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#### A – Interpretation:

#### Topical affirmatives must affirm the resolution through defense of action by the United States Federal Government.

#### B – Definitions

#### Should denotes an expectation of enacting a plan

#### American Heritage Dictionary 2000 (Dictionary.com)

should. The will to do something or have something take place: I shall go out if I feel like it.

#### Federal government is the central government in Washington DC

Encarta Online 2005,

http://encarta.msn.com/encyclopedia\_1741500781\_6/United\_States\_(Government).html#howtocite

United States (Government), the combination of federal, state, and local laws, bodies, and agencies that is responsible for carrying out the operations of the United States. The federal government of the United States is centered in [Washington, D.C.](http://encarta.msn.com/encyclopedia_761576320/Washington_D_C.html)

#### Resolved implies a policy

Louisiana House 3-8-2005, <http://house.louisiana.gov/house-glossary.htm>

Resolution A legislative instrument that generally is used for making declarations, stating policies, and making decisions where some other form is not required. A bill includes the constitutionally required enacting clause; a resolution uses the term "resolved". Not subject to a time limit for introduction nor to governor's veto. ( Const. Art. III, §17(B) and House Rules 8.11 , 13.1 , 6.8 , and 7.4)

### K

#### **aff’s use of the law is a militaristic tactic that creates legal legitimacy to propel more frequent, more deadly violent interventions that ensure infrastructural violence that maims civilians – they actively displace moral questions in favor of a pathologically detached question of legality**

Smith 2 – prof of phil @ U of South Florida

(Thomas, *International Studies Quarterly* 46, The New Law of War: Legitimizing Hi-Tech and Infrastructural Violence)

The role of military lawyers in all this has, according to one study, “changed irrevocably” ~Keeva, 1991:59!. Although liberal theorists point to the broad normative contours that law lends to international relations, the Pentagon wields law with technical precision. During the Gulf War and the Kosovo campaign, JAGs opined on the legal status of multinational forces, the U.S. War Powers Resolution, rules of engagement and targeting, country fly-overs, maritime interceptions, treatment of prisoners, hostages and “human shields,” and methods used to gather intelligence. Long before the bombing began, lawyers had joined in the development and acquisition of weapons systems, tactical planning, and troop training. In the Gulf War, the U.S. deployed approximately 430 military lawyers, the allies far fewer, leading to some amusing but perhaps apposite observations about the legalistic culture of America ~Garratt, 1993!. Many lawyers reviewed daily Air Tasking Orders as well as land tactics. Others found themselves on the ground and at the front. According to Colonel Rup- pert, the idea was to “put the lawyer as far forward as possible” ~Myrow, 1996–97!. During the Kosovo campaign, lawyers based at the Combined Allied Operations Center in Vicenza, Italy, and at NATO headquarters in Brussels approved every single targeting decision. We do not know precisely how decisions were taken in either Iraq or Kosovo or the extent to which the lawyers reined in their masters. Some “corrections and adjustments” to the target lists were made ~Shot- well, 1993:26!, but by all accounts the lawyers—and the law—were extremely accommodating. The exigencies of war invite professional hazards as military lawyers seek to “find the law” and to determine their own responsibilities as legal counselors. A 1990 article in Military Law Review admonished judge advocates not to neglect their duty to point out breaches of the law, but not to become military ombuds- men either. The article acknowledged that the JAG faces pressure to demonstrate that he can be a “force multiplier” who can “show the tactical and political soundness of his interpretation of the law” ~Winter, 1990:8–9!. Some tension between law and necessity is inevitable, but over the past decade the focus has shifted visibly from restraining violence to legitimizing it. The Vietnam-era perception that law was a drag on operations has been replaced by a zealous “client culture” among judge advocates. Commanding officers “have come to realize that, as in the relationship of corporate counsel to CEO, the JAG’s role is not to create obstacles, but to find legal ways to achieve his client’s goals—even when those goals are to blow things up and kill people” ~Keeva, 1991:59!. Lt. Col. Tony Montgomery, the JAG who approved the bombing of the Belgrade television studios, said recently that “judges don’t lay down the law. We take guidance from our government on how much of the consequences they are willing to accept” ~The Guardian, 2001!. Military necessity is undeterred. In a permissive legal atmosphere, hi-tech states can meet their goals and remain within the letter of the law. As noted, humanitarian law is firmest in areas of marginal military utility. When opera- tional demands intrude, however, even fundamental rules begin to erode. The Defense Department’s final report to Congress on the Gulf War ~DOD, 1992! found nothing in the principle of noncombatant immunity to curb necessity. Heartened by the knowledge that civilian discrimination is “one of the least codified portions” of the law of war ~p. 611!, the authors argued that “to the degree possible and consistent with allowable risk to aircraft and aircrews,” muni- tions and delivery systems were chosen to reduce collateral damage ~p. 612!. “An attacker must exercise reasonable precautions to minimize incidental or collat- eral injury to the civilian population or damage to civilian objects, consistent with mission accomplishments and allowable risk to the attacking forces” ~p. 615!. The report notes that planners targeted “specific military objects in populated areas which the law of war permits” and acknowledges the “commingling” of civilian and military objects, yet the authors maintain that “at no time were civilian areas as such attacked” ~p. 613!. The report carefully constructed a precedent for future conflicts in which human shields might be deployed, noting “the presence of civilians will not render a target immune from attack” ~p. 615!. The report insisted ~pp. 606–607! that Protocol I as well as the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons “were not legally applicable” to the Gulf War because Iraq as well as some Coalition members had not ratified them. More to the point that law follows practice, the report claimed that certain provisions of Protocol I “are not a codification of the customary practice of nations,” and thus “ignore the realities of war” ~p. 616!. Nor can there be any doubt that a more elaborate legal regime has kept pace with evolving strategy and technology. Michael Ignatieff details in Virtual War ~2000! how targets were “developed” in 72-hour cycles that involved collecting and reviewing aerial reconnaissance, gauging military necessity, and coding antici- pated collateral damage down to the directional spray of bomb debris. A judge advocate then vetted each target in light of the Geneva Conventions and calcu- lated whether or not the overall advantage to be gained outweighed any expected civilian spillover. Ignatieff argues ~2000:198–199! that this elaborate symbiosis of law and technology has given birth to a “veritable casuistry of war.” Legal fine print, hand-in-hand with new technology, replaced deeper deliberation about the use of violence in war. The law provided “harried decision-makers with a critical guarantee of legal coverage, turning complex issues of morality into technical issues of legality.” Astonishingly fine discrimination also meant that unintentional civilian casualties were assumed to have been unintentional, not foreseen tragedies to be justified under the rule of double effect or the fog of war. The crowning irony is that NATO went to such lengths to justify its targets and limit collateral damage, even as it assured long-term civilian harm by destroying the country’s infrastructure. Perhaps the most powerful justification was provided by law itself. War is often dressed up in patriotic abstractions—Periclean oratory, jingoistic newsreels, or heroic memorials. Bellum Americanum is cloaked in the stylized language of law. The DOD report is padded with references to treaty law, some of it obscure, that was “applicable” to the Gulf War, as if a surfeit of legal citation would convince skeptics of the propriety of the war. Instances of humane restraint invariably were presented as the rule of law in action. Thus the Allies did not gas Iraqi troops, torture POWs, or commit acts of perfidy. Most striking is the use of legal language to justify the erosion of noncombatant immunity. Hewing to the legal- isms of double effect, the Allies never intentionally targeted civilians as such. As noted, by codifying double effect the law artificially bifurcates intentions. Har- vard theologian Bryan Hehir ~1996:7! marveled at the Coalition’s legalistic word- play, noting that the “briefers out of Riyadh sounded like Jesuits as they sought to defend the policy from any charge of attempting to directly attack civilians.” The Pentagon’s legal narrative is certainly detached from the carnage on the ground, but it also oversimplifies and even actively obscures the moral choices involved in aerial bombing. Lawyers and tacticians made very deliberate decisions about aircraft, flight altitudes, time of day, ordnance dropped, confidence in intelligence, and so forth. By expanding military necessity to encompass an extremely prudential reading of “force protection,” these choices were calculated to protect pilots and planes at the expense of civilians on the ground, departing from the just war tradition that combatants assume greater risks than civilians. While it is tempting to blame collateral damage on the fog of war, much of that uncertainty has been lifted by technology and precision law. Similarly, in Iraq and in Yugoslavia the focus was on “degrading” military capabilities, yet a loose view of dual use spelled the destruction of what were essentially social, economic, and political targets. Coalition and NATO officials were quick to apologize for accidental civilian casualties, but in hi-tech war most noncombatant suffering is by design. Does the law of war reduce death and destruction? International law certainly has helped to delegitimize, and in rare cases effectively criminalize, direct attacks on civilians. But in general humanitarian law has mirrored wartime practice. On the ad bellum side, the erosion of right authority and just cause has eased the path toward war. Today, foreign offices rarely even bother with formal declarations of war. Under the United Nations system it is the responsibility of the Security Council to denounce illegal war, but for a number of reasons its members have been extremely reluctant to brand states as aggressors. If the law were less accommodating, greater effort might be devoted to diplomacy and war might be averted. On the in bello side the ban on direct civilian strikes remains intact, but double effect and military demands have been contrived to justify unnecessary civilian deaths. Dual use law has been stretched to sanction new forms of violence against civilians. Though not as spectacular as the obliteration bombing to which it so often is favorably compared, infrastructural war is far deadlier than the rhetoric of a “clean and legal” conflict suggests. It is true that rough estimates of the ratio of bomb tonnage to civilian deaths in air attacks show remarkable reductions in immediate collateral damage. There were some 40.83 deaths per ton in the bombing of Guernica in 1937 and 50.33 deaths per ton in the bombing of Tokyo in 1945. In the Kosovo campaign, by contrast, there were between .077 and .084 deaths per ton. In Iraq there were a mere .034 ~Thomas, 2001:169!. According to the classical definition of collateral damage, civilian protection has improved dramatically, but if one takes into account the staggering long-term effects of the war in Iraq, for example, aerial bombing looks anything but humane. For aerial bombers themselves modern war does live up to its clean and legal image. While war and intervention have few steadfast constituents, the myth of immaculate warfare has eased fears that intervening soldiers may come to harm, which polls in the U.S., at least, rank as being of great public concern, and even greater military concern. A new survey of U.S. civilian and military attitudes found that soldiers were two to four times more casualty-averse than civilians thought they should be ~Feaver and Kohn, 2001!. By removing what is perhaps the greatest restraint on the use of force—the possibility of soldiers dying—law and technology have given rise to the novel moral hazards of a “postmodern, risk-free, painless war” ~Woollacott, 1999!. “We’ve come to expect the immacu- late,” notes Martin Cook, who teaches ethics at the U.S. Army War College in Carlisle, PA. “Precision-guided munitions make it very much easier to go to war than it ever has been historically.” Albert Pierce, director of the Center for the Study of Professional Military Ethics at the U.S. Naval Academy argues, “standoff precision weapons give you the option to lower costs and risks . . . but you might be tempted to do things that you might otherwise not do” ~Belsie, 1999!. Conclusion The utility of law to legitimize modern warfare should not be underestimated. Even in the midst of war, legal arguments retain an aura of legitimacy that is missing in “political” justifications. The aspirations of humanitarian law are sound. Rather, it is the instrumental use of law that has oiled the skids of hi-tech violence. Not only does the law defer to military necessity, even when very broadly defined, but more importantly it bestows on those same military demands all the moral and psychological trappings of legality. The result has been to legalize and thus to justify in the public mind “inhumane military methods and their consequences,” as violence against civilians is carried out “behind the protective veil of justice” ~af Jochnick and Normand, 1994a:50!. Hi-tech states can defend hugely destructive, essentially unopposed, aerial bombardment by citing the authority of seemingly secular and universal legal standards. The growing gap between hi- and low-tech means may exacerbate inequalities in moral capital as well, as the sheer barbarism of “premodern” violence committed by ethnic cleansers or atavistic warlords makes the methods employed by hi-tech warriors seem all the more clean and legal by contrast. This fusion of law and technology is likely to propel future American interventions. Despite assurances that the campaign against terrorism would differ from past conflicts, the allied air war in Afghanistan, marked by record numbers of unmanned drones and bomber flights at up to 35,000 feet, or nearly 7 miles aloft, rarely strayed from the hi-tech and legalistic script. While the attack on the World Trade Center confirmed a thousand times over the illegality and inhu- manity of terrorism, the U.S. response has raised further issues of legality and inhumanity in conventional warfare. Civilian deaths in the campaign have been substantial because “military objects” have been targeted on the basis of extremely low-confidence intelligence. In several cases targets appear to have been chosen based on misinformation and even rank rumor. A liberal reading of dual use and the authorization of bombers to strike unvetted “targets of opportunity” also increased collateral damage. Although 10,000 of the 18,000 bombs, missiles, and other ordnance used in Afghanistan were precision-guided munitions, the war resulted in roughly 1000 to 4000 direct civilian deaths, and, according to the UNHCR, produced 900,000 new refugees and displaced persons. The Pentagon has nevertheless viewed the campaign as “a more antiseptic air war even than the one waged in Kosovo” ~Dao, 2001!. General Tommy Franks, who commanded the campaign, called it “the most accurate war ever fought in this nation’s history” ~Schmitt, 2002!.9 No fundamental change is in sight. Governments continue to justify collateral damage by citing the marvels of technology and the authority of international law. One does see a widening rift between governments and independent human rights and humanitarian relief groups over the interpretation of targeting and dual-use law. But these disputes have only underscored the ambiguities of human- itarian law. As long as interventionist states dominate the way that the rules of war are crafted and construed, hopes of rescuing law from politics will be dim indeed.

#### **militarism is a fundamentally unsustainable system that is the root cause of all extinction threats and ensures mass structural violence – non-violence is the only possible response**

Kovel 2

(Joel, “The United States Military Machine”, http://www.joelkovel.org/americanmilitary.htm; Jacob)

I want to talk to you this evening about war - not the immediate threat of us war against Iraq, but about how this conflict is an instance of a larger tendency toward war-making endemic to our society. In other words, the phrase from the folksong, “I ain’t gonna study war no more,” should be rethought. I think we do have to study war. Not to make war but to understand more deeply how it is put together and about the awful choices that are now being thrust upon us. These remarks have been stimulated by recent events, which have ancient roots, but have taken on a new shape since the collapse of the Soviet Union, the rise of the second Bush administration, and the inception of the so-called “War on Terror.” The shape is that of permanent warfare- war-making that has no particular strategic goal except total us dominance over global society. Hence, a war without end and whose internal logic is to perpetuate itself. We are, in other words, well into World War III, which will go on whether or not any other state such as Iraq is involved. It is quite probable that this administration will go to war in Iraq, inasmuch as certain very powerful people crave it. But it is not necessarily the case, given the fact that the war against Iraq is such a lunatic proposal that many other people in high places are against it and too many people are marching against it. And while war against Iraq is a very serious matter that needs to be checked by massive popular resistance, equally serious are the structures now in place in the United States dictating that whether or not the war in Iraq takes place, there will be another war to replace it, and others after that, unless some very basic changes take place. America Has Become a War-Making Machine The United States has always been a bellicose and expansive country, built on violent conquest and expropriation of native peoples. Since the forming of the American republic, military interventions have occurred at the rate of about once a year. Consider the case of Nicaragua, a country utterly incapable of being any kind of a threat to its giant northern neighbor. Yet prior to the Sandinista revolution in 1979 (which was eventually crushed by us proxy forces a decade later), our country had invaded Nicaragua no fewer than 14 times in the pursuit of its imperial interests. A considerable number of contemporary states, such as Britain, South Africa, Russia, and Israel, have been formed in just such a way. But one of the special conditions of the formation of America, despite its aggressivity, was an inhibition against a military machine as such. If you remember, no less a figure than George Washington warned us against having a standing army, and indeed the great bulk of us interventions prior to World War II were done without very much in the way of fixed military institutions. However, after WWII a basic change set in. War-weary America longed for demobilization, yet after a brief beginning in this direction, the process was halted and the permanent warfare state started to take shape. In part, this was because policy planners knew quite well that massive wartime mobilization had been the one measure that finally lifted America out of the Great Depression of the 1930s. One of the lessons of that time was that propounded by the British economist John Maynard Keynes, to the effect that capitalist societies could ameliorate chronic [economic] crises by infusions of government spending. The Great War had certified this wisdom, and permanent military expenditure readily became the received wisdom. This was greatly reinforced by the drastic realignment of capitalist power as a result of the war. America was essentially the only capitalist power in 1945 that did not lay in ruins and/or have its empire shattered. The world had been realigned and the United States had assumed a global imperial role. Policy planners like George Kennan lucidly realized that this meant safeguarding extreme inequalities in wealth, which implied a permanent garrison to preserve the order of things. The notion was especially compelling given that one other state, the Soviet Union, had emerged a great power from the war and was the bellwether of those forces that sought to break down the prevailing distribution of wealth. The final foundation stone for the new military order was the emergence of frightful weapons of mass destruction, dominance over which became an essential element for world hegemony. The Iron Triangle These factors crystallized into the Cold War, the nuclear arms race, and, domestically, into those structures that gave institutional stability and permanence to the system: the military-industrial complex (mic). Previously the us had used militarism to secure economic advantage. Now, two developments greatly transformed our militarism: the exigencies of global hegemony and the fact that militarism became a direct source of economic advantage, through the triangular relations of the mic with the great armament industries comprising one leg, the military establishment another, and the state apparatus the third, profits, power, and personnel could flow through the system and from the system. Clearly, this arrangement had the potential to greatly undermine American democracy. It was a “national security state” within the state but also extended beyond it into the economy and society at large, virtually insulated from popular input, and had the power to direct events and generate threats. Another conservative war hero-become-president, Dwight Eisenhower, warned the nation in a speech in 1961 against the emerging permanent war machine, but this time, the admonitions were not heeded.\* The machine made a kind of war against the Soviet system for 35 years. Although actual guns were not fired between the two adversaries, as many as 10 million people died in its varied peripheral conflicts, from Korea to Vietnam, Angola, El Salvador, Nicaragua, and Guatemala. The Cold War divided the world into bipolar imperial camps, directed by gigantic superpowers that lived off each other’s hostility. It was a terrible war whose immense suffering took place largely outside the view of the American people, but it also brought about an uneasy kind of stability in the world order, in part through the standoff in nuclear weapons. During the Ford and Carter administrations, another great crisis seized the world capitalist economy. Having matured past the rebuilding that followed the world war, a period of stagnation set in, which still has the global economy in its grip despite episodic flashes of vigor. Predictably, a spate of militarism was central to the response. A “Second Cold War” took place under Reagan, featuring an accelerated nuclear arms race, which was deliberately waged so as to encourage Soviet countermeasures in the hope that this would cause breakdown in the much weaker, bloated, and corrupt Russian system. The plan worked splendidly: by 1989-91, the mighty Soviet empire collapsed, and the bipolar world order became unipolar, setting a stage for the current phase. The fall of the Soviet Union was widely expected to bring a ìpeace dividend.î This would have been the case according to the official us line, parroted throughout the media and academe, that our military apparatus was purely defensive (after all, we have no Department of War, only one of "Defense") and reactive to Soviet expansionism and military/nuclear threat. As this was no longer a factor, so the reasoning wentóindeed, as the us now stood bestride the world militarily as had no power since the Roman Empireóconventional logic predicted a general diminution in American militarism after 1991, with corresponding benefits to society. The last decade has at least settled this question, for the effect on us aggression, interventionism, and the militarization of society has been precisely the opposite. In other words, instead of braking, the machine accelerated. Removal of Soviet power did not diminish Americaís imperial appetite: it removed inhibitions on its internally driven expansiveness. As a result, enhanced war-making has replaced the peace dividend. The object of this machine has passed from dealing with Soviet Communism to a more complex and dispersed set of oil wars (Iraq I and now II), police actions against international miscreants (Kosovo), and now the ubiquitous War Against Terror, aimed variously at Islamic fundamentalists, Islam as a whole, or anybody irritated enough with the ruling order to take up some kind of arms against it. The comparison with the Roman Empire is here very exact. As the eminent economist and sociologist Joseph Schumpeter described Rome in 1919: “There was no corner of the known world where some interest was not alleged to be in danger or under actual attack. If the interests were not Roman, they were those of Rome’s allies. And if Rome had no allies existed, the allies would be invented. The fight was always invested with the order of legality. Rome was always being attacked by evil-minded neighbors.” The logic of constant threat meshes with that of ruthless expansion, which we see everywhere in this epoch of unipolar world dominion. Currently, the military budget of the us is 334 billion dollars. The budget for the next fiscal year is 379 billion dollars- an increase of more than 10 percent. By 2007, the projected military budget of the us is to be an astounding 451 billion dollars: almost half a trillion dollars, without the presence of anything resembling a conventional war. The present military budget is greater than the sum of all other military budgets. In fact, it is greater than the entire federal budget of Russia, once America's immortal adversary, and comprises more than half - 52 percent of all discretionary spending by the us government. (By comparison, education accounts for 8 percent of the federal budget.) A considerable portion of this is given over to "military Keynesianism," according to the well-established paths of the mic. Thus, although in the first years after the fall of the ussr certain firms like General Dynamics, which had played a large role in the nuclear arms race, suffered setbacks, that problem has been largely reversed for the entire class of firms fattening at the trough of militarism. It is fair to say, though, that the largesse is distributed over a wider scale, in accordance with the changing pattern of armaments. us Armies Taking Root Everywhere From having scarcely any standing army in 1940, American armies now stand everywhere. One feature of us military policy since WWII is to make war and then stay where war was made, rooting itself in foreign territory. Currently, the us has military bases in 113 countries, with 11 new ones formed since the beginning of the War Against Terror. The us now has bases in Kazakhstan, Uzbekistan, and Kurdistan, encircling China and creating new sources of military tension. On these bases, the us military has erected some 800,000 buildings. Imagine that: 800,000 buildings in foreign countries that are now occupied by us military establishments. And America still maintains large forces in Germany, Japan, and Korea, with tens of thousands of troops permanently on duty (and making mischief, as two us servicemen recently ran over and killed two Korean girls, provoking massive demonstrations). After the first Gulf War the us military became installed in Saudi Arabia and Kuwait, in which latter place it currently occupies one quarter of the country - 750 square miles devoted to military activity. This huge investment is no doubt determined by proximity to Iraq. Again, after going to war in Kosovo, the us left behind an enormous base in a place called Bondsteel. These self-expanding sites of militarism are permanent goads to terrorist organizations. Recall that one of Osama bin Laden's professed motivations for al-Qaeda's attacks on American facilities was the presence of us bases in his home country of Saudi Arabia. The bases are also permanent hazards to the environment - indeed, the us, with some 800,000 buildings on these military sites, is the world's largest polluter and the largest consumer of fossil fuels. With territorial expansion of the us military apparatus, there is a corresponding expansion of mission. For instance, in Colombia, where billions of us dollars are spent in the "War on Drugs," us troops are now being asked to take care of pipelines through which vital oil reserves are passing. In addition, the War on Drugs is now subsumed into the War Against Terror. The signifier of Terror has virtually unlimited elasticity, for once an apparatus reaches the size of the us military machine, threats can be seen anywhere. With the inauguration of the new hard-line president of Colombia, Alvaro Uribe, the us authorized the use of 1.7 billion dollars in military aid hitherto limited to anti-drug operations for direct attacks on deeply entrenched farc guerrillas. This redirection of aid came after Colombian officials and their American supporters in the Congress and Bush administration argued that the change was needed as part of the global campaign against terrorism. Within this overall picture, American armed forces are undergoing a qualitative shift of enormous proportion. In words read by President Bush: “Our forces in the next century must be agile, lethal, readily deployable, and must require a minimum of logistical support. We must be able to project our power over long distances in days or weeks rather than months. On land our heavy forces must be lighter, our light forces must be more lethal. All must be easier to deploy.” Crossing Weapons Boundaries - Both Nuclear and Conventional As a result, many boundaries and limits of the bipolar era have been breached. For example, the distinction between nuclear and conventional weapons had always constituted a radical barrier. The standoff between the us and the ussr was epitomized by mind-numbing hydrogen bomb-missiles facing each other in a scenario called “Mutual Assured Destruction.î”In short, a strategic condition of deterrence prevailed, which made nuclear weapons seem unthinkable. With the demise of the ussr, deterrence no longer inhibits us nuclear weaponry, and the weapons themselves have proliferated downward, becoming miniaturized and increasingly tactical rather than strategic. Meanwhile, the genie of the weapons industries has developed ever more destructive “conventional” weapons. These include non-explosive devices of awesome power, such as laser beams, microwaves, and large-scale climate manipulation, along with a new generation of super-powerful explosive devices. Thus the strongest non-nuclear weapons are now considerably more lethal than the least powerful nuclear weapons, making the latter thinkable and eliminating a major barrier against their employment. These so-called conventional bombs have already been used, for example, in Afghanistan, where the us employed a gigantic explosive weapon, called a “Bunker Buster” to root out al-Qaeda combatants in underground bunkers. They are based upon the “daisy cutter,” a giant bomb about the size of a Volkswagen Beetle and capable of destroying everything within a square kilometer. Significantly, the model used in Afghanistan, the B61-11, already employs nuclear technology, the infamous depleted uranium warhead, capable by virtue of its extreme density, of great penetrating power. Depleted uranium (du) is a by-product of the nuclear power industry (chiefly being U-238 created in the extraction of U-235 from naturally occurring uranium ore). Over 500,000 tons of deadly du have accumulated and 4-5,000 more tons are being produced every year. Like all products of the nuclear power industry, du poses immense challenges of disposal. It has this peculiar property of being almost twice as dense as lead and it is radioactive with a half-life of 4.5 billion years. Wherever depleted uranium is used, it has another peculiar property of exploding, vaporizing at 56 degrees centigrade, which is just like a little more than half the way to boiling water. So it is very volatile, it explodes, it forms dust and powders that are inhaled, disburses widely, and produces lethal cancers, birth defects, and so forth for 4.5 billion years. In the case of depleted uranium, the challenge of disposal was met by incorporating the refuse from the “peaceful” branch of nuclear technology into the war-making branch. Already used in anti-tank projectiles in the first Iraq war (approximately 300 tons worth) and again in Yugoslavia (approximately 10-15 tons were used in each of the various Yugoslav wars), it is presumed, although the defense department coyly denies it, that this material was also used in the Afghanistan war. Depleted uranium has spread a plague of radioactivity and further rationalized the use of nuclear weapons as such. Consequently, the B61-11 is about to be replaced with the BLU113, where the bunker buster will now be a small nuclear weapon, almost certainly spear-tipped with du. Pollutants to Earth and Space To the boundaries crossed between nuclear and non-nuclear weapons, and between the peaceful and militaristic uses of atomic technology, we need to add those between earth and its lower atmosphere on the one hand, and space on the other. The administration is poised to realize the crackpot and deadly schemes of the Reagan administration to militarize space and to draw the rest of the world into the scheme, as client and victim. In November 2002, Bush proposed that nato allies build missile defense systems, with components purchased, needless to add, from Boeing, Raytheon, etc, even as Congress was approving a fiscal 2003 defense budget containing $7.8 billion authorization for missile defense research and procurement, as part of the $238 billion set aside for Star Wars over the next 20 years. The administration now is poised to realize the crackpot and deadly schemes of the Reagan administration to militarize space and to draw the rest of the world into the scheme, as client and victim. A new missile defense system bureaucracy has risen. It is currently developing such wild items as something called ìbrilliant pebblesî which involves the release of endless numbers of mini satellites into outer space. All of this was to protect the world against the threat of rogue states such as North Korea. As the Seattle Times reported, the us expects the final declaration to, “express the need to examine options to protect allied forces, territories, and population centers against the full range of missile threats.” As an official put it, "This will establish the framework within which nato allies could work cooperatively toward fielding the required capabilities. With the us withdrawal this year from the anti-ballistic treaty with Russia, it is no longer a question of whether missile defenses will be deployed. The relevant questions are now what, how, and when. The train is about to pull out of the station; we invite our friends, allies, and the Russian Federation to climb on board." The destination of this train is defensive only in the Orwellian sense, as the missiles will be used to defend us troops in the field. In other words, they will be used to defend armies engaged in offensive activities. What is being “defended” by the Strategic Defense Initiative (sdi), therefore, is the initiative to make war everywhere. Space has now become the ultimate battlefield. And not just with use of these missiles. The High Frequency Active Aural Research Program (haarp) is also part of sdi. This amounts to weather warfare: deliberately manipulating climate to harm and destroy adversaries. A very dubious enterprise, to say the least, in an age when global warming and climate instability are already looming as two of the greatest problems facing civilization. The chief feature is a network of powerful antennas capable of creating controlled local modifications of the ionosphere and hence producing weather disturbances and so forth. All of these technical interventions are accompanied by many kinds of institutional and political changes. The National Aeronautics and Space Administration, nasa, for instance, is now a partner in the development of this strategic defense initiative. The very way in which the United Nations was drawn into the resolution in the war against Iraq is a breach and a violation of the original un Charter, which is to never make war, never to threaten to make war on any member state. The un was a peacemaking institution, but now the Super power has forced it into its orbit. The scrapping of the abm and other elements of the treaty structure (non- proliferation, test-ban) that had organized the world of the Cold War is one part of a process of shedding whatever might inhibit the cancerous growth of militarism. It also creates an atmosphere of general lawlessness in the world. This is felt at all levels, from the rise of an ultra-militarist clique in the White House to the formal renunciation of no-first-use nuclear strategy, the flouting of numerous un regulations, the doctrine of pre-emptive war, and, as the logical outcome of all these developments, the condition of Permanent War and its accompaniment of general lawlessness, media slavishness, and a wave of repression for whose parallel we have to go back to the Alien and Sedition acts of the 1790s, or Trumanís loyalty oaths of 1947. Militarism cannot be reduced to politics, economics, technology, culture, or psychology. All these are parts of the machine, make the machine go around, and are themselves produced by the actions of the machine. There is no doubt, in this regard, that the machine runs on natural resources (which have to be secured by economic, political, and military action), and that it is deeply embedded in the ruling corporate order. There is no contradiction here, but a set of meshing parts, driven by an insensate demand for fossil fuel energy. As a man from Amarillo, Texas put it when interviewed by npr as to the correctness of Bush’s plan to go to war in Iraq: “I agree with the president, because how else are we going to get the oil to fly the F-16s?” We go to war, in other words, to get the oil needed to go to war. A Who's Who List of MIC Beneficiaries The fact that our government is front-loaded with oil magnates is another part of the machine. It is of interest, therefore, that Unocal, for example, celebrated Condoleezza Riceís ascendancy to the post of National Security Advisor by naming an oil tanker after her. Or that Dick Cheney, originally a poor boy, became a rich man after the first Gulf War, when he switched from being Secretary of Defense, in charge of destroying the Kuwait oil fields, to ceo of a then-smallish company, Halliburton, in charge of rebuilding the same oil fields. Or that G.W. Bush himself, aside from his failed venture with Harken Oil, is scion of a family and a dynasty that controls the Carlyle Group, founded in 1987 by a former Carter administration official. Carlyle is now worth over $13 billion and its high officials include President Bush I, his Secretary of State (and fixer of the coup that put Bush II in power) James Baker, Reaganís Secretary of Defense Frank Carlucci, former British Prime Minister John Major, and former Phillipine President Fidel Ramos, among others. The Carlyle Group has its fingers everywhere, including ìdefenseî, where it controls firms making vertical missile launch systems currently in use on us Navy ships in the Arabian sea, as well as a range of other weapons delivery systems and combat vehicles. And as a final touch which the worldís people would be much better off for knowing, there are very definite connections between Carlyle and the family of Osama bin Laden - a Saudi power whose fortunes have been fused with those of the United States since the end of World War II. Thus the military-industrial complex lives, breathes, and takes on new dimensions. There is a deep structural reason for the present explosion of us militarism, most clearly traceable in the activities of Vice President Cheney, made clear in the energy report that he introduced with the generous assistance of Enron executives in May 2001. According to the report, American reliance on imported oil will rise by from about 52 percent of total consumption in 2001 to an estimated 66 percent in 2020. The reason for this is that world production, in general, and domestic production in particular are going to remain flat (and, although the report does not discuss this, begin dropping within the next 20 years). Meanwhile consumptionówhich is a direct function of the relentless drive of capitalism to expand commodity productionóis to grow by some two- thirds. Because the usage of oil must rise in the worldview of a Cheney, the us will actually have to import 60 percent more oil in 2020 to keep itself going than it does today. This means that imports will have to rise from their current rate of about 10.4 million barrels per day to about 16.7 million barrels per day. In the words of the report: “The only way to do this is persuade foreign suppliers to increase their production to sell more of their output to the us.” The meaning of these words depends of course on the interpretation of “persuade”, which in the us lexicon is to be read, I should think, as requiring a sufficient military machine to coerce foreign suppliers. At that point they might not even have to sell their output to the us, as it would already be possessed by the superpower. Here we locate the root material fact underlying recent us expansionism. This may seem an extravagant conclusion. However an explicit connection to militarismóand Iraqóhad been supplied the month before, in April 2001, in another report prepared by James Baker and submitted to the Bush cabinet. This document, called “Strategic Energy Policy Challenges for the 21st Century,” concludes with refreshing candor that ìthe us remains a prisoner of its energy dilemma, Iraq remains a destabilizing influence to the flow of oil to international markets from the Middle East, Saddam Hussein has also demonstrated a willingness to threaten to use the oil weapon and to use his own export program to manipulate oil markets, therefore the us should conduct an immediate policy review toward Iraq, including military, energy, economic, and political diplomatic assessments. Note the absence of reference to “weapons of mass destruction,” or aid to terrorism, convenient rationalizations that can be filled in later. Clearly, however things turn out with Iraq, the fundamental structural dilemma driving the military machine pertains to the contradictions of an empire that drives toward the invasion of all social space and the total control over nature. Since the former goal meets up with unending resistance and the latter crashes against the finitude of the material world, there is no recourse except the ever-widening resort to force. But this, the military monster itself, ever seeking threats to feed upon, becomes a fresh source of danger, whether of nuclear war, terror, or ecological breakdown. The situation is plainly unsustainable, a series of disasters waiting to happen. It can only be checked and brought to rationality by a global uprising of people who demand an end to the regime of endless war. This is the only possible path by which we can pull ourselves away from the abyss into which the military machine is about to plunge, dragging us all down with it.

#### **the aff’s certain calculations about war are an impossibly arrogant form of mechanical, sterile analysis that eases the path towards war. their language is coopted to provide rhetorical ammunition for militarists. our alternative is not pure pacifism, but rather a pacifist analysis that injects moral and epistemic doubt into our decisionmaking about war – this is the only way to formulate better policies that address structural causes of war and avoids inevitable cycles of violence**

Neu 13 – prof @ U of Brighton

(Michael, International Relations 27(4), December, The Tragedy of Justified War)

Just war theory is not concerned with millions of starving people who could be saved from death and disease with a fraction of the astronomical amount of money that, every year, goes into the US defence budget alone (a budget that could no longer be justified if the United States ran out of enemies one day). It is not interested in exposing the operat- ing mechanisms of a global economic structure that is suppressive and exploitative and may be conducive to outbreaks of precisely the kind of violence that their theory is con- cerned with. As intellectually impressive as analytical just war accounts are, they do not convey any critical sense of Western moralism. It is as though just war theory were written for a different world than the one we occupy: a world of morally responsible, structurally unconstrained, roughly equal agents, who have non-complex and non-exploitative relationships, relationships that lend themselves to easy epistemic access and binary moral analysis. Theorists write with a degree of confidence that fails to appreciate the moral and epistemic fragility of justified war, the long-term genesis of violent conflict, structural causes of violence and the moralistic attitudes that politicians and the media are capable of adopting. To insist that, in the final analysis, the injustice of wars is completely absorbed by their being justified reflects a way of doing moral philosophy that is frighteningly mechanical and sterile. It does not do justice to individual persons,59 it is nonchalant about suffering of unimaginable proportions and it suffocates a nuanced moral world in a rigid binary structure designed to deliver unambiguous, action-guiding recommendations. According to the tragic conception defended here, justified warfare constitutes a moral evil, not just a physical one – whatever Coates’ aforementioned distinction is supposed to amount to. If we do not recognise the moral evil of justified warfare, we run the risk of speaking the following kind of language when talking to a tortured mother, who has witnessed her child being bombed into pieces, justifiably let us assume, in the course of a ‘just war’: See, we did not bomb your toddler into pieces intentionally. You should also consider that our war was justified and that, in performing this particular act of war, we pursued a valid moral goal of destroying the enemy’s ammunition factory. And be aware that killing your toddler was not instrumental to that pursuit. As you can see, there was nothing wrong with what we did. (OR: As you can see, we only infringed the right of your non-liable child not to be targeted, but we did not violate it.) Needless to say, we regret your loss. This would be a deeply pathological thing to say, but it is precisely what at least some contemporary just war theorists would seem to advise. The monstrosity of some accounts of contemporary just war theory seems to derive from a combination of the degree of certainty with which moral judgments are offered and the ability to regard the moral case as closed once the judgments have been made. One implication of my argument for just theorists is clear enough: they should critically reflect on the one-dimensionality of their dominant agenda of making binary moral judgments about war. If they did, they would become more sympathetic to the pacifist argument, not to the conclusion drawn by pacifists who are also caught in a binary mode of thinking (i.e. never wage war, regardless of the circumstances!) but to the timeless wisdom that forms the essence of the pacifist argument. It is wrong to knowingly kill and maim people, and it does not matter, at least not as much as the adherents of double effect claim, whether the killing is done intentionally or ‘merely’ with foresight. The difference would be psychological, too. Moral philosophers of war would no longer be forced to concede this moral truth; rather, they would be free to embrace it. There is no reason for them to disrespect the essence of pacifism. The just war theorist Larry May implicitly offers precisely such a tragic vision in his sympathetic discussion of ‘Grotius and Contingent Pacifism’. According to May, ‘war can sometimes be justified on the same grounds on which certain forms of pacifism are themselves grounded’.60 If this is correct, just war theorists have good reason to stop calling themselves by their name. They would no longer be just war theorists, but unjust war theorists, confronting politicians with a jus contra bellum, rather than offering them a jus ad bellum. Beyond being that, they would be much ‘humbler in [their] approach to considering the justness of war’ (or, rather, the justifiability), acknowledging that: notions of legitimate violence which appear so vivid and complete to the thinking individual are only moments and snapshots of a wider history concerning the different ways in which humans have ordered their arguments and practices of legitimate violence. Humility in this context does not mean weakness. It involves a concern with the implicit danger of adopting an arrogant approach to the problem of war.61 Binary thinking in just war theory is indeed arrogant, as is the failure to acknowledge the legitimacy of – and need for – ambiguity, agony and doubt in moral thinking about war. Humble philosophers of war, on the contrary, would acknowledge that any talk of justice is highly misleading in the context of war.62 It does not suffice here, in my view, to point out that ‘we’ have always understood what ‘they’ meant (assuming they meant what we think they meant). Fiction aside, there is no such thing as a just war. There is also no such thing as a morally justified war that comes without ambiguity and moral remainders. Any language of justified warfare must therefore be carefully drafted and constantly questioned. It should demonstrate an inherent, acute awareness of the fragility of moral thinking about war, rather than an eagerness to construct unbreakable chains of reasoning. Being uncertain about, and agonised by, the justifiability of waging war does not put a moral philosopher to shame. The uncertainty is not only moral, it is also epistemic. Contemporary just war theorists proceed as if certainty were the rule, and uncertainty the exception. The world to which just war theory applies is one of radical and unavoidable uncertainty though, where politicians, voters and combatants do not always know who their enemies are; whether or not they really exist (and if so, why they exist and how they have come into existence); what weapons the enemies have (if any); whether or not, when, and how they are willing to employ them; why exactly the enemies are fought and what the consequences of fighting or not fighting them will be. Philosophers of war should also become more sensitive to the problem of political moralism. The just war language is dangerous, particularly when spoken by eager, self- righteous, over-confident moralists trying to make a case. It would be a pity if philosophers of war, despite having the smartest of brains and the best of intentions, effectively ended up delivering rhetorical ammunition to political moralists. To avoid being inadvertently complicit in that sense, they could give public lectures on the dangers of political moralism, that is, on thinking about war in terms of black and white, good and evil and them and us. They could warn us against Euro-centrism, missionary zeal and the emperors’ moralistic clothes. They could also investigate the historical genesis and structural conditionality of large-scale aggressive behaviour in the global arena, deconstruct- ing how warriors who claim to be justified are potentially tied into histories and structures, asking them: Who are you to make that claim? A philosopher determined to go beyond the narrow discursive parameters provided by the contemporary just war paradigm would surely embrace something like Marcus’ ‘second-order regulative principle’, which could indeed lead to ‘“better” policy’.63 If justified wars are unjust and if it is true that not all tragedies of war are authentic, then political agents ought to prevent such tragedies from occurring. This demanding principle, however, may require a more fundamental reflection on how we ‘conduct our lives and arrange our institutions’ (Marcus) in this world. It is not enough to adopt a ‘wait and see’ policy, simply waiting for potential aggressions to occur and making sure that we do not go to war unless doing so is a ‘last resort’. Large-scale violence between human beings has causes that go beyond the individual moral failure of those who are potentially aggressing, and if it turns out that some of these causes can be removed ‘through more careful decision-making’ (Lebow), then this is what ought to be done by those who otherwise deprive themselves, today, of the possibility of not wronging tomorrow.

### CP

#### The President of the United States of America should seek the legal advice of the United States Department of Justice’s Office of Legal Counsel in the area of indefinite detention. The OLC should publically disclose a written legal opinion that the executive branch of the United States federal government should not exercise the authority to indefinitely detain and the President should issue an executive order complying with that advice. Other executive branch legal personnel, including the Attorney General, will defer to the advice of the OLC on this issue.

#### The counterplan solves --- internalizes legal norms, effectively constrains the president, establishes precedent and is sufficiently immune from political influences

Bradley and Morrison, 13 --- Professor of Law at Duke, AND \*\*Professor of Law at Colombia (May 2013, Columbia Law Review, “ESSAY: PRESIDENTIAL POWER, HISTORICAL PRACTICE, AND LEGAL CONSTRAINT,” 113 Colum. L. Rev. 1097))

III. Possible Mechanisms of Constraint

Having specified in the previous Part what counts as legal constraint in our view, this Part considers how legal constraints might work with respect to the presidency. It first examines two familiar potential mechanisms of constraint: the internalization of legal norms by relevant actors within the executive branch and the threat of external sanctions for violating those norms. This Part then discusses the implications of an obvious but less-discussed phenomenon - the fact that executive officials frequently engage in public dialogue about the President's constitutional authority, including his practice-based authority. It concludes by analyzing the debate over the military intervention in Libya, mentioned earlier, in order to highlight some of the challenges associated with empirically studying the ways in which the presidency may be constrained by law.

A. Norm Internalization

Perhaps the most obvious way that law can have a constraining effect is if the relevant actors have internalized the legal norms, whether those norms are embodied in authoritative text, judicial decisions, or institutional practice. As a general matter, the internalization of legal norms is a phenomenon that can potentially take place wherever the law is thought to operate, in both the private and public sectors. But precisely how that internalization operates, including how it affects actual conduct, depends heavily on institutional context. When speaking of legal norm internalization as it relates to the presidency, it is important first to note that Presidents act through a wide array of agencies and departments, and that presidential decisions are informed - and often made, for all practical purposes - by officials other than the President. In most instances involving presidential power, therefore, the relevant question is whether there has been an internalization of legal norms by the executive branch.

The executive branch contains thousands of lawyers. n124 The President and other executive officials are regularly advised by these lawyers, and sometimes they themselves are lawyers. Although lawyers serve in a wide variety of roles throughout the executive branch, their [\*1133] experience of attending law school means that they have all had a common socialization - a socialization that typically entails taking law seriously on its own terms. n125 Moreover, the law schools attended by virtually all U.S. government lawyers are American law schools, which means that the lawyers are socialized in an ethos associated with the American polity and the American style of law and government. n126 These lawyers are also part of a professional community (including the state bars to which they are admitted) with at least a loosely shared set of norms of argumentative plausibility.

Certain legal offices within the executive branch have developed their own distinctive law-internalizing practices. This is particularly true in places like OLC, which, as noted above, provides legal advice based on its best view of the law. OLC has developed a range of practices and traditions - including a strong norm of adhering to its own precedents even across administrations - that help give it some distance and relative independence from the immediate political and policy preferences of its clients across the executive branch, and that make it easier for OLC to act on its own internalization of legal norms. n127 Another example is the State Department Legal Adviser's Office, which often takes the lead within the executive branch on matters of international law and which has developed its own set of traditions and practices that help protect it from undue pressure from its clients. n128

More broadly, government legal offices may internalize legal norms even if they do not regularly focus on identifying the best view of the law. For example, an office committed not to seeking the best view of the law but to providing professionally responsible legal defenses of certain already-determined policy positions could still operate under legal constraints if it took the limits of professional responsibility seriously. [\*1134] That may well describe the typical posture of agency general counsel offices across the executive branch. As noted above, although it can be difficult to identify with consistent precision the outer boundaries of legal plausibility, a commitment to remaining within those boundaries is a commitment to a type of legal constraint.

If executive branch legal offices operate on the basis of certain internalized norms that treat law as a constraint, the next question is whether those offices have any effect on the actual conduct of the executive branch. In the case of OLC, there are two key points. First, although OLC possesses virtually no "mandatory" jurisdiction, there is a general expectation that, outside the litigation context, legal questions of special complexity, controversy, or importance will be put to OLC to address. n129 Second, established traditions treat OLC's legal conclusions as presumptively binding within the executive branch, unless overruled by the Attorney General or the President (which happens extremely rarely). n130 Combined, these practices make OLC the most significant source of centralized legal advice within the Executive Branch.

Still, OLC addresses only a very small fraction of all the legal questions that arise within the executive branch, and a complete picture of the extent to which executive officials internalize legal norms (or are affected by others who internalize such norms) must extend well beyond [\*1135] that office. n131 Looking across the executive branch more broadly, there may be a practical imperative driving at least some measure of legal norm internalization. The executive branch is a vast bureaucracy, or series of bureaucracies. Executive officials responsible for discharging the government's various policy mandates cannot act effectively without a basic understanding of who is responsible for what, and how government power is to be exercised - all topics regulated by law, including practice-based law. n132 Some of the understandings produced by those allocations are probably so internalized that the relevant actors cannot even imagine (at least in any serious way) a different regime. n133

Even on the more high-profile policy questions that receive the attention of the White House itself, the internalization of law may have a constraining effect. There are lawyers in the White House, of course, including the Office of Counsel to the President (otherwise known as the White House Counsel's Office). Some commentators - most notably Bruce Ackerman, as part of his general claim that the executive branch tends toward illegality - have characterized that office as populated by "superloyalists" who face "an overwhelming incentive to tell [the President] that the law allows [him] to do whatever [he] wants to do." n134 If that were an accurate portrayal, it would suggest that there is little to no internalization of the law in the White House Counsel's Office. But there are serious descriptive deficiencies in that account. n135 [\*1136] Still, the White House Counsel's immediate proximity to and close working relationship with the President and his senior political advisors surely do cause politics to suffuse much of the work of that office in a way that is not true of all of the executive branch.

The more fundamental point, however, is that it is in the nature of modern government that the President's power to act often depends at least in part on the input and actions of offices and departments outside the White House. That commonly includes the input of legal offices from elsewhere across the executive branch. n136 Many of those offices are headed by political appointees, and thus politics are not likely to be wholly absent from their work either. But many of those offices are also populated primarily by nonpolitical "career" civil servants, whose work as government lawyers across presidential administrations likely increases the internalization of relevant legal norms. To the extent that the input and actions of such offices affect the President's ability to act, he may be constrained by law without regard to whether he or his most senior White House advisers think about the law.

Internalization of legal norms may at least partially explain the now-famous standoff during the George W. Bush Administration between high-ranking lawyers in the Justice Department and various White House officials over the legality of a then-secret warrantless surveillance program. The program was deeply important to the White House, but the Attorney General, Deputy Attorney General, and head of OLC all refused to certify the legality of the program unless certain changes were made. When the White House threatened to proceed with the program without certification from the Justice Department, the leaders of the Department (along with the Director of the FBI and others) all prepared to resign. Ultimately, the White House backed down and acceded to the changes. n137 Some substantial part of the explanation for why the Justice Department officials acted as they did seems to lie in their internalization of a set of institutional norms that not only takes law seriously as a constraint, but that insists on a degree of independence in determining [\*1137] what the law requires. n138 Buckling under pressure from the White House was evidently inconsistent with the Justice Department officials' understanding of their professional roles.

### DA

#### Trade promotion is a top priority and will pass if Obama invests capital --- he can overcome opposition

Schneider, 12/17 (Howard, 12/17/2013, “Obama, to sell trade pacts, will outline the benefits of globalization,” <http://www.stltoday.com/business/local/obama-to-sell-trade-pacts-will-outline-the-benefits-of/article_3bebc586-6ed7-50dd-879c-3f331fd54363.html>))

WASHINGTON • After months of international negotiations over two new trade treaties, the Obama administration is planning a major push to make the case that the agreements will put Americans to work at a decent wage and not further winnow the country's manufacturing base.

European and U.S. negotiators are in Washington this week to continue work on an agreement that would mesh the world's two largest economies more closely together. A second proposed treaty, the 12-nation Trans-Pacific Partnership (TPP), may be finished early next year, creating a trade zone covering 40 percent of world economic output and reaching from Chile to Japan.

The legislation needed for both agreements to clear Congress is expected to be introduced early in 2014, and the administration "is beginning to ramp up" for what could be the most extensive debate in more than a decade over the opportunities and risks of globalization, said an official who was not authorized to speak publicly about the administration's strategy. "We will be mobilizing a whole administration effort to build public and congressional support," the official said.

LIKELY TO BE CONTROVERSIAL

It is likely to be a controversial battle, forcing President Barack Obama to stump for policies that some of his strongest political allies — particularly organized labor and environmental groups — are likely to oppose. It is a debate set against the backdrop of 7 percent unemployment and concern about the loss of U.S. jobs that coincided with the rise of manufacturing power in countries such as China.

The measures under consideration would cover the bulk of global economic activity and reshape economic relations around the globe — setting the first rules for new industries that are thriving thanks to the Internet and renegotiating standards for old ones such as shoemaking.

Obama has focused much of his recent economic policy on boosting trade and global investment. He will now need to make the case that a broad new set of trade agreements will help U.S. workers and not merely shift jobs overseas or benefit a small clique of global corporations, as many trade skeptics argue has happened before.

SETTING 'THE RULES OF THE GAME'

These agreements "will set the rules of the game … in a way that levels the playing field and allows our workers to compete more effectively. If we don't do that, the rules will be set by others," U.S. Trade Representative Michael Froman said Tuesday. Chinese economic influence in Asia is a particular concern.

"At the end of the day, when the deal is done, we will be able to explain to everybody the balances that we struck and we will have support for the substance of it," Froman said.

The countries involved range from long-standing U.S. industrial allies such as Germany and Japan to developing nations such as Vietnam and Malaysia, each posing its own challenges in completing the agreements and winning support in the United States.

A more open Japanese auto market could be of great benefit to U.S. manufacturers, for example, while the administration envisions Vietnam becoming a geopolitically important model of how a government-planned economy can transition to a system of stronger individual rights and more market-based rules for state-run enterprises.

DOMESTIC OPPOSITION

Several major union leaders, as well as some corporate executives and civil society groups, have been skeptical that those benefits will ever be realized and argue that the TPP in particular is being negotiated with such little public disclosure that it is hard to judge the potential effects.

On Capitol Hill, there is ill will to overcome from the recent government shutdown and controversy over the rollout of the health-care law. Unemployment is high and a core group of Democrats feels that prior trade agreements — from Clinton-era treaties with Mexico and Canada to the decision to let China join the World Trade Organization — have helped hollow out America's manufacturing middle class.

Democrats who favor trade — including important figures such as Rep. Sander Levin, D-Mich., — want tougher guarantees in any upcoming treaty, including enforceable rules to ensure that major trading partners don't unfairly manipulate the value of their currencies to gain advantage.

Civil society groups have raised a myriad of complaints, and the usually pro-trade GOP may splinter as members affiliated with the tea party movement argue against providing Obama with the same authority that presidents since Gerald Ford have been given to negotiate trade treaties without fear of congressional amendment.

FIRST BATTLE: 'FAST-TRACK AUTHORITY'

In fact, the first battle will be over not a trade agreement but that "fast-track" authority. Fast-track rules let Congress set negotiating parameters for the administration but requires any subsequent treaty to receive a quick up-or-down vote without amendment — a way to assure negotiating partners that deals will not be returned with a long list of congressional changes to barter over.

The Republican and Democratic chairmen of the House Ways and Means Committee and the Senate Finance Committee are working on a trade promotion authority bill expected to be introduced early in 2014. That will be the forum to work out some of the major fears or complaints lawmakers have voiced over the TPP and the Transatlantic Trade and Investment Partnership with Europe.

Obama "needs to make clear this is important," said Jake Colvin, a vice president of the National Foreign Trade Council, a business lobby. "Potentially there is a significant amount of support in the center among Democrats and Republicans to get it over the line."

Free-trade agreements with South Korea, Colombia and Panama have been approved under Obama. But they originally dated to the Bush administration and were covered by fast-track laws that have since expired.

POLITICALLY FRAUGHT DEBATE

The last debate over trade promotion authority, in 2002, showed how narrow and politically fraught the margins can become: The measure was approved 215 to 212 in the House on a largely party-line vote.

The politics of trade since then have arguably become more intense. The U.S. sway over the world economic system was rocked by the financial crisis, and China's rapid growth has led U.S. unions, politicians and others to insist that future trade agreements not only open markets but also ensure that U.S. workers are not left at a disadvantage.

New "21st century" issues such as the transfer of data across national borders, intellectual property rules for biotechnology, and appropriate regulations for state-owned enterprises are being negotiated for the first time, alongside age-old disputes over agriculture and whether cheese from somewhere other than Roquefort-sur-Soulzon smells just as sweet.

When the latest round of Pacific talks ended this month in Singapore, House Ways and Means Committee Chairman Dave Camp, R-Mich, said there had been "considerable bipartisan and bicameral progress" on a trade promotion bill.

He said he felt legislation could pass "early next year, if we have the administration's active participation."

#### Only this leadership and prioritization by Obama will ensure passage

Business Times Singapore, 12/17 (“Obama must make the case for freer trade,” 12/17/2013, Factiva))

The TPA bill, which is expected to be introduced in January, will face fierce opposition from Democratic legislators affiliated with the labour unions and environmentalist forces who warn that free trade accords such as the TPP encourage American companies to relocate operations to low-wage emerging economies that don't adhere to environmental standards. There will also be pushback from conservative Republican lawmakers with ties to the Tea Party movement who don't want to strengthen the power of President Barack Obama by granting him a new TPA.

So the president now has his work cut out. He must place the goal of liberalising global trade on the top of his policy agenda and exert leadership to ensure that the TPA legislation gets approved by Congress early, before Democrats and Republicans start preparing for next year's midterm Congressional elections. But he must articulate a coherent global trade narrative which highlights the benefits that liberalising trade, especially with Asia, can bring to the American economy - by creating new jobs and investments, while strengthening US global leadership.

#### [Insert link evidence]

#### TPA is key to reverse slow growth and ensure U.S. global competitiveness

Oberhelman, 12/30 --- chairman and CEO of Caterpillar in Illinois and chairman of Business Roundtable’s International Engagement Committee (Doug, 12/30/2013, “Guest: Should Congress give Obama fast-track authority for trade deals? Yes,” <http://seattletimes.com/html/opinion/2022546185_dougoberhelmanprotradeoped30xml.html)>

LIKE most Americans, I’m frustrated with the slow rate of economic growth in the United States over the last several years.

Most proposals to fix the problem focus on domestic issues — government spending, taxes and infrastructure projects, to name a few.

As the chairman and chief executive officer of Caterpillar, I particularly like to talk about the need to invest in our nation’s infrastructure, which helps to make America more competitive in the world economy.

But while all of these issues are critically important to the U.S. economy, the opportunity to increase U.S. investment, growth and jobs requires us to go beyond America’s border.

Ninety-six percent of the world’s consumers live outside of the United States. In fact, in the last five years, Caterpillar has exported more than $82 billion in products manufactured at our factories in the United States, supporting tens of thousands of jobs. Creating opportunities for American companies to reach these consumers through new and expanded free-trade agreements can help to get our economy back on track and keep our nation globally competitive.

Today, trade supports more than one in five American jobs. U.S. exports have grown more than twice as fast as GDP since 2002, accounting for 14 percent of GDP in 2012. And workers in U.S. companies that export goods earn on average up to 18 percent more than those in similar jobs in non-exporting companies.

The United States is currently pursuing one of the most ambitious trade agendas in a generation, trade agreements that would open markets in the Asia-Pacific region and in Europe.

Also being negotiated is an agreement aimed at knocking down barriers to boost the global competitiveness of U.S. services companies. But to realize the economic benefits of these pending trade deals, Congress must update and pass Trade Promotion Authority legislation.

A partnership between Congress and the Administration, TPA legislation helps shape a strategic vision for U.S. trade policy and the goals the United States wants to accomplish in trade negotiations.

It provides a framework for Congress and the president to work together to craft that vision, and it helps define the critical constitutional relationship between Congress and the president with respect to foreign commerce.

From the 1930s until 2007, Congress has authorized every president to pursue trade agreements that open markets for U.S. goods and services. Such authority was last passed by Congress in 2002 and expired in 2007.

Updated TPA legislation would provide clear guidance on Congress’ requirements for trade agreements. It would also provide our trade negotiating partners with a degree of comfort that the United States is committed to the international trade negotiating process and the trade agreements we negotiate.

In the coming weeks it is expected that Congress will introduce updated TPA legislation. Congress should seize the opportunity to shore up the benefits of current and future trade agreements — increased U.S. investment, growth and jobs — by passing updated TPA legislation.

Working with the president to do so would ensure that the United States continues to pursue trade agreements that not only would allow companies like Caterpillar to remain globally competitive, but also would benefit America.

#### The impact is global nuclear war

Freidberg & Schonfeld, 8 --- \*Professor of Politics and IR at Princeton’s Woodrow Wilson School, AND \*\*senior editor of Commentary and a visiting scholar at the Witherspoon Institute in Princeton (10/21/2008, Aaron and Gabriel, “The Dangers of a Diminished America”, Wall Street Journal, http://online.wsj.com/article/SB122455074012352571.html?mod=googlenews\_wsj)

With the global financial system in serious trouble, is America's geostrategic dominance likely to diminish? If so, what would that mean?

One immediate implication of the crisis that began on Wall Street and spread across the world is that the primary instruments of U.S. foreign policy will be crimped. The next president will face an entirely new and adverse fiscal position. Estimates of this year's federal budget deficit already show that it has jumped $237 billion from last year, to $407 billion. With families and businesses hurting, there will be calls for various and expensive domestic relief programs.

In the face of this onrushing river of red ink, both Barack Obama and John McCain have been reluctant to lay out what portions of their programmatic wish list they might defer or delete. Only Joe Biden has suggested a possible reduction -- foreign aid. This would be one of the few popular cuts, but in budgetary terms it is a mere grain of sand. Still, Sen. Biden's comment hints at where we may be headed: toward a major reduction in America's world role, and perhaps even a new era of financially-induced isolationism.

Pressures to cut defense spending, and to dodge the cost of waging two wars, already intense before this crisis, are likely to mount. Despite the success of the surge, the war in Iraq remains deeply unpopular. Precipitous withdrawal -- attractive to a sizable swath of the electorate before the financial implosion -- might well become even more popular with annual war bills running in the hundreds of billions.

Protectionist sentiments are sure to grow stronger as jobs disappear in the coming slowdown. Even before our current woes, calls to save jobs by restricting imports had begun to gather support among many Democrats and some Republicans. In a prolonged recession, gale-force winds of protectionism will blow.

Then there are the dolorous consequences of a potential collapse of the world's financial architecture. For decades now, Americans have enjoyed the advantages of being at the center of that system. The worldwide use of the dollar, and the stability of our economy, among other things, made it easier for us to run huge budget deficits, as we counted on foreigners to pick up the tab by buying dollar-denominated assets as a safe haven. Will this be possible in the future?

Meanwhile, traditional foreign-policy challenges are multiplying. The threat from al Qaeda and Islamic terrorist affiliates has not been extinguished. Iran and North Korea are continuing on their bellicose paths, while Pakistan and Afghanistan are progressing smartly down the road to chaos. Russia's new militancy and China's seemingly relentless rise also give cause for concern.

If America now tries to pull back from the world stage, it will leave a dangerous power vacuum. The stabilizing effects of our presence in Asia, our continuing commitment to Europe, and our position as defender of last resort for Middle East energy sources and supply lines could all be placed at risk.

In such a scenario there are shades of the 1930s, when global trade and finance ground nearly to a halt, the peaceful democracies failed to cooperate, and aggressive powers led by the remorseless fanatics who rose up on the crest of economic disaster exploited their divisions. Today we run the risk that **rogue states may choose to become ever more reckless with their nuclear toys**, just at our moment of maximum vulnerability.

The aftershocks of the financial crisis will almost certainly rock our principal strategic competitors even harder than they will rock us. The dramatic free fall of the Russian stock market has demonstrated the fragility of a state whose economic performance hinges on high oil prices, now driven down by the global slowdown. China is perhaps even more fragile, its economic growth depending heavily on foreign investment and access to foreign markets. Both will now be constricted, inflicting economic pain and perhaps even sparking unrest in a country where political legitimacy rests on progress in the long march to prosperity.

None of this is good news if the authoritarian leaders of these countries seek to divert attention from internal travails with external adventures.

As for our democratic friends, the present crisis comes when many European nations are struggling to deal with decades of anemic growth, sclerotic governance and an impending demographic crisis. Despite its past dynamism, Japan faces similar challenges. India is still in the early stages of its emergence as a world economic and geopolitical power.

What does this all mean? There is no substitute for America on the world stage. The choice we have before us is between the potentially disastrous effects of disengagement and the stiff price tag of continued American leadership.

### Case

#### Obama will circumvent the plan with creative lawyering

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

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

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

# Block

### Case

#### **Predictions most ethical – failure of preventative action and predictions drives structural violence and inequality, only actions that act to preserve future generations can resolve power relations**

Kurasawa‘4,

(Fuyuki, Assistant Prof. of Sociology @ York University, Cautionary Tales, Constellations Vol. 11, No. 4, Blackwell Synergy)

In the previous section, I described how the capacity to produce, disseminate, and receive warning signals regarding disasters on the world stage has developed in global civil society. Yet the fact remains that audiences may let a recklessness or insouciance toward the future prevail, instead of listening to and acting upon such warnings. There is no doubt that the short-sightedness and presentism are strong dynamics in contemporary society, which is enveloped by a “temporal myopia” that encourages most individuals to live in a state of chronological self-referentiality whereby they screen out anything that is not of the moment.22 The commercial media, advertising, and entertainment industries are major contributors to this “tyranny of real time”23 that feeds a societal addiction to the ‘live’ and the immediate while eroding the principle of farsightedness. The infamous quip attributed to Madame de Pompadour, ‘après nous, le déluge,’ perfectly captures a sense of utter callousness about the future that represents one of presentism’s most acute manifestations. Two closely related notions underlie it: the belief that we should only concern ourselves with whether our actions, or lack thereof, have deleterious consequences visible to us in the short-to medium-term (temporally limited responsibility); and sheer indifference toward the plight of those who will come after us (generational self-centeredness). Substantively, the two are not much different because they shift the costs and risks of present-day decisions onto our descendants. “The crisis of the future is a measure of the deficiency of our societies, incapable as they are of assessing what is involved in relationships with others,” Bindé writes. “This temporal myopia brings into play the same processes of denial of others as social shortsightedness. The absence of solidarity in time between generations merely reproduces selfishness in space within the same generation.”24 Thus, to the NIMBY (‘not-in-my-back-yard’) politics of the last few decades can be added the ‘not-in-my-lifetime’ or ‘not-to-my-children’ lines of reasoning. For members of dominant groups in the North Atlantic region, disasters are something for others to worry about – that is, those who are socio-economically marginal, or geographically and temporally distant. The variations on these themes are numerous. One is the oft-stated belief that prevention is a luxury that we can scarcely afford, or even an unwarranted conceit. Accordingly, by minimizing the urgency or gravity of potential threats, procrastination appears legitimate. Why squander time, energy, and resources to anticipate and thwart what are, after all, only hypothetical dangers? Why act today when, in any case, others will do so in the future? Why not limit ourselves to reacting to cataclysms if and when they occur? A ‘bad faith’ version of this argument goes even further by seeking to discredit, reject, or deny evidence pointing to upcoming catastrophes. Here, we enter into the domain of deliberate negligence and “culpable ignorance,”25 as manifest in the apathy of US Republican administrations toward climate change or the Clinton White House’s disengenuous and belated responses to the genocides in ex-Yugoslavia and Rwanda. At another level, instrumental-strategic forms of thought and action, so pervasive in modern societies because institutionally entrenched in the state and the market, are rarely compatible with the demands of farsightedness. The calculation of the most technically efficient means to attain a particular bureaucratic or corporate objective, and the subsequent relentless pursuit of it, intrinsically exclude broader questions of long-term prospects or negative side-effects. What matters is the maximization of profits or national self-interest with the least effort, and as rapidly as possible. Growing risks and perils are transferred to future generations through a series of trade-offs: economic growth versus environmental protection, innovation versus safety, instant gratification versus future well-being. What can be done in the face of short-sightedness? Cosmopolitanism provides some of the clues to an answer, thanks to its formulation of a universal duty of care for humankind that transcends all geographical and socio-cultural borders. I want to expand the notion of cosmopolitan universalism in a temporal direction, so that it can become applicable to future generations and thereby nourish a vibrant culture of prevention. Consequently, we need to begin thinking about a farsighted cosmopolitanism, a chrono-cosmopolitics that takes seriously a sense ¶ of “intergenerational solidarity” toward human beings who will live in our wake as much as those living amidst us today.26 But for a farsighted cosmopolitanism to take root in global civil society, the latter must adopt a thicker regulative principle of care for the future than the one currently in vogue (which amounts to little more than an afterthought of the non-descript ‘don’t forget later generations’ ilk). Hans Jonas’s “imperative of responsibility” is valuable precisely because it prescribes an ethico-political relationship to the future consonant with the work of farsightedness.27 Fully appreciating Jonas’s position requires that we grasp the rupture it establishes with the presentist assumptions imbedded in the intentionalist tradition of Western ethics. In brief, intentionalism can be explained by reference to its best-known formulation, the Kantian categorical imperative, according to which the moral worth of a deed depends upon whether the a priori “principle of the will” or “volition” of the person performing it – that is, his or her intention – should become a universal law.28 Ex post facto evaluation of an act’s outcomes, and of whether they correspond to the initial intention, is peripheral to moral judgment. A variant of this logic is found in Weber’s discussion of the “ethic of absolute ends,” the “passionate devotion to a cause” elevating the realization of a vision of the world above all other considerations; conviction without the restraint of caution and prudence is intensely presentist.29 By contrast, Jonas’s strong consequentialism takes a cue from Weber’s “ethic of responsibility,” which stipulates that we must carefully ponder the potential impacts of our actions and assume responsibility for them – even for the incidence of unexpected and unintended results. Neither the contingency of outcomes nor the retrospective nature of certain moral judgments exempts an act from normative evaluation. On the contrary, consequentialism reconnects what intentionalism prefers to keep distinct: the moral worth of ends partly depends upon the means selected to attain them (and vice versa), while the correspondence between intentions and results is crucial. At the same time, Jonas goes further than Weber in breaking with presentism by advocating an “ethic of long-range responsibility” that refuses to accept the future’s indeterminacy, gesturing instead toward a practice of farsighted preparation for crises that could occur.30 From a consequentialist perspective, then, intergenerational solidarity would consist of striving to prevent our endeavors from causing large-scale human suffering and damage to the natural world over time. Jonas reformulates the categorical imperative along these lines: “Act so that the effects of your action are compatible with the permanence of genuine human life,” or “Act so that the effects of your action are not destructive of the future possibility of such life.”31 What we find here, I would hold, is a substantive and future-oriented ethos on the basis of which civic associations can enact the work of preventive foresight.

#### There’s no root cause

**Sharpe 10,** lecturer, philosophy and psychoanalytic studies, and Goucher, senior lecturer, literary and psychoanalytic studies – Deakin University, ‘10

(Matthew and Geoff, Žižek and Politics: An Introduction, p. 231 – 233)

We realise that this argument, which we propose as a new ‘quilting’ framework to explain Žižek’s theoretical oscillations and political prescriptions, raises some large issues of its own. While this is not the place to further that discussion, we think its analytic force leads into a much wider critique of ‘Theory’ in parts of the latertwentieth- century academy, which emerged following the ‘cultural turn’ of the 1960s and 1970s in the wake of the collapse of Marxism. Žižek’s paradigm to try to generate all his theory of culture, subjectivity, ideology, politics and religion is psychoanalysis. But a similar criticism would apply, for instance, to theorists who feel that the method Jacques Derrida developed for criticising philosophical texts can meaningfully supplant the methodologies of political science, philosophy, economics, sociology and so forth, when it comes to thinking about ‘the political’. Or, differently, thinkers who opt for Deleuze (or Deleuze’s and Guattari’s) Nietzschean Spinozism as a new metaphysics to explain ethics, politics, aesthetics, ontology and so forth, seem to us candidates for the same type of criticism, as a reductive passing over the empirical and analytic distinctness of the different object fields in complex societies. In truth, we feel that Theory, and the continuing line of ‘master thinkers’ who regularly appear particularly in the English- speaking world, is the last gasp of what used to be called First Philosophy. The philosopher ascends out of the city, Plato tells us, from whence she can espie the Higher Truth, which she must then bring back down to political earth. From outside the city, we can well imagine that she can see much more widely than her benighted political contemporaries. But from these philosophical heights, we can equally suspect that the ‘master thinker’ is also always in danger of passing over the salient differences and features of political life – differences only too evident to people ‘on the ground’. Political life, after all, is always a more complex affair than a bunch of ideologically duped fools staring at and enacting a wall (or ‘politically correct screen’) of ideologically produced illusions, from Plato’s timeless cave allegory to Žižek’s theory of ideology.

We know that Theory largely understands itself as avowedly ‘post- metaphysical’. It aims to erect its new claims on the gravestone of First Philosophy as the West has known it. But it also tells us that people very often do not know what they do. And so it seems to us that too many of its proponents and their followers are mourners who remain in the graveyard, propping up the gravestone of Western philosophy under the sign of some totalising account of absolutely everything – enjoyment, différance, biopower . . . Perhaps the time has come, we would argue, less for one more would- be global, allpurpose existential and political Theory than for a multi- dimensional and interdisciplinary critical theory that would challenge the chaotic specialisation neoliberalism speeds up in academe, which mirrors and accelerates the splintering of the Left over the last four decades. This would mean that we would have to shun the hope that one method, one perspective, or one master thinker could single- handedly decipher all the complexity of socio- political life, the concerns of really existing social movements – which specifi cally does not mean mindlessly celebrating difference, marginalisation and multiplicity as if they could be suffi cient ends for a new politics. It would be to reopen critical theory and non- analytic philosophy to the other intellectual disciplines, most of whom today pointedly reject Theory’s legitimacy, neither reading it nor taking it seriously.

#### Obama will redefine the law to circumvent the plan

Pollack, 13 --- professor of history emeritus at Michigan State

(2/5/2013, Norman, “For the Glory of What? Drones, Israel, and the Eclipse of Democracy,” <http://www.counterpunch.org/2013/02/05/drones-israel-and-the-eclipse-of-democracy/>)

Bisharat first addresses the transmogrification of international law by Israel’s military lawyers. We might call this damage control, were it not more serious. When the Palestinians first sought to join the I.C.C., and then, to receive the UN’s conferral of nonmember status on them, Israel raised fierce opposition. Why? He writes: “Israel’s frantic opposition to the elevation of Palestine’s status at the United Nations was motivated precisely by the fear that it would soon lead to I.C.C. jurisdiction over Palestinian claims of war crimes. Israeli leaders are unnerved for good reason. The I.C.C. could prosecute major international crimes committed on Palestinian soil anytime after the court’s founding on July 1, 2002.” In response to the threat, we see the deliberate reshaping of the law: Since 2000, “the Israel Defense Forces, guided by its military lawyers, have attempted to remake the laws of war by consciously violating them and then creating new legal concepts to provide juridical cover for their misdeeds.” (Italics, mine) In other words, habituate the law to the existence of atrocities; in the US‘s case, targeted assassination, repeated often enough, seems permissible, indeed clever and wise, as pressure is steadily applied to the laws of war. Even then, “collateral damage” is seen as unintentional, regrettable, but hardly prosecutable, and in the current atmosphere of complicity and desensitization, never a war crime. (Obama is hardly a novice at this game of stretching the law to suit the convenience of, shall we say, the national interest? In order to ensure the distortion in counting civilian casualties, which would bring the number down, as Brennan with a straight face claimed, was “zero,” the Big Lie if ever there was one, placing him in distinguished European company, Obama redefined the meaning of “combatant” status to be any male of military age throughout the area (which we) declared a combat zone, which noticeably led to a higher incidence of sadism, because it allowed for “second strikes” on funerals—the assumption that anyone attending must be a terrorist—and first responders, those who went to the aid of the wounded and dying, themselves also certainly terrorists because of their rescue attempts.) These guys play hardball, perhaps no more than in using—by report—the proverbial baseball cards to designate who would be next on the kill list. But funerals and first responders—verified by accredited witnesses–seems overly much, and not a murmur from an adoring public.

#### Al Maqaleh leaves massive detention authority independent of the aff—Obama will just ship detainees to Afghanistan

Vladeck 12 [10/01/12, Professor Stephen I. Vladeck of the Washington College of Law at American University, “Detention Policies: What Role for Judicial Review?”, <http://www.abajournal.com/magazine/article/detention_policies_what_role_for_judicial_review/>)]

The short chapter that follows aims to take Judge Brown’s suggestion seriously. As I explain, although Judge Brown is clearly correct that judicial review has affected the size of the detainee populations within the territorial United States and at Guantanamo, it does not even remotely follow that the jurisprudence of the past decade has precipitated a shift away from detention and toward targeted killings. To the contrary, the jurisprudence of Judge Brown’s own court has simultaneously (1) left the government with far greater detention authority than might otherwise be apparent where noncitizens outside the United States are concerned; and (2) for better or worse, added a semblance of legitimacy to a regime that had previously and repeatedly been decried as lawless. And in cases where judicial review prompted the government to release those against whom it had insufficient evidence, the effects of such review can only be seen as salutary. Thus, at the end of a decade where not a single U.S. military detainee was freed by order of a federal judge, it is more than a little ironic for Judge Brown to identify “take no prisoners” as Boumediene’s true legacy. The role of judicial review in the three post-9/11 military detention cases in which the detainees were held within the territorial United States is impossible to overstate. Despite the Bush administration’s initial position that the detention of “enemy combatants” posed a nonjusticiable political question, the federal courts (and the Supreme Court, in particular) were emphatic in suggesting that such detentions were subject to judicial review, even as they divided over the merits in each of the three cases. Thus, in the case of Yasser Esam Hamdi, the federal government argued to the Supreme Court that “some evidence” was sufficient to justify the long-term detention of U.S. citizens captured on the battlefield. Although the court agreed that the government had the authority to detain individuals like Hamdi, it disagreed as to the evidentiary burden, with a 6-1 majority concluding that a more rigorous evidentiary burden was necessary. Rather than attempting to provide such evidence on remand, the government quickly entered into an agreement with Hamdi wherein he agreed to relinquish his citizenship in exchange for his release and transfer to Saudi Arabia. In the case of Jose Padilla, although the Supreme Court initially threw out Padilla’s habeas petition in 2004 on the ground that he had filed in the wrong district court, the opinions in the contemporaneous Padilla and Hamdi decisions left the distinct impression that, on the merits, five justices would have rejected the argument that the 2001 Authorization for the Use of Military Force authorized the detention of U.S. citizens arrested within the territorial United States. Padilla refiled in the proper venue, only to have the government moot the case on the eve of Supreme Court review by indicting him on criminal charges and transferring him to civilian custody. As Fourth Circuit Judge J. Michael Luttig observed, the timing of the government’s conduct gave rise “to at least an appearance that the purpose of these actions may be to avoid consideration of our decision [upholding Padilla’s detention] by the Supreme Court.” Nevertheless, and over three dissents, the court denied certiorari. That pattern repeated itself in the case of Ali al-Marri (the one noncitizen subjected to military detention within the territorial United States), with the Obama administration mooting the merits of his detention after the Supreme Court granted certiorari by indicting him on criminal charges and transferring him to civilian custody. Thus, in all three cases, the specter of future judicial review—in the district court in Hamdi and in the Supreme Court in Padilla and al-Marri—directly led to a change in policy, and there have been no additional stateside military detention cases since. At least based on the public record, one can only make an inferential case that this pattern was repeated with regard to Guantanamo, but the circumstantial evidence is fairly compelling. Although 779 noncitizens were at one time detained as “enemy combatants” at Guantanamo, the detainee population dropped from 597 at the time of the Supreme Court’s Rasul decision in 2004 to 269 at the time Boumediene was decided, and from that number to the 171 men detained there today. And although none of the 600 detainees who have been released from Guantanamo were directly freed by a judicial order, it stands to reason that the sharp uptick in the rate of transfers out of Guantanamo (along with the virtual cessation of transfers in) after June 2004 was a direct reaction to, and result of, the court’s decision in Rasul v. Bush, which held that the federal habeas statute extended to Guantanamo. Moreover, in the four years since Boumediene, there have been at least 11 distinct district court decisions granting habeas relief that the government declined to appeal on the merits. Not all of the detainees at issue in those cases have been released, but those that were certainly weren’t hurt by the judicial proceedings on their behalf. Inasmuch as the detainee litigation appears to have exerted hydraulic pressure on the executive branch to reduce the detainee population at Guantanamo, it has arguably also invested the detentions in the cases that remain with at least a modicum of legitimacy—at least for those detainees who have not been cleared for release. After all, the government now is able to argue that the detainees still at Guantanamo have received the exact judicial review called for by the Constitution; the fact that the courts have denied relief in many of those cases only underscores the validity of that aspect of the U.S. detention regime in the short term (and perhaps in the long term as well). Far less data exists to evaluate the relationship between judicial review and the number of detainees held by the United States in Afghanistan. Here, though, the data is less important than the case law. Notwithstanding Boumediene, the D.C. Circuit held in al-Maqaleh v. Gates that noncitizens detained in Afghanistan, even if they are not citizens of or arrested in Afghanistan, are not entitled to pursue habeas relief in the U.S. federal courts. In so holding, the appeals court specifically rejected the detainees’ argument that judicial review must be available lest the government deliberately choose to send new detainees to Afghanistan to escape judicial oversight: “The notion that the United States deliberately confined the detainees in the theater of war rather than at, for example, Guantanamo, is not only unsupported by the evidence, it is not supported by reason. To have made such a deliberate decision to ‘turn off the Constitution’ would have required the military commanders or other executive officials making the situs determination to … predict the Boumediene decision long before it came down. Because Maqaleh means that judicial review will not extend to Afghanistan absent a showing of deliberate manipulation on the government’s part (and perhaps not even then), the conclusion appears manifest that Boumediene’s holding is limited to Guantanamo, and that the government in fact does not face the prospect of judicial review in future cases involving the detention of noncitizens elsewhere outside the territorial United States. As such, Judge Brown’s suggestion in Latif that Boumediene has chilled (and will chill) future military detentions of terrorism suspects necessarily fails to persuade. At least for noncitizens picked up outside the territorial United States, Maqaleh preserves substantial flexibility on the government’s part and leaves judicial review as an unlikely proposition, at best. But there’s another aspect to the jurisprudence of the past decade that also poses a stark contrast with Judge Brown’s reasoning: thanks to the work of Brown and her colleagues on the D.C. Circuit, even in cases in which judicial review does apply, the relevant substantive and procedural standards governing such review leave the government with sweeping authority. With regard to noncitizens outside the territorial United States, current case law requires the government to show merely by a preponderance of the evidence (i.e., that it is more likely than not) that the detainee was “part of” or “substantially supported” al-Qaida. And thanks to Latif (the very decision in which Judge Brown objected to Boumediene), intelligence reports are treated with a presumption of regularity—making it incredibly difficult as a practical matter for detainees to overcome the government’s evidence. In point of fact, there has not been a single case to date in which the D.C. Circuit either affirmed a district court’s grant of habeas relief or reversed the denial thereof. Given the government’s successful track record before Judge Brown and her colleagues, it’s that much harder to understand her claim that “the systemic cost of defending detention decisions” has dissuaded the government from doing so. If the litigation of the last few years has suggested anything with regard to the future of U.S. detainee policy, it is that the cost to the government of defending detention decisions in the D.C. Circuit is not particularly high, especially compared to the benefit that such review has provided.

#### The executive can just keep them in detention and ignore the ruling—Kiyemba proves

Milko 12

[Winter, 2012, Jennifer L. Milko, “Separation of Powers and Guantanamo Detainees: Defining the Proper Roles of the Executive and Judiciary in Habeas Cases and the Need for Supreme Guidance”, 50 Duq. L. Rev. 173]

A. Arguments for a Remedy By urging deference to the Executive Branch, the D.C. Circuit Court of Appeals has scolded the district courts that have second-guessed the political branches' determinations about release and suitable transfers. Those in favor of judicial power have argued that the denial of the right to review the Executive's decisions is allowing too much deference to that branch and severely limiting the remedies that courts have had the power to issue in the past. Though the petitioners have made several arguments for relief, the main arguments for judicial power stem from the idea that the court of appeals has been improperly applying Supreme Court precedent. Petitioners have argued that the D.C. Court of Appeals expanded the scope of Munaf too broadly as the Supreme Court noted that the decision was limited to the facts of that case. n118 In Munaf, the Court was primarily concerned about allowing the Iraqi government to have the power to punish people who had committed crimes in that territory when fashioning its holding, and the petitioners in that case had the opportunity of notice because they were told about their transfer and were able to petition the court to try and prevent it. n119 Petitioners have argued that those facts are entirely different than cases such as Mohammed and Khadr were there was concern of torture in foreign nations but no need to allow those nations to have the ability to prosecute the detainees for crimes, there was potential for torture at the hands of non-government entities, and no notice of transfer was permitted. n120 [\*190] Additionally, Petitioners have argued that the use of Munaf has impermissibly limited Boumediene by preventing courts from fashioning equitable relief for habeas petitions. n121 There has been concern that the ability to use the writ of habeas will be essentially eliminated if there is no chance for a petitioner to challenge the Executive Branch's determinations regarding safe transfers. The Boumediene Court spent considerable time discussing the history of the writ n122 and noted that the tribunals implemented in that case to determine enemy combatant status were not a sufficient replacement for the writ of habeas because they lacked, in part, the authority to issue an order of release. n123 Here, the D.C. Circuit Court of Appeals has effectively prevented the other courts from determining if there is a right not to be transferred, which has been argued to be an inadequate statement of the right of habeas. n124 Similarly, it has been argued that by accepting the Executive Branch's assurances of its efforts to release the detainees, the courts are not properly using the power of habeas corpus that has been granted to them by the Constitution. n125 By refusing to question these assertions, the courts would be unable to offer a remedy to the petitioners who have the privilege of habeas corpus. n126 The Petitioners also argued a due process right to challenge transfers as the detainees have a right to a meaningful hearing to at least have the opportunity to challenge the Government's conclusions regarding safety. n127 By refusing to second-guess the Executive, the judiciary may be losing an important check on the former's power because there is no guarantee that the Executive is ensuring safety or making the best effort to protect the unlawfully kept detainees. Without allowing courts to have the power to enjoin a transfer in order to examine these concerns, there is the potential that the detainee could be harmed at the hands of foreign terrorists. Without the ability to challenge the Executive Branch through the judicial tool of habeas corpus, there has been genuine concern that the courts are losing too much power and that their authority [\*191] is being improperly limited, as they are not utilizing their constitutional power properly.

### CP

#### Direct congressional action to limit presidential powers triggers a veto that must be overridden by fiat

Covington, 12 --- School of Engineering, Vanderbilt University

(Spring 2012, Megan, Vanderbilt Undergraduate Research Journal, “Executive Legislation and the Expansion of Presidential Power,” http://ejournals.library.vanderbuilt.edu)

In actuality, however, Congress is generally unwilling or unable to respond to the president’s use of executive legislation. Congress can override a presidential veto but does not do it very often; of 2,564 presidential vetoes in our nation’s history, only 110 have ever been overridden. 44 The 2/3 vote of both houses needed to override a veto basically means that unless the president’s executive order is grossly unconstitutional – and thus capable of earning bipartisan opposition - one party needs to have a supermajority of both houses. Even passing legislation to nullify an executive order can be difficult to accomplish, especially with Congress as polarized and bitterly divided along party lines as it is today. Congress could pass legislation designed to limit the power of the president, but such a bill would be difficult to pass and any veto on it – which would be guaranteed – would be hard to override. In addition, if such legislation was passed over a veto, there is no guarantee that the bill would successfully limit the president’s actions; the War Powers Act does little to restrain the president’s ability to wage war.45 Impeachment is always an option, but the gravity of such a charge would prevent many from supporting it unless the president was very unpopular and truly abused his power. 46

#### That veto will destroy the agenda

Slezak, 7 --- Center for the Study of the Presidency Fellow 2006-2007 at UCLA and MA in Security Studies at Georgetown

(Nicole L., “The Presidential Veto: A Strategic Asset” https://host.genesis4100.net/thepresidency/pubs/fellows2007/Slezak.pdf)

Although the veto offers the president a significant advantage in dealing with a sometimes combative and divisive Congress, James Gattuso discusses four “caveats” that should be considered by presidents when devising a veto strategy. First, presidents should not veto without care, for if Congress overrides it is politically damaging to the president.8 This means that if the president does not garner the required one-third plus one in either house of Congress and his veto is overridden, he will not only lose face, but lose political capital that gives him leverage in dealing with Congress. If the president loses political capital he can put himself at a disadvantage for future interactions with Congress; hence, when vetoing he must consider his support in Congress and the potential ramifications of an override. However, Gattuso adds that worse than having a veto overridden is a president who threatens to veto and does not follow through once Congress has passed legislation.9 This is even more damaging than an override because the president is caught making “empty threats.” Therefore, Congress will continue to produce legislation to their liking rather than revising it because Congress is inclined to believe the president is no longer serious about his veto threats.

#### Courts and Congress aren’t adequate --- executive self-restraint through its own lawyers is superior

Johnsen, 7 --- Professor of Law at Indiana

(August 2007, Dawn E., UCLA Law Review, “SYMPOSIUM: Constitutional "Niches": The Role of Institutional Context in Constitutional Law: Faithfully Executing the Laws: Internal Legal Constraints on Executive Power,” 54 UCLA L. Rev. 1559))

Introduction

Since the terrorist attacks of September 11, 2001, the Bush Administration has engaged in a host of controversial counterterrorism actions that threaten civil liberties and at times even endanger the physical safety of the targeted individuals. Prominent examples include the detention of enemy combatants, the use of extreme interrogation techniques and even torture, extraordinary renditions, secret overseas prisons, and warrantless domestic surveillance. To justify policies that would otherwise violate applicable legal constraints, President Bush and his lawyers have espoused an extreme view of expansive presidential power during times of war and national emergency, a view that draws especially on the President's constitutional role as commander-in-chief. For those who believe that the Bush Administration has misinterpreted relevant constitutional authorities, particularly when seeking to justify actions otherwise prohibited by law, the War on Terror brings new urgency to old questions: What can be done to prevent presidential aggrandizement and abuse of power including in the most trying of times, when the nation is at war or serious external threats otherwise threaten national security? What in our constitutional system can help to ensure that Presidents will respect the rule of law and adhere to constitutional and statutory limits on their national security policy options?

The most obvious checks on the President are the other two branches of the federal government: the U.S. Congress and the courts. Our constitutional system of separate and overlapping powers creates the potential for a vibrant legislature and judiciary to check a President who transgresses legal [\*1561] boundaries and violates rights in order to accomplish policy ends. n1 Debate has raged, domestically and internationally, about the details of desirable external checks on the Bush Administration's counterterrorism policies. While the Republicans controlled Congress prior to 2007, most attention understandably focused on the courts, with commentators differing passionately about the level of deference the courts should afford the political branches n2 and about the judiciary's potential to safeguard civil liberties in times of emergency. n3 Thus far, the U.S. Supreme Court has taken a relatively aggressive and nondeferential stance in favor of protecting those whose rights the President's policies may have violated. n4 The Court's approach is warranted: Regardless of the underlying policies' substantive merits, the courts as well as Congress should hold the President [\*1562] accountable for attempts to implement policies with arrogant disrespect for legal constraints and for the coordinate branches' constitutional authorities.

Our recent history, though, has demonstrated the inherent inadequacies of the courts and Congress as external checks on the President. An approach of issue-by-issue review and oversight even by a vigilant judiciary and Congress will incompletely constrain a President who, in the name of national security, is willing to undermine the rule of law. This Article therefore seeks to elevate an essential source of constraint that often is underappreciated and underestimated: legal advisors within the executive branch.

The obstacles to judicial or congressional review of particular executive branch actions on matters of war and national security - especially during times of crisis - are familiar. The courts face (and create) difficult justiciability requirements, in part out of respect for executive authority and expertise. These impediments to judicial review mean, for example, that there may be no party who ever has standing to challenge a clearly unlawful governmental action. Courts may deny or delay relief even to parties with standing because of the political question doctrine, the state secrets privilege, deferential standards of review, or years of complex litigation.

With regard to Congress, oversight obviously tends to be least effective when the President's political party dominates, but even with the shift to Democratic control in 2007, significant obstacles remain to Congress's ability to check executive action. Congress tends to defer strongly to the commander-in-chief on matters of war and national security even in times of divided government. Legislative efforts face the possibility of a filibuster or a presidential veto.

Perhaps the greatest challenge to legislative oversight is that Congress has already enacted legislation with regard to many of the Bush Administration's most objectionable policies. Much of the controversy in fact stems from President Bush's claimed authority to refuse to comply with congressional statutes, including the Foreign Intelligence Surveillance Act (FISA), n5 the anti-torture statute, n6 and the numerous other laws that are [\*1563] the subjects of signing statements in which Bush asserts the right to refuse to enforce the laws in ways that conflict with his view of his office's constitutional authority. n7 When Congress already has legislated and the President unjustifiably threatens nonenforcement, Congress is left with the options of resource-intensive oversight to attempt to police compliance, indirect retribution (such as through appropriations and appointments), and the blunt instrument of impeachment.

Executive branch secrecy further hinders both judicial and congressional review. At times, of course, secrecy is essential to preserving national security, but the Bush Administration has taken the level of executive branch secrecy to a new and unwarranted extreme. By its nature, secrecy undercuts the efficacy of external checks. Congress or potential litigants may not even know about unlawful executive action unless someone in the government violates administration policy, and perhaps statutory prohibitions, to leak information. Such leaks were responsible for the public disclosure of the Bush Administration's legal opinions and policies on coercive interrogations and torture, n8 the National Security Administration's domestic surveillance program that operated outside the requirements of FISA, n9 and the use of secret prisons overseas to detain and interrogate suspected terrorists. n10 Ultimately, even with the current Supreme Court's relatively strong willingness to protect rights in the face of unlawful executive action, coupled with scrutiny from the press and advocacy organizations, the Bush Administration has engaged in years of largely unconstrained illegal practices.

#### Doesn’t assume the mandate of the counterplan that has the executive seek the advice of the OLC and comply with it

Bradley and Morrison, 13 --- Professor of Law at Duke, AND \*\*Professor of Law at Colombia (May 2013, Columbia Law Review, “ESSAY: PRESIDENTIAL POWER, HISTORICAL PRACTICE, AND LEGAL CONSTRAINT,” 113 Colum. L. Rev. 1097))

Relatedly, it may not be possible to say with confidence whether particular law-focused entities within the executive branch have a constraining or enabling effect on the President overall. Consider OLC, for example. OLC's reputation for reasonably independent, detached [\*1125] legal analysis gives its work special weight. But there is no constitutional requirement that OLC even exist, and the President could in theory choose not to seek OLC's legal advice on any given question. n99 Thus, the fact that OLC does exist - and that Presidents regularly seek its advice on high-profile legal questions - may suggest that, on balance, OLC enhances the overall ability of Presidents to take their preferred actions. The mechanism for that enhancement is that, when embarking upon a controversial course of action, the President is in a better position to defend the action's legality if he can point to an OLC opinion upholding it. n100 Contrary to what some scholars could be read to suggest, n101 however, [\*1126] this does not establish that OLC invariably enhances presidential power. An OLC opinion affirming the President's policies may be fairly said to empower him on that issue. But OLC does not always say yes, n102 and the absence of an OLC opinion in the President's favor likely makes it more difficult for him to pursue that course of action than if there were no OLC at all. n103 Whether that amounts to an overall restriction or enhancement of presidential power may be impossible to judge.

#### Executive orders won’t be rolled back

Duncan, 10 --- Associate Professor of Law, College of Law, Florida A & M University (Winter 2010, John C. Duncan, Jr., J.D., Ph.D., Vermont Law Review, “ARTICLE: A CRITICAL CONSIDERATION OF EXECUTIVE ORDERS: GLIMMERINGS OF AUTOPOIESIS IN THE EXECUTIVE ROLE,” 35 Vt. L. Rev. 333)

Conclusion

The trajectory of the evolution of the executive power in the United States, as seen through the prism of the growing edifice of executive orders have become increasingly formal and permanent. The evolution of executive power in the United States has shifted executive orders from mere legislative interpretation to ancillary legislation. Executive orders continue to influence subsequent presidents. The elaboration of executive order promulgation, as an autopoietic process was necessary to the very existence of presidential power. That is, the mechanisms for formalizing executive orders have always existed in the executive power in a government whose legitimacy lives in written pronouncements treated as delicate, sacred, and worth protecting at all cost. Part of this formalization is a consequence of the reverence for precedent. Thus, prior presidents influence future presidents, less because future presidents wish to mimic their predecessors, but more because future presidents act within an edifice their predecessors have already erected. Thus, the growth and elaboration of an ever more robust structure of executive orders resembles an autopoietic process. n561

#### Will constrain future presidents

Brecher, 12 --- J.D. Candidate, May 2013, University of Michigan Law School (December, Aaron P., Michigan Law Review, “Cyberattacks and the Covert Action Statute: Toward a Domestic Legal Framework for Offensive Cyberoperations,” 111 Mich. L. Rev. 423))

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

### PTX

#### Slow growth risks global nuclear war

**Heinberg 12** – Senior Fellow-in-Residence of Post Carbon Institute [Richard Heinberg, “Conflict and Change in the Era of Economic Decline: Part 2: War and peace in a shrinking economy,” [Post Carbon Institute](http://www.postcarbon.org/article/1345757-conflict-and-change-in-the-era)  | Dec 12, 2012, pg. http://tinyurl.com/cxytpjh]

But there is a problem with Pinker’s implied conclusion that global violence will continue to decline. The Long Peace we have known since World War II may well turn out to be shorter than hoped as world economic growth stalls and as American hegemony falters—in John Michael Greer’s words, as “the costs of maintaining a global imperial presence soar and the profits of the imperial wealth pump slump.” Books and articles predicting the end of the American empire are legion; while some merely point to the rise of China as a global rival, others describe the looming failure of the essential basis of the U.S. imperial system—the global system of oil production and trade (with its petro-dollar recycling program) centered in the Middle East. There are any number of scenarios describing how the end of empire might come, but few credible narratives explaining why it won’t.

 When empires crumble, as they always do, the result is often a free-for-all among previous subject nations and potential rivals as they sort out power relations. The British Empire was a seeming exception to this rule: in that instance, the locus of military, political, and economic power simply migrated to an ally across the Atlantic. A similar graceful transfer seems unlikely in the case of the U.S., as economic decline during the 21st century will be global in scope. A better analogy to the current case might be the fall of Rome, which led to centuries of incursions by barbarians as well as uprisings in client states.

 Disaster per se need not lead to violence, as Rebecca Solnit argues in her book A Paradise Built in Hell: The Extraordinary Communities that Arise in Disaster. She documents five disasters—the aftermath of Hurricane Katrina; earthquakes in San Francisco and Mexico City; a giant ship explosion in Halifax, Canada; and 9/11—and shows that rioting, looting, rape, and murder were not automatic results. Instead, for the most part, people pulled together, shared what resources they had, cared for the victims, and in many instances found new sources of joy in everyday life.

However, the kinds of social stresses we are discussing now may differ from the disasters Solnit surveys, in that they comprise a “long emergency,” to borrow James Kunstler’s durable phrase. For every heartwarming anecdote about the convergence of rescuers and caregivers on a disaster site, there is a grim historic tale of resource competition turning normal people into monsters.

 In the current context, a continuing source of concern must be the large number of nuclear weapons now scattered among nine nations. While these weapons primarily exist as a deterrent to military aggression, and while the end of the Cold War has arguably reduced the likelihood of a massive release of these weapons in an apocalyptic fury, [it is still possible to imagine several scenarios in which a nuclear detonation could occur as a result of accident](http://www.carolmoore.net/nuclearwar/alternatescenarios.html), aggression, pre-emption, or retaliation.

 We are in a race—but it’s not just an arms race; indeed, it may end up being an arms race in reverse. In many nations around the globe the means to pay for armaments and war are starting to disappear; meanwhile, however, there is increasing incentive to engage in international conflict as a way of re-channeling the energies of jobless young males and of distracting the general populace, which might otherwise be in a revolutionary mood. We can only hope that historical momentum can maintain The Great Peace until industrial nations are sufficiently bankrupt that they cannot afford to mount foreign wars on any substantial scale.

#### More ev

AFP, 12/16 (Agence France Presse, 12/16/2013, “Obama highlights desire for vast Pacific trade deal,” Factiva))

The White House sent a strong signal Monday of its desire to create a huge Pacific free trade area, despite the slippage of its year-end deadline for the 12-nation project.

President Barack Obama gathered senior trade advisors in the Oval Office and invited news photographers to document the meeting, in the wake of the latest ministerial talks last week on the Trans-Pacific Partnership (TPP) in Singapore.

"This remains a top priority of the president because of the positive economic benefits that come from it," White House spokesman Jay Carney said.

"Congress and the American public have high expectations for the TPP.

"The administration is determined to get the best deal possible, and we are pleased with the progress made towards achieving an ambitious, comprehensive, high-standard agreement."

Ministers gave up last week on meeting the year-end goal of concluding the TPP, but US Trade Representative Michael Froman, who was in Singapore, and in Obama's Oval Office consultations on Monday, said significant progress had been made.

#### Trade is most important --- Obama sees it as his new legacy issue

Stelzer, 12/15 --- business adviser and director of economic policy studies at the Hudson Institute (12/15/2013, Irwin, The Sunday Times, “Obama pins his legacy on trade, not healthcare,” Factiva))

"The action is in the regionals," the University of California's Kati Suominen tells the press. And whether that "action" reduces trade barriers will depend heavily on America, the world's biggest market — putting Obama at centre stage, with Congress waiting in the wings. The president dearly wants to make successful conclusions of these regional negotiations part of his legacy. He is convinced freer trade would spur American exports, accelerate economic growth and create jobs. His hope that Obamacare would be an enduring legacy is fading. Bringing free trade to the world might have to do as a lesser substitute.

#### TPA will pass early this year but only with Obama’s involvement

Truitt, 12/12 (Gary, 12/12/2013, “TPA Bill Could Move in Congress Early 2014,” <http://www.hoosieragtoday.com/tpa-bill-could-move-in-congress-early-2014/>))

According to House Ways and Means Chair Dave Camp, lawmakers have made considerable progress in pulling together a Trade Promotion Authority bill. In fact, he expects Congress to pass a bill within the first few months of the new year as long as the Administration actively participates. The Obama Administration has been calling on Congress to approve TPA, which would allow any trade deal to move through Congress swiftly as lawmakers can only vote them up or down. The Administration needs TPA to secure the Trans-Pacific Partnership and the Transatlantic Trade and Investment Partnership. Camp said concluding those negotiations, and other trade agreements, will require Congressional passage of Trade Promotion Authority legislation.

#### Plan will require tremendous political capital

Waxman, 13 --- law professor at Columbia

(7/30/2013, Matthew, “Closing Guantanamo Would Still Leave Some Toughest Decisions for the Next President,” <http://www.lawfareblog.com/2013/07/closing-guantanamo-would-still-leave-some-toughest-decisions-for-the-next-president/)>)

At last week’s Senate Judiciary subcommittee hearing, advocates of closing Guantanamo, such as chairman Dick Durbin and Human Rights First president Elisa Massimino, talked about how to close Guantanamo: in particular, by transferring or releasing most detainees to other countries and then moving the remainder into the United States. Of those moved into the United States, many would be prosecuted (whether in civilian or military courts), but an undetermined number of very dangerous detainees would continue to be held without criminal trial under law-of-war authority until cessation of hostilities – that is, until the end of the ongoing war against al Qaida and its close allies. Some version of this seems to me to be the only realistic approach to closing Guantanamo.

Although pulling this off will require that President Obama spend tremendous political capital, it would actually push some very difficult decisions onto his successor’s shoulders, too.

Even if it closes Guantanamo along the lines laid out above, it’s very unlikely that the Obama administration will have prosecuted or found alternative security solutions abroad for some number of the most dangerous detainees (by most credible estimates, at least a few dozen). It’s also very unlikely that they’ll simply release them – especially because whatever political deal Obama strikes to close Guantanamo will probably include assurances that he won’t do that.

#### TPA will pass early this year --- but only if Obama is actively involved and prioritizes it. That’s Schneider and Business Times. Proves political capital can overcome any uniqueness shortfalls

#### Will pass --- Obama is pushing, it’s a top priority, and preliminary deal has been reached

Mauldin, 12/16 (William, 12/16/2013, “Obama Huddles With Trade Team,” <http://blogs.wsj.com/washwire/2013/12/16/obama-huddles-with-trade-team/)>)

President Obama convened 17 of his top advisers, including his liaisons to Capitol Hill, Monday to discuss trade policy, a sign the White House is focusing more attention on wrapping up talks to form a Pacific trade bloc and pushing through legislation to ease the passage of trade agreements.

U.S. officials failed to achieve a year-end goal of wrapping up talks to form the Trans-Pacific Partnership with 11 other Asia-Pacific nations, but they’re hoping to negotiate an agreement next year. Meanwhile, to smooth the passage of the potential deal and other agreements in Congress, the administration is backing the renewal of legislation known as “fast track” or “trade promotion authority.”

“This remains a top priority of the president because of the positive economic benefits that come from it,” White House spokesman Jay Carney told reporters Monday.

Supporters of free-trade deals, including many Republicans, have said Mr. Obama hasn’t done enough personally to promote fast-track legislation in Congress, leaving U.S. Trade Representative Michael Froman and other officials to sell the administration’s trade policy.

“Ambassador Froman – we have a great relationship with him; he’s very, very good. But you know he can’t do it all on his own,” Rep. Devin Nunes (R., Calif.), the leader of a House trade subcommittee, said in an interview last week.

Business leaders also said Mr. Obama’s absence from a gathering of Asia-Pacific leaders during the government shutdown may have hindered progress there in October.

Monday’s meeting included Vice President Joe Biden, Mr. Froman and several cabinet secretaries, along with senior advisers to Mr. Obama, the administration’s economic experts and officials who handle communications and legislative affairs.

“To call a meeting of this cast of characters to talk about the trade agenda is a positive signal that the president and his team are ready to make the case,” said Michael Smart, a former trade adviser on the National Security Council and consultant at Rock Creek Global Advisors LLC.

Mr. Biden recently met top officials in Japan, the second-biggest economy in the trade talks, as well as officials in Korea, which has expressed interest in joining the trade framework. Mr. Froman held recent meetings in Japan and negotiations among the 12 countries involved in Singapore, another country engaged in the talks.

Basic issues on tariffs and access to overseas markets appeared to be holding up a deal this year, according to experts following the talks, with the most attention focused on Japan’s politically sensitive agricultural and car markets.

In Congress, aides in recent days said top negotiators have reached a deal on renewing fast-track authority, which sets the ground rules for how the administration gets congressional approval for trade agreements, only allowing lawmakers an up-or-down vote at the end.

A Republican congressional aide said the public announcement of the meeting shows the Obama administration wants to send a message out more broadly that it’s working to achieve trade policy goals.

#### The plan will ignite a huge political fight and tradeoff with other administration priorities

Hansen, 13 --- associate editor at *America* (was first published in Italian in the January 2013 issue of Popoli magazine, Luke, “A Permanent Prison? Why Guantánamo might outlast the Obama presidency,” <http://americamagazine.org/issue/article/permanent-prison)>)

In January 2009 the newly elected president, Barack Obama, sought to change course. As a first step to shuttering the prison, Greg Craig, the top White House lawyer, drew up a plan to release a few Uighur detainees, long cleared of wrongdoing, onto U.S. soil. Mr. Craig announced the plan at a national security meeting on April 17, 2009. Defense Secretary Robert Gates and Secretary of State Hillary Rodham Clinton were on board. “It was a matter of days, not weeks,” until the transfer would take place, a top Defense official told Time magazine. When the move proved successful, the administration hoped that other countries would be more willing to help resettle Guantánamo detainees.

Within a month the plan collapsed.

Four years later, Guantánamo remains open for business, indefinite detention continues and detainees are prosecuted in military commissions, not federal courts. Now it is not clear whether the prison will ever close—at least until the last prisoner grows old and dies. What caused such a dramatic reversal?

Growing Opposition

In “The Fall of Greg Craig, Obama’s Top Lawyer” (11/19/2009), Time magazine provides an account of what unfolded inside the White House during those first weeks of the Obama administration as they grappled with closing Guantánamo.

Just one day before Mr. Craig pitched his plan to the national security team, President Obama publicly released a series of memos from the U.S. Central Intelligence Agency that detailed the “enhanced interrogation” techniques used by the Bush administration. Michael Hayden, former C.I.A. director, had organized internal opposition to releasing the memos, but Mr. Obama did it anyway—consistent with his promise of greater transparency as well as taking the moral high road in the fight against terrorism.

Meanwhile Mr. Craig’s plan of releasing the Uighurs onto U.S. soil became public, and Republican leaders unleashed three weeks of relentless attacks against President Obama’s early foreign policy decisions. They claimed that Mr. Obama had emboldened America’s enemies by releasing the memos, and now he would endanger Americans by transferring prisoners into the United States—for release, further detention or trial.

Suddenly it was becoming too costly, politically, to take the moral high road. Time reported that, in late April, “Democratic pollsters charted a disturbing trend: a drop in Obama’s support among independents, driven in part by national-security issues.” Inside the White House, the early optimism and momentum faded. The administration was also concerned that the fight to close Guantánamo might distract from domestic priorities like health care and strengthening the economy.

In early May, Mr. Obama decided against releasing the Uighur detainees into the United States. “It was a political decision, to put it bluntly,” an aide told Time. Two weeks later, President Obama sought to address growing public discontent with a major speech on national security. In the speech, he not only announced that he would work with Congress to revamp the Bush-era military commissions, but he also embraced the use of indefinite detention without charges or trials for a group of detainees “who cannot be prosecuted yet who pose a clear danger to the American people.”

America’s Prison Problem

There are many plausible explanations for why President Obama failed to close the prison in his first term. He did not push hard enough. Conservative leaders successfully played on Americans’ fears. The administration was not prepared—or willing—to respond to the political attacks. Then the Congress, in bipartisan fashion, refused to allocate funds for closing the prison (and still continues to place restrictions on transferring detainees out of Guantánamo). Americans, collectively, are also responsible. If it had been politically popular for Mr. Obama to follow through on his promise to close Guantánamo, he would have.

#### TPA critical to completing free trade deals

Chicago Tribune, 12/30 (“Editorial: Obama needs fast-track trade authority,” 12/30/2013, <http://www.chicagotribune.com/news/opinion/editorials/ct-give-obama-tpa-fast-track-trade-edit-1230-jm-20131230,0,527893.story>))

President Barack Obama wants the power to negotiate free-trade treaties on a fast track. With Trade Promotion Authority, he would have a good chance of clinching huge trade pacts now being hammered out with Europe and Asia. Yet Congress may not give him that authority — for all the wrong reasons.

Over the years, Congress has recognized that negotiating trade deals requires special legislative procedures. Under ordinary rules, a trade deal would be subject to Capitol Hill amendments that in effect enable Congress to reopen negotiations after they are concluded. In that event, knowing that America's representatives couldn't deliver on their promises, trade partners would have no incentive to make concessions at the bargaining table. As a practical matter, making a deal becomes impossible.

TPA, as it is known, also ensures that Congress considers any trade deals on a reasonable timetable, not letting them languish indefinitely. Under TPA, Congress can reject a deal the administration cuts, but a few opponents can't block a vote.

#### Economics and past interventions limit US imperialism

Ben Ami, VP of Toledo International Centre for Peace, ’11 (Shlomo, July 1, “Arab Spring, Western Fall” Project Syndicate, http://www.project-syndicate.org/commentary/benami55/English)

The old vocation of what Rudyard Kipling called the “White Man’s Burden” – the driving idea behind the West’s quest for global hegemony from the days of imperial expansion in the nineteenth century to the current, pathetically inconclusive, Libyan intervention – has clearly run out of steam. Politically and economically exhausted, and attentive to electorates clamoring for a shift of priorities to urgent domestic concerns, Europe and America are no longer very capable of imposing their values and interests through costly military interventions in faraway lands. US Secretary of Defense Robert Gates was stating the obvious when he recently lambasted NATO’s European members for their lukewarm response to the alliance’s missions, and for their poor military capabilities. (Ten weeks into the fighting in Libya, the Europeans were already running out of munitions.) He warned that if Europe’s attitude to NATO did not change, the Alliance would degenerate into “collective military irrelevance.” Europe’s reluctance to participate in military endeavors should not come as a revelation. The Old Continent has been immersed since World War II in a “post-historical” discourse that rules out the use of force as a way to resolve conflicts, let alone to bring about regime change. And now it is engaged in a fateful struggle to secure the very existence and viability of the European Union. As a result, Europe is retreating into a narrow regional outlook – and assuming that America will carry the burden of major global issues. But America itself is reconsidering its priorities. These are trying economic times for the US, largely owing to imperial overstretch financed by Chinese credit. Admiral Mike Mullen, the US Chairman of the Joint Chiefs of Staff, recently defined America’s colossal fiscal deficits as the biggest threat to its national security. Indeed, at a time of painful budget cuts – the US is facing a $52 trillion shortfall on public pensions and health care in the coming decades – the US can no longer be expected to maintain its current level of global military engagement. But the fiscal crisis is not the whole story. The dire lessons of the wars in Iraq and Afghanistan will shape future debate about America’s international role in the twenty-first century. At an address in February to cadets at the US Military Academy at West Point, Gates said that “any future defense secretary who advises the president to send a big American land army into Asia or into the Middle East or Africa should have his head examined.” Gates’s recent statements are by no means those of a lonely isolationist in an otherwise interventionist America. He expressed a widely perceived imperative for strategic reassessment. In 1947, in a landmark article, “The Sources of Soviet Conduct,” which he signed as “X,” George Kennan defined America’s foreign-policy strategy for the Cold War as one of containment and deterrence. It is difficult to imagine a more marked departure from Kennan’s concepts than a report recently released by the Pentagon – A National Strategic Narrative – authored by two active-duty military officers who signed as “Y.” The report can be dismissed as just the musings of two senior members of the Joint Chiefs of Staff writing in their “personal capacity.” But its real power stems from the degree to which it reflects America’s mood in an era of declining global influence and diminishing expectations regarding the relevance of military power to sustaining US global hegemony. Just as Kennan’s “X” article was fully reflective of the mood in America at the time, so the Narrative expresses the current American Zeitgeist. Thus, the idea that “Y” might turn out to be a latter-day “X” – defining the nature of America’s international role in the twenty-first century – may not be far-fetched. Conspicuously, there is much in the Narrative that coincides with Europe’s emphasis on soft power. The authors call for a shift from outdated Cold War strategies of “power and control” to one of civic engagement and sustainable prosperity. Security, they maintain, means more than defense. It means engagement whereby America should not seek “to bully, intimidate, cajole, or persuade others to accept our unique values or to share our national objectives.” America, “Y” argues, must first put its own house in order if it is to recover credible global influence as a beacon of prosperity and justice. This would require improving America’s diplomatic capabilities, as well as regaining international competitiveness through greater investment in education and infrastructure at home. The message emanating now from the US is not one of non-interventionism, but a strategy of restraint that assumes that there are limits to American power and seeks to minimize the risk of entanglement in foreign conflicts. As Gates put it in his West Point address, the US Army would no longer be “a Victorian nation-building constabulary designed to chase guerrillas, build schools, or sip tea.”