## Sex diff

### Alt overview

Reinterpet through lens of sexual difference- understand violence committed against material bodies doesn’t disappear because we no longer revert to moralism

2- reintroduces the question of the women into civil society- creates space for feminine subjectivity to speak

### Impact overview

#### Flight from the body constructs everything as bare life- the dematerialization of the body supports a politics of mass extermination that reifes Foucault’s underside of power- leads to mass genocide of marginalized bodies

#### AND the Phallogocentrism of the aff inflects irreparable loss on all female subjectivity

Braidotti 2011

[Braidotti, Rosi. Nomadic Subjects : Embodiment and Sexual Difference in Contemporary Feminist Theory (2nd Edition). New York, NY, USA: Columbia University Press, 2011. p 5.

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Irigaray is one of the few thinkers who places full emphasis on radical heterosexuality and the need to reconstruct a heterosexual social-symbolic contract that does not rest on feminophobia, hence not on a patriarchal social unconscious. A fully trained psychoanalyst, Irigaray denounces the delusional nature of identities postulated on the phallogocentric signifier and digs deeper than the sociological expressions of everyday sexism and culturally enforced discrimination. Her critique touches upon the in-depth roots of misogyny in a subject whose foundations rest on the rejection of the feminine from the material maternal body that constitutes our site of origin and inflicts a wound on each and every subject. At the beginning of the self, there is a separation from the totality one enjoyed as part of the mater or matrix. This causes an irreparable loss and hence an inexpressible grief. This structure of “unrepresentability” is a crucial part of psychoanalytic theories of subject formation. It rests on two key ideas: first, that the original loss of (the illusion of) totality, which translates into a wound, becomes a constitutive element of our subjectivity. One incorporates the loss, so to speak, and folds over it by deploying all possible cognitive and emotional forms of compensation. The pain of it never goes away— it just gets formatted into mourning and melancholia (Freud) or gratitude and reciprocity (Melanie Klein). Irigaray argues that the sense of originary loss has to be replaced by self-love and love for the Woman one could become.

### Link overview

Appeals to restoring a civil society in which women have always been excluded replicates the masculinist, violent state- means we continue a “Just War on Women” but feel good about ourselves because we’ve stopped using moralism to justify violence in forieng countries

#### Reformism is a pipe-dream- only by reclaiming sexual difference and overthrowing the oppressor can you solve the harms of the patriarchal system

Bunch in 1975

[Charlotte Bunch. “Lesbians in Revolt.” Published in The Furies feminist newspaper (Washington DC), January 1972; reprinted in Lesbianism and the Women's Movement, edited by Nancy Myron & Charlotte Bunch (Diana Press, 1975), pp. 29-37.]

Male society defines Lesbianism as a sexual act, which reflects men's limited view of women; they think of us only in terms of sex. They also say Lesbians are not real women, so a real woman is one who gets fucked by men. We say that a Lesbian is a woman whose sense of self and energies, including sexual energies, center around women--she is woman-identified. The woman-identified woman commits herself to other women for political, emotional, physical and economic support. Women are important to her. She is important to herself. Our society demands that commitment from women be reserved for men. The Lesbian, woman-identified woman, commits herself to women not only as an alternative to oppressive male/female relationships but primarily because she loves women. Whether consciously or not, by her actions, the Lesbian has recognized that giving support and love to men over women perpetuates the system that oppresses her. If women do not make a commitment to each other, which includes sexual love, we deny ourselves the love and value traditionally given to men. We accept our second class status. When women do give primary energies to other women, then it is possible to concentrate fully on building a movement for our liberation. Woman-identified Lesbianism is, then, more than a sexual preference, it is a political choice. It is political because relationships between men and women are essentially political, they involve power and dominance. Since the Lesbian actively rejects that relationship and chooses women, she defies the established political system. Of course, not all Lesbians are consciously woman-identified, nor are all committed to finding common solutions to the oppression they suffer as women and Lesbians. Being a Lesbian is part of challenging male supremacy, but not the end. For the Lesbian or heterosexual woman, there is no individual solution to oppression. The Lesbian may think that she is free since she escapes the personal oppression of the individual male/female relationship. But to the society she is still a woman, or worse, a visible Lesbian. On the street, at the job, in the schools, she is treated as an inferior and is at the mercy of men's power and whims. (I've never heard of a rapist who stopped because his victim was a Lesbian.) This society hates women who love women, and so, the Lesbian, who escapes male dominance in her private home, receives it doubly at the hands of male society; she is harassed, outcast, and shuttled to the bottom. Lesbians must become feminists and fight against woman oppression, just as feminists must become Lesbians if they hope to end male supremacy. U.S. society encourages individual solutions, apolitical attitudes, and reformism to keep us from political revolt and out of power. Men who rule, and male leftists who seek to rule, try to depoliticize sex and the relations between men and women in order to prevent us from acting to end our oppression and challenging their power. As the question of homosexuality has become public, reformists define it as a private question of who you sleep with in order to sidetrack our understanding of the politics of sex. For the Lesbian-Feminist, it is not private; it is a political matter of oppression, domination and power. Reformists offer solutions which make no basic changes in the system that oppresses us, solutions which keep power in the hands of the oppressor. The only way oppressed people end their oppression is by seizing power: People whose role depends on the subordination of others do not voluntarily stop oppressing others. Our subordination is the basis of male power.

### Men in Fem D/A

#### The perm is severance and demands the rejection of Roger- Men in feminism, even queer activists and theorists, cannot participate in feminism because they have not experienced the historical oppression on the basis of sex-results in metaphysical cannibalism in which men become subversive at the expense of the subjectivity of woman

Braidotti 2011

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In spite of my commitment to joyful, positive affirmation of alternative values, according to the Dionysian spirit of nomadic philosophy, there are times when a dose of resentful criticism appears as irresistible as it is necessary. Such is the case whenever I cast an ironic glance at “male-stream” poststructuralist philosophy. The question I will start of with is what is the position of men in feminism. How does the nomadic feminist look upon this issue? There is something both appealing and suspect in the notion of “men in feminism,” like many of the other contributors, my gaze lingers on the preposition “IN” wondering about the spatial dimension it throws open. Is it the battleground for the eternal war of the sexes? Is the space where bodily sexed subjectivities come to a head-on collision? I can only envisage this topic as a knot of interconnected tensions, an area of intense turmoil, a set of contradictions. Somewhere along the line, I am viscerally opposed to the whole idea: men aren’t and shouldn’t be IN feminism: the feminist space is not theirs and not for them to see. Thus the discursive game we are trying to play is either profoundly precarious or perversely provocative— or both at once. A sort of impatience awakens in me at the thought of a whole class/caste of men who are fascinated, puzzled, and intimidated by the sight of a penhandling female intelligentsia of the feminist kind. I do not know what is at stake in this for them and thus, to let my irony shine through between the lines, I am tempted to de/reform a sign and write, instead of phallic subtexts, “men in Pheminism.” Why insist on a letter, for instance? Contextual Constraints Of all Foucault ever taught me, the notion of the “materiality of ideas” has had the deepest impact. One cannot make an abstraction of the network of truth and power formations that govern the practice of one’s enunciation; ideas are sharp-edged discursive events that cannot be analyzed simply in terms of their propositional content. There is something incongruous for me to be sitting here in ethnocentric messed up Europe, thinking about “men in Pheminism.” I cannot say this is a major problem in my mind or in the context within which I am trying to live. There is something very American, in a positive sense, about this issue. The interest that American men display in feminism reflects a specific historical and cultural context: one in which feminist scholarship has made it to the cutting edge of the academic scene. This is not the case in Europe yet. As a European feminist I feel both resistant to and disenchanted with the reduction of feminism to “feminist theory” and the confining of both within academic discourse. This attitude points out a danger that the pioneers of women’s studies courses emphasized from the start: that our male “allies” may not be able to learn how to respect the material foundations, experiential bases, and hence the complexity of the issues raised by feminism. Following a century-old mental habit that Adrienne Rich (1977) analyzes so lucidly, men-in-feminism, however, cannot resist the temptation of short-circuiting this complexity. In a drive to straighten out feminist theory and practice, they streamline the feminist project in a mold. Blinded by what they have learned to recognize as “theory,” they bulldoze their way through feminism as if it were not qualitatively different from any other academic discipline. They are walking all over us. “They” are those white, middle-class male intellectuals who have “got it right” in that they have sensed where the subversive edge of feminist theory is. “They” are a very special generation of postbeat, preneoconfortyto-fifty-year-old men who have “been through” the upheavals of the 1960s and have inherited the values and the neuroses of that period. “They” are the “new men” in the “postfeminist” context of the politically reactionary 1990s. “They” are the best male friends we’ve got, and “they” are not really what we had hoped for. “They” can circle round women’s studies departments in crisis-struck arts faculties, knowing that here’s one of the few areas of the academy tht is still expanding financially with student enrollment at both undergraduate and graduate levels. “They” play the academic career game with great finesse, knowing the rule about feminist politics of locations and yet ignoring it. “They” know that feminist theory is the last bastion of constructive radical thought amidst the ruins of the postmodern gloom. “They” are conscious of the fact that the debate about modernity and beyond is coextensive with the woman question. Some of them are gay theorists and activists whose political sensibility may be the closest to feminist concerns. Next are heterosexual “ladies men,” whose preoccupation with the feminine shines for its ambiguity. What the heterosexual men are lacking intellectually— the peculiar blindness to sexual difference for which the term sexism is an inadequate assessment— is a reflection on their position in history. The politics of location is just not part of their genealogical legacy. They have not inherited a world of oppression and exclusion based on their sexed corporal being; they do not have the lived experience of oppression because of their sex. Thus most of them fail to grasp the specificity of feminism in terms of its articulation of theory and practice, of thought and life. Maybe they have no alternative. It must be very uncomfortable to be a male, white, middle-class, heterosexual intellectual at a time in history when so many minorities and oppressed groups are speaking up for themselves; a time when the hegemony of the white knowing subject is crumbling. Lacking the historical experience of oppression on the basis of sex, they paradoxically lack a minus. Lacking the lack, they cannot participate in the great ferment of ideas that is shaking up Western culture: it must be very painful, indeed, to have no option other than being the empirical referent of the historical oppressor of women, asked to account for his atrocities. The problem, in my perspective, is that the exclusion of women and the denigration of the feminine— or of blackness— are not just a small omission that can be fixed with a little good will. Rather, they point to the underlying theme in the textual and historical continuity of masculine self-legitimation and ideal self-projection (Lloyd 1985; Benjamin 1980). It’s on the woman’s body— on her absence, her silence, her disqualification— that phallocentric discourse rests. This sort of “metaphysical cannibalism,” which Ti-Grace Atkinson (1974) analyzed in terms of uterus envy, positions the woman as the silent groundwork of male subjectivity— the condition of possibility for his story. Psychoanalytic theory, of the Freudian or the Lacanian brand, circles around the question of origins— the mother’s body— by elucidating the psychic mechanisms that make the paternal presence, the father’s body, necessary as a figure of authority over her. Following Luce Irigaray, I see psychoanalysis as a patriarchal discourse that apologizes for and provides a political anatomy of metaphysical canni­ balism: the silencing of the powerfulness of the feminine (potentia). Refusing to dissociate the discourse about the feminine, the maternal, from the historical realities of the condition and status of women in Western culture, Irigaray equates the metaphorization of women (the feminine, the maternal) with their victimization or historical oppression. One does not become a member of the dark continent, one is born into it. The question is how to transform this century-old silence into a presence of women as subjects in every aspect of existence. I am sure “they” know this, don’t “they”?

## XO

### 1NC: Hegemony

#### Restricting Obama’s war powers destroys American credibility abroad

Bolton 2011

[John R. Bolt a former U.S. ambassador to the United Nations, is a senior fellow at the American Enterprise Institute, 2011, BOLTON: War-powers crisis, <http://www.washingtontimes.com/news/2011/jun/6/war-powers-crisis-866092872/>, uwyo//amp]

Certainly, Mr. Obama has ignored the War Powers Act, but so have all his predecessors since its enactment, and rightly so, given the statute’s manifest unconstitutionality. Undoubtedly, Mr. Obama’s approach in Libya has grown increasingly incoherent even as NATO slowly comes closer to achieving the one legitimate U.S. national security interest involved: overthrowing Col. Moammar Gadhafi. But what was most disturbing in the legislative maneuvering before Friday’s vote - and vastly underreported by the media - was the near total absence of Mr. Obama and his White House staff from the political field of battle. Not only is the president unable to conceal his general disinterest in national security policy, but neither could he be bothered to exercise leadership within his own party at a critical moment. Observers across the political spectrum concurred that the proposal offered by Rep. Dennis J. Kucinich, Ohio Democrat, harshly criticizing Mr. Obama’s handling of Libya was very likely to pass the House. To the growing dismay of the Republican House leadership, Mr. Kucinich was gathering support from an unusual coalition of members dissatisfied with the president’s Libya policy, questioning its underlying objectives, its absence of an intelligible American strategy and its flawed implementation. Some Republicans disagreed with the Libya intervention, and others sought to show that the disarray in Mr. Obama’s Libya strategy demonstrated his general foreign-policy ineptitude. But the more fundamental problem was that House Democrats were defecting in droves from the White House, which was doing little or nothing to bring them back into line to support their president. While passage of the Kucinich amendment would have had no operational effect because it surely would have died in the Senate, the political signal internationally would have been debilitating. Washington’s credibility and staying power would have been called immediately into question, and not just in Libya, but in Afghanistan, Iraq and elsewhere. That may be precisely what many congressional Democrats, increasingly vocal in their opposition to the war in Afghanistan, intended.House Speaker John A. Boehner recognized the national security implications of a Kucinich victory. To head it off, Mr. Boehner crafted an alternative amendment, highly critical of Mr. Obama’s actions in Libya, to be sure, but not a text that would call into question U.S. resolve in Libya or elsewhere. Mr. Boehner’s holding action succeeded, thus buying time for the administration to get its act together on Libya. Nonetheless, Mr. Kucinich’s near success has already caused significant damage. Mr. Obama’s incoherence on Libya exemplifies the failed approach to national security issues characterizing his administration from the outset. First, Mr. Obama’s objectives in Libya have been unclear and contradictory, and they have shifted over time. He started by declaring that the use of force was to protect Libyan civilians - not to topple Col. Gadhafi. Today, however, the obvious military objective is the removal of the Libyan leader but, apparently, not to admit it publicly, and to accomplish it slowly and ineffectively. Had Col. Gadhafi’s downfall been the initial, unambiguous objective and had Mr. Obama moved swiftly and decisively, our intervention likely would have been concluded successfully by now and we could be working to secure a pro-Western successor regime. Second, Mr. Obama’s aversion to U.S. leadership and his decision to retreat behind the facade of NATO and the U.N. Security Council was clearly mistaken. No one was fooled about America’s continuing central role militarily, but the charade has impeded finishing the job. Mr. Obama’s weakness and indecisiveness continue to risk having Libya descend into anarchy or split into two states and undercut our credibility and commitment elsewhere.

#### And, weak Obama risks global wars. One test of resolve will open the floodgates

Hanson 09 – Senior Fellow in Residence in Classics and Military History @ Hoover Institution, Stanford University [Dr. Victor Davis Hanson, “Change, Weakness, Disaster, Obama: Answers from Victor Davis Hanson,” Interview with the Oregon Patriots, Resistnet.com, December 7, 2009 at 3:52pm, pg.http://www.resistnet.com/group/oregon/forum/topics/change-weakness-disaster-obama/showLastReply.]

BC: Are we currently sending a message of weakness to our foes and allies? Can anything good result from President Obama’s marked submissiveness before the world? Dr. Hanson: Obama is one bow and one apology away from a circus. The world can understand a kowtow gaffe to some Saudi royals, but not as part of a deliberate pattern. Ditto the mea culpas. Much of diplomacy rests on public perceptions, however trivial. We are now in a great waiting game, as regional hegemons, wishing to redraw the existing landscape — whether China, Venezuela, Iran, North Korea, Pakistan, Syria, etc. — are just waiting to see who’s going to be the first to try Obama — and whether Obama really will be as tenuous as they expect. If he slips once, it will be 1979 redux, when we saw the rise of radical Islam, the Iranian hostage mess, the communist inroads in Central America, the Soviet invasion of Afghanistan, etc. BC: With what country then — Venezuela, Russia, Iran, etc. — do you believe his global repositioning will cause the most damage? Dr. Hanson: I think all three. I would expect, in the next three years, Iran to get the bomb and begin to threaten ever so insidiously its Gulf neighborhood; Venezuela will probably cook up some scheme to do a punitive border raid into Colombia to apprise South America that U.S. friendship and values are liabilities; and Russia will continue its energy bullying of Eastern Europe, while insidiously pressuring autonomous former republics to get back in line with some sort of new Russian autocratic commonwealth. There’s an outside shot that North Korea might do something really stupid near the 38th parallel and China will ratchet up the pressure on Taiwan. India’s borders with both Pakistan and China will heat up. I think we got off the back of the tiger and now no one quite knows whom it will bite or when.

### 2NC: Solvency Wall

#### Solves 100% of the aff- rejects uses of Just War theory in targeted killing decisions- means to get targeted killing done must reject moralism lens, solves all of your Schmitt impacts

#### No reason why supreme court is key

#### 2NC CP: The President of the United States should self-restrain his authority to conduct targeted killing justified through Just War Theory.

#### Intra-executive review solves independence, accountability, public scrutiny/transparency

Radsan & Murphy 2010

[Richard Murphy is the AT&T Professor of Law, Texas Tech University School of Law. Afsheen John Radsan is a Professor, William Mitchell College of Law. He was assistant general counsel at the Central Intelligence Agency from 2002-2004., MEASURE TWICE, SHOOT ONCE: HIGHER CARE FOR CIA TARGETED KILLINGhttp://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1625829, uwyo//amp]

The CIA’s Inspector General (IG) is charged with investigating the legality of CIA actions.182 He or she is experienced with protecting classified information. His or her independence is protected by a statute that permits only the president to remove the IG.183 And he or she has a dual reporting line to the CIA Director and to the congressional oversight committees.184 The CIA’s IG is thus our preferred candidate. The CIA’s IG should review all the CIA’s targeted killings for reasoned decision making. Based on this review, an IG could recommend internal discipline, compensation to unwarranted victims of a strike, or, in an extreme case of abuse, referral to the Department of Justice for criminal proceedings. The IG should also be involved in reviewing the CIA’s internal procedures on target selection and execution of attacks. IG’s due process, so to speak, substitutes for what otherwise might come from the courts. To enhance accountability, the IG could prepare public reports detailing as much information on strikes as reasonably consonant with national security. Such reports would need to balance the interests of accountability against the CIA’s need to enable foreign governments to keep their role in assisting U.S. intelligence a secret. They would also need to avoid excessive revelations of sensitive sources and methods. Given the limited number of CIA strikes, the dangers this program poses to peaceful civilians now and in the future, and the extensive data concerning each strike, it is feasible for the IG to conduct an investigation of all CIA drone strikes. These investigations will not guarantee perfection. Nothing can. But they will help ensure the accuracy and the legality of strikes, curb abuses, and provide a modicum of accountability for a shadow war. Because they are feasible under the laws of war, IHL requires them.

### AT: Targ Killing Signal F/L

#### First, Allies only perceive Obama’s actions on drones-want to preserve broad executive power while setting international drone standards

The Economist 2013

[The Economist, June 21st, 2013, Out of the shadows, http://www.economist.com/news/united-states/21578689-barack-obamas-rules-drones-could-shape-new-global-laws-war-out-shadows, uwyo//amp]

WHEN it comes to lethal drone strikes against foreign targets, America’s government and Congress should be aware that “what is sauce for the goose is sauce for the gander”, says John Bellinger, for eight years a government lawyer charged with explaining George W. Bush’s global war on terror to allies. China and Russia are just two of the powers that may soon launch their own fleets of unmanned aircraft against suspected foes. It is not too far-fetched to imagine a near future in which a Russian drone targets a Chechen radical based in neighbouring Georgia, say, who appears immune from capture while apparently plotting an imminent strike on Russian targets. Experts such as Mr Bellinger have warned Congress in public hearings that unless America sets clear, internationally accepted rules for its own drone strikes, it can hardly condemn Russian or Chinese aerial killings with any credibility. Such advice has been echoed, privately, by diplomats from some of America’s closest partners, who fret about the legal underpinnings of Barack Obama’s war on terror. A few phrases passed by Congress days after the September 11th 2001 attacks give the president broad war-making powers in the name of self-defence. But such allies are worried not just about Mr Obama’s ability to stare down alarming, fast-rising powers such as China. The other reason why they want him to lead America back onto higher moral ground is that they fear for their own reputations, if they lend help to drone attacks. Even supportive governments face some hard choices about passing intelligence to America, when the ensuing drone strikes may leave spooks and spymasters facing public anger and even lawsuits

#### Second, unilateralism key

The Economist 2013

[The Economist, June 21st, 2013, Out of the shadows, http://www.economist.com/news/united-states/21578689-barack-obamas-rules-drones-could-shape-new-global-laws-war-out-shadows, uwyo//amp]

Mr Obama left himself wriggle-room, for example over how an imminent threat should be defined. Much damage has already been done to America’s diplomatic standing worldwide and to its image among Muslims. But if, by binding America unilaterally to higher standards, Mr Obama helps set norms for other countries as they acquire drones, that would be something. Such example-setting is a slow process, says Mr Bellinger, but “this is how customary international law is made”. Mr Obama had several aims, says Benjamin Rhodes, a deputy national security adviser who wrote the president’s speech. Since the war on terror has lasted for so long and shows no sign of ending, it was time to “bring in” the American public by explaining the rules for drones, he says. The swift spread of technology also provided a spur. Other countries will soon have killer drones. Only if America can describe the international legal framework for its own strikes with “specificity” will it be able to shape the new laws of war.

#### Third, Executive action, not congressional *inaction,* is what is setting the international precedent on executive war powers-drones prove

Roberts 2013

[Kristin Roberts, News editor, March 22nd, 2013, When the Whole World Has Drones, <http://www.nationaljournal.com/magazine/when-the-whole-world-has-drones-20130321>, uwyo//amp]

America, the world’s leading democracy and a country built on a legal and moral framework unlike any other, has adopted a war-making process that too often bypasses its traditional, regimented, and rigorously overseen military in favor of a secret program never publicly discussed, based on legal advice never properly vetted. The Obama administration has used its executive power to refuse or outright ignore requests by congressional overseers, and it has resisted monitoring by federal courts. To implement this covert program, the administration has adopted a tool that lowers the threshold for lethal force by reducing the cost and risk of combat. This still-expanding counterterrorism use of drones to kill people, including its own citizens, outside of traditionally defined battlefields and established protocols for warfare, has given friends and foes a green light to employ these aircraft in extraterritorial operations that could not only affect relations between the nation-states involved but also destabilize entire regions and potentially upset geopolitical order. “I don’t think there is enough transparency and justification so that we remove not the secrecy, but the mystery of these things.”—Dennis Blair, former director of national intelligence Hyperbole? Consider this: Iran, with the approval of Damascus, carries out a lethal strike on anti-Syrian forces inside Syria; Russia picks off militants tampering with oil and gas lines in Ukraine or Georgia; Turkey arms a U.S.-provided Predator to kill Kurdish militants in northern Iraq who it believes are planning attacks along the border. Label the targets as terrorists, and in each case, Tehran, Moscow, and Ankara may point toward Washington and say, we learned it by watching you. In Pakistan, Yemen, and Afghanistan. This is the unintended consequence of American drone warfare. For all of the attention paid to the drone program in recent weeks—about Americans on the target list (there are none at this writing) and the executive branch’s legal authority to kill by drone outside war zones (thin, by officials’ own private admission)—what goes undiscussed is Washington’s deliberate failure to establish clear and demonstrable rules for itself that would at minimum create a globally relevant standard for delineating between legitimate and rogue uses of one of the most awesome military robotics capabilities of this generation.

#### Fourth, Exec action helps later overcome legislative obstacles- means CP solves all of the aff

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.

### AT: Perm F/L

#### First, perm links to the Net Benefit-

#### And there’s a Prez Powers d/a-

#### Presidential power is zero-sum- the branches compete

Barilleaux and Kelley 2010 [Ryan J. , Professor of Political Science at Miami, OH; and Christopher S. , Lecturer (Political Science) at Miami, OH, The Unitary Executive and the Modern Presidency, Texas A&M Press, p. P 196-197, 2010// wyo-sc]

In their book *The Broken Branch,* Mann and Ornstein paint a different view. They discuss a wider range of public policy areas than just uses of force. Their argument is that although party is important as a conditioning factor for times when Congress might try to restrain an aggressive or noncompliant executive, there has also been a broader degrading of institutional power that has allowed, in a zero-sum context, the president to expand executive power at the expense of Congress. Mann and Ornstein thus posit that congressional willingness to subordinate its collective power to that of the president has occurred across domestic politics and foreign affairs. They argue that a variety of factors are at fault for this trend, including the loss of institutional identity, the willingness to abdicate responsibility to the president, the demise of "regular order," and most importantly that Congress has lost its one key advantage as a legislative body—the decay of the deliberative process. Thus, they do recognize that party politics has played an important role in the degrading of congressional power, but they see a larger dynamic at work, one that reaches beyond partisanship. While we agree with Howell and Pevehouse that Congress retains important mechanisms for constraining the president, we tend to agree with the Mann and Ornstein view that there has been a significant and sustained decline in Congress's willingness to use these mechanisms to challenge presidential power. This tendency has been more prevalent in foreign affairs but has occurred noticeably across the spectrum of public policy issues. Building from both of those perspectives, and others, we argue that it is helpful to understand the pattern of congressional complicity in the rise of presidential power by viewing Congress's aiding and abetting as the logical outcomes of a collective action problem.31 By constitutional design, the legislative branch is in competition with the president for institutional power, yet Congress is less than ideally suited for such a political conflict. Congress's comparative disadvantage begins with its 535 "interests" that are very rarely aligned, and if so, only momentarily. Because individual reelection overshadows all other goals, members of Congress naturally seek to take as much credit and avoid as much blame from their constituencies as possible.32 The dilemma this creates for members is how to use or delegate its collective powers in order to maximize credit and minimize blame in the making of public policy. Congress can choose to delegate power internally to committees and party leaders or externally to the executive branch. One can conceptualize the strategic situation of members of Congress in terms of a prisoner's dilemma.33 If members cooperate (that is, in Mann and Ornstein's parlance, if members identify with the institution), they could maintain and advance Congress's institutional power. But they would have to bypass some potential individual payoffs that could come from defection, such as "running against Congress" as an electoral strategy. A stronger institution should make all members of Congress better off, but it also makes them responsible for policymaking. If members defect from the institution, they thus seek to maximize constituency interests either by simply allowing power to fall by the wayside or by simply delegating it to the president. As more and more members choose to defect over time, the "public good" of a strong Congress is not provided for or maintained—and Congress's institutional authority erodes and presidential power fills in the gap. Why, in other words, is congressional activism so often "less than meets the eye," as Barbara Hinckley maintained in her book by that title? Or why has the ''culture of deference" that Stephen Weissman identified developed as it has?34 We argue that the collective action problem that exists in Congress leads to the development of these trends away from meaningful congressional stewardship of foreign policy and spending.

#### Strong president key to solve wars and avoid existential threats- Congressional deliberation takes too long, relies on inexpert advice, and divulges too much sensitive information

Weinberger 09

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When the president wants to take, pursuant to his powers as commander-in-chief of the armed forces, an action that is inherently legislative in nature, he must have explicit permission from "an Act of Congress or from the Constitution itself."24 Since, as Justice Black notes, the Constitution refutes the idea that the president can have legislative powers, the permission must come from an Act of Congress. Without such permission, a president is not allowed to seize steel mills to ensure that the supply of war-essential materiel is not threatened, conduct warrantless wiretapping of American citizens, indefinitely detain without challenge those suspected of involvement in international terrorist organizations, or change the rules governing the procedures for military commissions. In wartime, however, it may be neither expedient nor strategically sound for the president to be forced to come before Congress for permission for each and every legislative action deemed necessary for the war effort. Circumstances in war are fluid and unpredictable, and legislation passed at one time may quickly become irrelevant or obsolete. The deliberation and compromise that are the hallmarks of congressional legislation may be ill-suited to war, which demands swift and decisive action to keep on top of rapidly shifting military situations. As one scholar puts it, "Congress at war is not a pretty sight. The legislative branch can be questioning and judgmental, impatient for victories yet free with inexpert advice, slow to provide the men and material for combat, reluctant to vote the taxes needed to pay for the war, critical of generals, and careless with secrets."25 In times in which the country faces an existential, or otherwise exceedingly dangerous, threat, it may not behoove the president, the military, or the nation as a whole to require the president to ask Congress time and time again to enact laws to advance the war effort.

#### Self-binding is independently enforceable by the courts but gives the prez the flex to repeal the order if necessary

Posner and Vermeule 2010 [Eric A. , Professor of Law at the University of Chicago Law School and Editor of The Journal of Legal Studies; Adrian , Harvard Law Professor, The Executive Unbound: After the Madisonian Republic, Oxford Press, p. 138-139//wyo-sc]

Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding.59 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is "yes, at least to the same extent that a legislature can." Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo.60 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies. More schematically, we may speak of formal and informal means of selfbinding: 1. The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so. 2. The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding.61 However, there may be political costs to repealing the order. This effect does not depend on the courts' willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so too the repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it. In what follows, we will invoke both formal and informal mechanisms. For our purposes, the distinction between the authority to engage in de jure self-binding (legally limited and well-defined) and the power to engage in de facto self-binding (broad and amorphous) is secondary. So long as policies are deliberately chosen with a view to generating credibility, and do so by constraining the president’s own future choices in ways that impose greater costs on ill-motivated presidents than on well-motivated ones, it does not matter whether the constraint is formal or informal.

### Zero sum

**Undermines the tradition of deference – immersing the court deeper and deeper into national security judgments** (Also in 2NC No Solvency – Rubber Stamp)

**Benson 13**

[Benson, Pam: CNN national security producer who focuses on intelligence and counterterrorism. "Drone court considered." *CNN*. CNN, 9 Feb 2013. Web. 31 Aug 2013. <http://security.blogs.cnn.com/2013/02/09/legislators-consider-new-court-to-oversee-drone-strike-decisions/>. //Wyo-BF]

University of Texas law professor Robert **Chesney** wrote on Lawfare Blog that the **question** should be "**whether there ought to be judicial review of some kind in connection with the nomination process pursuant to which particular person may be pre-cleared for the possibility of using lethal force, a decision made long in advance of an actual attack decision."** However, **Chesney raised the issue of whether such a system would be constitutional, especially if it went beyond just considering American citizens. Powell questioned whether any court would even accept the role, saying "it would immerse the court deeper and deeper into national security judgments."** At a recent American Bar Association panel discussion, **retired federal Judge James Robertson said he would want no part of such a role.** "**That's not the business of judges to decide without any adversary party to sign a death warrant for somebody who is on foreign soil, for anybody, but certainly not for an American citizen on foreign soil**," Robertson said. **Chesney said proponents of the court should think twice if they expect judges will ever rule against a government decision to target a particular person.** "**Judges famously tend to defer to the executive branch when it comes to factual judgments on matters of military or national security significance**," Chesney said. "**Especially when the stakes are as high as they will be represented to be in such cases.**" At Brennan's confirmation hearing, Sen. Angus King, an independent from Maine, argued for establishing a new court, saying **the president should not be the "prosecutor, the judge, the jury and the executioner.**" Brennan told King such **a court was "worthy of discussion," but** added: "**The commander in chief and the chief executive has the responsibility to protect the welfare, the well being of American citizens" from terrorist attacks.**