consultant based in Portland, Oregon. Jon has long been active in Democratic politics and public policy as an organizer and advisor in California and Massachusetts. His past roles include field staffer for Gary Hart for President (1984), organizer of Silicon Valley tech executives backing President Clinton's call for national education standards (1997), recruiter of tech executives for Al Gore's and John Kerry's presidential campaigns, and co-coordinator of MassTech for Robert Reich (2002).(Jon, “Senate sanctions bill could let Israel take U.S. to war against Iran” Daily Kos, [http://www.dailykos.com/story/2013/12/24/1265184/-Senate-sanctions-bill-could-let-Israel-take-U-S-to-war-against-Iran#](http://www.dailykos.com/story/2013/12/24/1265184/-Senate-sanctions-bill-could-let-Israel-take-U-S-to-war-against-Iran)

As 2013 draws to close, the negotiations over the Iranian nuclear program have entered a delicate stage. But in 2014, the tensions will escalate dramatically as a bipartisan group of Senators brings a new Iran sanctions bill to the floor for a vote. As many others have warned, that promise of new measures against Tehran will almost certainly blow up the interim deal reached by the Obama administration and its UN/EU partners in Geneva. But Congress' highly unusual intervention into the President's domain of foreign policy doesn't just make the prospect of an American conflict with Iran more likely. As it turns out, the Nuclear Weapon Free Iran Act essentially empowers Israel to decide whether the United States will go to war against Tehran.¶ On their own, the tough new sanctions imposed automatically if a final deal isn't completed in six months pose a daunting enough challenge for President Obama and Secretary of State Kerry. But it is the legislation's commitment to support an Israeli preventive strike against Iranian nuclear facilities that almost ensures the U.S. and Iran will come to blows. As Section 2b, part 5 of the draft mandates:¶ If the Government of Israel is compelled to take military action in legitimate self-defense against Iran's nuclear weapon program, the United States Government should stand with Israel and provide, in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic, military, and economic support to the Government of Israel in its defense of its territory, people, and existence.¶ Now, the legislation being pushed by Senators Mark Kirk (R-IL), Chuck Schumer (D-NY) and Robert Menendez (D-NJ) does not automatically give the President an authorization to use force should Israel attack the Iranians. (The draft language above explicitly states that the U.S. government must act "in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force.") But there should be little doubt that an AUMF would be forthcoming from Congressmen on both sides of the aisle. As Lindsey Graham, who with Menendez co-sponsored a similar, non-binding "stand with Israel" resolution in March told a Christians United for Israel (CUFI) conference in July:¶ "If nothing changes in Iran, come September, October, I will present a resolution that will authorize the use of military force to prevent Iran from developing a nuclear bomb."¶ Graham would have plenty of company from the hardest of hard liners in his party. In August 2012, Romney national security adviser and pardoned Iran-Contra architect Elliott Abrams called for a war authorization in the pages of the Weekly Standard. And just two weeks ago, Norman Podhoretz used his Wall Street Journal op-ed to urge the Obama administration to "strike Iran now" to avoid "the nuclear war sure to come."¶ But at the end of the day, the lack of an explicit AUMF in the Nuclear Weapon Free Iran Act doesn't mean its supporters aren't giving Prime Minister Benjamin Netanyahu de facto carte blanche to hit Iranian nuclear facilities. The ensuing Iranian retaliation against to Israeli and American interests would almost certainly trigger the commitment of U.S. forces anyway.¶ Even if the Israelis alone launched a strike against Iran's atomic sites, Tehran will almost certainly hit back against U.S. targets in the Straits of Hormuz, in the region, possibly in Europe and even potentially in the American homeland. Israel would face certain retaliation from Hezbollah rockets launched from Lebanon and Hamas missiles raining down from Gaza.¶ That's why former Bush Defense Secretary Bob Gates and CIA head Michael Hayden raising the alarms about the "disastrous" impact of the supposedly surgical strikes against the Ayatollah's nuclear infrastructure. As the New York Times reported in March 2012, "A classified war simulation held this month to assess the repercussions of an Israeli attack on Iran forecasts that the strike would lead to a wider regional war, which could draw in the United States and leave hundreds of Americans dead, according to American officials." And that September, a bipartisan group of U.S. foreign policy leaders including Brent Scowcroft, retired Admiral William Fallon, former Republican Senator (now Obama Pentagon chief) Chuck Hagel, retired General Anthony Zinni and former Ambassador Thomas Pickering concluded that American attacks with the objective of "ensuring that Iran never acquires a nuclear bomb" would "need to conduct a significantly expanded air and sea war over a prolonged period of time, likely several years." (Accomplishing regime change, the authors noted, would mean an occupation of Iran requiring a "commitment of resources and personnel greater than what the U.S. has expended over the past 10 years in the Iraq and Afghanistan wars combined.") The anticipated blowback?¶ Serious costs to U.S. interests would also be felt over the longer term, we believe, with problematic consequences for global and regional stability, including economic stability. A dynamic of escalation, action, and counteraction could produce serious unintended consequences that would significantly increase all of these costs and lead, potentially, to all-out regional war.

### Iran Yes

#### Iran says yes - recent commitment

Karimi 1-19

(Nasser, writer for USA Today. “Iran prepares for start of landmark nuclear deal” 1-19-14 http://www.usatoday.com/story/news/world/2014/01/19/iran-nuclear-deal/4647065//wyoccd)

TEHRAN, Iran (AP) — Ahead of the start of a nuclear deal between Iran and world powers, an official in the Islamic Republic called limiting uranium enrichment and diluting its stockpile the country's "most important commitments," state radio reported Sunday.¶ The comments by Behrouz Kamalvandi, a spokesman of Iran's atomic department, show how the government of moderate President Hassan Rouhani welcomes the deal, which begins Monday. International inspectors also already have arrived in Tehran, preparing for the government opening its facilities to them.¶ "Implementation of mutual commitments in the framework of the Geneva deal will begin from tomorrow," Kamalvandi said. "Under the agreement, suspension of 20-percent enrichment of uranium — and the diluting of the current stockpile of enriched uranium — are the most important commitments of our country."¶ Iran struck the deal in November with the so-called P5+1 countries — Britain, China, France, Germany, Russia and the United States. Negotiators agreed to final terms of the deal Jan. 13.¶ Under the agreement, Iran will limit its uranium enrichment to 5%— the grade commonly used to power reactors. The deal also commits Iran to stop producing 20% enriched uranium — which is only a technical step away from weapons-grade material — and to neutralize its 20% stockpile over the six months.¶ In exchange, economic sanctions Iran faces would be eased for six months. Senior officials in U.S. President Obama's administration have put the total relief figure at some $7 billion.¶ During the six months, negotiations between Iran and the world powers would continue in hopes of reaching a permanent deal.¶ The West fears Iran's nuclear program could allow it to build an atomic weapon. Iran insists its nuclear program is for peaceful purposes, like power generation and medical research.¶ On Saturday a team of international inspectors arrived in Tehran in preparation of beginning their inspections. They will visit Fordo, where Iran enriches its 20 percent uranium, as well as its Natanz facility, which produces 5 percent enriched uranium, to ensure the country complies with the deal.¶ Kamalvandi said Sunday that Iran will use centrifuges now producing 20 percent enriched uranium to instead produce 5 percent enriched uranium to comply with the agreement.¶ But suspicions remain high in both Tehran and Washington after decades of hostility dating back to the 1979 Islamic Revolution in Iran that ousted the U.S.-backed shah dynasty. Rouhani, Iran's new reformist president, has reached out to the West, but must depend on support from Iran's top decision-maker, Supreme Leader Ayatollah Ali Khamenei, for his initiatives amid criticism from hard-line factions.¶ Hard-liners in Iran have already called the deal a "poison chalice" and are threatening legislation to increase uranium enrichment. Meanwhile, U.S. lawmakers have threatened to pass new sanctions legislation against Iran that would take effect if Tehran violates the interim nuclear deal or lets it expire without a follow-up accord.¶ Writing a post on his Facebook page Sunday, Iran's Foreign Minister Mohammad Javad Zarif reassured the world that the deal will begin on time.¶ "I am hopeful that implementation of the first phase will have positive results for the country and peace and stability in the region and the world while preparing the ground for essential talks on a final solution," Zarif wrote.

#### Iran says yes – key figures in Iran

Washington Post 1-20

(“U.S., Europe lift some Iran sanctions under nuclear deal” 1-20-13 http://www.washingtonpost.com/world/middle\_east/iran-says-it-has-halted-most-sensitive-uranium-enrichment-program/2014/01/20/6c078bd6-81d7-11e3-a273-6ffd9cf9f4ba\_story.html//wyoccd)

In Iran, there was mixed reaction to the halting of the uranium enrichment at nuclear plants in the cities of Natanz and Fordo.¶ Iranian opponents of the deal stepped up their denunciations of what they are calling their country’s capitulation to Western demands.¶ Vatan-e Emrooz, a newspaper closely associated with conservatives, printed Monday’s edition in all-black type and dedicated it to coverage of what it called Iran’s “nuclear holocaust.”¶ “What we have given up is not only incomparable with what we have received, but much less significant than can be called a win-win situation,” wrote Hossein Shariatmadari, the editor in chief of Kayhan, a newspaper often referred to as the mouthpiece for the most conservative members of Iran’s political establishment.¶ Criticism of the deal was not unexpected, but opponents of Iran’s new president, Hassan Rouhani, and his administration’s nuclear outreach had been uncharacteristically quiet until now.¶ Ahmad Tavakoli, a prominent conservative member of parliament, told fellow lawmakers Monday that there were two main problems with the nuclear deal.¶ “First of all, there are so many discrepancies in the text of the agreement that we can hardly be hopeful that our national interests will ever materialize. Second, as officials, we must not reveal our weak points in a way that our enemies can exploit them,” Tavakoli said.¶ Despite the intensified conservative backlash, the agreement is supported by many key Iranian political figures, as well as many ordinary Iranians who hope that an easing of sanctions will ease economic woes that have reached deep into the Iranian middle class.¶ Early indications show that Iran’s financial markets are responding well to the deal’s implementation as the Iranian currency, the rial, strengthened by more than 2 percent against the dollar Monday.

**2NC- Obama PC Key**

#### New bill limits Obama’s ability to waive sanctions

Gardner 1-9 (Timothy, “Senate majority support Iran sanctions bill opposed by Obama,” Reuters, 2014, <http://www.reuters.com/article/2014/01/09/us-usa-senate-iran-idUSBREA0811X20140109>)

The bill seeks to cut Iran's oil exports to zero two years after implementation. It also puts limits on the Obama administration's ability to waive sanctions.

A group of 72 conservative foreign policy experts, including Elliot Abrams, an aide to former President George W. Bush, and former Senator Joe Lieberman, wrote a letter to congressional leaders on Thursday urging them to act to halt Iran's nuclear program.

Earlier in the week, a group of nine bipartisan foreign affairs experts including Ryan Crocker, a former ambassador to Iraq and Afghanistan, urged Menendez and Kirk not to pass the new sanctions, saying they could potentially move the United States closer to war.

#### Waiving new ones still collapses diplomacy, causes war – it poisons the well – their ev describes relief from existing sanctions, which isn’t the Menendez bill

**Costello, 12/19/13** - Ryan Costello joined the National Iranian American Council in April 2013 as a Policy Fellow (“To Boost Leverage with Iran, Give Obama a Sanctions Kill Switch” National Interest, http://nationalinterest.org/commentary/boost-leverage-iran-give-obama-sanctions-kill-switch-9591)

This stance puts Menendez and others in open opposition to the president and our nation’s negotiators. As the White House has made clear, if Congress passes new sanctions—even if they include waivers to delay implementation—both Iran and the international community would see the United States as violating the terms and faith of the agreement. After the deal collapses, Iran would once again have an unconstrained nuclear program, we would lose our unprecedented inspections regime, and the U.S. and Iran would be back on a pathway to war.

The chief leverage that the U.S. and other members of the P5+1 have in negotiations is not unending sanctions, but sanctions relief. Since 1979, the United States, European Union and UN Security Council, for a variety of purposes, have levied more than thirty separate sanctions on Iran. However, the United States has led the charge. Most of America’s unilateral sanctions on Iran are codified via both Executive Order and Congressional legislation. That includes nine separate Congressional sanctions, including measures targeting Iran’s oil and financial sectors that are the most valuable relief we can offer. As a result, it is extraordinarily difficult to unwind the sanctions on a permanent basis because the president cannot do so unilaterally—he would need Congressional support

**2NC- Courts Link**

**Courts are not insulated from politics – congressional and presidential appointments have turned courts into politicized bodies**

**Harrison**, Lecturer in Law, **05**

(Lindsay Harrison, Lecturer in Law at the University of Miami School of Law "Does the Court Act As "Political Cover" for the Other Branches?"11-18-2005 <http://legaldebate.blogspot.com/2005/11/does-court-act-as-political-cover-for.html>)

Does the Court Act as "Political Cover" for the Other Branches? **While the Supreme Court may have historically been able to act as political cover for the President and/or Congress, that is not true in a world post-Bush v. Gore. The Court is seen today as a politicized body**, and especially now that we are in the era of the Roberts Court, **with a Chief Justice hand picked by the President and approved by the Congress**, it is highly unlikely that **Court action will** not, at least to some extent, **be blamed on** and/**or credited to the President and Congress**. The Court can still get away with a lot more than the elected branches since people don't understand the technicalities of legal doctrine like they understand the actions of the elected branches; this is, in part, because the media does such a poor job of covering legal news. Nevertheless**, it is preposterous to argue that the Court is entirely insulated from politics, and equally preposterous to argue that** Bush and the **Congress would not receive at least a large portion of the blame for a Court ruling** that, for whatever reason, received the attention of the public.

**Specifically true in context of dems- our I/L**

**Calabresi, 2008**

[Massimo, TIME, 6-26, “Obama's Supreme Move to the Center Washington” Thursday, http://www.time.com/time/politics/article/0,8599,1818334,00.html]

When the Supreme Court issues rulings on hot-button issues like gun control and the death penalty in the middle of a presidential campaign, Republicans could be excused for thinking they'll have the perfect opportunity to paint their Democratic opponent as an out-of-touch social liberal. But while Barack Obama may be ranked as one of the Senate's most liberal members, his reactions to this week's controversial court decisions showed yet again how he is carefully moving to the center ahead of the fall campaign. On Wednesday, after the Supreme Court ruled that the death penalty was unconstitutional in cases of child rape, Obama surprised some observers by siding with the hardline minority of Justices Scalia, Thomas, Roberts and Alito. At a press conference after the decision, Obama said, "I think that the rape of a small child, six or eight years old, is a heinous crime and if a state makes a decision that under narrow, limited, well-defined circumstances the death penalty is at least potentially applicable, that that does not violate our Constitution." Then Thursday, after Justice Scalia released his majority opinion knocking down the city of Washington's ban on handguns, Obama said in a statement, "I have always believed that the Second Amendment protects the right of individuals to bear arms, but I also identify with the need for crime-ravaged communities to save their children from the violence that plagues our streets through common-sense, effective safety measures. The Supreme Court has now endorsed that view." John McCain's camp wasted no time in attacking, with one surrogate, conservative Senator Sam Brownback of Kansas, calling Obama's gun control statement "incredible flip-flopping." McCain advisor Randy Scheunemann was even tougher in a conference call Thursday. "What's becoming clear in this campaign," Scheunemann said, is "that for Senator Obama the most important issue in the election is the political fortunes of Senator Obama. He has demonstrated that there really is no position he holds that isn't negotiable or isn't subject to change depending on how he calculates it will affect his political fortunes." ß Marked 09:17 ß Politicians are always happy to get a chance to accuse opponents of flip-flopping, but McCain's team may be more afraid of Obama's shift to the center than their words betray. Obama has some centrist positions to highlight in the general election campaign on foreign policy and national security, social issues and economics. His position on the child rape death penalty case, for example, is in line with his record in Illinois of supporting the death penalty. He is on less solid ground on the gun ban as his campaign said during the primary that he believed the D.C. law was constitutional. A top legal adviser to Obama says both cases are consistent with his previous positions. "I don't see him as moving in his statements on the death penalty or the gun case," says Cass Sunstein, a former colleague of Obama's at the University of Chicago. Sunstein says Obama is "not easily characterized" on social issues, and says the Senator's support for allowing government use of the Ten Commandments in public, in some cases, is another example of his unpredictability on such issues. On the issue of gun control, he says Obama has always expressed a belief that the Second Amendment guarantees a private right to bear arms, as the court found Thursday. But Obama's sudden social centrism would sound more convincing in a different context. Since he wrapped up the primary earlier this month and began to concentrate on the independent and moderate swing voters so key in a general election, Obama has consistently moved to the middle. He hired centrist economist Jason Furman, known for defending the benefits of globalization and private Social Security accounts, to the displeasure of liberal economists. On Father's Day, Obama gave a speech about the problem of absentee fathers and the negative effects it has on society, in particular scolding some fathers for failing to "realize that what makes you a man is not the ability to have a child — it's the courage to raise one." Last week, after the House passed a compromise bill on domestic spying that enraged liberals and civil libertarians, Obama announced that though he was against other eavesdropping compromises in the past, this time he was going to vote for it. Whether Obama's new centrist sheen is the result of flip-flopping or reemphasizing moderate positions, the Supreme Court decisions have focused attention again on the role of the court in the campaign season. McCain himself is vulnerable to charges of using the Supreme Court for political purposes. Earlier this month, when the court granted habeas corpus rights to accused terrorist prisoners at Guantanamo Bay, McCain attacked the opinion in particularly harsh language, though advisers say closing the prison there is high on his list of actions to rehabilitate America's image around the world. Liberals are hoping that despite Obama's moderate response to the Supreme Court decisions, the issues alone will rally supporters to him. "What both of these decisions say to me is that the Supreme Court really is an election-year issue," says Kathryn Kolbert, president of People For the American Way. "We're still only one justice away from a range of really negative decisions that would take away rights that most Americans take for granted," she says. And Obama's run to the center surely won't stop conservatives from using the specter of a Democratic-appointed Supreme Court to try to rally support. "Its pretty clear that if he's elected and Justice Scalia or Kennedy retires that he's going to appoint someone who's very likely to reverse [the gun control decision]," says Eugene Volokh, a professor at the UCLA School of Law. Given how Obama has been responding to the recent Supreme Court decisions, however, you're not likely to hear him talking about appointing liberal justices much between now and November.