# Aff Round 7 UMKC

## 1AC

#### Same as round 2.

## 2AC

### Executive Restraint CP

#### Permutation do both. Solves the net benefit <insert explanation>.

#### Links to politics – immense opposition to bypassing debate

Hallowell 13

(Billy Hallowell, writer for The Blaze, B.A. in journalism and broadcasting from the College of Mount Saint Vincent in Riverdale, New York and an M.S. in social research from Hunter College in Manhattan, “HERE’S HOW OBAMA IS USING EXECUTIVE POWER TO BYPASS LEGISLATIVE PROCESS” Feb. 11, 2013, <http://www.theblaze.com/stories/2013/02/11/heres-how-obamas-using-executive-power-to-bylass-legislative-process-plus-a-brief-history-of-executive-orders/>, KB)

“In an era of polarized parties and a fragmented Congress, the opportunities to legislate are few and far between,” Howell said. “So presidents have powerful incentive to go it alone. And they do.”¶ And the political opposition howls.¶ Sen. Marco Rubio, R-Fla., a possible contender for the Republican presidential nomination in 2016, said that on the gun-control front in particular, Obama is “abusing his power by imposing his policies via executive fiat instead of allowing them to be debated in Congress.”¶ The Republican reaction is to be expected, said John Woolley, co-director of the American Presidency Project at the University of California in Santa Barbara.¶ “For years there has been a growing concern about unchecked executive power,” Woolley said. “It tends to have a partisan content, with contemporary complaints coming from the incumbent president’s opponents.”

#### CP can’t solve

#### Court Creation DA – The executive cannot create a national security court, only Congress is vested with this power.

Schuck, Lecturer at Yale Law School, ‘4

[Peter, “Terrorism Cases Demand New Hybrid Courts”, LA Times, 7-9-2004,

<http://articles.latimes.com/2004/jul/09/opinion/oe-schuck9>, RSR]

The Supreme Court in its recent rulings has given U.S. citizens who are captives in the war on terror, as well as noncitizen Guantanamo detainees, the right to hearings. Now comes the hard part: what kinds of hearings, in what courts, by what process?¶ The court wisely refrained from answering these questions in detail. Arguments on the specifics had not been presented to the court, and the limited guidance that the justices did offer was more intuitive than analytical. Wisdom aside, this sort of self-restraint is constitutionally required: Article 1, Section 8, Clause 14 gives Congress -- not the judicial or the executive branch -- the authority to make rules for the armed forces, including the initial design of hearings for the prisoners.

#### Rollback DA - Congress and the courts will roll back the CP. Empirically proven when Obama tried to shut down Guantanamo.

Howell 5

(William G. Howell, Associate Prof Gov Dep @ Harvard 2005 (Unilateral Powers: A Brief¶ Overview; Presidential Studies Quarterly, Vol. 35, Issue: 3, Pg 417)

Plainly, presidents cannot institute every aspect of their policy agenda by decree. The checks and balances that define our system of governance are alive, though not always well, when presidents contemplate unilateral action. Should the president proceed without statutory or constitutional authority, the courts stand to overturn his actions, just as Congress can amend them, cut funding for their operations, or eliminate them outright. (4) Even in those moments when presidential power reaches its zenith--namely, during times of national crisis--judicial and congressional prerogatives may be asserted (Howell and Pevehouse 2005, forthcoming; Kriner, forthcoming; Lindsay 1995, 2003; and see Fisher's contribution to this volume). In 2004, as the nation braced itself for another domestic terrorist attack and images of car bombings and suicide missions filled the evening news, the courts extended new protections to citizens deemed enemy combatants by the president, (5) as well as noncitizens held in protective custody abroad. (6) And while Congress, as of this writing, continues to authorize as much funding for the Iraq occupation as Bush requests, members have imposed increasing numbers of restrictions on how the money is to be spent.

#### Credibility DA - Multiple branch involvement is key to credibility, meaning only the plan can solve our internal links.

Wittes and Gitenstein, ‘7

[Benjamin (Senior Fellow in Governance Studies at the Brookings Institution, where he is the Research Director in Public Law, and Co-Director of the Harvard Law School - Brookings Project on Law and Security) and Mark (non-resident senior fellow at the Brookings Institution), “A Legal Framework for Detaining Terrorists: Enact a Law to End the Clash over Rights”, Opportunity 8, The Brookings Institution, RSR]

The paradox is that, precisely because terrorists flout the rules of warfare and make ¶ themselves harder to distinguish from civilians when captured, they necessitate a level ¶ of due process that conventional forces, which make no secret of their status as ¶ belligerents, do not require. The question is what sort of process might identify these ¶ unlawful combatants accurately and with public credibility. The Geneva ¶ Conventions require only that, in cases of doubt, all individuals receive review by a ¶ “competent tribunal”— historically, cursory field panels that provide few procedural ¶ protections. But such panels are a bad fit with the war on terrorism. In many of ¶ these cases, the factual issues are too complicated, the lines between civilian and ¶ combatant too hazy, the duration of the conflict too uncertain, and the consequences ¶ to the liberty of individuals too vast. ¶ Congress therefore needs to create new statutory procedures for handling “unlawful ¶ enemy combatants” of the Guantanamo type. The procedures must not be subject to ¶ the whim of the executive. Instead, they should be blessed by all three branches of ¶ government, reflecting the unified will of the American political system. These ¶ processes need not include all the protections of a criminal trial. But, they need to be considerably more robust than the process applied to prisoners in a conventional ¶ military conflict or the process applied to detainees today at Guantanamo.

#### Status quo detention policy violates separation of powers – plan solves by reinstituting judicial review.

Chemerinsky, Alston & Bird Professor of Law, Duke University School of Law, ‘5

[Erwin, “Enemy Combatants and Separation of Powers”, Journal of National Security Law and Policy, Vol. 1, 2005, RSR]

From the perspective of these cases, the President’s action in detaining¶ individuals as enemy combatants violates the separation of powers because¶ it prevents the judiciary from carrying out its essential function of hearing the¶ claims of individuals who contend that they are being wrongly detained.¶ These claims go to the very heart of the judicial role as it was defined in¶ Marbury v. Madison more than 200 years ago.49 In Marbury, the Supreme¶ Court stressed that we are a nation of laws, and that no one, not even the¶ President, is above the law. Marbury unequivocally held that it is the power¶ and duty of the federal judiciary to provide a remedy, even against the¶ Executive, when rights of individuals are violated. Chief Justice John¶ Marshall emphatically declared that “[t]he very essence of civil liberty¶ certainly consists in the right of every individual to claim the protection of the¶ laws, whenever he receives an injury.”50¶ Put another way, the system of checks and balances in the Constitution¶ requires that two branches of government concur for almost every major form¶ of government action. Enacting a law generally requires both legislative and¶ executive action. Putting a person in prison requires executive prosecution¶ and judicial conviction. The fundamental flaw in the Bush administration’s¶ claim of unreviewable authority to detain enemy combatants is that it¶ obliterates any notion of checks and balances.

**Strong separation of powers key to heg**

**Ikenberry 1** (G. John, Professor @ Georgetown University, Spring, The National Interest)

First, **America's mature political institutions organized around the rule of law have made it a relatively predictable and cooperative hegemon. The pluralistic and regularized way in which U.S. foreign and security policy is made reduces surprises and allows other states to build long-term, mutually beneficial relations. The governmental separation of powers creates a shared decision-making system that opens up the process and reduces the ability of any one leader to make abrupt or aggressive moves toward other states**. An active press and competitive party system also provide a service to outside states by generating information about U.S. policy and determining its seriousness of purpose. **The messiness of a democracy can**, indeed, **frustrate American diplomats and confuse foreign observers. But over the long term, democratic institutions produce more consistent and credible policies--policies that do not reflect the capricious and idiosyncratic whims of an autocrat**. Think of the United States as a giant corporation that seeks foreign investors. It is more likely to attract investors if it can demonstrate that it operates according to accepted accounting and fiduciary principles. The rule of law and the institutions of policymaking in a democracy are the political equivalent of corporate transparency and accountability. Sharp shifts in policy must ultimately be vetted within the policy process and pass muster by an array of investigatory and decision-making bodies. **Because it is a constitutional, rule-based democracy, outside states are more willing to work with the U**nited **S**tates-or, to return to the corporate metaphor, to invest in ongoing partnerships.

#### Heg solves nuclear war.

Barnett 11 (Thomas P.M., Former Senior Strategic Researcher and Professor in the Warfare Analysis & Research Department, Center for Naval Warfare Studies, U.S. Naval War College American military geostrategist and Chief Analyst at Wikistrat., worked as the Assistant for Strategic Futures in the Office of Force Transformation in the Department of Defense, “The New Rules: Leadership Fatigue Puts U.S., and Globalization, at Crossroads,” March 7 <http://www.worldpoliticsreview.com/articles/8099/the-new-rules-leadership-fatigue-puts-u-s-and-globalization-at-crossroads>)

Events in Libya are a further reminder for Americans that we stand at a crossroads in our continuing evolution as the world's sole full-service superpower. Unfortunately, we are increasingly seeking change without cost, and shirking from risk because we are tired of the responsibility. We don't know who we are anymore, and our president is a big part of that problem. Instead of leading us, he explains to us. Barack Obama would have us believe that he is practicing strategic patience. But many experts and ordinary citizens alike have concluded that he is actually beset by strategic incoherence -- in effect, a man overmatched by the job. It is worth first examining the larger picture: We live in a time of arguably the greatest structural change in the global order yet endured, with this historical moment's most amazing feature being its relative and absolute lack of mass violence. That is something to consider when Americans contemplate military intervention in Libya, because if we do take the step to prevent larger-scale killing by engaging in some killing of our own, we will not be adding to some fantastically imagined global death count stemming from the ongoing "megalomania" and "evil" of American "empire." We'll be engaging in the same sort of system-administering activity that has marked our stunningly successful stewardship of global order since World War II. Let me be more blunt: As the guardian of globalization, the U.S. military has been the greatest force for peace the world has ever known. Had America been removed from the global dynamics that governed the 20th century, the mass murder never would have ended. Indeed, it's entirely conceivable there would now be no identifiable human civilization left, once nuclear weapons entered the killing equation. But the world did not keep sliding down that path of perpetual war. Instead, America stepped up and changed everything by ushering in our now-perpetual great-power peace. We introduced the international liberal trade order known as globalization and played loyal Leviathan over its spread. What resulted was the collapse of empires, an explosion of democracy, the persistent spread of human rights, the liberation of women, the doubling of life expectancy, a roughly 10-fold increase in adjusted global GDP and a profound and persistent reduction in battle deaths from state-based conflicts. That is what American "hubris" actually delivered. Please remember that the next time some TV pundit sells you the image of "unbridled" American military power as the cause of global disorder instead of its cure. With self-deprecation bordering on self-loathing, we now imagine a post-American world that is anything but. Just watch who scatters and who steps up as the Facebook revolutions erupt across the Arab world. While we might imagine ourselves the status quo power, we remain the world's most vigorously revisionist force. As for the sheer "evil" that is our military-industrial complex, again, let's examine what the world looked like before that establishment reared its ugly head. The last great period of global structural change was the first half of the 20th century, a period that saw a death toll of about 100 million across two world wars. That comes to an average of 2 million deaths a year in a world of approximately 2 billion souls. Today, with far more comprehensive worldwide reporting, researchers report an average of less than 100,000 battle deaths annually in a world fast approaching 7 billion people. Though admittedly crude, these calculations suggest a 90 percent absolute drop and a 99 percent relative drop in deaths due to war. We are clearly headed for a world order characterized by multipolarity, something the American-birthed system was designed to both encourage and accommodate. But given how things turned out the last time we collectively faced such a fluid structure, we would do well to keep U.S. power, in all of its forms, deeply embedded in the geometry to come. To continue the historical survey, after salvaging Western Europe from its half-century of civil war, the U.S. emerged as the progenitor of a new, far more just form of globalization -- one based on actual free trade rather than colonialism. America then successfully replicated globalization further in East Asia over the second half of the 20th century, setting the stage for the Pacific Century now unfolding.

### Flex DA

#### Our credibility internals solve the impact better than flexibility

Schwarz, senior counsel, and Huq, associate counsel at the Brennan Center for Justice at NYU School of Law, 2007 [Frederick A.O., Jr., partner at Cravath, Swaine & Moore, chief counsel to the Church Committee, and Aziz Z, former clerk for the U.S. Supreme Court, Unchecked and Unbalanced: Presidential Power in a Time of Terror, p. 201]

The Administration insists that its plunge into torture, its lawless spying, and its lock-up of innocents have made the country safer. Beyond mere posturing, they provide little evidence to back up their claims. Executive unilateralism not only undermines the delicate balance of our Constitution, but also lessens our human liberties and hurts vital counterterrorism campaigns. How? Our reputation has always mattered. In 1607, Massachusetts governor John Winthrop warned his fellow colonists that because they were a "City on a Hill," "the eyes of all people are upon us."4 Thomas Jefferson began the Declaration of Independence by invoking the need for a "decent respect to the opinions of mankind:' In today's battle against stateless terrorists, who are undeterred by law, morality, or the mightiest military power on earth, our reputation matters greatly.¶ Despite its military edge, the United States cannot force needed aid and cooperation from allies. Indeed, our status as lone superpower means that only by persuading other nations and their citizens—that our values and interests align with theirs, and so merit support, can America maintain its influence in the world. Military might, even extended to the globe's corners, is not a sufficient condition for achieving America's safety or its democratic ideals at home. To be "dictatress of the world," warned John Quincy Adams in 1821, America "would be no longer the ruler of her own spirit." A national security policy loosed from the bounds of law, and conducted at the executive's discretion, will unfailingly lapse into hypocrisy and mendacity that alienate our allies and corrode the vitality of the world's oldest democracy.5

#### Congress has already killed Obama’s flexibility – prevented transfer of detainees from Guantanamo.

Alexander, Frederick I. Richman Professor of Law, Stanford Law School, ‘12

[Janet, “MILITARY COMMISSIONS: A PLACE OUTSIDE THE LAW’S REACH”, SAINT LOUIS UNIVERSITY LAW JOURNAL, Vol. 56, 2012, RSR]

On the other hand, the limitations on presidential ability to prosecute ¶ detainees in federal court, release them to other countries, or transfer them to ¶ facilities within the United States for detention or to serve their sentences are ¶ contained in statutes and thus will apply regardless of who is president. These ¶ include the mandatory military detention provisions of the 2012 NDAA.260¶ Indeed, the Feinstein amendment to the 2012 NDAA, designed in part to meet ¶ objections to mandating military custody or trial of U.S. citizens, could well ¶ turn out to support that very outcome.261 The compromise, which helped to ¶ secure passage of the 2012 NDAA without a provision for mandatory military ¶ custody or trial, is worded simply to state that the statute does not change ¶ ―existing law.‖ Many argued at the time—apparently supported by a phrase in ¶ Hamdi—that existing law already permits treating U.S. citizens and permanent ¶ residents who are determined to be ―enemy combatants‖ or unprivileged ¶ belligerents exactly the same as foreign nationals, even if they are taken into ¶ custody inside the United States. If in the future the Supreme Court, the D.C. ¶ Circuit, or another federal circuit, so holds, then the trial, detention, and waiver ¶ provisions of the 2012 NDAA will apply equally to U.S. citizens.¶ Thus, because Congress has frustrated the executive branch‘s efforts to ¶ bring the treatment of suspected terrorists back to fundamental principles of the ¶ rule of law and the Obama Administration has abandoned as futile any attempt ¶ to secure legislation to make the changes permanent, the military ¶ commissions—however improved over the Bush era—remain ―outside the ¶ law‘s reach.‖¶ 262

#### Creating a fair process for detainees preserves executive flexibility – results in judicial deference.

Bauer, Junior Editor at the Alabama Law Review, ‘6

[Jay, “DETAINEES UNDER REVIEW: STRIKING THE RIGHT¶ CONSTITUTIONAL BALANCE BETWEEN THE EXECUTIVE'S¶ WAR POWERS AND JUDICIAL REVIEW”, Vol. 57, No. 4, RSR]

Establishing a detainee review process that is as transparent and fair as¶ possible may be the best way to "strik[e] the proper constitutional balance."'179 In considering the executive's concerns for national security and¶ protection of classified information, the courts have shown an ability to be¶ flexible and accommodate the special needs of the executive while preserving¶ the fundamental precepts of the Constitution. That flexibility will likely¶ come into play regardless of whether a court is reviewing a habeas petition¶ or the final decision of a tribunal under a separate statutory scheme like that¶ in the Detainee Treatment Act.¶ If a court is reviewing a non-citizen detainee's habeas claim, now that¶ the Supreme Court has established in Rasul that federal courts do have jurisdiction¶ over detainees at Guantanamo, the federal courts and habeas jurisprudence¶ may actually prove beneficial for the executive. For instance,¶ because a habeas court looks primarily to the authority and process of detention¶ in a habeas case, this Comment argues that from a practical standpoint¶ the more the executive branch establishes a solidly fair and judicial¶ process for determining detainee status, the better it would be for the executive.¶ Since the courts tend to deny habeas petitions when there is apparent¶ authority and alternative remedies available to a habeas petitioner, it is logical¶ that a full and fair process establishing those remedies for non-citizen¶ detainees is in the executive's best interest. In other words, if the executive¶ branch wants to preserve its independent control over detainees, then practically¶ speaking it could rely on history and precedence as a model. The¶ courts will defer to executive action, but only to a point. They will seek to¶ preserve the authority of the Constitution, albeit in a restrained sense considering¶ the unique nature of detaining enemy combatants in the "war on¶ terror." Habeas corpus jurisprudence teaches that as long as there is a way¶ for an independent judiciary to examine the lawfulness of executive detention,¶ or at least ensure that the detainee has an appropriate alternative remedy¶ available, then that detention will be upheld. Thus, ironically, the way¶ for the executive to retain control over detainees is to create a full and fair¶ tribunal process. Moreover, the traditional deference the judiciary pays to¶ the executive branch when it is looking at executive wartime actions or¶ judgments should also give the executive branch confidence that federal¶ court jurisdiction over detainees at Guantanamo Bay is not going to hinder¶ its execution of the "war on terror."¶ When it passed the Detainee Treatment Act, Congress intended to interject¶ congressional oversight into the detainee review process by dictating¶ the standard of evidence used, and it wanted to ensure that the procedures of¶ the CSRT are in accordance with the Constitution. 80 The passage of the Act¶ clearly shows that the executive should anticipate more, not less, assertion¶ of authority over the detainee review process by the other branches of government.¶ Although the consequences of the Act are unknown at this point in¶ time, it is also fairly clear that however the courts consider the detainee review process-whether it is through habeas litigation or under another¶ statutorily prescribed method like that of the Detainee Treatment Act-the¶ analysis will be in terms of whether that process fundamentally complies¶ with the Constitution. Thus, from just a pragmatic standpoint, it would be¶ prudent for the executive branch to ensure that the detainee review procedures¶ uphold the ideals of that great charter.¶ Consequently, creating a detainee review process as transparent and fair¶ as possible is the best option for our government and this nation as it seeks¶ to strike the right balance between executive war powers and judicial right¶ of review.

#### No prolif or cascades, and the timeframe is huge – their ev is biased

Kahl 13 – Senior Fellow at the Center for a New American Security and an associate professor in the Security Studies Program at Georgetown University’s Edmund A. Walsh School of Foreign Service (Colin H., Melissa G. Dalton, Visiting Fellow at the Center for a New American Security, Matthew Irvine, Research Associate at the Center for a New American Security, February, “If Iran Builds the Bomb, Will Saudi Arabia Be Next?” <http://www.cnas.org/files/documents/publications/CNAS_AtomicKingdom_Kahl.pdf>)

\*\*\*cites Jacques Hymans, USC Associate Professor of IR\*\*\*

I I I . LESSONS FRO M HISTOR Y Concerns over “regional proliferation chains,” “falling nuclear dominos” and “nuclear tipping points” are nothing new; indeed, reactive proliferation fears date back to the dawn of the nuclear age.14 Warnings of an inevitable deluge of proliferation were commonplace from the 1950s to the 1970s, resurfaced during the discussion of “rogue states” in the 1990s and became even more ominous after 9/11.15 In 2004, for example, Mitchell Reiss warned that “in ways both fast and slow, we may very soon be approaching a nuclear ‘tipping point,’ where many countries may decide to acquire nuclear arsenals on short notice, thereby triggering a proliferation epidemic.” Given the presumed fragility of the nuclear nonproliferation regime and the ready supply of nuclear expertise, technology and material, Reiss argued, “a single new entrant into the nuclear club could catalyze similar responses by others in the region, with the Middle East and Northeast Asia the most likely candidates.”16 Nevertheless, predictions of inevitable proliferation cascades have historically proven false (see The Proliferation Cascade Myth text box). In the six decades since atomic weapons were first developed, nuclear restraint has proven far more common than nuclear proliferation, and cases of reactive proliferation have been exceedingly rare. Moreover, most countries that have started down the nuclear path have found the road more difficult than imagined, both technologically and bureaucratically, leading the majority of nuclear-weapons aspirants to reverse course. Thus, despite frequent warnings of an unstoppable “nuclear express,”17 William Potter and Gaukhar Mukhatzhanova astutely note that the “train to date has been slow to pick up steam, has made fewer stops than anticipated, and usually has arrived much later than expected.”18 None of this means that additional proliferation in response to Iran’s nuclear ambitions is inconceivable, but the empirical record does suggest that regional chain reactions are not inevitable. Instead, only certain countries are candidates for reactive proliferation. Determining the risk that any given country in the Middle East will proliferate in response to Iranian nuclearization requires an assessment of the incentives and disincentives for acquiring a nuclear deterrent, the technical and bureaucratic constraints and the available strategic alternatives. Incentives and Disincentives to Proliferate Security considerations, status and reputational concerns and the prospect of sanctions combine to shape the incentives and disincentives for states to pursue nuclear weapons. Analysts predicting proliferation cascades tend to emphasize the incentives for reactive proliferation while ignoring or downplaying the disincentives. Yet, as it turns out, instances of nuclear proliferation (including reactive proliferation) have been so rare because going down this road often risks insecurity, reputational damage and economic costs that outweigh the potential benefits.19 Security and regime survival are especially important motivations driving state decisions to proliferate. All else being equal, if a state’s leadership believes that a nuclear deterrent is required to address an acute security challenge, proliferation is more likely.20 Countries in conflict-prone neighborhoods facing an “enduring rival”– especially countries with inferior conventional military capabilities vis-à-vis their opponents or those that face an adversary that possesses or is seeking nuclear weapons – may be particularly prone to seeking a nuclear deterrent to avert aggression.21 A recent quantitative study by Philipp Bleek, for example, found that security threats, as measured by the frequency and intensity of conventional militarized disputes, were highly correlated with decisions to launch nuclear weapons programs and eventually acquire the bomb.22 The Proliferation Cascade Myth Despite repeated warnings since the dawn of the nuclear age of an inevitable deluge of nuclear proliferation, such fears have thus far proven largely unfounded. Historically, nuclear restraint is the rule, not the exception – and the degree of restraint has actually increased over time. In the first two decades of the nuclear age, five nuclear-weapons states emerged: the United States (1945), the Soviet Union (1949), the United Kingdom (1952), France (1960) and China (1964). However, in the nearly 50 years since China developed nuclear weapons, only four additional countries have entered (and remained in) the nuclear club: Israel (allegedly in 1967), India (“peaceful” nuclear test in 1974, acquisition in late-1980s, test in 1998), Pakistan (acquisition in late-1980s, test in 1998) and North Korea (test in 2006).23 This significant slowdown in the pace of proliferation occurred despite the widespread dissemination of nuclear know-how and the fact that the number of states with the technical and industrial capability to pursue nuclear weapons programs has significantly increased over time.24 Moreover, in the past 20 years, several states have either given up their nuclear weapons (South Africa and the Soviet successor states Belarus, Kazakhstan and Ukraine) or ended their highly developed nuclear weapons programs (e.g., Argentina, Brazil and Libya).25 Indeed, by one estimate, 37 countries have pursued nuclear programs with possible weaponsrelated dimensions since 1945, yet the overwhelming number chose to abandon these activities before they produced a bomb. Over time, the number of nuclear reversals has grown while the number of states initiating programs with possible military dimensions has markedly declined.26 Furthermore – especially since the Nuclear Non-Proliferation Treaty (NPT) went into force in 1970 – reactive proliferation has been exceedingly rare. The NPT has near-universal membership among the community of nations; only India, Israel, Pakistan and North Korea currently stand outside the treaty. Yet the actual and suspected acquisition of nuclear weapons by these outliers has not triggered widespread reactive proliferation in their respective neighborhoods. Pakistan followed India into the nuclear club, and the two have engaged in a vigorous arms race, but Pakistani nuclearization did not spark additional South Asian states to acquire nuclear weapons. Similarly, the North Korean bomb did not lead South Korea, Japan or other regional states to follow suit.27 In the Middle East, no country has successfully built a nuclear weapon in the four decades since Israel allegedly built its first nuclear weapons. Egypt took initial steps toward nuclearization in the 1950s and then expanded these efforts in the late 1960s and 1970s in response to Israel’s presumed capabilities. However, Cairo then ratified the NPT in 1981 and abandoned its program.28 Libya, Iraq and Iran all pursued nuclear weapons capabilities, but only Iran’s program persists and none of these states initiated their efforts primarily as a defensive response to Israel’s presumed arsenal.29 Sometime in the 2000s, Syria also appears to have initiated nuclear activities with possible military dimensions, including construction of a covert nuclear reactor near al-Kibar, likely enabled by North Korean assistance.30 (An Israeli airstrike destroyed the facility in 2007.31) The motivations for Syria’s activities remain murky, but the nearly 40-year lag between Israel’s alleged development of the bomb and Syria’s actions suggests that reactive proliferation was not the most likely cause. Finally, even countries that start on the nuclear path have found it very difficult, and exceedingly time consuming, to reach the end. Of the 10 countries that launched nuclear weapons projects after 1970, only three (Pakistan, North Korea and South Africa) succeeded; one (Iran) remains in progress, and the rest failed or were reversed.32 The successful projects have also generally needed much more time than expected to finish. According to Jacques Hymans, the average time required to complete a nuclear weapons program has increased from seven years prior to 1970 to about 17 years after 1970, even as the hardware, knowledge and industrial base required for proliferation has expanded to more and more countries.33 Yet throughout the nuclear age, many states with potential security incentives to develop nuclear weapons have nevertheless abstained from doing so.34 Moreover, contrary to common expectations, recent statistical research shows that states with an enduring rival that possesses or is pursuing nuclear weapons are not more likely than other states to launch nuclear weapons programs or go all the way to acquiring the bomb, although they do seem more likely to explore nuclear weapons options.35 This suggests that a rival’s acquisition of nuclear weapons does not inevitably drive proliferation decisions. One reason that reactive proliferation is not an automatic response to a rival’s acquisition of nuclear arms is the fact that security calculations can cut in both directions. Nuclear weapons might deter outside threats, but leaders have to weigh these potential gains against the possibility that seeking nuclear weapons would make the country or regime less secure by triggering a regional arms race or a preventive attack by outside powers. Countries also have to consider the possibility that pursuing nuclear weapons will produce strains in strategic relationships with key allies and security patrons. If a state’s leaders conclude that their overall security would decrease by building a bomb, they are not likely to do so.36 Moreover, although security considerations are often central, they are rarely sufficient to motivate states to develop nuclear weapons. Scholars have noted the importance of other factors, most notably the perceived effects of nuclear weapons on a country’s relative status and influence.37 Empirically, the most highly motivated states seem to be those with leaders that simultaneously believe a nuclear deterrent is essential to counter an existential threat and view nuclear weapons as crucial for maintaining or enhancing their international status and influence. Leaders that see their country as naturally at odds with, and naturally equal or superior to, a threatening external foe appear to be especially prone to pursuing nuclear weapons.38 Thus, as Jacques Hymans argues, extreme levels of fear and pride often “combine to produce a very strong tendency to reach for the bomb.”39 Yet here too, leaders contemplating acquiring nuclear weapons have to balance the possible increase to their prestige and influence against the normative and reputational costs associated with violating the Nuclear Non-Proliferation Treaty (NPT). If a country’s leaders fully embrace the principles and norms embodied in the NPT, highly value positive diplomatic relations with Western countries and see membership in the “community of nations” as central to their national interests and identity, they are likely to worry that developing nuclear weapons would damage (rather than bolster) their reputation and influence, and thus they will be less likely to go for the bomb.40 In contrast, countries with regimes or ruling coalitions that embrace an ideology that rejects the Western dominated international order and prioritizes national self-reliance and autonomy from outside interference seem more inclined toward proliferation regardless of whether they are signatories to the NPT.41 Most countries appear to fall in the former category, whereas only a small number of “rogue” states fit the latter. According to one count, before the NPT went into effect, more than 40 percent of states with the economic resources to pursue nuclear programs with potential military applications did so, and very few renounced those programs. Since the inception of the nonproliferation norm in 1970, however, only 15 percent of economically capable states have started such programs, and nearly 70 percent of all states that had engaged in such activities gave them up.42 The prospect of being targeted with economic sanctions by powerful states is also likely to factor into the decisions of would-be proliferators. Although sanctions alone proved insufficient to dissuade Iraq, North Korea and (thus far) Iran from violating their nonproliferation obligations under the NPT, this does not necessarily indicate that sanctions are irrelevant. A potential proliferator’s vulnerability to sanctions must be considered. All else being equal, the more vulnerable a state’s economy is to external pressure, the less likely it is to pursue nuclear weapons. A comparison of states in East Asia and the Middle East that have pursued nuclear weapons with those that have not done so suggests that countries with economies that are highly integrated into the international economic system – especially those dominated by ruling coalitions that seek further integration – have historically been less inclined to pursue nuclear weapons than those with inward-oriented economies and ruling coalitions.43 A state’s vulnerability to sanctions matters, but so too does the leadership’s assessment regarding the probability that outside powers would actually be willing to impose sanctions. Some would-be proliferators can be easily sanctioned because their exclusion from international economic transactions creates few downsides for sanctioning states. In other instances, however, a state may be so vital to outside powers – economically or geopolitically – that it is unlikely to be sanctioned regardless of NPT violations. Technical and Bureaucratic Constraints In addition to motivation to pursue the bomb, a state must have the technical and bureaucratic wherewithal to do so. This capability is partly a function of wealth. Richer and more industrialized states can develop nuclear weapons more easily than poorer and less industrial ones can; although as Pakistan and North Korea demonstrate, cash-strapped states can sometimes succeed in developing nuclear weapons if they are willing to make enormous sacrifices.44 A country’s technical know-how and the sophistication of its civilian nuclear program also help determine the ease and speed with which it can potentially pursue the bomb. The existence of uranium deposits and related mining activity, civilian nuclear power plants, nuclear research reactors and laboratories and a large cadre of scientists and engineers trained in relevant areas of chemistry and nuclear physics may give a country some “latent” capability to eventually produce nuclear weapons. Mastery of the fuel-cycle – the ability to enrich uranium or produce, separate and reprocess plutonium – is particularly important because this is the essential pathway whereby states can indigenously produce the fissile material required to make a nuclear explosive device.45 States must also possess the bureaucratic capacity and managerial culture to successfully complete a nuclear weapons program. Hymans convincingly argues that many recent would-be proliferators have weak state institutions that permit, or even encourage, rulers to take a coercive, authoritarian management approach to their nuclear programs. This approach, in turn, politicizes and ultimately undermines nuclear projects by gutting the autonomy and professionalism of the very scientists, experts and organizations needed to successfully build the bomb.46 Alternative Sources of Nuclear Deterrence Historically, the availability of credible security guarantees by outside nuclear powers has provided a potential alternative means for acquiring a nuclear deterrent without many of the risks and costs associated with developing an indigenous nuclear weapons capability. As Bruno Tertrais argues, nearly all the states that developed nuclear weapons since 1949 either lacked a strong guarantee from a superpower (India, Pakistan and South Africa) or did not consider the superpower’s protection to be credible (China, France, Israel and North Korea). Many other countries known to have pursued nuclear weapons programs also lacked security guarantees (e.g., Argentina, Brazil, Egypt, Indonesia, Iraq, Libya, Switzerland and Yugoslavia) or thought they were unreliable at the time they embarked on their programs (e.g., Taiwan). In contrast, several potential proliferation candidates appear to have abstained from developing the bomb at least partly because of formal or informal extended deterrence guarantees from the United States (e.g., Australia, Germany, Japan, Norway, South Korea and Sweden).47 All told, a recent quantitative assessment by Bleek finds that security assurances have empirically significantly reduced proliferation proclivity among recipient countries.48 Therefore, if a country perceives that a security guarantee by the United States or another nuclear power is both available and credible, it is less likely to pursue nuclear weapons in reaction to a rival developing them. This option is likely to be particularly attractive to states that lack the indigenous capability to develop nuclear weapons, as well as states that are primarily motivated to acquire a nuclear deterrent by security factors (as opposed to status-related motivations) but are wary of the negative consequences of proliferation.

### Politics DA

#### Case OW. Russian rel key to econ commons. Terrorism wrecks it too.

#### CR won’t pass – business and GOP opposition.

The Hill 9-10 (Russell Berman, Molly K. Hooper and Erik Wasson, GOP tries to finesse vote on ObamaCare, The Hill, 10 September 2013, http://thehill.com/homenews/house/321227-gop-tries-to-finesse-vote-on-obamacare, da 9-13-13) PC

The conservative Club for Growth, which has led the charge on defunding ObamaCare, quickly came out against the plan.¶ “Trying to fool Republicans into voting to fund ObamaCare is even worse than offering a bill that deliberately funds it,” said Club for Growth President Chris Chocola.¶ “I hope this proposal is nothing more than a bad joke and is quickly discarded. Republicans should simply do what they say they are for by passing a continuing resolution that doesn’t fund ¶ ObamaCare.”¶ A Senate Democratic leadership aide reacted skeptically to the plan on Monday evening. “I’ll believe they can pass that when I see it,” the aide said.¶ Congress must pass a spending bill by Oct. 1 to avoid a government shutdown.¶ The stopgap bill from GOP leaders would keep the government running through mid-December at the current spending level of $987 billion, Appropriations Committee Chairman Hal Rogers (R-Ky.) said.¶ That spending level keeps the 2013 sequestration cuts in place but does not reflect an additional $20 billion in cuts called for in 2014 under the law and under the House-passed budget. ¶ Conservatives have demanded that the House GOP use the budget fight to withhold funding for the implementation of Obama’s signature law. But many senior leaders in the party have warned that risking a government shutdown over healthcare could backfire on the GOP.¶ In another possible nod to conservatives, GOP leaders had already scheduled a vote this week on a separate measure that would require a verification system for some ObamaCare subsidies.¶ Two conservatives in the House told The Hill they opposed any plan to attach a provision defunding ObamaCare that the Senate could easily ignore or strip out.¶ “It’s got to be a real proposal,” Rep. Lynn Westmoreland (R-Ga.) said. “I’m going to vote ‘no’ on the CR unless it has some definite defunding in there for ObamaCare.”¶ Conservative Rep. Tim Huelskamp (R-Kan.) said he had heard from colleagues that leadership was considering using a parliamentary trick to allow the GOP to vote for defunding ObamaCare without making it a core part of the continuing resolution. ¶ Such a move would not pass muster, he said. ¶ “Why don’t you just have the vote?” he said. “It doesn’t seem like it would ... you can’t get the Senate to vote for something if you don’t actually vote for it yourself.”¶

#### ACA kills CR, and temporary extensions make the impact inevitable

The Hill 9-10 (Russell Berman, Molly K. Hooper and Erik Wasson, GOP tries to finesse vote on ObamaCare, The Hill, 10 September 2013, http://thehill.com/homenews/house/321227-gop-tries-to-finesse-vote-on-obamacare, da 9-13-13) PC

Freshman Rep. Mark Meadows (R-N.C.) organized a letter signed by 80 House Republicans urging leadership to defund ObamaCare in any future appropriations bill.¶ A conservative House GOP aide said that the 80 signatories of the Meadows letter are still expected to vote against any continuing resolution that does not defund ObamaCare.¶ A Meadows spokeswoman, Emily Miller, said the congressman “remained committed” to defunding the healthcare law but would look at the text of the continuing resolution before deciding his vote.¶ Boehner and Cantor have promised that the stopgap spending bill would maintain federal spending at sequester levels, and Cantor, in a memo sent to House Republicans on Friday, suggested that an extension of the sequester, which Obama has railed against, would represent a victory for the GOP.¶ “In signing a CR at sequester levels,” Cantor wrote, “the president would be endorsing a level of spending that wipes away all the increases he and congressional Democrats made while they were in charge and returns us to a pre-2008 level of discretionary spending.”¶ Another concern for leadership could be Republican members of the Appropriations Committee, who left Washington frustrated that the leadership had abandoned bringing more of their full-year bills to the floor, making a continuing resolution inevitable.¶ A member of the committee, Rep. Tom Rooney (R-Fla.), said Monday it is “very possible” he would vote against the spending bill this week because of that position.¶ “As an appropriator, we said we weren’t doing any more CRs, and here we are doing one,” Rooney said. “We went on an August break rather than finish the appropriations work, and that’s what bothers me more than whether or not we can actually defund ObamaCare in the CR.”

#### No debate over the plan.

Sulmasy and Logman, ‘9

[Glenn (professor of law at the U.S. Coast Guard Academy) and Andrea (assistant professor of law at the U.S. Coast Guard Academy), “A HYBRID COURT FOR A HYBRID WAR”, Case Western Reserve Journal of International Law, Vol. 42, RSR]

Prior to the anticipated closure of the Guantánamo Bay Detention ¶ Facility on January 22, 2010 many questions remain. To date, no decision ¶ has been made regarding the transfer of the detainees. In August 2009 it was ¶ reported that the Obama Administration is reviewing a proposal that would bring the detainees to U.S. soil.46 The reported proposal would transfer ¶ Guantánamo detainees to a U.S. federal prison facility, would allow for ¶ prosecution of detainees in either federal criminal courts or under military ¶ commissions, would co-locate a court facility with the prison facility, and ¶ would allow for preventive detention of detainees considered a threat to ¶ U.S. security interests.47 The potential transfer of detainees to U.S. facilities ¶ is raising public concern and many in Congress have publicly resisted this ¶ notion.48¶ This potential forum shopping is also problematic, sets a dangerous ¶ precedent, and will likely lead, if implemented, to numerous defense challenges. It is, however, a recognition of the hybrid nature of this war with alQaeda. There must be a dedicated process and forum for addressing the ¶ detention and adjudication of the detainees. Congress has made it clear that ¶ it will not approve the requested funding for transfer of prisoners from ¶ Guantánamo until there is a definite plan in place. ¶ The NSCS is fundamentally a balance and a reasonable accommodation of many competing legal and policy interests. It is structured upon ¶ the foundations of the U.S. understanding of the rule of law. The NSCS ¶ exceeds the standards of most requirements of international law and embraces human rights by ensuring that the dignity of each alleged detainee is ¶ maintained. It is an outgrowth—or an evolution—of the military commissions. It provides the answer for policy makers to get us out of the quicksand we find ourselves in regarding detainees. We have been attempting to ¶ force the civilian justice model or the military justice model onto a new ¶ entity—the al-Qaeda fighter. Neither will work. The proposed system provides a delicate balance between the competing interests of U.S. national ¶ security and our human rights obligations to the detainees. The NSCS provides an adjudicatory system of justice that will answer the needs of policy ¶ makers for years to come. We simply cannot remain mired in the ways of ¶ the past or the ideals of our generation, but rather must step forward with ¶ pragmatic idealism as our guide and promote the rule of law while bringing ¶ unlawful combatants to justice.

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

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

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

### Law K

#### Our interpretation is that debate should be a question of the aff plan versus a competitive policy option.

#### This is key to ground and predictability – infinite number of possible kritik alternatives or things the negative could reject explodes the research burden. That’s a voting issue.

#### State engagement is a better method ---- refusal to engage in the methodical politics of democratic citizenship makes their impacts inevitable.

Dietz, Professor of Political Science and Gender Studies Program at Northwestern University, ‘94

[Mary, “’THE SLOW BORING OF HARD BOARDS’: METHODICAL THINKING AND THE WORK OF POLITICS”, American Political Science Review, Vol. 88, No. 4 December 1994, http://www.jstor.org/stable/pdfplus/2082713.pdf]

Earlier, in considering the means-end category in politics, I suggested that everything hinges upon the action context within which this mode of thinking takes place. I now want to suggest that there is a richer conceptual context-beyond utilitarian objectification, rational capitalist accumulation, and/or Leninism-within which to think about the category of means and ends. Weil offers this alternative in her account of methodical thinking as (1) problem- oriented, (2) directed toward enacting a plan or method (solutions) in response to problems identified, (3) attuned to intelligent mastery (not domination), and (4) purposeful but not driven by a single end or success. Although Weil did not even come close to doing this herself, we might derive from her account of methodical thinking an action concept of politics. Methodical politics is equally opposed to the ideological politics Hannah Arendt deplores, but it is also distinct in important respects from the theatrical politics she defends. Identifying a problem-or what the philosopher David Wiggins calls "the search for the **best specification** of what would honor or answer to relevant concerns" (1978, 145)-is where methodical politics begins.26 It continues (to extrapolate from Weil's image of the methodical builders) in the determination of a means-end sequel, or method, directed toward a political aim. It reaches its full realization in the actual undertaking of the plan of action, or method, itself. To read any of these action aspects as falling under technical rules or blueprints (as Arendt tends to do when dealing with means and ends) is to confuse problem solving with object making and something methodical with something ideological. By designating a problem orientation to political activity, methodical politics assigns value to the activity of constantly deploying "knowing and doing" on new situations or on new understandings of old ones. This is neither an ideological exercise in repetition nor the insistent redeployment of the same pattern onto shifting circumstances and events. The problem orientation that defines methodical politics rests upon a recognition of the political domain as a matrix of obstacles where it is impossible to secure an ideological fix or a single focus. In general, then, methodical politics is best under- stood from the perspective of "the fisherman battling 880 American Political Science Review Vol. 88, No. 4 against wind and waves in his little boat" (Weil 1973, 101) or perhaps as Michael Oakeshott puts it: "In political activity . . . men sail a boundless and bottomless sea; there is neither harbour for shelter nor floor for anchorage, neither starting-place nor ap- pointed destination" (1962, 127).27 Neither Weil's nor Oakeshott's is the perspective of the Platonist, who values chiefly the modeller who constructs his ship after pre-existing Forms or the pilot-philosopher who steers his craft to port by the light of immutable Forms fixed in a starry night. In both of the Platonic images (where the polis is either an artifact for use or a conveyance to safe harbor), a single and predictable end is already to hand. Neither Weil's nor Oakeshott's images admit any equivalent finality. The same is true of methodical politics, where political phenomena present to citizens-as the high sea presents to the sailor-challenges to be identified, demands to be met, and a context of circumstances to be engaged (without blueprints). Neither the assurance of finality nor the security of certainty attends this worldly activity. In his adamantly instrumental reading of politics in the ancient world, M.I. Finley makes a similar point and distinguishes between a problem orientation and patterned predictability by remarking upon the "iron compulsion" the Greeks and Romans were under "to be continuously inventive, as new and often unantic- ipated problems or difficulties arose that had to be resolved without the aid of precedents or models" (1983, 53). With this in mind, we might appreciate methodical politics as a mode of action oriented toward problems and solutions within a context of adventure and unfamiliarity. In this sense, it is compatible with Arendt's emancipatory concept of natality (or "new beginnings") and her appreciation of openness and unpredictability in the realm of human affairs. There are other neighborly affinities between methodical and theatrical politics as well. Both share a view of political actors as finite and fragile creatures who face an infinite range of possibilities, with only limited powers of control and imagination over the situations in which they are called upon to act. From both a methodical and a theatrical vantage point, this perpetual struggle that is politics, whatever its indeterminacy and flux, acquires meaning only when "knowing what to do and doing it" are united in the same performance (Arendt, 1958a, 223). Freedom, in other words, is realized when Plato's brilliant and devious conceptual maneuver is outwitted by a politics that opposes "the escape from action into rule" and reasserts human self-realization as the unification of thought-action in the world (pp. 223-25). In theatrical politics, however, the actual action content of citizen "knowing and doing" is **upstaged** by the spectacular appearance of personal identities courageously revealed in the public realm. Thus Plato's maneuver is outwitted in a bounded space where knowing what to do and doing it are disclosed in speech acts and deeds of self-revelation in the company of one's-fellow citizens. In contrast, methodical politics doggedly reminds us that **purposes themselves are what matter** in the end, and that citizen action is as much about obstinately pursuing them as it is about the courage to speak in performance. So, in methodical politics, the Platonic split between knowing and doing is overcome in a kind of boundless navigation that is realized in purposeful acts of collective self-determination. Spaces of appearances are indispensable in this context, but these spaces are not exactly akin to "islands in a sea or as oases in a desert" (Arendt 1970, 279). The parameters of methodical politics are more fluid than this, set less by identifiable boundaries than by the very activity through which citizens "let realities work upon" them with "inner concentration and calmness" (Weber 1946, 115). In this respect, methodical politics is not a context wherein courage takes eloquent respite from the face of life, danger (the sea, the desert), or death: it is a daily confrontation wherein obstacles or dangers (including the ultimate danger of death) are transformed into prob- lems, problems are rendered amenable to possible action, and action is undertaken with an aim toward solution. Indeed, in these very activities, or what Arendt sometimes pejoratively calls the in order to, we might find the perpetuation of what she praises as the for the sake of which, or the perpetuation of politics itself (1958a, 154). To appreciate the **emancipatory dimension** of this action concept of politics as methodical, we might now briefly return to the problem that Arendt and Weil think most vexes the modern world-the deformation of human beings and human affairs by forces of automatism. This is the complex manipulation of modern life that Havel describes as the situation in which everything "must be cossetted together as firmly as possible, **predetermined, regulated and controlled**" and "every aberration from the prescribed course of life is **treated as error, license and anarchy**" (1985, 83). Constructed against this symbolic animal laborans, Arendt's space of appearances is the agonistic opposite of the distorted counterfeit reality of automatism. The space of appearances is where individuality and personal identity are **snatched from the jaws of automatic processes** and recuperated in "the merciless glare" of the public realm (Arendt 1969, 86). Refigured in this fashion, Arendtian citizens counter reductive technological complexes in acts of individual speech revelation that powerfully proclaim, in collective effect, "This is who we are!" A politics in this key does indeed dramatically defy the objectifying processes of modern life-and perhaps even narratively transcends them by delivering up what is necessary for the reification of human remembrance in the "storybook of mankind" (Arendt 1958a, 95). But these are also its limits. For whatever else it involves, Arendtian politics cannot entail the practical confrontation of the situation that threatens the human condition most. Within the space of appearances, Arendt's citizens can neither search for the best specification of the problem before them nor, it seems, pursue solutions to the problem once it is identified, for such activities involve "the pursuit of a definite aim which can be set by practical considerations," and that is homo faber's prerogative and so in the province of "fabrication," well outside the space of appearances where means and ends are left behind (pp. 170-71). Consequently, automatism can be conceptualized as a "danger sign" in Arendt's theory, but it cannot be designated as a problem in Arendt's politics, a problem that citizens could cognitively counter and purposefully attempt to resolve or transform (p. 322). From the perspective of methodical politics, which begins with a **problem orientation, automatism can be specified and encountered within the particular spaces** or circumstances (schools, universities, hospitals, factories, corporations, prisons, laboratories, houses of finance, the home, public arenas, public agencies) upon which its technological processes intrude. Surely something like this is what Weil has in mind when she calls for "a sequence of mental efforts" in the drawing up of "an inventory of modern civilization" that begins by "**refusing** **to subordinate one's own destiny to the course of history**" (1973, 123-24). Freedom is immanent in such moments of cognitive inventory, in the **collective citizen-work** of "taking stock"-identifying problems and originating methods-and in the shared pursuit of purposes and objectives. This is simply what it means to think and act methodically in spaces of appearances. Nothing less, as Wiggins puts it, "can rescue and preserve civilization from the mounting irrationality of the public province, . . . from Oppression exercised in the name of Management (to borrow Simone Weil's prescient phrase)" (1978, 146).

#### **Extinction outweighs – it’s irreversible.**

Anissimov 4

[Michael Anissimov, science and technology writer focusing specializing in futurism, founding director of the Immortality Institute—a non-profit organization focused on the abolition of nonconsensual death, member of the World Transhumanist Association, associate of the Institute for Accelerating Change, member of the Center for Responsible Nanotechnology's Global Task Force, 2004, “Immortalist Utilitarianism,” *Accelerating Future*, May, Available Online at http://www.acceleratingfuture.com/michael/works/immethics.htm, Accessed 09-09-2011]

They fear social ostracization if they focus on "Doomsday scenarios" rather than traditional extension.¶ Those are my guesses. Immortalists with objections are free to send in their arguments, and I will post them here if they are especially strong. As far as I can tell however, the predicted utility of lowering the likelihood of existential risk outclasses any life extension effort I can imagine.¶ I cannot emphasize this enough. If a existential disaster occurs, not only will the possibilities of extreme life extension, sophisticated nanotechnology, intelligence enhancement, and space expansion never bear fruit, but everyone will be dead, never to come back. Because the we have so much to lose, existential risk is worth worrying about even if our estimated probability of occurrence is extremely low.¶ It is not the funding of life extension research projects that immortalists should be focusing on. It should be projects that decrease the risk of existential risk. By default, once the probability of existential risk is minimized, life extension technologies can be developed and applied. There are powerful economic and social imperatives in that direction, but few towards risk management. Existential risk creates a "loafer problem" — we always expect someone else to take care of it. I assert that this is a dangerous strategy and should be discarded in favor of making prevention of such risks a central focus.

#### Perm do both**. Including the alt solves any impact to a link argument and the net benefit is the aff.**

#### Individual connection to challenge executive authority and activate a democratic society. Political apathy now is the reason for presidential control.

Kleinerman, Ph.D. in Political Science from Michigan State University, 2009 [Benjamin, The Discretionary President: The Promise and Peril of Executive Power, p. 8-9]

As citizens of a modern constitutional republic, we should not view our responsibility as judges of discretion as a burden. Modern liberalism, which exists in a close, although not intrinsic, partnership with modern constitutionalism, forecloses many of our political judgments when it changes the political question from the ends toward which politics should aim to the means by which to achieve previously settled ends. Beginning with Hobbes, political power no longer involves contestations over fundamental political ends; instead, political peace and prosperity are taken to be the only legitimate aims of politics. Given this change, as Hobbes knew so well and to which he looked forward hopefully, a liberal people can become quite apolitical. As we become more apolitical, we become more accepting of the claims of strong executive power. To some degree, modern constitutionalism aims to solve this problem by inviting us to become political again through making judgments about the proper scope of discretionary executive power. This judgment is good not only because it controls executive power; it also invigorates our political selves in a way that liberalism otherwise does not. Douglas Casson puts this point nicely: "To prove that we are rational and free persons and not Filmerian slaves, we must reclaim what is naturally ours. We must take up the difficult task of making determinations about the proper exercise of political power under conditions of uncertainty."38 Making political judgments about the use of discretionary executive power is not merely something we are forced to take up because of the incompleteness of constitutionalism; it is instead a component part of the modern constitutional project. It supplies the essential politics that is otherwise all too lacking in the liberal project. But, again, this judgment is only possible if we view discretionary executive power as inherently extralegal and as initially extraconstitutional. To bring it into the constitution, we must judge it as necessary to the preservation of the laws and the Constitution for which it must be exercised.

#### **Legal positivism is the best methodology – refined by the moral sentiment of the community.**

Finnis, Professor of Law at University College, Oxford and at the University of Notre Dame, ‘96

[John, “The Truth in Legal Positivism,” in The Autonomy of Law, ed. Robert P. George. Oxford: Clarendon Press, pp. 195-214, RSR]

‘There is a necessary or conceptual connection between law and morality.’ True, for the reasons people have for establishing systems of positive law (with power to override immemorial custom), and for maintaining them (against the pull of strong passions and individual self-interest), and for reforming and restoring them when they decay or collapse, include certain moral reasons, on which many of those people often act. And only those moral reasons suffice to explain why such people’s undertaking takes the shape it does, § Marked 14:46 § giving legal systems the many defining features they have – features which a careful descriptive account such as H. L. A. Hart’s identifies as characteristic of the central case of positive law and the focal meaning of ‘law’, and which therefore have a place in an adequate concept (understanding and account) of positive law ‘The identification of the existence and content of law does not require resort to any moral argument’. True, for how else could one identify wicked laws such as Israel’s prophet denounced in words so often quoted by Aquinas: ‘Woe to those who make unfair laws [*leges iniquas]*, who draw up instruments imposing injustice [*iniustitiam]*, and who give judgments oppressing the poor’? And since the whole of a human community’s existing law, however completely just and decent, is positive, somehow humanly posited, why deny and then facts which are referred to as ‘human positing’ – custom, legislation, judgments-can all be identified by lawyerly historical methods, without ‘moral argument’?¶ The identification of one’s legal duty as a judge or other subject of the law sometimes requires resort to moral argument, and is always a matter of moral responsibility (both as to the identifying and as to the carrying out) which derives, in one way or another, from the bearing of moral principles and norms on the positive law of one’s community.’ True, for constitution-makers have a moral responsibility to establish sources of law which can be identified without resort to moral argument, and judges and other subjects have a moral responsibility to defer (within limits) to such sources. When the sources yield no determinate solution, all concerned have the responsibility of supplementing the sources to fill the gap by a choice guided by standards of fairness and other morally true principles and norms, where possible by standards which already have currency in the community and lend moral force to those parts of its positive law which are morally acceptable.¶

## 1AR

### Law K

#### Short-term big impacts come before critiques of epistemology – even if there’s only a very small chance we’re right, it’s worth trying to prevent short-term catastrophes

Cowen, GMU, 2006

[Tyler, December 2006, “The Epistemic Problem Does Not Refute Consequentialism,” Utilitas, 18:4, p. 386-387]

**Let us start with** a simple example, namely **a suicide bomber who seeks to detonate a nuclear device in midtown Manhattan.** Obviously we would seek to stop the bomber, or at least try to reduce the probability of a detonation. We can think of this example as standing in more generally for choices, decisions, and policies that affect the long-term prospects of our civilization.¶ If we stop the bomber, we know that in the short run we will save millions of lives, avoid a massive tragedy, and protect the long-term strength, prosperity, and freedom of the United States. **Reasonable moral people, regardless of the details of their meta-ethical stances, should not argue against stopping the bomber**.¶ **No matter how hard we try to stop the bomber, we are not, a priori, committed to a very definite view of how the long run will play out**. After all, stopping the bomber will reshuffle future genetic identities, and may bring about the birth of a future Hitler. We can of course imagine possible scenarios where such destruction works out for the better ex post. Perhaps, for instance, the explosion leads to a subsequent disarmament or anti-proliferation advances. But we would not breathe a sigh of relief on hearing the news of the destruction for the first time. **Stopping the bomber brings a significant net welfare improvement in the short run, while we face radical generic uncertainty about the future** in any case.¶ **Furthermore, if we can stop the bomber, our long-run welfare estimates will likely show some improvement as well**. The bomb going off could lead to subsequent attacks on other major cities, the emboldening of terrorists, or perhaps broader panics. **There would be a new and very real doorway toward the general collapse of the world**. **While the more distant future is remixed radically, we should not rationally believe that some new positive option has been created to counterbalance the current destruction and its radically negative potential implications.** To put it simply, it is difficult to see the violent destruction of Manhattan as on net - in ex ante terms - favoring either the short-term or long-term prospects of the world.¶ Even if the long-run expected value is impossible to estimate, **we need only some probability that the relevant time horizon is indeed short** (perhaps a destructive asteroid will strike the earth). **This will tip the consequentialist balance against a nuclear attack on Manhattan.** Now it is not a legitimate response simply to assume away the epistemic problem by considering only the short time horizon. But **if the future is truly radically uncertain, as the epistemic argument suggests, we cannot rule out some chance of a short time horizon**. **And if everything else were truly incalculable and impossible to estimate, we should be led to assign decisive weight to this short time horizon scenario**. **We again should stop the bomber**.¶ If the Manhattan example does not convince you, consider the value of stopping a terrorist attack that would decimate the entire United States. Or consider an attack that would devastate all of Western civilization, or the entire world. At some point we can find a set of consequences so significant that we would be spurred to action, again in open recognition of broader long-run uncertainties. Surely at some point the upfront change must be large enough to provide a persuasive reason for or against it. What if a cosmological disaster destroyed 99.9999 percent of all intelligent life across the universe? Yes, it is possible that subsequent cosmological events could lead to an even greater blossoming of wonders, but at some point of comparison this point is simply fatuous. Most of the life in the universe is being destroyed and more likely than not this is a horrible catastrophe even in the much longer run. So **we can argue 'how large' an upfront event is needed to sway us toward an evaluative judgment, but** a sufficiently large upfront event **should do the trick**.