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#### Obama singularly focused on the fiscal crisis—his political capital will resolve it before shutdown and default

Jonathan Allen, Politico, 9/19/13, GOP battles boost President Obama, dyn.politico.com/printstory.cfm?uuid=17961849-5BE5-43CA-B1BC-ED8A12A534EB

There’s a simple reason President Barack Obama is using his bully pulpit to focus the nation’s attention on the battle over the budget: In this fight, he’s watching Republicans take swings at each other.

And that GOP fight is a lifeline for an administration that had been scrambling to gain control its message after battling congressional Democrats on the potential use of military force in Syria and the possible nomination of Larry Summers to run the Federal Reserve.

If House Republicans and Obama can’t cut even a short-term deal for a continuing resolution, the government’s authority to spend money will run out on Oct. 1. Within weeks, the nation will default on its debt if an agreement isn’t reached to raise the federal debt limit.

For some Republicans, those deadlines represent a leverage point that can be used to force Obama to slash his health care law. For others, they’re a zero hour at which the party will implode if it doesn’t cut a deal.

Meanwhile, “on the looming fiscal issues, Democrats — both liberal and conservative, executive and congressional — are virtually 100 percent united,” said Sen. Charles Schumer (D-N.Y.).

Just a few days ago, all that Obama and his aides could talk about were Syria and Summers. Now, they’re bringing their party together and shining a white hot light on Republican disunity over whether to shut down the government and plunge the nation into default in a vain effort to stop Obamacare from going into effect.

The squabbling among Republicans has gotten so vicious that a Twitter hashtag — #GOPvsGOPugliness — has become a thick virtual data file for tracking the intraparty insults. Moderates, and even some conservatives, are slamming Texas Sen. Ted Cruz, a tea party favorite, for ramping up grassroots expectations that the GOP will shut down the government if it can’t win concessions from the president to “defund” his signature health care law.

“I didn’t go to Harvard or Princeton, but I can count,” Sen. Bob Corker (R-Tenn.) tweeted, subtly mocking Cruz’s Ivy League education. “The defunding box canyon is a tactic that will fail and weaken our position.”

While it is well-timed for the White House to interrupt a bad slide, Obama’s singular focus on the budget battle is hardly a last-minute shift. Instead, it is a return to the narrative arc that the White House was working to build before the Syria crisis intervened.

And it’s so important to the president’s strategy that White House officials didn’t consider postponing Monday’s rollout of the most partisan and high-stakes phase even when a shooter murdered a dozen people at Washington’s Navy Yard that morning.

The basic storyline, well under way over the summer, was to have the president point to parts of his agenda, including reducing the costs of college and housing, designed to strengthen the middle class; use them to make the case that he not only saved the country from economic disaster but is fighting to bolster the nation’s finances on both the macro and household level; and then argue that Republicans’ desire to lock in the sequester and leverage a debt-ceiling increase for Obamacare cuts would reverse progress made.

The president is on firm ground, White House officials say, because he stands with the public in believing that the government shouldn’t shut down and that the country should pay its bills.

#### The plan causes an inter-branch fight that derails Obama’s agenda

Douglas Kriner, Assistant Profess of Political Science at Boston University, 2010, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 67-69

Raising or Lowering Political Costs by Affecting Presidential Political Capital

Shaping both real and anticipated public opinion are two important ways in which Congress can raise or lower the political costs of a military action for the president. However, focusing exclusively on opinion dynamics threatens to obscure the much broader political consequences of domestic reaction—particularly congressional opposition—to presidential foreign policies. At least since Richard Neustadt's seminal work Presidential Power, presidency scholars have warned that costly political battles in one policy arena frequently have significant ramifications for presidential power in other realms. Indeed, two of Neustadt's three "cases of command"—Truman's seizure of the steel mills and firing of General Douglas MacArthur—explicitly discussed the broader political consequences of stiff domestic resistance to presidential assertions of commander-in-chief powers. In both cases, Truman emerged victorious in the case at hand—yet, Neustadt argues, each victory cost Truman dearly in terms of his future power prospects and leeway in other policy areas, many of which were more important to the president than achieving unconditional victory over North Korea."

While congressional support leaves the president's reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president's foreign policies is capital that is unavailable for his future policy initiatives. Moreover, any weakening in the president's political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races." Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War.6°

In addition to boding ill for the president's perceived political capital and reputation, such partisan losses in Congress only further imperil his programmatic agenda, both international and domestic. Scholars have long noted that President Lyndon Johnson's dream of a Great Society also perished in the rice paddies of Vietnam. Lacking both the requisite funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, many of President Bush's highest second-term domestic priorities, such as Social Security and immigration reform, failedperhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq.

When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies. If congressional opposition in the military arena stands to derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena

#### That spills-over to government shutdown and US default—that kills the economy and US credibility

Norm Ornstein, resident scholar at the American Enterprise Institute, 9/1/13, Showdowns and Shutdowns, www.foreignpolicy.com/articles/2013/09/01/showdowns\_and\_shutdowns\_syria\_congress\_obama

Then there is the overload of business on the congressional agenda when the two houses return on Sept. 9 -with only nine legislative days scheduled for action in the month. We have serious confrontations ahead on spending bills and the debt limit, as the new fiscal year begins on Oct. 1 and the debt ceiling approaches just a week or two thereafter. Before the news that we would drop everything for an intense debate on whether to strike militarily in Syria, Congress-watchers were wondering how we could possibly deal with the intense bargaining required to avoid one or more government shutdowns and/or a real breach of the debt ceiling, with devastating consequences for American credibility and the international economy.

Beyond the deep policy and political divisions, Republican congressional leaders will likely use both a shutdown and the debt ceiling as hostages to force the president to cave on their demands for deeper spending cuts. Avoiding this end-game bargaining will require the unwavering attention of the same top leaders in the executive and legislative branches who will be deeply enmeshed in the Syria debate. The possibility -even probability -of disruptions caused by partial shutdowns could complicate any military actions. The possibility is also great that the rancor that will accompany the showdowns over fiscal policy will bleed over into the debate about America and Syria.

**Nuclear war**

**Harris and Burrows ‘9**

(Mathew, PhD European History at Cambridge, counselor in the National Intelligence Council (NIC) and Jennifer, member of the NIC’s Long Range Analysis Unit “Revisiting the Future: Geopolitical Effects of the Financial Crisis” <http://www.ciaonet.org/journals/twq/v32i2/f_0016178_13952.pdf>, AM)

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

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The aff must specify statutory or judicial restrictions—

“And/or” means one or the other or both

CED ‘9

(http://dictionary.reference.com/browse/and%2For)

and/or

— conj

( coordinating ) used to join terms when **either one or the other or both** is indicated: passports and/or other means of identification

Vote neg—plan text clarity key to specific negative ground and tests the core question of the resolution—where the authority is located—

Presumption

CMS ‘3

(http://www.chicagomanualofstyle.org/CMS\_FAQ/CapitalizationTitles/CapitalizationTitles32.html, accessed 10/16/07, re-accessed at <http://www.chicagomanualofstyle.org/qanda/data/faq/topics/CapitalizationTitles/faq0015.html>, 8/19/2013)

Q. When I refer to the government of the United States in text, should it be US Federal Government or US federal government? A. **The government of the U**nited **S**tates **is not a single official entity**. Nor is it when it is referred to as the federal government or the U.S. government or the U.S. federal government. It’s just a government, which, like those in all countries, has some official bodies that act and operate in the name of government: the Congress, the Senate, the Department of State, etc.

Aff conditionality – violates “Resolved”

Random House Unabridged Dictionary, 1997

(http://www.infoplease.com/dictionary/resolved)

firm in purpose or intent; determined

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**The affirmative re-inscribes the primacy of liberal legalism as a method of restraint—that paradoxically collapses resistance to Executive excesses.**

**Margulies ‘11**

Joseph, Joseph Margulies is a Clinical Professor, Northwestern University School of Law. He was counsel of record for the petitioners in Rasul v. Bush and Munaf v. Geren. He now is counsel of record for Abu Zubaydah, for whose torture (termed harsh interrogation by some) Bush Administration officials John Yoo and Jay Bybee wrote authorizing legal opinions. Earlier versions of this paper were presented at workshops at the American Bar Foundation and the 2010 Law and Society Association Conference in Chicago., Hope Metcalf is a Lecturer, Yale Law School. Metcalf is co-counsel for the plaintiffs/petitioners in Padilla v. Rumsfeld, Padilla v. Yoo, Jeppesen v. Mohammed, and Maqaleh v. Obama. She has written numerous amicus briefs in support of petitioners in suits against the government arising out of counterterrorism policies, including in Munaf v. Geren and Boumediene v. Bush., “Terrorizing Academia,” http://www.swlaw.edu/pdfs/jle/jle603jmarguilies.pdf

In an observation more often repeated than defended, we are told that the attacks of September 11 “changed everything.” Whatever merit there is in this notion, it is certainly true that 9/11—and in particular the legal response set in motion by the administration of President George W. Bush—left its mark on the academy. Nine years after 9/11, it is time to step back and assess these developments and to offer thoughts on their meaning. In Part II of this essay, we analyze the post-9/11 scholarship produced by this “emergency” framing. We argue that legal scholars writing in the aftermath of 9/11 generally fell into one of three groups: unilateralists, interventionists, and proceduralists. Unilateralists argued in favor of tilting the allocation of government power toward the executive because the state’s interest in survival is superior to any individual liberty interest, and because the executive is best able to understand and address threats to the state. Interventionists, by contrast, argued in favor of restraining the executive (principally through the judiciary) precisely to prevent the erosion of civil liberties. Proceduralists took a middle road, informed by what they perceived as a central lesson of American history.1 Because at least some overreaction by the state is an inevitable feature of a national crisis, the most one can reasonably hope for is to build in structural and procedural protections to preserve the essential U.S. constitutional framework, and, perhaps, to minimize the damage done to American legal and moral traditions. Despite profound differences between and within these groups, legal scholars in **all three camps** (as well as litigants and clinicians, including the authors) shared a common perspective—viz., that repressive legal policies adopted by wartime governments are **temporary departures** from hypothesized peacetime norms. In this narrative, metaphors of bewilderment, wandering, and confusion predominate. The country “loses its bearings” and “goes astray.” Bad things happen until at last the nation “finds itself” or “comes to its senses,” recovers its “values,” and fixes the problem. **Internment ends, habeas is restored, prisoners are pardoned, repression passes**. In a show of regret, we change direction, “get back on course,” and vow it will never happen again. **Until the next time, when it does**. This view, popularized in treatments like All the Laws but One, by the late Chief Justice Rehnquist,2 or the more thoughtful and thorough discussion in Perilous Times by Chicago’s Geoffrey Stone,3 quickly became the dominant narrative in American society and the legal academy. **This narrative also figured heavily in the many challenges to Bush-era policies,** including by the authors. The narrative permitted litigators and legal scholars to draw upon what elsewhere has been referred to as America’s “civic religion”4 and to **cast the courts in the role of hero-judges**5 **whom we hoped would restore legal order.**6 But by framing the Bush Administration’s response as the latest in a series of regrettable but temporary deviations from a hypothesized liberal norm, the legal academy ignored the more persistent, and decidedly illiberal, authoritarian tendency in American thought to demonize communal “others” during moments of perceived threat. Viewed in this light, what the dominant narrative identified as a brief departure caused by a military crisis is more accurately seen as part of a recurring process of intense stigmatization tied to periods of social upheaval, of which war and its accompanying repressions are simply representative (and particularly acute) illustrations. It is worth recalling, for instance, that the heyday of the Ku Klux Klan in this country, when the organization could claim upwards of 3 million members, was the early-1920s, and that the period of greatest Klan expansion began in the summer of 1920, almost immediately after the nation had “recovered” from the Red Scare of 1919–20.7 Klan activity during this period, unlike its earlier and later iterations, focused mainly on the scourge of the immigrant Jew and Catholic, and flowed effortlessly from the anti-alien, anti-radical hysteria of the Red Scare. Yet this period is almost entirely unaccounted for in the dominant post-9/11 narrative of deviation and redemption, which in most versions glides seamlessly from the madness of the Red Scare to the internment of the Japanese during World War II.8 And because we were studying the elephant with the wrong end of the telescope, **we came to a flawed understanding of the beast**. In Part IV, we argue that the interventionists and unilateralists came to an incomplete understanding by focusing almost exclusively on what Stuart Scheingold called “the myth of rights”—the belief that if we can identify, elaborate, and secure judicial recognition of the legal “right,” **political structures and policies will adapt their behavior to the requirements of the law** and change will follow more or less automatically.9 Scholars struggled to define the relationship between law and security primarily through exploration of structural10 and procedural questions, and, to a lesser extent, to substantive rights. And they examined the almost limitless number of subsidiary questions clustered within these issues. Questions about the right to habeas review, for instance, generated a great deal of scholarship about the handful of World War II-era cases that the Bush Administration relied upon, including most prominently Johnson v. Eisentrager and Ex Parte Quirin. 11 Regardless of political viewpoint, a common notion among most unilateralist and interventionist scholars was that when law legitimized or delegitimized a particular policy, **this would have a direct and observable effect on actual behavior**. The premise of this scholarship, in other words, was that policies “struck down” by the courts, or credibly condemned as lawless by the academy, would inevitably be changed—**and that this should be the focus of reform efforts.** Even when disagreement existed about the substance of rights or even which branch should decide their parameters, it reflected shared acceptance of the **primacy** of law, **often to the exclusion of underlying social or political dynamics**. Eric Posner and Adrian Vermeule, for instance, may have thought, unlike the great majority of their colleagues, that the torture memo was “standard fare.”12 But their position nonetheless accepted the notion that if the prisoners had a legal right to be treated otherwise, then the torture memo authorized illegal behavior and must be given no effect.13 Recent developments, however, cast doubt on two grounding ideas of interventionist and unilateralist scholarship—viz., that post-9/11 policies were best explained as responses to a national crisis (and therefore limited in time and scope), and that the problem was essentially legal (and therefore responsive to condemnation by the judiciary and legal academy). One might have reasonably predicted that in the wake of a string of Supreme Court decisions limiting executive power, apparently widespread and bipartisan support for the closure of Guantánamo during the 2008 presidential campaign, and the election of President Barack Obama, which itself heralded a series of executive orders that attempted to dismantle many Bush-era policies, the nation would be “returning” to a period of respect for individual rights and the rule of law. Yet the period following Obama’s election has been marked by an increasingly retributive and venomous narrative surrounding Islam and national security. **Precisely when the dominant narrative would have predicted change** and redemption, **we have seen retreat and retrenchment.** This conundrum is not adequately addressed by dominant strands of post-9/11 legal scholarship. In retrospect, it is surprising that much post-9/11 scholarship appears to have set aside critical lessons from previous decades as to the relationship among law, society and politics.14 Many scholars have long argued in other contexts that rights—or at least the experience of rights—are subject to political and social constraints, particularly for groups subject to historic marginalization. Rather than self-executing, rights are better viewed as contingent political resources, capable of mobilizing public sentiment and generating social expectations.15 From that view, a victory in Rasul or Boumediene no more guaranteed that prisoners at Guantánamo would enjoy the right to habeas corpus than a victory in Brown v. Board16 guaranteed that schools in the South would be desegregated.17 Rasul and Boumediene, therefore, should be seen as part (and probably only a small part) of a varied and complex collection of events, including the fiasco in Iraq, the scandal at the Abu Ghraib prison, and the use of warrantless wiretaps, as well as seemingly unrelated episodes like the official response to Hurricane Katrina. These and other events during the Bush years merged to give rise to a powerful social narrative critiquing an administration committed to lawlessness, content with incompetence, and engaged in behavior that was contrary to perceived “American values.”18 Yet the very success of this narrative, culminating in the election of Barack Obama in 2008, produced quiescence on the Left, even as it stimulated massive opposition on the Right. The result has been the emergence of a counter-narrative about national security that has produced a vigorous social backlash such that most of the Bush-era policies will continue largely unchanged, at least for the foreseeable future.19 Just as we see a widening gap between judicial **recognition** of rights in the abstract and the **observation** of those rights as a matter of fact, there appears to be an emerging dominance of proceduralist approaches, which take as a given that rights dissolve under political pressure, and, thus, are best protected by basic procedural measures. But that stance falls short in its seeming readiness to trade away rights in the face of political tension. First, it accepts the tropes du jour surrounding radical Islam—namely, that it is a unique, and uniquely apocalyptic, threat to U.S. security. In this, proceduralists do not pay adequate heed to the lessons of American history and sociology. And second, it endorses too easily the idea that procedural and structural protections will protect against substantive injustice in the face of popular and/or political demands for an outcome-determinative system that cannot tolerate acquittals. Procedures only provide protection, however, if there is sufficient **political support** for the underlying right. Since the premise of the proceduralist scholarship is that such support does not exist, **it is folly to expect the political branches to create meaningful and robust protections**. In short, a witch hunt does not become less a mockery of justice when the accused is given the right to confront witnesses. And a separate system (especially when designed for demonized “others,” such as Muslims) cannot, by definition, be equal. In the end, we urge a fuller embrace of what Scheingold called “the politics of rights,” which recognizes the contingent character of rights in American society. We agree with Mari Matsuda, who observed more than two decades ago that rights are a necessary but not sufficient resource for marginalized people with little political capital.20 To be effective, therefore, we must look **beyond the courts** and grapple with the hard work of long-term change with, through and, perhaps, **in spite of law**. These are by no means new dilemmas, but the post-9/11 context raises difficult and perplexing questions that deserve study and careful thought as our nation settles into what appears to be a permanent emergency.

**Legalism underpins the violence of empire and creates the conditions of possibility for liberal violence.**

**Dossa ‘99**

Shiraz, Department of Political Science, St. Francis Xavier University, Antigonish, Nova Scotia, “Liberal Legalism: Law, Culture and Identity,” The European Legacy, Vol. 4, No. 3, pp. 73-87,1

No discipline in the rationalized arsenal of modernity is as rational, impartial, objective as the province of law and jurisprudence, in the eyes of its liberal enthusiasts. Law is the exemplary countenance of the conscious and calculated rationality of modern life, **it is the emblematic face of liberal civilization**. Law and legal rules symbolize the spirit of science, the march of **human progress**. As Max Weber, the reluctant liberal theorist of the ethic of rationalization, asserted: judicial formalism enables the legal system to operate like a technically **rational machine**. Thus it guarantees to individuals and groups within the system a relative of maximum of freedom, and greatly increases for them the possibility of predicting the legal consequences of their action. In this reading, law encapsulates the western capacity to **bring order to nature** and human beings, to turn the ebb and flow of life into a "rational machine" under the tutelage of "judicial formalism".19 Subjugation of the Other races in the colonial **empires** was motivated by power and rapacity, but it was **justified and indeed rationalized**, **by an appeal to the civilizing influence** **of** religion and **law**: western Christianity and liberal law. To the imperialist mind, "the civilizing mission of law" was **fundamental**, though Christianity had a part to play in this program.20 Liberal colonialists visualized law, civilization and progress as deeply connected and basic, they saw western law as neutral, universally relevant and desirable. The first claim was right in the liberal context, the second thoroughly false. In the liberal version, the mythic and irrational, emblems of thoughtlessness and fear, had ruled all life-forms in the past and still ruled the lives of the vast majority of humanity in the third world; in thrall to the majesty of the natural and the transcendent, primitive life flourished in the environment of traditionalism and lawlessness, hallmarks of the epoch of ignorance. By contrast, liberal ideology and modernity were abrasively unmythic, rational and controlled. Liberal order was informed by knowledge, science, a sense of historical progress, a continuously improving future. But this canonical, secular, bracing self-image, is tendentious and substantively illusory: it blithely scants the bloody genealogy and the extant historical record of liberal modernity, liberal politics, and particularly **liberal law** and its impact on the "lower races" (Hobson). In his Mythology of Modern Law, Fitzpatrick has shown that the enabling claims of liberalism, specifically of **liberal law**, are not only untenable but **implicated** in canvassing a **racist justification of its colonial past** and in eliding the racist basis of the structure of liberal jurisprudence.21 Liberal law is **mythic** in its presumption of its neutral, objective status. Specifically, the liberal legal story of its immaculate, analytically pure origin obscures and veils not just law's own ruthless, violent, even savage and disorderly trajectory, but also its **constitutive association with imperialism and racism**.22 In lieu of the transcendent, divine God of the "lower races", modern secular law postulated the gods of History, Science, Freedom. Liberal law was to be the instrument for realizing the promise of progress that the profane gods had decreed. Fitzpatrick's invasive surgical analysis lays bare the underlying logic of law's self-articulation in opposition to the values of cultural-racial Others, and its strategic, continuous reassertion of liberalism's superiority and the civilizational indispensability of liberal legalism. Liberal law's self-presentation presupposes a corrosive, debilitating, anarchic state of nature inhabited by the racial Others and lying in wait at the borders of the enlightened modern West. This mythological, savage Other, creature of raw, natural, unregulated fecundity and sexuality, justified the liberal conquest and control of the racially Other regions.23 Law's violence and resonant savagery on behalf of the West in its imperial razing of cultures and lands of the others, has **been and still is**, justified in terms of the necessary, beneficial spread of liberal civilization. Fitzpatrick's analysis parallels the impassioned deconstruction of this discourse of domination initiated by Edward Said's Orientalism, itself made possible by the pioneering analyses of writers like Aime Cesaire and Frantz Fanon. Fitzpatrick's argument is nevertheless instructive: his focus on law and its machinations unravels the one concrete province of imperial ideology that is centrally modern and critical in literally transforming and refashioning the human nature of racial Others. For liberal law carries on its back the payload of "progressive", pragmatic, **instrumental modernity**, its ideals of order and rule of law, its articulation of human rights and freedom, its ethic of procedural justice, its hostility to the sacred, to transcendence or spiritual complexity, its recasting of politics as the handmaiden of the nomos, its valorization of **scientism** and rationalization in all spheres of modern life. Liberal law is not synonymous with modernity tout court, but it is the exemplary voice of its rational spirit, **the custodian of its civilizational ambitions.** For the colonized Others, no non-liberal alternative is available: a non-western route to economic progress is inconceivable in liberal-legal discourse. For even the truly tenacious in the third world will never cease to be, in one sense or another, the outriders of modernity: their human condition condemns them to **playing perpetual catch-up**, eternally subservient to Western economic and technological superiority in a epoch of self-surpassing modernity.24 If the racially Other nations suffer exclusion globally, the racially other minorities inside the liberal loop enjoy the ambiguous benefits of inclusion. As legal immigrants or refugees, they are entitled to the full array of rights and privileges, as citizens (in Canada, France, U.K., U.S—Germany is the exception) they acquire civic and political rights as a matter of law. Formally, they are equal and equally deserving. **In theory** liberal law is inclusive, but concretely it is routinely **partial and invidious**. Inclusion is **conditional**: it depends on how robustly the new citizens wear and deploy their cultural difference. Two historical facts account for this phenomenon: liberal law's role in western imperialism and the Western claim of civilizational superiority that pervades the culture that sustains liberal legalism. Liberal law, as the other of the racially Other within its legal jurisdiction, differentiates and locates this other in the enemy camp of the culturally raw, irreducibly foreign, making him an unreliable ally or citizen. Law's suspicion of the others socialized in "lawless" cultures is instinctive and undeniable. Liberal law's constitutive bias is in a sense incidental: **the real problem is racism** or the racist basis **of liberal ideology and culture.**25 The internal racial other is not the juridical equal in the mind of liberal law but the juridically and humanly inferior Other, the **perpetual foreigner**.

**The alternative is to vote negative to endorse political, rather than legal restrictions on Presidential war powers authority.**

**Goldsmith ‘12**

Jack, Harvard Law School Professor, focus on national security law, presidential power, cybersecurity, and conflict of laws, Former Assistant Attorney General, Office of Legal Counsel, and Special Counsel to the Department of Defense, Hoover Institution Task Force on National Security and Law, March 2012, Power and Constraint, p. 205-209

DAVID BRIN is a science-fiction writer who in 1998 turned his imagination to a nonfiction book about privacy called The Transparent Society. Brin argued that individual privacy was on a path to extinction because government surveillance tools—tinier and tinier cameras and recorders, more robust electronic snooping, and bigger and bigger databases—were growing irreversibly more powerful. His solution to this attack on personal space was not to erect privacy walls, which he thought were futile, but rather to induce responsible government action by turning the surveillance devices on the government itself. A government that citizens can watch, Brin argued, is one subject to criticism and reprisals for its errors and abuses, and one that is more careful and responsible in the first place for fear of this backlash. A transparent government, in short, is an accountable one. "If neo-western civilization has one great trick in its repertoire, a technique more responsible than any other for its success, that trick is accountability," Brin argues, "[e]specially the knack—which no other culture ever mastered—of making accountability apply to the mighty."' Brin's notion of reciprocal transparency is in some ways the **inverse** of the penological design known as a "panopticon," made famous by the eighteenth-century English utilitarian philosopher Jeremy Bentham. Bentham's brother Samuel had designed a prison in Paris that allowed an "inspector" to monitor all of the inmates from a central location without the prisoners knowing whether or when they were being watched (and thus when they might be sanctioned for bad behavior). Bentham described the panopticon prison as a "new mode of obtaining power of mind over mind" because it allowed a single guard to control many prisoners merely by conveying that he might be watching.' The idea that a "watcher" could gain enormous social control over the "watched" through constant surveillance backed with threats of punishment has proved influential. Michel Foucault invoked Bentham's panopticon as a model for how modern societies and governments watch people in order to control them.' George Orwell invoked a similar idea three decades earlier with the panoptical telescreen in his novel 1984. More recently, Yale Law School professor Jack Balkin used the panopticon as a metaphor for what he calls the "National Surveillance State," in which governments "use surveillance, data collection, and data mining technologies not only to keep Americans safe from terrorist attacks but also to prevent ordinary crime and deliver social services." **The direction of the panopticon can be reversed, however, creating a "synopticon" in which many can watch one, including the government**.' The television is a synopticon that enables millions to watch the same governmental speech or hearing, though it is not a terribly robust one because the government can control the broadcast. Digital technology and the Internet combine to make a more powerful synopticon that allows many individuals to record and watch an official event or document in sometimes surprising ways. Video recorders placed in police stations and police cars, cell-phone video cameras, and similar tools increase citizens' ability to watch and record government activity. This new media content can be broadcast on the Internet and through other channels to give citizens synoptical power over the government—a power that some describe as "sousveillance" (watching from below)! These and related forms of watching can have a disciplining effect on government akin to Brin's reciprocal transparency. The various forms of watching and checking the presidency described in this book constitute a vibrant presidential synopticon. Empowered by legal reform and technological change, the "many"—in the form of courts, members of Congress and their staff, human rights activists, journalists and their collaborators, and lawyers and watchdogs inside and outside the executive branch—constantly gaze on the "one," the presidency. Acting alone and in mutually reinforcing networks that crossed organizational boundaries, these institutions extracted and revealed information about the executive branch's conduct in war—sometimes to adversarial actors inside the government, and sometimes to the public. The revelations, in turn, forced the executive branch to account for its actions and enabled many institutions to influence its operations. **The presidential synopticon** also **promoted responsible executive action merely through its broadening gaze.** One consequence of a panopticon, in Foucault's words, is "to induce in the inmate a state of conscious and permanent visibility that assures the automatic functioning of power."' The same thing has happened in reverse but to similar effect within the executive branch, where officials are much more careful merely by virtue of being watched. The presidential synopticon is in some respects not new. Victor Davis Hanson has argued that "war amid audit, scrutiny, and self-critique" has been a defining feature of the Western tradition for 2,500 years.' From the founding of the nation, American war presidents have been subject to intense scrutiny and criticism in the unusually open society that has characterized the United States. And many of the accountability mechanisms described in this book have been growing since the 1970s in step with the modern presidency. What is new, however, is the scope and depth of these modern mechanisms, their intense legalization, and their robust operation during wartime. In previous major wars the President determined when, how, and where to surveil, target, detain, transfer, and interrogate enemy soldiers, often without public knowledge, and almost entirely without unwanted legal interference from within the executive branch itself or from the other branches of government.' Today these **decisions are known inside and outside the government to an unprecedented degree** and are heavily regulated by laws and judicial decisions that are enforced daily by lawyers and critics inside and outside the presidency. Never before have Congress, the courts, and lawyers had such a say in day-to-day military activities; never before has the Commander in Chief been so influenced, and constrained, by law. This regime has many historical antecedents, but it came together and hit the Commander in Chief hard for the first time in the last decade. It did so because of extensive concerns about excessive presidential power in an indefinite and unusually secretive war fought among civilians, not just abroad but at home as well. These concerns were exacerbated and given credibility by the rhetoric and reality of the Bush administration's executive unilateralism—a strategy that was designed to free it from the web of military and intelligence laws but that instead galvanized forces of reaction to presidential power and deepened the laws' impact. Added to this mix were enormous changes in communication and collaboration **tech**nologies that grew to maturity in the decade after 9/11. These changes helped render executive branch secrets harder to keep, and had a flattening effect on the executive branch just as it had on other hierarchical institutions, making connections between (and thus accountability to) actors inside and outside the presidency **much more extensive**.

## 1nc

The executive branch of the United States federal government should issue and enforce an executive order to establish a policy that all individuals detained by the United States under its detention policy as described in the 2001 Authorization for Use of Military Force have access to Article III Courts. The order should also establish a bipartisan independent executive branch commission to oversee that the mandate is executed. The executive branch of the United States federal government should stop its use of military comissions for trial of United States detainees.

Solves the aff

Eric Posner, The University of Chicago Law School Professor, and Adrian Vermeule, Harvard Law School Professor of Law, 2007, The Credible Executive, 74 U. Chi. L. Rev. 865

The Madisonian system of oversight has not totally failed. Sometimes legislators overcome the temptation to free ride; sometimes they invest in protecting the separation of powers or legislative prerogatives. Sometimes judges review exercises of executive discretion, even during emergencies. But often enough, legislators and judges have no real alternative to letting executive officials exercise discretion unchecked. The Madisonian system is a partial failure; compensating mechanisms must be adopted to fill the area of slack, the institutional gap between executive discretion and the oversight capacities of other institutions. Again, the magnitude of this gap is unclear, but plausibly it is quite large; we will assume that it is. It is often assumed that this partial failure of the Madisonian system unshackles and therefore benefits ill-motivated executives. This is grievously incomplete. The failure of the Madisonian system harms the well-motivated executive as much as it benefits the ill-motivated one. Where Madisonian oversight fails, the well-motivated executive is a victim of his own power. Voters, legislators, and judges will be wary of granting further discretion to an executive whose motivations are uncertain and possibly nefarious. The partial failure of Madisonian oversight thus threatens a form of inefficiency, a kind of contracting failure that makes potentially everyone, including the voters, worse off. Our central question, then, is what the well-motivated executive can do to solve or at least ameliorate the problem. The solution is for the executive to complement his (well-motivated) first-order policy goals with second-order mechanisms for demonstrating credibility to other actors. We thus do not address the different question of what voters, legislators, judges, and other actors should do about an executive who is ill motivated and known to be so. That project involves shoring up or replacing the Madisonian system to block executive dictatorship. Our project is the converse of this, and involves finding new mechanisms to help the well-motivated executive credibly distinguish himself as such. IV. Executive Signaling: Law and Mechanisms We suggest that the executive's credibility problem can be solved by second-order mechanisms of executive signaling. In the general case, well-motivated executives send credible signals by taking actions that are more costly for ill-motivated actors than for well-motivated ones, thus distinguishing themselves from their ill-motivated mimics. Among the specific mechanisms we discuss, an important subset involves executive self-binding, whereby executives commit themselves to a course of action that would impose higher costs on ill-motivated actors. Commitments themselves have value as signals of benign motivations. This departs from the usual approach in legal scholarship. Legal theory has often discussed self-binding by "government" or government officials. In constitutional theory, it is often suggested that constitutions represent an attempt by "the people" to bind "themselves" against their own future decisionmaking pathologies, or relatedly, that constitutional prohibitions represent mechanisms by which governments commit themselves not to expropriate investments or to exploit their populations. n72 Whether or not this picture is coherent, n73 it is not the question we examine here, although some of the relevant considerations are similar. n74 We are not concerned with binding the president so that he cannot abuse his powers, but with how he might bind himself or take other actions that enhance his credibility, so that he can generate support from the public and other members of the government. [\*895] Furthermore, our question is subconstitutional: it is whether a well-motivated executive, acting within an established set of constitutional and statutory rules, can use signaling mechanisms to generate public trust. Accordingly, we proceed by assuming that no constitutional amendments or new statutes will be enacted. Within these constraints, what can a well-motivated executive do to bootstrap himself to credibility? The problem for the well-motivated executive is to credibly signal his benign motivations. In general, the solution is to engage in actions that are less costly for good types than for bad types. We begin with some relevant law, then examine a set of possible mechanisms -emphasizing both the conditions under which they might succeed and the conditions under which they might not -and conclude by examining the costs of credibility. A. A Preliminary Note on Law and Self-Binding Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding. n75 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is yes, at least to the same extent that a legislature can. Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo. n76 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies. More schematically, we may speak of formal and informal means of self-binding: 1. The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so. 2. The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding. n77 However, there may be large political costs to repealing the order. This effect does not depend on the courts' willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so, too, the executive's issuance of a self-binding order can trigger reputational costs. In such cases, repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it.

## 1nc

The plan destroys the war on terror—undermines intel gathering and crisis response

Carafano, 7

(PhD & Assistant Director of the Kathryn and Shelby Cullom Davis Institute for International Studies, “The War on Terrorism: Habeas Corpus On and Off the Battlefield,” 7/5, http://www.heritage.org/research/reports/2007/07/the-war-on-terrorism-habeas-corpus-on-and-off-the-battlefield)

Impeding the Effectiveness of Military Operations

Soldiers have a number of equally compelling responsibilities in war: accomplishing the mission, safeguarding innocents, and protecting their fellow soldiers. These tasks are difficult enough. Soldiers should not be required to provide to unlawful combatants, in the same manner and to the same extent as would be expected of a civil court, the full array of civil protections afforded to U.S. citizens by the Constitution and created by judges since the 1960s. For example, it is highly unrealistic to expect soldiers during active operations to collect evidence and insure the integrity of the chain of custody for that evidence. American soldiers would effectively face a Hobson's choice: on one hand, win the war, bring fellow soldiers home, and safeguard innocents; or, on the other hand, meet novel legal standards that might result in prematurely releasing war criminals who will go back to the battlefield. Crippling Intelligence Gathering **Gaining timely, actionable information is the most powerful weapon in uncovering and thwarting terrorist plots. Requiring the armed forces to place detainees under a civilian legal process will severely restrict their access to detainees and, in turn, cripple their capacity to obtain intelligence through legitimate, lawful interrogation**. Military authorities are giving Gitmo detainees treatment that is as good as or better than that typically afforded to U.S.-held POWs. The only real difference is that Gitmo detainees may be interrogated for more than name, rank, and serial number. Unnecessary Burdens Changing the legal framework governing unlawful combatants is simply unnecessary. The military is already meeting its obligations to deal justly with individuals in its custody. Since the inception of the Geneva Conventions, no country has ever given automatic habeas corpus rights to POWs. Furthermore, such action is not required by the U.S. Constitution. The Supreme Court ruled in 2004 that, at most, some detainees were covered by a statutory privilege to habeas corpus. The Court concluded, in other words, that Congress had implicitly conferred habeas corpus rights to certain individuals. However, the Military Commissions Act of 2006 repealed that privilege and, so far, Congress has not acted to restore it. The Department of Defense already operates two tribunals that safeguard the legal rights of detainees. The Combatant Status Review Tribunal (CSRT) uses a formal process to determine whether detainees meet the criteria to be designated as enemy combatants. Tribunals known as Administrative Review Boards (ARB) ensure that enemy combatants are not held any longer than necessary. Both processes operate within the confines of traditional law-of-war tribunals and are also subject to the appeals process and judicial review. In addition, Congress has established a process under the Military Commissions Act to allow the military to try any non-U.S. detainees for war crimes they are alleged to have committed. Conclusion Imposing U.S. civil procedures over the conduct of armed conflict **will damage national security and make combat more dangerous for soldiers and civilians alike.** The drive to do so is based on erroneous views about the Constitution, the United States' image abroad, and the realities of war. U.S. military legal processes are on par with or exceed the best legal practices in the world. While meeting the needs of national security, the system respects individuals' rights and offers unlawful enemy combatants a fundamentally fair process that is based on that afforded to America's own military men and women. Having proven itself in past conflicts, **the current legal framework can continue to do so in a prolonged war against terrorism.**

Causes nuclear terror—extinction

Hellman 8 (Martin E. Hellman, emeritus prof of engineering @ Stanford, “Risk Analysis of Nuclear Deterrence” SPRING 2008 THE BENT OF TAU BETA PI, <http://www.nuclearrisk.org/paper.pdf>)

The threat of nuclear terrorism looms much larger in the public’s mind than the threat of a full-scale nuclear war, yet this article focuses primarily on the latter. An explanation is therefore in order before proceeding. A terrorist attack involving a nuclear weapon would be a catastrophe of immense proportions: “A 10-kiloton bomb detonated at Grand Central Station on a typical work day would likely kill some half a million people, and inflict over a trillion dollars in direct economic damage. America and its way of life would be changed forever.” [Bunn 2003, pages viii-ix]. The likelihood of such an attack is also significant. Former Secretary of Defense William Perry has estimated the chance of a nuclear terrorist incident within the next decade to be roughly 50 percent [Bunn 2007, page 15]. David Albright, a former weapons inspector in Iraq, estimates those odds at less than one percent, but notes, “We would never accept a situation where the chance of a major nuclear accident like Chernobyl would be anywhere near 1% .... A nuclear terrorism attack is a low-probability event, but we can’t live in a world where it’s anything but extremely low-probability.” [Hegland 2005]. In a survey of 85 national security experts, Senator Richard Lugar found a median estimate of 20 percent for the “probability of an attack involving a nuclear explosion occurring somewhere in the world in the next 10 years,” with 79 percent of the respondents believing “it more likely to be carried out by terrorists” than by a government [Lugar 2005, pp. 14-15]. I support increased efforts to reduce the threat of nuclear terrorism, but that is not inconsistent with the approach of this article. Because terrorism is one of the potential trigger mechanisms for a full-scale nuclear war, the risk analyses proposed herein will include estimating the risk of nuclear terrorism as one component of the overall risk. If that risk, the overall risk, or both are found to be unacceptable, then the proposed remedies would be directed to reduce which- ever risk(s) warrant attention. Similar remarks apply to a number of other threats (e.g., nuclear war between the U.S. and China over Taiwan). his article would be incomplete if it only dealt with the threat of nuclear terrorism and neglected the threat of full- scale nuclear war. If both risks are unacceptable, an effort to reduce only the terrorist component would leave humanity in great peril. In fact, society’s almost total neglect of the threat of full-scale nuclear war makes studying that risk all the more important. The cosT of World War iii The danger associated with nuclear deterrence depends on both the cost of a failure and the failure rate.3 This section explores the cost of a failure of nuclear deterrence, and the next section is concerned with the failure rate. While other definitions are possible, this article defines a failure of deterrence to mean a full-scale exchange of all nuclear weapons available to the U.S. and Russia, an event that will be termed World War III. Approximately 20 million people died as a result of the first World War. World War II’s fatalities were double or triple that number—chaos prevented a more precise deter- mination. In both cases humanity recovered, and the world today bears few scars that attest to the horror of those two wars. Many people therefore implicitly believe that a third World War would be horrible but survivable, an extrapola- tion of the effects of the first two global wars. In that view, World War III, while horrible, is something that humanity may just have to face and from which it will then have to recover. In contrast, some of those most qualified to assess the situation hold a very different view. In a 1961 speech to a joint session of the Philippine Con- gress, General Douglas MacArthur, stated, “Global war has become a Frankenstein to destroy both sides. … If you lose, you are annihilated. If you win, you stand only to lose. No longer does it possess even the chance of the winner of a duel. It contains now only the germs of double suicide.” Former Secretary of Defense Robert McNamara ex- pressed a similar view: “If deterrence fails and conflict develops, the present U.S. and NATO strategy carries with it a high risk that Western civilization will be destroyed” [McNamara 1986, page 6]. More recently, George Shultz, William Perry, Henry Kissinger, and Sam Nunn4 echoed those concerns when they quoted President Reagan’s belief that nuclear weapons were “totally irrational, totally inhu- mane, good for nothing but killing, possibly destructive of life on earth and civilization.” [Shultz 2007] Official studies, while couched in less emotional terms, still convey the horrendous toll that World War III would exact: “The resulting deaths would be far beyond any precedent. Executive branch calculations show a range of U.S. deaths from 35 to 77 percent (i.e., 79-160 million dead) … a change in targeting could kill somewhere between 20 million and 30 million additional people on each side .... These calculations reflect only deaths during the first 30 days. Additional millions would be injured, and many would eventually die from lack of adequate medical care … millions of people might starve or freeze during the follow- ing winter, but it is not possible to estimate how many. … further millions … might eventually die of latent radiation effects.” [OTA 1979, page 8] This OTA report also noted the possibility of serious ecological damage [OTA 1979, page 9], a concern that as- sumed a new potentiality when the TTAPS report [TTAPS 1983] proposed that the ash and dust from so many nearly simultaneous nuclear explosions and their resultant fire- storms could usher in a nuclear winter that might erase homo sapiens from the face of the earth, much as many scientists now believe the K-T Extinction that wiped out the dinosaurs resulted from an impact winter caused by ash and dust from a large asteroid or comet striking Earth. The TTAPS report produced a heated debate, and there is still no scientific consensus on whether a nuclear winter would follow a full-scale nuclear war. Recent work [Robock 2007, Toon 2007] suggests that even a limited nuclear exchange or one between newer nuclear-weapon states, such as India and Pakistan, could have devastating long-lasting climatic consequences due to the large volumes of smoke that would be generated by fires in modern megacities. While it is uncertain how destructive World War III would be, prudence dictates that we apply the same engi- neering conservatism that saved the Golden Gate Bridge from collapsing on its 50th anniversary and assume that preventing World War III is a necessity—not an option.

## solvency

#### US de-emphasizing detention now—reducing authority irrelevant

Chesney, 13

(8/6, Law Prof-UT, “Postwar: An Essay on Whether the Armed-Conflict Model Still Matters,” http://www.lawfareblog.com/2013/08/postwar-an-essay-on-whether-the-armed-conflict-model-still-matters/)

The situation with military detention is different, but much less so than many assume. True, the demise of the armed-conflict model would matter for the dwindling legacy population at Guantanamo (and, if any remain by that time, for a handful of legacy detainees in Afghanistan). It will not matter nearly so much for potential future detainees, however, for the simple reason that **the U**nited **S**tates **has long-since gotten almost entirely out of the business of taking on new detainees**. For a variety of reasons (most of which would remain true under an administration of a different party) long-term military detention has become unattractive compared to alternatives such as prosecution (including prosecution in combination with short-term detention), the use of lethal force, and encouraging detention in the hands of other countries. In light of this larger dynamic, the theoretical **loss of legal authority to detain in the postwar period will have comparatively little real consequence.**

#### Detention authority goldilocks now—resolves detainee rights but maintains executive flex

Goldsmith, 12

(Prof-Harvard Law, Hoover Institution Task Force on National Security and Law, March, Power and Constraint, p. 192-96)

The most important principle was that the President could, as the Bush and Obama administrations claimed, detain members of al Qaeda and the Taliban, including those captured outside Afghanistan, "until hostilities cease."' In acknowledging this principle, the **courts** also **placed a number of procedural and evidentiary requirements on how the government must prove to the courts its detention authority**. Most of these **requirements are nontrivial**, and **some are burdensome**. All amount to unprecedented (that term, again) demands on the Commander in Chief's traditional detention authority and unprecedented demands of evidence collection by soldiers in the field. They also establish a new role for the courts. In "pass[ing] judgment on the admissibility of evidence collected on the battlefield, and thus on the propriety of the methods used for such collection," the courts "monitor, and to a degree supervise, the battlefield conduct of the U.S. military," noted Judge Stephen Williams, in one of the habeas cases. "That is a consequence of Boumediene, in which the federal judiciary assumed an entirely new role in the nation's military operations," he added.' Some have doubted that these decisions had much of an effect on the President's discretion because the lower courts have rejected most of the habeas petitions from GTMO on the merits.' The issue is hard to judge because the executive branch, under various legal and political pressures over the years, had released four hundred or so detainees by 2009, and so most of the ones remain-ing at GTMO at that point were truly "the worst of the worst," as Donald Rumsfeld had quipped in 2002.7' Even taking this fact into account, the courts in 2009-2011 granted habeas relief to detainees in fourteen cases that the government ultimately did not subsequently challenge, a number that amounts to almost a quarter of the habeas cases brought by GTMO detainees.' The government also released others because they believed they could not meet detention standards announced by the courts.' But the courts' impact on presidential discretion went far beyond these cases, and included unusual influences on the battlefield beyond the evidence gathering and the distractions that resulted from the habeas cases themselves. One influence was on the executive branch's targeting practices. Courts in the habeas cases ruling on who could and could not be detained in effect defined the scope of the conflict with al Qaeda under the 2001 congressional authorization of force. When Obama administration lawyers determine how far they can go in targeting terrorist threats—especially threats off the traditional battlefield in places like Yemen and Somalia—they are guided by some of the analysis and basic restrictions recognized in these cases." The habeas cases also affect detention operations in places like Afghanistan. The definition of "the enemy" used by the Obama administration in the GTMO habeas cases is the same one employed in Afghanistan, and no one is detained there who does not meet this definition. This definition is, as one senior lawyer in Afghanistan says, "a direct response to Supreme Court decisions in Rasul, Hamdi, Hamdan, and Boumediene.' Subsequently the federal appellate court in the District of Columbia has ruled that habeas jurisdiction does not extend to Afghanistan. But that does not mean that the courts did not influence detention standards there. On the contrary, the hope of reaching this result is one reason the Obama administration decided to raise detention standards in Afghanistan in the summer of 2009.82 And senior lawyers in Afghanistan still live with the concern that the Supreme Court will overturn this habeas decision. "I warn capturing units that [law-of-war detention] must adhere the highest legal standards to avoid habeas litigation," said one such lawyer. "This creates a huge burden on [law-of-war detention] in that we must perform customary military legal operations in a combat zone with an eye toward defensive litigation [and] must be concerned how a civilian court will view our legal actions and decisions?"83 In these and other ways, the GTMO habeas corpus cases have had a constraining impact on the President, his senior national security advisers, and soldiers in the field. **But these constraints have also empowered the presidency** and the military, directly and indirectly, **in important ways**. "Our opinion does not undermine the Executive's powers as Commander in Chief," asserted Justice Kennedy in his Boumediene opinion for the Supreme Court. "On the contrary, the exercise of those powers is vindicated, not eroded, when confirmed by the Judicial Branch!"84 The unusual burdens imposed by the Boumediene decision and the other landmark Supreme Court decisions in the last decade have been accompanied by judicial and legislative approval for some extraordinary presidential powers in the long war against terrorists. It is a remarkable fact that in the eleventh year of the "war on terrorism," the administration of Barack Obama is detaining over 170 terrorist soldiers in GTMO without charge or trial, is planning to try some of these detainees in a military commission on the island, and is detaining almost two thousand more in Afghanistan. These practices remain controversial in some quarters, and are not what the Obama administration set out to do. But **as a result of judicial and legislative interventions over the last decade, there is no doubt now that these practices are lawful and legitimate** within the American constitutional system. The presidency was empowered to exercise these and other military prerogatives in this unusual war because the other branches of the government considered the matter and, with caveats, told the President he could. The legitimation and continuance of these unusual executive powers are enormous disappointments to Michael Ratner and his colleagues. The lawsuits and activist campaigns by these men and women accomplished much in the decade after 9/11, much more than they anticipated at the beginning. They built up a global social movement of activists, lawyers, foreign governments, and the media, to bring habeas corpus rights to GTMO and to pressure the government to release all but the most dangerous prisoners there. "Obviously, getting six or seven hundred people out of Guantanamo out of the nine hundred was a huge accomplishment," notes Ratner. Working in the ecology of transparency, Ratner and his colleagues, as Ratner himself said, "have also taken on what I consider the most egregious aspects of what I call the national security state since 9/11, and made them public debating issues." By making the issues matters of public debate, they ensured that the courts and Congress and the American people had to engage in the issues, and to address them. But the bitter reality for Ratner and his colleagues in the GTMO Bar is that the courts, Congress, and the American people do not share their outlook, and the United States is in a place at the end of 2011 where Ratner desperately did not want it to be. The GTMO Bar won landmark Supreme Court decisions on due process for detainees, on habeas corpus, and on the limits of presidential power over military commissions. And **yet stepping back from these battles**, **Ratner** believes that he and his colleagues **lost the war**. "We lost on the enemy combatant issue, and the definition. We lost on the preventive detention issue, more or less. We lost on the military commission issue, more or less." They lost on these issues because while the courts and Congress imposed significant constraints on these traditional practices by the Commander in Chief, they also affirmed the legitimacy of the practices in the round. The efforts of the other branches of the government placed these practices on a much firmer foundation than they were during the early unilateralist era of George W. Bush. The foundation became firmer yet because it was embraced, albeit grudgingly, by the administration of Barack Obama. "My problem is that when you have a Democrat doing it as well as a Republican, . . . both the good and the bad becomes embedded in the rule of law," says Ratner. This is a problem for Ratner because he thinks that military detention, military commissions, and many other wartime prerogatives of the Commander in Chief are unnecessary, immoral, or illegal. But for those who disagree with Ratner on these points—for **those who believe that the terrorist threat remains real and scary, and that the nation needs a Commander in Chief empowered to meet the threat in unusual ways—embedding these presidential prerogatives in the rule of law is an enormous blessing**. It is a blessing, ironically, for which the nation has Michael Ratner and his colleagues to thank.

## legitimacy

#### Data disproves hegemony impacts

Fettweis, 11

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

It is perhaps worth noting that there is no evidence to support a direct relationship between the relative level of U.S. activism and international stability. In fact, the limited data we do have suggest the opposite may be true. During the 1990s, the United States cut back on its defense spending fairly substantially. By 1998, the United States was spending $100 billion less on defense in real terms than it had in 1990.51 To internationalists, defense hawks and believers in hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities,” argued Kristol and Kagan, “doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace.”52 On the other hand, if the pacific trends were not based upon U.S. hegemony but a strengthening norm against interstate war, one would not have expected an increase in global instability and violence.

The verdict from the past two decades is fairly plain: The world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable United States military, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums, no security dilemmas drove insecurity or arms races, and no regional balancing occurred once the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in U.S. capabilities. Most of all, the United States and its allies were no less safe. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and kept declining as the Bush Administration ramped the spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated.

Military spending figures by themselves are insufficient to disprove a connection between overall U.S. actions and international stability. Once again, one could presumably argue that spending is not the only or even the best indication of hegemony, and that it is instead U.S. foreign political and security commitments that maintain stability. Since neither was significantly altered during this period, instability should not have been expected. Alternately, advocates of hegemonic stability could believe that relative rather than absolute spending is decisive in bringing peace. Although the United States cut back on its spending during the 1990s, its relative advantage never wavered.

However, even if it is true that either U.S. commitments or relative spending account for global pacific trends, then at the very least stability can evidently be maintained at drastically lower levels of both. In other words, even if one can be allowed to argue in the alternative for a moment and suppose that there is in fact a level of engagement below which the United States cannot drop without increasing international disorder, a rational grand strategist would still recommend cutting back on engagement and spending until that level is determined. Grand strategic decisions are never final; continual adjustments can and must be made as time goes on. Basic logic suggests that the United States ought to spend the minimum amount of its blood and treasure while seeking the maximum return on its investment. And if the current era of stability is as stable as many believe it to be, no increase in conflict would ever occur irrespective of U.S. spending, which would save untold trillions for an increasingly debt-ridden nation.

It is also perhaps worth noting that if opposite trends had unfolded, if other states had reacted to news of cuts in U.S. defense spending with more aggressive or insecure behavior, then internationalists would surely argue that their expectations had been fulfilled. If increases in conflict would have been interpreted as proof of the wisdom of internationalist strategies, then logical consistency demands that the lack thereof should at least pose a problem. As it stands, the only evidence we have regarding the likely systemic reaction to a more restrained United States suggests that the current peaceful trends are unrelated to U.S. military spending. Evidently the rest of the world can operate quite effectively without the presence of a global policeman. Those who think otherwise base their view on faith alone.

Don’t solve hegemony --- 1AC Mendelson says that intervention in humanitarian crises is necessary to sustain hegemony which the AFF doesn’t do

#### No challengers

Kaplan, senior fellow – Center for a New American Security, and Kaplan, frmr. vice chairman – National Intelligence Council, ‘11

(Robert D and Stephen S, “America Primed,” *The National Interest*, March/April)

But in spite of the seemingly inevitable and rapid diminution of U.S. eminence, to write America’s great-power obituary is beyond premature. The United States remains a highly capable power. Iraq and Afghanistan, as horrendous as they have proved to be—in a broad historical sense—are still relatively minor events that America can easily overcome. The eventual demise of empires like those of Ming China and late-medieval Venice was brought about by far more pivotal blunders.

Think of the Indian Mutiny against the British in 1857 and 1858. Iraq in particular—ever so frequently touted as our turning point on the road to destruction—looks to some extent eerily similar. At the time, orientalists and other pragmatists in the British power structure (who wanted to leave traditional India as it was) lost some sway to evangelical and utilitarian reformers (who wanted to modernize and Christianize India—to make it more like England). But the attempt to bring the fruits of Western civilization to the Asian subcontinent was met with a violent revolt against imperial authority. Delhi, Lucknow and other Indian cities were besieged and captured before being retaken by colonial forces. Yet, the debacle did not signal the end of the British Empire at all, which continued on and even expanded for another century. Instead, it signaled the transition from more of an ad hoc imperium fired by a proselytizing lust to impose its values on others to a calmer and more pragmatic empire built on international trade and technology.1 There is no reason to believe that the fate of America need follow a more doomed course.

Yes, the mistakes made in Iraq and Afghanistan have been the United States’ own, but, though destructive, they are not fatal. If we withdraw sooner rather than later, the cost to American power can be stemmed. Leaving a stable Afghanistan behind of course requires a helpful Pakistan, but with more pressure Washington might increase Islamabad’s cooperation in relatively short order.

In terms of acute threats, Iran is the only state that has exported terrorism and insurgency toward a strategic purpose, yet the country is economically fragile and politically unstable, with behind-the-scenes infighting that would make Washington partisans blanch. Even assuming Iran acquires a few nuclear devices—of uncertain quality with uncertain delivery systems—the long-term outlook for the clerical regime is itself unclear. The administration must only avoid a war with the Islamic Republic.

To be sure, America may be in decline in relative terms compared to some other powers, as well as to many countries of the former third world, but in absolute terms, particularly military ones, the United States can easily be the first among equals for decades hence.

China, India and Russia are the only major Eurasian states prepared to wield military power of consequence on their peripheries. And each, in turn, faces its own obstacles on the road to some degree of dominance.

The Chinese will have a great navy (assuming their economy does not implode) and that will enforce a certain level of bipolarity in the world system. But Beijing will lack the alliance network Washington has, even as China and Russia will always be—because of geography—inherently distrustful of one another. China has much influence, but no credible military allies beyond possibly North Korea, and its authoritarian regime lives in fear of internal disruption if its economic growth rate falters. Furthermore, Chinese naval planners look out from their coastline and see South Korea and a string of islands—Japan, Taiwan and Australia—that are American allies, as are, to a lesser degree, the Philippines, Vietnam and Thailand. To balance a rising China, Washington must only preserve its naval and air assets at their current levels.

India, which has its own internal insurgency, is bedeviled by semifailed states on its borders that critically sap energy and attention from its security establishment, and especially from its land forces; in any case, India has become a de facto ally of the United States whose very rise, in and of itself, helps to balance China.

Russia will be occupied for years regaining influence in its post-Soviet near abroad, particularly in Ukraine, whose feisty independence constitutes a fundamental challenge to the very idea of the Russian state. China checks Russia in Central Asia, as do Turkey, Iran and the West in the Caucasus. This is to say nothing of Russia’s diminishing population and overwhelming reliance on energy exports. Given the problems of these other states, America remains fortunate indeed.

The United States is poised to tread the path of postmutiny Britain. America might not be an empire in the formal sense, but its obligations and constellation of military bases worldwide put it in an imperial-like situation, particularly because its air and naval deployments will continue in a post-Iraq and post-Afghanistan world. No country is in such an enviable position to keep the relative peace in Eurasia as is the United States—especially if it can recover the level of enduring competence in national-security policy last seen during the administration of George H. W. Bush. This is no small point. America has strategic advantages and can enhance its power while extricating itself from war. But this requires leadership—not great and inspiring leadership which comes along rarely even in the healthiest of societies—but plodding competence, occasionally steely nerved and always free of illusion.

#### Heg doesn’t solve war

Mastanduno, 9 – Professor of Government at Dartmouth

(Michael, World Politics 61, No. 1, Ebsco)

During the cold war the United States dictated the terms of adjustment. It derived the necessary leverage because it provided for the security of its economic partners and because there were no viable alter natives to an economic order centered on the United States. After the cold war the outcome of adjustment struggles is less certain because the United States is no longer in a position to dictate the terms. The United States, notwithstanding its preponderant power, no longer enjoys the same type of security leverage it once possessed, and the very success of the U.S.-centered world economy has afforded America’s supporters a greater range of international and domestic economic options. The claim that the United States is unipolar is a statement about its cumulative economic, military, and other capabilities.1 But preponderant capabilities across the board do not guarantee effective influence in any given arena. U.S. dominance in the international security arena no longer translates into effective leverage in the international economic arena. And although the United States remains a dominant international economic player in absolute terms, after the cold war it has found itself more vulnerable and constrained than it was during the golden economic era after World War II. It faces rising economic challengers with their own agendas and with greater discretion in international economic policy than America’s cold war allies had enjoyed. The United States may continue to act its own way, but it can no longer count on getting its own way.

#### Detention restrictions increases rendition and drone strikes—comparatively worse and turns cred

Goldsmith, 12

(Law Prof-Harvard, 6/29, Proxy Detention in Somalia, and the Detention-Drone Tradeoff, www.lawfareblog.com/2012/06/proxy-detention-in-somalia-and-the-detention-drone-tradeoff/

There has been speculation about the effect of the Obama administration’s pinched detention policy – i.e. no new detainees brought to GTMO, and no new detainees to Parwan (Afghanistan) from outside Afghanistan – on its other counterterrorism policies. I have long believed there must be some tradeoff between narrowing U.S. detention capabilities and other counterterrorism options, at least implicitly, and not necessarily for the better. As I wrote three years ago, in response to news reports that the Obama administration’s cutback on USG detentions resulted in more USG drone strikes and more outsourcing of rendition, detention, and interrogation: There are at least two problems with this general approach to incapacitating terrorists. First, it is not ideal for security. Sometimes it would be more useful for the United States to capture and interrogate a terrorist (if possible) than to kill him with a Predator drone. Often the United States could get better information if it, rather than another country, detained and interrogated a terrorist suspect. Detentions at Guantanamo are more secure than detentions in Bagram or in third countries. The second problem is that terrorist suspects often end up in less favorable places. Detainees in Bagram have fewer rights than prisoners at Guantanamo, and many in Middle East and South Asian prisons have fewer yet. Likewise, most detainees would rather be in one of these detention facilities than be killed by a Predator drone. We congratulate ourselves when we raise legal standards for detainees, but in many respects all we are really doing is driving the terrorist incapacitation problem out of sight, to a place where terrorist suspects are treated worse. The main response to this argument – especially as it applies to the detention-drone tradeoff – has been to deny any such tradeoff on the ground that there are no terrorists outside of Afghanistan (a) whom the United States is in a position to capture on the ground (as opposed to kill from the sky), and (b) whom the USG would like to detain and interrogate. Dan Klaidman’s book provides some counter-evidence, but I will save my analysis of that for a review I am writing. Here I would like to point to an important story by Eli Lake that reveals that the “United States soldiers have been hunting down al Qaeda affiliates in Somalia”; that U.S. military and CIA advisers work closely with the Puntland Security Force in Somalia, in part to redress piracy threats but mainly to redress threats from al-Shabab; that the Americans have since 2009 captured and brought to the Bosaso Central Prison sixteen people (unclear how many are pirates and how many are al-Shabab); and that American interrogators are involved in questioning al-Shabab suspects. The thrust of Lake’s story is that the conditions of detention at the Bosaso Central Prison are atrocious. But the story is also important for showing that that the United States is involved outside of Afghanistan in capturing members of terrorists organizations that threaten the United States, and does have a national security need to incapacitate and interrogate them. It does not follow, of course, that the USG can or should be in the business of detaining every al-Shabab suspect currently detained in the Bosaso Central Prison. But the Lake story does show that the alternatives to U.S. detention are invariably worse from a human rights perspective. It portends (along with last month’s WPR Report and related DOD press release) that our creeping involvement on the ground in places like Somalia and Yemen mean that the USG will in fact be in a position to capture higher-level terrorists in al Qaeda affiliates. And that in turn suggests that the factual premise underlying the denial of a detention-drone tradeoff will become harder and harder to defend.

#### Executive will circumvent any legal challenges to detention

McNeal, 8

(Law Prof-Penn State, Northwestern University Law Review Colloquy, “BEYOND GUANTANAMO, OBSTACLES AND OPTIONS,” 103 Nw. U. L. Rev. Colloquy 29, August, Lexis)

. Executive Forum-Discretion--Any reform which allows for adjudication of guilt in different forums, each with differing procedural protections, raises serious questions of legitimacy and also **incentivizes the Executive to use "lesser" forms of justice**--nonprosecution or prosecutions by military commission. In this section, my focus is on the incentives which compel the Executive to not prosecute, or to prosecute in military commissions rather than Article III courts. Understanding the reason for these discretionary decisions will guide reformers pondering whether a new system will actually be used by the next President. There are two primary concerns that executive actors face when selecting a forum: protecting intelligence and ensuring trial outcomes. Executive forum-discretion is a different form of prosecutorial discretion with a different balancing inquiry from the one engaged in by courts. Where prosecutorial discretion largely deals with the charges a defendant will face, executive forum-discretion impacts the procedural protections a defendant can expect at both the pretrial and trial phase. Where balancing by Courts largely focuses on ensuring a just outcome which protects rights, the balancing engaged in by executive actors has inwardly directed objectives [\*50] which value rights only to the degree they impact the Executive's self interest. Given the unique implications flowing from forum determinations, reformers can benefit from understanding why an executive actor chooses one trial forum over another. I contend that there are seven predictive factors that influence executive discretion; national security court reformers should be aware of at least the two most salient predictive factors: trial outcomes and protection of intelligence equities. n112 The Executive's balancing of factors yields outcomes with direct implications for fundamental notions of due process and substantial justice. Any proposed reform is incomplete without thoroughly addressing the factors that the Executive balances.

Multilat fails - no mechanism for action

Haass 7/24/13

Richard N. Haass, President of the Council on Foreign Relations, previously served as Director of Policy Planning for the US State Department, Project Syndicate, July 24, 2013, "What International Community?", http://www.project-syndicate.org/commentary/the-broken-tools-of-global-cooperation-by-richard-n--haass

NEW YORK – Whenever something bad happens – Iran moving closer to acquiring nuclear weapons, North Korea firing another missile, civilian deaths reaching another grim milestone in Syria’s civil war, satellites revealing an alarming rate of polar-ice melt – some official or observer will call upon the international community to act. There is only one problem: there is no “international community.” Part of the reason stems from the absence of any mechanism for “the world” to come together. The United Nations General Assembly comes closest, but little can be expected from an organization that equates the United States or China with, say, Fiji or Guinea-Bissau. To be fair, those who founded the UN after World War II created the Security Council as the venue in which major powers would meet to determine the world’s fate. But even that has not worked out as planned, partly because the world of 2013 bears little resemblance to that of 1945. How else could one explain that Britain and France, but not Germany, Japan, or India, are permanent, veto-wielding members? Alas, there is no agreement on how to update the Security Council. Efforts like the G-20 are welcome, but they lack authority and capacity, in addition to suffering from excessive size. The result is “multilateralism’s dilemma”: the inclusion of more actors increases an organization’s legitimacy at the expense of its utility. No amount of UN reform could make things fundamentally different. Today’s major powers do not agree on the rules that ought to govern the world, much less on the penalties for breaking them. Even where there is accord in principle, there is little agreement in practice. The result is a world that is messier and more dangerous than it should be. Consider climate change. Burning fossil fuels is having a measurable impact on the earth’s temperature. But reducing carbon emissions has proved impossible, because such a commitment could constrain GDP growth (anathema to developed countries mired in economic malaise) and impede access to energy and electricity for billions of people in developing countries, which is unacceptable to China and India. Stopping the spread of nuclear weapons would seem a more promising issue for global collaboration. The Nuclear Non-Proliferation Treaty (NPT) limits the right to possess nuclear weapons to the Security Council’s five permanent members, and then only temporarily. But agreement is thinner than it appears. The NPT allows countries the right to develop nuclear energy for purposes such as electricity generation, a loophole that allows governments to build most of what is necessary to produce the fuel for a nuclear weapon. The inspection regime created in 1957 under the International Atomic Energy Agency (IAEA) is a gentlemen’s agreement; inspectors can inspect only those facilities that are made known to them by the government in question. Governments (such as Iran’s) can and do carry out illegal nuclear activities in secret sites that international inspectors either do not know about or cannot enter. At least as important, there is no agreement on what to do when a country violates the NPT, as Iran and North Korea (which withdrew from the treaty in 2003) have done. More international cooperation exists in the economic realm. There has been real progress toward reducing tariff barriers; the World Trade Organization has also established a dispute-resolution mechanism for its 159 members. But progress on expanding free trade at the global level has stalled, as many countries disagree on the treatment of agricultural goods, the elimination of subsidies, and trade in services. Meanwhile, cooperation in the realm of cyberspace is just getting started – with difficulty. The US is most concerned about cyber security and the protection of intellectual property and infrastructure. Authoritarian governments are more concerned about information security – the ability to control what is available on the Internet in order to maintain political and social stability. There is no agreement on what, if anything, constitutes an appropriate target for espionage. The prevalence of non-state actors is further complicating efforts. Another area where there is less international community than meets the eye is human suffering. Governments that attack their own people on a large scale, or allow such attacks to be carried out, expose themselves to the threat of outside intervention. This “Responsibility to Protect,” or R2P, was enshrined by the UN in 2005. But many governments are concerned that R2P raises expectations that they will act, which could prove costly in terms of lives, military expenditure, and commercial priorities. Some governments are also worried that R2P could be turned on them. Russian and Chinese reticence about pressuring governments that deserve censure and sanction stems partly from such concerns; the absence of consensus on Syria is just one result. In short, those looking to the international community to deal with the world’s problems will be disappointed. This is not reason for despair or grounds for acting unilaterally. But so long as “international community” is more hope than reality, multilateralism will have to become more varied.

Other nations don’t care

Somin 9 (Ilya, George Mason University School of Law, AND John McGinnis, Northwestern University - School of Law, “Democracy and International Human Rights Law”, July 1, 2009, Notre Dame Law Review, Vol. 84, No. 4, pp 1739-1798, May 2009 Northwestern Public Law Research Paper No. 08-08 George Mason Law & Economics Research Paper No. 08-19, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1116406, ZBurdette)

Besides the influence of nondemocratic states, there is another more fundamental problem that contributes to the democracy deficit of multilateral international human rights treaties: **the assent** of many democratic nations **to multilateral human rights treaties is** cheap talk, insofar as that **assent does not commit them to making the provisions** of those treaties a part of their **domestic law**. Nations that have dualist systems with respect to international law do not make such commitments. In dualist systems, international legal obligations are separate from domestic legal obligations and do not displace contrary domestic law without action by the government to incorporate international law into domestic legislation.112 Thus, even democratic ratification by dualist nations does not show that its citizens and legislators wish to have international law enforced without additional intermediate steps.113 Many, if not most, legal systems are dualist with respect to international law.114 For instance, the United Kingdom has a dualist system, and Commonwealth nations, which compose a substantial proportion of the world’s democracies, follow the lead of their former sovereign.115

By contrast, treaties signed by nations with monist legal systems may be incorporated into domestic law once they have been concluded without further legislation.116 But even some monist nations have complex structures through which treaties ratified as a matter of international law must pass before they will be given domestic effect.117 Others, while nominally giving treaties domestic effect, do not readily permit their courts to enforce those that seem vague or aspirational.118 As a result, the number of nations whose judiciaries actually enforce multilateral human rights treaties as rules of decision that set aside their own law seem relatively few in number.119

The United States does not enforce treaties unless they are deemed self-executing, as the recent case of Medell´ın v. Texas demonstrates. 120 The political branches must intend that a treaty be given direct effect in our domestic jurisprudence. Otherwise it will be deemed non-self-executing and fail to create binding federal law.121 **The U.S. Senate has declared** all **the provisions in our human rights treaties to be non-self-executing**.122

Beyond these important doctrinal points lie functional reasons for refusing to give these treaties direct domestic effect. Nations have many reasons for declining to implement the international rules of treaties without first subjecting them to domestic legislative processes. They may regard international law, particularly when human rights are involved, as aspirational.123 Or **they may believe that the international rules are too vague or open-ended to be given automatic effect**.124 Whatever their reasons, when nations do not agree to have international law trump their own law, international law is, in economic terms, cheap talk, and is a less plausible source of norms to displace those norms to which a democratic nation actually agrees to be bound.125

Thus, norms created by multilateral agreements are unlikely to be as beneficial as those created by democratic domestic political processes. The democracy deficit of multilateral agreements may be most self-evident when authoritarian and totalitarian nations participate in their formation. But on closer inspection, the even more important point is the attenuated nature of most nations’ agreement to these norms. **The refusal to give treaties domestic force detracts from the clarity, force, and perhaps the sincerity of the commitment to the norms embodied in them.**126

Aff doesn’t come close to solving

McMartin 13 (Peter, Vancouver Sun Columnist, 3/9/2013, "Global warming’s new frightening deadline", www.vancouversun.com/opinion/columnists/Global+warming+frightening+deadline/8071552/story.html)

In April 2009, the science journal Nature published a paper entitled Greenhouse-Gas Emission Targets for Limiting Global Warming to 2 C. Its subject was the end of the modern world. At the time, it attracted little notice. It was a half-dozen pages long. For laymen, its technical content was impenetrable. The purpose of the paper — researched and written by a team of European scientists headed by Malte Meinshausen, a climatologist with Germany’s Potsdam Institute for Climate Impact — was to determine just how much time mankind had left before our burning of fossil fuels would cause catastrophic global warming. The marker for what would be considered “catastrophic” warming was generally agreed to be anything above a rise of two degrees Celsius in global temperature. “More than 100 countries,” the paper noted, (the actual number was 167 countries) “have adopted a global warming limit of 2°C or below (relative to pre-industrial levels) as a guiding principle for mitigation efforts to reduce climate change risks, impacts and damages.” The problem was, no one was exactly sure how much fossil-fuel consumption had already contributed to global warming, or how much fossil fuel mankind could consume without going over the two degrees Celsius marker. Those phenomena needed to be quantified. Meinshausen’s team did just that. It constructed a rigorous model by incorporating hundreds of factors that had never been grouped together before, and then ran them through a thousand different scenarios. The team’s conclusion? Time was perilously short. It found that if we continued at present levels of fossil fuel consumption (and, in fact, consumption has been rising annually), we have somewhere between an 11- to 15-year window to prevent global temperatures from surpassing the two degree Celsius threshold in this century. And the longer we waited, the worse the odds got. To quote from a story on the Meinshausen paper by reporter Katherine Bagley of the non-profit news agency, InsideClimate News: “To have a 50-50 chance of keeping temperature rise below two degrees, humans would have to stick to a carbon budget that allowed the release of no more than 1,437 gigatons of carbon dioxide from 2000 to 2050. “To have an 80-per-cent chance of avoiding that threshold, they would have to follow a stricter budget and emit just 886 gigatons.” To put that in perspective, Meinshausen’s team calculated that the world’s nations had already produced 234 gigatons by 2006. At our present rate, the paper predicted, the world will surpass that 886-gigaton figure by 2024 — or sooner, if annual consumption rates continue to rise as they have. Since the Meinshausen paper was published, several other studies have corroborated its findings. The math in them comes to basically the same conclusion. “Yes, I use Meinshausen’s study,” wrote Prof. Mark Jaccard, environmental economist at Simon Fraser University, in an email. “But I also use about five others that basically say the same thing. The reason they all say the same thing is because the math is trivial — no independent analysts dispute it. “This is not groupthink,” Jaccard wrote. “Even when we bring in vice-presidents from oil and coal companies to be parts of the study groups, they quietly agree. When you are sitting in a meeting at Stanford (University) with top researchers — and away from your marketing department — it is pretty hard to sustain the myths that ‘business-as-usual’ is OK.” Prof. Thomas Pederson, executive director of the Pacific Institute for Climate Solutions, and former dean of science at the University of Victoria, noted in an email that “the study was conducted by one of the best teams of climate scientists in the world.” “Given continuing acceleration of emissions globally,” Pederson wrote, “we’re on or near the worst-case track that Meinshausen et al. modelled, and that puts us on a probable course for several degrees of planetary warming by the end of this century. In a word, that will be disastrous.” An even more alarming assessment comes from University of B.C. Prof. William Rees, originator of the “ecological footprint” concept. “I haven’t read this particular study,” Rees wrote, “but it sounds about right. If I recall, the United Kingdom’s Tyndall Centre (for Climate Change Research) suggests that a 90-per-cent reduction in carbon emissions from high income countries may be necessary. “In any event, various authors don’t believe we have any hope of cutting greenhouse gases sufficiently in time to avoid a two Celsius degree increase in mean global temperature since to date, no serious steps have been taken to wean the world off fossil fuels.” What would serious steps entail? According to the Meinshausen paper, up to 80 per cent of our known reserve of fossil fuels will have to stay in the ground. “The carbon budget implied by the 2 C limit,” Jaccard wrote, “means that we cannot be making new investments that expand the carbon polluting infrastructure. “This means no expansion of oilsands, no new pipelines (like Keystone and Northern Gateway) and no expansion of coal mines and coal ports. “This does not mean shutting down the oilsands. It does not mean shutting coal mines. These will continue to operate for decades. But you cannot be expanding carbon polluting production and also prevent 2 C or even 4 C temperature increase. The industry knows this, but prefers its ads telling us about the jobs and revenue from expanding the polluting infrastructure.” But the remedies needed, Rees suggested, might have to be even more draconian than that. “Even the International Energy Agency and the World Bank have recently conceded that even if present agreed-upon policies were implemented, the world is likely headed to four Celsius degrees warming by the end of the century. This would render much of the most heavily populated parts of the earth uninhabitable ...”

#### No warming

S. Fred **Singer**, Professor emeritus of environmental sciences at the University of Virginia atmospheric and space physicist, founder and president of the Science and Environmental Policy Project, has served as chief scientist, U.S. Department of Transportation (1987- 89); deputy assistant administrator for policy, U.S. Environmental Protection Agency (1970-71); deputy assistant secretary for water quality and research, U.S. Department of the Interior (1967- 70); founding dean of the School of Environmental and Planetary Sciences, University of Miami (1964-67); first director of the National Weather Satellite Service (1962-64); and director of the Center for Atmospheric and Space Physics, University of Maryland (1953-62), 20**08** “Nature, Not Human Activity, Rules the Climate; Summary for Policymakers of the Report of the Nongovernmental International Panel on Climate Change ” Science and Environmental Policy Project, The Heartland Institute

 The extent of the modern warming – the subject of the first question – appears to be less than is claimed by the IPCC and in the popular media. We have documented shortcomings of surface data affected by urban heat islands and by the poor distribution of land-based observing stations. Data from oceans, covering 70 percent of the globe, are also subject to uncertainties. The only truly global observations come from weather satellites, and these have not shown any warming trend since 1998, for the past 10 years. ! This report shows conclusively that the human greenhouse gas contribution to current warming is insignificant. Our argument is based on the well- established and generally agreed-to ‘fingerprint’ method. Using data published by the IPCC and further elaborated in the U.S.-sponsored CCSP report, we have shown that observed temperature- trend patterns disagree sharply with those calculated from greenhouse models. It is significant that the IPCC has never made such a comparison, or it would have discovered the same result – namely that the current warming is primarily of natural origin rather than anthropogenic. Instead, the IPCC relied for its conclusion (on AGW) on circumstantial ‘evidence’ that does not hold up under scrutiny. ! We show that the twentieth century is in no way unusual and that warming periods of greater magnitude have occurred in the historic past – without any catastrophic consequences. ! We also discuss the many shortcomings of climate models in trying to simulate what is happening in the real atmosphere. ! If the human contribution to global warming due to increased levels of greenhouse gases is insignificant, why do greenhouse gas models calculate large temperature increases, i.e., show high values of ‘climate sensitivity’? The most likely explanation is that models ignore the negative feedbacks that occur in the real atmosphere. New observations reported from satellites suggest it is the distribution of water vapor that could produce such strong negative feedbacks. ! If current warming is not due to increasing greenhouse gases, what are the natural causes that might be responsible for both warming and cooling episodes – as so amply demonstrated in the historic, pre-industrial climate record? Empirical evidence suggests very strongly that the main cause of warming and cooling on a decadal scale derives from solar activity via its modulation of cosmic rays that in turn affect atmospheric cloudiness. According to published research, cosmic-ray variations are also responsible for major climate changes observed in the paleo-record going back 500 million years. ! The third question concerns the effects of modest warming. A major scare associated with a putative future warming is a rapid rise in sea level, but even the IPCC has been scaling back its estimates. We show here that there will be little if any acceleration, and therefore no additional increase in the rate of ongoing sea- level rise. This holds true even if there is a decades-long warming, whether natural or manmade. ! Other effects of a putative increase in temperature and carbon dioxide are likely to be benign, promoting not only the growth of crops and forests but also benefiting human health. Ocean acidification is not judged to be a problem, as indicated by available data. After all, CO2 levels have been up to 20 times the present value during the Phanerozoic Period, the past 500 million years. During this time Earth’s climate has been remarkably stable, with no ‘run-away’ greenhouse effects – indicating strong negative feedbacks. ! If, for whatever reason, a modest warming were to occur – even one that matches temperatures seen during the Medieval Warm Period of around 1100 AD or the much larger ones recorded during the Holocene Climate Optimum of some 6,000 years ago – the impact would not be damaging but would probably be, on the whole, beneficial. [Lamb 1982, and Figure 26]

#### No disease extinction

Malcolm **Gladwell**, writer for The New Yorker and best-selling author The New Republic, July 17 and 24, 19**95**, excerpted in Epidemics: Opposing Viewpoints, 1999, p. 31-32

Every infectious agent that has ever plagued humanity has had to adapt a specific strategy but every strategy carries a corresponding cost and this makes human counterattack possible. Malaria is vicious and deadly but it relies on mosquitoes to spread from one human to the next, which means that draining swamps and putting up mosquito netting can all hut halt endemic malaria. Smallpox is extraordinarily durable remaining infectious in the environment for years, but its very durability its essential rigidity is what makes it one of the easiest microbes to create a vaccine against. AIDS is almost invariably lethal because it attacks the body at its point of great vulnerability, that is, the immune system, but the fact that it targets blood cells is what makes it so relatively uninfectious. Viruses are not superhuman. I could go on, but the point is obvious. Any microbe capable of wiping us all out would have to be everything at once: as contagious as flue, as durable as the cold, as lethal as Ebola, as stealthy as HIV and so doggedly resistant to mutation that it would stay deadly over the course of a long epidemic. But viruses are not, well, superhuman. They cannot do everything at once. It is one of the ironies of the analysis of alarmists such as Preston that they are all too willing to point out the limitations of human beings, but they neglect to point out the limitations of microscopic life forms.

#### Containment and medicine solves

Economist, 11/22/’10

(<http://www.economist.com/node/17493456>)

Fortunately, globalisation will also speed the flow of health data. In 2011 the growing field of digital epidemiology will attract more students, health officials and resources than ever before. People in viral hotspots around the world will report suspicious human and animal deaths (often a warning sign of a coming plague) by mobile phones. These data will be posted to the web, instantly enriching the data that came from traditional surveillance systems and electronic medical records. Organisations like Google.org will scour search patterns around the world, expanding their search-based predictions of influenza to other infectious diseases. Still more creative early-detection systems will begin to pull together illness information present in social-networking sites like Facebook and Twitter, allowing us to see changing disease patterns before they make the morning news.

Novel laboratory approaches to the discovery of new viruses will emerge. The long-awaited era of single-molecule DNA sequencing will begin in earnest with new machines from companies like Pacific Biosciences, and with a bit of luck this will improve the speed at which we can recognise unknown bugs. At the cutting edge, new studies of virus evolution and chips housing tiny cell cultures will improve our capacity to sort through the viral chatter and determine if a newly identified outbreak has the potential to spread globally or is likely to fade away. The discovery of new viruses will make the move from universities to laboratories around the world, helping to facilitate international scientific collaboration and decrease fears of biopiracy.

Towards a global immune system

In 2011 you may be among those who will watch “Contagion”, a forthcoming movie about a frightening fictional pandemic. But whether you are a head of state wary of the political and economic costs of a disease catastrophe, a CEO concerned by supply-chain and staff disruption associated with the next pandemic or a citizen worried about your family, in 2011 you will have access to better, more accurate and rapidly available data on actual outbreaks. In the increasingly popular Silicon Valley model, organisations like ours will mash up multiple data sources—combining lab results in far-flung viral listening-posts with international news feeds, text messages, social-networking and search patterns to create a new form of epidemic intelligence.

The past ten years have seen noteworthy progress in the development of truly global systems. In the world of outbreaks, 2011 will mark the beginning of the development of a worldwide immune system that will detect and respond to biological threats before they go global. Although this will take years to build fully, if successful it could make pandemic anniversaries a thing of the past.

## democracy

#### Democratization in one country won’t spillover regionally or globally

Joshua **Kurlantzick**, CFR Southeast Asia Fellow, 5/19/**11**, "The Great Democracy Meltdown ," <http://www.cfr.org/democracy-and-human-rights/great-democracy-meltdown/p25142>

But China and Russia are only part of the story. In many ways, the biggest culprits have actually been stable democracies. Consider the case of Myo, a Burmese publisher and activist who I met four years ago in a dingy noodle shop in Rangoon. The educated son of a relatively well-off Burmese family, he told me he had been working for a publishing company in Rangoon, but had to smuggle political messages into pieces he published in magazines that focused on safe topics like soccer or Burmese rap. “It's kind of a game everyone here plays,” he explained, “but after a while it gets so tiring.”

When I next met Myo, it was in Thailand two years later. He'd finally grown weary of trying to get his writing past the censors and left for India, then for Thailand. “I'd heard that, before, India had been very welcoming to Burmese activists, particularly after 1988,” Myo said, referring to a period of anti-government rioting in Burma. At one time, Indian officials had assisted Burmese democracy activists, and India's defense minister from 1998 to 2004 was George Fernandes, a prominent human rights advocate who even gave some Burmese exiles shelter in his family compound. By the time Myo came to India, however, Delhi had stopped criticizing the Burmese junta. Instead, it had reversed itself and was engaging the generals under a policy called “Look East.” When Than Shwe, the Burmese junta's leader, paid a state visit to India, he was taken to the burial site of Mahatma Gandhi, a cruelly ironic juxtaposition that Amnesty International's Burma specialist called “entirely unpalatable.” For Myo, India's chilly new pragmatism was a shock. “I expected China to work with Burma,” he said. “But to see it from India, it was so much more disappointing.”

Like Myo, many Western officials had expected that stable developing-world democracies like India, Indonesia, South Africa, Brazil, and Turkey would emerge as powerful advocates for democracy and human rights abroad. But as they've gained power, these emerging democratic giants have acted more like cold-blooded realists. South Africa has for years tolerated Robert Mugabe's brutal regime next door in Zimbabwe, and, in 2007, it even helped to block a U.N. resolution condemning the Burmese junta for human rights abuses. Brazil has cozied up to Iranian dictator Mahmoud Ahmadinejad and to local autocrats like Cuba's Castros. When a prominent Cuban political prisoner named Orlando Zapata Tamayo held a hunger strike and eventually died, former Brazilian President Luiz Inácio Lula da Silva seemed to ridicule Tamayo's struggle, likening the activist to a criminal who was trying to gain publicity.

There are exceptions to this trend. Poland, for one, has used its influence to support reformers in other post-Soviet states like Belarus. But Poland is unusual, and by playing a limited—or hostile—role in international democracy promotion efforts, countries like South Africa or Brazil or Turkey have made it easier for autocratic leaders to paint democracy promotion as a Western phenomenon, and even to portray it as an illegal intervention.

Why have regional democratic powers opted for this course? It seems hard to believe that a country with, say, Brazil or South Africa's experience of brutal tyranny could actively abet dictators in other nations. But it now appears that the notion of absolute sovereignty, promoted by authoritarian states like China, has resonated with these democratic governments. Many of these emerging democratic powers were leading members of the non-aligned movement during the cold war and weathered Western efforts to foment coups in their countries. Today, they feel extremely uncomfortable joining any international coalition that could undermine other nations' sovereignty, even if potentially for good reason. And many of these countries, such as Turkey and Indonesia and India, may simply be eager to avoid criticism of their own internal human rights abuses.

Boumedine solves this adv --- 1AC CJA from 2004 just say judcial review and checks on authority is key --- multiple checks have occurred since then

#### Democratization is based on structural factors—not the plan

Haber and Menaldo, 11

Stephen Haber, A.A. and Jeanne Welch Milligan Professor in the School of Humanities and Sciences and director of the Social Science History Program at Stanford University, and Victor Menaldo, Assistant Professor of Political Science, University of Washington, 4/25/11, Rainfall, Human Capital, and Democracy, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1667332

In order to remedy this lacuna, we identify a geographic factor that has been pointed to in the literature on civil war (e.g. Miguel et. al 2004), but that has not received much attention in the literature on political institutions—the level of rainfall. We show that there is a systematic, non-linear relationship between rainfall levels and regime types in the post-World War II world: stable democracies overwhelmingly cluster in a band of moderate rainfall (540 to 1200 mm of precipitation per year), while the most autocratic countries cluster in very dry (0 to 540 mm per year) and very wet environments (above 1200 mm per year). We also show that this finding is robust to controlling for possible confounders, such as the percentage of the population that is Muslim; ethnic fractionalization; linguistic fractionalization; the percentage of the population that is Arab; the prevalence of malaria; colonial heritage; natural resource income; GDP per capita; income inequality; and regional fixed effects.

We argue that the non-linear relationship between rainfall and regime type works through a historical process, and the roots of that process are found in the crop types that are favored at different precipitation levels. The biology and economics of those different crop types fundamentally shaped the industrial organization of agriculture. In turn, the structure of agricultural production shaped the incentives facing economic agents to invest in both human capital and property rights, sending some societies down a path of institutional development that increased the probability of democratic consolidation.

Today’s stable democracies are situated in climate zones where the level of rainfall favors crops that are characterized both by a high degree of storability and modest economies of scale in production. The archetypal crop is wheat, but other grains and legumes meet these criteria as well. During the period when most people in those countries worked in agriculture—which is to say up until the late nineteenth century—family farms tended to be the modal production unit. The ability to accumulate surpluses at the level of the nuclear family created incentives for trade, specialization, the broad protection of property rights, and inter-generational investments in human capital. Conversely, high storability and small minimum efficient scales of production did not characterize the crops that could be grown in other climate zones. In arid zones, it was possible to grow storable crops, but doing so required irrigation, which raised the minimum efficient scale of production and created barriers to entry. The resulting societies were dominated by landless laborers or pastoral nomads, not family farmers. In the tropics it was, of course, possible to grow food under rain fed conditions—but what could be cultivated tended to have very low degrees of storability, which meant that it was difficult to accumulate a surplus or trade. The result was that the incentives to create property rights institutions designed to protect that surplus were weak, as were the incentives to specialize and make inter-generational investments in human capital. Low storability also meant that once it became possible to commercialize those tropical crops, the modal production unit was not a family farm, but a plantation populated by just a few plantation owners and a mass of plantation workers that did not have neither the need nor the opportunity to develop property rights institutions, specialize and invest in human capital.

Over the course of centuries, those differences in incentives gave rise to societies with remarkably different social structures and political systems. Compared to those found in arid or tropical zones, the societies that emerged in moderate rainfall zones were more likely to be characterized by citizenries with high levels of human capital who had developed institutions that acted as a bulwark against opportunism and predation: whether the grabbing hands were attached to the arm of the sovereign or to other citizens. When democratic transitions happened in those societies, they were likely to consolidate because elites did not fear a tyranny of the majority: their incentives to either resist democracy ex ante, or undermine it ex post, were weak. Moreover, a high level and broad distribution of human capital meant that once democratization occurred citizens were better able to monitor and discipline politicians, holding them accountable and incentivizing them to provide public goods that strengthened democracy (Levi 2002; Keefer and Vlacui 2008). In short, in these societies, democracy was subject to increasing returns and thus had a higher probability of survival than it did in the societies that emerged in arid or tropical environments.

#### No democratic transitions—variables contributing to discontent won’t be resolved by new government structures

Anthony **Cordesman**, CSIS Burke Chair in Strategy, 4/28/**11**, The Arab Uprisings and U.S. Policy: What Is the American Nat ional Interest?, Middle East Policy, Vol. XVIII, No. 2, Summer 2011, EBSCO

For some reason, there has been relatively little attention to the influence of demographics in much of the discussion of current unrest. The data on population growth, however, are truly frightening, and perhaps my colleague from George Mason is going to comment on this as well. You cannot have a threefold increase in population in virtually every country in the region between 1950 and 2010 and meet popular needs and expectations. This creates cumulative pressure for change year by year, and this drives the views of large parts of very young populations. We also see figures that sometimes can exceed 30 percent unemployment for males under 25. The situation is worse for women, but women are often not properly included in these statistics. Moreover, unemployment often seems to peak among the young virtually regardless of education. We don’t have precise data, but going to secondary school and university does not get young men (and especially young women) the kinds of jobs they want or are qualified for.

We have some preliminary data that warn about another growing source of discontent: Can young men and women afford to get married and buy a house? The answer, far too often, is no. Some governments, like Morocco’s, have made housing a major priority. When Saudi Arabia’s king issued a series of royal decrees to help avoid a crisis in the kingdom, he put a massive emphasis on both employment and housing. He did so because population pressure not only affects jobs in the MENA area, but helps create a major deficit in housing, particularly for young couples.

Discontent and anger are reinforced by the impact of hyper-urbanization, which often means cities grow at rates that exceed the capacity of utilities and government services and create sprawling new slums. You look at satellite photography, and you see in far too many cities with large slum areas that governments simply ignore or do not properly serve. The level of urbanization has to have a radical impact on MENA societies, although it seems to get very little study. In Saudi Arabia, for example, the CIA estimates that urbanization went from 8 percent in 1950 to 85 percent today. Even when a nation like Saudi Arabia does create a major housing program, this still has to make talking about traditional societies somewhat dangerous. It has to be a far greater source of discontent in countries that do not properly react to try to meet the combined impact of population growth, migration and socioeconomic change.

You also look at the Middle East and see some very surprising realities in terms of states that have a very low per capita income. You can’t always translate economics into unrest, particularly when you can’t get useful data on the details of the growing disparity in incomes between the rich elite and most of the nation, but you can say that a country with a very low average per capita income is under stress. Moreover, when the per capita income is low enough, you can be sure that such a state is going to have economic problems for at least half a decade into the future, regardless of how the regime changes.

Let me illustrate just how serious this problem is in the MENA region by quoting a few CIA rankings comparing how countries in the region compare to other countries in the world. Qatar ranks number one or two in the world in GDP per capita. Algeria ranks 128th, Iran ranks 100th, Iraq ranks 160th, Libya ranks 85th, Oman ranks 52nd, Saudi Arabia ranks 55th, Yemen ranks 172nd, and Jordan ranks 141st. It is all too obvious that oil exports do not bring wealth. Many MENA states would rank low even if average per capita income did not disguise such sharp disparities in the real-world distribution of income.

Such data are only one input to the problem. Bahrain, which has been the source of so much unrest, ranks 19th. So, whenever we talk about economic causes, income and employment alone are not clear warnings of the level of discontent. National perceptions and unrest are driven at least as much by income disparity, perceptions of unfairness, perceptions of corruption, perceptions of nepotism, and perceptions that people are denied a fair opportunity and hope for the a future. If you’re young, you feel you have nowhere to go, and if you have children, you fear that they have nowhere to go.

There is no common cause of today’s unrest, but the sheer scale of many of its causes is also a warning that, even where regime change takes place, as many new regimes may fail as succeed. Calling for reform doesn’t mean people know what they want. Calling for a new government may mean they share a common anger and lack of support for the regime, but it does not mean that they even agree on what they are against, much less on what they are for.

 The various indicators we have also warn that many regimes that do survive are probably going to go on repeating their mistakes until they are forcibly changed by some new wave of unrest, and then only after all of these problems and pressures have had time to grow worse. The regimes that do make efforts to come to grips with these all issues are also going to need time and popular trust. They not only will need to develop real competence in governance, they will have to be far more transparent and move far more aggressively to win public support, because in all but the wealthiest oil exporters, these problems are far too deep to deal with quickly. Unless current and new regimes can bring their people along with them in an evolutionary way, the regime is not going to have the time and support to fix anything. Many **new regimes will either fail or be forced to turn to another round of repression.**

 If you look for historical parallels, there will still be some “1789s” in the Middle East, but my guess is that there will be a lot more “1848s.” The new regime will fail or the old regime will survive at a cost to its people. The full scope of what people are all too easily calling the “Arab spring” will play out over a period of years and lead to new struggles that play out 10, 20, 30 and 40 years into the future.

#### No escalation—assumes their warrants

Xudong ‘12

Han, professor at the PLA University of National Defense, “Risk of armed Asian conflict on the rise, but trade links rule out war,” <http://www.globaltimes.cn/content/735653.shtml>

Island sovereignty and maritime interest disputes in the Asia-Pacific region have attracted an increasing amount of global attention recently. With external powers ready to intervene, conflicts among the relevant parties have intensified and the unrest has gotten worse. If the trend cannot be curbed, armed conflicts are more likely. With the US pivot to the Asia-Pacific region and the global economic focus moving toward the region, the region has gradually entered into a troubled period. The US has set the region as the focus of its overseas military deployment and is taking advantage of the unrest in the region so as to adjust the power structure. Moreover, the US has carried out military exercises with relevant countries to create unrest and instigated them to confront neighboring countries. For example, over the Huangyan Island dispute, the US backs the Philippines through holding joint military exercises on island defense, as it has done with Japan over the Diaoyu Islands dispute. This is the usual tactic by the US to back relevant countries' confront actions with China. As the territorial disputes among relevant countries are closely related to core national interests, no involved parties will compromise easily. Relevant countries usually use comprehensive national strength, especially military strength, as a lever to adjust their interests. Take the dispute over the South Kuril Islands between Russia and Japan. Russia has increased its military presence on the islands and used military power to deal with Japanese provocations. Similarly, South Korea has begun to deploy its forces on Dokdo Islands, where it has disputes with Japan. At present, while China has repeatedly advocated a peaceful settlement of the Diaoyu Islands dispute, the nation has sufficient confidence and courage to face up to the challenges and safeguard its sovereignty and interests. All those conflicts mentioned above have the potential to further deteriorate. After all, international politics is the continuation and manifestation of domestic politics. Since the beginning of this year, key players in hot issues of the Asia-Pacific region all have been confronted with the sensitivity of domestic power transition. Russia had its presidential election in March. And South Korea, Japan, the US and China will soon see elections or leadership change. At such a critical moment, attitudes on safeguarding the core interests of the nation had been used as a stake to gain support, as particularly seen in Japan. Currently, the right-wing forces in Japan are promoting the campaigners to form a consistent approach over the Diaoyu Islands dispute, that is, to take an increasingly tough stance and policy. Japan hasn't made a full reflection on its war crimes. The right-wing frequently blusters about the use of force to solve the territorial disputes. This adds to the uncertainty of the security situation in the Asia-Pacific region. But one certain thing is that a war is unlikely in the Asia-Pacific. Even if the parties in a dispute had a collision of forces, it wouldn't develop into full-blown war. The use of force is the highest means but the last resort to maintain core interests of nations. The current situation is totally different from other periods in history. With global economic integration, the expanding of armed conflicts will be no good to any country involved. Therefore, the relevant countries all hope the scale of conflicts could be restrained. Besides, the US is not willing to see a regional war in the Asia-Pacific. A turbulent situation without war is in its best interests. From this perspective, the Asia-Pacific region does face the potential danger of low intensity conflicts and operations. The possibility of an armed collision is on the rise, but the scale will be limited

Diplomacy and US retaliation check escalation.

Reuters 9/24/12

“Japan, China Military Conflict Seen Unlikely Despite Row,” http://www.cnbc.com/id/49142182

Hawkish Chinese commentators have urged Beijing to prepare for military conflict with Japan as tensions mount over disputed islands in the East China Sea, but most experts say chances the Asian rivals will decide to go to war are slim. A bigger risk is the possibility that an unintended maritime clash results in deaths and boosts pressure for retaliation, but even then Tokyo and Beijing are expected to seek to manage the row before it becomes a full-blown military confrontation. "That's the real risk — a maritime incident leading to a loss of life. If a Japanese or Chinese were killed, there would be a huge outpouring of nationalist sentiment," said Linda Jakobson, director of the East Asia Program at the Lowy Institute for International Policy in Sydney. "But I still cannot seriously imagine it would lead to an attack on the other country. I do think rational minds would prevail," she said, adding economic retaliation was more likely. A feud over the lonely islets in the East China Sea flared this month after Japan's government bought three of the islands from a private owner, triggering violent protests in China and threatening business between Asia's two biggest economies. Adding to the tensions, China sent more than 10 government patrol vessels to waters near the islands, known as the Diaoyu in China and the Senkaku in Japan, while Japan beefed up its Coast Guard patrols. Chinese media said 1,000 fishing boats have set sail for the area, although none has been sighted close by. Despite the diplomatic standoff and rising nationalist sentiment in China especially, experts agree neither Beijing nor Tokyo would intentionally escalate to a military confrontation what is already the worst crisis in bilateral ties in decades. US Pressure "The chances of a military conflict are very, very slim because neither side wants to go down that path," said former People's Liberation Army officer, Xu Guangyu, now a senior consultant at a government-run think tank in Beijing. Pressure from the United States, which repeated last week that the disputed isles were covered by a 1960 treaty obliging Washington to come to Japan's aid if it were attacked, is also working to restrain both sides, security experts said. "I very seriously do not think any of the involved parties — Japan, China and including the United States because of its defence treaty (with Japan) — want to see a military conflict over this dispute," said the Lowy Institute's Jakobson. "They don't want to risk it, they don't seek it and they do not intend to let it happen." Still, the possibility of a clash at sea remains. While the presence of the Chinese surveillance ships — none of which is a naval vessel — and Japan Coast Guard ships in the area might appear to set the stage for trouble, military experts said each side would try to steer clear of the other. "The bad news is that China sent ships to the area. The good news is that they are official ships controlled by the government," said Narushige Michishita at the National Graduate Institute for Policy Studies in Tokyo. "This is good news because they are not likely to engage in aggressive action because that would really exacerbate the situation and turn it into a major crisis," said Michishita. The Chinese ships, he said, had another mission besides asserting China's claims to the islands and nearby waters. "My guess is that some (Chinese) official patrol boats are there to watch out for fishing boats ... to stop them from making problems," Michishita said. Fishing Boats Wild Card Military specialists say the Chinese patrol vessels are well disciplined as are the Japan Coast Guard ships, while the two sides have grown accustomed to communicating. "Both sides are ready, but both sides are very well under control," said a former senior Japanese military official. What worries observers most is the risk that a boat carrying Chinese fishermen slips through or activists try to land, sparking clashes with Japan's Coast Guard that result in deaths - news of which would spread like wildfire on the Internet. In 1996, a Hong Kong activist drowned in the nearby waters. Diplomatic and economic relations chilled sharply in 2010 after Japan arrested a Chinese trawler captain whose boat collided with a Japan Coast Guard vessel. This time, tensions are already high and China is contending with a tricky once-in-a-decade leadership change while Japan's ruling party faces a probable drubbing in an election expected in months. "Two rational governments of major countries would not intentionally decide to enter into a major war with each other over a few uninhabited rocks," said Denny Roy, an Asia security expert at the East-West Center in Hawaii. "But unfortunately, you can arrive at war in ways other than that — through unintended escalation, in which both countries start out at a much lower level, but each of them think that they must respond to perceived provocation by the other side, both very strongly pushed into it by domestic pressure. That seems to be where we are now and it is difficult to see how countries can get out of that negative spiral." Others, however, were more confident that an unplanned clash could be kept from escalating into military conflict. "That's not really a major possibility, because there are still broad channels of communication between the two sides, and they would help prevent that happening. Both sides could still talk to each other," said former senior PLA officer Xu. "Even before anything happened, you would also have the U.N Secretary General and others stepping in to ensure that the situation does not get out of control."

#### Autocracy promotion overwhelms the aff

Burnell, 11

Peter Burnell, Warwick University Politics Professor, Democratization Journal founding joint-editor, 1/10/11, "Does Autocracy Promotion Matter for Democracy Assistance?," http://digest.electionguide.org/2011/01/10/does-autocracy-promotion-matter-for-democracy-assistance/

Autocracy promotion and export are increasingly mentioned in discussions about democratization and world politics. Stanford’s Michael McFaul, who is currently special assistant to President Obama, notes in Advancing Democracy Abroad (Rowman and Littlefield 2010) that autocracies such as Russia, Iran and Venezuela are increasing the resources they devote to exporting their forms of government. By the end of the Bush presidency, they ‘did not simply defend their own autocratic systems, but provided ideas and resources to other anti-democratic governments and social movements’ (p.6). China’s own illiberal development, its defence of principles of state sovereignty and non-intervention, and its growing international commercial and financial ties that benefit governments of various hues, have all stirred anxieties about the implications for the spread of democracy and international democracy support. In The Return of History and the End of Dreams (Knopf 2008) Robert Kagan mused on whether a global power shift, or transformation and inter-state rivalry, are now sealing the end of democracy’s advance.

The questions that arise are not simply how far democrats should be concerned but whether there are specific implications for democracy assistance. While the answers are not yet clear, a strong case can be made on precautionary grounds for developing new ways of assessing the true measure of autocracy promotion/export and evaluating it against the performance of democracy support. Although setting a difficult challenge in its own right, this work could help move democracy assistance and democratisation forward in the challenging times that at present both of them undoubtedly face.

# 2nc

Nuke terror attack causes US-Russia miscalc – extinction

Barrett et al. 13—PhD in Engineering and Public Policy from Carnegie Mellon University, Fellow in the RAND Stanton Nuclear Security Fellows Program, and Director of Research at Global Catastrophic Risk Institute—AND Seth Baum, PhD in Geography from Pennsylvania State University, Research Scientist at the Blue Marble Space Institute of Science, and Executive Director of Global Catastrophic Risk Institute—AND Kelly Hostetler, BS in Political Science from Columbia and Research Assistant at Global Catastrophic Risk Institute (Anthony, 24 June 2013, “Analyzing and Reducing the Risks of Inadvertent Nuclear War Between the United States and Russia,” Science & Global Security: The Technical Basis for Arms Control, Disarmament, and Nonproliferation Initiatives, Volume 21, Issue 2, Taylor & Francis)

War involving significant fractions of the U.S. and Russian nuclear arsenals, which are by far the largest of any nations, could have globally catastrophic effects such as severely reducing food production for years, 1 potentially leading to collapse of modern civilization worldwide, and even the extinction of humanity. 2 Nuclear war between the United States and Russia could occur by various routes, including accidental or unauthorized launch; deliberate first attack by one nation; and inadvertent attack. In an accidental or unauthorized launch or detonation, system safeguards or procedures to maintain control over nuclear weapons fail in such a way that a nuclear weapon or missile launches or explodes without direction from leaders. In a deliberate first attack, the attacking nation decides to attack based on accurate information about the state of affairs. In an inadvertent attack, the attacking nation mistakenly concludes that it is under attack and launches nuclear weapons in what it believes is a counterattack. 3 (Brinkmanship strategies incorporate elements of all of the above, in that they involve intentional manipulation of risks from otherwise accidental or inadvertent launches. 4 ) Over the years, nuclear strategy was aimed primarily at minimizing risks of intentional attack through development of deterrence capabilities, and numerous measures also were taken to reduce probabilities of accidents, unauthorized attack, and inadvertent war. For purposes of deterrence, both U.S. and Soviet/Russian forces have maintained significant capabilities to have some forces survive a first attack by the other side and to launch a subsequent counter-attack. However, concerns about the extreme disruptions that a first attack would cause in the other side's forces and command-and-control capabilities led to both sides’ development of capabilities to detect a first attack and launch a counter-attack before suffering damage from the first attack. 5 Many people believe that with the end of the Cold War and with improved relations between the United States and Russia, the risk of East-West nuclear war was significantly reduced. 6 However, it also has been argued that inadvertent nuclear war between the United States and Russia has continued to present a substantial risk. 7 While the United States and Russia are not actively threatening each other with war, they have remained ready to launch nuclear missiles in response to indications of attack. 8 False indicators of nuclear attack could be caused in several ways. First, a wide range of events have already been mistakenly interpreted as indicators of attack, including weather phenomena, a faulty computer chip, wild animal activity, and control-room training tapes loaded at the wrong time. 9 Second, terrorist groups or other actors might cause attacks on either the United States or Russia that resemble some kind of nuclear attack by the other nation by actions such as exploding a stolen or improvised nuclear bomb, 10 especially if such an event occurs during a crisis between the United States and Russia. 11 A variety of nuclear terrorism scenarios are possible. 12 Al Qaeda has sought to obtain or construct nuclear weapons and to use them against the United States. 13 Other methods could involve attempts to circumvent nuclear weapon launch control safeguards or exploit holes in their security. 14 It has long been argued that the probability of inadvertent nuclear war is significantly higher during U.S.–Russian crisis conditions, 15 with the Cuban Missile Crisis being a prime historical example. It is possible that U.S.–Russian relations will significantly deteriorate in the future, increasing nuclear tensions. There are a variety of ways for a third party to raise tensions between the United States and Russia, making one or both nations more likely to misinterpret events as attacks. 16

Gathering effective intelligence outweighs any turns—it’s the only way to prevent future attacks

Yoo, 4

(Law Prof, UC-Berkeley “War, Responsibility, and the Age of Terrorism,” http://works.bepress.com/cgi/viewcontent.cgi?article=1015&context=johnyoo)

Third, the nature of warfare against such unconventional enemies may well be different from the set-piece battlefield matches between nation-states. **Gathering intelligence**, from both electronic and human sources, about the future plans of terrorist groups **may be the only way to prevent** September 11-style **attacks** from occurring again. Covert action by the Central Intelligence Agency or unconventional measures by special forces may prove to be the **most effective tool for acting on that intelligence**. Similarly, the least dangerous means for preventing rogue nations from acquiring WMD may depend on **secret intelligence gathering** and covert action, rather than open military intervention. A **public revelation of the means of gathering intelligence, or the discussion of the nature of covert actions** taken to forestall the threat by terrorist organizations or rogue nations, **could render the use of force ineffectual or sources of information useless**. Suppose, for example, that American intelligence agencies detected through intercepted phone calls that a terrorist group had built headquarters and training facilities in Yemen. A public discussion in Congress about a resolution to use force against Yemeni territory and how Yemen was identified could tip-off the group, allowing terrorists to disperse and to prevent further interception of their communications.

#### Sources on the ground will stop cooperating if they think information could be publicized

Ford, 10

(Colonel, U.S. Army Judge Advocate General's Corps, currently serving as the Staff Judge Advocate, Multi-National Security Transition Command-Iraq, Baghdad, Iraq, “Keeping Boumediene off the Battlefield: Examining Potential Implications of the Boumediene v. Bush Decision to the Conduct of United States Military Operations,” 30 Pace L. Rev. 396, Winter, Lexis)

 [\*414] **Intelligence operations will be the most vulnerable**. If court-directed discovery occurs, a unit's intelligence files would become the equivalent of a law enforcement investigative file. Information deemed relevant to the defense, including information that the United States expended significant resources, and potentially lives, to obtain, would become discoverable in some form. Valuable intelligence sources and methods, some irreplaceable, would be lost. **Sources would dry up or perhaps be revealed and killed.** Consider the sad and dangerous contradiction. Military planners and intelligence officers study and analyze an enemy, compiling tens of thousands of pieces of information into a precise operations plan, targeted at important leaders or facilities. Troops receive an order, conduct mission-specific training, and prepare to execute. Approvals are obtained from appropriate commanders. A joint and multi-national combined arms operation ensues to attain the military objective sought. Conventional troops, special operations forces, combat aircraft, artillery support, and overhead assets all converge on the target in a dangerous and complex culmination of modern military power. Enemy, friendly, and civilian lives are lost, and prisoners are taken. Specialized teams exploit the site and sweep through the complex, retrieving valuable enemy information that will assist in future operations and save American lives. Now the contradiction is revealed. All the information relevant to a federal court case - information gained in the planning, execution, and exploitation of the mission - is transmitted back to a U.S. court, to counsel, and, perhaps, back to the same enemy captives who required so much time, effort, resources, and lives to capture. This truly is a sad and dangerous contradiction. Soldiers will have risked their lives to regurgitate the fruits of their sweat, toil, and blood back to the enemy. **This example illustrates why Boumediene must stop at Guantanamo Bay.**

#### Legal protections for detainees will chill allied cooperation in the war on terror

McNeal, 8

(Law Prof-Penn State, Northwestern University Law Review Colloquy, “BEYOND GUANTANAMO, OBSTACLES AND OPTIONS,” 103 Nw. U. L. Rev. Colloquy 29, August, Lexis)

Intelligence agencies seek to control the dissemination of information that they have collected through classification and use procedures. When an intelligence agency shares information with an allied power it often does so by placing requirements on how the recipient will protect and use that information. n102 The most appropriate method that exists for sharing information is the concept of originator controlled information. This method ensures that intelligence labeled as such "cannot be used or disseminated without the consent of the originator." n103 This approach requires time consuming negotiations in order to gain the information. n104 For national security courts a problem arises when restricted foreign evidence shared by an allied power for use in detention of suspected terrorists or intelligence that was shared for use in military commissions was shared conditionally. **Allied nations may refuse to allow U.S. officials to use such evidence in any other forum such as courts-martial, federal courts, or a national security court**. This phenomenon of originator controlled information presents a significant yet unaddressed obstacle which may prevent a transition to a system other than military commissions. **Unless a reform system has protections at least as robust as military commissions that convinces allies their information is secure, some defendants may be beyond prosecution.**

#### That collapses the war on terror

McCarthy, 9

(Director-Center for Law & Counterterrorism at the Foundation for the Defense of Democracies, 8/20, “Outsourcing American Law,” http://www.aei.org/files/2009/08/20/20090820-Chapter6.pdf)

The discovery requirements endanger national security by **discouraging cooperation from our allies**. As illustrated by the recent investigations conducted by Congress, the Silberman/Robb Commission, and the 9/11 Commission regarding pre-9/11 intelligence failures, the United States relies heavily on cooperation from foreign intelligence services, particularly in areas of the world from which threats to American interests are known to stem and where our own human intelligence resources have been inadequate**. It is vital that we keep that pipeline flowing.** Clearly, however, foreign intelligence services (understandably, much like our own CIA) will necessarily be reluctant to share information with our country **if they have good reason to believe that information will be revealed under the generous discovery laws that apply in U.S. criminal proceedings.**

#### Expanding trials devastates our ability to prevent terrorism

Bialke, 4

(Lt. Colonel, MA & JD-University of North Dakota, LLM-University of Iowa, “Al-Qaeda & Taliban Unlawful Combatant Detainees, Unlawful Belligerency, and the International Laws of Armed Conflict,” 55 A.F. L. Rev. 1, Lexis)

A military commission convened in the course of ongoing hostilities can provide better security and protection to the accused, judges, prosecutors, juries, witnesses, defense counsel, court-room observers and other participants n75 than could a parallel civilian criminal justice forum. Given that any courtroom in which an unlawful combatant is tried could itself become a terrorist target, additional security may be provided and the risk to the physical safety of court participants minimized when a U.S. military commission is convened on a U.S. military installation with sophisticated security measures, limited access, and one that is isolated from major civilian population centers. Additionally, a U.S. military commission would be better able to protect the identities of court participants in order to reduce the potential of post-trial Taliban and al-Qaeda retaliation. Similarly, when necessary, a U.S. military commission can more adequately protect classified evidence involving on-going military operations and investigations which involve continuing threats to U.S. national security, and can **better protect classified U.S. intelligence communications,** sources, identities, capabilities**, and gathering methods. U.S. military personnel are well trained in protecting such sensitive operational information from compromise.** Additionally, U.S. military commission members and other commission participants would already have undergone extensive background security investigations and, as a result, possess the applicable information security clearances, to include Secret, Top Secret, and, if necessary, higher clearances. The safeguarding of sensitive information received gratuitously from foreign intelligence agencies of allied countries (including intelligence agencies of mideastern allied countries), as well as the protection of the [\*74] identities of foreign intelligence sources, is **indispensable if the U.S. wishes to rely on their continued cooperation**. **The protection of such information from enemy espionage and other enemy strategic intelligence collection efforts would be extremely difficult, if not impossible, in an "open and public" civilian criminal trial.** Safeguarding and preserving such highly sensitive information from compromise, and ensuring that unlawful combatants cannot abuse the criminal justice system evidence discovery process for illicit purposes, are **imperatives to U.S. national security.** This is because al-Qaeda followers still at large could possibly exploit such classified information to adapt their methods, protect themselves from capture, attack the U.S. and its allies, retaliate against court/commission participants, or carry out additional acts of terrorism against protected civilians. n76

Civilian courts disastrous

Sulmasy, 9

(Associate Professor of Law at the United States Coast Guard Academy and was a National Security and Human Rights Fellow at the Carr Center, Harvard Kennedy School, Spring 2009, Berkeley International Press, "The Need for a National Security Court System," Journal of Civil Rights and Economic Development 23.4, http://scholarship.law.stjohns.edu/cgi/viewcontent.cgi?article=1053&context=jcred)

There are some, many of whom are here today at St. John's Law School for this symposium, who advocate the use of the current civilian court system to try these suspects.13 The civilian court system as established in Article III of the Constitution, however, is not the appropriate system to adjudicate these hybrid cases. There are numerous substantive and procedural problems with trying terror suspects in Article III courts. Constitutional Criminal Procedure Applications of the Fourth and Fifth Amendments to the War on al Qaeda are prime examples of reasons why this construct is as unworkable as the military commissions have been (albeit for very different reasons). Combat officers in Afghanistan and Iraq are not police officers - nor should they ever be required to function in this capacity. They are there overseas to fight and win wars. It is unreasonable to expect soldiers to issue Miranda warnings to detainees, or require them to obtain search warrants before searches or seizing evidence. Simply, such law enforcement requirements are not issues on the mind of soldiers fighting stateless enemies in Iraq and Afghanistan who have evidence that could be used for prosecutions later. Although these concerns would be unthinkable seven years ago, since the Court's Boumediene l4 decision, it is debatable whether other Constitutional rights would be afforded to these suspects. American soldiers should be concerned with combating the enemy, not with providing Miranda statements upon the initiation of battle, or storming an al Qaeda safe house and the subsequent detention of suspected terrorists. Such notions are ludicrous. Juries Furthermore, consider the jury issues associated with trying the alleged international terrorists in our Article III courts. Imagine the attempts made to empanel an unbiased jury for any of these cases. A "jury of your peers" in accordance with U.S. jurisprudence for trying Khalid Sheik-Mohamed would be impossible within the continental United States. Additionally, any juries would require lifetime protective details. Judges Also, it appears ill advised to use traditional Article III judges to make determinations on such matters of nuanced and niche areas of the law, such as the law of armed conflict, intelligence law, human rights law, etc. In other areas of so called "niche law" - immigration, bankruptcy - we have created separate court systems with specialized judges presiding. The reality is that not all U.S. district court judges have the experience in the law of war, intelligence law, international law, human rights, etc., that would be required to properly conduct a trial for an alleged enemy of the United States (and part of an ongoing armed conflict). If we are serious about using a civilian system to try the detainees, we need judges that are versed in these areas of the law to preside. Protective Details Also, like the jury issues, the impractical reality of protecting judges has emerged. The issues of judge protection may sound mundane right now, but they are considerable in terms of cost and time, becoming more important within the realistic framework of 21 t century jurisprudence. Few would contend with the fact that judges trying these suspects would be targets for future terrorist attacks. Using the existing district courts across the country would require the adoption of new security procedures, massive structural overhauls, additional security personnel, and the expenditure of large amounts of money that the federal government does not have. Civilian Prisons Not only would the trial of these suspects in district courts present major problems, the actual physical detention of these suspects using domestic prisons is also highly problematic. It seems unlikely that many members of Congress would actually volunteer to have these detainees moved from Guantanamo Bay to their legislative districts. In fact, in July of 2007, the Senate voted 94 to 3 to not move the detainees into the United States. 15

#### Requirements for disclosure compromise intelligence gathering

Mukasey, 9

(Former US Attorney General, 10/19, “Civilian Courts Are No Place to Try Terrorists,” http://online.wsj.com/article/SB10001424052748704107204574475300052267212.html)

Moreover, it appears likely that certain charges could not be presented in a civilian court because the proof that would have to be offered could, if publicly disclosed, compromise sources and methods of intelligence gathering. The military commissions regimen established for use at Guantanamo was designed with such considerations in mind. It provided a way of handling classified information so as to make it available to a defendant's counsel while preserving confidentiality. The courtroom facility at Guantanamo was constructed, at a cost of millions of dollars, specifically to accommodate the handling of classified information and the heightened security needs of a trial of such defendants.

#### Habeas kills intel

Jacob, 12

(Partner-O’Melveny & Myers, 10/1 “Detention Policies: What Role for Judicial Review?” http://www.abajournal.com/magazine/article/detention\_policies\_what\_role\_for\_judicial\_review/)

The government created the detention facility at Guantanamo Bay so that it would have a secure location, not easily susceptible to prison breaks or the vagaries of war, at which high-value detainees could be securely held and mined for intelligence. Now that the Supreme Court has determined that keeping captured enemy combatants at Guantanamo will subject the government to the vagaries of habeas litigation, the usefulness of the facility has been substantially diminished. That does not mean, however, that the military has been incentivized to switch from capturing enemy combatants to killing them. Rather, it means that in the future the military will simply keep detainees where it captures them, preferring the risk of prison breaks and enemy attacks to the certain cost and **disruptions to intelligence-gathering that are inevitably caused by repeatedly being dragged into court.**

#### Disclosure of sensitive information breaks counter-terrorism

Walen, 11

(Law Prof-Rutgers, "A Unified Theory of Detention, With Application to Preventive Detention for Suspected Terrorists", http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=3466&context=mlr)

A more legitimate concern is that it may be particularly difficult to bring a successful prosecution against an ST. Matthew Waxman wrote: [I]nformation used to identify terrorists and their **plots includes extremely sensitive intelligence sources and methods, the disclosure of which during trial would undermine or even negate counterterrorism operations**; [and] the conditions under which some suspected terrorists are captured, especially in faraway combat zones or ungoverned regions, make it impossible to prove criminal cases using normal evidentiary rules . . . . 74 The first reason—that the relevant information is highly sensitive—presumably applies primarily to prosecutions based on foreign detentions in which the activities of the CIA or the cooperation of foreign states is at issue. 75 The Guantanamo Review Task Force, however, concluded: [T]he principal obstacles to prosecution in the cases deemed infeasible . . . typically did not stem from concerns over protecting sensitive sources or methods from disclosure, or concerns that the evidence against the detainee was tainted. While such concerns were present in some cases, most detainees were deemed infeasible for prosecution based on more fundamental evidentiary and jurisdictional limitations tied to the demands of a criminal forum . . . . 76 In other words, the problems with prosecuting detainees at Guant ́ anamo were primarily based on Waxman’s second concern and jurisdictional limitations, such as that the federal material support laws, 18 U.S.C. §§ 2339A and 2339B, “were not amended to expressly apply extraterritorially to non-U.S. persons until October 2001 and December 2004, respectively.” 77

## solvency

#### Status quo incremental approach best—one-size fits all model risks rollback of prior habeas gains

Nesbit, 10

(JD-U Minnesota, Meeting Boumediene's Challenge: The Emergence of an Effective Habeas Jurisprudence and Obsolescence of New Detention Legislation, November, 95 Minn. L. Rev. 244, Lexis)

It bears emphasizing that the political branches could pass new detention legislation that appropriately reckoned with the implications of Boumediene, ensuring that detainees have a prompt, meaningful chance to contest their status, to assess the evidence against them, and so on. n201 **The suggestion here, however, is that the game would not be worth the candle: the federal courts in Washington, D.C. have already done this work for them.** C. Congressional Inaction **The best option is, in the end, the simplest one. The political branches should allow the courts to continue to adjudicate habeas petitions** on the basis of the AUMF as construed in Hamdi and in light of the Court's guidance in Boumediene. As has happened over the last two years, remaining differences among judges will likely narrow over time as the jurisprudence matures. n202 True, as Judge Brown pointed out in urging congressional [\*281] action, the common-law process depends on incrementalism and eventual correction, and may be most effective where there are a significant number of cases brought before a large number of courts; by contrast, the number of Guantanamo detainees is limited, the circumstances of their confinement are unique, and all cases are heard before the D.C. courts. n203 Yet, as Part II demonstrated, even as district court judges have rejected the alternative approaches of their colleagues on both substantive and procedural issues, n204 **the common-law process has already worked to resolve many of these disagreements. And that all habeas cases are heard before the federal courts in Washington, D.C. is a virtue rather than a vice, as it allows the D.C. judges to rapidly accumulate expertise**. n205 A central purpose of the habeas litigation is to allow each detainee a fair and equal chance to challenge his confinement. The early months of litigation gave reasons to doubt whether that was happening. But times have changed. Detainees need not wait for the law to cohere on some future date; it is already beginning to do so. While detainees do not benefit from all aspects of the jurisprudence emerging from the D.C. Circuit, the law is at least becoming coherent and consistent enough to provide every detainee the same, genuine opportunity to challenge his detention. The D.C. Circuit has not resolved every divergence, nor could it. Some disagreements, rooted in different conceptions of the appropriate amount of deference to accord the government in light of Boumediene, will persist. n206 Given the convergence of [\*282] substantive detention standards discussed above, such disagreements may increasingly be about procedural matters. From a uniformity standpoint this result is less of a problem. Procedure is an area of unique judicial expertise; district court judges are well suited to develop procedures that ensure accurate fact-finding and a fair - or at least reasoned and public - resolution of each habeas case. n207 **It would be unwise to mandate a one-size-fits-all procedural framework for cases that are widely recognized to be "unique" and "unprecedented**." n208 CONCLUSION The Guantanamo habeas cases have challenged our court system. With little guidance from Congress or the Supreme Court, federal judges have been muddling through the habeas cases for over two years. But while district court judges have disagreed about both substantive and procedural issues, the D.C. Circuit has resolved the most salient of these disagreements. As a result, the **habeas jurisprudence is increasingly coherent, and effectively provides each detainee with the same, meaningful chance to challenge his detention**. Moreover, the many detainee wins have not come at the expense of laying precedent that threatens U.S. national security. Indeed, the standards emerging from the D.C. Circuit are, if anything, overly protective of national security prerogatives at the expense of detainee liberty. For detainees as well as for the government, then, habeas works. Many eight-or-more-year denizens of Guantanamo never belonged there, and the story of their detention will no doubt long stain the reputation of the United States as a champion of individual liberty and human rights. But the story recounted [\*283] here is not an unmitigated failure of these principles. Boumediene gave detainees access to a process that has led many to freedom; Fouad Al-Rabiah, the aviation engineer discussed in the Introduction, is now at home in Kuwait. n209 In sum, **the habeas cases decided so far suggest that the wisest course of action is also the simplest and most politically attractive. Congress should stand back and allow the habeas litigation to proceed.**

#### Current gradual judicial approach solves detainee rights

Nesbit, 10

(JD-U Minnesota, Meeting Boumediene's Challenge: The Emergence of an Effective Habeas Jurisprudence and Obsolescence of New Detention Legislation, November, 95 Minn. L. Rev. 244, Lexis)

But the pragmatic case for new detention legislation will no longer write. The D.C. Circuit has stepped in to answer many of the lingering questions that plagued the early months of habeas litigation. Unequal application of the law is now significantly less likely. Moreover, the D.C. Circuit's opinions almost uniformly favor the government, and thus undermine the key motivation for Congress to pass new detention legislation - namely, the maintenance of national security. Still, detainees are the biggest beneficiaries of the habeas litigation: so far judges have sided with thirty-eight of fifty-three of them, a remarkable seventy-one percent success rate for detainees. n17 In short, more than two years after the Supreme Court handed the reins of executive detention to federal judges in Washington, D.C., **it is increasingly clear that the habeas process appropriately balances U.S. national security and detainee liberty concerns.** Through a critical examination of how the jurisprudence has unfolded, this Note tells the story of how and why habeas works. It concludes that new detention legislation would be unnecessary and counterproductive; rather, **the most prudent approach is to allow the D.C. Circuit to continue to resolve disagreements among lower court judges as they arise.** Part I reviews the legislation and precedent leading up to the current process of habeas review. Part II analyzes the district court and D.C. Circuit opinions, paying particular attention to uniformity (or lack thereof) among district court judges and to their approaches to balancing national security and liberty concerns. While the early state of the law benefitted neither the government nor detainees as a whole, the jurisprudence has matured remarkably quickly. Most foundational disagreements among judges have now been resolved, and have been resolved in a manner that should allay congressional concerns about national security. Part III argues that while new detention legislation would have made sense during the first eighteen months of habeas litigation, **the maturation of the jurisprudence has rendered this option unnecessary at best and counterproductive at worst. Habeas works. Congress should stand back and allow the courts to proceed.**

#### Balance ideal now--executive self-restraint sufficient

Goldsmith, 12

(Prof-Harvard Law, Hoover Institution Task Force on National Security and Law, March, Power and Constraint, p. 174-81

Of all of the establishment amicus briefs condemning the Bush administration and defending the rule of law before the Supreme Court, however, perhaps none were as significant as the ones filed by military officers who purported to represent the views of soldiers fighting in the war on terrorism.' Former U.S. military officers and military lawyers filed briefs that emphasized the importance to the military of the post–World War II Geneva Conventions, and especially their procedural protections for prisoner rights that, they charged, the Bush administration was flouting. The United States had long taken the lead in extending and enforcing these rights, they maintained, and American soldiers would suffer most from the Bush administration's disregard of them. "If American detention of the Guantanamo prisoners— indefinite confinement without any type of review by a court or tribunal is regarded as precedent for similar actions by countries with which we are at peace, it is obvious that it may be similarly regarded by enemies who capture American soldiers in an existing or future conflict," argued the retired military officers. Even more remarkable was the amicus brief filed by current military lawyers representing alleged terrorist detainees in military corn-missions. There lawyers, in a public rebuke to the Commander in Chief they served, described the administration's claims about GTMO as a "monarchical regime."' As with Korematsu and the civilian government officials, the military briefs were not telling the justices much that they had not learned in the newspapers in the previous two years. Since 2001 the judge advocates general (JAGs) in the Pentagon had been pushing back hard against what they viewed as the Bush administration's disregard of military law and traditions. Two legal commitments by the military were especially important. One was the 1950 Uniform Code of Military Justice (UCMJ), which replaced a command-dominated justice system with a system of courts-martial that eventually looked much like the civilian counterpart in its commitment to independence and due process. Another was the Geneva Conventions and related customary international laws of war. By 2001 both the UCMJ and the laws of war had become pillars of U .S. military discipline and central to the military's self-understanding as honorable warriors. The JAGs were the guardians of these laws, with a deserved reputation for interpreting and enforcing them in ways that both protected the integrity of the military and reflected the realistic needs of battlefield discipline. For decades the U.S. military had built its doctrine, training, and policies around the JAG understandings of the UCMJ and the laws of war. And for decades their vision of law-governed military operations led them to have professional and even ideological points of contact and agreement with human rights groups and especially with the International Committee of the Red Cross. Of course, the military lawyers did not agree on all points with these NGOs. But as Harvard Law School professor David Kennedy notes, "They all know one another, hang out at the same places, read the same things, and have their own parallel problems with more exuberant people in their own 'camps.' '"40 They shared a general outlook, especially about the relevance of certain international laws, and it was an outlook not shared by the Bush administration. The Bush administration's post-9/ 11 counterterrorism policies were a direct affront to the JAG view of the world and the Defense Department institutions that had built up around it. Vice Presidential Counsel David Addington and Defense Department General Counsel Jim Haynes had a principled commitment to reducing JAG independence based on notions of civilian control of the military. They also had principled views about the non-applicability of the UCMJ and the Geneva Conventions to certain aspects of the war on terrorism, and about vindicating these views—which were, after all, the views of the President—throughout the military. The JAGs fought hard against these policies inside the Pentagon, in public testimony, and in leaks to the press. The first clash came in November 2001 when the Bush administration announced its military commissions with little input from the JAGs. The JAGs viewed the commissions' departures from the UCMJ as both illegal under domestic and international law and a challenge to the authority they had built up around the UCMJ as the standard-bearers of military justice. The next clash came over the Bush administration's decision in January 2002 to proclaim that the Geneva Conventions had no application in the war on terrorism, a proclamation that the JAGs argued was illegal and dangerous for U.S. soldiers who might one day need Geneva protections. The third clash, which began in the fall of 2002, concerned the Bush administration's aggressive interrogation techniques, which the JAGs once again vehemently opposed on legal and policy grounds. Never before had military lawyers so thoroughly disagreed with civilian officials during war over legal matters. The JAGs in the post-9/ 11 world were—like inspectors general, and like lawyers in other agencies, but with more power yet another fount of independent scrutiny, law enforcement, and pushback inside the executive branch. The JAG counterattack on legal issues was remarkable because it was directed toward the Commander in Chief, who is supposed to be the chief law interpreter for the executive branch and whose power is supposed to be at its height during war. It was all the more remarkable because for assistance in their fights, the JAGs turned to human rights organizations with which, on these issues, they had a greater commonality of interests than with the President.' The ecology of transparency ensured that the clashes between military and civilian lawyers spilled into the public realm, and was churned by commentators, by the time the Supreme Court considered the GTMO cases in the spring of 2004. In a testament to the JAGs' reputation and independence, and to the mistrust of the Bush administration by this point, the stories about the law fights inside the Pentagon were not generally treated as military subordination or affronts to civilian control. They were, rather, treated as JAGs standing up to the law-defying Bush administration in the name of the rule of law. The presidency was untrustworthy, out of control, and defying the rule of law and military traditions. That was the message the amici in Rasul's case sent to the Court—a message the Court had heard long before it read the briefs. Two months before the Court issued its final decision in the case on habeas corpus rights for GTMO detainees, the message received devastating public confirmation. On April 28, 2004, Justice Ruth Bader Ginsburg asked Deputy Solicitor General Paul Clement a seemingly innocuous set of questions in a case about the government's power to detain a U.S. citizen in the United States with little judicial scrutiny. "So what is it that would be a check against torture?" she asked. "What's constraining? . . . Is it just up to the good will of the executive?" Clement answered that the possibility of executive abuse in war "is not a good and sufficient reason for judicial micromanagement and overseeing of that authority." He added, "You have to recognize that in situations where there is a war—where the Government is on a war footing, that you have to trust the executive to make the kind of quintessential military judgments that are involved in things like that."42 Seven hours later, the CBS program 60 Minutes published the first photographs of U.S. soldiers abusing detainees at Abu Ghraib. The vile and shameful photos visualized years of worries and stories and charges about the dangers of unchecked executive power. They became the face of what it meant to trust the executive branch in war. On June 18, 2004, the Supreme Court ruled that Ratner's client and almost six hundred other GTMO detainees could file petitions for habeas corpus in federal court to seek their release. The decision marked the first time in American history that enemy soldiers held outside the United States during wartime could force the executive branch to explain and defend their detention before a court. The Court did not mention Abu Ghraib or any of the amicus briefs. But it tied its decision to the tradition, dating back to before the Magna Carta, of judges employing the writ of habeas corpus to review "oppressive and lawless" executive detentions. And in a related war-on-terror case decided the same day, Justice Sandra Day O'Connor noted that "history and common sense teach us that an unchecked system of detention carries the potential to become a means for oppression and abuse of others.' The Court explained its decision on a narrow ground: that Congress had intended for courts' habeas corpus power to extend to places like GTMO that were under U.S. control. This was an implausible rationale that defied Eisentrager, which the Court did cartwheels to distinguish. But it had the virtue of making the Court's momentous step a relatively small one, for it left open the possibility that Congress could retract habeas corpus power from GTMO, and it said practically nothing about what legal rights, if any, these detainees possessed. As Justice Breyer would later say, the Court in Rasul "found a way to hold the president accountable to [the] limited extent" of allowing GTMO detainees to challenge their detention "while leaving much to be worked out later.' There was indeed much to be worked out, but the Rasul decision still had an immediate impact. The administration had already released eighty detainees from GTMO in reaction to the Court's grant of review the previous November.' In response to the decision, it set up Combatant Status Review Tribunals (CRSTs) composed of military officers to review the legality of detentions for each person held at GTMO. CSRTs were based on Army regulations for detaining prisoners of war, and gave detainees the right to hear evidence against them, the right to challenge the detention by testifying and introducing evidence and calling witnesses, and the right to a personal representative to assist. Also in response to Rasul, the Bush administration established Administrative Review Boards (ARBs) to help ensure going forward that only detainees who remain dangerous were detained. The CSRTs determined that thirty-eight detainees could not be held as enemy combatants, and by 2006 the ARBs had determined that an additional 188 detainees could be released or transferred from GTMO.' All in all, **the threat and reality of judicial review in Rasul caused the executive branch to tighten its detention standards** and contributed to the discharge of 308 detainees from GTMO. In 2006 the Supreme Court issued an even more significant decision in a case that asked whether Salim Ahmed Hamdan, Osama Bin Laden's bodyguard and driver, could be tried in the military commission system that President Bush announced in November 2001. On the surface, once again, the executive branch's legal arguments looked sound, since President Bush's order establishing the commissions had relied on the same language that FDR had used for his commissions in World War II and that the Supreme Court had approved in Quirin. But that 1942 precedent seemed like a relic in light of the massive intervening changes in military justice, criminal procedure, and the laws of war. And the rule-of-law concerns had grown in the intervening two years with the leak of the so-called torture memos; the floodgates opening on news reports of abuse in GTMO, Iraq, Afghanistan, and in secret prisons; and the New York Times' revelation of the warrantless wiretapping program known as the "Terrorist Surveillance Program" and other secret surveillance initiatives. Hamdan's lawyers, which included his military lawyer assigned to the case, argued that Bush's commissions violated the Constitution, congressional commands, and the international laws of war. Once again, amici swarmed the Court, this time with a 37-5 balance against the government's position, and with a yet broader array of U.S. and foreign government officials and former officials weighing in on domestic and international rule-of-law concerns.' On June 29, 2006, the Supreme Court invalidated the Bush military commissions, reasoning that they did not comply with conditions previously imposed by Congress. This ruling left the President free to go to Congress to seek approval for commissions. "The Court simply limited the President's authority to act as he had on his own, without legislative authority," Justice Breyer later explained. "Insofar as **the Court** rested its holding on statutes, it **did not limit the President's ability**, or that of the military, **to act in time of hostilities**.' But this is a drastically incomplete statement of what the decision accomplished, for the Court also ruled that Common Article 3 of the Geneva Conventions governed the "conflict with al Qaeda." **This was a far-reaching ruling that altered the entire character of the President's legal authorities in the "war on terrorism."** The non-application of the Geneva Conventions was the foundation for the Bush administration's post-9/ 11 counterterrorism program. It allowed the administration to avoid the Conventions' trial requirements and prohibitions on torture and cruel and inhuman treatment; it also allowed the administration to avoid the criminal prohibitions of the congressional War Crimes Act that were tied to the application of the Geneva Conventions. **The Court's ruling on Common Article 3 thus brought a sudden rush of law and international precedent—backed with** the threat of criminal **sanctions—into GTMO's legal black hole, and to military operations around the globe**. It also called into question the legality of the CIA's interrogation program. As we saw in Chapter 4, the Bush administration had, six months before the Hamdan decision, suspended the CIA interrogation program temporarily following a congressional ban on cruel, inhuman, and degrading treatment. But the December 2005 ban was not a criminal prohibition. The Court's Article 3 ruling brought into play a criminal law that was more restrictive than the earlier noncriminal congressional ban. **The Hamdan decision had an immediate impact**. One week after the decision Deputy Secretary of Defense Gordon England issued a memorandum to the entire U.S. military. It noted the Court's Common Article 3 ruling and ordered the entire military establishment to "ensure that all DoD personnel adhere to these standards." It further ordered a review, to be completed within three weeks, of "all relevant directives, regulations, policies, practices, and procedures . . . to ensure that they comply with the standards of Common Article 3."49 The decision also had a big effect on the CIA, which became more fearful than ever of criminal recriminations for its interrogation program. Just over two months after the Hamdan decision, President Bush, at the urging of CIA Director Michael Hayden, disclosed the secret CIA program that by that point everyone knew about, and announced that Khalid Sheikh Mohammed, the 9/11 mastermind, and thirteen other senior terrorists were being transferred to GTMO. The President also acknowledged that the terrorists who had no legal rights in the secret prisons just a few months earlier would now, at GTMO, receive the protections of Article 3; meet with the International Committee of the Red Cross; have access to the same food, clothing, medical care, and opportunities for worship as other detainees; and be subject to questioning only pursuant to the relatively mild U.S. Army Field Manual. Such were the beginnings of the fruits of the Supreme Court's international law decision in Hamdan.

#### No slippery slope—detention authority not overbroad

Wittes, 11

Senior Fellow in Governance Studies-Brookings Institution, “ARTICLE: Preventive Detention in American Theory and Practice,” 2 Harv. Nat'l Sec. J. 85, Lexis)

The legal power to detain the enemy combatant neatly illustrates several of the general currents running through preventive detention in American practice. First, as this overview shows, the power is not so much an exception to a broad constitutional norm as a track that runs [\*100] parallel to the criminal justice system, operating according to its own distinctive rules, which evolved without reference to criminal justice norms. Importantly, **these rules have not functioned as a slippery slope** by which narrow detention powers have grown in scope and menace to liberty over time. **Rather, to the contrary, broad authorities** to capture, kill, and ransom prisoners **have narrowed over centuries of refinement and now focus on detaining under humane and respectful conditions only those people whom it is necessary to detain, and only for as long as detention remains necessary**.

#### AUMF not open-ended—imposes constraints that have limited the ability for the worst manifestations of detention

Tomatz, 13

(Colonel, Chief of Operations and Information Operations Law in the Pentagon, JD-UT Austin, LLM-Army Judge Advocate General Legal Center, “NDAA 2012: Congress and Consensus on Enemy Detention,” 69 A.F. L. Rev. 1, Lexis)

In his February 2012 speech at Yale Law School, Department of Defense General Counsel Jeh Johnson offered cogent insight into counterterrorism principles about "which the top national security lawyers in [the] Administration broadly agree." n348 First, the AUMF is the "bedrock of the military's domestic legal authority." Second, **the statutory authorization in the AUMF is "not open-ended**" in that the definition of those against whom force may be authorized is specifically tailored to target al-Qaeda, Taliban or associated forces directly involved in the 9/11 attacks or persons who were part of, or substantially supported, those forces that are engaging in hostilities against the United States or its coalition partners. As Mr. Johnson then explained, Congress, the Executive and Judicial branches have all joined in embracing this interpretation. n349 Additionally, he noted that the AUMF is without geographic limitation to Afghanistan, a legal fact that is crucial given that "over the last 10 years al-Qaeda has not only become more decentralized, [but has also] migrated away from Afghanistan to other parts of the world." n350 Finally, he stated that where a U.S. citizen becomes a belligerent fighting against the United States, under Quirin and Hamdi that individual, like their non-citizen counterpart, becomes a valid military objective. n351 Though Jeh Johnson was referring to the justification for targeted killing, n352 as a legal matter, the justification for targeting a U.S. citizen enemy belligerent equally justifies his or her preventive detention under the law of war. Consider the most obvious fact that no American citizen is currently in preventive detention under the AUMF. In the entire history of this conflict only a handful of Americans have been detained and only two citizens have been picked-up within the United States--al Marri and Padilla. Both were held during a period of acknowledged ongoing hostilities and both were eventually prosecuted in federal court. The 2012 NDAA makes detention authority explicit in the law, but as the drafters repeatedly made clear, the NDAA does not expand detention authority over U.S. citizens that did not already exist under the AUMF. Finally, and it would not be necessary to argue this point **but for the rhetorical hyperbole from some quarters**, **detention under the AUMF is not the same as Japanese internment** during World War II. At its core, that system was predicated on arbitrary ethnic distinctions and broad geographic restrictions that displaced thousands of concededly loyal citizens. Preventive detention under **the NDAA and AUMF applies only to a narrow category** of al-Qaeda, Taliban and associated forces, or persons who were part of or substantially supported those forces engaged in hostilities against the U.S. or its coalition partners. As in Quirin and In re Territo, and Hamdi for that matter, the focus here is on the enemy, and in very rare instances enemy personnel happen to carry a U.S. passport.

## legit

#### Drone shift takes out all of their signal advantages---comparatively much larger impact on credibility

Wittes 13

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The question that gives rise to the title of this discussion is one actually that my college Ken Anderson posed at the beginning of the Obama Administration. In a very prescient essay that he wrote for a book that I was editing, I asked him to give some thought of targeted killing, which he did. He wrote an essay in which he pointed out that the same forces that had made US detention policy so delegitimised, that it became a very problematic tool of counter terrorism, were starting to think about the tool that had replaced it, essentially as the sort of major instrument. This is over-simplifying as there wasn’t one major instrument then, and there isn’t one major instrument now.

But, it is true that in the period 2009-2010, the era that in which we were kind of capturing large enemy fighters, and trying to figure out what to do with them and using Guantanamo and other sites as a kind of warehouse for them, had by that time sort of ended and that population was declining rather rapidly, at least at Guantanamo. And, what was striking was what was taking place instead, was increasingly ramped up in the early years of the Obama Administration was targeted killings with stand-off weapons platforms, particularly unmanned aerial vehicles, armed predators and subsequently reapers.

And one can ask this question sitting in a café, and then, we have written about it a little bit, is this the new Guantanamo? I think it is a very interesting question that has a lot of interesting dimensions. So I want to sort of briefly lay them out a little bit and then have as much time as possible to take in whatever direction you all want to take it in, and leave as much possible room for discussion as I can.

The first thing to say about this question, is of course the old Guantanamo is not gone, it’s just that everybody has gotten bored of it and the same problem that gave rise to Guantanamo in the first place, which is that there is a certain group of people that you capture, that its unacceptable from a security standpoint to let go, that nobody wants to take if you did want to let them go; and that you also can’t realistically bring to criminal trial and that you were not holding under criminal law to begin with, but under the laws of war.

That problem still remains, at least for a certain group of people both in Afghanistan, where the likely result is that those people will be let go, and in Guantanamo for a certain group of people where that outcome is a little bit more unthinkable. That problem remains, the world seems less outraged about it than it was a few years ago, and so there isn’t this day to day pressure on it that there was only relatively recently. Why that is actually a complicated and interesting head-scratcher of a question to be honest, which we can talk about. But, I think one of the reasons, and perhaps the major reason is that the locus of US counter terrorism policy has considerably shifted to kinetic strikes using scary flying robots. For some of the same reasons that five, seven years ago Guantanamo was irresistible – now there are these scary flying robots that kill people and whose pilots are in Nevada are also irresistible.

So, let me start with what links these two issues together, and to some degree this is obvious, but I want to put it on the table anyway. What made Guantanamo irresistible was that it was a robust American, and it’s critical that it’s American, counter terrorism exertion of power that mingles authorities that people think of as law enforcement authorities with authorities that the US government asserts are foreign policy and/or military authorities.

There is a great discrepancy in transatlantic, and for that matter, US versus a lot of the rest of the world’s views, of the scope of those military authorities. The result is that the US, in a sustained sort of way, is taking action under the rubric of conflict that the rest of the world does not accept under the rubric of conflict. This creates a long term irritant that may be to some degree irresolvable. Complicating it further in the case of Guantanamo, is that approximately, depending on when you poll it, between 30% and 45% of the American population agrees with the rest of the world. So there is a very substantial mobilised minority of people, which included in the election before last both the Republican and Democratic nominee for President, who are to one degree or another deeply embarrassed by the discrepancy and want to resolve it by, to one degree or another, bringing the United States into the ambit of the way the rest of the world thinks about this.

#### Obama strategy de-emphasizing drones now

Corn, 13

(Columnist-Mother Jones, 5/22, “Obama's Counterterrorism Speech: A Pivot Point on Drones and More?,” http://www.motherjones.com/mojo/2013/05/obama-speech-drones-civil-liberties)

So Obama's speech Thursday on counterterrorism policies—which follows his administration's acknowledgment yesterday that it had killed four Americans (including Anwar al-Awlaki, an Al Qaeda leader in Yemen)—is a big deal, for with this address, Obama is self-restricting his use of drones and shifting control of them from the CIA to the military. And the president has approved making public the rules governing drone strikes. The New York Times received the customary pre-speech leak and reported: A new classified policy guidance signed by Mr. Obama will sharply curtail the instances when unmanned aircraft can be used to attack in places that are not overt war zones, countries like Pakistan, Yemen and Somalia. The rules will impose the same standard for strikes on foreign enemies now used only for American citizens deemed to be terrorists. Lethal force will be used only against targets who pose "a continuing, imminent threat to Americans" and cannot feasibly be captured, Attorney General Eric H. Holder Jr. said in a letter to Congress, suggesting that threats to a partner like Afghanistan or Yemen alone would not be enough to justify being targeted. These moves may not satisfy civil-liberties-minded critics on sthe right and the left. Obama is not declaring an end to indefinite detention or announcing the closing of Gitmo—though he is echoing his State of the Union vow to revive efforts to shut down that prison. Still, these moves would be unimaginable in the Bush years. Bush and Cheney essentially believed the commander in chief had unchallenged power during wartime, and the United States, as they saw it, remained at war against terrorism. Yet here is Obama subjecting the drone program to a more restrictive set of rules—and doing so publicly. This is very un-Cheney-like. (How soon before the ex-veep arises from his undisclosed location to accuse Obama of placing the nation at risk yet again?) Despite Obama's embrace of certain Bush-Cheney practices and his robust use of drones, the president has tried since taking office to shift US foreign policy from a fixation on terrorism. During his first days in office, he shied away from using the "war on terrorism" phrase. And his national security advisers have long talked of Obama's desire to reorient US foreign policy toward challenges in the Pacific region. By handing responsibility for drone strikes to the military, Obama is helping CIA chief John Brennan, who would like to see his agency move out of the paramilitary business and devote more resources to its traditional tasks of intelligence gathering and analysis. With this speech, Obama is not renouncing his administration's claim that it possesses the authority to kill an American overseas without full due process. The target, as Holder noted in that letter to Congress, must be a senior operational leader of Al Qaeda or an associated group who poses an "imminent threat of violent attack against the United States" and who cannot be captured, and Holder stated that foreign suspects now can only be targeted if they pose "a continuing, imminent threat to Americans." (Certainly, there will be debates over the meaning of "imminent," especially given that the Obama administration has previously used an elastic definition of imminence.) And Obama is not declaring an end to the dicey practice of indefinite detention or a conclusion to the fight against terrorism.

### Drone Shift 2NC

#### Limits on detention just lead to a shift to drones and rendition

Goldsmith, 9

(Law Prof-Harvard, 5/31, “The Shell Game on Detainees and Interrogation,” http://www.washingtonpost.com/wp-dyn/content/article/2009/05/29/AR2009052902989.html)

The revelation last weekend that the United States is increasingly using foreign intelligence services to capture, interrogate and detain terrorist suspects points up an uncomfortable truth about the war against Islamist terrorists. **Demands to raise legal standards for terrorist suspects** in one arena often **lead to compensating tactics in another arena that leave suspects** (and, sometimes, innocent civilians) **worse off.** The U.S. rendition program -which involves capturing suspected terrorists and whisking them to another country, outside judicial process began in the 1990s. The government was under pressure to take terrorists off the streets and learn what they knew. But it could not bring them to the United States because U.S. law made it too hard to effectively interrogate and incapacitate them here. So instead it shipped them to Egypt and other places to achieve the same end. A similar phenomenon has occurred with the U.S. detention of terrorist suspects at Guantanamo Bay. The Gitmo facility was established after the Sept. 11, 2001, attacks because the Bush administration believed it needed to apply a different detention and interrogation regime than would be allowed at home. Over the past eight years, courts have exported U.S. legal standards to the island, and now President Obama has promised to close the detention facility. But closing Guantanamo or **bringing American justice** there **does not end the problem of terrorist detention. It simply causes the government to address the problem in different ways**. A little-noticed consequence of elevating standards at Guantanamo is that the government has sent very few terrorist suspects there in recent years. Instead, it holds more terrorists without charge or trial, without habeas rights, and with less public scrutiny at Bagram Air Base in Afghanistan. Or it renders them to countries where interrogation and incarceration standards are often even lower. The cat-and-mouse game does not end there. As detentions at Bagram and traditional renditions have come under increasing legal and political scrutiny, the Bush and Obama administrations have relied more on other tactics. They have secured foreign intelligence services to do all the work -capture, incarceration and interrogation -for all but the highest-level detainees. And they have increasingly employed targeted killings, a tactic that eliminates the need to interrogate or incarcerate terrorists but at the cost of killing or maiming suspected terrorists and innocent civilians alike without notice or due process. There are at least two problems with this general approach to incapacitating terrorists. First, it is not ideal for security. Sometimes it would be more useful for the United States to capture and interrogate a terrorist (if possible) than to kill him with a Predator drone. Often the United States could get better information if it, rather than another country, detained and interrogated a terrorist suspect. Detentions at Guantanamo are more secure than detentions in Bagram or in third countries. The second problem is that terrorist suspects often end up in less favorable places. Detainees in Bagram have fewer rights than prisoners at Guantanamo, and many in Middle East and South Asian prisons have fewer yet. Likewise, most detainees would rather be in one of these detention facilities than be killed by a Predator drone. We congratulate ourselves when we raise legal standards for detainees, but in many respects all we are really doing is **driving the terrorist incapacitation problem out of sight, to a place where terrorist suspects are treated worse.** It is tempting to say that we should end this pattern and raise standards everywhere. Perhaps we should extend habeas corpus globally, eliminate targeted killing and cease cooperating with intelligence services from countries that have poor human rights records. This sentiment, however, is unrealistic. The imperative to stop the terrorists is not going away. **The government will find and exploit legal loopholes** to ensure it can keep up our defenses. This approach to detention policy reflects a sharp disjunction between the public's view of the terrorist threat and the government's. After nearly eight years without a follow-up attack, the public (or at least an influential sliver) is growing doubtful about the threat of terrorism and skeptical about using the lower-than-normal standards of wartime justice. The government, however, sees the terrorist threat every day and is under enormous pressure to keep the country safe. When one of its approaches to terrorist incapacitation becomes too costly legally or politically, it shifts to others that raise fewer legal and political problems. This doesn't increase our safety or help the terrorists. But it does make us feel better about ourselves.

#### Empirics prove

Feldman, 11

(Law Prof-Harvard, 10/17, Obama Team’s Al-Awlaki Memo Furthered Bush Legacy: Noah Feldman, www.bloomberg.com/news/2011-10-17/obama-team-s-al-awlaki-memo-furthered-bush-legacy-noah-feldman.html

Guantanamo is still open, in part because Congress put obstacles in the way. Instead of detaining new terror suspects there, however, Obama vastly expanded the tactic of targeting them, with eight times more drone strikes in his first year than in all of Bush’s time in office. Barron and Lederman, the erstwhile Bush critics, were appointed to senior positions in the Office of Legal Counsel -where they wrote the recent memo authorizing the Al-Awlaki killing. What explains these startling developments? If it’s illegal and wrong to capture suspected terrorists and detain them indefinitely without a hearing, how exactly did the Obama administration decide it was desirable and lawful to target and kill them? The politics were straightforward. Obama’s team observed that holding terror suspects exposed the Bush administration to harsh criticism (including their own). They wanted to avoid adding detainees at Guantanamo or elsewhere. A Father’s Appeal Dead terrorists tell no tales -and they also have no lawyers shouting about their human rights. Before Al-Awlaki was killed, his father sued the government for putting the son on its target list. The Obama Justice Department asked the court to dismiss the claim as being too closely related to government secrets. The court agreed -a result never reached in all the Guantanamo litigation. Anwar Al-Awlaki now has no posthumous recourse.

#### Means they can’t solve but still link to the terrorism DA---shift to drones evaporates intel

Thiessen, 12

(Fellow-American Enterprise Institute, “No intelligence without detention,” http://aei.org/article/foreign-and-defense-policy/terrorism/no-intelligence-without-detention)

The real tragedy in all of this is the fact that this country will not have a dependable terrorist detention or interrogation policy for another four years. Under Obama, drone strikes have escalated dramatically, while live captures have plummeted. The Obama administration has prioritized killing senior terrorist leaders over taking them alive for questioning -- because, according to senior military officials, we “don’t have a detention policy or a set of facilities” to hold live captures. Guantánamo Bay remains open but it is not accepting new prisoners. Dead terrorists cannot tell you their plans for new attacks. When we kill high-value terrorists, we vaporize all the intelligence they possess — information we cannot get anywhere else about Al Qaeda’s operations, recruits, safe houses, communications and plans for new attacks. We need this intelligence to save lives. As the author Mark Bowden makes clear in his new book, "The Finish," intelligence from captured terrorists played an important role in the operation that killed Osama bin Laden. The Obama administration uses the treasure trove of intelligence it inherited from the Bush administration every day. But with each passing year, that intelligence becomes increasingly dated. New leaders rise through the ranks. New plots are conceived. And new networks form in places like Yemen, Somalia, Mali and eastern Libya, about which we know little. We are no longer replenishing the information we have about Al Qaeda’s inner workings because we are no longer capturing and detaining the terrorist leaders who could provide us with new intelligence. We cannot defeat Al Qaeda and stop new attacks with drones alone. We need to question live terrorists who can tell us their plots and plans. And that means we need somewhere to take them.

#### Allowing executive authority on detention only way to keep intel flowing—alternative is targeted killing—not expansion of rights

Thiessen, 10

(Fellow-American Enterprise Institute, 2/8 “Dead Terrorists Tell No Tales”, http://www.foreignpolicy.com/articles/2010/02/08/dead\_terrorists\_tell\_no\_tales?page=0,1)

The problem is that Obama is increasingly using drone strikes as a substitute for operations to bring terrorist leaders in alive for questioning -- and that is putting the country at risk. As one high-ranking CIA official explained to me, in an interview for my book Courting Disaster, "In the wake of 9/11, [the CIA] put forward a program that had a lethal component to strike back at the people who did this. But the other component was to prevent this kind of catastrophe from happening again. And for that, killing people -- especially killing senior al Qaeda leaders -- is potentially counterproductive in that we can't know or learn of future attacks. You can't kill them all, and you don't want to kill them all from an intelligence standpoint. We needed to know what they knew."

In the years after the 9/11 attacks, the CIA worked with Pakistani and other intelligence services to hunt down senior terrorist leaders and take them in for interrogation. Among those captured were men like Abu Zubaydah, Khalid Sheikh Mohammed, Ramzi bin al-Shibh, Ammar al-Baluchi, Walid bin Attash, Riduan Isamuddin (aka "Hambali"), Bashir bin Lap, Abd al-Rahim al-Nashiri, Abu Faraj al-Libbi, Abd al-Hadi al-Iraqi, and others. In all, about 100 terrorists were detained and questioned by the CIA. And the information they provided helped break up terrorist cells that were planning to blow up the U.S. Consulate in Karachi and the U.S. Marine camp in Djibouti; explode seven airplanes flying across the Atlantic from London to cities in North America; and fly hijacked airplanes into Heathrow Airport, London's financial district, and the Library Tower in Los Angeles.

Today, the Obama administration is no longer attempting to capture men like these alive; it is simply killing them. This may be satisfying, but it comes at a price. With every drone strike that vaporizes a senior al Qaeda leader, actionable intelligence is vaporized along with him. Dead terrorists can't tell you their plans to strike America.

#### Detention and drone strikes are zero-sum

Ofek ’10

(Editor-National Affairs-The New Atlantis, Spring, The New Atlantis, “The Tortured Logic of Obama’s Drone War,” Number 27, pp. 35-44)

The Obama administration has not been blind to the effectiveness of these targeted killings. And perhaps the administration’s opposition to Guantánamo and to enhanced interrogation has led it to see even more clearly the convenience of taking the fight to the enemies’ homes and hideouts and killing them before they come within the purview of the U.S. justice system. For example, the Los Angeles Times reported that an al Qaeda-linked suspect named Saleh Ali Saleh Nabhan was killed by a September 2009 helicopter attack in Somalia, rather than captured, because “officials had debated trying to take him alive but decided against doing so in part because of uncertainty over where to hold him.” Targeted killing may be expedient for a president who disdains detention and interrogation, but as a matter of strategy, it is not costless. First, a dead terrorist isn’t always as good as a detained terrorist. As Jeffrey Smith, a former CIA general counsel, put it in 2002: “If they’re dead, they’re not talking to you, and you create more martyrs.” When possible, argues Daniel Byman, the director of Georgetown University’s Center for Peace and Security Studies, “It’s almost always better to arrest terrorists than to kill them. You get intelligence then. Dead men tell no tales.”

## legit

#### Ev in the context of bush policies-

Robert Knowles 9, Acting Assistant Professor, New York University School of Law, Spring, “Article: American Hegemony and the Foreign Affairs Constitution”, 41 Ariz. St. L.J. 87, Lexis

The hegemonic model also reduces the need for executive branch flexibility, and the institutional competence terrain shifts toward the courts. The stability of the current U.S.-led international system depends on the ability of the U.S. to govern effectively. Effective governance depends on, among other things, predictability. n422 G. John Ikenberry analogizes America's hegemonic position to that of a "giant corporation" seeking foreign investors: "The rule of law and the institutions of policy making in a democracy are the political equivalent of corporate transparency and [\*155] accountability." n423 Stable interpretation of the law bolsters the stability of the system because other nations will know that they can rely on those interpretations and that there will be at least some degree of enforcement by the United States. At the same time, the separation of powers serves the global-governance function by reducing the ability of the executive branch to make "abrupt or aggressive moves toward other states." n424¶ The Bush Administration's detainee policy, for all of its virtues and faults, was an exceedingly aggressive departure from existing norms, and was therefore bound to generate intense controversy. It was formulated quickly, by a small group of policy-makers and legal advisors without consulting Congress and over the objections of even some within the executive branch. n425 Although the Administration invoked the law of armed conflict to justify its detention of enemy combatants, it did not seem to recognize limits imposed by that law. n426 Most significantly, it designed the detention scheme around interrogation rather than incapacitation and excluded the detainees from all legal protections of the Geneva Conventions. n427 It declared all detainees at Guantanamo to be "enemy combatants" without establishing a regularized process for making an individual determination for each detainee. n428 And when it established the military commissions, also without consulting Congress, the Administration denied defendants important procedural protections. n429¶ In an anarchic world characterized by great power conflict, one could make the argument that the executive branch requires maximum flexibility to defeat the enemy, who may not adhere to international law. Indeed, the precedents relied on most heavily by the Administration in the enemy combatant cases date from the 1930s and 1940s - a period when the international system was radically unstable, and the United States was one of several great powers vying for advantage. n430 But during that time, the executive branch faced much more exogenous pressure from other great powers to comply with international law in the treatment of captured enemies. If the United States strayed too far from established norms, it would risk retaliation upon its own soldiers or other consequences from [\*156] powerful rivals. Today, there are no such constraints: enemies such as al Qaeda are not great powers and are not likely to obey international law anyway. Instead, the danger is that American rule-breaking will set a pattern of rule-breaking for the world, leading to instability. n431 America's military predominance enables it to set the rules of the game. When the U.S. breaks its own rules, it loses legitimacy.¶ The Supreme Court's response to the detainee policy enabled the U.S. government as a whole to hew more closely to established procedures and norms, and to regularize the process for departing from them. After Hamdi, n432 the Department of Defense established a process, the CSRTs, for making an individual determination about the enemy combatant status of all detainees at Guantanamo. After the Court recognized habeas jurisdiction at Guantanamo, Congress passed the DTA, n433 establishing direct judicial review of CSRT determinations in lieu of habeas. Similarly, after the Court declared the military commissions unlawful in Hamdan, n434 this forced the Administration to seek congressional approval for commissions that restored some of the rights afforded at courts martial. n435 In Boumediene, the Court rejected the executive branch's foreign policy arguments, and bucked Congress as well, to restore the norm of habeas review. n436¶ Throughout this enemy combatant litigation, it has been the courts' relative insulation from politics that has enabled them to take the long view. In contrast, the President's (and Congress's) responsiveness to political concerns in the wake of 9/11 has encouraged them to depart from established norms for the nation's perceived short-term advantage, even at the expense of the nation's long-term interests. n437 As Derek Jinks and Neal Katyal have observed, "treaties are part of [a] system of time-tested standards, and this feature makes the wisdom of their judicial interpretation manifest." n438¶ At the same time, the enemy combatant cases make allowances for the executive branch's superior speed. The care that the Court took to limit the issues it decided in each case gave the executive branch plenty of time to [\*157] arrive at an effective detainee policy. n439 Hamdi, Rasul, and Boumediene recognized that the availability of habeas would depend on the distance from the battlefield and the length of detention. n440¶ The enemy combatant litigation also underscores the extent to which the classic realist assumptions about courts' legitimacy in foreign affairs have been turned on their head. In an anarchic world, legitimacy derives largely from brute force. The courts have no armies at their disposal and look weak when they issue decisions that cannot be enforced. n441 But in a hegemonic system, where governance depends on voluntary acquiescence, the courts have a greater role to play. Rather than hobbling the exercise of foreign policy, the courts are a key form of "soft power." n442 As Justice Kennedy's majority opinion observed in Boumediene, courts can bestow external legitimacy on the acts of the political branches. n443 Acts having a basis in law are almost universally regarded as more legitimate than merely political acts. Most foreign policy experts believe that the Bush Administration's detention scheme "hurt America's image and standing in the world." n444 The restoration of habeas corpus in Boumediene may help begin to counteract this loss of prestige.¶ Finally, the enemy combatant cases are striking in that they embrace a role for representation-reinforcement in the international realm. n445 Although defenders of special deference acknowledge that courts' strengths lie in protecting the rights of minorities, it has been very difficult for courts to protect these rights in the face of exigencies asserted by the executive branch in foreign affairs matters. This is especially difficult when the minorities are alleged enemy aliens being held outside the sovereign territory of the United States in wartime. In the infamous Korematsu decision, another World War II-era case, the Court bowed to the President's factual assessment of the emergency justifying detention of U.S. citizens of Japanese ancestry living in the United States. n446 In Boumediene, the Court [\*158] pointedly declined to defer to the executive branch's factual assessments of military necessity. n447 The court may have recognized that a more aggressive role in protecting the rights of non-citizens was required by American hegemony. In fact, the arguments for deference with respect to the rights of non-citizens are even weaker because aliens lack a political constituency in the United States. n448 This outward-looking form of representation-reinforcement serves important functions. It strengthens the legitimacy of U.S. hegemony by establishing equality as a benchmark and reinforces the sense that our constitutional values reflect universal human rights. n449¶ Conclusion¶ When it comes to the constitutional regime of foreign affairs, geopolitics has always mattered. Understandings about America's role in the world have shaped foreign affairs doctrines. But the classic realist assumptions that support special deference do not reflect the world as it is today. A better, more realist, approach looks to the ways that the courts can reinforce and legitimize America's leadership role. The Supreme Court's rejection of the government's claimed exigencies in the enemy combatant cases strongly indicates that the Judiciary is becoming reconciled to the current world order and is asserting its prerogatives in response to the fewer constraints imposed on the executive branch. In other words, the courts are moving toward the hegemonic model. In the great dismal swamp that is the judicial treatment of foreign affairs, this transformation offers hope for clarity: the positive reality of the international system, despite terrorism and other serious challenges, permits the courts to reduce the "deference gap" between foreign and domestic cases.

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Barak Mendelsohn 10, assistant professor of political science at Haverford College and a senior fellow of FPRI. Author of Combating Jihadism: American Hegemony and Interstate Cooperation in the War on Terrorism, June 2010, “The Question of International Cooperation in the War on Terrorism”, http://www.fpri.org/enotes/201006.mendelsohn.cooperationwarterror.html

Going against common conceptions, I argue that the United States sought to advance more than what it viewed as simply its own interest. The United States stands behind multiple collaborative enterprises and should be credited for that. Nevertheless, sometimes it has overreached, sought to gain special rights other states do not have, or presented strategies that were not compatible with the general design of the war on terrorism, to which most states subscribed. When it went too far, the United States found that, while secondary powers could not stop it from taking action, they could deny it legitimacy and make the achievement of its objectives unattainable. Thus, despite the common narrative, U.S. power was successfully checked, and the United States found the limitations of its power, even under the Bush administration. Defining Hegemony Let me begin with my conception of hegemony. While the definition of hegemony is based on its material aspects—the preponderance of power—hegemony should be understood as a part of a social web comprised of states. A hegemon relates to the other states in the system not merely through the prism of power balances, but through shared norms and a system of rules providing an umbrella for interstate relations. Although interstate conflict is ubiquitous in international society and the pursuit of particularistic interests is common, the international society provides a normative framework that restricts and moderates the hegemon's actions. This normative framework accounts for the hegemon's inclination toward orderly and peaceful interstate relations and minimizes its reliance on power. A hegemon’s role in the international community relies on legitimacy. Legitimacy is associated with external recognition of the hegemon’s right of primacy, not just the fact of this primacy. States recognize the hegemon’s power, but they develop expectations that go beyond the idea that the hegemon will act as it wishes because it has the capabilities to do so. Instead, the primacy of the hegemon is manifested in the belief that, while it has special rights that other members of the international society lack, it also has a set of duties to the members of the international society. As long as the hegemon realizes its commitment to the collective, its position will be deemed legitimate. International cooperation is hard to achieve. And, in general, international relations is not a story of harmony. A state’s first inclination is to think about its own interests, and states always prefer doing less over doing more. The inclination to pass the buck or to free ride on the efforts of others is always in the background. If a hegemon is willing to lead in pursuit of collective interests and to shoulder most of the burden, it can improve the prospects of international cooperation. However, even when there is a hegemon willing to lead a collective action and when states accept that action is needed, obstacles may still arise. These difficulties can be attributed to various factors, but especially prominent is the disagreement over the particular strategy that the hegemon promotes in pursuing the general interest. When states think that the strategy and policies offered by the hegemon are not compatible with the accepted rules of “rightful conduct” and break established norms, many will disapprove and resist. Indeed, while acceptance of a hegemon’s leadership in international society may result in broad willingness to cooperate with the hegemon in pursuit of shared interests it does not guarantee immediate and unconditional compliance with all the policies the hegemon articulates. While its legitimacy does transfer to its actions and grants some leeway, that legitimacy does not justify every policy the hegemon pursues—particularly those policies that are not seen as naturally deriving from the existing order. As a result, specific policies must be legitimated before cooperation takes place. This process constrains the hegemon’s actions and prevents the uninhibited exercise of power.

#### Their laundry list of vague impacts is academic junk – conflicts can’t just emerge

Fettweis, 11

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

Assertions that without the combination of U.S. capabilities, presence and commitments instability would return to Europe and the Pacific Rim are usually rendered in rather vague language. If the United States were to decrease its commitments abroad, argued Robert Art, “the world will become a more dangerous place and, sooner or later, that will redound to America’s detriment.”53 From where would this danger arise? Who precisely would do the fighting, and over what issues? Without the United States, would Europe really descend into Hobbesian anarchy? Would the Japanese attack mainland China again, to see if they could fare better this time around? Would the Germans and French have another go at it? In other words, where exactly is hegemony is keeping the peace? With one exception, these questions are rarely addressed.

That exception is in the Pacific Rim. Some analysts fear that a de facto surrender of U.S. hegemony would lead to a rise of Chinese influence. Bradley Thayer worries that Chinese would become “the language of diplomacy, trade and commerce, transportation and navigation, the internet, world sport, and global culture,” and that Beijing would come to “dominate science and technology, in all its forms” to the extent that soon the world would witness a Chinese astronaut who not only travels to the Moon, but “plants the communist flag on Mars, and perhaps other planets in the future.”54 Indeed China is the only other major power that has increased its military spending since the end of the Cold War, even if it still is only about 2 percent of its GDP. Such levels of effort do not suggest a desire to compete with, much less supplant, the United States. The much-ballyhooed, decade-long military buildup has brought Chinese spending up to somewhere between one-tenth and one-fifth of the U.S. level. It is hardly clear that a restrained United States would invite Chinese regional, must less global, political expansion. Fortunately one need not ponder for too long the horrible specter of a red flag on Venus, since on the planet Earth, where war is no longer the dominant form of conflict resolution, the threats posed by even a rising China would not be terribly dire. The dangers contained in the terrestrial security environment are less severe than ever before.

Believers in the pacifying power of hegemony ought to keep in mind a rather basic tenet: When it comes to policymaking, specific threats are more significant than vague, unnamed dangers. Without specific risks, it is just as plausible to interpret U.S. presence as redundant, as overseeing a peace that has already arrived. Strategy should not be based upon vague images emerging from the dark reaches of the neoconservative imagination.

Overestimating Our Importance

One of the most basic insights of cognitive psychology provides the final reason to doubt the power of hegemonic stability: Rarely are our actions as consequential upon their behavior as we perceive them to be. A great deal of experimental evidence exists to support the notion that people (and therefore states) tend to overrate the degree to which their behavior is responsible for the actions of others. Robert Jervis has argued that two processes account for this overestimation, both of which would seem to be especially relevant in the U.S. case.55 First, believing that we are responsible for their actions gratifies our national ego (which is not small to begin with; the United States is exceptional in its exceptionalism). The hubris of the United States, long appreciated and noted, has only grown with the collapse of the Soviet Union.56 U.S. policymakers famously have comparatively little knowledge of—or interest in—events that occur outside of their own borders. If there is any state vulnerable to the overestimation of its importance due to the fundamental misunderstanding of the motivation of others, it would have to be the United States. Second, policymakers in the United States are far more familiar with our actions than they are with the decision-making processes of our allies. Try as we might, it is not possible to fully understand the threats, challenges, and opportunities that our allies see from their perspective. The European great powers have domestic politics as complex as ours, and they also have competent, capable strategists to chart their way forward. They react to many international forces, of which U.S. behavior is only one. Therefore, for any actor trying to make sense of the action of others, Jervis notes, “in the absence of strong evidence to the contrary, the most obvious and parsimonious explanation is that he was responsible.”57

It is natural, therefore, for U.S. policymakers and strategists to believe that the behavior of our allies (and rivals) is shaped largely by what Washington does. Presumably Americans are at least as susceptible to the overestimation of their ability as any other people, and perhaps more so. At the very least, political psychologists tell us, we are probably not as important to them as we think. The importance of U.S. hegemony in contributing to international stability is therefore almost certainly overrated.

In the end, one can never be sure why our major allies have not gone to, and do not even plan for, war. Like deterrence, the hegemonic stability theory rests on faith; it can only be falsified, never proven. It does not seem likely, however, that hegemony could fully account for twenty years of strategic decisions made in allied capitals if the international system were not already a remarkably peaceful place. Perhaps these states have no intention of fighting one another to begin with, and our commitments are redundant. European great powers may well have chosen strategic restraint because they feel that their security is all but assured, with or without the United States.

#### Absolute economic advantages are overwhelming and regional challenges stop any global challenge – that’s Kaplan.

No challengers

**Zenko and Cohen 12** (Micah Zenko, Fellow in the Center for Preventive Action at the Council on Foreign Relations, and MIchael Cohen, Senior Fellow at the American Security Project, serves on the board of the National Security Network and has taught at Columbia University’s School of International and Public Affairs, served in the U.S. Department of State, former Senior Vice President at the strategic communications firm of Robinson, Lerer and Montgomery, bachelor’s degree in international relations from American University and a master’s degree from Columbia University, 3/14/2012, "Clear and Present Safety", yaleglobal.yale.edu/content/clear-and-present-safety)

Within the foreign policy elite, there exists a pervasive belief that the post–Cold War world is a treacherous place, full of great uncertainty and grave risks. A 2009 survey conducted by the Pew Research Center for the People and the Press found that 69 percent of members of the Council on Foreign Relations believed that for the United States at that moment, the world was either as dangerous as or more dangerous than it was during the Cold War. Similarly, in 2008, the Center for American Progress surveyed more than 100 foreign policy experts and found that 70 percent of them believed that the world was becoming more dangerous. Perhaps more than any other idea, this belief shapes debates on U.S. foreign policy and frames the public’s understanding of international affairs. There is just one problem. It is simply wrong. The world that the United States inhabits today is a remarkably safe and secure place. It is a world with fewer violent conflicts and greater political freedom than at virtually any other point in human history. All over the world, people enjoy longer life expectancy and greater economic opportunity than ever before. The United States faces no plausible existential threats, no great-power rival, and no near-term competition for the role of global hegemon. The U.S. military is the world’s most powerful, and even in the middle of a sustained downturn, the U.S. economy remains among one of the world’s most vibrant and adaptive. Although the United States faces a host of international challenges, they pose little risk to the overwhelming majority of American citizens and can be managed with existing diplomatic, economic, and, to a much lesser extent, military tools. This reality is barely reflected in U.S. national security strategy or in American foreign policy debates. President Barack Obama’s most recent National Security Strategy aspires to “a world in which America is stronger, more secure, and is able to overcome our challenges while appealing to the aspirations of people around the world.” Yet that is basically the world that exists today. The United States is the world’s most powerful nation, unchallenged and secure. But the country’s political and policy elite seems unwilling to recognize this fact, much less integrate it into foreign policy and national security decision-making.

No impact to warming

Mendelsohn, professor of forestry and environmental studies – Yale, ‘9

(Robert O., “Climate Change and Economic Growth,” <http://www.growthcommission.org/storage/cgdev/documents/gcwp060web.pdf>)

These statements are largely alarmist and misleading. Although climate change is a serious problem that deserves attention, society’s immediate behavior has an extremely low probability of leading to catastrophic consequences. The science and economics of climate change is quite clear that emissions over the next few decades will lead to only mild consequences. The severe impacts predicted by alarmists require a century (or two in the case of Stern 2006) of no mitigation. Many of the predicted impacts assume there will be no or little adaptation. The net economic impacts from climate change over the next 50 years will be small regardless. Most of the more severe impacts will take more than a century or even a millennium to unfold and many of these “potential” impacts will never occur because people will adapt. It is not at all apparent that immediate and dramatic policies need to be developed to thwart long‐range climate risks. What is needed are long‐run balanced responses.

#### No impact – consensus

Taylor 12 (James, Forbes energy and environment writer, 3/14/2012, "Shock Poll: Meteorologists Are Global Warming Skeptics", www.forbes.com/sites/jamestaylor/2012/03/14/shock-poll-meteorologists-are-global-warming-skeptics/)

A recent survey of American Meteorological Society members shows meteorologists are skeptical that humans are causing a global warming crisis. The survey confirms what many scientists have been reporting for years; the politically focused bureaucratic leadership of many science organizations is severely out of touch with the scientists themselves regarding global warming issues. According to American Meteorological Society (AMS) data, 89% of AMS meteorologists believe global warming is happening, but only a minority (30%) is very worried about global warming. This sharp contrast between the large majority of meteorologists who believe global warming is happening and the modest minority who are nevertheless very worried about it is consistent with other scientist surveys. This contrast exposes global warming alarmists who assert that 97% of the world’s scientists agree humans are causing a global warming crisis simply because these scientists believe global warming is occurring. However, as this and other scientist surveys show, believing that some warming is occurring is not the same as believing humans are causing a worrisome crisis. Other questions solidified the meteorologists’ skepticism about humans creating a global warming crisis. For example, among those meteorologists who believe global warming is happening, only a modest majority (59%) believe humans are the primary cause. More importantly, only 38% of respondents who believe global warming is occurring say it will be very harmful during the next 100 years. With substantially fewer than half of meteorologists very worried about global warming or expecting substantial harm during the next 100 years, one has to wonder why environmental activist groups are sowing the seeds of global warming panic. Does anyone really expect our economy to be powered 100 years from now by the same energy sources we use today? Why immediately, severely, and permanently punish our economy with costly global warming restrictions when technological advances and the free market will likely address any such global warming concerns much more efficiently, economically and effectively? In another line of survey questions, 53% of respondents believe there is conflict among AMS members regarding the topic of global warming. Only 33% believe there is no conflict. Another 15% were not sure. These results provide strong refutation to the assertion that “the debate is over.” Interestingly, only 26% of respondents said the conflict among AMS members is unproductive. Overall, the survey of AMS scientists paints a very different picture than the official AMS Information Statement on Climate Change. Drafted by the AMS bureaucracy, the Information Statement leaves readers with the impression that AMS meteorologists have few doubts about humans creating a global warming crisis. The Information Statement indicates quite strongly that humans are the primary driver of global temperatures and the consequences are and will continue to be quite severe. Compare the bureaucracy’s Information Statement with the survey results of the AMS scientists themselves. Scientists who have attended the Heartland Institute’s annual International Conference on Climate Change report the same disconnect throughout their various science organizations; only a minority of scientists believes humans are causing a global warming crisis, yet the non-scientist bureaucracies publish position statements that contradict what the scientists themselves believe. Few, if any, of these organizations actually poll their members before publishing a position statement. Within this context of few actual scientist surveys, the AMS survey results are very powerful.

#### Modern medicine makes a pandemic 90% less lethal than 1918 – models prove

Madhav, principal analyst at catastrophe modeling firm AIR Worldwide, where she leads development of AIR's Pandemic Model, 3/5/2013

(Nita, “What if the 1918 Spanish Flu Happened Today?,” http://www.riskandinsurance.com/story.jsp?storyId=533353677)

**Due to medical and tech**nological **advancements**, **fatality rates would** be almost **90 percent less than what was experienced during** the actual **1918** pandemic. However, increased global travel and an aging population would raise the death rate of a modern day Spanish flu pandemic by 30 percent and 8 percent, respectively, compared to the actual mortality rates in 1918. Taken together, **these modeling results suggest** that **dramatically fewer excess deaths** -- nearly 70 percent fewer than actually occurred in 1918 -- would result from a Spanish flu event today. In spite of this sharp decrease in mortality rates, the simulated modern-day Spanish flu event still disproportionately affects young adults. That can be attributed to the ability of the simulated virus to cause a cytokine storm, demonstrating the need for models to capture the effects of this complex syndrome.

#### Disease can’t cause extinction – it’s genetically impossible

Richard Posner, Senior Lecturer in Law at the University of Chicago, judge on the United States Court of Appeals for the Seventh Circuit, January 1, 2005, Skeptic, “Catastrophe: the dozen most significant catastrophic risks and what we can do about them,” <http://goliath.ecnext.com/coms2/gi_0199-4150331/Catastrophe-the-dozen-most-significant.html#abstract>

Yet the fact that Homo sapiens has managed to survive every disease to assail it in the 200,000 years or so of its existence is a source of genuine comfort, at least if the focus is on extinction events. There have been enormously destructive plagues, such as the Black Death, smallpox, and now AIDS, but none has come close to destroying the entire human race. There is a biological reason. Natural selection favors germs of limited lethality; they are fitter in an evolutionary sense because their genes are more likely to be spread if the germs do not kill their hosts too quickly. The AIDS virus is an example of a lethal virus, wholly natural, that by lying dormant yet infectious in its host for years maximizes its spread. Yet there is no danger that AIDS will destroy the entire human race. The likelihood of a natural pandemic that would cause the extinction of the human race is probably even less today than in the past (except in prehistoric times, when people lived in small, scattered bands, which would have limited the spread of disease), despite wider human contacts that make it more difficult to localize an infectious disease. The reason is improvements in medical science. But the comfort is a small one. Pandemics can still impose enormous losses and resist prevention and cure: the lesson of the AIDS pandemic. And there is always a lust time.

#### Humans can respond effectively

**Wills 96** (Christopher, Professor of Biology at the University of California Yellow Fever, Black Goddess)

I am confident that **no terrible disease will appear that slaughters us by the billion**. The reason is that we can now respond very quickly to such a visible enemy. Any disease that spreads like wildfire will have to go so through the air or water and there are many steps we can take right away to prevent such a spread. If the people of fourteenth-century Europe had known what we know now, they could have halted the black death in short order.

#### Adaptation solves

Gladwell, 1999

Malcolm Gladwell, The New Republic, July 17 and 24, 1995, excerpted in Epidemics: Opposing Viewpoints, 1999, p. 29

In Plagues and Peoples, which appeared in 1977. William MeNeill pointed out that…while man’s efforts to “remodel” his environment are sometimes a source of new disease. they are seldom a source of serious epidemic disease. Quite the opposite. As humans and new microorganisms interact, they begin to accommodate each other. Human populations slowly build up resistance to circulating infections. What were once virulent infections, such as syphilis become attenuated. Over time, diseases of adults, such as measles and chicken pox, become limited to children, whose immune systems are still naïve.

## DEM

#### Their evidence says that judicial review is necessary- obviousl boumediene and any other court case established that because their evidence once again precedes it- ALSO JUST SAYS THAT LAW NEEDS TO BE ENFORCED- THAT WILL OBVI HAPPEN

CJA 4 The Center for Justice and Accountability, Amici Curiae in support of petitioners in Al Odah et al. v USA, "Brief of the Center for Justice and Accountability, the International League for Human Rights, and Individual Advocates for the Independence of the Judiciary in Emerging Democracies," 3-10, Lexis

Many of the newly independent governments that have proliferated over the past five decades have adopted these ideals. They have emerged from a variety of less-than-free contexts, including the end of European colonial rule in the 1950's and 1960's, the end of the Cold War and the breakup of the former Soviet Union in the late 1980's and 1990's, the disintegration of Yugoslavia, and the continuing turmoil in parts of Africa, Latin America and southern Asia. Some countries have successfully transitioned to stable and democratic forms of government that protect individual freedoms and human rights by means of judicial review by a strong and independent judiciary. Others have suffered the rise of tyrannical and oppressive rulers who consolidated their hold on power in part by diminishing or abolishing the role of the judiciary. And still others hang in the balance, struggling against the onslaught of tyrants to establish stable, democratic governments. In their attempts to shed their tyrannical pasts and to ensure the protection of individual rights, emerging democracies have consistently looked to the United States and its Constitution in fashioning frameworks that safeguard the independence of their judiciaries . See Ran Hirschl, The Political Origins of Judicial Empowerment through Constitutionalization: Lessons from Four Constitutional Revolutions, 25 Law & Soc. Inquiry 91, 92 (2000) (stating that of the “[m]any countries . . . [that] have engaged in fundamental constitutional reform over the past three decades,” nearly all adopted “a bill of rights and establishe[d] some form of active judicial review”). Establishing judicial review by a strong and independent judiciary is a critical step in stabilizing and protecting these new democracies. See Christopher M. Larkins, Judicial Independence and Democratization: A Theoretical and Conceptual Analysis, 44 Am. J. Comp. L. 605, 605-06 (1996) (describing the judicial branch as having "a uniquely important role" in transitional countries, not only to "mediate conflicts between political actors but also [to] prevent the arbitrary exercise of government power; see also Daniel C. Prefontaine and Joanne Lee, The Rule of Law and the Independence of the Judiciary, International Centre for Criminal Law Reform and Criminal Justice Policy (1998) ("There is increasing acknowledgment that an independent judiciary is the key to upholding the rule of law in a free society . . . . Most countries in transition from dictatorships and/or statist economies recognize the need to create a more stable system of governance, based on the rule of law."), available at http://www.icclr.law.ubc.ca/Publications/Reports/RuleofLaw. pdf (last visited Jan. 8, 2004). Although the precise form of government differs among countries, “they ultimately constitute variations within, not from, the American model of constitutionalism . . . [a] specific set of fundamental rights and liberties has the status of supreme law, is entrenched against amendment or repeal . . . and is enforced by an independent court . . . .” Stephen Gardbaum, The New Commonwealth Model of Constitutionalism, 49 Am. J. Comp. L. 707, 718 (2001). This phenomenon became most notable worldwide after World War II when certain countries, such as Germany, Italy, and Japan, embraced independent judiciaries following their bitter experiences under totalitarian regimes. See id. at 714- 15; see also United States v. Then, 56 F.3d 464, 469 (2d Cir. 1995) (Calabresi, J., concurring) (“Since World War II, many countries have adopted forms of judicial review, which — though different from ours in many particulars — unmistakably draw their origin and inspiration from American constitutional theory and practice. See generally Mauro Cappelletti, The Judicial Process in Comparative Perspective (Oxford: Clarendon Press, 1989).”). It is a trend that continues to this day. It bears mention that the United States has consistently affirmed and encouraged the establishment of independent judiciaries in emerging democracies. In September 2000, President Clinton observed that "[w]ithout the rule of law, elections simply offer a choice of dictators. . . . America's experience should be put to use to advance the rule of law, where democracy's roots are looking for room and strength to grow." Remarks at Georgetown University Law School, 36 Weekly Comp. Pres. Doc. 2218 (September 26, 2000), available at http://clinton6.nara.gov/2000/09/2000-09-26- remarks-by-president-at-georgetown-international-lawcenter. html. The United States acts on these principles in part through the assistance it provides to developing nations. For example, the United States requires that any country seeking assistance through the Millenium Challenge Account, a development assistance program instituted in 2002, must demonstrate, among other criteria, an "adherence to the rule of law." The White House noted that the rule of law is one of the "essential conditions for successful development" of these countries. See http://www.whitehouse.gov/infocus/developingnations (last visited Jan. 8, 2004).12

#### Global rollback of democracies despite the plan

Joshua **Kurlantzick**, CFR Southeast Asia Fellow, 5/19/**11**, "The Great Democracy Meltdown ," <http://www.cfr.org/democracy-and-human-rights/great-democracy-meltdown/p25142>

If only things were so simple. The truth is that the Arab Spring is something of a smokescreen for what is taking place in the world as a whole. Around the globe, it is democratic meltdowns, not democratic revolutions, that are now the norm. (And even countries like Egypt and Tunisia, while certainly freer today than they were a year ago, are hardly guaranteed to replace their autocrats with real democracies.) In its most recent annual survey, the monitoring group Freedom House found that global freedom plummeted for the fifth year in a row, the longest continuous decline in nearly 40 years. It pointed out that most authoritarian nations had become even more repressive, that the decline in freedom was most pronounced among the “middle ground” of nations—countries that have begun democratizing but are not solid and stable democracies—and that the number of electoral democracies currently stands at its lowest point since 1995. Meanwhile, another recent survey, compiled by Germany's Bertelsmann Foundation, spoke of a “gradual qualitative erosion” of democracy and concluded that the number of “highly defective democracies”—democracies so flawed that they are close to being failed states, autocracies, or both—had doubled between 2006 and 2010.

The number of anecdotal examples is overwhelming. From Russia to Venezuela to Thailand to the Philippines, countries that once appeared to be developing into democracies today seem headed in the other direction. So many countries now remain stuck somewhere between authoritarianism and democracy, report Marc Plattner and Larry Diamond, co-editors of the Journal of Democracy, that “it no longer seems plausible to regard [this condition] simply as a temporary stage in the process of democratic transition.” Or as an activist from Burma—long one of the world's most repressive countries—told me after moving to Thailand and watching that country's democratic system disintegrate, “The other countries were supposed to change Burma. ... Now it seems like they are becoming like Burma.”

#### Arab Spring will increase crackdowns, not democracy

Dan **Drezner**, Fletcher School IR Professor, 6/6/**11**, "Is democracy going melting down or growing up? [UPDATED]," <http://drezner.foreignpolicy.com/posts/2011/06/05/is_democracy_going_melting_down_or_growing_up>

Kurlantzick and Freedom House do make one point, however, that neither Walker nor Ulfelder rebut. The most disturbing trend is the "lock-in" of authoritarianism in so many medium and great powers. China, Russia, Iran, Saudi Arabia -- these are countries that have trended towards the "not free" category for many a year now, and these regimes are getting better at stifling dissent. Walker argues that, "the know-how for building freedom is still spreading," but the know-how for squelching it can also spread. Indeed, the Arab Spring itself has led to genuine regime change in some countries, but in others it has been a testing ground for how to crack down.

Even if the democratization wave continues, there are enough big authoritarian countries around that will not be transitioning anytime soon. That is a significant change from twenty years ago, and it's worth thinking about the implications for the future.

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#### No Central Asia war or escalation – all powers want stability

Rogers 13 (Samuel, Advisor for the GPRA Group, The GPRA Group provides micro political and trade risk services to multinationals, insurance companies and financial institutions operating in emerging markets., 3/4/2013, "Central Asia: What's Next?", www.gpra-group.com/2/post/2013/03/central-asia-whats-next.html)

In recent years, Russia and to a lesser extent China, have been making inroads into consolidating their power within the region. The former set up the Customs Union to incorporate Kazakhstan into a free trade area; mediated between Kyrgyz and Uzbek leaders during and following the 2010 ethnic clashes; and secured natural resource transit route rights from the region to Europe. For its part, China extended its Western borders by incorporating 1% of Tajikistan into Chinese territory; sees Central Asia as vital as a source of natural gas; views the area as a buffer zone to Russian and US expansionism; and has acted as an influential actor in offsetting Uyghur separatist intentions. Additionally, China has continued to increase investment in Afghanistan’s fledgling mineral sector and has agreed to train Afghan police, ahead of the planned US troop withdrawal in 2014. Political and economic stability are of paramount importance to Russia and China. Putin may look to expand the Customs Union in order to be in a position to rival the influence of the EU (increased Kazakh-Kyrgyz economic cooperation has recently been discussed). China is concerned with extinguishing discontent in its Muslim-dominated Western regions and increasing economic cooperation. Premier Wen Jiabao visited Bishkek in December 2012 in an official state visit, which aimed to consolidate Sino-Kyrgyz relations against the backdrop of signing four official documents on economic cooperation, geology and financial investment for transport infrastructure, which reveal China’s desire for a more hands-on approach to diplomatic relations between the two states, which only began in 1992. The US, for the immediate future, will be primarily concerned with maintaining its ability to station military personnel in Central Asia and diversify supply routes to avoid over-reliance on Pakistan for operations in Afghanistan as the 2014 deadline will now likely be surpassed. All three powers desire to preserve the political status quo and keep the current, long-standing incumbents in office. It is therefore likely that in the event of internal political struggles, ranging from ethnic, religious or labour-related in nature, a swift return to the status quo will ensue. In 2010, for example, following widespread civil unrest in Kyrgyzstan, and the ousting of President Bakiyev, the 2011 elections saw the not dissimilar incumbent Atambayev elected amid strong international support. With newly-elected Chinese General Secretary Xi Jinping and the recent re-elections of Presidents Putin and Obama, 2013 will provide observers and investors a clearer picture of official policy towards the region. Central Asian states are likely to remain politically stable and will present development opportunities as diverse as mining, dam construction and telecommunications, all of which are enjoying FDI from Russia and China. The Russian Direct Investment Fund (RDIF) and the Chinese Investment Corporation (CIC), both official government-sponsored investment bodies, have jointly invested $2bn in Central Asian projects, a figure which is planned to rise to $4bn. The Next Five Years Whilst it is unlikely there will be a ‘hot’ war between any of these major powers, there is potential for conflict by proxy within the region. Areas of concern are the Afghan-Tajik border region, and internal deterioration in US-Pakistan relations, engineered by external forces. Civil unrest also has potential to re-emerge within states and also may have a ‘spill-over effect’, with the potential to permeate borders as seen in 2010 in Kyrgyzstan and Uzbekistan. Sudden price drops or price hikes in natural resources would also have the capacity to adversely affect trade and transit agreements between the countries. With the US set to channel funding more directly into East Asia in order to ‘face’ China’s increased regional dominance over the coming years, US military spending in Central Asia will decline, leaving a potential vacuum into which China and Russia will seek to enter through soft power; a policy, which Russia has recently openly stated it intends to pursue, and China has a long-standing policy of. Observers of the region will note the rise in bilateral agreements between China and the Central Asian states - actions which make a break from traditional Chinese policy; the growing economic strength of the Customs Union; and the potential for conflict in Iran. These factors amongst others will determine the geopolitical situation of the former Soviet states over the next five years, and beyond. Further afield, India, Japan, South Korea and Turkey are all observing the situation in Central Asia. India, the dominant force in South Asia, will look to expand its horizons and consolidate a greater role in global affairs by becoming more proactive in Central Asia, though it is unlikely to surpass others’ presence due to its lack of strategy. Japan, from as early as the 1990s, has sought to engage the US in a joint policy towards the region in an effort to curb Chinese presence and diversify energy imports. South Korea, which is an increasing economic power, desires a stronger presence in Central Asia in order to forge closer ties with Russia, whilst consolidating its links with China, Japan and the US. Turkey, the first country to recognise the independence of the Central Asian Republics, has donated 25% of all foreign aid to the region since 1992 ($1bn) and combined Turkish business projects’ value in Central Asia has now reached $50bn. Furthermore, the strength of cultural ties continues to increase through institutions such as the Turkic Council and student exchange programmes. Each of the aforementioned states are likely to actively seek to deepen and compound their presence in the region. For China, Russia and the US however, the geopolitics of Central Asia is of greater importance. There is too much to lose for any of the powers to afford conflict, economic neglect or widespread social unrest in the region, detrimental to their key strategic aims.

#### Decline kills heg – Defense cuts and isolationism

Friedberg, professor of politics and IR @ Princeton, and Schoenfeld, visiting scholar @ the Witherspoon Institute, 10/21/’8

(Aaron and Gabriel, “The Dangers of a Diminished America,” <http://online.wsj.com/article/SB122455074012352571.html?mod=googlenews_wsj>)

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.

#### Decline collapses the CCP

Li, “China’s Team of Rivals” March/April ‘9

(Cheng, http://www.foreignpolicy.com/story/cms.php?story\_id=4686)

The two dozen senior politicians who walk the halls of Zhongnanhai, the compound of the Chinese Communist Party’s leadership in Beijing, are worried. What was inconceivable a year ago now threatens their rule: an economy in freefall. Exports, critical to China’s searing economic growth, have plunged. Thousands of factories and businesses, especially those in the prosperous coastal regions, have closed. In the last six months of 2008, 10 million workers, plus 1 million new college graduates, joined the already gigantic ranks of the country’s unemployed. During the same period, the Chinese stock market lost 65 percent of its value, equivalent to $3 trillion. The crisis, President Hu Jintao said recently, “is a test of our ability to control a complex situation, and also a test of our party’s governing ability.”

With this rapid downturn, the Chinese Communist Party suddenly looks vulnerable. Since Deng Xiaoping initiated economic reforms three decades ago, the party’s legitimacy has relied upon its ability to keep the economy running at breakneck pace. If China is no longer able to maintain a high growth rate or provide jobs for its ever growing labor force, massive public dissatisfaction and social unrest could erupt. No one realizes this possibility more than the handful of people who steer China’s massive economy. Double-digit growth has sheltered them through a SARS epidemic, massive earthquakes, and contamination scandals. Now, the crucial question is whether they are equipped to handle an economic crisis of this magnitude—and survive the political challenges it will bring.

#### Economic crisis turns warming – increases fossil fuel use and outweighs short-term gains

Reuters, 3/20/’9

(http://www.reuters.com/article/GCA-GreenBusiness/idUSTRE52J1BV20090320)

ROME (Reuters) - The economic crisis may lower carbon emissions in the short term but will raise them over the long term by crimping investment in cleaner energy sources, the International Energy Agency's chief economist said on Thursday.

The impact of the financial crisis and the ensuing economic slump on energy investments had been "stronger than anyone expected" and significant enough to have an impact on climate change and the whole energy supply chain, warned Fatih Birol.

"To think that lower economic growth is good for the environment is completely wrong," Birol told Reuters.

"Because there are many investments that are good for the environment, like efficiency, renewables and nuclear, that are being postponed or canceled. One or two years of lower carbon emissions won't count for much at the end of the day."

A $100 a barrel price drop from a record high last year has hurt oil producers, but is a bigger threat to generators of more environmentally-friendly fuels, which are considered commercially viable only as alternatives to expensive oil.

#### Econ collapse causes disease spread

Percival, PhD in Medicine and Pathology, ‘4

(Steven L, *Microbiology of waterborne diseases*, p. 466)

Breakdown in public health systems:

Finally, one of the lessons that was associated with the collapse of the Soviet Union has been the risk to public health that comes with severe economic collapse. Such economic collapse can in turn threaten public health systems. This impacts on waterborne disease when such economic collapse impairs the effectiveness of water treatment and distribution systems. When water systems decay diseases once controlled, such as cholera and typhoid, can re-emerge (Semenza *et al.*, 1998). It is very sobering to consider what may be the impact of such economic collapse in some of the world’s largest urban centres.

#### Economic downturn kills democracy

Rachman, Financial Times Chief Foreign Affairs columnist, January ‘9

(Gideon, Washington Quarterly, “Democracy: The Case for Opportunistic Idealism,” p. 119)

By contrast Cambodia, a much poorer country with much weaker democratic traditions, has been unable to sustain a transition to democracy. Despite a massive UN-sponsored effort to bring peace and free elections to the country in 1993, the country has essentially reverted to a one-party autocracy. In the past couple of years, democracies have also been rolled back in other relatively poor countries such as Bangladesh and Nigeria. The violence and instability surrounding the Kenyan and Pakistani elections has only underlined the difficulties of holding democratic votes in relatively poor countries with deep ethnic and tribal divisions. Bush resolutely refused to acknowledge all these setbacks. Speaking in the United Arab Emirates on January 13, 2008, he hailed a "great new era" of "the advance of freedom." "My friends," he proclaimed to the assembled sheikhs, "a future of liberty stands before you." 7 Then Bush flew onto Egypt and lavished praise on Mubarak, who had thrown the last man who ran against him for the presidency into jail. As Bush traipsed around the Arab world, Freedom House, which monitors political and civil liberties around the world, issued its annual report, lamenting that "2007 was marked by a notable setback for global freedom." 8 The group pointed to setbacks across the world from South Asia to the Middle East and the former Soviet Union.

#### 1nc Allen says that Obamas bully pulpit is uniting democrats and will get GOP to compromise --- Their ev is media hype—GOP opposition isn’t immovable—House GOP strategy makes a deal likely

Chris Weignant, 9/18/13, The Boehner and the Restless, www.chrisweigant.com/2013/09/18/the-boehner-and-the-restless/

The politico-media empire which writes the rules of the Washington "What Serious People Are Saying" game have apparently decided that the government shutdown is now melodramatically going to happen. Cue ominous organ music blast (dum Dum DUM!). The key word in that opening sentence is "melodramatically," because our government can now be seen as nothing more than a continuing soap opera. Call it "As The Boehner Turns," or perhaps more appropriately "The Boehner And The Restless." Personally, I don't buy it. I'm taking the contrarian position on this one. John Boehner just announced that the House will vote on a continuing resolution (to continue funding the government past the first of October) which attempts to "defund" Obamacare, and that the vote will happen this Friday. Across Washington, in newsrooms everywhere, pearls were clutched and editors swooned (and had to be revived with smelling salts). The sky is falling! The shutdown will happen! Oh, my goodness! What a calamity! The melodrama was turned up to eleven, and the knob was then snapped off. The car was about to careen off the cliff (right before the commercial break), so stay tuned, folks.... But, as I said, I don't buy it. In fact, I will go so far as to say that the timing of the vote increases the chances that the government shutdown will not in fact happen. The vote, I suspect, is nothing more than John Boehner showboating within his own caucus -- nothing more than a sop to the rabid Tea Party members who are demanding this showdown. The reason I reach this conclusion is that if Boehner were truly serious about using this bill as his only negotiating position, he would have waited until the last minute to introduce it. Instead, he's going to hold a vote this Friday. There are three basic endgames which are possible in the showdown. The first is that Senate Democrats and President Obama wake up one morning and, in astonishment, blurt out, "What were we thinking? Obamacare sucks! Let's repeal the signature legislation of Barack Obama's term in office!" They then leap out of bed, pass the House's bill and sign it into law. Obamacare is dead! Well, this isn't really true, since the House "defunding" Obamacare doesn't actually defund something like 80 percent of Obamacare, but whatever. The chances of this scenario happening are precisely zero, so it's a moot point. The second endgame is that the House Republicans refuse to budge, the Senate and the House can't agree on a continuing resolution, and the government shuts down at the start of next month. This is what the media is salivating over, with full soundtrack and all the melodrama they can heap upon it. What a great start to the fall season for the soap opera that is Washington! The chances of this happening are unknown, but I predict that they are one whale of a lot smaller than the media would have you currently believe. And, as I said, holding the vote this Friday means the chances of a shutdown actually happening have just grown even smaller. If Boehner really wanted this scenario to happen (he's publicly said he does not, for the record), then he would use the clock to his advantage and delay the vote on the Tea Party bill until, perhaps, next Friday -- giving the Senate almost no time to react. But he's not taking this route, which is the main point everyone seems to be missing (or willfully ignoring, to boost ratings for the soap opera). The third scenario is the most likely. John Boehner, following a script he has used in the past, allows the Tea Party to pillage and riot for a very precise amount of time. He allows their "take no prisoners" bill to be voted on. There is no guarantee that it'll even pass -- another fact many media types are ignoring today. Boehner has had to ignobly yank quite a few bills from the floor before the vote because he simply cannot round up enough votes within his own party to pass them. This could happen with Friday's bill, although it is more likely that Boehner will allow the vote even if he knows it will fail (because doing so will strengthen his position). But say for the sake of conversation that it does pass. The Tea Party will triumphantly proclaim victory, and the Senate will quickly dispose of the bill in one fashion or another -- leaving us right back at square one. The Senate leaders will then meet with the White House and come up with a budget bill which is acceptable to sane Republicans in the Senate, but which does not touch Obamacare's funding. The Senate will pass this bill, and send it over to the House (technically the House has to originate spending bills, but this can be dealt with by a gimmick, as it always is). The ball will be back in Boehner's court. Boehner has already cancelled vacation days scheduled for next week. The House will be in session. And it'll have enough time to act before the deadline is reached. Boehner will (again, he's done this before, folks) reluctantly tell his Tea Party members "well, we tried our hardest, but it didn't work." And then -- at the last minute, no doubt -- he'll put the Senate bill on the House floor for a vote, breaking the Republican "Hastert Rule" once again. Virtually all the Democrats will vote for it, and at least a few dozen Republicans will join them (those in such safe districts that they don't worry about Tea Party primary challenges, for the most part). The bill will pass. A few minor concessions may be wrung from the budget itself, as a sort of consolation prize for House Republicans ("See? We did get some sort of victory!"), and this tweaked bill will go back to the Senate for a vote. The Senate will pass it, and it will thus be placed upon Obama's desk for his signature. Obama, of course, will sign it. The only real question in this scenario is how close we come to hitting the deadline. Maybe the government will temporarily "shut down" for a day or two as the last Senate vote happens, at worst. But some sort of budget will be in place, until the next time this budgetary plot device arises (which seems to be planned for December, just so we can all have a holiday special for the Washington soap opera). Call me an optimist if you will, but this still seems the most-likely scenario. Boehner, by holding the big vote early, is signaling that there will be plenty of time to fix things at the last minute after he tosses the Tea Party their bone. The Tea Partiers will experience a few days of euphoria and then be consumed with white-hot rage when they don't ultimately get their way. Primary challenges will be threatened all around. Talk radio and the conservative echo chamber in the media will explode with angst and denunciation. But we will have a budget, and the government will not shut down.

#### Their ev is over-interpreting GOP posture—they aren’t unified over their disruptive budget strategy and McConnelll doesn’t matter cuz of the Democratic majority – the House is key and they are fractured

Russell Berman, The Hill, 9/20/13, House poised to pass spending bill defunding ObamaCare, thehill.com/homenews/house/323517-house-poised-to-pass-spending-bill-defunding-obamacare

A day after angering House Republicans by suggesting a Senate vote was already lost, Sen. Ted Cruz (R-Tex.) vowed to do “anything possible” to defund the healthcare law, including a filibuster of a spending bill that kept it operating.

Yet it was clear that the strategy did not have unified Republican effort. Appearing on CNN, Sen. John McCain (R-Ariz.) said the effort to hollow out the healthcare law was doomed.

“In the U.S. Senate, we will not defund ObamaCare,” McCain said. “And to think we can is not rational.”

Boehner told reporters he expected the bill to pass Friday, and a few conservatives suggested it could gain nearly unanimous support from Republicans. Most Democrats are expected to oppose the measure over the defunding provision and a spending level of $986 trillion that maintains sequestration cuts.

#### GOP will back down now

Greg Giroux, Bloomberg, 9/20/13, Senate Budget Chief Sees Republican Yield on Debt Lifting, www.bloomberg.com/news/2013-09-19/senate-budget-chief-sees-republican-yield-on-debt-lifting.html

Republicans seeking to curb President Barack Obama’s health-care law probably will capitulate to demands from Democrats to enact a “clean” bill raising the nation’s debt ceiling, the Senate’s top Democratic budget writer said.

“I see no deals on the debt ceiling,” Senator Patty Murray of Washington state, who leads the Budget Committee, said in an interview on Bloomberg Television’s “Political Capital with Al Hunt” airing this weekend.

“The downside of not paying our bills is our credit-rating tanks,” Murray said. “That affects every family, every business, every community. It affects Main Street. It affects Wall Street.”

Murray said she also expects Republicans to relent on their demands for stripping spending from Obama’s health plan as part of action on a spending bill needed to keep the government running after Sept. 30.

#### Trends go neg—GOP crazies are uniting under Boehner

Ryan Grim, HuffPo, 9/19/13, Ted Cruz, Liberal Hero, May Have Just Bailed Washington Out Of The Shutdown Crisis , www.huffingtonpost.com/2013/09/19/ted-cruz-shutdown-house-republicans\_n\_3954461.html?utm\_hp\_ref=politics

In one moment, with one statement, Sen. Ted Cruz (R-Texas) managed Wednesday to accomplish what House GOP leaders, Republican senators and the Wall Street Journal editorial page had failed to do for months: Persuade rank-and-file House Republicans that shutting down the government in an attempt to defund Obamacare was simply impossible.

On Wednesday, after House leaders said they'd go forward with the defund strategy Cruz had been pitching with ads on Fox News, his response boiled down to 'Thanks, you're on your own.'

"Harry Reid will no doubt try to strip the defund language from the continuing resolution, and right now he likely has the votes to do so," Cruz said in a statement. "At that point, House Republicans must stand firm, hold their ground, and continue to listen to the American people."

On the surface, House Republicans were seething. Members openly accused Cruz and his allies, Sens. Mike Lee (R-Utah) and Marco Rubio (R-Fla.), of waving the white flag before the fight had even begun. One House GOP aide even called Cruz a "joke, plain and simple."

But by admitting that he had no ability in the Senate to back up the House effort to defund Obamacare, and saying so on the same day that House Republicans had announced they would support the Cruz-inspired strategy, Cruz has inadvertently done more than any other lawmaker to avert a government shutdown.

"Cruz officially jumped the shark this week," said one GOP operative allied with House leadership, who, like others, requested anonymity to speak critically about fellow Republicans. "He's doing for the House Leaders what they couldn't do for themselves. House rank-and-file members are uniting with Boehner, Cantor over Ted Cruz's idiotic position."

#### There’s sufficient negotiating room now

Matthew Yglesias, Slate, 9/18/13, The Odds of a Government Shutdown Are Falling, Not Rising, www.slate.com/blogs/moneybox/2013/09/18/government\_shutdown\_odds\_falling\_not\_rising.html

A Jonathan Weisman Ashley Parker piece headlined "House Bill Cuts Health Funds, Raising Odds of U.S. Shutdown" is going to alarm a lot of New York Times readers tomorrow morning.

But read on to the second graf of the piece and you'll see that the odds are not rising at all. What's happening is that John Boehner is preparing to pass an appropriations bill that also defunds Obamacare that he knows perfectly well stands no chance of passing, and he's hoping that doing this will placate the right wing of the his caucus for when he surrenders.

Here they explain:

 House leaders are hoping the vote on the defunding measure will placate conservatives once the Democratically controlled Senate rejects it. The House, they are betting, would then pass a stopgap spending measure unencumbered by such policy baggage and shift the argument to the debt ceiling, which must be raised by mid-October if the government is to avoid an economically debilitating default.

The key thing to remember here is that the House, as a discretionary decision, operates by the "Hastert Rule" in which only bills that are supported by a majority of GOP members can be brought to the floor for a vote. There is no Hastert-compliant appropriations bill that can pass the Senate. But there very likely is majority support in the House for the kind of "clean" funding bill that can also pass the Senate. All that has to happen is for John Boehner to violate the Hastert Rule. And the Hastert Rule isn't actually a rule, it's something Boehner has put aside many times. But it's also a rule he can't flagrantly ignore, lest his caucus get too grumpy and depose him. The operating theory here is that if Boehner has the whole House GOP indulge the maximalist faction by all passing a defuding bill, that creates enough room to move to later violate the Hastert Rule and pass a continuing resolution.

If anything is happening to the odds of a shutdown, in other words, they're falling, not rising.

Capital key determines uniqueness—overcomes House GOP opposition

Heidi Moore, The Guardian, 9/10/13, Syria: the great distraction, www.theguardian.com/commentisfree/2013/sep/10/obama-syria-what-about-sequester

Political capital – the ability to horse-trade and win political favors from a receptive audience – is a finite resource in Washington. Pursuing misguided policies takes up time, but it also eats up credibility in asking for the next favor. It's fair to say that congressional Republicans, particularly in the House, have no love for Obama and are likely to oppose anything he supports. That's exactly the reason the White House should stop proposing policies as if it is scattering buckshot and focus with intensity on the domestic tasks it wants to accomplish, one at a time.

The president is scheduled to speak six times this week, mostly about Syria. That includes evening news interviews, an address to the nation, and numerous other speeches. Behind the scenes, he is calling members of Congress to get them to fall into line. Secretary of State John Kerry is omnipresent, so ubiquitous on TV that it may be easier just to get him his own talk show called Syria Today.

It would be a treat to see White House aides lobbying as aggressively – and on as many talk shows – for a better food stamp bill, an end to the debt-ceiling drama, or a solution to the senseless sequestration cuts, as it is on what is clearly a useless boondoggle in Syria.

There's no reason to believe that Congress can have an all-consuming debate about Syria and then, somehow refreshed, return to a domestic agenda that has been as chaotic and urgent as any in recent memory. The President should have judged his options better. As it is, he should now judge his actions better.

Produces a budget compromise even if it looks impossible now

Joe Klein, TIME, 9/11/13, Obama and Syria: Stumbling Toward Damascus, swampland.time.com/2013/09/11/obama-and-syria-stumbling-toward-damascus/

There are domestic consequences as well. This was supposed to be the month when the nation’s serious fiscal and budgetary problems were hashed out, or not, with the Republicans. There was a chance that a coalition could be built to back a compromise to solve the debt-ceiling problem and the quiet horrors caused by sequestration and to finally achieve a long-term budget compromise. But any deal would have required intense, single-minded negotiation, including political protection, or sweeteners, for those Republicans who crossed the line. Precious time has been wasted. And, after Syria, it will be difficult for any member of Congress to believe that this President will stick to his guns or provide protection.

Obama’s capital will be effective on the budget

John Harris, Politico, 9/18/13, What’s wrong with President Obama?, dyn.politico.com/printstory.cfm?uuid=B56971FB-BD77-47B8-8EF0-DC47E9CD7FC6

With big tests now looming on the budget and immigration, there could hardly be a better time for Obama to show at last that he has the ability to provide cover to the people who support him on difficult issues, and the ability to punish the people who choose a different path.

#### Obama has capital, especially relative to the House GOP

Todd Purdum, Politico, 9/18/13, And what’s right with President Obama?, dyn.politico.com/printstory.cfm?uuid=91B846ED-7F4F-45E7-9982-E926DCD7CC77

Though the trend lines are not as steady this year as they have typically been in the past, Obama’s favorability rating has largely stayed above water in major public opinion surveys, with a recent Fox News telephone poll clocking his favorability at 50 percent, to 46 percent unfavorable. • His normality The presidency has long attracted neurotic personality types, but Obama is not among them. He has a healthy ego, but his longstanding ability to coolly assess his circumstances and then adapt to them means that he is still better positioned than most of his peers to work his way out of problems. He has always been best with his back against the wall. He may not be Harry Truman or Jerry Ford, taking brisk walks about town or toasting his own English muffins, but it’s hard to imagine that he would ever slide into LBJ-style meltdown or Nixonian paranoia. His wife and daughters — and their nightly family dinners above the store — may put a crimp in his Washington social life and his willingness to wine and dine allies or enemies, but they doubtless keep him an honest dad. In his first campaign and throughout the troubles of his tenure, he has kept perspective, often telling David Axelrod, “If things don’t work out, I’ve already got a pretty good gig being Barack Obama.” Like Truman, who called his wife, Bess, “The Boss,” Obama makes it clear that divided opinion on topics like Syria starts in his own backyard. “I’m taking this vote in Congress and what the American people are saying very seriously,” he said last week. “Because if you ask somebody, you know, I read polls like everybody else. And if you ask somebody, if you ask Michelle, ‘Do we want to be involved in another war?’ the answer is no.” • His enemies Simply put, Obama’s positions on the issues are vastly more popular than the extreme views of his die-hard opponents in Congress and the right-wing echo chamber. Ronald Reagan showed what an asset this could be, withstanding the withering condescension of the left because he had the folks in the middle. Newt Gingrich (sort of) learned the same lesson in reverse in his dealings with Bill Clinton. Has Ted Cruz? Not so much. Americans’ views of Congress, driven down in the summer of 2011 over the last debt-ceiling standoff, “have never recovered,” a Pew Research Center survey reported this summer. Just 21 percent of Americans said they regarded the institution favorably (a level that Sen. John McCain said to “paid staff and blood relatives”). Pew found that the Republican brand is also faring miserably, with a 33 percent national favorability rating “among the most negative ratings for the party in 20 years of polling.” Those numbers may not change the cold electoral math for Democratic congressional candidates in next year’s midterm election, but they give Obama a respectable argument to make on the hustings. • His party The arc of American politics is long, but at the moment, it bends toward the Democrats. For all his troubles, Obama has the good fortune to govern at a time when long-term demographic and ideological trends are breaking in the direction of his party. Sharp divisions on social issues like gay marriage — divisions that in Clinton’s day bedeviled the Democrats and as recently as eight years ago gave the GOP a sharp electoral edge, have largely been put to rest in the top tier of the Democratic Party and among its younger ranks, and to a lesser degree, among some Republicans as well. A growing Latino voting-age population is bolstering the Democrats’ hopes in the West. And for the time being, the Democrats still enjoy a strong edge in digital campaigning and data harnessing that is likely to become one of the Obama campaign’s legacies in down-ballot elections to come. The president and his party look more like the emerging post-millennial America than their opponents do. However weak Obama’s hand looks on some days, no one would rather be holding John Boehner’s cards — much less those of the fractious potential 2016 GOP field.

Obama has a small window for the budget debate—his capital is key to resolution

AP, 9/12/13, Syria debate on hold, Obama refocuses on agenda, www.timesleader.com/news/apbusiness/569385542543256648058/Syria-debate-on-hold-Obama-refocuses-on-agenda

With a military strike against Syria on hold, President Barack Obama tried Thursday to reignite momentum for his second-term domestic agenda. But his progress could hinge on the strength of his standing on Capitol Hill after what even allies acknowledge were missteps in the latest foreign crisis.

"It is still important to recognize that we have a lot of things left to do here in this government," Obama told his Cabinet, starting a sustained White House push to refocus the nation on matters at home as key benchmarks on the budget and health care rapidly approach.

"The American people are still interested in making sure that our kids are getting the kind of education they deserve, that we are putting people back to work," Obama said.

The White House plans to use next week's five-year anniversary of the 2008 financial collapse to warn Republicans that shutting down the government or failing to raise the debt limit could drag down the still-fragile economy. With Hispanic Heritage Month to begin Monday, Obama is also expected to press for a stalled immigration overhaul and urge minorities to sign up for health care exchanges beginning Oct. 1.

Among the events planned for next week is a White House ceremony highlighting Americans working on immigrant and citizenship issues. Administration officials will also promote overhaul efforts at naturalization ceremonies across the country. On Sept. 21, Obama will speak at the Congressional Black Caucus Gala, where he'll trumpet what the administration says are benefits of the president's health care law for African-Americans and other minorities.

Two major factors are driving Obama's push to get back on track with domestic issues after three weeks of Syria dominating the political debate. Polls show the economy, jobs and health care remain Americans' top concerns. And Obama has a limited window to make progress on those matters in a second term, when lame-duck status can quickly creep up on presidents, particularly if they start losing public support.

#### Proves the pounders have not spilled-over—the plan pushes it past the breaking point

Rebekah Metzler, US News, 9/13/13, Obama's Plunging Approval Threatens Fall Agenda, Lexis

A raft of issues have contributed to President Barack Obama's falling approval numbers, which have now dipped well below 50 percent in the year since he won re-election. According to an average by RealClearPolitics.com, just 44 percent of the public approves of his performance, while 51 percent disapprove. But for a president free from facing the voters again, his main concern is whether or not he can rebound to a position that helps Democrats going into the 2014 midterm elections and allows him to effectively push for his policy goals throughout the remainder of his presidency. "His wavering approval rating is not good news for having leverage for dealing with Congress," says Kay Lehman Schlozman, a political science professor at Boston College. "On the other hand, it's not the kind of disaster zone approval rating that, for example, George W. Bush had at the end of his second term." The Syria issue has been hoarding the most public attention of late, something particularly troublesome for Obama. "As a student of public opinion, I've been impressed to the extent to which there's been less support for this kind of foreign policy move than many, many in the past," says Schlozman. "And that means the American people are paying some attention. It's just not as clear that American interests are at stake." Recent polling shows just about one-third of Americans favor Obama's proposal of limited military strikes in response to reported chemical weapons use by Syrian President Bashar Assad, which killed more than 1,400 Syrians, including 400 children. Whit Ayers, a Republican pollster, says the administration's seeming lack of decisiveness and leadership with regard to Syria has deeply damaged Obama's reputation with the public. "It's downright embarrassing and anytime the administration acts in a way that embarrasses the country in front of the world, it's not helpful for the president's job approval," he said. But there's still time for Obama to turn things around, Ayers said. "Performance and events can turn things around, but it's got to be performance and events unlike those we have seen in recent months," he said. This fall, Obama and Congress are scheduled for showdowns on federal spending, the debt ceiling, Senate approval of a new Federal Reserve chairman, among other weighty issues like immigration reform. His chances for notching wins depends on how quickly he can right the ship, the experts said.

#### Their ev is overhyping minor fights

Naureen Khan, Al Jazeera America, 9/11/13, Obama pays high political price for fumbling on Syria, america.aljazeera.com/articles/2013/9/11/obama-pays-high-politicalpriceforhandlingofsyria.html

Some of the president’s allies said he had shown strength but that a diplomatic solution would be in the administration’s best interest. “The president is going to be fine. He has stood strong, he got (Osama) bin Laden and he has not wavered one bit,” Rep. Elijah Cummings, D-Md., told Al Jazeera America. “If this deal goes through, and I think it will, because I think the president will make it go through … he will look like a hero.” Sabato too said that it would be premature to predict doom for the rest of the Obama term. “It’s too soon to say, and people are always too quick to extrapolate the rest of the year, the rest of the term,” he said. "He has three and a half years left, and a million things could happen between now and then."

#### Obama has enough capital post-Syria for a budget deal

Paul Koring, Globe and Mail, 9/16/13, Obama faces fall showdown with Congress , www.theglobeandmail.com/news/world/obama-faces-fall-showdown-with-congress/article14329090/

With war against Syria averted, or perhaps postponed, U.S. President Barack Obama can turn again to September’s anticipated battles against his still-implacable Republican opponents.

Looming is a Sept. 30 deadline for Congress to fund ongoing government operations – everything from food stamps to new bullets – and a showdown is shaping up between a weakened President and Republicans riven by their own divisions.

Then, some time in October, the U.S. Treasury will face another crisis as it reaches its borrowing limit. Without an increase, which some Republicans want to block, the U.S. government could face default. Meanwhile, hopes for progress on major policy initiatives such immigration reform, long expected to be the big legislative issue this fall, are fading.

As hostile as relations are, some observers suggest the averted showdown over Syria – it’s now widely accepted that Congress would have rejected Mr. Obama’s call for an authorization of force had it gone to a vote – didn’t make things any worse.

“We don’t know what September would have looked like in the absence of the Syria issue but my guess is that it would have looked an awful lot like it looks today,” said Sarah Binder, a senior fellow at the Brookings Institution who watches Congress closely.

“These divisions over spending and size of government have been with us all along and the [Republican] opposition to Obama has been quite strong all along. … Set aside the issue of Syria and really nothing has changed.”

The President’s handling of Syria has hurt him, according to some. Mr. Obama “seems to be very uncomfortable being commander-in-chief of this nation,” said Senator Bob Corker, a Tennessee Republican, adding it left the President “ a diminished figure here on Capitol Hill.”

Americans strongly opposed military intervention in Syria but they still want their presidents to command global respect. Mr. Obama’s embrace of Russian help on Syria may enhance his image internationally as a conciliator but, at home, it can be seen as seen as weak – or vacillating. Americans want their presidents to speak softly and carry a big stick, even if they are also weary of overseas wars.

In turn, despite the President’s impressive oratory, he may be wearing out his bully pulpit. Powerful speeches have failed, so far – on gun control, budget reform and immigration – and now the President has spent more scarce second-term political capital wooing congressional leaders on Syrian strikes that may never materialize.

The mood is ugly on Capitol Hill and it’s made worse by warnings that delays and the time spent talking about Syria may cost members the week off they had planned starting Sept 23.

With the President’s approval rating plunging – and backing for “Obamacare” slipping below 40 per cent – the right wing of the Republican party is seeking ways to “defund” the ambitious health-care program. The most recent Pew Research Center poll, published last week, put the President’s approval at 44 per cent, down 11 points over a year ago.

On Capitol Hill, it’s a three-cornered fight, with Mr. Obama facing off against the Republican-dominated House of Representatives and the Republicans in Congress bitterly divided over whether it’s worth pushing the nation over a fiscal cliff to drive a stake into the President’s health-care program.

One grand plan that would have funded the government, raised the debt ceiling and delayed Obamacare for a year seems dead on arrival The President “will never accept anything that delays or defunds” health care, White House spokesman Jay Carney said last week.

Everyone has an eye on the 2014 elections and frustrations are threatening to boil.

 “The anarchists have taken over,” railed Senator Harry Reid, the Nevada Democrat and Majority leader. He accused the Republican leadership of allowing the party’s right wing to block efforts at finding a deal.

“We’re in a position here where people who don’t believe in government – and that’s what the Tea Party is all about – are winning,” Mr. Reid said.

Republican Leader Speaker John Boehner, who backed the President on Syria and irked those in his party who want Mr. Obama opposed on everything, still says that a deal can be found.

“I think there’s a way to get there,” he said late last week, before droves of legislators headed home for a three-day weekend. “There are a million options,” he added.

But even as Mr. Obama’s approval ratings have dropped sharply, they still remain well above the abysmal levels recorded by Congress.

The plan causes Obama to use necessary political capital for budget debates to unsuccessfully preserve his war power authority

Carrie Budoff Brown, Jake Sherman, Politico, 9/4/13, President Obama’s political capital spreads thin, dyn.politico.com/printstory.cfm?uuid=59456290-12C8-4DCA-970E-0856C9FA6E6C

President Barack Obama faced a heavy lift in Congress this fall when his agenda included only budget issues and immigration reform.

Now with Syria in the mix, the president appears ready to spend a lot of the political capital that he would have kept in reserve for his domestic priorities.

A resolution authorizing the use of force in Syria won’t make it through the House or the Senate without significant cajoling from the White House. That means Obama, who struggles to get Congress to follow his lead on almost everything, could burn his limited leverage convincing Democrats and Republicans to vote for an unpopular military operation that even the president says he could carry out with or without their approval.

“The only effect is — and I don’t mean this to be dismissive in any way — it will be taking up some time and there be some degree of political capital expended by all,” said Sen. Bob Corker (R-Tenn.), the Foreign Relations Committee ranking member who helped draft the Senate resolution. “At the end of the day, it’s a tough vote for anybody because the issue is trying to draft an authorization knowing that they’re going to implement it.”

The West Wing says it’s too early to know how Obama’s surprise decision to seek congressional authorization will affect the rest of his agenda, but his advisers are betting that a win could usher in other domestic successes. A failed vote, however, would undoubtedly weaken him.

A senior administration official said the effort could build some trust between the White House and Republicans that might ease tensions in negotiations over the budget and other issues.

White House aides have long argued that success begets success. Their latest test of that theory was the broad bipartisan Senate vote for comprehensive immigration reform bill, which was supposed to compel the House to act. So far, it has not — and House Republicans don’t think the Syria vote will be any different.

“The idea that passing the authorization for use of military force in Syria would give the administration more leverage in future political debates is absurd,” one senior GOP leadership aide said. “They are currently spending political capital they don’t have.”

#### Default collapses the global economy

Adam Davidson, NYTimes, 9/10/13, Our Debt to Society, http://www.nytimes.com/2013/09/15/magazine/our-debt-to-society.html?pagewanted=all&\_r=0

This is the definition of a deficit, and it illustrates why the government needs to borrow money almost every day to pay its bills. Of course, all that daily borrowing adds up, and we are rapidly approaching what is called the X-Date — the day, somewhere in the next six weeks, when the government, by law, cannot borrow another penny. Congress has imposed a strict limit on how much debt the federal government can accumulate, but for nearly 90 years, it has raised the ceiling well before it was reached. But since a large number of Tea Party-aligned Republicans entered the House of Representatives, in 2011, raising that debt ceiling has become a matter of fierce debate. This summer, House Republicans have promised, in Speaker John Boehner’s words, “a whale of a fight” before they raise the debt ceiling — if they even raise it at all.

If the debt ceiling isn’t lifted again this fall, some serious financial decisions will have to be made. Perhaps the government can skimp on its foreign aid or furlough all of NASA, but eventually the big-ticket items, like Social Security and Medicare, will have to be cut. At some point, the government won’t be able to pay interest on its bonds and will enter what’s known as sovereign default, the ultimate national financial disaster achieved by countries like Zimbabwe, Ecuador and Argentina (and now Greece). In the case of the United States, though, it won’t be an isolated national crisis. If the American government can’t stand behind the dollar, the world’s benchmark currency, then the global financial system will very likely enter a new era in which there is much less trade and much less economic growth. It would be, by most accounts, the largest self-imposed financial disaster in history.

Nearly everyone involved predicts that someone will blink before this disaster occurs. Yet a small number of House Republicans (one political analyst told me it’s no more than 20) appear willing to see what happens if the debt ceiling isn’t raised — at least for a bit. This could be used as leverage to force Democrats to drastically cut government spending and eliminate President Obama’s signature health-care-reform plan. In fact, Representative Tom Price, a Georgia Republican, told me that the whole problem could be avoided if the president agreed to drastically cut spending and lower taxes. Still, it is hard to put this act of game theory into historic context. Plenty of countries — and some cities, like Detroit — have defaulted on their financial obligations, but only because their governments ran out of money to pay their bills. No wealthy country has ever voluntarily decided — in the middle of an economic recovery, no less — to default. And there’s certainly no record of that happening to the country that controls the global reserve currency.

Like many, I assumed a self-imposed U.S. debt crisis might unfold like most involuntary ones. If the debt ceiling isn’t raised by X-Day, I figured, the world’s investors would begin to see America as an unstable investment and rush to sell their Treasury bonds. The U.S. government, desperate to hold on to investment, would then raise interest rates far higher, hurtling up rates on credit cards, student loans, mortgages and corporate borrowing — which would effectively put a clamp on all trade and spending. The U.S. economy would collapse far worse than anything we’ve seen in the past several years.

Instead, Robert Auwaerter, head of bond investing for Vanguard, the world’s largest mutual-fund company, told me that the collapse might be more insidious. “You know what happens when the market gets upset?” he said. “There’s a flight to quality. Investors buy Treasury bonds. It’s a bit perverse.” In other words, if the U.S. comes within shouting distance of a default (which Auwaerter is confident won’t happen), the world’s investors — absent a safer alternative, given the recent fates of the euro and the yen — might actually buy even more Treasury bonds. Indeed, interest rates would fall and the bond markets would soar.

While this possibility might not sound so bad, it’s really far more damaging than the apocalyptic one I imagined. Rather than resulting in a sudden crisis, failure to raise the debt ceiling would lead to a slow bleed. Scott Mather, head of the global portfolio at Pimco, the world’s largest private bond fund, explained that while governments and institutions might go on a U.S.-bond buying frenzy in the wake of a debt-ceiling panic, they would eventually recognize that the U.S. government was not going through an odd, temporary bit of insanity. They would eventually conclude that it had become permanently less reliable. Mather imagines institutional investors and governments turning to a basket of currencies, putting their savings in a mix of U.S., European, Canadian, Australian and Japanese bonds. Over the course of decades, the U.S. would lose its unique role in the global economy.

The U.S. benefits enormously from its status as global reserve currency and safe haven. Our interest and mortgage rates are lower; companies are able to borrow money to finance their new products more cheaply. As a result, there is much more economic activity and more wealth in America than there would be otherwise. If that status erodes, the U.S. economy’s peaks will be lower and recessions deeper; future generations will have fewer job opportunities and suffer more when the economy falters. And, Mather points out, no other country would benefit from America’s diminished status. When you make the base risk-free asset more risky, the entire global economy becomes riskier and costlier.

#### Syria validates the link thesis, but the deal and lack of a vote mean it won’t impact the short-term agenda—that’s all that matters!

Matthew Baum, AlJazeera America, 9/16/13, Obama's good fortune on Syria, america.aljazeera.com/articles/2013/9/16/obama-opinion-pollingsyria.html

Secretary of State John Kerry's announcement Saturday morning of a framework agreement with Russia on dismantling Syrian President Bashar al-Assad's chemical weapons arsenal capped (for now, at least) what undoubtedly has been one of the most bizarre episodes in memory for U.S. foreign policy. In the span of two weeks, U.S. plans caromed from the seemingly imminent use of force to a surprise time-out for consultation with Congress to a full-throttled presidential media blitz on the need for military strikes to slamming on the brakes and calling off the congressional vote in favor of renewed diplomacy with Russia, the U.S.'s erstwhile nemesis on Syria. The Obama administration undoubtedly dodged a very large domestic political bullet, at least in the short term. The president took a calculated but substantial risk when he decided to slow the seemingly inexorable march toward military action against Syria and invite Congress to weigh in on the matter. All available evidence suggests that even if he somehow managed to persuade a reluctant Senate to go along, House approval was improbable at best. Had he lost a congressional vote on a military strike, the costs in political capital at home and credibility abroad, as well as to the executive branch itself, could have been severe. The administration did not help its case or its public image by issuing cringe-worthy pronouncements, such as Kerry's promise that any military strike would be "unbelievably small." This forced Obama to reassure the American people that the U.S. military "does not do pinpricks." Satirists from "The Daily Show" to "Saturday Night Live" were doubtless exchanging high fives. On the other hand, Kerry's seemingly off-the-cuff offer to call off military action if Assad agreed to surrender his chemical weapons turned out to be extraordinarily good political fortune. Surely Kerry did not anticipate that Russia and Syria would call his bluff. Yet they did, thereby taking the impending congressional vote -- and with it a potentially epic domestic political and international diplomatic fiasco -- off the table and the front pages. For the president, this change of subject came not a moment too soon. In a CNN/ORC International poll taken on the eve of his Sept. 10 prime-time television address on Syria, public approval for his handling of foreign affairs reached a new low of 40 percent, while only 31 percent approved of his handling of the situation in Syria. At the same time, numerous surveys found fewer than 30 percent of Americans supported U.S. military action in Syria, and Obama's overall approval rating dipped to 43.5 percent in Gallup's tracking poll. One should not make too much of opinion polls taken prior to a military intervention, yet these numbers make Syria among the least popular proposed U.S. military interventions in recent memory. By comparison, in several surveys leading up to the 2011 U.S.-led intervention in Libya, half or more of the public supported the plan to establish a no-fly zone, and 43 percent approved of the administration's handling of that crisis. Despite the surreal nature of the past two weeks' events, it is worth considering that had the administration announced such a diplomatic breakthrough before the decision to consult Congress, the media likely would have been abuzz with stories of Obama's diplomatic prowess. As it is, a more positive media narrative may yet replace or at least challenge the current dominant media representation of a feckless president stumbling and improvising his way through a crisis. Revisionist accounts have already arisen, asserting that Kerry's comments actually represented a policy option that the U.S. and Russia had been discussing for over a year. Granted, whatever the origins of the deal, it is far from done. The U.S. and Russia are already bickering over the number of Syrian-government-controlled chemical weapons sites to be disarmed. Assad may engage in a Saddam Hussein–like cat-and-mouse game with U.N. inspectors, attempting to thwart or at least delay their efforts. And the consequences if Assad fails to fully cooperate are uncertain at best. Referral to the U.N. Security Council faces veto by Russia and China of any resolution to authorize military force. Even if every dispute can be resolved, safely dismantling all of Assad's chemical weapons would be a daunting task even absent an ongoing civil war. Regardless, unless the deal with Russia collapses, the chances are very good that a month from now the media and public will have moved on from Syria to focus on an array of pressing domestic issues, including looming showdowns between the White House and congressional Republicans over the budget and the debt ceiling and the launch of critical elements of the Affordable Care Act. According to a Sept. 11 Gallup poll, despite all the attention heaped on Syria, Americans rate it as only the fifth most important problem facing the nation, well behind a host of domestic concerns. Whether or not Syria is ultimately disarmed and if the process drags on for many months or years, the ultimate success or failure of Obama's second term may rest far less on Syria than on those imminent domestic political battles and, of course, the state of the economy, where his approval rating stood at a precarious 43 percent in the CNN/ORC International poll -- just one percentage point higher than his approval rating on health care policy.

#### Syria out of the agenda now—Obama’s strong—there wont’ be any hiccups in the Russia deal

Fred Kaplan, Slate, 9/14/13, A Win-Win-Win for Everyone (Except the Syrians), www.slate.com/articles/news\_and\_politics/war\_stories/2013/09/the\_u\_s\_russian\_chemical\_weapons\_deal\_is\_a\_win\_win\_win\_for\_everyone\_except.single.html

It should be no surprise that U.S. and Russian diplomats struck a deal to get rid of Syria’s chemical weapons so quickly. Both nations had strong converging interests to do just that. Diplomacy becomes almost easy under those circumstances. Russian leaders have always been keen to block the spread of weapons of mass destruction. During Soviet days, the Kremlin was far fiercer—and more effective—at keeping nukes out of the hands of the Warsaw Pact nations than the White House was at keeping them away from its NATO allies. It’s not that Soviet premiers had a deeper dread of nuclear war than American presidents. It’s that they had a greater need to impose control over their client states. In this sense, it’s likely that Russian President Vladimir Putin was horrified when Syrian President Bashar al-Assad (or his henchmen) started firing rockets loaded with nerve gas. The horror stemmed not so much from the casualties as from the chaos it would set in motion. Assad’s move made him a client out of control; it suddenly aroused the ire of Westerners who had been kept at bay through two years of bloody mayhem and who were now seriously thinking of—or being pressured into—intervening militarily. When Secretary of State John Kerry fatefully (who knows how casually?) remarked that the United States would halt its preparations for airstrikes if Assad destroyed his chemical arsenal, Putin said, “It’s a deal,” then muscled Assad to agree. Several U.S. neocons scoffed that Putin’s gambit was merely a ploy to buy time, elevate his stature in the Middle East, and make President Barack Obama look weak. There was something to this, but the critics left out another motive, and I think the prime one: Putin really wanted to get rid of Assad’s chemical weapons and the instability they were bound to set off. It is certainly true that Putin went about this very cleverly. Obama had said that airstrikes would be “limited,” designed strictly to “deter” Assad from firing more chemical weapons and to “degrade” his ability to do so. In his public statements, Obama had also said that his long-term goal was to reach a political settlement to the Syrian civil war, a settlement that would involve Assad’s departure. But the airstrikes, he said, were a separate matter; an outsider’s military power could not help one side or another win a civil war. Putin must have seen this distinction as confusing at best, duplicitous at worst. War, after all, is by nature political; military strikes always have political objectives. This is why he had so firmly opposed any talk of punishing Assad for using chemical weapons: He figured that U.S. airstrikes in Syria would be a pretense or prelude to deeper intervention and “regime change.” However, when Kerry said that dismantling the weapons might halt the juggernaut of U.S. military action, Putin saw an opening. He took the narrowest slice of Obama’s rhetoric literally: that the coming airstrikes were strictly about Assad’s chemical weapons. OK, then, Putin replied: I’ll help to remove those chemical weapons, and you call off the airstrikes. End of story. And so, assuming all goes according to plan, Assad loses his stash of deadly chemicals—but he stays in power, at least for the time being, and the Russian Federation re-emerges as a serious player in Middle Eastern politics. A win-win-win for Putin. At the same time, Obama can cite his threat to use force as the reason Putin suddenly swung into action (this might even be true, to some extent). He can thus take at least joint credit for ridding Syria of chemical weapons and upholding international law. And he is saved from having to make good on letting Congress vote on whether to authorize the use of force—a vote that he seemed all but certain to lose. A win-win-win for Obama. The only losers in this diplomatic venture are the Syrians. They’re stuck with Assad, and the civil war rages on. But this is how things were before the sarin strike of Aug. 21, which pushed Obama across a red line he didn’t want to cross all by himself—and then pushed him into a compounding crisis of his own making when it became clear that no other institution (not the United Nations, NATO, the Arab League, or the U.S. Congress) wanted to cross with him. This, by the way, is another reason why it should have been obvious from the beginning that Putin wanted his proposed deal to work. If his goal was simply to humiliate Obama, he could have waited for the House of Representatives to vote down the authorization to use force. The fact is, no Russian leader, particularly an authoritarian ex-KGB man like Putin, could have believed for a moment that a foreign leader—especially a U.S. president—would back away from the threat of military action simply because the legislature opposed it. In this sense, Obama’s wavering rhetoric might have thrown Putin into a deeper panic, for Russian leaders have found unpredictable opponents to be at least as fearsome as strong ones. And yet, Assad cannot help but come out of this deal weaker than before. First, he has had to admit that he has chemical weapons—and in fact to lead foreign inspectors to their sites—after earlier denying that he had any. (The sign of weakness here isn’t the admission of a lie but the necessity to come clean.) Second, he has had to submit to a deal struck by two outside powers; he can no longer present himself—to his people, his enemies, or perhaps most fatefully, to his military officers—as a strong, independent ruler. He appears to be, instead, Putin’s lackey and perhaps even Obama’s manservant. It is also worth noting that the “Framework for Elimination of Syrian Chemical Weapons,” which Kerry and Russian Foreign Minister Sergey Lavrov signed in Geneva, is a tough document, as far as these things go. The Syrians must submit a record of their stockpile within a week. The weapons and assorted equipment (launchers, precursors, etc.) are to be removed and destroyed, under international inspection and control, in the first half of 2014. And if Syria doesn’t comply with any part of it, the matter gets referred to the U.N. Security Council in a Chapter VII resolution—that is, a resolution that includes enforcement through the use of force. True, the Russians may veto this resolution, but it is a rare thing for them to permit even the hypothetical drafting of such a thing—and if Russia does veto it, the hypocrisy would be clear, and Obama might have a stronger hand in Congress for carrying out the airstrikes after all. It’s also true, as Obama’s critics say, that verification will be difficult. It’s much easier to hide chemical agents than, say, nuclear missiles. But, again, Russia has a very strong interest in getting rid of these weapons, and Russia is also the only entity separating Assad from a firing squad. Assad knows that Russia needs an ally in Damascus and that he has been a faithful ally; however, he probably also knows that others could step to the throne in his place. He needs Russia more than Russia needs him personally; the Russians have a lot of leverage in this deal, and he has very little.