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## Warming

### Warming – Yes Tipping Point

#### Tipping points are likely – leads to runaway warming

Guterl 12 – Editor @ Scientific American

(Fred, “Climate Armageddon: How the World's Weather Could Quickly Run Amok: Climate scientists think a perfect storm of climate "flips" could cause massive upheavals in a matter of years, http://www.scientificamerican.com/article.cfm?id=how-worlds-weather-could-quickly-run-amok)

One of the most productive scientists in applying dynamical systems theory to climate is Tim Lenton at the University of East Anglia in England. Lenton is a Lovelockian two generations removed— his mentors were mentored by Lovelock. "We are looking quite hard at past data and observational data that can tell us something," says Lenton. "Classical case studies in which you've seen abrupt changes in climate data. For example, in the Greenland ice-core records, you're seeing climate jump. And the end of the Younger Dryas," about fifteen thousand years ago, "you get a striking climate change." So far, he says, nobody has found a big reason for such an abrupt change in these past events—no meteorite or volcano or other event that is an obvious cause—which suggests that perhaps something about the way these climate shifts occur simply makes them sudden. Lenton is mainly interested in the future. He has tried to look for things that could possibly change suddenly and drastically even though nothing obvious may trigger them. He's come up with a short list of nine tipping points—nine weather systems, regional in scope, that could make a rapid transition from one state to another. Each year, the sun shines down on the dark surface of the Indian Ocean, and moist, warm air rises and forms clouds. This rising heat and the moisture form a powerful weather system, a natural pump that pulls up water and moves it in vast quantities hundreds of miles to the mainland. This is the Indian monsoon, which deposits rainfall on thousands of square miles of farmland. About a billion people, most of them poor, depend for their daily bread on crops that depend in turn on the reliability and regularity of the Indian monsoons. India is a rapidly developing country with hundreds of millions of citizens who want to move into the middle class, drive cars and cool their homes with air-conditioning. It is also a country of poor people, many who still rely on burning agricultural waste to heat their homes and cook their suppers. Smoke from household fires has been a big source of pollution in the subcontinent, and it could disrupt the monsoons, too. The soot from these fires and from automobiles and buses in the ever more crowded cities rises into the atmosphere and drifts out over the Indian Ocean, changing the atmospheric dynamics upon which the monsoons depend. Aerosols (soot) keep much of the sun's energy from reaching the surface, which means the monsoon doesn't get going with the same force and takes longer to gather up a head of steam. Less rain makes it to crops. At the same time, the buildup of greenhouse gases, coming mainly from developed countries in the northern hemisphere, has a very different effect on the Indian summer monsoons: it acts to make them stronger. These two opposite influences make the fate of the monsoon difficult to predict and subject to instability. A small influence—a bit more carbon dioxide in the atmosphere, and a bit more brown haze—could have an out- size effect. Lenton believes that the monsoons could flip from one state to another as quickly as one year. What happens then is not a question that Lenton can answer with certainty, but he foresees two possibilities. One is that the monsoons grow in force and intensity, but come less frequently. We have already seen hints of this in the newspapers. In the last few years rains have grown erratic and less frequent, but when they do come, they tend to dump an enormous amount of water, and in places where they wouldn't normally do so. This is almost as bad for farmers as drought, since the rain falls on parched ground with extra force, and much of it runs off without soaking into the ground, and it causes damage to boot by washing away soil and plants. The flooding that devastated Pakistan in 2011 is a case in point. If this trend continued and strengthened in intensity, it would be bad news for the two thirds of the Indian workforce that depends on farming. It would be nasty for the Indian economy—agriculture accounts for 25 percent of GDP. A permanently erratic and harsh monsoon would depress crop yields, increase erosion on farms, and cause a rise in global food prices as India is forced to import more food. The other possibility is even worse: the monsoons could shut down entirely. This would be an unmitigated catastrophe. A sudden stopping of monsoon rain, which accounts for 80 percent of rainfall in India, could throw a billion people into danger of starvation. It would change the Indian landscape, wiping out native species of plants and animals, force farms into bankruptcy, and exacerbate water shortages that are already creating conflict. The Indian government would almost certainly be unable to cope with a disaster of such proportions. Refugees by the hundreds of millions would stream into big cities such as Mumbai and Bangalore, looking for some hope of survival. It would create a humanitarian crisis of unprecedented proportions. Lenton foresees a similar danger of sudden change in the West African monsoon, the second tipping point. Tipping point number three in Lenton's list is the sea ice of the north pole. For years the ice has been thinning and retreating more and more during the summer. Soon it may disappear completely during the summer months. We may already have reached this tipping point—a transition to a new state in which the north pole is ice-free during summer months is already at hand. Eventually the north pole may flip and be free of ice year-round. The knock-on effects of such a transition would be huge—they would cause marked increase of warming at the pole, since open water absorbs more of the sun's energy than ice-covered seas. The effect of a year-round ice-free north pole would be like heating Greenland on a skillet. The fourth tipping point is Greenland's glaciers, which hold enough water to cause sea levels to rise by more than twenty feet. It takes a while for that much ice to melt, of course. Currently, the Intergovernmental Panel on Climate Change projections say it will take on the order of a thou- sand years. Scientists currently don't have a good handle on how such a big hunk of ice melts. For plenty of reasons it could happen much more quickly—recent observations suggest that the melting has not only exceeded what models predict, but has also begun to accelerate. A marked retreat of ice in coastal areas has led to an infusion of ocean water, which is relatively warm and promotes melting. All this leads Lenton to conclude that the Greenland ice sheets could make a transition to an alternate state in three hundred years, rather than a thousand or more. Such a quick melting of Greenland would have a knock-on effect on the ocean currents that run up the Atlantic, bringing warmth to northern Europe and Scandinavia, the Atlantic thermohaline circulation. A sudden change in this current could plunge much of Europe back into an ice age. Scientists were getting nervous about this possibility a few years ago, until further research suggested that any switch in current is a long way off—perhaps a thousand years off. Lenton argues that an accelerated melting of Greenland would throw more freshwater on the northern Atlantic than these reassuring calculations have taken into account. "The canary in the coal mine is the Arctic losing its summer sea-ice cover," says Lenton. "I am really worried about the Greenland ice sheet. It's already losing mass and shrinking." If Greenland flipped into a completely ice-free state, it would cause massive rises in sea level—on the order of six or seven meters. Even if this took three hundred years to happen, "it would be an absolute disaster," says Lenton, "a real game changer." At such a rate of sea-level rise, it would be- come more and more difficult to protect coastlines. Low-lying areas would have to be abandoned. That includes cities such as New York, Los Angeles, San Francisco, London, Tokyo, and Hong Kong, not to mention the entire state of Florida and vast swaths of Indochina. Tipping point number six—the west Antarctic ice sheet—is even scarier. It has enough ice on it to raise sea levels by about eighty meters. The ice is melting, but slowly—most worst-case scenarios give the ice centuries to melt. But there are some niggling doubts about whether the West Antarctic Ice Sheet could calve into the sea more quickly than expected, as the glaciers contract. If that happened, it would push sea levels up by five meters in as short a time as a century. Most experts consider this unlikely, but if it did happen, Lenton thinks the sheet could flip in as little time as three hundred years—three times faster than most models predict. Water and ice aren't the only worries. The Amazon rain forest, the seventh of Lenton's tipping points, is also in jeopardy. Rain forests are always pretty wet, but they have dry seasons, and those dry seasons turn out to be a limiting factor on the survival of flora and fauna. As loggers reduce the number of trees that produce moisture to feed the gathering rains, the drier the dry seasons get, and the longer they last. Lately dry seasons in the Amazon have gotten more severe and have put a crimp on the survival of many of the trees that form the forest canopy, which is the backbone of the rain-forest ecosystem. As the dry season continues to lengthen, the flora draw more and more water from the soil, which eventually begins to dry out. The trees get stressed and begin to die. There's more fodder on the forest floor for wildfires. This is not hypothetical; it's already begun to happen. We saw this during the estimated twelve thousand wildfires that occurred in the Amazon during the drought of 2010. As the forest loses more and more trees, it loses its ability to feed the weather patterns with warm, moist air. If and when the Amazon flips into a drier state, it would have an big effect of weather patterns. The Amazon is basically a big spot of wet tropics. Knock out the trees and lose that moist air, and the regional circulation pattern changes as well. A similar flip could occur in Canada's boreal forests (tipping point number eight). A die-off of these forests would release much of the 50 billion to 100 billion tons of carbon now trapped in permafrost.

### Warming – Yes Extinction

#### Warming causes extinction - in overview - prefer scientific consensus over skepticism

#### Causes extinction—4 degree projections trigger a laundry list of extinction scenarios

Roberts 13—citing the World Bank Review’s compilation of climate studies

- 4 degree projected warming, can’t adapt

- heat wave related deaths, forest fires, crop production, water wars, ocean acidity, sea level rise, climate migrants, biodiversity loss

David, “If you aren’t alarmed about climate, you aren’t paying attention” [http://grist.org/climate-energy/climate-alarmism-the-idea-is-surreal/] January 10 //mtc

We know we’ve raised global average temperatures around 0.8 degrees C so far. We know that 2 degrees C is where most scientists predict catastrophic and irreversible impacts. And we know that we are currently on a trajectory that will push temperatures up 4 degrees or more by the end of the century. What would 4 degrees look like? A recent World Bank review of the science reminds us. First, it’ll get hot: Projections for a 4°C world show a dramatic increase in the intensity and frequency of high-temperature extremes. Recent extreme heat waves such as in Russia in 2010 are likely to become the new normal summer in a 4°C world. Tropical South America, central Africa, and all tropical islands in the Pacific are likely to regularly experience heat waves of unprecedented magnitude and duration. In this new high-temperature climate regime, the coolest months are likely to be substantially warmer than the warmest months at the end of the 20th century. In regions such as the Mediterranean, North Africa, the Middle East, and the Tibetan plateau, almost all summer months are likely to be warmer than the most extreme heat waves presently experienced. For example, the warmest July in the Mediterranean region could be 9°C warmer than today’s warmest July. Extreme heat waves in recent years have had severe impacts, causing heat-related deaths, forest fires, and harvest losses. The impacts of the extreme heat waves projected for a 4°C world have not been evaluated, but they could be expected to vastly exceed the consequences experienced to date and potentially exceed the adaptive capacities of many societies and natural systems. [my emphasis] Warming to 4 degrees would also lead to “an increase of about 150 percent in acidity of the ocean,” leading to levels of acidity “unparalleled in Earth’s history.” That’s bad news for, say, coral reefs: The combination of thermally induced bleaching events, ocean acidification, and sea-level rise threatens large fractions of coral reefs even at 1.5°C global warming. The regional extinction of entire coral reef ecosystems, which could occur well before 4°C is reached, would have profound consequences for their dependent species and for the people who depend on them for food, income, tourism, and shoreline protection. It will also “likely lead to a sea-level rise of 0.5 to 1 meter, and possibly more, by 2100, with several meters more to be realized in the coming centuries.” That rise won’t be spread evenly, even within regions and countries — regions close to the equator will see even higher seas. There are also indications that it would “significantly exacerbate existing water scarcity in many regions, particularly northern and eastern Africa, the Middle East, and South Asia, while additional countries in Africa would be newly confronted with water scarcity on a national scale due to population growth.” Also, more extreme weather events: Ecosystems will be affected by more frequent extreme weather events, such as forest loss due to droughts and wildfire exacerbated by land use and agricultural expansion. In Amazonia, forest fires could as much as double by 2050 with warming of approximately 1.5°C to 2°C above preindustrial levels. Changes would be expected to be even more severe in a 4°C world. Also loss of biodiversity and ecosystem services: In a 4°C world, climate change seems likely to become the dominant driver of ecosystem shifts, surpassing habitat destruction as the greatest threat to biodiversity. Recent research suggests that large-scale loss of biodiversity is likely to occur in a 4°C world, with climate change and high CO2 concentration driving a transition of the Earth’s ecosystems into a state unknown in human experience. Ecosystem damage would be expected to dramatically reduce the provision of ecosystem services on which society depends (for example, fisheries and protection of coastline afforded by coral reefs and mangroves.) New research also indicates a “rapidly rising risk of crop yield reductions as the world warms.” So food will be tough. All this will add up to “large-scale displacement of populations and have adverse consequences for human security and economic and trade systems.” Given the uncertainties and long-tail risks involved, “there is no certainty that adaptation to a 4°C world is possible.” There’s a small but non-trivial chance of advanced civilization breaking down entirely. Now ponder the fact that some scenarios show us going up to 6 degrees by the end of the century, a level of devastation we have not studied and barely know how to conceive. Ponder the fact that somewhere along the line, though we don’t know exactly where, enough self-reinforcing feedback loops will be running to make climate change unstoppable and irreversible for centuries to come. That would mean handing our grandchildren and their grandchildren not only a burned, chaotic, denuded world, but a world that is inexorably more inhospitable with every passing decade.

### Military Key

#### Military is massive emitter – sending a signal of legal compliance is crucial to international perception

Horton 11 [Laura, Doctor of Jurisprudence Candidate 2012, Golden Gate University School of Law, FUTURE FORCE SUSTAINABILITY: DEPARTMENT OF DEFENSE AND ENERGY EFFICIENCY IN A CHANGING CLIMATE, 2011 Golden Gate University Golden Gate University Environmental Law Journal Spring, 2011, L/N]

The United States military is the single largest consumer of fuel in the world. n39 As a result, it has impaired the atmosphere considerably through GHG emissions, which is possibly the DOD's most significant contribution to the planet's ecological destabilization. n40 In 2007, at the [\*308] height of the Iraq and Afghanistan wars, usage was up to sixteen gallons of fuel a day per soldier, which is about three million dollars worth of fuel per day. n41 Those numbers are a major increase from one gallon of fuel a day per soldier during World War II, or even the four gallons of fuel a day during Desert Storm. n42 The military uses about 100 million barrels of oil per year, which is enough to fuel 1,000 cars to drive around the world 4,620 times. n43 At one point, the Army went through forty million gallons of fuel during just three weeks of combat in Iraq. n44 That is almost two million gallons per day, the total combined amount of gasoline used by the Allied armies during World War I. n45 Ninety-four percent of this energy is used for "mobility energy," or the energy required for training, moving, and sustaining forces, weapons, and equipment for military operations around the world. n46 Even without the Iraq and Afghanistan wars, the DOD would still be the largest oil-consuming governmental entity in the world. n47 Approximately 70% of fuel used by the DOD is jet fuel, making the Air Force the largest fossil-fuel-consuming branch in the military. n48 These estimates do not even include the amount of fuel consumption by military contractors. The military increasingly relies on private contractors in the wars in Iraq and Afghanistan. n49 The DOD spends billions of dollars each year on contractors, which provide services such as base support, construction, security, training local security forces, and transportation. Contractors are estimated to make up 40-60% of the workforce in recent operations. n50 Because of the strong presence of private contractors, there is potential for massive amounts of [\*309] fuel use in that sector of military operations. In 2008, the United States Energy Information Agency (EIA) reported that the total conventional energy use by the military was 889 trillion British thermal units (Btu) for the year. n51 Most of that energy came from the use of petroleum products. n52 Scientists calculated that carbon dioxide emissions from the military's total energy use as reported by the EIA amounted to 85 million metric tons (MMt) plus an additional 87 MMt from "manufacturing of materials, equipment, military infrastructure, vehicles, and munitions." n53 Therefore, total military carbon dioxide emissions are approximately 1.5% of total United States emissions, which was calculated at 5,839 MMt of carbon dioxide emissions in 2008 by the Department of Energy (DOE). n54 Carbon dioxide, along with other GHGs such as nitrous oxide, methane, sulfur hexafluoride, hydro-fluorocarbons, and per-fluorocarbons, causes global climate change. n55 The impacts of such a drastic destabilization of the earth's climate are increasingly visible. n56 Almost all of the world's glaciers are melting, the oceans are becoming warmer and more acidic, and animal ranges are shifting. n57 According to the Intergovernmental Panel on Climate Change, "global average sea level rose at an average rate of 1.8 [1.3 to 2.3] mm per year over 1961 to 2003 and at an average rate of about 3.1 [2.4 to 3.8] mm per year from 1993 to 2003." n58 Climate change has created extreme weather-pattern changes both in frequency and intensity over the last fifty years. n59 Frosts have become less frequent over most land areas, while hot days and hot nights have become more frequent; heat waves have become more frequent over most land areas; the frequency of heavy precipitation events (or [\*310] proportion of total rainfall from heavy falls) has increased over most areas; and the incidence of extreme high sea level has increased at a broad range of sites worldwide since 1975. n60 The military is a significant contributor to climate change, and the effects of climate change will prove to be substantially more difficult to deal with than past visible harms such as hazardous waste sites. This is because, as the DOD has acknowledged, the large-scale physical changes on the earth and in the atmosphere are already being observed on a global level. n61 The debate over balancing national security concerns with environmental protection has never been so important, as international concerns over climate change have reached a feverish pitch. These concerns have been recognized by military leaders who, in 2007, issued the National Security and the Threat of Climate Change report. n62 The report was prepared by the CNA, a nonprofit national security analysis organization, in order to inform United States policymakers and the military about the threat of climate change. n63 CNA convened a "Military Advisory Board" comprising several retired senior military officers and national security experts to assist in compiling and analyzing all of the data. n64 Upon analyzing the climate-change issue, CNA and the Military Advisory Board determined that the "nature and pace of climate change being observed today and the consequences projected by the consensus scientific opinion are grave and pose equally grave implications for our national security." n65 The report was unprecedented, because the idea that an environmental problem is also a national security risk is a novel but important declaration considering the past conflict between environmental concerns and national security. The implications of such a report are vast and could result in the greatest clean-up effort by the military to date in the form of alternative energy development.

### Extinction – 2AC

#### Bioterror causes extinction – Sandberg evidence indicates engineered pathogens reach victims quicker and don’t burn out

#### Regulated lab safety key to prevent accidental release of a super-bug – causes extinction

Wilson 13 (Grant Wilson, Deputy Director, Global Catastrophic Risk Institute. J.D. from Lewis & Clark Law School, “Minimizing Global Catastrophic and Existential Risks from Emerging Technologies through International Law,” Virginia Environmental Law Journal, 31 Va. Envtl. L.J. 307, 2013)

i. Risk of an accident The accidental release of a bioengineered microorganism during legitimate research poses a GCR/ER when such a microorganism has the potential to be highly deadly and has never been tested in an uncontrolled environment. n50 The threat of an accidental release of a harmful organism recently sparked an unprecedented scientific debate amongst policymakers, scientists, and the general public in reaction to the creation of an airborne strain of H5N1. n51 In September 2011, Ron Fouchier, a scientist from the Netherlands, announced that he had genetically engineered the H5N1 virus--his lab "mutated the hell out of H5N1," he professed--to become airborne, which was tested on ferrets; a laboratory at the University of Wisconsin-Madison similarly mutated the virus into a highly transmittable form. n52 The "natural" H5N1 killed approximately sixty percent of those with reported infections (although the large amount of unreported cases means that this is higher than the actual death rate), but the total number of fatalities--346 people--was relatively small because the virus is difficult to transmit from human to human. The larger risk comes from the possibility that a mutated virus would spread more easily amongst [\*318] humans, n53 which could result in a devastating flu pandemic amongst the worst in history, if not the very worst. n54 To put this in context, about one in every fifteen Americans--twenty million people--would die every year from a seasonal flu as virulent as a highly transmittable form of H5N1. n55 Lax regulations and a rapidly growing number of laboratories exacerbate the dangers posed by bioengineered organisms. While lab biosafety n56 guidelines in the United States and Europe recommended that projects like reengineering the H5N1 virus be conducted in a BSL-4 facility (the highest security level), neither laboratory that reengineered the H5N1 virus met this non-binding standard. n57 Meanwhile, a 2007 Government Accountability Office ("GAO") report indicated that BSL-3 and BSL-4 labs are rapidly expanding in the United States. While there is significant public information about laboratories that receive federal funding or are registered with the Centers for Disease Control and Prevention ("CDC") and the U.S. Department of Agriculture's ("USD") Select Agent Program, much less is known about the "location, activities, and ownership" of labs that are not federally funded and not registered with the CDC or the USD Select Agent Program. n58 The same report also concluded that no single U.S. agency is responsible for tracking and assessing the risks of labs engaging in bioengineering. n59 While some claim that critics are overreacting to the risk from this genetically engineered H5N1 virus, there have been a series of accidental releases of microbes from laboratories that demonstrate the risks of largely unregulated laboratory safety. In 1978, an employee died from an accidental smallpox release from a laboratory on the floor below her. n60 Many scientists believe that the global H1N1 ("swine flu") [\*319] outbreak in the late 2000s originated from an accidental release from a Chinese laboratory. n61 Reports concluded that the accidental releases of Severe Acute Respiratory Syndrome ("SARS") in Singapore, Taiwan, and China from BSL-3 and BSL-4 laboratories all resulted from a low standard of laboratory safety. n62 In the United States, a review by the Associated Press of more than one hundred laboratory accidents and lost shipments between 2003 and 2007 shows a pattern of poor oversight, reporting failures, and faulty procedures, specifically describing incidents at "44 labs in 24 states," including at high-security labs. n63 In 2007, an outbreak of Foot and Mouth Disease likely came from a laboratory that was the "only known location where the strain [was] held in the country" n64 because of a leaky pipe that had known problems. n65 This long history of faulty laboratory safety is why some experts, such as Rutgers University chemistry professor and bioweapons expert Richard H. Ebright, believe that the H5N1 virus will "inevitably escape, and within a decade," citing the hundreds of germs with potential use in bioweapons that have accidentally escaped from laboratories in the United States. n66 While the effects of such lapses in laboratory safety have not yet been felt aside from relatively small events such as the swine flu outbreak mentioned above, the increasing ability of less-sophisticated scientists to engineer more deadly organisms vastly increase the possibility that a lapse in biosafety will have detrimental effects. An accidental or purposeful release of a bioengineered organism has potentially grave consequences. For example, researchers in Australia recently accidentally developed a mousepox virus with a 100 percent [\*320] fatality rate when they had merely intended to sterilize the mice. n67 Scientists in the United States also created a "superbug" version of mousepox created to "evade vaccines," which they argue is important research to thwart terrorists, sparking a debate amongst scientists and policymakers about whether the benefits of such research is worth the associated risks. n68 If such a bioengineered organism escaped from a laboratory, the results would be unpredictable but potentially extremely deadly to humans and/or animals.

\*ER = Existential Risk

### Ikenberry 2AC

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#### Disease

**Greger 8** (M.D., is Director of Public Health and Animal Agriculture at The Humane Society of the United States (Michael Greger, , Bird Flu: A Virus of Our Own Hatching, <http://birdflubook.com/a.php?id=111>)

Senate Majority Leader Frist describes the recent slew of emerging diseases in almost biblical terms: “All of these [new diseases] were advance patrols of a great army that is preparing way out of sight.”3146 Scientists like Joshua Lederberg don’t think this is mere rhetoric. He should know. Lederberg won the Nobel Prize in medicine at age 33 for his discoveries in bacterial evolution. Lederberg went on to become president of Rockefeller University. “Some people think I am being hysterical,” he said, referring to pandemic influenza, “but there are catastrophes ahead. We live in evolutionary competition with microbes—bacteria and viruses. There is no guarantee that we will be the survivors.”3147 There is a concept in host-parasite evolutionary dynamics called the Red Queen hypothesis, which attempts to describe the unremitting struggle between immune systems and the pathogens against which they fight, each constantly evolving to try to outsmart the other.3148 The name is taken from Lewis Carroll’s Through the Looking Glass in which the Red Queen instructs Alice, “Now, here, you see, it takes all the running you can do to keep in the same place.”3149 Because the pathogens keep evolving, our immune systems have to keep adapting as well just to keep up. According to the theory, animals who “stop running” go extinct. So far our immune systems have largely retained the upper hand, but the fear is that given the current rate of disease emergence, the human race is losing the race.3150 In a Scientific American article titled, “Will We Survive?,” one of the world’s leading immunologists writes: Has the immune system, then, reached its apogee after the few hundred million years it had taken to develop? Can it respond in time to the new evolutionary challenges? These perfectly proper questions lack sure answers because we are in an utterly unprecedented situation [given the number of newly emerging infections].3151 The research team who wrote Beasts of the Earth conclude, “Considering that bacteria, viruses, and protozoa had a more than two-billion-year head start in this war, a victory by recently arrived Homo sapiens would be remarkable.”3152 Lederberg ardently believes that emerging viruses may imperil human society itself. Says NIH medical epidemiologist David Morens, When you look at the relationship between bugs and humans, the more important thing to look at is the bug. When an enterovirus like polio goes through the human gastrointestinal tract in three days, its genome mutates about two percent. That level of mutation—two percent of the genome—has taken the human species eight million years to accomplish. So who’s going to adapt to whom? Pitted against that kind of competition, Lederberg concludes that the human evolutionary capacity to keep up “may be dismissed as almost totally inconsequential.”3153 To help prevent the evolution of viruses as threatening as H5N1, the least we can do is take away a few billion feathered test tubes in which viruses can experiment, a few billion fewer spins at pandemic roulette. The human species has existed in something like our present form for approximately 200,000 years. “Such a long run should itself give us confidence that our species will continue to survive, at least insofar as the microbial world is concerned. Yet such optimism,” wrote the Ehrlich prize-winning former chair of zoology at the University College of London, “might easily transmute into a tune whistled whilst passing a graveyard.”3154

#### **Food shortages**

Cribb 10 (Julian, the principal of Julian Cribb & Associates, specialists in science communication, 1996-2002 he was Director, National Awareness, for Australia’s national science agency, CSIRO, has received 32 awards for journalism including the Order of Australia Association Media Prize, fellow of the Australian Academy of Technological Sciences and Engineering. The Coming Famine: The Global Food Crisis and what we can do to avoid it, University of California Press, 2010, p. 20)

The threat of conflict over food, land, and water is not, however, confined to the marginal world. Increasingly it imperils the economic powerhouses of the global economy in the early twenty-first century. In 2001 the Australian strategic analyst Alan Dupont predicted, “Food is destined to have greater strategic weight and import in an era of environmental scarcity. While optimists maintain that the world is perfectly capable of meeting the anticipated increases in demand for essential foodstuffs, there are enough imponderables to suggest that prudent governments would not want to rely on such a felicitous outcome." Anticipating the food crisis of 2007-8 by several years, he presciently added, "East Asia's rising demand for food and diminishing capacity to feed itself adds an unpredictable new element to the global food equation for several reasons. The gap between production and consumption of key foodstuffs globally is narrowing dangerously and needs to be reversed." Bearing out his words, Singapore president Lee Hsieng Loong told a 2008 international defense conference, "In the longer term, the trends towards tighter supplies and higher prices will likely reassert themselves. This has serious security implications. The impact of a chronic food shortage will be felt especially by the poor countries. The stresses from hunger and famine can easily result in social upheaval and civil strife, exacerbating conditions that lead to failed states. Between countries, competition for food supplies and displacement of people across borders could deepen tensions and provoke conflict and wars."15

## Bioweapons

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The larger risk comes from the possibility that a mutated virus would spread more easily amongst [\*318] humans, n53 which could result in a devastating flu pandemic amongst the worst in history, if not the very worst. n54 To put this in context, about one in every fifteen Americans--twenty million people--would die every year from a seasonal flu as virulent as a highly transmittable form of H5N1. n55 Lax regulations and a rapidly growing number of laboratories exacerbate the dangers posed by bioengineered organisms. While lab biosafety n56 guidelines in the United States and Europe recommended that projects like reengineering the H5N1 virus be conducted in a BSL-4 facility (the highest security level), neither laboratory that reengineered the H5N1 virus met this non-binding standard. n57 Meanwhile, a 2007 Government Accountability Office ("GAO") report indicated that BSL-3 and BSL-4 labs are rapidly expanding in the United States. While there is significant public information about laboratories that receive federal funding or are registered with the Centers for Disease Control and Prevention ("CDC") and the U.S. Department of Agriculture's ("USD") Select Agent Program, much less is known about the "location, activities, and ownership" of labs that are not federally funded and not registered with the CDC or the USD Select Agent Program. n58 The same report also concluded that no single U.S. agency is responsible for tracking and assessing the risks of labs engaging in bioengineering. n59 While some claim that critics are overreacting to the risk from this genetically engineered H5N1 virus, there have been a series of accidental releases of microbes from laboratories that demonstrate the risks of largely unregulated laboratory safety. In 1978, an employee died from an accidental smallpox release from a laboratory on the floor below her. n60 Many scientists believe that the global H1N1 ("swine flu") [\*319] outbreak in the late 2000s originated from an accidental release from a Chinese laboratory. n61 Reports concluded that the accidental releases of Severe Acute Respiratory Syndrome ("SARS") in Singapore, Taiwan, and China from BSL-3 and BSL-4 laboratories all resulted from a low standard of laboratory safety. n62 In the United States, a review by the Associated Press of more than one hundred laboratory accidents and lost shipments between 2003 and 2007 shows a pattern of poor oversight, reporting failures, and faulty procedures, specifically describing incidents at "44 labs in 24 states," including at high-security labs. n63 In 2007, an outbreak of Foot and Mouth Disease likely came from a laboratory that was the "only known location where the strain [was] held in the country" n64 because of a leaky pipe that had known problems. n65 This long history of faulty laboratory safety is why some experts, such as Rutgers University chemistry professor and bioweapons expert Richard H. Ebright, believe that the H5N1 virus will "inevitably escape, and within a decade," citing the hundreds of germs with potential use in bioweapons that have accidentally escaped from laboratories in the United States. n66 While the effects of such lapses in laboratory safety have not yet been felt aside from relatively small events such as the swine flu outbreak mentioned above, the increasing ability of less-sophisticated scientists to engineer more deadly organisms vastly increase the possibility that a lapse in biosafety will have detrimental effects. An accidental or purposeful release of a bioengineered organism has potentially grave consequences. For example, researchers in Australia recently accidentally developed a mousepox virus with a 100 percent [\*320] fatality rate when they had merely intended to sterilize the mice. n67 Scientists in the United States also created a "superbug" version of mousepox created to "evade vaccines," which they argue is important research to thwart terrorists, sparking a debate amongst scientists and policymakers about whether the benefits of such research is worth the associated risks. n68 If such a bioengineered organism escaped from a laboratory, the results would be unpredictable but potentially extremely deadly to humans and/or animals.

\*ER = Existential Risk

## T

### T – Restriction = Prohibit– 2AC

#### 1. We meet – plan prevents the use of armed forces if their use violates environmental statutes – that’s a restriction

Lobel 8 (Jules – Professor of Law, University of Pittsburgh Law School, “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War”, 2008, Ohio State Law Journal, 69 Ohio St. L.J. 391, lexis)

More generally, the Court held that Congress has the power to authorize limited, undeclared war in which the President's power as Commander in Chief would be restricted. In such wars, the Commander in Chief's power would extend no further than Congress had authorized. As President Adams recognized, Congress had as a functional matter "declared war within the meaning of the Constitution" against France, but "under certain restrictions and limitations." n123 Under this generally accepted principle in our early constitutional history, Congress could limit the type of armed forces used, the number of such forces available, the weapons that could be utilized, the theaters of actions, and the rules of combat. In short, it could dramatically restrict the President's power to conduct the war.

#### 2. Judicial restriction means regulation

**Kerrigan** **73** (Frank, Judge @ Court of Appeal of California, Fourth Appellate District, Division Two, 29 Cal. App. 3d 815; 105 Cal. Rptr. 873; 1973 Cal. App. LEXIS 1235, SUN COMPANY OF SAN BERNARDINO, CALIFORNIA, Petitioner, v. THE SUPERIOR COURT OF SAN BERNARDINO COUNTY, Respondent; THE PEOPLE et al., Real Parties in Interest. PROGRESS-BULLETIN PUBLISHING COMPANY, Petitioner, v. THE SUPERIOR COURT OF SAN BERNARDINO COUNTY, Respondent; THE PEOPLE et al., Real Parties in Interest. (Consolidated Cases.), lexis)

While the studies were in progress, the United States Supreme Court found the impact of television cameras and lights in a courtroom setting prejudicial to the conduct of a fair trial. ( Estes v. Texas (1965) 381 U.S. 532 [14 L.Ed.2d 543, 85 S.Ct. 1628].) Shortly thereafter, in Sheppard v. Maxwell (1966) 384 U.S. 333, 358 [16 L.Ed.2d 600, 618, 86 S.Ct. 1507], the defendant's conviction of his wife's murder [\*\*879] was reversed because of "[the] carnival atmosphere at trial" and pervasive publicity affecting the fairness of the hearing. In reversing Dr. Sheppard's conviction, the court stated [\*\*\*15] that: (1) the publicity surrounding a trial may become so extensive and prejudicial in nature that unless neutralized by appropriate judicial procedures, a resultant conviction may not stand; (2) the trial court has the duty of so insulating the trial from publicity as to insure its fairness; (3) a free press plays a vital role in the effective and fair administration of justice. But the court did not set down any fixed rules to guide trial courts, law enforcement officers or media as to what could or could not be printed. Instead, the majority suggested that judicial restrictions on speech might sometimes be appropriate in the following dicta: "The courts [\*823] must take such steps by rule and regulation that will protect their processes from prejudicial outside interferences. Neither prosecutors, counsel for defense, the accused, witnesses, court staff nor enforcement officers coming under the jurisdiction of the court should be permitted to frustrate its function. Collaboration between counsel and the press as to information affecting the fairness of a criminal trial is not only subject to regulation, but is highly censurable and worthy of disciplinary measures. [\*\*\*16] " (Ibid., p. 363 [16 L.Ed.2d p. 620].)

#### 3. **Restrictions” means “regulations”**

Davies 30 (Major George, “CLAUSE 1.—(Scheme regulating production, supply and sale of coal.),” February, vol 235 cc2453-558, http://hansard.millbanksystems.com/commons/1930/feb/27/clause-1-scheme-regulating-production)

Major GEORGE DAVIES The hon. Member says he has heard no reason advanced for this Amendment. I am willing to give him one, and I will tell him that the reason why the benches are not full, as they were a short time ago, is that man cannot live by bread alone and, as there is a rule against the introduction of newspapers and foodstuffs, it is necessary for some of us to refresh ourselves after a late Division. I am not going to transgress the ruling of the Chair, as we have been given very great latitude, but I want to confine myself to the point at issue, which is the regulation of sale. I have had experience in the past of efforts to regulate the sale of sugar. Like the coal industry to-day, there has been in the past an over-production of many of the fundamental articles of the life of a nation. I will not dwell on the case of rubber, but the sugar situation was entirely on all fours with this situation, as it was a question of the regulation of sale. Facing a situation very similar in kind and not dissimilar in degree to the problem now before us, those connected with that particular industry in certain countries thought it an advantage to control and regulate the sale. As soon as you use the word "regulation" in this connection it is idle to suggest that it does not mean restriction. Obviously, that is the point—to restrict—and, while 2541 it is true the word "restrict" is not in this particular Clause, and cannot be argued in connection with this Amendment, yet behind the word "regulate" is the word "restrict," in other words, controlling what has been uncontrolled, production thrown on markets not able to receive it.

#### 3. Prefer it –

#### A) Overlimits - the most common forms of restrictions are regulations on military activity – not a ban on any one category - they make it impossible to be aff

#### B) Education – regulations are a core discussion of the topic

#### 4. Function limits check – Agent cp’s solve their runaway weapons claims

#### 5. Reasonability is good – prevents a race to the bottom and arbitrary counter interpretations that exclude the aff

#### 6. Competing interpretations are bad – causes a race to the bottom – they will always find a way to exclude the aff. Default to reasonability – we don’t make the topic unmanageable

## CPs

### OLC CP – 2AC

#### 2. OLS fails –

#### A) Not applicable to emergencies

Posner 11 -- Kirkland & Ellis Professor, University of Chicago Law School (Eric, 9/22/2011, "DEFERENCE TO THE EXECUTIVE IN THE UNITED STATES AFTER 9/11:CONGRESS, THE COURTS AND THE OFFICE OF LEGAL COUNSEL," http://www.law.uchicago.edu/files/file/363-eap-deference.pdf)

The medical protocol analogy does not provi de any reason for doubting the deference thesis. Rules are valuable in many settings, in cluding emergencies; but it does not follow from that observation that courts and legislatures rather than the ex ecutive should create and enforce the rules. Each institution has specific advantag es; the executive’s advant ages are salient during emergencies. The notion that the executive can be constr ained by its own components is a paradoxical idea, and has little to recommend it. In the end, someone must have discretion to respond to unforeseen events, and in the U.S. system that ro le has been given to the president. The theory that OLC or some similar office within the exec utive branch could constrain the president rests on a confusion between rational self-binding, which presidents may (albeit with difficulty) engage in, and external constraint, which pres idents resist. OLC may serve as a device for rational self-binding, which extends the executive power; it is highly unlik ely, however, that it can serve as a constraint.

#### **B) They get ignored**

Lobel 7 -- professor of law at the University of Pittsburgh School of Law and vice president of the Center for Constitutional Rights (Jules, 3/1/2007, "The Commander in Chief and the Courts," Presidential Studies Quarterly 37(1), EBSCO)

Moreover, institutional, legal, and political checks within the executive branch have been even less effective. The Office of Legal Counsel, an institutional check within the Justice Department which is supposed to provide independent legal advice, produced secret memos written by **handpicked political appointees** providing advice that **con- formed to the bottom line their superiors desired** (Pillard 2006, 1297). When the Bybee Torture Memo, which was never intended to be publicly disclosed, was leaked to the press, the resulting firestorm of criticism caused it to be withdrawn. This problem is not limited to this administration; for decades the executive branch has sought to keep the legal advising process confidential (Pillard 2006, 1302). Moreover, the administration’s discussions of legal strategy after September 11 largely excluded the military lawyers and foreign-policy officials who presumably had the expertise that Yoo or Posner believe places the executive at a comparative advantage over judges in national security matters (Golden 2004, § 1, 1; Mayer 2006). For example, when some of the military lawyers protested the administration’s detainee policies, they were generally ignored by the small coterie of high-level officials who were driving the policies (Mayer 2006). The public deliberation and rational argumentation of differing opinions that characterize judicial proceedings are an institutional strength of the judiciary that has been sorely lacking in the administration’s determination of legal strategy in fighting terrorism. While troop movements, battle plans, and military strategies ought to be kept secret and out of the Court’s purview, legal issues and strategies, such as the definition of torture, the constitutional authority of the president to violate or suspend treaties or authorize torture, and the applicability of the Geneva Conventions in the current fight against terrorism, are matters best resolved in the course of open dialogue and debate that the judiciary, not the executive, is most institutionally attuned to.

#### The counterplan only results in executive compliance – that fails -

#### A) Overseas application

Hilbert 12 (Sarah – J.D. Candidate, William & Mary Law School, “A Legislative Solution to Environmental Protection in Military Action Overseas”, 2012, 37 Wm. & Mary Envtl. L. & Pol'y Rev. 263, lexis)

III. Solution A. Executive Orders It has been suggested that the solution to the inadequate DoD environmental regulation is an executive order. n119 Executive orders have been proposed because of the power of the executive branch and its ability to produce change. n120 Laporte points to President Carter's executive order as a successful way to promote NEPA's ideals overseas and cites DoD action prompted by President Carter's executive order as an indication that the executive order was successful. n121 Although Laporte acknowledges the downfalls of the DoD's response to President Carter's executive order, she attributes the response to "exemptions or ambiguities in the Order itself," rather than the DoD's response to the Order. n122 Executive orders, however, are not the best answer. It is true that executive orders can affect the extraterritorial application of environmental principles as President Carter's executive order furthered the goals of NEPA, n123 but this benefit is limited. n124 President Carter's executive order's purpose was to further the goals of NEPA, n125 but it did not have the power to override the presumption that NEPA could not apply extraterritorially. n126 The executive order may be able to capture general [\*278] ideals or priorities of the executive, but President Carter's executive order illustrated that those ideals and priorities can be implemented very differently after the DoD interprets the meaning of the executive order. n127 Laporte assumes that the executive branch has the expertise and time to draft an executive order that has the perfect amount of specificity, flexibility, and practicality, n128 but this is not realistic. Creating standards for the DoD in the way that Laporte describes the ideal executive order n129 is not a job for the executive branch.

#### E) Certainty – Legal decision key

Pildes 13 (Rick, udler Family Professor of Constitutional Law and Co-Faculty Director for the Program on Law and Security at NYU School of Law, "Does Judicial Review of National-Security Policies Constrain or Enable the Government?," 8/5, <http://www.lawfareblog.com/2013/08/does-judicial-review-of-national-security-policies-constrain-or-enable-the-government/>)

First, government actors have a need for legal clarity, particularly in national-security areas where the legal questions are novel and the stakes of guessing wrong particularly high. In the absence of more definitive court guidance, government lawyers and policymakers have spent a staggering number of hours trying to anticipate what courts might conclude is the valid scope of the government’s power to detain, or to use military trials, and similar questions. In many contexts, a significant element in what government actors need is simply legal clarity; knowledge of where the lines lie between the permitted and the forbidden can help government actors figure out how best to reach their legitimate goals. Surely there is something not fully functional about a system that requires a decade’s worth of guesswork, and all the resources involved, about exactly where the legal boundaries lie.

#### 3. Congress will roll back the counterplan during a conflict – kills solvency

Tisler **11**

[Tiffany, J.D. Candidate, University of Toledo, 2011., FEDERAL ENVIRONMENTAL LAW WAIVERS AND HOMELAND SECURITY: ASSESSING WAIVER APPLICATION IN HOMELAND SECURITY SETTINGS AT THE SOUTHERN BORDER IN COMPARISON TO NATIONAL SECURITY SETTINGS INVOLVING THE MILITARY, Spring, 2011 The University of Toledo Law Review, L/N]

In times of war, the conflict between national-security goals and environmental laws tends to come out in favor of national security, n54 and shortly after 9/11 the United States was at war. As it was, the U.S. military never particularly liked the pre-9/11 waiver system, finding the scope of waivers too narrow and the time limits incompatible with long-term activities. n55 Thus, sensing the time to strike, the military began lobbying for changes to environmental-waiver provisions in the aftermath of 9/11. n56 The military has since actively and successfully sought changes to the waiver system, giving them much broader authority to disregard environmental laws, especially for reasons of "military readiness." n57 First, the military convinced Congress to attach riders to the 2004 and 2005 Defense Appropriations Acts exempting them from provisions of the Marine Mammal Protection Act ("MMPA"), some provisions of the ESA, and the entire Migratory [\*784] Bird Treaty Act. n58 Not only did the military successfully change the application of various sections of statute, it also changed the waiver structure for the MMPA, giving the Secretary of Defense the authority to grant waivers in addition to the President. n59 Though not always successful, military lobbying efforts have removed many external checks on military activities that impact the environment, creating a dim future for the environment. n60

#### 5. **CP is misconstrued – military avoids change**

Hilbert 12 (Sarah – J.D. Candidate, William & Mary Law School, “A Legislative Solution to Environmental Protection in Military Action Overseas”, 2012, 37 Wm. & Mary Envtl. L. & Pol'y Rev. 263, lexis)

IV. Call to Action Judicial action through liability for the government and government contractors in the courts is not a viable solution for the environmental degradation and human health problems that result from military action overseas because the burdens that plaintiffs must overcome are too heavy to result in consistent decisions, or in any decisions at all. n180 Executive action through an executive order would not cause the kind of change in military behavior that is needed at this point, and Executive Orders have been ineffective in the past because the DoD was able to [\*287] misconstrue each Order through its own interpretations. n181 Legislative action provides the best option for a long-term solution that will apply to all military action, will have the intent of many federal statutes that already apply within United States borders, will hold military leaders accountable to a rigid set of procedures and standards, and will effectuate the change our country needs. n182

#### Takes out solvency - Empirically proven

Hilbert 12 (Sarah – J.D. Candidate, William & Mary Law School, “A Legislative Solution to Environmental Protection in Military Action Overseas”, 2012, 37 Wm. & Mary Envtl. L. & Pol'y Rev. 263, lexis)

II. Current Government Direction The current environmental protection plan for military efforts overseas has allowed burn pits to continue to cause health and environmental problems. Through an Executive Order, President Carter first emphasized the importance of government actors considering the environmental effects of proposed actions, n60 but the DoD interpreted the key parts of the Executive Order n61 and created the environmental protection plan it currently follows. Allowing the DoD to essentially create their own regulatory regime is contrary to environmental interests and poses a classic "fox guarding the hen house" problem. A. Executive Order 12,114 President Carter issued Executive Order 12,114-Environmental Effects Abroad of Major Federal Actions ("Executive Order 12,114") on January 4, 1979. n62 Executive Order 12,114 required officials of Federal Agencies to examine environmental effects of proposed actions and consider these effects in making decisions about actions. n63 The Executive Order mandated an information exchange between the Department of State, the Council on Environmental Quality, and any other interested agency or nation to provide information to decisionmakers through the use of environmental impact statements, bilateral or multilateral environmental studies, or concise reviews of environmental issues. n64 The Executive Order sought to further the goals of the National Environmental Policy Act ("NEPA") n65 which required environmental [\*271] assessment for governmental actions having environmental effects within the United States. n66 Executive Order 12,114 forced federal agencies to consider the environmental effect of their actions abroad, but it provided no substantive requirements or procedure for ensuring that protocol was followed. n67 The Executive Order was a start down the long road of a comprehensive environmental protection plan for the United States military, yet it was hardly a binding plan for the military to live by. Because President Carter's Executive Order lacked any substantial guidance but still mandated the military to consider the environmental effects of proposed actions, the DoD was left to interpret what the Executive Order required of it. B. Department of Defense Directive 6050.7 The DoD issued Directive 6050.7 soon after President Carter issued Executive Order 12,114 to define key terms of Executive Order 12,114 and elaborate as to what the DoD must consider when approving "major actions." n68 Because Executive Order 12,114 was not specific, the DoD granted ample discretion to commanders reviewing proposed actions. n69 The DoD interpreted "major action" to mean actions "of considerable importance involving substantial expenditures of time, money, and resources, that affect[] the environment on a large geographic scale or has substantial environmental effects on a more limited geographical area," and it sought to establish procedures for review of these actions. n70 Beyond establishing what is meant by "major action," the DoD does not define any other standard for determining when an environmental assessment is necessary. There is no definition of "substantial expenditures" or an elaboration on the geographic area requirements. n71 [\*272] The DoD also defined exceptions. Included in the list of exceptions are actions taken by the President, actions taken at the direction of the President or a cabinet officer in the course of armed conflict or when a national security risk is involved, activities of intelligence components, actions of the Office of the Assistant Secretary of Defense or the Defense Security Assistance Agency, and actions relating to nuclear activities and nuclear material except actions providing to a foreign nation a nuclear production or utilization facility. n72 The DoD's interpretation of what is required from President Carter's Executive Order weighs in the favor of the DoD. The amount of discretion given to reviewing officers allows an officer to decide that a project does not require an environmental review simply by finding that it is not a major action, which, according to DoD's interpretation of a "major action," would be easy for an officer to find. n73

#### 7. Court has unique symbolic effect --- key to foreign perception of the plan

Fontana 8 (David, Associate Professor of Law – George Washington University Law School, “The Supreme Court: Missing in Action”, Dissent Magazine, Spring, http://www.dissentmagazine.org/article/?article=1165)

*The Results of Inaction*  
What is the problem with this approach? The answer, simply put, is that it legitimates and even catalyzes political activity by Congress and the president, but it does so without including in this political activity the critically influential background voice of the Supreme Court on issues related to individual rights. The Court has two main powers: one has to do with law and compulsion, the other has to do with political debate. The Court can legally compel other branches of government to do something. When it told states and the federal government in Roe v. Wade that they could not criminalize all abortions, for example, the Court’s decision was a binding legal order. But the Supreme Court also plays a role in political debate, even when it does not order anyone to do anything. If the Justices discuss the potential problems for individual rights of a governmental action, even if they don’t contravene the action, their decision still has enormous import. This is because other actors (members of Congress, lawyers, newspaper editorial writers, college teachers, and many others) can now recite the Court’s language in support of their cause. Supreme Court phrases such as “one person, one vote” have enormous symbolic effect and practical influence. If there had been a case about torture, for example, and some of the justices had written in detail about its evils, then Senator Patrick Leahy (senior Democrat on the Judiciary Committee) could have used the Justices’ arguments to criticize attorney general nominee Michael Mukasey during his confirmation hearings. Attorneys for those being detained at Guantánamo could have made appearances on CNN and (even) Fox News reciting the evils of torture as described by the Court. Concerns about rights could have been presented far more effectively than if, as actually happened, the Court refused to speak to these issues. The Supreme Court’s discussion of constitutional questions is particularly important for two reasons. First, the justices view these questions from a distinct standpoint. While members of Congress and the president have to focus more on short-term and tangible goods, members of the Court (regardless of which president appointed them) focus more on the long term and on abstract values. The Court offers a perspective that the other branches simply cannot offer. Second, when the Supreme Court presents this perspective, people listen. It is and has been for some time the most popular branch of American government. Although there is some debate about terminology and measurement, most scholars agree that the Court enjoys “diffuse” rather than “specific” support. Thus, even when Americans don’t like a specific decision, they still support the Court. By contrast, when the president or Congress does something Americans don’t like, their support drops substantially. AMERICANS BECOME more aware of the Court the more it involves itself in controversies. This is because of what political scientists call “positivity bias.” The legitimating symbols of the Court (the robes, the appearance of detachment, the sophisticated legal opinions) help to separate it from other political institutions—and in a good way for the Court. If the Justices had drawn attention to violations of individual rights, most of America would have listened and possibly agreed. As it is, our politics has been devoid of a voice—and an authoritative voice—on individual rights. For most of the time since September 11, few major political figures have been willing to stand up and speak in support of these rights. Recall that the Patriot Act was passed in 2001 by a vote of ninety-eight to one in the Senate, with very little debate. Congress overwhelmingly passed the Detainee Treatment Act (DTA) of 2005, which barred many of those complaining of torture from access to a U.S. court. Congress also overwhelmingly passed the Military Commissions Act (MCA) of 2006, which prevented aliens detained by the government from challenging their detention—and barred them from looking to the Geneva Conventions as a source of a legal claim.

#### 9. Executive fails – external regulation key

Yap 05

[Julie, J.D. Candidate, 2005, Fordham University School of Law, Fordham Law Review, JUST KEEP SWIMMING: GUIDING ENVIRONMENTAL STEWARDSHIP OUT OF THE RIPTIDE OF NATIONAL SECURITY, L/N]

Environmental self-regulation solely by the executive branch is not a serious proposal. n331 **The military should not be the sole regulator of its own environmental stewardship.** The role of the military is "to fight and win the nation's wars." n332 An important part of this role is preparation and realistic training; the DOD consistently reiterates the concept that ""we need to train as we fight, but the reality is we fight as we train.'" n333 It is naive to think that military leaders and soldiers, no matter how much training in considering environmental damages that may result from their action, will place a **top level priority on environmental concerns when the job of the military is to prepare for, fight, and win wars.** The military also has a poor track record of environmental stewardship. Military readiness and preparation to protect the country's national security during the Cold War "left a legacy of hazardous waste, nuclear contamination, polluted air, water and soil, [\*1333] and resulted in the destruction of natural and cultural resources." n334 With the advent of new technology and highly advanced methods of warfare, the potential environmental dangers have become even more devastating. The military manages "unexploded and surplus ordnance, millions of gallons of liquid waste that is both extremely corrosive and highly radioactive, chemical weapons, excess nuclear warheads and weapons-grade plutonium, and defoliant production residues ... ." ,FN='335'> Given the enormous responsibilities that come with the handling of these substances, coupled with a poor history of proper environmental consideration, the military needs external regulation in order to ensure that decisions that represent all of society's values are being made. Another problem with regulation of defense activities by the executive branch alone is the unitary executive policy of the Department of Justice. n336 This policy **prevents the EPA "from issuing administrative compliance orders or filing suit against other federal agencies for violations"** n337 "without the President's [approval], if at all." n338 Under most environmental statutes, the EPA cannot levy a penalty against other agencies. n339 The principles behind the unitary executive theory have merit, "implicating very real executive branch management and separation of powers issues." n340 Regardless, the unitary executive approach eliminates another method of regulation that helps ensure environmental compliance of private entities. The military has made major improvements to its environmental policy over the past fifteen years. The DOD has created an environmental program that centers on the "four pillars" of [\*1334] restoration, compliance, pollution prevention, and conservation. n341 Environmental planning is a component to each of these four pillars and is included in DOD manuals for proposed actions. n342 Military commanders and soldiers operate under new statements of mission that include "stewardship of the land, air, water and natural ... resources." n343 The incorporation of environmental responsibility in the mission and culture of the military is an important step that should be encouraged in the future. It is not, however, a large enough step to validate internal regulation of environmental stewardship.

## Add-Ons

### Oil Spills Add- On – 2AC

**Prosecutions of environmental violators is crucial to send a deterrent signal – prevents future pipeline explosions**

**Geis 11** (Stacey P. Geis is an Assistant United States Attorney at the United States Attorney's Office in San

Francisco and is the office's Environmental Crimes Coordinator, “An Accident Waiting to Happen? Prosecuting Negligence-Based Environmental Crimes,” United States Attorneys' Bulletin July 2011, <http://www.justice.gov/usao/eousa/foia_reading_room/usab5904.pdf>)

Undertaking a criminal investigation in a large **environmental disaster** (or any disaster that may have resulted in casualties or invokes a federal interest) is no easy endeavor. Numerous parties will be interested in the matter, including federal, state, and local law enforcement agencies; federal, state, and local regulators; federal safety boards charged with immediately investigating such disasters; local and state governments; federal, state, and local politicians; local citizens; and, of course, the press. It will be imperative **to navigate** through the obstacles presented by so many interested parties. It also will be imperative to coordinate and work with these parties, especially the relevant law enforcement agencies, safety boards, and regulators. While a separate article can be written on issues that arise while investigating a disaster such as an **oil spill** or **pipeline explosion**, a few points may be made. First, a prosecutor will need to decide whether to open a criminal investigation immediately or wait until other agencies, such as a federal safety board, conduct a separate investigation. There are pros and cons to both approaches and legal and policy issues to consider, all of which can be the subject of a separate article. Suffice it to say, if a prosecutor is faced with such a decision, he should discuss the matter with his management and consider reaching out to Main Justice or other districts to assess the appropriate route to take in a specific investigation. Second, coordination with state and local law enforcement and regulatory agencies is key. At some point, if potential violations of more than just federal statutes have occurred, a decision will need to be made regarding who takes the lead and moves forward with the investigation. For many reasons, including the high profile nature of the disaster, turf issues may arise. If, however, a strong relationship has been developed among federal, state, and local authorities, the issues surrounding who moves forward and in what manner can be minimized. Third, investigating these types of cases can take a **vast amount of resources**. Therefore, a prosecutor should seek to include resources from as many agencies as are willing to assist. EPA's Criminal Investigation Division will have an interest if it is a pollution case. The U.S. Fish and Wildlife Service will also have an interest if wildlife was harmed. The U.S. Coast Guard will have an interest if it involves a large oil spill in maritime waters. The FBI may assist, especially if fraud was involved or if lives were lost. Local and state law enforcement may also have a role here because they typically regulate and enforce the applicable state laws. Several of these agencies have specific expertise that may be used throughout the course of the investigation. Cross-designation of state and local law enforcement may be useful. Assistance from Main Justice is also a highly recommended option. DOJ's Environmental Crimes Section has highly competent, well-trained trial attorneys whose job is to provide assistance to the ninety-four districts in prosecuting environmental crimes. In addition to bringing specialized knowledge, they may also bring other resources to the investigation, such as additional attorneys, paralegals, or other agency assistance. Disasters happen—often with terrible consequences to the environment and surrounding community. Many of these disasters are unforeseeable and unavoidable, such as those caused by acts of God, including earthquakes or hurricanes. Other times they are not. In these latter instances, prosecutors will need to determine whether the disaster was caused by negligent behavior and, if so, whether the negligent behavior rises to a level warranting criminal prosecution as opposed to relying on a civil or administrative enforcement action as an appropriate remedy. Given a prosecutor's ability to prosecute ordinary negligence, the sound exercise of prosecutorial discretion in these instances is key to ensuring just and proper resolutions. Prosecuting negligence-based **environmental crimes** should only be done when the circumstances warrant it. There will be times, however, when a non-criminal remedy is simply not adequate to address or deter the offending behavior. In those instances, the prosecutor should consider whether a CWA negligence charge is appropriate. Such prosecutions, although relatively rare in the scheme of environmental crime prosecutions, not only result in specific deterrence but also **general deterrence**. It is not uncommon to see convictions in environmental cases change the behavior of not only the convicted defendant, but **entire industries**. Accidents happen, but sometimes human or corporate behavior creates an accident waiting to happen. When that is the case, prosecution of those responsible may help **reduce the likelihood** that a similar disaster happens again.

#### Extinction

Craig 11—Associate Dean for Environmental Programs @ Florida State University [Robin Kundis Craig, “Legal Remedies for Deep Marine Oil Spills and Long-Term Ecological Resilience: A Match Made in Hell,” Brigham Young University Law Review, 2011, 2011 B.Y.U.L. Rev. 1863

Systemic risk is as important as individual risk. Notwithstanding the National Environmental Policy Act's requirement that federal permitting agencies consider cumulative impacts to the environment, [n188](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1348065909828&returnToKey=20_T15563238106&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.735297.7128077165#n188) we currently evaluate the risks of offshore oil drilling primarily with respect to individual oil drilling operations in connection with individual permits and leases. As the Deepwater Horizon Commission recognized, however, the larger systemic context of such drilling is also important, and perhaps arguably more so. From a resilience perspective, a drilling operation that uses the only oil rig in a pristine marine environment is an inherently different risk problem than the Deepwater Horizon's situation of being one of thousands of similar rigs in a pervasively and multiply stressed Gulf. As Clark, Jones, and Holling have suggested, our trial-and-error experiments with Nature in our first-sense resilience [\*1895] dependence mode "now threaten errors larger and more costly than society can afford." [n189](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1348065909828&returnToKey=20_T15563238106&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.735297.7128077165#n189) Resilience thinking should more forcibly insist on multilayered systemic awareness, promoting limits on how much exploitation should be occurring simultaneously and encouraging more gradual resource development over longer periods of time. . Risk to the environment should be presumed, even when all actors follow all best practices. Our current first-sense resilience dependency produces laws that assume that ecosystems can be fixed—and, perhaps more importantly, as embodied in the OPA natural resource damages regulations, that natural processes will often be able to restore themselves without human effort. Resilience thinking, in contrast, effectively assumes that ecosystems could suddenly shift to a new regime at any time for any number of reasons that we do not understand and may not even be able to anticipate—the combined potential of the second and third conceptions of resilience. In the words of Clark, Jones, and Holling, "if a system has multiple regions of stability, then Nature can seem to play the practical joker rather than the forgiving benefactor." [n190](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1348065909828&returnToKey=20_T15563238106&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.735297.7128077165#n190) To exaggerate the differences in outlook just a bit, our current paradigm presumes that most ecosystems can cope with most human activities, while resilience thinking presumes that all changes to an ecosystem are at least potentially completely destabilizing—i.e., inherently risky, with the outer limits of that risk being potentially massive. To translate this change in presumption into legalese, full resilience thinking promotes a policy framework where most human activities in the environment could be—and perhaps should be—considered inherently dangerous activities. [\*1896] As every first-year law student learns, engaging in inherently dangerous activities tends to subject the actor to strict and fairly absolute liability for the kinds of harm that made the activity inherently dangerous. [n191](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1348065909828&returnToKey=20_T15563238106&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.735297.7128077165#n191) Under resilience thinking, those kinds of harm would include all of the unpredictable and unexpected changes to the ecosystem that might occur as a result of a disaster like the Deepwater Horizon oil spill, up to and including a substantial shift in ecosystem regime or ecosystem collapse. While full implementation of an "inherently dangerous activity" legal regime for all marine activities is unlikely, the case is fairly strong for deep sea oil exploration and drilling. It is at least worth pondering what such a consequence of resilience thinking might mean for risk assessment and behavioral incentives in this context. If nothing else, one would predict under such a new view of potential liability that oil companies' insurers might begin charging premiums that more accurately reflect the potentially catastrophic liability that resilience-minded regulations and policies would make legally cognizant—and might insist on the much more precautionary and safety-minded approach to offshore oil drilling that a multitude of commentators and the Deepwater Horizon Commission have sought in the wake of the Deepwater Horizon disaster. V. Conclusion The second and third senses of resilience, and the socio-ecological risks for humans that they underscore, should not be foreign concepts in the regulation of the marine environment, including (and perhaps especially) when it comes to regulating the offshore oil and gas exploration and drilling taking place at ever-increasing depths. Nor should the possibility that the cumulative stresses to the Gulf of Mexico have pushed its ecosystems to the brink of ecosystem thresholds be ignored in our regulatory regimes. By acknowledging that ecosystems are dynamic and subject to sudden and fairly catastrophic (at least from a human perspective) changes, full resilience thinking provides a path away from the trap of first-sense resilience dependence. Specifically, full resilience thinking recognizes that exploitative activities that affect the Gulf—not just deep sea oil drilling but also fishing and farming up the Mississippi River—put all of the human beings who depend on the ecosystem services, as well as the ecosystems themselves, at collective risk of catastrophic ecosystem collapse. A liability regime based on these unavoidable and potentially massive environmental risks would likely protect the Gulf of Mexico better than our current regime of natural resource damages, especially when injury occurs in the Gulf's murky depths.

#### And Says it solves natural gas explosions – o/w nuke war

**Lovins and Lovins 01**

[Amory Lovins- Co-Founder of Rocky Mountain Institute and six honorary doctorates and numerous major awards, including a 1997 Heinz Award, a 1993 MacArthur Fellowship, and the Onassis Foundation’s first Delphi Prize in 1989, and with Hunter Lovins he has shared a 1999 Lindbergh Award, a 1993 Nissan Prize, a 1983 Right Livelihood Award , Hunter Lovins- a former co-CEO of Rocky Mountain Institute, a Colorado-based nonprofit resource policy think tank. She holds a BA from Pitzer College, a JD from Loyola University School of Law with the Alumni Award for Outstanding Service to the School, and an honorary LHD from the University of Maine. “Brittle Power”- 2001 update and re-release of 1982 book. Pg 87-88]

LNG is less than half as dense as water, so a cubic meter of LNG (the usual unit of measure) weighs just over half a ton.1 LNG contains about thirty per- cent less energy per cubic meter than oil, but is potentially far more hazardous.2 Burning oil cannot spread very far on land or water, but a cubic meter of spilled LNG rapidly boils into about six hundred twenty cubic meters of pure natural gas, which in turn mixes with surrounding air. Mixtures of between about five and fourteen percent natural gas in air are flammable. Thus a single cubic meter of spilled LNG can make up to twelve thousand four hundred cubic meters of flammable gas-air mixture. A single modern LNG tanker typically holds one hundred twenty-five thousand cubic meters of LNG, equivalent to twenty-seven hundred million cubic feet of natural gas. That gas can form between about twenty and fifty billion cubic feet of flammable gas-air mixture—several hundred times the volume of the Great Pyramid of Cheops. About nine percent of such a tankerload of LNG will probably, if spilled onto water, boil to gas in about five minutes.3 (It does not matter how cold the water is; it will be at least two hundred twenty-eight Fahrenheit degrees hotter than the LNG, which it will therefore cause to boil violently.) The resulting gas, however, will be so cold that it will still be denser than air. It will therefore flow in a cloud or plume along the surface until it reaches an ignition source. Such a plume might extend at least three miles downwind from a large tanker spill within ten to twenty minutes.4 It might ultimately reach much farther—perhaps six to twelve miles.5 If not ignited, the gas is asphyxiating. If ignited, it will burn to completion with a turbulent diffusion flame reminiscent of the 1937 Hindenberg disaster but about a hundred times as big. Such a fireball would burn everything within it, and by its radiant heat would cause third-degree burns and start fires a mile or two away.6 An LNG fireball can blow through a city, creating “a very large number of ignitions and explosions across a wide area. No present or foreseeable equipment can put out a very large [LNG]... fire.”7 The energy content of a single standard LNG tanker (one hundred twenty-five thousand cubic meters) is equivalent to seven-tenths of a megaton of TNT, or about fifty-five Hiroshima bombs.

### Environment 2AC

#### . Plan solves enviro collapse – extinction

Parsons 98 (Rymn James – Lieutenant Commander, JAGC, U.S. Navy. Staff Judge Advocate to Commander, “The Fight to Save the Planet: U.S. Armed Forces, "Greenkeeping," and Enforcement of the Law Pertaining to Environmental Protection During Armed Conflict”, 1998, 10 Geo. Int'l Envtl. L. Rev. 441, lexis)

Since time immemorial, war has visited its excesses on nature, excesses that many fear the Earth can no longer tolerate. From ancient times to modern, the environment has been used as a weapon and as a target of war. For instance, the Spartans salted Athenian fields during the Peloponnesian War. The Dutch opened dikes to create a water barrier (the "Dutch Water Line" of 1672) to halt the French in the Third Anglo-Dutch War. Both sides burned huge expanses of the veldt during the Boer War. Verdun was emaciated by artillery and poisoned with gas during World War I. A horrific loss of life and widespread devastation occurred when the Chinese dynamited the Huayuankow dike on the Yellow River during the Second Sino-Japanese War (1938). The United States extensively seeded clouds over the Ho Chi Minh Trail and defoliated large jungle tracts during the Vietnam War. n2 Another chilling example is the contamination of [\*442] Scotland's Gruinard Island during Britain's Anthrax testing in 1942; the island remains uninhabitable today. n3 If environmental damage during armed conflict is not restrained, the armed forces that are intended to protect us from harm may become the agents of our ultimate destruction. n4 In a world troubled by stratospheric ozone depletion, global warming, rain forest destruction, and other local, regional, and transboundary environmental dangers, n5 the potentially catastrophic environmental impact of armed conflict is further cause for great concern. n6 Extensive environmental damage from chemical weapons use, widespread habitat and species destruction, and unprecedented oil pollution has already occurred. n7 The full long-term health and environmental effects of war are unknown. It is uncertain how long it will take to acquire a complete understanding of how to remedy past, and prevent future, occurrences. n8 The need to protect the environment against unjustified damage during armed conflict is an unmet challenge of the 20th century. The weapons of war grow ever [\*443] more virulent, greatly increasing the risk of harm from incidental as well as intentional damage to the environment. n9 The environment itself may be the most potent weapon of all, a weapon that can be manipulated by both simple and technologically sophisticated means. n10

### Space Weapons 2AC

#### Plan solves space weapons – solves U.S. Russia war

Scheetz 6 (Lori – J.D. Candidate, Georgetown University Law Center, Cites Thomas Graham Jr. – Former Acting Director of the U.S Arms Control and Disarmament Agency, “Infusing Environmental Ethics into the Space Weapons Dialouge”, Georgetown International Environmental Law Review, Fall, 19 Geo. Int'l Envtl. L. Rev. 57, lexis)

Proponents of weaponizing space focus on American military dependence on space and a sense of increasing danger of a ballistic missile attack. n24 Supporters argue that space weapons might be able to address threats from small, enemy satellites, n25 ground-based anti-satellite weapons, n26 and high altitude nuclear explosions. n27 With the growing concern in the United States over terrorists and unfriendly nations, weaponizing space to bolster U.S. national security is close to becoming a reality. Furthermore, the 2005 report of the Presidential Commission on the Future of Space Exploration, ("Aldridge Commission Report"), focuses on the commercialization of space. n28 Space weapons could be used to protect these new commercial interests, along with providing diplomatic leverage and creating offensive potential from space. n29 Many in the arms control community, on the other hand, believe that space weapons will destabilize the global community and promote a costly arms race. n30 Emphasizing the destabilizing consequences of space weapons, Thomas Graham Jr. asserts that, because American missile interceptors in space could quickly wipe out Russian early warning satellites, the mere existence of these weapons will escalate tension between the two countries and place Russia on constant alert. One false signal from an early warning satellite could lead to a Russian nuclear strike. n31 Moreover, weaponization of space might not significantly reduce American vulnerability to attack because most weapons systems will depend on ground facilities and radio links, which can be attacked through electronic hacking and jamming. n32 The actual weaponry based in space is also susceptible to attack. n33 Only a few scholars have focused on the potential impact of space weapons on the quality of the space environment. Space is characterized by transparency, [\*63] fragility, and the ability to hold orbital debris for longer periods of time. As a result, testing, deployment, and use of space weapons could result in irreparable harm. n34 Placing environmental concerns in the thick of the space weapons debate and establishing restrictions on testing and deployment of space weapons are critical for the future quality of the environment in space and on Earth.

#### Extinction

Helfand and Pastore 9 (Ira Helfand, M.D., and John O. Pastore, M.D., are past presidents of Physicians for Social Responsibility, 3/31, “U.S.-Russia nuclear war still a threat”, http://www.projo.com/opinion/contributors/content/CT\_pastoreline\_03-31-09\_EODSCAO\_v15.bbdf23.html)

President Obama and Russian President Dimitri Medvedev are scheduled to Wednesday in London during the G-20 summit. They must not let the current economic crisis keep them from focusing on one of the greatest threats confronting humanity: the danger of nuclear war. Since the end of the Cold War, many have acted as though the danger of nuclear war has ended. It has not. There remain in the world more than 20,000 nuclear weapons. Alarmingly, more than 2,000 of these weapons in the U.S. and Russian arsenals remain on ready-alert status, commonly known as hair-trigger alert. They can be fired within five minutes and reach targets in the other country 30 minutes later. Just one of these weapons can destroy a city. A war involving a substantial number would cause devastation on a scale unprecedented in human history. A study conducted by Physicians for Social Responsibility in 2002 showed that if only 500 of the Russian weapons on high alert exploded over our cities, 100 million Americans would die in the first 30 minutes. An attack of this magnitude also would destroy the entire economic, communications and transportation infrastructure on which we all depend. Those who survived the initial attack would inhabit a nightmare landscape with huge swaths of the country blanketed with radioactive fallout and epidemic diseases rampant. They would have no food, no fuel, no electricity, no medicine, and certainly no organized health care. In the following months it is likely the vast majority of the U.S. population would die. Recent studies by the eminent climatologists Toon and Robock have shown that such a war would have a huge and immediate impact on climate world wide. If all of the warheads in the U.S. and Russian strategic arsenals were drawn into the conflict, the firestorms they caused would loft 180 million tons of soot and debris into the upper atmosphere — blotting out the sun. Temperatures across the globe would fall an average of 18 degrees Fahrenheit to levels not seen on earth since the depth of the last ice age, 18,000 years ago. Agriculture would stop, eco-systems would collapse, and many species, including perhaps our own, would become extinct. It is common to discuss nuclear war as a low-probabillity event. But is this true? We know of five occcasions during the last 30 years when either the U.S. or Russia believed it was under attack and prepared a counter-attack. The most recent of these near misses occurred after the end of the Cold War on Jan. 25, 1995, when the Russians mistook a U.S. weather rocket launched from Norway for a possible attack. Jan. 25, 1995, was an ordinary day with no major crisis involving the U.S. and Russia. But, unknown to almost every inhabitant on the planet, a misunderstanding led to the potential for a nuclear war. The ready alert status of nuclear weapons that existed in 1995 remains in place today.

## DAs

### Flexibility DA – 2AC

#### Fettweis

#### Obama will continue to consult for military actions – takes out the link

Rothkopf 13

[David, CEO and editor at large of Foreign Policy, The Gamble, 8/31/13, <http://www.foreignpolicy.com/articles/2013/08/31/the_gamble?page=0,1>]

Whatever happens with regard to Syria, the larger consequence of the president's action will resonate for years. The president has made it highly unlikely that at any time during the remainder of his term he will be able to initiate military action without seeking congressional approval. It is understandable that many who have opposed actions (see: Libya) taken by the president without congressional approval under the War Powers Act would welcome Obama's newly consultative approach. It certainly appears to be more in keeping with the kind of executive-legislative collaboration envisioned in the Constitution. While America hasn't actually required a congressional declaration of war to use military force since the World War II era, the bad decisions of past presidents make Obama's move appealing to the war-weary and the war-wary. But whether you agree with the move or not, it must be acknowledged that now that Obama has set this kind of precedent -- and for a military action that is exceptionally limited by any standard (a couple of days, no boots on the ground, perhaps 100 cruise missiles fired against a limited number of military targets) -- it will be very hard for him to do anything comparable or greater without again returning to the Congress for support. And that's true whether or not the upcoming vote goes his way. 4. This president just dialed back the power of his own office. Obama has reversed decades of precedent regarding the nature of presidential war powers -- and whether you prefer this change in the balance of power or not, as a matter of quantifiable fact he is transferring greater responsibility for U.S. foreign policy to a Congress that is more divided, more incapable of reasoned debate or action, and more dysfunctional than any in modern American history. Just wait for the Rand Paul filibuster or similar congressional gamesmanship. The president's own action in Libya was undertaken without such approval. So, too, was his expansion of America's drone and cyber programs. Will future offensive actions require Congress to weigh in? How will Congress react if the president tries to pick and choose when this precedent should be applied? At best, the door is open to further acrimony. At worst, the paralysis of the U.S. Congress that has given us the current budget crisis and almost no meaningful recent legislation will soon be coming to a foreign policy decision near you. Consider that John Boehner was instantly more clear about setting the timing for any potential action against Syria with his statement that Congress will not reconvene before its scheduled September 9 return to Washington than anyone in the administration has been thus far. Perhaps more importantly, what will future Congresses expect of future presidents? If Obama abides by this new approach for the next three years, will his successors lack the ability to act quickly and on their own? While past presidents have no doubt abused their War Powers authority to take action and ask for congressional approval within 60 days, we live in a volatile world; sometimes security requires swift action. The president still legally has that right, but Obama's decision may have done more -- for better or worse -- to **dial back the imperial presidency than anything his predecessors or Congress have done for decades.**

#### Court rules against executive now

Wong 13 -- PhD dissertation in Government to Georgetown University (U Jin, 4/22/2013, "THE BLANK CHECK: SUPREME COURT DECISION - MAKING IN NATIONAL SECURITY CLAIMS AND DURING WARTIME," http://repository.library.georgetown.edu/bitstream/handle/10822/558286/Wong\_georgetown\_0076D\_12276.pdf?sequence=1)

This study started out with two questions. The first was: ?Does war influence judicial decision - making?? The second was: ?Do **national security** claims influence judicial decision - making?? The answer to the first question is: In a general hypothetical s ignificant war, there is a **statistically significant finding** of voting against the government. In the models run using the Spaeth database where the government is a party, the influence of all significant wars on judicial decision - making generally was to vote against the government. Presidential approval ratings are statistically significant only in wartime, but with a positive coefficient. Outside of wartime, presidential approval ratings are not statistically likely to influence Supreme Court behavior. This result suggests that while Courts vote strategically and support a popular president, they are still statistically likely to find against the government in a significant war. These findings altogether suggest that that the Supreme Court votes strat egically with an eye towards the popularity of the president, but revert to skepticism of government‘s wartime claims as the war progresses. The answer to the second question is: National security claims brought by the government achieve a **statistically significant likelihood** that the Supreme Court will vote against the government. National security claims were statistically significant with a negative signifier. **This finding is consistent across all the major wars as well as peacetime**. It also suggest s that the Supreme Court generally is not predisposed to defer to the executive branch‘s arguments when it comes to national security claims

#### 1. No link – the plan is only an environmental restriction on armed forces – not the counter-terror forces their impact evidence assumes

#### 2. Plan doesn’t affect all power – the president will do what he wants absent direct prohibition

Marshall 08

[William, Kenan Professor of Law, University of North Carolina, Eleven Reasons Presidential Power Inevitably Expands and Why It Matters, 2008,

<http://www.bu.edu/law/central/jd/organizations/journals/bulr/documents/MARSHALL.pdf>]

The first and perhaps overarching reason underlying the growth of presidential power is that the constitutional text on the subject is notoriously unspecific, allowing as one writer maintains, for the office “to grow with the developing nation.”19 Unlike Article I, which sets forth the specific powers granted to Congress,20 the key provisions of Article II that grant authority to the President are written in indeterminate terms such as “executive power,”21 or the duty “to take care that the laws be faithfully executed.”22 Moreover, unlike the other branches, the Presidency has consistently been deemed to possess significant inherent powers.23 Thus, many of the President’s recognized powers, such as the authority to act in times of national emergency24 or the right to keep advice from subordinates confidential,25 are nowhere mentioned in the Constitution itself. In addition, case law on presidential power is underdeveloped. Unlike the many precedents addressing Congressional26 or federal judicial27 power, there are remarkably few Supreme Court cases analyzing presidential power. And the leading case on the subject, Youngstown Sheet & Tube Co. v. Sawyer, 28 is known less for its majority opinion than for its concurrence by Justice Jackson, an opinion primarily celebrated for its rather less-than-definitive announcement that much of presidential power exists in a “zone of twilight.”29 Accordingly, the question whether a President has exceeded her authority is seldom immediately obvious because the powers of the office are so openended.30 This fluidity in definition, in turn, allows presidential power to readily expand when factors such as national crisis, military action, or other matters of expedience call for its exercise.31 Additionally, such fluidity allows political expectations to affect public perceptions of the presidential office in a manner that can lead to expanded notions of the office’s power.32 This perception of expanded powers, in turn, can then lead to the perceived legitimacy of the President actually exercising those powers. Without direct prohibitions to the contrary, expectations easily translate into political reality.33

#### 3. Expertise solves – as forces get used to the restrictions they will be able to make decisions quickly which ensures the plan doesn’t hurt flexibility

#### 4. Even if they win that the aff spills over to broader authority, it would not wreck flex

Andrew McCarthy 9, Director of the Center for Law & Counterterrorism at the Foundation for the Defense of Democracies. From 1985 through 2003, he was a federal prosecutor at the U.S. Attorney’s Office for the Southern District of New York, and was the lead prosecutor in the seditious conspiracy trial against Sheikh Omar Abdel Rahman and eleven others, described subsequently. AND Alykhan Velshi, a staff attorney at the Center for Law & Counterterrorism, where he focuses on the international law of armed conflict and the use of force, 8/20/09, “Outsourcing American Law,” AEI Working Paper, http://www.aei.org/files/2009/08/20/20090820-Chapter6.pdf

What is an asset in the criminal justice system, however, would be a liability in a system whose priority is not justice for the individual but the security of the American people. That liability, though, can be satisfactorily rectified by clear procedural rules which underscore that the overriding mission – into which the judicial function is being imported for very limited purposes – remains executive and military. The default position of the criminal justice system would not carry over to a system conceived for enemies of the United States – i.e., terrorist operatives who would not be facing NSC trials in the first place absent a finding, tested by judicial review, that they were alien enemy combatants. ¶ In such a system, the opportunities for judicial creativity would be limited by being plainspoken and unapologetic in enabling legislation about the fact that the defendants are not Americans but those who mean America harm; that the task of federal judges is not to ensure that defendants are considered as equals to our government before the bar of justice, but merely to ensure that they are not capriciously convicted of war crimes by the same branch of government that is prosecuting the war; that if credible and convincing evidence supports the allegations, the system’s preference is that defendants be convicted and harshly sentenced; and that the authority of judges is enumerated and finite – if the rules as promulgated do not expressly provide for the defendant to have particular relief, the judge is powerless to direct it. In short, the system would curb judicial excess by the recognition, which underlies the military justice system, that prosecuting war remains a quintessentially executive endeavor; in the NSC, judges would be a check against arbitrariness but they would not have any general supervisory authority over the conduct of proceedings and they would not be at liberty to create new entitlements by analogizing to ordinary criminal proceedings.

#### ---Executive powers too overstreched- we tip it back into balance without killing flexibility

Magnusson 9 -- J.D. Candidate, April 2010, J. Reuben Clark Law School, Brigham Young University (Landon Wade, 2009, "Note and Comment: Forget the Whales: Expanding the Twilight and Diminishing the Nadir of Youngstown," 24 BYU J. Pub. L. 149, L/N)

IV. Implications: Winter's Expanding Emergency Although Framers, such as Alexander Hamilton, viewed the emergency prerogative of the dictators of the Roman Republic with favor, it has always been evident that it was the abuse of those temporary and yet expansive emergency powers that led to the demise of the Roman Republic and the creation of the Roman Empire. n85 Consequently, none of [\*160] the Framers believed that the Constitution should ever grant the Executive absolute and unfettered authority. n86 Unfortunately, the Supreme Court in Winter took a step in that direction when it **erroneously stretched the normal boundaries of emergency executive powers**. First, the Court expanded the legal definition of emergency in a manner that would allow the Executive to seek the protection of "self-made" emergencies. Second, it **significantly lowered the bar** for emergency powers by deferring to the judgment of the Executive for the determination of necessity. A. Ransoming the Public for Power The circumstances necessitating the Navy training exercises at issue were not an emergency under either NEPA or the common law. In 1978, the CEQ, which has the authority to issue regulations interpreting NEPA, n87 promulgated a regulation allowing the federal government to act "without observing the provisions of [the] regulation[]" when "emergency circumstances make it necessary." n88 This regulation would seem to be a **codification of the implicit emergency powers of the Executive**, as pertaining to NEPA. However, neither the regulation itself, nor any judicial interpretations of the statute have provided a definition for emergency circumstances. This requires an interpreter to look to the common law, as well as at general practice under the statute to discover its significance. Under the common law, an emergency is "an unforeseen combination of circumstances that calls for immediate action without time for full deliberation." n89 Using this definition, emergencies require both unpredictability and immediate action. Though the District Court's injunction in Winter may have created a necessity that called for immediate action, the injunction was not an unforeseeable event. NEPA has been in effect since 1969, and "training exercises [] have been taking place in [Southern California] for the last 40 years." n90 Moreover, the Navy has "described the ability to operate MFA sonar," a key component [\*161] of its training exercises, "as a "highly perishable skill" that must be repeatedly practiced under realistic conditions." n91 Under circumstances where the Navy should reasonably foresee its need to conduct future exercises and where the Navy has always had to comply with the statute in order to conduct those exercises, it is not reasonable to conclude that the Navy could not have foreseen the necessity of preparing an EIS. Additionally, general tort law requires governmental entities that seek the protection of emergency doctrines to not have created or contributed to the emergency in question. n92 This is another instance where the Supreme Court has **stretched the definition of emergency** in order to accommodate the Executive. Because of the foreseeability of the need to file an EIS, the District Court's emergency-creating injunction could have been avoided if the Navy had properly followed procedure from the beginning. It was only because of the Navy's negligence or reckless disregard for the law, that the emergency was created. n93 The Executive's previous record in making alternative arrangements for NEPA compliance confirms the common law requirements of an emergency. Other occasions where alternative arrangements have been made include disasters such as: wildfires in San Diego, grasshopper infestations in Arizona, Hurricane Katrina relief, and even an impending war in the Persian Gulf. n94 In the past, each time the Executive exercised its power to go beyond the boundaries of the statute, it was the result of an unforeseeable circumstance that required immediate action and was not the direct result of previous executive action. [\*162] Under the circumstances, "if the Navy sought to avoid its NEPA obligations, its remedy [laid] in the Legislative Branch." n95 However, under this new definition of emergency powers handed down by the Court, the Executive no longer needs the Legislature. Hypothetically, the public safety, put in danger only through the Executive's reckless disregard for the law, may be ransomed again with emergency power. B. The Executive Will Necessarily Favor the Executive According to the Navy, the declaration that the Navy's training exercises were ""essential to national security'" and that the injunction would ""create[] a significant and unreasonable risk'" to the American people, n96 combined with CEQ's alternative arrangements, "eliminated the injunction's legal foundation." n97 Although the Supreme Court refused to specifically rule on whether the Executive's actions actually relieved the Navy of its obligations, n98 the Court used those very same statements from the Executive to vacate the lower court's injunction and effectively rule that the circumstances did not require the Navy to comply with the Act. n99 Admittedly, "neither the Members of [the Supreme] Court nor most federal judges," nor the author of this Note for that matter, "begin the day with briefings that may describe new and serious threats to our Nation and its people." n100 Moreover, the Executive is probably the most qualified of all the branches of government to make determinations concerning emergencies and the imminence of dangerous attacks on the American people. However, **deferring to the Executive by granting it unfettered review of its own policies** completely abolishes the boundaries found in Justice Jackson's nadir. Indeed, without independent review, "the **false pretext of imminent danger**" creates an additional zenith of executive power. n101 Yet, unlike Jackson's zenith, n102 here the Executive reaches this summit of power independently. The resulting effects on the separation of powers are vast. In practice, an Executive could claim "emergency" or [\*163] "necessity" to justify **any actions** contrary to the law whenever it felt that such actions were prudent. n103 Additionally, affording the Executive the prerogative to interpret the extent of its own emergency license will necessarily **lower the threshold** for a constitutionally permissible suspension of the normal balance of powers. When it comes to the use of executive-executed emergency powers, an Executive will be faced with two choices: First, it could refrain from exercising emergency powers at the risk of an emergency actually occurring, and then call upon those powers anyway in order to remedy the situation. Alternatively, the Executive might mitigate risks by exercising the power immediately at the expense of the constitutional balance of powers. Obviously, the latter choice leads to a propensity to call upon emergency powers even when necessity would not require them. n104 Prior to Winter, the Supreme Court had already taken a position on this issue: "a state of war," the **most severe of emergencies**, "is **not a blank check for the President**." n105 However, in "giving great deference to the professional judgment of military authorities concerning the relative importance of a particular military interest," n106 the **Supreme Court disregards** Youngstown's **boundaries of presidential power** and [\*164] **cedes its important role of exercising judicial review to the Executiv**e. n107 This, essentially, grants the Executive carte blanche in determining when, and to what extent, he or she may rely on emergency circumstances to justify his or her actions. Such a ruling is a **blank check for abuse**. V. Conclusion It may be tempting to brush Winter aside because the Supreme Court did not reach a decision on the merits due to the nature of the suit, but one should remember that fifty years ago, another case, more explicitly concerning the limits of presidential powers, sought after the same remedy. n108 Both cases occurred during a period when the United States was at war. n109 In each case, the Executive's actions were directly contrary to congressional will. n110 Most importantly, in both situations, because of emergency circumstances, the Executive Branch justified its actions as necessary in defense of the public good. n111 Nevertheless, in Winter, the Supreme Court **departs from the standard** set half a century ago in Youngstown. By finding in favor of the Navy, the Court altered the accepted Jackson taxonomy by expanding its zone of twilight, and diminishing its nadir. Winter accomplished this by first **revising the definition of an emergency** - eliminating its requirement of unforeseeability and permitting an Executive to seek the protection of emergency powers for **manufactured emergencies** caused by the reckless disregard of the law or negligence of that Executive. Second, the Winter decision allows the Executive to "**be the judge in [its] own case**," n112 [\*165] deferring to [it] for a determination of when emergency circumstances are present, creating an incentive for Executives to **call upon those powers more often and under circumstances** that are less than public emergencies.

#### 5. Court rules against executive now

Wong 13 -- PhD dissertation in Government to Georgetown University (U Jin, 4/22/2013, "THE BLANK CHECK: SUPREME COURT DECISION - MAKING IN NATIONAL SECURITY CLAIMS AND DURING WARTIME," http://repository.library.georgetown.edu/bitstream/handle/10822/558286/Wong\_georgetown\_0076D\_12276.pdf?sequence=1)

This study started out with two questions. The first was: ?Does war influence judicial decision - making?? The second was: ?Do **national security** claims influence judicial decision - making?? The answer to the first question is: In a general hypothetical s ignificant war, there is a **statistically significant finding** of voting against the government. In the models run using the Spaeth database where the government is a party, the influence of all significant wars on judicial decision - making generally was to vote against the government. Presidential approval ratings are statistically significant only in wartime, but with a positive coefficient. Outside of wartime, presidential approval ratings are not statistically likely to influence Supreme Court behavior. This result suggests that while Courts vote strategically and support a popular president, they are still statistically likely to find against the government in a significant war. These findings altogether suggest that that the Supreme Court votes strat egically with an eye towards the popularity of the president, but revert to skepticism of government‘s wartime claims as the war progresses. The answer to the second question is: National security claims brought by the government achieve a **statistically significant likelihood** that the Supreme Court will vote against the government. National security claims were statistically significant with a negative signifier. **This finding is consistent across all the major wars as well as peacetime**. It also suggest s that the Supreme Court generally is not predisposed to defer to the executive branch‘s arguments when it comes to national security claims

#### 6. **Rules during crises don’t hurt flexibility**

Holmes 9 -- Walter E. Meyer Professor of Law, New York University School of Law (Stephen, 4/30/2009, "In Case of Emergency: Misunderstanding Tradeoffs in the War on Terror," http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1140&context=californialawreview)

Thus, it also illustrates the truism, profoundly relevant to the war on terror, that limiting options available during emergencies can be good or bad, depending on what emergency responders, who may be tempted by sheer exhaustion to take hazardous shortcuts, will do with the latitudes they seize or receive. Campaigners for executive discretion routinely invoke the imperative need for "**flexibility**" to explain why counterterrorism cannot be successfully conducted within the Constitution and the rule of law. But general rules and situation-specific improvisation, far from being mutually exclusive, are perfectly compatible. 1 8 There is no reason why mechanically following protocols designed to prevent harried nurses from negligently administering the wrong blood type should preclude the same nurses from improvising unique solutions to the unique problems of a particular trauma patient. Drilled-in emergency protocols provide a **psychologically stabilizing floor**, shared by co- workers, on the basis of which **untried solutions can then be improvised**. 9 In other words, there is no reason to assert, at least not as a matter of general validity, that the importance of flexibility excludes reliance on rules during emergencies, including national-security emergencies. The emergency-room example can also deepen our understanding of national-security crises by bringing into focus an important but sometimes neglected distinction between threats that are novel and threats that are urgent. **Dangers may be unprecedented without demanding a split-second response**. Contrariwise, urgent threats that have appeared repeatedly in the past can be managed according to protocols that have become automatic and routine. Emergency-room emergencies are urgent even when they are perfectly familiar. Terrorists with access to weapons of mass destruction ("WMD"), by contrast, present a novel threat that is destined to endure for decades, if not longer. **Such a threat is not an "emergency"** in the sense of a sudden event, such as a house on fire, **requiring genuinely split-second decision making**, with no opportunity for serious consultation or debate. **Managing the risks of nuclear terrorism requires sustained policies, not short-term measures**. This is feasible precisely because, in such an enduring crisis, national-security personnel have **ample time to think and rethink, to plan ahead and revise their plans**. In depicting today's terrorist threat as "an emergency," executive-discretion advocates almost always blur together urgency and novelty. This is a consequential intellectual fallacy. But it also provides an opportunity for critics of executive discretion in times of crisis. If classical emergencies, in the house- on-fire or emergency-room sense, turn out to invite and require rule-governed responses, then the justification for dispensing with rules in the war on terror seems that much more tenuous and open to question. In crises where "time is of the essence" 2 1 and serious consultation is difficult or impossible, it is imperative for emergency responders to follow previously crafted first-order rules (or behavioral commands) to enable prompt remedial action and coordination. In crises that are not sudden and transient but, instead, endure over time and that therefore allow for extensive consultation with knowledgeable parties, it is essential to rely on previously crafted second-order rules (or decision-making procedures) designed to **encourage decision makers to consider the costs and benefits of, and feasible alternatives to, proposed action plans**. In medicine, a typical first-order rule is "always wash your hands before inserting a stent," and a typical second-order rule is "always get a second opinion before undertaking major surgery."

#### 7. No impact to flexibility –

#### A) Obama’s already constrained by congress – countries would have already perceived him as weak

#### B) Bases around the world provide a deterrent value which solves – only the aff gives us that access

#### 8. Court expertise is sufficient—their link is blown out of proportion

Knowles 9 [Spring, 2009, Robert Knowles is a Acting Assistant Professor, New York University School of Law, “American Hegemony and the Foreign Affairs Constitution”, ARIZONA STATE LAW JOURNAL, 41 Ariz. St. L.J. 87]

A common justification for deference is that the President possesses superior competence due to expertise, information gathering, and political savvy in foreign affairs. These conclusions flow from the realist tenet that the external context is fundamentally distinct from the domestic context. The domestic realm is hierarchical and legal; the outside world is anarchical and political. The international realm is thus far more complex and fluid than the domestic realm. The executive is a political branch, popularly-elected and far more attuned to politics than are the courts. n258 Judges are, for the most part, generalists who possess no special expertise in foreign affairs. n259 Courts can only receive the information presented to them and cannot look beyond the record. n260 The President has a vast foreign relations bureaucracy to obtain and process information from around the world. Executive agencies such as the State Department and the military better understand the nature of foreign countries - their institutions and culture - and can predict responses in ways that courts cannot. n261 In the context of the political question doctrine, this rationale often appears when courts conclude that an issue lacks "judicially discoverable and manageable standards." n262 A stronger, related rationale is that the political branches are better suited for tracking dynamic and evolving norms in the anarchic international environment. n263 The meaning of international law changes over time and nations do not agree today on its meaning. Moreover, the relationships among nations in many instances will be governed by informal norms that do not correspond to international law. n264 In addition, many foreign affairs provisions in the Constitution had fixed meanings under international law in the Eighteenth Century - what it meant, for example, to "declare war" or to issue "letters of marquee and [\*129] reprisal" - but subsequent practice has substantially altered their meaning or rendered them irrelevant. n265 Courts are not adept at tracking these shifts. As many critics have observed, the "lack of judicially-manageable standards" argument is weak. Courts create rules to govern disputes regarding vague constitutional provisions such as the Due Process Clause. n266 Furthermore, if courts were to adjudicate foreign affairs disputes more often, they would have the opportunity to create clearer standards, making them more manageable. n267 Thus the lack-of-standards argument does not alone explain why foreign affairs should be off-limits. The argument regarding courts' limited access to information and lack of expertise seem persuasive at first, but it loses its force upon deeper inspection. For instance, expertise is also a rationale for Chevron deference in the domestic context. n268 Generalist judges handle cases involving highly complex and obscure non-foreign affairs issues while giving appropriate deference to interpretations of agencies charged with administering statutory schemes. n269 What makes foreign affairs issues so different that they justify even greater deference? n270 Perhaps foreign affairs issues are just an order of magnitude more complex than even the most complex domestic issues. However, this line of thinking very quickly leads to boundary problems. Economic globalization, rapid global information flow, and increased transborder movement have "radically increased the number of cases that directly implicate foreign relations" and have made foreign parties and conduct, as well as international law questions, increasingly [\*130] common in U.S. litigation. n271 If courts were to cabin off all matters touching on foreign relations as beyond their expertise, it would result in an ever-increasing abdication of their role. The political norm-tracking argument reveals the second major problem with using anarchy as a basis for special deference: it fails to account for the degree of deference that should be afforded to the President. Under the anarchy-based argument, the meaning of treaties and other concepts in foreign affairs depend entirely on politics and power dynamics, which the President is especially competent (and the courts especially incompetent) in tracking. If this is so, the courts must give total deference to the executive branch. If one does not wish to take the position that the courts should butt out altogether in foreign affairs, there must be other reasons for the courts' involvement. Even proponents of special deference generally acknowledge that some of the courts' strengths lie in protecting individual rights and "democracy-forcing." n272 But what is the correct balance to strike between competing functional goals of the separation of powers?

#### 9. Pre-9/11 restrictions disprove the DA – no significant effect on readiness

Dycus 05

[Stephen, Professor, Vermont Law School, Osama's Submarine: National Security and

Environmental Protection After 9/11, William & Mary Environmental Law and Policy Review, <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1112&context=wmelpr>]

The evidence that compliance with environmental laws has seriously impaired U.S. preparations for war is, however, far from conclusive. After all, the U.S. military's successes in Afghanistan and Iraq were achieved using troops trained and weapons tested under **pre-September 11th environmental statutes** and regulations. A Navy Admiral, testifying before Congress in support of RRPI in 2003, declared that "the readiness of the Navy is excellent. 32 According to a General Accounting Office report in 2002, "[d]espite the loss of some capabilities, service readiness data do not indicate the extent to which encroachment has significantly affected reported training readiness.” 33 In fact, the report concluded, "Training readiness, as reported in official readiness reports, remains high for most units.,34 Environmental Protection Agency ("EPA") Administrator Christine Todd Whitman went further in early 2003, stating, "**I don't believe that there is a training mission anywhere in the country that is being held up or not taking place because of environmental protection regulation**."35 A more recent study by the Congressional Research Service noted that "[a]lthough DOD has cited some examples of training restrictions or delays at certain installations and has used these as the basis for seeking legislative remedies, the department does not have a system in place to comprehensively track these cases and determine their impact on readiness.' "36 Some have taken a dimmer view of DOD's protests. EPA complained that the definition of "military readiness activities" in the DOD proposal was "broad and unclear and could be read to encompass more than the Department intends."37 Congressman John Dingell, a Democrat from Michigan, was much more emphatic: "I have dealt with the military for years and they constantly seek to get out from under environmental laws. But using the threat of 9-11 and al Qaeda to get unprecedented environmental immunity is despicable. 38

### Emory Africa DA – 2AC

#### Obama will continue to consult for military actions – takes out the link

Rothkopf 13

[David, CEO and editor at large of Foreign Policy, The Gamble, 8/31/13, <http://www.foreignpolicy.com/articles/2013/08/31/the_gamble?page=0,1>]

Whatever happens with regard to Syria, the larger consequence of the president's action will resonate for years. The president has made it highly unlikely that at any time during the remainder of his term he will be able to initiate military action without seeking congressional approval. It is understandable that many who have opposed actions (see: Libya) taken by the president without congressional approval under the War Powers Act would welcome Obama's newly consultative approach. It certainly appears to be more in keeping with the kind of executive-legislative collaboration envisioned in the Constitution. While America hasn't actually required a congressional declaration of war to use military force since the World War II era, the bad decisions of past presidents make Obama's move appealing to the war-weary and the war-wary. But whether you agree with the move or not, it must be acknowledged that now that Obama has set this kind of precedent -- and for a military action that is exceptionally limited by any standard (a couple of days, no boots on the ground, perhaps 100 cruise missiles fired against a limited number of military targets) -- it will be very hard for him to do anything comparable or greater without again returning to the Congress for support. And that's true whether or not the upcoming vote goes his way. 4. This president just dialed back the power of his own office. Obama has reversed decades of precedent regarding the nature of presidential war powers -- and whether you prefer this change in the balance of power or not, as a matter of quantifiable fact he is transferring greater responsibility for U.S. foreign policy to a Congress that is more divided, more incapable of reasoned debate or action, and more dysfunctional than any in modern American history. Just wait for the Rand Paul filibuster or similar congressional gamesmanship. The president's own action in Libya was undertaken without such approval. So, too, was his expansion of America's drone and cyber programs. Will future offensive actions require Congress to weigh in? How will Congress react if the president tries to pick and choose when this precedent should be applied? At best, the door is open to further acrimony. At worst, the paralysis of the U.S. Congress that has given us the current budget crisis and almost no meaningful recent legislation will soon be coming to a foreign policy decision near you. Consider that John Boehner was instantly more clear about setting the timing for any potential action against Syria with his statement that Congress will not reconvene before its scheduled September 9 return to Washington than anyone in the administration has been thus far. Perhaps more importantly, what will future Congresses expect of future presidents? If Obama abides by this new approach for the next three years, will his successors lack the ability to act quickly and on their own? While past presidents have no doubt abused their War Powers authority to take action and ask for congressional approval within 60 days, we live in a volatile world; sometimes security requires swift action. The president still legally has that right, but Obama's decision may have done more -- for better or worse -- to **dial back the imperial presidency than anything his predecessors or Congress have done for decades.**

#### Readiness Low –

#### A) Sequester

Pellerin 13

[Cheryl, American Forces Press Service, Hale: Sequestration Devastates U.S. Military Readiness, 5/10/13, <http://www.defense.gov/news/newsarticle.aspx?id=119998>]

During a Senate hearing yesterday on President Barack Obama’s $9.5 billion military construction budget request for fiscal year 2014, Defense Department Comptroller Robert F. Hale said the severe and abrupt budget cuts imposed by sequestration are devastating the U.S. armed forces. Hale and John Conger, acting deputy undersecretary of defense for installations and environment, testified on military construction and family housing before the Senate Appropriations subcommittee on military construction, veterans affairs and related agencies. The officials described for the panel the impact of sequestration on military construction, facilities sustainment and restoration, and on the services in the current year. “While sequestration and related problems do not affect most military construction projects, they are devastating military readiness,” Hale told the senators, adding, “I just can't believe what we're doing to the military right now.”

#### B) Morale

Ditz 12

[Jason, news editor of Antiwar.com, Study Finds US Troop Morale Plummeting, 8/19/12, <http://news.antiwar.com/2012/08/19/study-finds-us-troop-morale-plummeting/>]

The latest version of an annual survey of senior enlisted men in the US military find troop morale plummeting and only about 1 in 4 believing that the military is actually heading in the right direction. The survey cites responses that say the military’s leadership is ineffective at senior levels and focuses on the wrong priorities. The respondents also complained about lack of discipline in the ranks. The “right direction” question was the real eye-opening, however, as it is the worst result on record for the military. Officials say it is of particular concern as the military goes into a realignment related to budget changes in the next few years. The huge drop-off in morale at the senior enlisted level may also shed light on the record rate of suicide in the Army as the increase is coming almost entirely from the ranks of long-serving enlisted men. The military sought to blame it on troops having difficulty adjusting to life at home, but today’s study may suggest morale problems are playing a role.

#### C) CMR

Carafano 13

[James, vice president of Foreign and Defense policy studies at The Heritage Foundation, Uncivil Military Relations, 3/6/13, <http://nationalinterest.org/commentary/uncivil-military-relations-8186>]

In contrast, political leaders should never outsource the field of battle to the field marshals. Lincoln, one of the leaders profiled in Supreme Command, quickly learned the lesson that he had to understand war to lead the nation to victory in war. Cohen’s case study of Lincoln captures precisely how that small space shared between the military and political spheres demands the very best of leaders—both civilian and military. Operating effectively requires the right mix of trust, confidence, competence and character. There are many signs that the bridge across the Potomac is shaky. The president has sent plenty of signals that, beyond reciting the usual platitudes, he doesn’t consider preserving military readiness and defense capabilities more of a priority than keeping any other government department humming. He was, after all, more than willing to hold defense hostage during the sequestration debate—trying to force conservatives in the Congress to choose between tax hikes or gutting national security (which takes 50 percent of the sequestration cuts on top of the billions the president has already taken off the Pentagon’s top line). Meanwhile, the Pentagon’s top brass have a credibility problem of their own. When the former chairman of the Joint Chiefs of Staff, Admiral Mike Mullen, famously declared the national debt was America’s number one national-security threat, many in Washington interpreted the comment not as a warning to get the nation’s fiscal house in order but as green light for defense cuts. Further, the current chairman and chiefs have not been much better advocates for a strong national defense. For months, they said virtually nothing about the dangers of the so-called sequester. Only when the White House wanted to ratchet up pressure on Congress to axe the sequester in favor or higher taxes did the brass start trumpeting their doom and gloom warnings. When it comes to readiness and capabilities, the senior officer corps is starting to look a bit like presidential sock puppets.

#### 3. Training solves the link

Dycus 96

[Stephen, Professor, Vermont Law School, 1996, "National Defense and the Environment"pp 137]

It might seem terribly naive to suggest that in the midst of battle military leaders should have to worry about protecting the natural environment, or be distracted in any way from the immediate task of winning. But because, as we have noted, the environment itself is worth fighting to protect, environmental consequences must be considered in making tactical decisions. Fortunately, much that happens during a war is determined far in advance, from planning and training for combat, to the design of weapons. There is ordinarily plenty of time for reflection and debate about the wartime environmental implications of these preparations. One former infantry officer summed up the responsibility of military leaders this way: [C]ommanders must take strong positive steps to limit environmental damage. They must plan campaigns with the avoidance of damage in mind. For example, they should avoid, if at all possible, especially fragile areas. They should prohibit mass destruction of the land (such as the use of Agent Orange in Vietnam) as a method of warfare. They must make their subordinates aware of the environment, and they must issue orders prohibiting damage. They must continually assess the effects of their campaigns on the environment. Finally, they must insure that positive steps are taken to heal environmental damage in areas that they conquer and occupy. 13

#### 4. Turn – NEPA allows for flexibility and makes our military more effective

Dycus 96

[Stephen, Professor, Vermont Law School, 1996, "National Defense and the Environment"pp 149]

There is serious, continuing debate about whether the domestic environmental laws apply abroad. 89 The Defense Department expressly disavows the applicability of NEPA to military actions outside the nation's borders, especially to armed conflict.90 The Pentagon's "Overseas Environmental Baseline Guidance Document" claims only to have "considered" United States environmental laws and regulations, not to be governed by them, and it does not apply to "deployments for operations," that is, to warfare.91 The environmental laws themselves are silent on the question, and the legislative histories are almost as enigmatic. Aside from the usual presumption that domestic laws are not meant to apply abroad unless Congress expressly states otherwise, there is no compelling evidence that Congress intended to exclude their application to armed conflict. Indeed, these laws should be applied to warfare. As a practical matter, they provide convenient, familiar mechanisms for evaluating and minimizing risks to the environment in time of war just as they do in peacetime. Applied with a practical flexibility, **they need not interfere with military operations**. No one has suggested that the Defense Department ought to have prepared the kind of formal environmental impact statement required by NEPA before deploying troops and equipment in the Persian Gulf, even though Operations Desert Shield and Desert Storm were undeniably "major federal actions affecting the human environment." The political objectives of freeing Kuwait and protecting Saudi Arabia from further Iraqi advances might well have been frustrated by delays inherent in the usual public notice and interagency review process. Very much to its credit, the Pentagon did not ignore the environmental risks altogether. But it failed to undertake, even internally, the kind of systematic, coordinated environmental evaluation that NEPA requires. We cannot expect the environmental laws to apply the same way on the battlefield that they do in planning a highway or operating a sewage disposal plant. A field commander whose forces come under attack cannot stop to prepare an environmental assessment or apply for a Clean Water Act permit before mounting a counteroffensive. Because of the need for speed and secrecy, members of the public cannot expect to receive advance notice or have an opportunity to comment on proposed tactics. Citizen enforcement will be nearly impossible; we will have to rely on the military branches to police their own operations and personnel, aided by oversight from their inspectors general. It may not even be practical for our field commander to fully document his consideration of environmental effects, making accountability more problematic. Yet even in a combat setting, our commander can apply performance standards and follow procedures set out in the domestic environmental laws as closely as circumstances permit. Much that takes place on the battlefield is planned far in advance. Operation plans, rules of engagement, and standardized tactics should be routinely vetted for compliance with domestic environmental law standards, just as they are now reviewed for conformity with the law of war, even though for security reasons neither the planning process nor the plans themselves can be made public. The designs of weapons and other equipment, and protocols for their use on the battlefield, should also conform to requirements of the environmental laws. Just as the law of war proscribes weapons that cause unnecessary suffering, application of the environmental laws ought to prevent the deployment of weapons that cause unnecessary injury to the environment. Thus, the Navy should only deploy ships that have the capacity to treat or store their solid wastes while at sea, instead of dumping them overboard in violation of the Ocean Dumping Act or the Clean Water Act. 92 The Army has decided that if chemical herbicides are used in combat, they "must be employed in accordance with federal laws and regulations which would govern their use within the United States.... Environmental Protection Agency regulations pertaining to dilution, droplet size, protective clothing, etc. are binding on U.S. forces."93 The EPA regulations are promulgated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).94 The military services are beginning to **incorporate environmental compliance into combat training, just as they now train every soldier, sailor, and airman to be familiar with the law of war**. As one high­ranking Air Force officer put it, "we fight the way we are trained." Long before reaching the battlefield, for example, a tank commander needs to learn not to drive through the middle of a wetland if a path across high ground offers the same tactical advantage. The same commander should be instructed to carry along not only a change of oil for his tank's engine, but also a safe receptacle for the old oil, so it will not have to be drained onto the ground, as was done in the Persian Gulf War. Finally, environmental compliance on the battlefield itself **will not necessarily make combat units less effective in carrying out their military missions**. A recent Army­ financed study concluded that successful introduction of pollution prevention initiatives into combat doctrine and planning would actually enhance fighting strength by increasing each unit's self­sufficiency, **reducing disease and nonbattle injury, and reducing the unit's visibility to the enemy**. 95

#### 1. No link – the plan is only an environmental restriction on armed forces – not the counter-terror forces their impact evidence assumes

#### 2. Plan doesn’t affect all power – the president will do what he wants absent direct prohibition

Marshall 08

[William, Kenan Professor of Law, University of North Carolina, Eleven Reasons Presidential Power Inevitably Expands and Why It Matters, 2008,

<http://www.bu.edu/law/central/jd/organizations/journals/bulr/documents/MARSHALL.pdf>]

The first and perhaps overarching reason underlying the growth of presidential power is that the constitutional text on the subject is notoriously unspecific, allowing as one writer maintains, for the office “to grow with the developing nation.”19 Unlike Article I, which sets forth the specific powers granted to Congress,20 the key provisions of Article II that grant authority to the President are written in indeterminate terms such as “executive power,”21 or the duty “to take care that the laws be faithfully executed.”22 Moreover, unlike the other branches, the Presidency has consistently been deemed to possess significant inherent powers.23 Thus, many of the President’s recognized powers, such as the authority to act in times of national emergency24 or the right to keep advice from subordinates confidential,25 are nowhere mentioned in the Constitution itself. In addition, case law on presidential power is underdeveloped. Unlike the many precedents addressing Congressional26 or federal judicial27 power, there are remarkably few Supreme Court cases analyzing presidential power. And the leading case on the subject, Youngstown Sheet & Tube Co. v. Sawyer, 28 is known less for its majority opinion than for its concurrence by Justice Jackson, an opinion primarily celebrated for its rather less-than-definitive announcement that much of presidential power exists in a “zone of twilight.”29 Accordingly, the question whether a President has exceeded her authority is seldom immediately obvious because the powers of the office are so openended.30 This fluidity in definition, in turn, allows presidential power to readily expand when factors such as national crisis, military action, or other matters of expedience call for its exercise.31 Additionally, such fluidity allows political expectations to affect public perceptions of the presidential office in a manner that can lead to expanded notions of the office’s power.32 This perception of expanded powers, in turn, can then lead to the perceived legitimacy of the President actually exercising those powers. Without direct prohibitions to the contrary, expectations easily translate into political reality.33

#### 3. Expertise solves – as forces get used to the restrictions they will be able to make decisions quickly which ensures the plan doesn’t hurt flexibility

#### 4. Even if they win that the aff spills over to broader authority, it would not wreck flex

Andrew McCarthy 9, Director of the Center for Law & Counterterrorism at the Foundation for the Defense of Democracies. From 1985 through 2003, he was a federal prosecutor at the U.S. Attorney’s Office for the Southern District of New York, and was the lead prosecutor in the seditious conspiracy trial against Sheikh Omar Abdel Rahman and eleven others, described subsequently. AND Alykhan Velshi, a staff attorney at the Center for Law & Counterterrorism, where he focuses on the international law of armed conflict and the use of force, 8/20/09, “Outsourcing American Law,” AEI Working Paper, http://www.aei.org/files/2009/08/20/20090820-Chapter6.pdf

What is an asset in the criminal justice system, however, would be a liability in a system whose priority is not justice for the individual but the security of the American people. That liability, though, can be satisfactorily rectified by clear procedural rules which underscore that the overriding mission – into which the judicial function is being imported for very limited purposes – remains executive and military. The default position of the criminal justice system would not carry over to a system conceived for enemies of the United States – i.e., terrorist operatives who would not be facing NSC trials in the first place absent a finding, tested by judicial review, that they were alien enemy combatants. ¶ In such a system, the opportunities for judicial creativity would be limited by being plainspoken and unapologetic in enabling legislation about the fact that the defendants are not Americans but those who mean America harm; that the task of federal judges is not to ensure that defendants are considered as equals to our government before the bar of justice, but merely to ensure that they are not capriciously convicted of war crimes by the same branch of government that is prosecuting the war; that if credible and convincing evidence supports the allegations, the system’s preference is that defendants be convicted and harshly sentenced; and that the authority of judges is enumerated and finite – if the rules as promulgated do not expressly provide for the defendant to have particular relief, the judge is powerless to direct it. In short, the system would curb judicial excess by the recognition, which underlies the military justice system, that prosecuting war remains a quintessentially executive endeavor; in the NSC, judges would be a check against arbitrariness but they would not have any general supervisory authority over the conduct of proceedings and they would not be at liberty to create new entitlements by analogizing to ordinary criminal proceedings.

#### Executive powers too overstreched- we tip it back into balance without killing flexibility

Magnusson 9 -- J.D. Candidate, April 2010, J. Reuben Clark Law School, Brigham Young University (Landon Wade, 2009, "Note and Comment: Forget the Whales: Expanding the Twilight and Diminishing the Nadir of Youngstown," 24 BYU J. Pub. L. 149, L/N)

IV. Implications: Winter's Expanding Emergency Although Framers, such as Alexander Hamilton, viewed the emergency prerogative of the dictators of the Roman Republic with favor, it has always been evident that it was the abuse of those temporary and yet expansive emergency powers that led to the demise of the Roman Republic and the creation of the Roman Empire. n85 Consequently, none of [\*160] the Framers believed that the Constitution should ever grant the Executive absolute and unfettered authority. n86 Unfortunately, the Supreme Court in Winter took a step in that direction when it **erroneously stretched the normal boundaries of emergency executive powers**. First, the Court expanded the legal definition of emergency in a manner that would allow the Executive to seek the protection of "self-made" emergencies. Second, it **significantly lowered the bar** for emergency powers by deferring to the judgment of the Executive for the determination of necessity. A. Ransoming the Public for Power The circumstances necessitating the Navy training exercises at issue were not an emergency under either NEPA or the common law. In 1978, the CEQ, which has the authority to issue regulations interpreting NEPA, n87 promulgated a regulation allowing the federal government to act "without observing the provisions of [the] regulation[]" when "emergency circumstances make it necessary." n88 This regulation would seem to be a **codification of the implicit emergency powers of the Executive**, as pertaining to NEPA. However, neither the regulation itself, nor any judicial interpretations of the statute have provided a definition for emergency circumstances. This requires an interpreter to look to the common law, as well as at general practice under the statute to discover its significance. Under the common law, an emergency is "an unforeseen combination of circumstances that calls for immediate action without time for full deliberation." n89 Using this definition, emergencies require both unpredictability and immediate action. Though the District Court's injunction in Winter may have created a necessity that called for immediate action, the injunction was not an unforeseeable event. NEPA has been in effect since 1969, and "training exercises [] have been taking place in [Southern California] for the last 40 years." n90 Moreover, the Navy has "described the ability to operate MFA sonar," a key component [\*161] of its training exercises, "as a "highly perishable skill" that must be repeatedly practiced under realistic conditions." n91 Under circumstances where the Navy should reasonably foresee its need to conduct future exercises and where the Navy has always had to comply with the statute in order to conduct those exercises, it is not reasonable to conclude that the Navy could not have foreseen the necessity of preparing an EIS. Additionally, general tort law requires governmental entities that seek the protection of emergency doctrines to not have created or contributed to the emergency in question. n92 This is another instance where the Supreme Court has **stretched the definition of emergency** in order to accommodate the Executive. Because of the foreseeability of the need to file an EIS, the District Court's emergency-creating injunction could have been avoided if the Navy had properly followed procedure from the beginning. It was only because of the Navy's negligence or reckless disregard for the law, that the emergency was created. n93 The Executive's previous record in making alternative arrangements for NEPA compliance confirms the common law requirements of an emergency. Other occasions where alternative arrangements have been made include disasters such as: wildfires in San Diego, grasshopper infestations in Arizona, Hurricane Katrina relief, and even an impending war in the Persian Gulf. n94 In the past, each time the Executive exercised its power to go beyond the boundaries of the statute, it was the result of an unforeseeable circumstance that required immediate action and was not the direct result of previous executive action. [\*162] Under the circumstances, "if the Navy sought to avoid its NEPA obligations, its remedy [laid] in the Legislative Branch." n95 However, under this new definition of emergency powers handed down by the Court, the Executive no longer needs the Legislature. Hypothetically, the public safety, put in danger only through the Executive's reckless disregard for the law, may be ransomed again with emergency power. B. The Executive Will Necessarily Favor the Executive According to the Navy, the declaration that the Navy's training exercises were ""essential to national security'" and that the injunction would ""create[] a significant and unreasonable risk'" to the American people, n96 combined with CEQ's alternative arrangements, "eliminated the injunction's legal foundation." n97 Although the Supreme Court refused to specifically rule on whether the Executive's actions actually relieved the Navy of its obligations, n98 the Court used those very same statements from the Executive to vacate the lower court's injunction and effectively rule that the circumstances did not require the Navy to comply with the Act. n99 Admittedly, "neither the Members of [the Supreme] Court nor most federal judges," nor the author of this Note for that matter, "begin the day with briefings that may describe new and serious threats to our Nation and its people." n100 Moreover, the Executive is probably the most qualified of all the branches of government to make determinations concerning emergencies and the imminence of dangerous attacks on the American people. However, **deferring to the Executive by granting it unfettered review of its own policies** completely abolishes the boundaries found in Justice Jackson's nadir. Indeed, without independent review, "the **false pretext of imminent danger**" creates an additional zenith of executive power. n101 Yet, unlike Jackson's zenith, n102 here the Executive reaches this summit of power independently. The resulting effects on the separation of powers are vast. In practice, an Executive could claim "emergency" or [\*163] "necessity" to justify **any actions** contrary to the law whenever it felt that such actions were prudent. n103 Additionally, affording the Executive the prerogative to interpret the extent of its own emergency license will necessarily **lower the threshold** for a constitutionally permissible suspension of the normal balance of powers. When it comes to the use of executive-executed emergency powers, an Executive will be faced with two choices: First, it could refrain from exercising emergency powers at the risk of an emergency actually occurring, and then call upon those powers anyway in order to remedy the situation. Alternatively, the Executive might mitigate risks by exercising the power immediately at the expense of the constitutional balance of powers. Obviously, the latter choice leads to a propensity to call upon emergency powers even when necessity would not require them. n104 Prior to Winter, the Supreme Court had already taken a position on this issue: "a state of war," the **most severe of emergencies**, "is **not a blank check for the President**." n105 However, in "giving great deference to the professional judgment of military authorities concerning the relative importance of a particular military interest," n106 the **Supreme Court disregards** Youngstown's **boundaries of presidential power** and [\*164] **cedes its important role of exercising judicial review to the Executiv**e. n107 This, essentially, grants the Executive carte blanche in determining when, and to what extent, he or she may rely on emergency circumstances to justify his or her actions. Such a ruling is a **blank check for abuse**. V. Conclusion It may be tempting to brush Winter aside because the Supreme Court did not reach a decision on the merits due to the nature of the suit, but one should remember that fifty years ago, another case, more explicitly concerning the limits of presidential powers, sought after the same remedy. n108 Both cases occurred during a period when the United States was at war. n109 In each case, the Executive's actions were directly contrary to congressional will. n110 Most importantly, in both situations, because of emergency circumstances, the Executive Branch justified its actions as necessary in defense of the public good. n111 Nevertheless, in Winter, the Supreme Court **departs from the standard** set half a century ago in Youngstown. By finding in favor of the Navy, the Court altered the accepted Jackson taxonomy by expanding its zone of twilight, and diminishing its nadir. Winter accomplished this by first **revising the definition of an emergency** - eliminating its requirement of unforeseeability and permitting an Executive to seek the protection of emergency powers for **manufactured emergencies** caused by the reckless disregard of the law or negligence of that Executive. Second, the Winter decision allows the Executive to "**be the judge in [its] own case**," n112 [\*165] deferring to [it] for a determination of when emergency circumstances are present, creating an incentive for Executives to **call upon those powers more often and under circumstances** that are less than public emergencies.

#### 5. Court rules against executive now

Wong 13 -- PhD dissertation in Government to Georgetown University (U Jin, 4/22/2013, "THE BLANK CHECK: SUPREME COURT DECISION - MAKING IN NATIONAL SECURITY CLAIMS AND DURING WARTIME," http://repository.library.georgetown.edu/bitstream/handle/10822/558286/Wong\_georgetown\_0076D\_12276.pdf?sequence=1)

This study started out with two questions. The first was: ?Does war influence judicial decision - making?? The second was: ?Do **national security** claims influence judicial decision - making?? The answer to the first question is: In a general hypothetical s ignificant war, there is a **statistically significant finding** of voting against the government. In the models run using the Spaeth database where the government is a party, the influence of all significant wars on judicial decision - making generally was to vote against the government. Presidential approval ratings are statistically significant only in wartime, but with a positive coefficient. Outside of wartime, presidential approval ratings are not statistically likely to influence Supreme Court behavior. This result suggests that while Courts vote strategically and support a popular president, they are still statistically likely to find against the government in a significant war. These findings altogether suggest that that the Supreme Court votes strat egically with an eye towards the popularity of the president, but revert to skepticism of government‘s wartime claims as the war progresses. The answer to the second question is: National security claims brought by the government achieve a **statistically significant likelihood** that the Supreme Court will vote against the government. National security claims were statistically significant with a negative signifier. **This finding is consistent across all the major wars as well as peacetime**. It also suggest s that the Supreme Court generally is not predisposed to defer to the executive branch‘s arguments when it comes to national security claims

#### 6. **Rules during crises don’t hurt flexibility**

Holmes 9 -- Walter E. Meyer Professor of Law, New York University School of Law (Stephen, 4/30/2009, "In Case of Emergency: Misunderstanding Tradeoffs in the War on Terror," http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1140&context=californialawreview)

Thus, it also illustrates the truism, profoundly relevant to the war on terror, that limiting options available during emergencies can be good or bad, depending on what emergency responders, who may be tempted by sheer exhaustion to take hazardous shortcuts, will do with the latitudes they seize or receive. Campaigners for executive discretion routinely invoke the imperative need for "**flexibility**" to explain why counterterrorism cannot be successfully conducted within the Constitution and the rule of law. But general rules and situation-specific improvisation, far from being mutually exclusive, are perfectly compatible. 1 8 There is no reason why mechanically following protocols designed to prevent harried nurses from negligently administering the wrong blood type should preclude the same nurses from improvising unique solutions to the unique problems of a particular trauma patient. Drilled-in emergency protocols provide a **psychologically stabilizing floor**, shared by co- workers, on the basis of which **untried solutions can then be improvised**. 9 In other words, there is no reason to assert, at least not as a matter of general validity, that the importance of flexibility excludes reliance on rules during emergencies, including national-security emergencies. The emergency-room example can also deepen our understanding of national-security crises by bringing into focus an important but sometimes neglected distinction between threats that are novel and threats that are urgent. **Dangers may be unprecedented without demanding a split-second response**. Contrariwise, urgent threats that have appeared repeatedly in the past can be managed according to protocols that have become automatic and routine. Emergency-room emergencies are urgent even when they are perfectly familiar. Terrorists with access to weapons of mass destruction ("WMD"), by contrast, present a novel threat that is destined to endure for decades, if not longer. **Such a threat is not an "emergency"** in the sense of a sudden event, such as a house on fire, **requiring genuinely split-second decision making**, with no opportunity for serious consultation or debate. **Managing the risks of nuclear terrorism requires sustained policies, not short-term measures**. This is feasible precisely because, in such an enduring crisis, national-security personnel have **ample time to think and rethink, to plan ahead and revise their plans**. In depicting today's terrorist threat as "an emergency," executive-discretion advocates almost always blur together urgency and novelty. This is a consequential intellectual fallacy. But it also provides an opportunity for critics of executive discretion in times of crisis. If classical emergencies, in the house- on-fire or emergency-room sense, turn out to invite and require rule-governed responses, then the justification for dispensing with rules in the war on terror seems that much more tenuous and open to question. In crises where "time is of the essence" 2 1 and serious consultation is difficult or impossible, it is imperative for emergency responders to follow previously crafted first-order rules (or behavioral commands) to enable prompt remedial action and coordination. In crises that are not sudden and transient but, instead, endure over time and that therefore allow for extensive consultation with knowledgeable parties, it is essential to rely on previously crafted second-order rules (or decision-making procedures) designed to **encourage decision makers to consider the costs and benefits of, and feasible alternatives to, proposed action plans**. In medicine, a typical first-order rule is "always wash your hands before inserting a stent," and a typical second-order rule is "always get a second opinion before undertaking major surgery."

#### 7. No impact to flexibility –

#### A) Obama’s already constrained by congress – countries would have already perceived him as weak

#### B) Bases around the world provide a deterrent value which solves – only the aff gives us that access

#### 8. Court expertise is sufficient—their link is blown out of proportion

Knowles 9 [Spring, 2009, Robert Knowles is a Acting Assistant Professor, New York University School of Law, “American Hegemony and the Foreign Affairs Constitution”, ARIZONA STATE LAW JOURNAL, 41 Ariz. St. L.J. 87]

A common justification for deference is that the President possesses superior competence due to expertise, information gathering, and political savvy in foreign affairs. These conclusions flow from the realist tenet that the external context is fundamentally distinct from the domestic context. The domestic realm is hierarchical and legal; the outside world is anarchical and political. The international realm is thus far more complex and fluid than the domestic realm. The executive is a political branch, popularly-elected and far more attuned to politics than are the courts. n258 Judges are, for the most part, generalists who possess no special expertise in foreign affairs. n259 Courts can only receive the information presented to them and cannot look beyond the record. n260 The President has a vast foreign relations bureaucracy to obtain and process information from around the world. Executive agencies such as the State Department and the military better understand the nature of foreign countries - their institutions and culture - and can predict responses in ways that courts cannot. n261 In the context of the political question doctrine, this rationale often appears when courts conclude that an issue lacks "judicially discoverable and manageable standards." n262 A stronger, related rationale is that the political branches are better suited for tracking dynamic and evolving norms in the anarchic international environment. n263 The meaning of international law changes over time and nations do not agree today on its meaning. Moreover, the relationships among nations in many instances will be governed by informal norms that do not correspond to international law. n264 In addition, many foreign affairs provisions in the Constitution had fixed meanings under international law in the Eighteenth Century - what it meant, for example, to "declare war" or to issue "letters of marquee and [\*129] reprisal" - but subsequent practice has substantially altered their meaning or rendered them irrelevant. n265 Courts are not adept at tracking these shifts. As many critics have observed, the "lack of judicially-manageable standards" argument is weak. Courts create rules to govern disputes regarding vague constitutional provisions such as the Due Process Clause. n266 Furthermore, if courts were to adjudicate foreign affairs disputes more often, they would have the opportunity to create clearer standards, making them more manageable. n267 Thus the lack-of-standards argument does not alone explain why foreign affairs should be off-limits. The argument regarding courts' limited access to information and lack of expertise seem persuasive at first, but it loses its force upon deeper inspection. For instance, expertise is also a rationale for Chevron deference in the domestic context. n268 Generalist judges handle cases involving highly complex and obscure non-foreign affairs issues while giving appropriate deference to interpretations of agencies charged with administering statutory schemes. n269 What makes foreign affairs issues so different that they justify even greater deference? n270 Perhaps foreign affairs issues are just an order of magnitude more complex than even the most complex domestic issues. However, this line of thinking very quickly leads to boundary problems. Economic globalization, rapid global information flow, and increased transborder movement have "radically increased the number of cases that directly implicate foreign relations" and have made foreign parties and conduct, as well as international law questions, increasingly [\*130] common in U.S. litigation. n271 If courts were to cabin off all matters touching on foreign relations as beyond their expertise, it would result in an ever-increasing abdication of their role. The political norm-tracking argument reveals the second major problem with using anarchy as a basis for special deference: it fails to account for the degree of deference that should be afforded to the President. Under the anarchy-based argument, the meaning of treaties and other concepts in foreign affairs depend entirely on politics and power dynamics, which the President is especially competent (and the courts especially incompetent) in tracking. If this is so, the courts must give total deference to the executive branch. If one does not wish to take the position that the courts should butt out altogether in foreign affairs, there must be other reasons for the courts' involvement. Even proponents of special deference generally acknowledge that some of the courts' strengths lie in protecting individual rights and "democracy-forcing." n272 But what is the correct balance to strike between competing functional goals of the separation of powers?

#### 9. Pre-9/11 restrictions disprove the DA – no significant effect on readiness

Dycus 05

[Stephen, Professor, Vermont Law School, Osama's Submarine: National Security and

Environmental Protection After 9/11, William & Mary Environmental Law and Policy Review, <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1112&context=wmelpr>]

The evidence that compliance with environmental laws has seriously impaired U.S. preparations for war is, however, far from conclusive. After all, the U.S. military's successes in Afghanistan and Iraq were achieved using troops trained and weapons tested under **pre-September 11th environmental statutes** and regulations. A Navy Admiral, testifying before Congress in support of RRPI in 2003, declared that "the readiness of the Navy is excellent. 32 According to a General Accounting Office report in 2002, "[d]espite the loss of some capabilities, service readiness data do not indicate the extent to which encroachment has significantly affected reported training readiness.” 33 In fact, the report concluded, "Training readiness, as reported in official readiness reports, remains high for most units.,34 Environmental Protection Agency ("EPA") Administrator Christine Todd Whitman went further in early 2003, stating, "**I don't believe that there is a training mission anywhere in the country that is being held up or not taking place because of environmental protection regulation**."35 A more recent study by the Congressional Research Service noted that "[a]lthough DOD has cited some examples of training restrictions or delays at certain installations and has used these as the basis for seeking legislative remedies, the department does not have a system in place to comprehensively track these cases and determine their impact on readiness.' "36 Some have taken a dimmer view of DOD's protests. EPA complained that the definition of "military readiness activities" in the DOD proposal was "broad and unclear and could be read to encompass more than the Department intends."37 Congressman John Dingell, a Democrat from Michigan, was much more emphatic: "I have dealt with the military for years and they constantly seek to get out from under environmental laws. But using the threat of 9-11 and al Qaeda to get unprecedented environmental immunity is despicable. 38

### TPA 2AC

**---We control the internal link to global competitiveness – shift to renewables happening in the status quo, things like trade competition is inevitable because of economics – plan locks in climate change strategy**

#### ---Won’t pass and Obama not spending capital on TPA – no all-out push

Raum 2/19/14 (Tom, Japan Today, "Obama, fellow Democrats at odds on big trade bills," http://www.japantoday.com/category/world/view/obama-fellow-democrats-at-odds-on-big-trade-bills)

Many Democrats up for re-election in November are fearful of drawing primary-election opposition over the trade talks. Concerned about lost jobs that are important to labor unions that generally back Democrats, they are abandoning Obama on this issue.¶ Late last year in fact, 151 House Democrats, roughly three quarters of the chamber’s Democratic membership, signed a letter to Obama signaling their opposition to granting him fast-track trade authority.¶ Obama said his goal in requesting such authority was “to protect our workers, protect our environment and open new markets to new goods stamped ‘Made in the USA.’” But the president, never known as an enthusiastic free-trader in the past, has yet to make an all-out push for the authority, which was last approved by Congress in 2002 for President George W. Bush but expired in 2007.¶ Meanwhile, some European allies are pushing back, still peeved over disclosures of National Security Agency surveillance of them.¶ Obama had hoped an agreement could be reached on the trans-Pacific talks before he visited Japan and other Asian nations in April. The Pacific talks are further along than the Atlantic ones.¶ But the trans-Pacific talks have been complicated by disputes over environmental issues and resistance in some Asian countries to a wholesale lowering of trade barriers. Also, U.S. standing in the region took a hit when Obama missed the Asia-Pacific Economic Cooperation meeting last October because of the American government shutdown.¶ At home, clearly more Republicans support free-trade agreements than do Democrats. Business interests generally favor such pacts, while labor unions tend to oppose them. Lower-priced imported goods and services may be welcomed by U.S. consumers, but one consequence can be the loss of U.S. manufacturing and service jobs.¶ Fast-track authority speeds up congressional action on trade deals by barring amendments.¶ Boehner taunts Obama by asserting that “Trade Promotion Authority is ready to go. So why isn’t it done?”¶ “It isn’t done because the president hasn’t lifted a finger to get Democrats in Congress to support it,” Boehner said, answering his own question. “And with jobs on the line, the president needs to pick up his phone and call his own party, so that we can get this done.”

#### Agenda is dead

NBC 2/21 [2014, http://www.nbcnews.com/politics/first-read/shutdown-both-parties-avoid-action-until-after-elections-n35366]

After Congress passed a debt-ceiling increase -- without any strings attached -- we declared that the budget wars, at least in the short term, had ended. And as a consequence, the Obama White House has now officially removed from its budget the Social Security entitlement cuts (chained CPI) it had put on the table to reach a bigger budget deal with Republicans. “President Obama’s forthcoming budget request will seek tens of billions of dollars in fresh spending for domestic priorities while abandoning a compromise proposal to tame the national debt in part by trimming Social Security benefits,” the Washington Post writes. But there’s something else going on here besides the end of austerity: Both Democrats and Republicans have cleared the decks of ANYTHING that could divide their parties before the 2014 midterms. Republicans have essentially taken immigration off the table, as well as the threat of default or a government shutdown. Meanwhile, the White House has now removed chained CPI from its budget and slowed its push for fast-track authority. So both sides are deploying a do-no-harm strategy -- all with less than nine months before Election Day 2014. It’s just the latest reminder that Washington is not going to get ANYTHING major done this year. It’s not even March 1, and both parties are waving the policy white flags.

#### ---democrats don’t want to split their base ahead of the midterms

WSJ 2/21 [Colleen McCain Nelson, 2014, http://online.wsj.com/news/articles/SB10001 424052702303636404579397383683158044?mg=reno64-wsj&url=http%3A%2F%2Fonline.wsj. com%2Farticle%2FSB10001424052702303636404579397383683158044.html]

President Barack Obama's decision to exclude from his budget a Republican-backed change to Social Security sent the latest signal that both parties are shifting away from making policy concessions in favor of a do-no-harm strategy aimed at unifying their bases ahead of the November elections.¶ Although the midterms are still 8 1/2 months away, the prospects for enacting significant, new legislation this year have dimmed as Republicans and Democrats avoid issues that have divided their parties. Many Republicans have ruled out the possibility of rewriting immigration laws before November. Top Democrats, for their part, rejected the White House's request to grant the president "fast-track" authority on trade agreements, with Vice President Joe Biden making clear in a meeting with House Democrats that the White House had heard the message to hold off on that legislation.¶ The news Thursday that Mr. Obama plans to withdraw the concession to Republicans underscored that compromises are tough to come by in election years. Political analysts and some officials from both parties say Congress will likely tread water for much of 2014.¶ The White House's budget announcement "symbolizes once and for all that very little, if anything, is going to get done for the rest of the year," said Jim Manley, a former longtime aide to Senate Majority Leader Harry Reid (D., Nev.). "That is traditionally what happens in election years. But it's happening earlier than usual."

#### ---Congress likes the plan

Janofsky 05

[Michael, NY Times, 5/11/05, Pentagon Is Asking Congress to Loosen Environmental Laws, <http://www.nytimes.com/2005/05/11/politics/11enviro.html?_r=0>]

Dozens of groups have complained to Congress that the military's needs are covered by the laws that they seek to change and that waivers would result in conditions getting worse on and around the nation's military bases, endangering the health of millions of people. As the owner of 425 active bases and more than 10,000 training ranges, the Defense Department is widely regarded as one of the nation's leading polluters, producing vast amounts of chemicals from ordnance that leach into groundwater, as well as air pollution from military vehicles. The Environmental Protection Agency lists more than 130 Superfund sites on military bases. "Congress would never consider letting the nation's biggest corporate polluter off the hook," Heather Taylor, deputy legislative director for the Natural Resources Defense Council, said in a conference call with reporters. "Why, then, would Congress grant immunity to America's, and the world's, largest polluter?" Since 2001, the Pentagon has been asking Congress for greater latitude in complying with environmental laws. When it came to birds and animals, lawmakers were willing to compromise, granting exemptions to federal laws. But they have been more resistant to changes that might affect human health under the Clean Air Act; the Resource Conservation and Recovery Act, dealing with solid waste; and the Comprehensive Environmental Response, Compensation and Liability Act, which deals with toxic wastes and is better known as the Superfund law.

#### ---Courts don’t link

Litwick and Schragger 10/8/06(Dahlia and Richard, Legal Affairs Correspondent @ Slate Magazine + Prof of Law @ UVA, Wash Post, lexis)

Criticizing the court for overturning the laws passed by Congress -- as Specter did repeatedly during the confirmation hearings for John G. Roberts Jr. and Samuel A. Alito Jr. -- is fair . But crying "judicial activism" at the same time you rely on the courts for political cover when you're too timid to defy the electorate -- or your president -- is hypocritical . Why should the Supreme Court defer to a Congress that adopts laws it suspects are unconstitutional? And what should we think of those elected officials who would take so cavalier an attitude toward their oath to uphold the Constitution? Members of Congress take the same oath as Supreme Court justices do, after all. And Congress regularly asserts its institutional capacity to interpret the Constitution -- to act on an equal footing with the Supreme Court in deciding the constitutionality of a law. Moreover, the justices are supposed to assume that Congress never intentionally adopts an unconstitutional law, and you need attend oral argument for only a few moments to know how seriously they take that charge. So how is it possible that an oath-bound member of Congress can support a law that he or she believes violates the Constitution? Congress gives in to the temptation of passing bills that are of questionable constitutionality because it's easy and convenient . Political expediency seems to trump constitutional principle. The elected branches need never defy the popular will if the courts are available to do so instead. And those members of Congress who insist that the courts should stay out of Congress's business should recognize Congress for the enabler it has become. It's a two-way street: The courts work with what Congress sends them and sometimes Congress purposely sends them unconstitutional legislation, because it is politically expedient to do so. That's why lawmakers who know that legislation to ban flag burning violates the First Amendment regularly trot it out anyway. It is an easy way to mollify voters, while letting some other branch grapple with what the Constitution requires. As a bonus , lawmakers then can blame the courts for usurping the will of the electorate, turning an ordinary political pander into an Olympic-worthy double-pander. So instead of pointing fingers at the court, let's call the whole relationship what it is: dysfunctional . For all its railing against the court, Congress sometimes relies on it to achieve substantive aims. The court, sheltered from political fallout, can sometimes afford to be brave when Congress cannot . But this suggests that cries of "judicial activism" from the Congress should be suspect. As is the case in any dysfunctional relationship, Congress has a vested interest in being upheld when it wants to be, and struck down when it needs to be bailed out.

#### ---Plan’s announced in June

Ward 10 (Jake, “Bilski Decision Tomorrow (Thursday, June 17th)? Maybe?”, Anticipate This! (Patent and Trademark Law Blog), 6-17, http://anticipatethis.wordpress.com/2010/06/16/bilski-decision-tomorrow-thursday-june-17th-maybe/)

In mid-May until the end of June, the Supreme Court of the United States (SCOTUS) releases orders and opinions.  SCOTUS has yet to issue a number of decisions this term, however, and it is rapidly moving toward summer recess.  Most notable from a patent law perspective is that the decision in [Bilski v. Kappos](http://anticipatethis.wordpress.com/?s=bilski), which was argued in November 2009, has yet to be decided.

#### ---Disad not intrinsic- a rational policymaker can do the plan and pass \_\_\_ - key to effective decisionmaking

#### --- Losers lose link is already triggered

Gibson 1/29/14 (Ginger Gibson, Politico, 1/29/14, Republicans bash Obama for overstepping bounds, dyn.politico.com/printstory.cfm?uuid=B6D21B66-98C7-4059-B77D-8CFB4009563F)

In his State of the Union address Tuesday night, President Barack Obama said if Congress won’t help him get things done, he’ll do it on his own — and congressional Republicans aren’t pleased. Many in the GOP said they don’t intend to sit quietly if Obama starts signing executive orders. Sen. Marco Rubio (R-Fla.) had sharp criticism for the president’s expanded authority. “I think it’s unfortunate, I think it’s divisive and quite frankly, borderline unconstitutional on many of those issues,” Rubio said. “I understand the [legislative] process takes long and can be frustrating, but I think it truly undermines the republic.” Rep. Tim Huelskamp (R-Kan.) said the president requested more controversial pieces of legislation — like immigration reform — than he did when Democrats controlled both chambers of Congress. “Suddenly he wants things that Republicans won’t give him that he didn’t ask Democrats to do — it seems like a lot of theatrics,” Huelskamp said. Huelskamp said he joked with fellow members that he’s going to file legislation that doesn’t require a presidential signature. The Kansas conservative said there are ways Republicans could push back at Obama’s executive orders but that he doesn’t think the GOP leadership is willing to wage the fight. “There are things we can do — I’m just afraid leadership is not willing to challenge them,” he said. Sen. Lindsey Graham (R-S.C.) argued that Obama employing executive powers could harm the Democrats as § Marked 15:41 § a whole. “I think he’s going to create a narrative for himself that’s going to hurt Democrats by acting unilaterally,” Graham said. “I think he’s going to create an impression among the American people that he’s abusing the power of his office and that will hurt Democrats.” Rep. Tom Cole (R-Okla.) took a soft approach to criticizing the president for overstepping his bounds on executive orders. “We’ll wait and see what he does,” Cole said. “The president has certain executive powers, but if he wants to achieve anything, an executive order is not a very good way to do it. Usually legislative achievement is what is enduring achievement. Executive orders are like writing on the beach, it may last a while but when the tide comes in or goes out, it disappears. So I think it’s a poor way to govern.” Sen. Tim Scott (R-S.C.) said acting without congressional authority is problematic. “We continue to erode the whole notion of the rule of law,” Scott said. “To the extent that he continues to move unilaterally without the consent of Congress, I think it doesn’t sit well with a message of unity.”

#### ---PC not real

Hirsch 13

[Michael, chief correspondent for the National Journal and former senior editor and columnist at Newsweek, "There's no such thing as political capital.” 2/27/13, <http://news.yahoo.com/no-thing-political-capital-201002390--politics.html>]

On Tuesday, in his State of the Union address, President Obama will do what every president does this time of year. For about 60 minutes, he will lay out a sprawling and ambitious wish list highlighted by gun control and immigration reform, climate change and debt reduction. In response, the pundits will do what they always do this time of year: They will talk about how unrealistic most of the proposals are, discussions often informed by sagacious reckonings of how much “political capital” Obama possesses to push his program through. Most of this talk will have no bearing on what actually happens over the next four years. Consider this: Three months ago, just before the November election, if someone had talked seriously about Obama having enough political capital to oversee passage of both immigration reform and gun-control legislation at the beginning of his second term—even after winning the election by 4 percentage points and 5 million votes (the actual final tally)—this person would have been called crazy and stripped of his pundit’s license. (It doesn’t exist, but it ought to.) In his first term, in a starkly polarized country, the president had been so frustrated by GOP resistance that he finally issued a limited executive order last August permitting immigrants who entered the country illegally as children to work without fear of deportation for at least two years. Obama didn’t dare to even bring up gun control, a Democratic “third rail” that has cost the party elections and that actually might have been even less popular on the right than the president’s health care law. And yet, for reasons that have very little to do with Obama’s personal prestige or popularity—variously put in terms of a “mandate” or “political capital”—chances are fair that both will now happen. What changed? In the case of gun control, of course, it wasn’t the election. It was the horror of the 20 first-graders who were slaughtered in Newtown, Conn., in mid-December. The sickening reality of little girls and boys riddled with bullets from a high-capacity assault weapon seemed to precipitate a sudden tipping point in the national conscience. One thing changed after another. Wayne LaPierre of the National Rifle Association marginalized himself with poorly chosen comments soon after the massacre. The pro-gun lobby, once a phalanx of opposition, began to fissure into reasonables and crazies. Former Rep. Gabrielle Giffords, D-Ariz., who was shot in the head two years ago and is still struggling to speak and walk, started a PAC with her husband to appeal to the moderate middle of gun owners. Then she gave riveting and poignant testimony to the Senate, challenging lawmakers: “Be bold.” As a result, momentum has appeared to build around some kind of a plan to curtail sales of the most dangerous weapons and ammunition and the way people are permitted to buy them. It’s impossible to say now whether such a bill will pass and, if it does, whether it will make anything more than cosmetic changes to gun laws. But one thing is clear: The political tectonics have shifted dramatically in very little time. Whole new possibilities exist now that didn’t a few weeks ago. Meanwhile, the Republican members of the Senate’s so-called Gang of Eight are pushing hard for a new spirit of compromise on immigration reform, a sharp change after an election year in which the GOP standard-bearer declared he would make life so miserable for the 11 million illegal immigrants in the U.S. that they would “self-deport.” But this turnaround has very little to do with Obama’s personal influence—his political mandate, as it were. It has almost entirely to do with just two numbers: 71 and 27. That’s 71 percent for Obama, 27 percent for Mitt Romney, the breakdown of the Hispanic vote in the 2012 presidential election. Obama drove home his advantage by giving a speech on immigration reform on Jan. 29 at a Hispanic-dominated high school in Nevada, a swing state he won by a surprising 8 percentage points in November. But the movement on immigration has mainly come out of the Republican Party’s recent introspection, and the realization by its more thoughtful members, such as Sen. Marco Rubio of Florida and Gov. BobbyJindal of Louisiana, that without such a shift the party may be facing demographic death in a country where the 2010 census showed, for the first time, that white births have fallen into the minority. It’s got nothing to do with Obama’s political capital or, indeed, Obama at all. The point is not that “political capital” is a meaningless term. Often it is a synonym for “mandate” or “momentum” in the aftermath of a decisive election—and just about every politician ever elected has tried to claim more of a mandate than he actually has. Certainly, Obama can say that because he was elected and Romney wasn’t, he has a better claim on the country’s mood and direction. Many pundits still defend political capital as a useful metaphor at least. “It’s an unquantifiable but meaningful concept,” says Norman Ornstein of the American Enterprise Institute. “You can’t really look at a president and say he’s got 37 ounces of political capital. But the fact is, it’s a concept that matters, if you have popularity and some momentum on your side.” The real problem is that the idea of political capital—or mandates, or momentum—is so poorly defined that presidents and pundits often get it wrong. “Presidents usually over-estimate it,” says George Edwards, a presidential scholar at Texas A&M University. “The best kind of political capital—some sense of an electoral mandate to do something—is very rare. It almost never happens. In 1964, maybe. And to some degree in 1980.” For that reason, political capital is a concept that misleads far more than it enlightens. It is distortionary. It conveys the idea that we know more than we really do about the ever-elusive concept of political power, and it discounts the way unforeseen events can suddenly change everything. Instead, it suggests, erroneously, that a political figure has a concrete amount of political capital to invest, just as someone might have real investment capital—that a particular leader can bank his gains, and the size of his account determines what he can do at any given moment in history. Naturally, any president has practical and electoral limits. Does he have a majority in both chambers of Congress and a cohesive coalition behind him? Obama has neither at present. And unless a surge in the economy—at the moment, still stuck—or some other great victory gives him more momentum, it is inevitable that the closer Obama gets to the 2014 election, the less he will be able to get done. Going into the midterms, Republicans will increasingly avoid any concessions that make him (and the Democrats) stronger. But the abrupt emergence of the immigration and gun-control issues illustrates how suddenly shifts in mood can occur and how political interests can align in new ways just as suddenly. Indeed, the pseudo-concept of political capital masks a larger truth about Washington that is kindergarten simple: You just don’t know what you can do until you try. Or as Ornstein himself once wrote years ago, “Winning wins.” In theory, and in practice, depending on Obama’s handling of any particular issue, even in a polarized time, he could still deliver on a lot of his second-term goals, depending on his skill and the breaks. Unforeseen catalysts can appear, like Newtown. Epiphanies can dawn, such as when many Republican Party leaders suddenly woke up in panic to the huge disparity in the Hispanic vote. Some political scientists who study the elusive calculus of how to pass legislation and run successful presidencies say that political capital is, at best, an empty concept, and that almost nothing in the academic literature successfully quantifies or even defines it. “It can refer to a very abstract thing, like a president’s popularity, but there’s no mechanism there. That makes it kind of useless,” says Richard Bensel, a government professor at Cornell University. Even Ornstein concedes that the calculus is far more complex than the term suggests. Winning on one issue often changes the calculation for the next issue; there is never any known amount of capital. “The idea here is, if an issue comes up where the conventional wisdom is that president is not going to get what he wants, and he gets it, then each time that happens, it changes the calculus of the other actors” Ornstein says. “If they think he’s going to win, they may change positions to get on the winning side. It’s a bandwagon effect.”

#### ---Public likes the plan

ENS 01

[Environmental News Service , U.S. Military Under Attack on Environmental Grounds, 6/25/01, <http://www.ens-newswire.com/ens/jun2001/2001-06-25-03.asp>]

A coalition of citizen’s organizations is challenging the U.S. Armed Forces, alleging that the health and safety of communities across the country is under assault from past and current polluting military operations. In a new national campaign, citizens impacted by military operations **from Hooper Bay, Alaska to Vieques, Puerto Rico** are participating in the Military Toxics Project�s effort to hold the U.S. military accountable to the same laws that apply to all other sectors of society. The military is not subject to most laws that protect communities and workers, either because it is completely exempt or because the Environmental Protection Agency has no enforcement authority, says Steve Taylor, national coordinator for the Maine based Military Toxics Project. The campaign is timed to support the introduction of a bill by Congressman Bob Filner, a California Democrat, who represents San Diego, home to a large contingent of U.S. Navy ships in the Pacific Fleet, the Space and Naval Warfare Systems Center, and the Naval Air Force. On June 13, Filner introduced the Military Environmental Responsibility Act, which seeks to remove all military exemptions from existing environmental, worker and public safety laws and regulations. To back up the new bill, the Military Toxics Project (MTP) released to Congress a report entitled "Defend Our Health: The U.S. Military�s Environmental Assault On Communities." Prepared by MTP and Environmental Health Coalition, an environmental justice organization based in San Diego, the report shows how military exemptions from laws and lax enforcement by regulatory agencies have contributed to the existence of more than 27,000 toxic hot spots on 8,500 military properties across the country. Based on the findings of this report, the citizens' groups charge that military activities like legal and illegal toxic dumping, testing and use of munitions, manufacture and use of depleted uranium ammunition, hazardous waste generation, nuclear propulsion, toxic air emissions have created "an environmental catastrophe.

#### Key to PC

Sinclair UCLA Prof of Poli Sci 09 - Professor Emerita of Political Science at UCLA.

[Barbara, "Barack Obama and the 111th Congress: Politics as Usual?" http://www.ou.edu/carlalbertcenter/extensions/spring2009/Sinclair.pdf]

Whether the stimulus bill was even in danger of losing significant public support is unclear; but Obama's efforts meant he got the credit when the bill passed to strong public acclaim. A February 10 Gallup poll found that 59 percent of the public favored the stimulus bill while 33 percent opposed it; furthermore, support had increased after Obama went on the road to sell the program. Obama himself maintained his high approval ratings with the American people and the proportion approving of Congress increased significantly.7 Voters approved of the job congressional Democrats are doing by 46 percent to 45 percent and disapproved of the GOP’s performance by 56 percent to 34 percent, according to a February 17-18 poll conducted by Fox News/Opinion Dynamics.8 By using the bully pulpit effectively, Obama makes it easier for congressional Democrats to support his initiatives and for the congressional leaders to deliver for him legislatively.9 When the president attempts to build public support for his agenda by “going to the people,” it is sometimes interpreted as “going over the heads” of members of Congress to pressure them via their constituents and is thought to breed resentment. However, when the president's efforts allow members to do what they would like to do anyway, their response is likely to be quite different. And if a few Republicans do, in fact, feel constituency pressure, any resentment is likely to be considered a reasonable price to pay for their occasional votes.

### Iran Politics 2AC

#### ---Obama already won – Iran sanctions aren’t a thing, AIPAC and bill supporters threw in the towel

Parsi 2/19/14 (Trita, founder and president of the National Iranian American Council and an expert on US-Iranian relations, Iranian politics, and the balance of power in the Middle East., "The Illusion of AIPAC’s Invincibility," http://www.fairobserver.com/article/illusion-aipac-invincibility-52678)

The defeat of the American Israel Public Affairs Committee's (AIPAC) ill-advised push for new sanctions on Iran in the midst of successful negotiations is nothing short of historic. The powerful and hawkish pro-Israeli lobby's defeats are rare and seldom public. But in the last year, it has suffered three major public setbacks, of which the sanctions defeat is the most important one.¶ Defeats?¶ AIPAC's first defeat was over the nomination of Senator Chuck Hagel for secretary of defense. In spite of a major campaign defaming Hagel, even accusing him of anti-Semitism, his nomination won approval in the Senate.¶ The second was over President Barack Obama's push for military action against Syria. AIPAC announced that it would send hundreds of citizen lobbyists to the Hill to help secure approval for authorization of the use of force. But AIPAC and Obama were met with stiff resistance.¶ The American people quickly mobilized and ferociously opposed the idea of yet another war in the Middle East. By some accounts, AIPAC failed to secure the support of a single member of Congress.¶ The third defeat was over new Iran sanctions. Now, AIPAC and the president were on opposite sides. The interim nuclear agreements from last November explicitly stated that no new sanctions could be imposed.¶ Yet backed by Senators Mark Kirk and Robert Menendez, AIPAC pushed for new sanctions, arguing that it would enhance America's negotiating position. The White House strongly disagreed, fearing that new sanctions would cause the collapse of diplomacy and make America look like the intransigent party.¶ The international coalition the president had carefully put together against Iran would fall apart, and the US and Iran would once again find themselves on a path towards military confrontation.¶ But AIPAC insisted. Its immense lobbying activities secured 59 cosponsors for the bill, including 16 Democrats. Its aim was first to reach over 60 cosponsors to force the bill to the floor, and then more than 67 cosponsors to make it veto proof.¶ But 59 cosponsors turned out to be a magical ceiling AIPAC could not break through. Supporters of diplomacy put up an impressive defense of the negotiations policy, building both from years of careful development of a pro-diplomacy constituency and coalition machinery as well as the grassroots muscle of more recent additions to the pro-diplomacy camp. (To get a hint of who these forces are, see the coalition letter against new sanctions signed by more than 70 organizations and organized by Win Without War, FCNL and the author's own organization, the National Iranian American Council.)¶ The watershed moment came when the White House raised the temperature and called out the sanctions supporters for increasing the likelihood of war.¶ "If certain members of Congress want the United States to take military action, they should be up front with the American public and say so," Bernadette Meehan, National Security Council spokeswoman, said in a statement. "Otherwise, it's not clear why any member of Congress would support a bill that possibly closes the door on diplomacy and makes it more likely that the United States will have to choose between military options or allowing Iran's nuclear program to proceed."¶ The prospect of coming across as "warmongers" incensed AIPAC and its supporters. But the White House knew exactly what it was doing. It was tapping into the only force that could stop AIPAC – the war-wariness of the American public.¶ The very same energy among the public that put a stop to the White House's war plans for Syria, would now be used to put a stop to AIPAC's efforts to sabotage the last best chance to avoid war with Iran.¶ AIPAC on the Defensive¶ The angry reaction of the sanctions supporters only confirmed the effectiveness of the White House's strategy. AIPAC was put on the defensive and it could never explain how imposing diplomacy-killing sanctions were good for the negotiations. Chemi Shalev of the Israeli daily Haaretz put it best:¶ "Some of [AIPAC's] supporters claimed that it was meant to strengthen Obama's hand in the nuclear negotiations with Iran, when it was clear that they meant just the opposite: to weaken the president and to sabotage the talks. They couldn't speak this truth outright, so they surrounded it, as Churchill once said, with a bodyguard of lies."¶ AIPAC finally threw in the towel on new sanctions on February 6. The defeat was an undeniable fact.

#### ---Nothing’s happening in Congress

NBC 2/21 [2014, http://www.nbcnews.com/politics/first-read/shutdown-both-parties-avoid-action-until-after-elections-n35366]

After Congress passed a debt-ceiling increase -- without any strings attached -- we declared that the budget wars, at least in the short term, had ended. And as a consequence, the Obama White House has now officially removed from its budget the Social Security entitlement cuts (chained CPI) it had put on the table to reach a bigger budget deal with Republicans. “President Obama’s forthcoming budget request will seek tens of billions of dollars in fresh spending for domestic priorities while abandoning a compromise proposal to tame the national debt in part by trimming Social Security benefits,” the Washington Post writes. But there’s something else going on here besides the end of austerity: Both Democrats and Republicans have cleared the decks of ANYTHING that could divide their parties before the 2014 midterms. Republicans have essentially taken immigration off the table, as well as the threat of default or a government shutdown. Meanwhile, the White House has now removed chained CPI from its budget and slowed its push for fast-track authority. So both sides are deploying a do-no-harm strategy -- all with less than nine months before Election Day 2014. It’s just the latest reminder that Washington is not going to get ANYTHING major done this year. It’s not even March 1, and both parties are waving the policy white flags.

**Israel won’t attack – relations with the US**

**Cook ‘9 (Cook**, senior fellow, Mid East studies – CFR, 6/9/**’9**

(Steven A, “Why Israel Won’t Attack Iran,” Foreign Affairs)

Given Israel's perception of an acute Iranian threat and its demonstrated ability to act alone, there must be some other factor holding the Israelis back. Most likely, **that factor is politics, and** more specifically, the **importance that close relations with Washington has on** the **domestic political calculations** of Israeli leaders. Unlike 1981, when the United States had barely a toe-hold in the Middle East, Washington occupies two countries in or adjacent to the region, maintains military facilities throughout the Persian Gulf, and relies on Arab governments for logistical support. In the event of an Israeli attack, Washington would surely be accused of colluding with Jerusalem, severely damaging the United States' position in the region while provoking a ferocious Iranian response in Iraq, Afghanistan, Gaza, and southern Lebanon. **The** resulting **breach between Israel and the** **U**nited **S**tates **would be unprecedented**, creating a crisis far more serious than President Dwight Eisenhower's demand that Israel stand down after its invasion of Sinai in 1956 and Gerald Ford's "reassessment" of 1975 (which suspended all military and economic agreements between the two countries for three months when Israel proved uncooperative in negotiating a second Sinai agreement). This is a scenario with which many Israelis, including Netanyahu, are unlikely to be comfortable. The Israelis have always claimed that they did not want a formal defense treaty with the United States for fear that such a pact would limit their freedom of maneuver. David Ben Gurion sought close relations with Washington, but not at the expense of Israel's "independence or its existence." Yet, the historical record does not track consistently with Ben Gurion's bravado. The 1956 and 1975 episodes are instructive because the Israelis backed down, establishing an informal pattern for future relations in which Israeli prime ministers tend to tread cautiously when it comes to the United States.

#### Obama fighting with Dems now - trade, Keystone, Social security, Iran

Borger 2/19/14 (Gloria, Chief Political Analyst @ CNN, "Obama: "There Will Be Consequences If People Step Over The Line" In Ukraine; "Wolf Of Wall Street" Studio Sued; Bush Hosts Summit On Military Vet Needs; Military Vet Surprised With New Family Home," lexis)

Gloria Borger is with us now from Washington. She is our chief political analyst. Gloria, let's talk about really strange bed fellows because it's sort of like you have Barack Obama and House Speaker John Boehner, you know, now on one side with Nancy Pelosi and Harry Reid against them. Why?¶ GLORIA BORGER, CNN CHIEF POLITICAL ANALYST: You know, It's interesting, Brooke, because the president gave his "State of the Union" speech back in January for this free trade agreement. The next day Harry Reid, the leader of Democrats in the Senate came out and said I'm not for it, the very next day. Now the reason Democrats are opposed to it is because of labor.¶ Labor unions believe this is eventually going to cost Democratic workers, American workers jobs. I think that's a big problem for Democrats. They had into the midterm elections. They don't want to be seen as supporting anything that could cost American jobs.¶ Also there is an issue here with whether this takeaway any authority from the Congress, and they don't like that. Because this agreement would not allow congressional amendments to any trade packs. They kind of like to put restrictions on trade packs and so Democrats are not in favor of it for that reason also.¶ BALDWIN: OK. Other big issues whether the president is fighting his own party. He has Democrats pushing the new sanctions against Iran, which we know he is opposed to that and possible changes in Social Security in the president's upcoming budget proposal. We know that the Democrats don't like that and the Keystone pipeline and the president gives the green light there. He will anger members of his party even more. Is this enough to make the White House a little concerned? BORGER: Yes, I mean, yes. What you are seeing is a moment is a moment in time and it happened as you head into the sixth year of a presidency when the congressional party decides it has to go its own way from the executive branch and from the White House because congressional Democrats want to keep control of the Senate, for example, and there are times they are going to split with the White House.¶ Now I would argue on the pipeline, for example, there is a split within the Democratic Party on that. There are some red state senators who would like to see the approval of that pipeline like Mary Landrieu in Louisiana or Mark Bagetch in Alaska. That would actually help them because they can make the case that it would create jobs among their constituents.

#### 3. Congress likes the plan

Janofsky 05

[Michael, NY Times, 5/11/05, Pentagon Is Asking Congress to Loosen Environmental Laws, <http://www.nytimes.com/2005/05/11/politics/11enviro.html?_r=0>]

Dozens of groups have complained to Congress that the military's needs are covered by the laws that they seek to change and that waivers would result in conditions getting worse on and around the nation's military bases, endangering the health of millions of people. As the owner of 425 active bases and more than 10,000 training ranges, the Defense Department is widely regarded as one of the nation's leading polluters, producing vast amounts of chemicals from ordnance that leach into groundwater, as well as air pollution from military vehicles. The Environmental Protection Agency lists more than 130 Superfund sites on military bases. "Congress would never consider letting the nation's biggest corporate polluter off the hook," Heather Taylor, deputy legislative director for the Natural Resources Defense Council, said in a conference call with reporters. "Why, then, would Congress grant immunity to America's, and the world's, largest polluter?" Since 2001, the Pentagon has been asking Congress for greater latitude in complying with environmental laws. When it came to birds and animals, lawmakers were willing to compromise, granting exemptions to federal laws. But they have been more resistant to changes that might affect human health under the Clean Air Act; the Resource Conservation and Recovery Act, dealing with solid waste; and the Comprehensive Environmental Response, Compensation and Liability Act, which deals with toxic wastes and is better known as the Superfund law.

#### 4. Courts don’t link

Litwick and Schragger 10/8/06(Dahlia and Richard, Legal Affairs Correspondent @ Slate Magazine + Prof of Law @ UVA, Wash Post, lexis)

Criticizing the court for overturning the laws passed by Congress -- as Specter did repeatedly during the confirmation hearings for John G. Roberts Jr. and Samuel A. Alito Jr. -- is fair . But crying "judicial activism" at the same time you rely on the courts for political cover when you're too timid to defy the electorate -- or your president -- is hypocritical . Why should the Supreme Court defer to a Congress that adopts laws it suspects are unconstitutional? And what should we think of those elected officials who would take so cavalier an attitude toward their oath to uphold the Constitution? Members of Congress take the same oath as Supreme Court justices do, after all. And Congress regularly asserts its institutional capacity to interpret the Constitution -- to act on an equal footing with the Supreme Court in deciding the constitutionality of a law. Moreover, the justices are supposed to assume that Congress never intentionally adopts an unconstitutional law, and you need attend oral argument for only a few moments to know how seriously they take that charge. So how is it possible that an oath-bound member of Congress can support a law that he or she believes violates the Constitution? Congress gives in to the temptation of passing bills that are of questionable constitutionality because it's easy and convenient . Political expediency seems to trump constitutional principle. The elected branches need never defy the popular will if the courts are available to do so instead. And those members of Congress who insist that the courts should stay out of Congress's business should recognize Congress for the enabler it has become. It's a two-way street: The courts work with what Congress sends them and sometimes Congress purposely sends them unconstitutional legislation, because it is politically expedient to do so. That's why lawmakers who know that legislation to ban flag burning violates the First Amendment regularly trot it out anyway. It is an easy way to mollify voters, while letting some other branch grapple with what the Constitution requires. As a bonus , lawmakers then can blame the courts for usurping the will of the electorate, turning an ordinary political pander into an Olympic-worthy double-pander. So instead of pointing fingers at the court, let's call the whole relationship what it is: dysfunctional . For all its railing against the court, Congress sometimes relies on it to achieve substantive aims. The court, sheltered from political fallout, can sometimes afford to be brave when Congress cannot . But this suggests that cries of "judicial activism" from the Congress should be suspect. As is the case in any dysfunctional relationship, Congress has a vested interest in being upheld when it wants to be, and struck down when it needs to be bailed out.

#### 5. Plan’s announced in June

Ward 10 (Jake, “Bilski Decision Tomorrow (Thursday, June 17th)? Maybe?”, Anticipate This! (Patent and Trademark Law Blog), 6-17, http://anticipatethis.wordpress.com/2010/06/16/bilski-decision-tomorrow-thursday-june-17th-maybe/)

In mid-May until the end of June, the Supreme Court of the United States (SCOTUS) releases orders and opinions.  SCOTUS has yet to issue a number of decisions this term, however, and it is rapidly moving toward summer recess.  Most notable from a patent law perspective is that the decision in [Bilski v. Kappos](http://anticipatethis.wordpress.com/?s=bilski), which was argued in November 2009, has yet to be decided.

#### Losers lose has already been triggered

**NPR 9/21**/13 (NPR, “Have Obama's Troubles Weakened Him For Fall's Fiscal Fights?”

[http://www.ideastream.org/news/npr/224494760](http://www.ideastream.org/news/npr/224494760m), September 21, 2013)

President Obama has had a tough year. He failed to pass gun legislation. Plans for an immigration overhaul have **stalled** in the House. He barely escaped what would have been a humiliating rejection by Congress on his plan to strike Syria.¶ Just this week, his own Democrats forced Larry Summers, the president's first choice to head the Federal Reserve, to withdraw.¶ Former Clinton White House aide Bill Galston says all these issues have **weakened the unity of the president's coalition.**¶"It's not a breach, but there has been some real tension there," he says, "and that's something that neither the president nor congressional Democrats can afford as the budget battle intensifies."¶ Obama is now facing showdowns with the Republicans over a potential government shutdown and a default on the nation's debt. On Friday, the House voted to fund government operations through mid-December, while also defunding the president's signature health care law — a position that's bound to fail in the Senate.¶ As these fiscal battles proceed, **Republicans have been emboldened by the president's recent troubles**, says former GOP leadership aide Ron Bonjean.

#### 7. PC not real

Hirsch 13

[Michael, chief correspondent for the National Journal and former senior editor and columnist at Newsweek, "There's no such thing as political capital.” 2/27/13, <http://news.yahoo.com/no-thing-political-capital-201002390--politics.html>]

On Tuesday, in his State of the Union address, President Obama will do what every president does this time of year. For about 60 minutes, he will lay out a sprawling and ambitious wish list highlighted by gun control and immigration reform, climate change and debt reduction. In response, the pundits will do what they always do this time of year: They will talk about how unrealistic most of the proposals are, discussions often informed by sagacious reckonings of how much “political capital” Obama possesses to push his program through. Most of this talk will have no bearing on what actually happens over the next four years. Consider this: Three months ago, just before the November election, if someone had talked seriously about Obama having enough political capital to oversee passage of both immigration reform and gun-control legislation at the beginning of his second term—even after winning the election by 4 percentage points and 5 million votes (the actual final tally)—this person would have been called crazy and stripped of his pundit’s license. (It doesn’t exist, but it ought to.) In his first term, in a starkly polarized country, the president had been so frustrated by GOP resistance that he finally issued a limited executive order last August permitting immigrants who entered the country illegally as children to work without fear of deportation for at least two years. Obama didn’t dare to even bring up gun control, a Democratic “third rail” that has cost the party elections and that actually might have been even less popular on the right than the president’s health care law. And yet, for reasons that have very little to do with Obama’s personal prestige or popularity—variously put in terms of a “mandate” or “political capital”—chances are fair that both will now happen. What changed? In the case of gun control, of course, it wasn’t the election. It was the horror of the 20 first-graders who were slaughtered in Newtown, Conn., in mid-December. The sickening reality of little girls and boys riddled with bullets from a high-capacity assault weapon seemed to precipitate a sudden tipping point in the national conscience. One thing changed after another. Wayne LaPierre of the National Rifle Association marginalized himself with poorly chosen comments soon after the massacre. The pro-gun lobby, once a phalanx of opposition, began to fissure into reasonables and crazies. Former Rep. Gabrielle Giffords, D-Ariz., who was shot in the head two years ago and is still struggling to speak and walk, started a PAC with her husband to appeal to the moderate middle of gun owners. Then she gave riveting and poignant testimony to the Senate, challenging lawmakers: “Be bold.” As a result, momentum has appeared to build around some kind of a plan to curtail sales of the most dangerous weapons and ammunition and the way people are permitted to buy them. It’s impossible to say now whether such a bill will pass and, if it does, whether it will make anything more than cosmetic changes to gun laws. But one thing is clear: The political tectonics have shifted dramatically in very little time. Whole new possibilities exist now that didn’t a few weeks ago. Meanwhile, the Republican members of the Senate’s so-called Gang of Eight are pushing hard for a new spirit of compromise on immigration reform, a sharp change after an election year in which the GOP standard-bearer declared he would make life so miserable for the 11 million illegal immigrants in the U.S. that they would “self-deport.” But this turnaround has very little to do with Obama’s personal influence—his political mandate, as it were. It has almost entirely to do with just two numbers: 71 and 27. That’s 71 percent for Obama, 27 percent for Mitt Romney, the breakdown of the Hispanic vote in the 2012 presidential election. Obama drove home his advantage by giving a speech on immigration reform on Jan. 29 at a Hispanic-dominated high school in Nevada, a swing state he won by a surprising 8 percentage points in November. But the movement on immigration has mainly come out of the Republican Party’s recent introspection, and the realization by its more thoughtful members, such as Sen. Marco Rubio of Florida and Gov. BobbyJindal of Louisiana, that without such a shift the party may be facing demographic death in a country where the 2010 census showed, for the first time, that white births have fallen into the minority. It’s got nothing to do with Obama’s political capital or, indeed, Obama at all. The point is not that “political capital” is a meaningless term. Often it is a synonym for “mandate” or “momentum” in the aftermath of a decisive election—and just about every politician ever elected has tried to claim more of a mandate than he actually has. Certainly, Obama can say that because he was elected and Romney wasn’t, he has a better claim on the country’s mood and direction. Many pundits still defend political capital as a useful metaphor at least. “It’s an unquantifiable but meaningful concept,” says Norman Ornstein of the American Enterprise Institute. “You can’t really look at a president and say he’s got 37 ounces of political capital. But the fact is, it’s a concept that matters, if you have popularity and some momentum on your side.” The real problem is that the idea of political capital—or mandates, or momentum—is so poorly defined that presidents and pundits often get it wrong. “Presidents usually over-estimate it,” says George Edwards, a presidential scholar at Texas A&M University. “The best kind of political capital—some sense of an electoral mandate to do something—is very rare. It almost never happens. In 1964, maybe. And to some degree in 1980.” For that reason, political capital is a concept that misleads far more than it enlightens. It is distortionary. It conveys the idea that we know more than we really do about the ever-elusive concept of political power, and it discounts the way unforeseen events can suddenly change everything. Instead, it suggests, erroneously, that a political figure has a concrete amount of political capital to invest, just as someone might have real investment capital—that a particular leader can bank his gains, and the size of his account determines what he can do at any given moment in history. Naturally, any president has practical and electoral limits. Does he have a majority in both chambers of Congress and a cohesive coalition behind him? Obama has neither at present. And unless a surge in the economy—at the moment, still stuck—or some other great victory gives him more momentum, it is inevitable that the closer Obama gets to the 2014 election, the less he will be able to get done. Going into the midterms, Republicans will increasingly avoid any concessions that make him (and the Democrats) stronger. But the abrupt emergence of the immigration and gun-control issues illustrates how suddenly shifts in mood can occur and how political interests can align in new ways just as suddenly. Indeed, the pseudo-concept of political capital masks a larger truth about Washington that is kindergarten simple: You just don’t know what you can do until you try. Or as Ornstein himself once wrote years ago, “Winning wins.” In theory, and in practice, depending on Obama’s handling of any particular issue, even in a polarized time, he could still deliver on a lot of his second-term goals, depending on his skill and the breaks. Unforeseen catalysts can appear, like Newtown. Epiphanies can dawn, such as when many Republican Party leaders suddenly woke up in panic to the huge disparity in the Hispanic vote. Some political scientists who study the elusive calculus of how to pass legislation and run successful presidencies say that political capital is, at best, an empty concept, and that almost nothing in the academic literature successfully quantifies or even defines it. “It can refer to a very abstract thing, like a president’s popularity, but there’s no mechanism there. That makes it kind of useless,” says Richard Bensel, a government professor at Cornell University. Even Ornstein concedes that the calculus is far more complex than the term suggests. Winning on one issue often changes the calculation for the next issue; there is never any known amount of capital. “The idea here is, if an issue comes up where the conventional wisdom is that president is not going to get what he wants, and he gets it, then each time that happens, it changes the calculus of the other actors” Ornstein says. “If they think he’s going to win, they may change positions to get on the winning side. It’s a bandwagon effect.”

#### 8. Public likes the plan

ENS 01

[Environmental News Service , U.S. Military Under Attack on Environmental Grounds, 6/25/01, <http://www.ens-newswire.com/ens/jun2001/2001-06-25-03.asp>]

A coalition of citizen’s organizations is challenging the U.S. Armed Forces, alleging that the health and safety of communities across the country is under assault from past and current polluting military operations. In a new national campaign, citizens impacted by military operations **from Hooper Bay, Alaska to Vieques, Puerto Rico** are participating in the Military Toxics Project�s effort to hold the U.S. military accountable to the same laws that apply to all other sectors of society. The military is not subject to most laws that protect communities and workers, either because it is completely exempt or because the Environmental Protection Agency has no enforcement authority, says Steve Taylor, national coordinator for the Maine based Military Toxics Project. The campaign is timed to support the introduction of a bill by Congressman Bob Filner, a California Democrat, who represents San Diego, home to a large contingent of U.S. Navy ships in the Pacific Fleet, the Space and Naval Warfare Systems Center, and the Naval Air Force. On June 13, Filner introduced the Military Environmental Responsibility Act, which seeks to remove all military exemptions from existing environmental, worker and public safety laws and regulations. To back up the new bill, the Military Toxics Project (MTP) released to Congress a report entitled "Defend Our Health: The U.S. Military�s Environmental Assault On Communities." Prepared by MTP and Environmental Health Coalition, an environmental justice organization based in San Diego, the report shows how military exemptions from laws and lax enforcement by regulatory agencies have contributed to the existence of more than 27,000 toxic hot spots on 8,500 military properties across the country. Based on the findings of this report, the citizens' groups charge that military activities like legal and illegal toxic dumping, testing and use of munitions, manufacture and use of depleted uranium ammunition, hazardous waste generation, nuclear propulsion, toxic air emissions have created "an environmental catastrophe.

#### Key to PC

Sinclair UCLA Prof of Poli Sci 09 - Professor Emerita of Political Science at UCLA.

[Barbara, "Barack Obama and the 111th Congress: Politics as Usual?" http://www.ou.edu/carlalbertcenter/extensions/spring2009/Sinclair.pdf]

Whether the stimulus bill was even in danger of losing significant public support is unclear; but Obama's efforts meant he got the credit when the bill passed to strong public acclaim. A February 10 Gallup poll found that 59 percent of the public favored the stimulus bill while 33 percent opposed it; furthermore, support had increased after Obama went on the road to sell the program. Obama himself maintained his high approval ratings with the American people and the proportion approving of Congress increased significantly.7 Voters approved of the job congressional Democrats are doing by 46 percent to 45 percent and disapproved of the GOP’s performance by 56 percent to 34 percent, according to a February 17-18 poll conducted by Fox News/Opinion Dynamics.8 By using the bully pulpit effectively, Obama makes it easier for congressional Democrats to support his initiatives and for the congressional leaders to deliver for him legislatively.9 When the president attempts to build public support for his agenda by “going to the people,” it is sometimes interpreted as “going over the heads” of members of Congress to pressure them via their constituents and is thought to breed resentment. However, when the president's efforts allow members to do what they would like to do anyway, their response is likely to be quite different. And if a few Republicans do, in fact, feel constituency pressure, any resentment is likely to be considered a reasonable price to pay for their occasional votes.

### Iran Politics – 1AR U

**Postdating good**

#### Fight is over - the sanction bill is dead

Rosenberg 2/14/14 (MJ, Political Analyst @ Washington Spectator, "AIPAC: Stuck With the GOP," http://www.huffingtonpost.com/mj-rosenberg/aipac-iran-sanctions-bill\_b\_4789209.html)

Suddenly AIPAC is a lobby without a cause.¶ In three weeks thousands of delegates from all over the country will descend on the Washington, D.C. convention center to get their marching orders but, as of today, AIPAC hasn't even drafted them.¶ That is because the centerpiece of the conference was to be dispatching its people to Capitol Hill to lobby for the Menendez-Kirk Iran sanctions bill. The lobby had anticipated that its bill would still be very much alive in March. In fact, it would be at that sweet spot, with hundreds of co-sponsors but not quite enough to pass over President Obama's veto. That would allow the lobby's conference program to write itself. It would be Iran hysteria followed by visits to every single Member of Congress to warn that stopping Iran was a matter of life and death for Israel and that a legislators failure to support the sanctions bill might well be a matter of political life and death for them.¶ The "life and death" theme would, of course, be brought to a crescendo by the appearance, in person, of Prime Minister Binyamin Netanyahu who would offer an encore to his popular "this is 1942 and Iran is Nazi Germany" mantra which has brought AIPAC audiences to their feet for a decade.¶ However, due to the combined efforts of President Obama and Senate Majority Leader Harry Reid, the AIPAC bill is dead. Once the president made clear in his State Of The Union that AIPAC's efforts were not in "our national interests," the bill lost its Democratic supporters by the drove, leaving AIPAC alone out there with just right-wing Republicans and some powerless House Democrats.

### Politics – Nothing on Agenda 1AR

**Our ev says Congress isn’t taking up anything controversial before midterms – same warrant: Keystone thumps**

Reuters 2/19/14 ("UPDATE 3-Keystone pipeline approval in limbo after Nebraska ruling," http://www.cnbc.com/id/101429881)

WASHINGTON, Feb 19 (Reuters) - A Nebraska court on Wednesday voided the governor's decision to allow the Keystone XL pipeline to pass through the Midwestern state, creating another snag for the controversial project to link Canada's oil sands with refineries in Texas.¶ Nebraska Governor Dave Heineman last year supported legislation that cleared the way for TransCanada Corp's $5.4 billion pipeline to cross parts of his state.¶ But some landowners objected to the legislation, saying it disregarded their property rights.¶ On Wednesday, the District Court of Lancaster County sided with landowners, a move that makes inevitable additional months of delay to the project, already more than five years in the planning.¶ The Nebraska Public Service Commission, or PSC, is the proper state agency to decide pipeline matters, Judge Stephanie Stacy wrote in a lengthy ruling, declaring the governor's decision "unconstitutional and void."¶ State officials and a lawyer for landowners agreed a new permit application for the pipeline could require at least six months of work - and probably much longer.¶ Heineman filed a notice later on Wednesday appealing the decision to a state appeals court. An appeal could also take months.¶ "The legislature will either have to fix (the law) or the attorney general will have to decide to take his chances in the state Supreme Court, one of the two, or both," said David Domina, who represented several landowners in the case.¶ Supporters say Keystone XL would create thousands of jobs and cut U.S. fuel costs by reducing the nation's reliance on oil imports from countries less friendly than Canada. They also cite U.S. government reports about the dangers of moving crude oil by rail as an alternative to the pipeline.¶ Critics say it would harm the environment and hasten climate change by promoting oil-extraction methods in Alberta that produce high levels of carbon dioxide emissions.¶ Republican lawmakers have urged President Barack Obama for years to approve the pipeline. The Democratic president is also under pressure from several vulnerable senators in his own party who favor the pipeline and face re-election at a time when Democrats are fighting to maintain control of the U.S. Senate in November's elections.¶ Obama has said he will have the final word on the project. That decision is not expected before May.¶ Keystone foes said they hoped to make the most of additional delays.¶ "This court decision provides more uncertainty for pipeline proponents, and more time to organize for pipeline opponents," said Dan Weiss, a senior fellow with the Center for American Progress, which opposes the plan.¶ POLITICALLY CHARGED¶ The Keystone XL pipeline has become freighted with political meaning for Obama, who says he is committed to energy independence and weaning the nation off fossil fuels blamed for climate change.

### Dems 1AR

#### Obama fighting with Dems now

Borger 2/19/14 (Gloria, Chief Political Analyst @ CNN, "Obama: "There Will Be Consequences If People Step Over The Line" In Ukraine; "Wolf Of Wall Street" Studio Sued; Bush Hosts Summit On Military Vet Needs; Military Vet Surprised With New Family Home," lexis)

Gloria Borger is with us now from Washington. She is our chief political analyst. Gloria, let's talk about really strange bed fellows because it's sort of like you have Barack Obama and House Speaker John Boehner, you know, now on one side with Nancy Pelosi and Harry Reid against them. Why?¶ GLORIA BORGER, CNN CHIEF POLITICAL ANALYST: You know, It's interesting, Brooke, because the president gave his "State of the Union" speech back in January for this free trade agreement. The next day Harry Reid, the leader of Democrats in the Senate came out and said I'm not for it, the very next day. Now the reason Democrats are opposed to it is because of labor.¶ Labor unions believe this is eventually going to cost Democratic workers, American workers jobs. I think that's a big problem for Democrats. They had into the midterm elections. They don't want to be seen as supporting anything that could cost American jobs.¶ Also there is an issue here with whether this takeaway any authority from the Congress, and they don't like that. Because this agreement would not allow congressional amendments to any trade packs. They kind of like to put restrictions on trade packs and so Democrats are not in favor of it for that reason also.¶ BALDWIN: OK. Other big issues whether the president is fighting his own party. He has Democrats pushing the new sanctions against Iran, which we know he is opposed to that and possible changes in Social Security in the president's upcoming budget proposal. We know that the Democrats don't like that and the Keystone pipeline and the president gives the green light there. He will anger members of his party even more. Is this enough to make the White House a little concerned? BORGER: Yes, I mean, yes. What you are seeing is a moment is a moment in time and it happened as you head into the sixth year of a presidency when the congressional party decides it has to go its own way from the executive branch and from the White House because congressional Democrats want to keep control of the Senate, for example, and there are times they are going to split with the White House.¶ Now I would argue on the pipeline, for example, there is a split within the Democratic Party on that. There are some red state senators who would like to see the approval of that pipeline like Mary Landrieu in Louisiana or Mark Bagetch in Alaska. That would actually help them because they can make the case that it would create jobs among their constituents.

### China SoPo 2AC

#### Chinese soft power will increase due to their underlying values – plan doesn’t affect that – plus US militarism prevents

**Hölkemeyer 12-6**-13 [Patricia Rodríguez Hölkemeyer, research professor and deputy director of the School of Political Science at the University of Costa Rica, Honorary Member of the Academy Research Center of Central Private, “China's forthcoming soft power as a natural result of international events,” <http://www.china.org.cn/china/Chinese_dream_dialogue/2013-12/06/content_30822607.htm>]

On the other side, Deng'saphorism that China should never strive to attain global hegemony has been widely respected by its leaders and reformers. Nevertheless, today circumstances have changed. China's ancient thinkers rejected the idea of searching for hegemony through stratagems, and favored instead the accomplishment of what Mencius and Xuzi called humane authority. Nevertheless, at the present moment China does not need to strive for the attainment of a leading role because the present world circumstances are catapulting her to become a world superpower. What are the present world circumstances that have put China in the position to have a say in international affairs without having to strive for hegemony? Why is the Western 'presumptive paradigm' (Rodrik)for development failing contrastingly to the pragmatic and experimental learning paradigm of the Chinese reformers that Joshua Cooper Ramo dubbed the Beijing Consensus? The ex-ante presumption of knowledge, a characteristic of the Western countries and global institutions, very probably will be ceding its place to a Deweyian pragmatic change of paradigm, according to which, even the mere conception of what is the best form of democracy is fallible and contextual. ¶ Very probably, the paradigm of 'arrogance' will be giving place to a paradigm based on what the political scientist, Karl Deutsch, once called 'humility'. Deutsch defined its opposite "arrogance" as the posture of permitting oneself the luxury of not to learn (because it is supposed that one has already learned everything), while he defines 'humility' as the attitude of the political leader who is always open to learning from others. The West has forgotten that the **concept of feedback** (learning form the other) is the biggest bite to the tree of knowledge that humanity has undertaken in the last two thousand years (Bateson). A new concept of democracy has to take into consideration this advancement as the Chinese reform process has done. Western countries' presumptive **frame of mind** has been slowly losing momentum. The present circumstances provide a clear indication that one of the most cared institutions, the Western multiparty democracy system, has been losing its ability to learn, and thus, its capacity to offer creative solutions to its own and the world's problems. As a former US Ambassador to China said two years ago, the willingness of Chinese leaders to learn from their errors and adapt to new circumstances "differs sharply from what one encounters in Washington, where there's such concern over our inability to correct the problems that are making our political system — in the eyes of many Americans — increasingly dysfunctional."¶ The US has to enhance its learning capacity if it wants to lead in world affairs in cooperation with the newly emerging superpower. The West has to acknowledge that the so called **American values are not universal**, that **harmony implies unity in diversity**, that the concept of **democracy is fallible** and mutable, and that hegemony has to cede to a well gained humane authority, not only abroad but domestically.¶ Since W. W. II, the US attained the soft power that China lacked. Nevertheless, the US insistence in the **maintenance of an hegemonic international order a**pplying the smart power (a new concept of Joseph Nye) stratagems, has culminated in the observed failure of the misnamed Arab Spring, even if the application of smart power (instigation through political activism, and the posterior use of military power if necessary) was partially successful in the so called Color Revolutions (Rodríguez-Hölkemeyer, 2013).¶ Given the present circumstances (as the effects of 9/11, the global financial crisis, the formation of the G20, the global rejection of US espionage stratagems, the **failure of the Pivot to the East** policy due to the attention the US had to devote to the failed Arab Spring, to an ailing Europe, and to its own domestic financial and political problems) China's possibilities to acquire soft power and to exert its positive influence way the international governing institutions and in international relations, are now real. The world needs a new international relations paradigm, other than the Western style democracy promotion policy through political activism (see the book of the present US Ambassador to Russia, Michael McFaul, Advancing Democracy Abroad)orchestrated by organized minorities (NGOs) who want to impose the so called 'American values' in countries with different historical paths, culture and aspirations. The new paradigm will have to be founded in ethics, wisdom, cooperation, confidence-building, and on the recognition that knowledge is fallible and hypothetical, and that with globalization world circumstances and interactions are prone to change. This new paradigm has already been successfully tested in the 35 years of China's own economic and institutional reform process and diplomatic practice. This adaptive and learning-prone attitude of the Chinese leaders, even to the point of adapting (not adopting) western suggestions and institutions when necessary, is the underlying cause of the success of the admirable and unique Chinese development path. As Mencius and Xuzi's observations suggest that a country cannot exert international influence if its own house is not in order.¶ In sum, the present article states that now China possesses a substantive experiential wisdom to start a very productive dialogue with the World. Especially in a moment when it is beginning to be clear to many in the World, that to strive for maintaining a hegemonic world order (Mearsheimer) by means of dubious stratagemsis --according to Lao Tzu thought—the kind of response when intentions are going against the natural course of events.

#### ---Chinese influence isn’t zero-sum with the US – we share regional values

Bitzinger and Desker 8 (Richard A. and Barry, Senior Fellow and Dean – S. Rajaratnam School of International Studies, “Why East Asian War is Unlikely,” Survival, December)

The argument that there is an emerging Beijing Consensus is not premised on the rise of the East and decline of the West, as sometimes seemed to be the sub-text of the earlier Asian-values debate.7 However, like the earlier debate, the new one reflects alternative philosophical traditions. The issue is the appropriate balance between the rights of the individual and those of the state. This emerging debate will highlight the shared identity and values of China and the other states in the region, even if conventional realist analysts join John Mearsheimer to suggest that it will result in ‘intense security competition with considerable potential for war’ in which most of China’s neighbours ‘will join with the United States to contain China’s power’.8 These shared values are likely to reduce the risk of conflict and result in regional pressure for an accommodation of and engagement with an emerging China, rather than confrontation.

#### ---Huang concludes aff – the US needs to remain diplomatically powerful in the region & Chinese soft power alone is bad

**Huang ’13** [Chin-Hao Huang, Ph.D. Candidate and a Russell Endowed Fellow in the Political Science and International Relations (POIR) Program at the University of Southern California (USC). Until 2009, he was a researcher at the Stockholm International Peace Research Institute (SIPRI) in Sweden. He specializes in international security and comparative politics, especially with regard to China and Asia, and he has testified before the Congressional U.S.-China Economic and Security Review Commission on Chinese foreign and security policy, “China’s Soft Power in East Asia,” <http://dornsife.usc.edu/assets/sites/451/docs/Huang_FINAL_China_Soft_Power_and_Status.pdf>]

China’s authoritarian regime is thus the biggest obstacle to its efforts to construct and project soft ¶ power. At the same time, if the government decides to take a different tack—a more constructive ¶ approach that embraces multilateralism—**Chinese soft power could be a positive force multiplier that contributes to peace and stability in the region**. A widely read and cited article published in ¶ Liaowang, a leading CCP publication on foreign affairs, reveals that there are prospects for China being socialized into a less disruptive power that complies with regional and global norms: ¶ Compared with past practices, China’s diplomacy has indeed displayed a new face. If China’s diplomacy before the 1980s stressed safeguarding of national ¶ security, and its emphasis from the 1980s to early this century is on the creation ¶ of an excellent environment for economic development, then the focus at ¶ present is to take a more active part in international affairs and play the role that a responsible power should on the basis of satisfying the security and ¶ development interests.47 The newly minted leadership in Beijing provides China with an opportunity to reset its soft-power approach and the direction of its foreign policy more generally. If the new leadership pursues a ¶ different course, Washington should seize on this opportunity to craft an effective response to ¶ better manage U.S.-China relations and provide for greater stability in the Asia-Pacific region. For example, strengthening regional alliances and existing security and economic architectures could help restrain China’s more bellicose tendencies. At the same time, Washington should be cognizant of the frustrations that are bound to occur in bilateral relations if Beijing continues to define national interest in narrow, self-interested terms. The U.S. should engage more deeply with regional partners to persuade and incentivize China to take on a responsible great-power role commensurate with regional expectations.¶ • **The U.S. pivot to the region could be further complemented with an** increase in soft-power promotion**, including increasing the level of support for Fulbright and other educational exchanges that forge closer professional and interpersonal ties between the U.S. and the Asia-Pacific.** Washington should also encourage philanthropy, development assistance, and intellectual engagement by think tanks and civil society organizations that address issues such as public health and facilitate capacity-building projects. China’s rising economic, political, and military power is the most geopolitically significant¶ development of this century. Yet while the breadth of China’s growing power is widely¶ understood, a fulsome understanding of the dynamics of this rise requires a more¶ systematic assessment of the depth of China’s power. Specifically, the strategic, economic,¶ and political implications of China’s soft-power efforts in the region require in-depth analysis.¶ The concept of “soft power” was originally developed by Harvard University professor Joseph Nye¶ to describe the ability of a state to attract and co-opt rather than to coerce, use force, or give money¶ as a means of persuasion.1 The term is now widely used by analysts and statesmen. As originally¶ defined by Nye, soft power involves the ability of an actor to set agendas and attract support on the¶ basis of its values, culture, policies, and institutions. In this sense, he considers soft power to often¶ be beyond the control of the state, and generally includes nonmilitary tools of national power—such¶ as diplomacy and state-led economic development programs—as examples of hard power.¶ Partially due to the obvious pull of China’s economic might, several analysts have broadened Nye’s¶ original definition of soft power to include, as Joshua Kurlantzick observes, “anything outside the¶ military and security realm, including not only popular culture and public diplomacy but also more¶ coercive economic and diplomatic levers like aid and investment and participation in multilateral¶ organizations.”2 This broader definition of soft power has been exhaustively discussed in China¶ as an element of a nation’s “comprehensive national power” (zonghe guoli), and some Chinese¶ commentators argue that it is an area where the People’s Republic of China (PRC) may enjoy some¶ advantages vis-à-vis the United States. These strategists advocate spreading appreciation of Chinese¶ culture and values through educational and exchange programs such as the Confucius Institutes.¶ This approach would draw on the attractiveness of China’s developmental model and assistance¶ programs (including economic aid and investment) in order to assuage neighboring countries’¶ concerns about China’s growing hard power.3 China’s soft-power efforts in East Asia—enabled by its active use of coercive economic and social¶ levers such as aid, investment, and public diplomacy—have already accrued numerous benefits for the PRC. Some view the failure of the United States to provide immediate assistance to East and¶ Southeast Asian states during the 1997 Asian financial crisis and China’s widely publicized refusal¶ to devalue its currency at the time (which would have forced other Asian states to follow suit) as a turning point, causing some in Asia to question which great power was more reliable.4 China also uses economic aid, and the withdrawal thereof, as a tool of national power, as seen in China’s considerable aid efforts in Southeast Asia, as well as in its suspension of $200 million in aid to¶ Vietnam in 2006 after Hanoi invited Taiwan to attend that year’s Asia-Pacific Economic Cooperation¶ (APEC) summit.5

#### --- Doesn’t trade off – your ev assumes our soft power is used towards hegemonic ends – also Chinese politics outweigh

**Dynon ’13** [Nicholas, PhD candidate at Macquarie University and is coordinator of the Line 21 project, an online resource on Chinese public diplomacy, has served diplomatic postings in Shanghai, Beijing and the Fiji Islands, worked in Australia’s Parliament House as a departmental liaison officer to the Immigration Minister, holds postgraduate degrees from the ANU and the University of Sydney, “Soft Power: A U.S.-China Battleground?” June 19, <http://thediplomat.com/2013/06/soft-power-a-u-s-china-battleground/>]

Strip away the ostensibly benign surface of public diplomacy, cultural exchanges and language instruction, and it becomes clear that the U.S. and China are engaged in a soft power conflagration – a protracted cultural cold war. On one side bristles incumbent Western values hegemon, the U.S. On the other is China, one of the non-Western civilizations that Samuel Huntington noted back in 1993 “increasingly have the desire, the will and the resources to shape the world in non-Western ways.”¶ But to shape the world in non-Western ways means engaging in a soft power battlespace against an incumbent who already holds the high ground. Liu comments that in regions deeply influenced by Western cultures, political systems and values, the “latecomer” China is considered a “dissident force." Under such circumstances, “it is rather difficult for China to attract Western countries with its own political and cultural charisma, let alone to replace their positions.”¶ According to this and similar viewpoints, China’s difficulty in projecting soft power across the world is in part due to the way the U.S. leverages its own soft power. Wu Jianmin, the former president of China’s Foreign Affairs University, puts the point well when explaining that **U.S. soft power is driven by the imperative of “maintaining US hegemony** in changing the world, of letting the world listen to the United States.”¶ Thus, the state of global post-colonial, post-communist ideational hegemony is such that large swathes of the earth’s population see the world through lenses supplied by the West. Through these lenses, perceptions of China are dominated by such concepts as **the “China threat theory,”** which portrays China as a malevolent superpower upstart.¶ But it’s actually inside China’s borders where the soft power struggle between China and the U.S. is most prominent.¶ Official pronouncements from Chinese leaders have long played up the notion that Western culture is an aggressive threat to China’s own cultural sovereignty. It has thus taken **myriad internal measures** to ensure the country’s post-Mao reforms remain an exercise in modernization without “westernization.” Since the 1990s, for example, ideological doctrine has been increasingly infused with a new cultural nationalism, and the Party’s previously archaic propaganda system has been massively overhauled and working harder than ever.¶ Especially after the June 4th crackdown and the collapse of the Soviet Union, China’s leaders under Jiang Zemin began addressing the cultural battlespace with renewed vigor. Resolutions launched in 1996 called for the Party to “carry forward the cream of our traditional culture, prevent and eliminate the spread of cultural garbage, [and] resist the conspiracy by hostile forces to ‘Westernize’ and ‘split’ our country….” Hu Jintao trumpeted the same theme in early 2012 when he warned that international hostile forces are intensifying the strategic plot of Westernising and dividing China … Ideological and cultural fields are the focal areas of their long-term infiltration.”

#### ---Asian war is unlikely --- regional initiatives check

Bitzinger and Desker ‘8 (senior fellow and dean of S. Rajaratnam School of International Studies respectively (Richard A. Bitzinger, Barry Desker, “Why East Asian War is Unlikely,” Survival, December 2008, http://pdfserve.informaworld.com-/678328\_731200556\_906256449.pdf)

The Asia-Pacific region can be regarded as a zone of both relative insecurity and strategic stability. It contains some of the world’s most significant flashpoints – the Korean peninsula, the Taiwan Strait, the Siachen Glacier – where tensions between nations could escalate to the point of major war. It is replete with unresolved border issues; is a breeding ground for transnationa terrorism and the site of many terrorist activities (the Bali bombings, the Manila superferry bombing); and contains overlapping claims for maritime territories (the Spratly Islands, the Senkaku/Diaoyu Islands) with considerable actual or potential wealth in resources such as oil, gas and fisheries. Finally, the Asia-Pacific is an area of strategic significance with many key sea lines of communication and important chokepoints**. Yet despite all these potential crucibles of conflict, the Asia-Pacific, if not an area of serenity and calm, is certainly more stable than one might expect**. To be sure, there are separatist movements and internal struggles, particularly with insurgencies, as in Thailand, the Philippines and Tibet. Since the resolution of the East Timor crisis, however, the region has been relatively free of open armed warfare. Separatism remains a challenge, but the break-up of states is unlikely. Terrorism is a nuisance, but its impact is contained. The North Korean nuclear issue, while not fully resolved, is at least moving toward a conclusion with the likely denuclearisation of the peninsula. Tensions between China and Taiwan, while always just beneath the surface, seem unlikely to erupt in open conflict any time soon, especially given recent Kuomintang Party victories in Taiwan and efforts by Taiwan and China to re-open informal channels of consultation as well as institutional relationships between organisations responsible for cross-strait relations. And while in Asia there is no strong supranational political entity like the European Union, there are many multilateral organisations and international initiatives dedicated to enhancing peace and stability, including the Asia-Pacific Economic Cooperation (APEC) forum, the Proliferation Security Initiative and the Shanghai Co-operation Organisation. In Southeast Asia, countries are united in a common eopolitical and economic organisation – the Association of Southeast Asian Nations (ASEAN) – which is dedicated to peaceful economic, social and cultural development, and to the promotion of regional peace and stability. ASEAN has played a key role in conceiving and establishing broader regional institutions such as the East Asian Summit, ASEAN+3 (China, Japan and South Korea) and the ASEAN Regional Forum. **All this suggests that war in Asia – while not inconceivable – is unlikely.**

#### ---We solve the impact - China will model citizen provisions – solves pollution & regional stability

Goldman 5 (Patti, Managing Attorney for Earthjustice's Seattle office, “Environmental Law in China,” 10-22-5, <http://earthjustice.org/features/dispatches-from-china>)

Sun Youhai, the Director of the Environmental and Resource Committee of the People's Congress provided an overview of the development of China's environmental law, moving from an early period of little regulation to framework laws and then progressive amendments and enactment of new laws to cover various modes of pollution and natural resource issues. He candidly identified the key weaknesses in the current scheme as: (1) lack of enforcement because local governments are so closely tied to and economically dependent (through their tax revenues) on the polluting industries; and (2) the lack of specific standards and implementing systems in the current laws. However, he expressed optimism that China could attain a stronger legal environmental protection regime due to greater public attention to the environment, a growing focus on public participation in environmental decisionmaking, and current government policies that favor building a harmonious society that integrates economic development, sustainability, human health and environmental protection. What was striking to this American observer was the strength of the pro-environment rhetoric coming from a Chinese official. Sun Youhai admitted that economic development is a strong force that often trumps environmental protection, but he then identified the need to have mechanisms in place to curb that impulse. He also gave credence to embodying into Chinese law such concepts as the precautionary principle, corporate social responsibility, and the polluter pays principle. And he touted the benefits of public participation as anti-environmental forces in the United States are poised to weaken the U.S. National Environmental Policy Act. The afternoon turned to China's 2003 Environmental Impact Assessment law with Wang Canfa, Professor at China University of Politics and Law and founder and director of the Center for Legal Assistance to Pollution Victims. He walked through the law's provisions with criticisms that echo those experienced under the U.S. National Environmental Policy Act. For example, a power plant divided its project into two components, neither of which warranted a full environmental impact assessment alone when such an assessment would be required by the project as a whole. He also lamented the fact that an environmental impact assessment does not compel the government to make the most environmentally sound decision and recounted an example where the government's analysis of an appeal supported canceling construction of a high-voltage electric line but it allowed the project to proceed in the end. While many of the issues resemble those still experienced in the U.S., China's law suffers from its early stage where implementation mechanisms are still not fully developed. When the law was adopted, a provision that would have allowed citizens to enforce the law's mandates was rejected. As a result, advocates like Professor Wang are struggling to create effective mechanisms for administrative and judicial review. The law's principal enforcement mechanism is currently in the hands of the government, which recently responded to criticism of its lack of enforcement by ordering approximately 30 projects to stop because they had proceeded without an environmental impact assessment. While the stop work orders may seem bold on the surface, they merely delayed most of the projects by a few weeks while additional paperwork was filed. The decision to proceed with the projects received little or no scrutiny in light of the tardy assessments.

**Extinction & turns regional stability**

**Yee and Storey 02**

[Herbert Yee, Professor of Politics and IR, Hong Kong Baptist University --AND-- Ian Storey, Lecturer in Defence Studies at Deakin, 02

“The China Threat: Perceptions, Myths and Reality,” p5]

The fourth factor contributing to the perception of a China threat is the fear of political and economic collapse in the PRC, resulting in territorial fragmentation, civil war and waves of refugees pouring into neighbouring countries. Naturally, any or all of these scenarios would have a profoundly negative impact on regional stability. Today the Chinese leadership faces a raft of internal problems, including the increasing political demands of its citizens, a growing population, a shortage of natural resources and a deterioration in the natural environment caused by rapid industrialisation and pollution. These problems are putting a strain on the central government's ability to govern effectively. Political disintegration or a Chinese civil war might result in millions of Chinese refugees seeking asylum in neighbouring countries. Such an unprecedented exodus of refugees from a collapsed PRC would no doubt put a severe strain on the limited resources of China's neighbours. A fragmented China could also result in another nightmare scenario - nuclear weapons falling into the hands of irresponsible local provincial leaders or warlords.2 From this perspective, a disintegrating China would also pose a threat to its neighbours and the world.

## Ks

### Security K – 2AC

#### K doesn’t come first

**Owens 2002** (David – professor of social and political philosophy at the University of Southampton, Re-orienting International Relations: On Pragmatism, Pluralism and Practical Reasoning, Millenium, p. 655-657)

Commenting on the ‘philosophical turn’ in IR, Wæver remarks that ‘[a] frenzy for words like “epistemology” and “ontology” often signals this philosophical turn’, although he goes on to comment that these terms are often used loosely.4 However, loosely deployed or not, it is clear that debates concerning ontology and epistemology play a central role in the contemporary IR theory wars. In one respect, this is unsurprising since it is a characteristic feature of the social sciences that periods of disciplinary disorientation involve recourse to reflection on the philosophical commitments of different theoretical approaches, and there is no doubt that such reflection can play a valuable role in making explicit the commitments that characterise (and help individuate) diverse theoretical positions. Yet, such a philosophical turn is not without its dangers and I will briefly mention three before turning to consider a confusion that has, I will suggest, helped to promote the IR theory wars by motivating this philosophical turn. The first danger with the philosophical turn is that it has an inbuilt tendency to prioritise issues of ontology and epistemology **over explanatory** and/or interpretive **power** as if the latter two were merely a **simple function** of the former. But while the explanatory and/or interpretive power of a theoretical account is not wholly independent of its ontological and/or epistemological commitments (otherwise criticism of these features would not be a criticism that had any value), **it is by no means clear that it is**, in contrast, wholly dependent **on these philosophical commitments**. Thus, for example, one need not be sympathetic to rational choice theory to recognise that it can provide powerful accounts of certain kinds of problems, such as the tragedy of the commons in which dilemmas of collective action are foregrounded. It may, of course, be the case that the advocates of rational choice theory cannot give a good account of why this type of theory is powerful in accounting for this class of problems (i.e., how it is that the relevant actors come to exhibit features in these circumstances that approximate the assumptions of rational choice theory) and, if this is the case, it is a philosophical weakness—but **this does not undermine** the point that, for a certain class of problems, rational choice theory may provide the best account available to us. In other words, while the critical judgement of theoretical accounts in terms of their ontological and/or epistemological sophistication is one kind of critical judgement, **it is not the only or even necessarily the** most important kind. The second danger run by the philosophical turn is that because prioritisation of ontology and epistemology promotes theory-construction from philosophical first principles, it cultivates a theory-driven rather than problem-driven approach to IR. Paraphrasing Ian Shapiro, the point can be put like this: since it is the case that there is always a plurality of possible true descriptions of a given action, event or phenomenon, the challenge is to decide which is the most apt in terms of getting a perspicuous grip on the action, event or phenomenon in question given the purposes of the inquiry; yet, from this standpoint, ‘theory-driven work is part of a reductionist program’ in that it ‘dictates always opting for the description that calls for the explanation that flows from the preferred model or theory’.5 The justification offered for this strategy rests on the mistaken belief that it is necessary for social science because general explanations are required to characterise the classes of phenomena studied in similar terms. However, as Shapiro points out, this is to misunderstand the enterprise of science since ‘whether there are general explanations for classes of phenomena is a **question for social-scientific inquiry**, not to be prejudged before conducting that inquiry’.6 Moreover, this strategy easily slips into the promotion of the pursuit of generality over that of empirical validity. The third danger is that the preceding two combine to encourage the formation of a particular image of disciplinary debate in IR—what might be called (only slightly tongue in cheek) ‘the Highlander view’—namely, an image of warring theoretical approaches with each, despite occasional temporary tactical alliances, dedicated to the strategic achievement of sovereignty over the disciplinary field. It encourages this view because the turn to, and prioritisation of, ontology and epistemology stimulates the idea that there can only be one **theoretical approach which gets things right**, namely, the theoretical approach that gets its ontology and epistemology right. This image feeds back into IR exacerbating the first and second dangers, and so a potentially vicious circle arises.

#### Extinction outweighs

Bok 88

(Sissela, Professor of Philosophy at Brandeis, Applied Ethics and Ethical Theory, Rosenthal and Shehadi, Ed.)

The same argument can be made for Kant’s other formulations of the Categorical Imperative: “So act as to use humanity, both in your own person and in the person of every other, always at the same time as an end, never simply as a means”; and “So act as if you were always through your actions a law-making member in a universal Kingdom of Ends.” No one with a concern for humanity could consistently will to risk eliminating humanity in the person of himself and every other or to risk the death of all members in a universal Kingdom of Ends for the sake of justice. To risk their collective death for the sake of following one’s conscience would be, as Rawls said, “irrational, crazy.” And to say that one did not intend such a catastrophe, but that one merely failed to stop other persons from bringing it about would be beside the point when the end of the world was at stake. For although it is true that we cannot be held responsible for most of the wrongs that others commit, the Latin maxim presents a case where we would have to take such responsibility seriously – perhaps to the point of deceiving, bribing, even killing an innocent person, in order that the world not perish. To avoid self-contradiction, the Categorical Imperative would, therefore, have to rule against the Latin maxim on account of its cavalier attitude toward the survival of mankind. But the ruling would then produce a rift in the application of the Categorical Imperative. Most often the Imperative would ask us to disregard all unintended but foreseeable consequences, such as the death of innocent persons, whenever concern for such consequences conflicts with concern for acting according to duty. But, in the extreme case, we might have to go against even the strictest moral duty precisely because of the consequences. Acknowledging such a rift would post a strong challenge to the unity and simplicity of Kant’s moral theory.

#### Security is not the root cause.

**Kydd**, Autumn **1997** (Andrew – assistant professor of political science at the University of California, Riverside, Sheep in Sheep’s clothing: Why security seekers do not fight each other, Security Studies, 7:1, p. 154)

The alternative I propose, motivational realism, argues that arms races and wars typically involve at least one genuinely greedy state, that is, states that often sacriﬁce their security in bids for power. In the case of the First World War, the four continental powers all had serious nonsecurity-related quarrels that played an indispensable role in producing the war. France was eager to regain Alsace-Lorraine, Russia sought hegemony over fellow Slavs in the Balkans when it could hardly integrate its own bloated empire, Ger- many dreamed of Weltpolitik and empire in the Levant, while Austria-Hungary was focused on its own imminent ethnic meltdown. All of these powers, had they sought just to be secure against foreign threat, could easily have conveyed that to each other and refrained from arms competition and war. Instead they engaged in competitions for power which eventually led to war. As for the Second World War, few structural realists will make a sustained case that Hitler was genuinely motivated by a rational pursuit of security for Germany and the other German statesmen would have responded in the same way to Germany’s international situation. Even Germen generals opposed Hitler’s military adventurism until 1939; it is difficult to imagine a less forceful civilian leader overruling them and leading Germany in an oath of conquest. In the case of the cold war, it is again difficult to escape the conclusion that the Soviet Union was indeed expansionist before Gorbachev and not solely motivated by security concerns. The increased emphasis within international relations scholarship on explaining the nature and origins of aggressive expansionists states reflects a growing consensus that aggressive states are at the root of conflict, not security concerns.

#### Securitizing the environment is good – builds public awareness to solve

**Matthew 2**, Richard A, associate professor of international relations and environmental political at the University of California at Irvine, Summer (ECSP Report 8:109-124)

In addition, environmental security's language and findings can benefit conservation and sustainable development."' Much environmental security literature emphasizes the importance of development assistance, sustainable livelihoods, fair and reasonable access to environmental goods, and conservation practices as the vital upstream measures that in the long run will contribute to higher levels of human and state security. The Organization for Economic Cooperation and Development (OECD) and the International Union for the Conservation of Nature (IUCN) are examples of bodies that have been quick to recognize how the language of environmental security can help them. The scarcity/conflict thesis has alerted these groups to prepare for the possibility of working on environmental rescue projects in regions that are likely to exhibit high levels of related violence and conflict. These groups are also aware that an association with security can expand their acceptance and constituencies in some countries in which the military has political control, For the first time in its history; the contemporary environmental movement can regard military and intelligence agencies as potentialallies in the struggle to contain or reverse humangenerated environmental change. (In many situations, of course, the political history of the military--as well as its environmental record-raise serious concerns about the viability of this cooperation.) Similarly, the language of security has provided a basis for some fruitful discussions between environmental groups and representatives of extractive industries. In many parts of the world, mining and petroleum companies have become embroiled in conflict. These companies have been accused of destroying traditional economies, cultures, and environments; of political corruption; and of using private militaries to advance their interests. They have also been targets of violence, Work is now underway through the environmental security arm of the International Institute for Sustainable Development (IISD) to address these issues with the support of multinational corporations. Third, the general conditions outlined in much environmental security research can help organizations such as USAID, the World Bank, and IUCN identify priority cases--areas in which investments are likely to have the greatest ecological and social returns. For all these reasons, IUCN elected to integrate environmental security into its general plan at the Amman Congress in 2001. Many other environmental groups and development agencies are taking this perspective seriously (e.g. Dabelko, Lonergan& Matthew, 1999). However, for the most part these efforts remain preliminary.' Conclusions Efforts to dismiss environment and security research and policy activities on the grounds that they have been unsuccessful are premature and misguided. This negative criticism has all too often been based on an excessively simplified account of the research findings of Homer-Dixon and a few others. Homer-Dixon’s scarcity-conflict thesis has made important and highly visible contributions to the literature, but it is only a small part of a larger and very compelling theory. This broader theory has roots in antiquity and speaks to the pervasive conflicts and security implications of complex nature-society relationships. The theory places incidents of violence in larger structural and historical contexts while also specifying contemporarily significant clusters of variables. From this more generalized and inclusive perspective, violence and conflict are revealed rarely as a society’s endpoint and far more often as parts of complicated adaptation processes. The contemporary research on this classical problematic has helped to revive elements of security discourse and analysis that were marginalized during the Cold War. It has also made valuable contributions to our understanding of the requirements of human security, the diverse impacts of globalization, and the nature of contemporary transnational security threats. Finall,y environmental security research has been valuable in myriad ways to a range of academics, policymakers, and activists, although the full extent of these contributions remains uncertain, rather than look for reasons to abandon this research and policy agenda, now is the time to recognize and to build on the remarkable achievements of the entire environmental security field.

#### Failure to securitize the environment causes war

Kumari 12 -- International Relations Masters graduate @ University of Nottingham (Parmila, 1/29/12, "Securitising The Environment: A Barrier To Combating Environment Degradation Or A Solution In Itself?" <http://www.e-ir.info/2012/01/29/securitising-the-environment-a-barrier-to-combating-environment-degradation-or-a-solution-in-itself/>)

In any case, any disadvantages of ‘loosening’ of security may not outweigh the possible benefits. Securitising the environment attracts the attention of high-level decision makers and results in the mobilisation of resources (Detraz and Betsill 2009:303) because “security encapsulates danger much better than concepts like sustainability, vulnerability or adaptation” (Barnett 2003:14). It is also ideal in that it facilitates communication between a diverse range of interests, which is important since environmental degradation impacts more than just one party (Barnett 2001:136). Consider the following scenario. Continued population growth means greater pressure on governments to provide adequate food, housing, jobs and healthcare. The task is all the more difficult for developing countries, where funds previously going to resource conservation are redirected to meet basic needs. Scarcity of resources due to lack of resource conservation is bad news for these countries’ economic performance, as resources are the natural capital contributions to the economy. This could lead to political instability and conflict, pushing people out of their homes to seek refuge across borders. These refugees will create extra demand for food and place new burdens on the land in the place where they settle (Mathews 1989:162-168). This is one of many paths down which population growth can take states, but the point is that resource scarcity in one area can spread its effects across borders. This is especially so now due to economic interdependence. If the effects of environmental degradation do not respect borders/areas, then this presents a case for cooperation with all those people in the world that are affected. If securitisation achieves high awareness and facilitates communication from various interested parties, then it seems worthwhile. In this way securitisation may allow the meaning of environmental security to be stood and pronounced not just from one place, but from many. The amalgamation of these standpoints may just lead to the closest thing possible to a neutral one.

#### Alternative fails – critical theory has no mechanism to translate theory into practice

**Jones 99** (Richard Wyn, Lecturer in the Department of International Politics – University of Wales, Security, Strategy, and Critical Theory, CIAO, http://www.ciaonet.org/book/wynjones/wynjones06.html)

Because emancipatory political practice is central to the claims of critical theory, one might expect that proponents of a critical approach to the study of international relations would be reflexive about the relationship between theory and practice. Yet their thinking on this issue thus far does not seem to have progressed much beyond **grandiose statements of intent**. There have been no systematic considerations of how critical international theory can help generate, support, or sustain emancipatory politics beyond the seminar room or conference hotel. Robert Cox, for example, has described the task of critical theorists as providing “a guide to strategic action for bringing about an alternative order” (R. Cox 1981: 130). Although he has also gone on to identify possible agents for change and has outlined the nature and structure of some feasible alternative orders, he has not explicitly indicated whom he regards as the addressee of critical theory (i.e., who is being guided) and thus how the theory can hope to become a part of the political process (see R. Cox 1981, 1983, 1996). Similarly, Andrew Linklater has argued that “a critical theory of international relations must regard the practical project of extending community beyond the nation–state as its most important problem” (Linklater 1990b: 171). However, he has little to say about the role of theory in the realization of this “practical project.” Indeed, his main point is to suggest that the role of critical theory “is not to offer instructions on how to act but to reveal the existence of unrealised possibilities” (Linklater 1990b: 172). But the question still remains, reveal to whom? Is the audience enlightened politicians? Particular social classes? Particular social movements? Or particular (and presumably particularized) communities? In light of Linklater’s primary concern with emancipation, one might expect more guidance as to whom he believes might do the emancipating and how critical theory can impinge upon the emancipatory process. There is, likewise, little enlightenment to be gleaned from Mark Hoffman’s otherwise important contribution. He argues that critical international theory seeks not simply to reproduce society via description, but to understand society and change it. It is both descriptive and constructive in its theoretical intent: it is both an intellectual and a social act. It is not merely an expression of the concrete realities of the historical situation, but also a force for change within those conditions. (M. Hoffman 1987: 233) Despite this very ambitious declaration, once again, Hoffman gives no suggestion as to how this “force for change” should be operationalized and what concrete role critical theorizing might play in changing society. Thus, although the critical international theorists’ critique of the role that more conventional approaches to the study of world politics play in reproducing the contemporary world order may be persuasive, their account of the relationship between their own work and emancipatory political practice is unconvincing. Given the centrality of practice to the claims of critical theory, this is a very significant weakness. Without some plausible account of the **mechanisms** by which they hope to aid in the achievement of their emancipatory goals, proponents of critical international theory are hardly in a position to justify the assertion that “it represents the next stage in the development of International Relations theory” (M. Hoffman 1987: 244). Indeed, without a more convincing conceptualization of the theory–practice nexus, one can argue that critical international theory, by its own terms, has no way of redeeming some of its central epistemological and methodological claims and thus that it is a **fatally flawed** enterprise.

#### Theory first kills action.

**Gunning 2007** [Jeroen, Lecturer in Int’l Politics @ U of Wales, Government and Opposition 42.3, “A Case for Critical Terrorism Studies?”]

The notion of emancipation also crystallizes the need for policy engagement. For, unless a ‘critical’ field seeks to be policy relevant, which, as Cox rightly observes, means combining ‘critical’ and ‘problem-solving’ approaches, it does not fulfil its ‘emancipatory’ potential.94 One of the temptations of ‘critical’ approaches is to remain mired in critique and deconstruction without moving beyond this to reconstruction and policy relevance. Vital as such critiques are, the challenge of a critically constituted field is also to engage with policy makers – and ‘terrorists’ – and work towards the realization of new paradigms, new practices, and a transformation, however modestly, of political structures. That, after all, is the original meaning of the notion of ‘immanent critique’ that has historically underpinned the ‘critical’ project and which, in Booth's words, involves ‘the discovery of the latent potentials in situations on which to build political and social progress’, as opposed to putting forward utopian arguments that are not realizable. Or, as Booth wryly observes, ‘this means building with one's feet firmly on the ground, not constructing castles in the air’ and asking ‘what it means for real people in real places’.96 Rather than simply critiquing the status quo, or noting the problems that come from an un-problematized acceptance of the state, a ‘critical’ approach must, in my view, also concern itself with offering concrete alternatives. Even while historicizing the state and oppositional violence, and challenging the state's role in reproducing oppositional violence, it must wrestle with the fact that ‘the concept of the modern state and sovereignty embodies a coherent response to many of the central problems of political life’, and in particular to ‘the place of violence in political life’. Even while ‘de-essentializing and deconstructing claims about security’, it must concern itself with ‘how security is to be redefined’, and in particular on what theoretical basis.97 Whether because those critical of the status quo are wary of becoming co-opted by the structures of power (and their emphasis on instrumental rationality),98 or because policy makers have, for obvious reasons (including the failure of many ‘critical’ scholars to offer policy relevant advice), a greater affinity with ‘traditional’ scholars, the role of ‘expert adviser’ is more often than not filled by ‘traditional’ scholars.99 The result is that policy makers are insufficiently challenged to question the basis of their policies and develop new policies based on immanent critiques. A notable exception is the readiness of European Union officials to enlist the services of both ‘traditional’ and ‘critical’ scholars to advise the EU on how better to understand processes of radicalization.100 But this would have been impossible if more critically oriented scholars such as Horgan and Silke had not been ready to cooperate with the EU. Striving to be policy relevant does not mean that one has to accept the validity of the term ‘terrorism’ or stop investigating the political interests behind it. Nor does it mean that each piece of research must have policy relevance or that one has to limit one's research to what is relevant for the state, since the ‘critical turn’ implies a move beyond state-centric perspectives. End-users could, and should, thus include both state and non-state actors such as the Foreign Office and the Muslim Council of Britain and Hizb ut-Tahrir; the Northern Ireland Office and the IRA and the Ulster Unionists; the Israeli government and Hamas and Fatah (as long as the overarching principle is to reduce the political use of terror, whoever the perpetrator). It does mean, though, that a critically constituted field must work hard to bring together all the fragmented voices from beyond the ‘terrorism field’, to **maximize both the field's rigour and its policy relevance**. Whether a critically constituted ‘terrorism studies’ will attract the fragmented voices from outside the field depends largely on how broadly the term ‘critical’ is defined. Those who assume ‘critical’ to mean ‘Critical Theory’ or ‘poststructuralist’ may not feel comfortable identifying with it if they do not themselves subscribe to such a narrowly defined ‘critical’ approach. Rather, to maximize its inclusiveness, I would follow Williams and Krause's approach to ‘critical security studies’, which they define simply as bringing together ‘many perspectives that have been considered outside of the mainstream of the discipline’.101 This means refraining from establishing new criteria of inclusion/exclusion beyond the (normative) expectation that scholars self-reflexively question their conceptual framework, the origins of this framework, their methodologies and dichotomies; and that they historicize both the state and ‘terrorism’, and consider the security and context of all, which implies among other things an attempt at empathy and cross-cultural understanding.102 Anything more normative would limit the ability of such a field to create a genuinely interdisciplinary, non-partisan and innovative framework, and exclude valuable insights borne of a broadly ‘critical’ approach, such as those from conflict resolution studies who, despite working within a ‘traditional’ framework, offer important insights by moving beyond a narrow military understanding of security to a broader understanding of human security and placing violence in its wider social context.103 Thus, a poststructuralist has no greater claim to be part of this ‘critical’ field than a realist who looks beyond the state at the interaction between the violent group and their wider social constituency.104

### AT FW

#### K’s not prior – policy relevant debate is critical

Ewan E. Mellor 13, European University Institute, Political and Social Sciences, Graduate Student, Paper Prepared for BISA Conference, “Why policy relevance is a moral necessity: Just war theory, impact, and UAVs”, <http://www.academia.edu/4175480/Why_policy_relevance_is_a_moral_necessity_Just_war_theory_impact_and_UAVs>

This section of the paper considers more generally the need for just war theorists to engage with policy debate about the use of force, as well as to engage with the more fundamental moral and philosophical principles of the just war tradition. It draws on John Kelsay’s conception of just war thinking as being a social practice,35 as well as on Michael Walzer’s understanding of the role of the social critic in society.36 It argues that the just war tradition is a form of “practical discourse” which is concerned with questions of “how we should act.”37¶ Kelsay argues that:¶ [T]he criteria of jus ad bellum and jus in bello provide a framework for structured participation in a public conversation about the use of military force . . . citizens who choose to speak in just war terms express commitments . . . [i]n the process of giving and asking for reasons for going to war, those who argue in just war terms seek to influence policy by persuading others that their analysis provides a way to express and fulfil the desire that military actions be both wise and just.38¶ He also argues that “good just war thinking involves continuous and complete deliberation, in the sense that one attends to all the standard criteria at war’s inception, at its end, and throughout the course of the conflict.”39 This is important as it highlights the need for just war scholars to engage with the ongoing operations in war and the specific policies that are involved. The question of whether a particular war is just or unjust, and the question of whether a particular weapon (like drones) can be used in accordance with the jus in bello criteria, only cover a part of the overall justice of the war. Without an engagement with the reality of war, in terms of the policies used in waging it, it is impossible to engage with the “moral reality of war,”40 in terms of being able to discuss it and judge it in moral terms.¶ Kelsay’s description of just war thinking as a social practice is similar to Walzer’s more general description of social criticism. The just war theorist, as a social critic, must be involved with his or her own society and its practices. In the same way that the social critic’s distance from his or her society is measured in inches and not miles,41 the just war theorist must be close to and must understand the language through which war is constituted, interpreted and reinterpreted.42 It is only by understanding the values and language that their own society purports to live by that the social critic can hold up a mirror to that society to¶ demonstrate its hypocrisy and to show the gap that exists between its practice and its values.43 The tradition itself provides a set of values and principles and, as argued by Cian O’Driscoll, constitutes a “language of engagement” to spur participation in public and political debate.44 This language is part of “our common heritage, the product of many centuries of arguing about war.”45 These principles and this language provide the terms through which people understand and come to interpret war, not in a deterministic way but by providing the categories necessary for moral understanding and moral argument about the legitimate and illegitimate uses of force.46 By spurring and providing the basis for political engagement the just war tradition ensures that the acts that occur within war are considered according to just war criteria and allows policy-makers to be held to account on this basis.¶ Engaging with the reality of war requires recognising that war is, as Clausewitz stated, a continuation of policy. War, according to Clausewitz, is subordinate to politics and to political choices and these political choices can, and must, be judged and critiqued.47 Engagement and political debate are morally necessary as the alternative is disengagement and moral quietude, which is a sacrifice of the obligations of citizenship.48 This engagement must bring just war theorists into contact with the policy makers and will require work that is accessible and relevant to policy makers, however this does not mean a sacrifice of critical distance or an abdication of truth in the face of power. By engaging in detail with the policies being pursued and their concordance or otherwise with the principles of the just war tradition the policy-makers will be forced to account for their decisions and justify them in just war language. In contrast to the view, suggested by Kenneth Anderson, that “the public cannot be made part of the debate” and that “[w]e are necessarily committed into the hands of our political leadership”,49 it is incumbent upon just war theorists to ensure that the public are informed and are capable of holding their political leaders to account. To accept the idea that the political leadership are stewards and that accountability will not benefit the public, on whose behalf action is undertaken, but will only benefit al Qaeda,50 is a grotesque act of intellectual irresponsibility. As Walzer has argued, it is precisely because it is “our country” that we are “especially obligated to criticise its policies.”51

### AT Rana

#### No impact–topic specific

**Posner and** **Vermeule 3** (Eric and Adrian, law profs at Chicago and Harvard, Accommodating Emergencies, September, <http://www.law.uchicago.edu/files/files/48.eap-av.emergency.pdf>)

Against the view that panicked government officials overreact to an emergency, and unnecessarily curtail civil liberties, we suggest a more constructive theory of the role of fear. Before the emergency, government officials are complacent. They do not think clearly or vigorously about the potential threats faced by the nation. After the terrorist attack or military intervention, their complacency is replaced by fear. Fear stimulates them to action. Action may be based on good decisions or bad: fear might cause officials to exaggerate future threats, but it also might arouse them to threats that they would otherwise not perceive. **It is impossible to say in the abstract whether decisions and actions provoked by fear are likely to be better than decisions and actions made in a state of calm**. But our limited point is that there is no reason to think that the fear-inspired decisions are likely to be worse. For that reason, the existence of fear during emergencies does not support the antiaccommodation theory that the Constitution should be enforced as strictly during emergencies as during non-emergencies. C. The Influence of Fear during Emergencies Suppose now that the simple view of fear is correct, and that it is an unambiguously negative influence on government decisionmaking. Critics of accommodation argue that this negative influence of fear justifies skepticism about emergency policies and strict enforcement of the Constitution. However, this argument is implausible. It is doubtful that fear, so understood, has more influence on decisionmaking during emergencies than decisionmaking during non-emergencies. The panic thesis, implicit in much scholarship though rarely discussed in detail, holds that citizens and officials respond to terrorism and war in the same way that an individual in the jungle responds to a tiger or snake. The national response to emergency, because it is a standard fear response, is characterized by the same circumvention of ordinary deliberative processes: thus, (i) the response is instinctive rather than reasoned, and thus subject to error; and (ii) the error will be biased in the direction of overreaction. While the flight reaction was a good evolutionary strategy on the savannah, in a complex modern society the flight response is not suitable and can only interfere with judgment. Its advantage—speed—has minimal value for social decisionmaking. No national emergency requires an immediate reaction—except by trained professionals who execute policies established earlier—but instead over days, months, or years people make complex judgments about the appropriate institutional response. And the asymmetrical nature of fear guarantees that people will, during a national emergency, overweight the threat and underweight other things that people value, such as civil liberties. But if decisionmakers rarely act immediately, then the tiger story cannot bear the metaphoric weight that is placed on it. Indeed, the flight response has nothing to do with the political response to the bombing of Pearl Harbor or the attack on September 11. The people who were there—the citizens and soldiers beneath the bombs, the office workers in the World Trade Center—no doubt felt fear, and most of them probably responded in the classic way. They experienced the standard physiological effects, and (with the exception of trained soldiers and security officials) fled without stopping to think. It is also true that in the days and weeks after the attacks, many people felt fear, although not the sort that produces a irresistible urge to flee. **But this kind of fear is not the kind in which cognition shuts down**. (Some people did have more severe mental reactions and, for example, shut themselves in their houses, but these reactions were rare.) The fear is probably better described as a general anxiety or jumpiness, an anxiety that was probably shared by government officials as well as ordinary citizens.53 While, as we have noted, there is psychological research suggesting that normal cognition partly shuts down in response to an immediate threat, we are aware of no research suggesting that people who feel anxious about a non-immediate threat are incapable of thinking, or thinking properly, or systematically overweight the threat relative to other values. Indeed, it would be surprising to find research that clearly distinguished “anxious thinking” and “calm thinking,” given that anxiety is a pervasive aspect of life. People are anxious about their children; about their health; about their job prospects; about their vacation arrangements; about walking home at night. No one argues that people’s anxiety about their health causes them to take too many precautions—to get too much exercise, to diet too aggressively, to go to the doctor too frequently—and to undervalue other things like leisure. So it is hard to see why anxiety about more remote threats, from terrorists or unfriendly countries with nuclear weapons, should cause the public, or elected officials, to place more emphasis on security than is justified, and to sacrifice civil liberties. Fear generated by immediate threats, then, causes instinctive responses that are not rational in the cognitive sense, not always desirable, and not a good basis for public policy, but it is not this kind of fear that leads to restrictions of civil liberties during wartime. The internment of Japanese Americans during World War II may have been due to racial animus, or to a mistaken assessment of the risks; it was not the direct result of panic; indeed there was a delay of weeks before the policy was seriously considered.54 Post-9/11 curtailments of civil liberties, aside from immediate detentions, came after a significant delay and much deliberation. The civil libertarians’ argument that fear produces bad policy trades on the ambiguity of the word “panic,” which refers both to real fear that undermines rationality, and to collectively harmful outcomes that are driven by rational decisions, such as a bank run, where it is rational for all depositors to withdraw funds if they believe that enough other depositors are withdrawing funds. Once we eliminate the false concern about fear, it becomes clear that the panic thesis is indistinguishable from the argument that during an emergency people are likely to make mistakes. But if the only concern is that during emergencies people make mistakes, there would be no reason for demanding that the constitution be enforced normally during emergencies. Political errors occur during emergencies and nonemergencies, but the stakes are higher during emergencies, and that is the conventional reason why constitutional constraints should be relaxed.

### A2 Legal Restrain

#### Appeals for legal restraint are a crucial supplement to political resistance to executive power – political restraints alone fail

**Cole 12 (**David, Prof of Law @ Georgetown, “The Politics of the Rule of Law: The Role of Civil Society in the Surprising Resilience of Human Rights in the Decade after 9/11” http://www.law.uchicago.edu/files/files/Cole%201.12.12.pdf p. 51-53)

As I have shown above, while political forces played a significant role in checking President Bush, what was significant was the particular substantive content of that politics; it was not just any political pressure, but pressure to maintain fidelity to the **rule of law**. Politics standing alone is as likely to fuel as to deter executive abuse; consider the lynch mob, the Nazi Party in Germany, or xenophobia more generally. What we need if we are to check abuses of executive power is a politics that **champions the rule of law**. Unlike the politics Posner and Vermeule imagine, this type of politics cannot be segregated neatly from the law. On the contrary, it will often coalesce around a distinctly legal challenge, objecting to departures from **distinctly legal norms**, heard in a court case, as we saw with Guantanamo. Congress’s actions make clear that had Guantanamo been left to the political process, there would have been few if any advances. The litigation generated and **concentrated** **political pressure** on claims for a **restoration** of the values of **legality**, and, as discussed above, that pressure then played a critical role in the litigation’s outcome, which in turn affected the political pressure for reform. There is, to be sure, something paradoxical about this assessment. The rule of law, the separation of powers, and human rights are designed to discipline and constrain politics, out of a concern that pure majoritarian politics, focused on the short term, is likely to discount the long-term values of these principles. Yet without a critical mass of political support for these legal principles, they are unlikely to be effective checks on abuse, for many of the reasons Posner andVermeule identify. The answer, however, is not to abandon the rule of law for politics, but to develop and nurture a political culture that values the rule of law itself. Civil society organizations devoted to such values, such as Human Rights Watch, the Center for Constitutional Rights, and the American Civil Liberties Union, play a central role in facilitating, informing, and generating that politics. Indeed, they have no alternative. Unlike governmental institutions, civil society groups have no formal authority to impose the limits of law themselves. Their recourse to the law’s limits is necessarily indirect: they can file lawsuits seeking judicial enforcement, lobby Congress for statutory reform or other legislative responses, or seek to influence the executive branch. But they necessarily and simultaneously pursue these goals through political avenues – by appealing to the public for support, educating the public, exposing abuses, and engaging in public advocacy around rule-of-law values. Unlike ordinary politics, which tends to focus on the preferences of the moment, the politics of the rule of law is committed to a set of long-term principles. Civil society organizations are uniquely situated to bring these long-term interests to bear on the public debate. Much like a constitution itself, civil society groups are institutionally designed to emphasize and reinforce our long-term interests. When the ordinary political process is consumed by the heat of a crisis, organizations like the ACLU, Human Rights First, and the Center for Constitutional Rights, designed to protect the rule of law, are therefore especially important. While Congress and the courts were at best compromised and at worst complicit in the abuses of the post-9/11 period, civil society performed admirably. The Center for Constitutional Rights brought the first lawsuit seeking habeas review at Guantanamo, and went on to coordinate a nationwide network of volunteer attorneys who represented Guantanamo habeas petitioners. The ACLU filed important lawsuits challenging secrecy and government excesses, and succeeded in disclosing many details about the government’s illegal interrogation program. Both the ACLU and CCR filed lawsuits and engaged in public advocacy on behalf of torture and rendition victims, and challenging warrantless wiretapping. Human Rights Watch and Human Rights First wrote important reports on detention, torture, and Guantanamo, and Human Rights First organized former military generals and admirals to speak out in defense of humanitarian law and human rights. These efforts are but a small subset of the broader activities of civil society, at home and abroad, that helped to bring to public attention the Bush administration’s most questionable initiatives, and to portray the initiatives as contrary to the rule of law. At their best, civil society organizations help forge a politics of the rule of law, in which there is a symbiotic relationship between politics and law: the appeal to law informs a particular politics, and that politics reinforces the law’s appeal, in a mutually reinforcing relation. Posner and Vermeule understand the importance of politics as a checking force in the modern world, but fail to see the critical qualification that the politics must be organized around a commitment to fundamental principles of liberty, equality, due process, and the separation of powers – in short, the rule of law. Margulies and Metcalf recognize that politics as much as law determines the reality of rights protections, but fail to identify the unique role that civil society organizations play in that process. It is not that the “rule of politics” has replaced the “rule of law,” but that, properly understood, a politics of law is a critical supplement to the rule of law. We cannot survive as a constitutional democracy true to our principles without both. And our survival turns, not only on a vibrant constitution, but on a vibrant civil society dedicated to reinforcing and defending constitutional values.

### A2 Orientalism

#### Total rejection of hegemony increases imperialism. The plan’s reformation of leadership solves the impact

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My preference here is to advocate a forward-leaning, prudential strategy of institutionally governed change. By `forward-leaning', I mean that the progressive realization of cosmopolitan values should be the measure of success­ful politics in international society. As long as gross viola­tions of basic human rights mar global social life, we, as individuals, and the states that purport to represent us, have obligations to direct what political influence we have to the improvement of the human condition, both at home and abroad. I recommend, however, that our approach be prudent rather than imprudent. Historically, the violence of inter-state warfare and the oppression of imperial rule have been deeply corrosive of basic human rights across the globe. The institutions of international society, along with their constitutive norms, such as **sover­eignty,** non-intervention, self-determination and limits on the use of force, have helped to reduce these corrosive forces dramatically. The incidence of inter-state wars has declined markedly, even though the number of states has multiplied, and imperialism and colonialism have moved from being core institutions of international society to practices beyond the pale. Prudence dictates, therefore, that we lean forward without losing our footing on valu­able institutions and norms. This means, in effect, giving priority to **institutionally governed change**, working with the rules and procedures of international society rather than against them. What does this mean in practice? In general, I take it to mean two things. First, it means recognizing the principal rules of international society, and accepting the obligations they impose on actors, including oneself. These rules fall into two broad categories: procedural and substantive. The most specific procedural rules are embodied in insti­tutions such as the United Nations Security Council, which is empowered to 'determine the existence of any threat to peace, breach of the peace or act of aggression' and the measures that will be taken 'to maintain or restore international peace and security'.28 More general, yet equally crucial, procedural rules include the cardinal principle that states are only bound by rules to which they have consented. Even customary international law, which binds states without their express consent, is based in part on the assumption of their tacit consent. The substantive rules of international society are legion, but perhaps the most important are the rules governing the use of force, both when force is permitted (jus ad bellum) and how it may be used (jus in bello). Second, working with the rules and procedures of international society also means recognizing that the principal modality of in­novation and change must be communicative. That is, establishing new rules and mechanisms for achieving cosmopolitan ends and international public goods, or modifying existing ones, should be done through persua­sion and negotiation, not ultimatum and coercion. A pre­mium must be placed, therefore, on articulating the case for change, on recognizing the concerns and interests of others as legitimate, on building upon existing rules, and on seeing genuine communication as a process of give and take, not demand and take. Giving priority to institutionally governed change may seem an overly conservative strategy, but it need not be. As explained above, the established procedural and substantive rules of international society have de­livered international public goods that actually further cosmopolitan ends, albeit in a partial and inadequate fash­ion. **Eroding these rules would only lead to increases in inter-state violence and imperialism**, and this would almost certainly produce a radical deterioration in the protection of basic human rights across the globe. Saying that we ought to preserve these rules is prudent, not con­servative. More than this, though, we have learnt that the institutions of international society have transformative potential, even if this is only now being creatively exploited.

### Enviro Reps

#### Catastrophic warming reps are good—it’s the only way to motivate response—their empirics are attributable to climate denialism

Romm 12(Joe Romm is a Fellow at American Progress and is the editor of Climate Progress, which New York Times columnist Tom Friedman called "the indispensable blog" and Time magazine named one of the 25 “Best Blogs of 2010.″ In 2009, Rolling Stone put Romm #88 on its list of 100 “people who are reinventing America.” Time named him a “Hero of the Environment″ and “The Web’s most influential climate-change blogger.” Romm was acting assistant secretary of energy for energy efficiency and renewable energy in 1997, where he oversaw $1 billion in R&D, demonstration, and deployment of low-carbon technology. He is a Senior Fellow at American Progress and holds a Ph.D. in physics from MIT., 2/26/2012, “Apocalypse Not: The Oscars, The Media And The Myth of ‘Constant Repetition of Doomsday Messages’ on Climate”, http://thinkprogress.org/romm/2012/02/26/432546/apocalypse-not-oscars-media-myth-of-repetition-of-doomsday-messages-on-climate/#more-432546)

The two greatest myths about global warming communications are 1) constant repetition of doomsday messages has been a major, ongoing strategy and 2) that strategy doesn’t work and indeed is actually counterproductive! These myths are so deeply ingrained in the environmental and progressive political community that when we finally had a serious shot at a climate bill, the powers that be decided not to focus on the threat posed by climate change in any serious fashion in their $200 million communications effort (see my 6/10 post “Can you solve global warming without talking about global warming?“). These myths are so deeply ingrained in the mainstream media that such messaging, when it is tried, is routinely attacked and denounced — and the flimsiest studies are interpreted exactly backwards to drive the erroneous message home (see “Dire straits: Media blows the story of UC Berkeley study on climate messaging“) The only time anything approximating this kind of messaging — not “doomsday” but what I’d call blunt, science-based messaging that also makes clear the problem is solvable — was in 2006 and 2007 with the release of An Inconvenient Truth (and the 4 assessment reports of the Intergovernmental Panel on Climate Change and media coverage like the April 2006 cover of Time). The data suggest that strategy measurably moved the public to become more concerned about the threat posed by global warming (see recent study here). You’d think it would be pretty obvious that the public is not going to be concerned about an issue unless one explains why they should be concerned about an issue. And the social science literature, including the vast literature on advertising and marketing, could not be clearer **that only repeated messages have any chance of sinking in and moving the needle**. Because I doubt any serious movement of public opinion or mobilization of political action could possibly occur until these myths are shattered, I’ll do a multipart series on this subject, featuring public opinion analysis, quotes by leading experts, and the latest social science research. Since this is Oscar night, though, it seems appropriate to start by looking at what messages the public are exposed to in popular culture and the media. It ain’t doomsday. Quite the reverse, climate change has been mostly an invisible issue for several years and the message of conspicuous consumption and business-as-usual reigns supreme. The motivation for this post actually came up because I received an e-mail from a journalist commenting that the “constant repetition of doomsday messages” doesn’t work as a messaging strategy. I had to demur, for the reasons noted above. But it did get me thinking about what messages the public are exposed to, especially as I’ve been rushing to see the movies nominated for Best Picture this year. I am a huge movie buff, but as parents of 5-year-olds know, it isn’t easy to stay up with the latest movies. That said, good luck finding a popular movie in recent years that even touches on climate change, let alone one a popular one that would pass for doomsday messaging. Best Picture nominee The Tree of Life has been billed as an environmental movie — and even shown at environmental film festivals — but while it is certainly depressing, climate-related it ain’t. In fact, if that is truly someone’s idea of environmental movie, count me out. The closest to a genuine popular climate movie was the dreadfully unscientific The Day After Tomorrow, which is from 2004 (and arguably set back the messaging effort by putting the absurd “global cooling” notion in people’s heads! Even Avatar, the most successful movie of all time and “the most epic piece of environmental advocacy ever captured on celluloid,” as one producer put it, omits the climate doomsday message. One of my favorite eco-movies, “Wall-E, is an eco-dystopian gem and an anti-consumption movie,” but it isn’t a climate movie. I will be interested to see The Hunger Games, but I’ve read all 3 of the bestselling post-apocalyptic young adult novels — hey, that’s my job! — and they don’t qualify as climate change doomsday messaging (more on that later). So, no, the movies certainly don’t expose the public to constant doomsday messages on climate. Here are the key points about what repeated messages the American public is exposed to: The broad American public is exposed to virtually **no doomsday messages**, let alone constant ones, on climate change in popular culture (TV and the movies and even online). There is not one single TV show on any network devoted to this subject, which is, arguably, more consequential than any other preventable issue we face. The same goes for the news media, whose coverage of climate change has collapsed (see “Network News Coverage of Climate Change Collapsed in 2011“). When the media do cover climate change in recent years, the overwhelming majority of coverage is devoid of any doomsday messages — and many outlets still feature hard-core deniers. Just imagine what the public’s view of climate would be if it got the same coverage as, say, unemployment, the housing crisis or even the deficit? When was the last time you saw an “employment denier” quoted on TV or in a newspaper? The public is exposed to constant messages promoting business as usual and indeed idolizing conspicuous consumption. See, for instance, “Breaking: The earth is breaking … but how about that Royal Wedding? Our political elite and intelligentsia, including MSM pundits and the supposedly “liberal media” like, say, MSNBC, hardly even talk about climate change and when they do, it isn’t doomsday. Indeed, there isn’t even a single national columnist for a major media outlet who writes primarily on climate. Most “liberal” columnists rarely mention it. At least a quarter of the public chooses media that devote a vast amount of time to the notion that global warming is a hoax and that environmentalists are extremists and that clean energy is a joke. In the MSM, conservative pundits routinely trash climate science and mock clean energy. Just listen to, say, Joe Scarborough on MSNBC’s Morning Joe mock clean energy sometime. The major energy companies bombard the airwaves with millions and millions of dollars of repetitious pro-fossil-fuel ads. The environmentalists spend far, far less money. As noted above, the one time they did run a major campaign to push a climate bill, they and their political allies including the president explicitly did NOT talk much about climate change, particularly doomsday messaging Environmentalists when they do appear in popular culture, especially TV, are routinely mocked. There is very little mass communication of doomsday messages online. Check out the most popular websites. General silence on the subject, and again, what coverage there is ain’t doomsday messaging. Go to the front page of the (moderately trafficked) environmental websites. Where is the doomsday? If you want to find anything approximating even modest, blunt, science-based messaging built around the scientific literature, interviews with actual climate scientists and a clear statement that we can solve this problem — well, you’ve all found it, of course, but the only people who see it are those who go looking for it. Of course, this blog is not even aimed at the general public. Probably 99% of Americans haven’t even seen one of my headlines and 99.7% haven’t read one of my climate science posts. And Climate Progress is probably the most widely read, quoted, and reposted climate science blog in the world. Anyone dropping into America from another country or another planet who started following popular culture and the news the way the overwhelming majority of Americans do would get the distinct impression that **nobody who matters is terribly worried about climate change**. And, of course, they’d be right — see “The failed presidency of Barack Obama, Part 2.” It is total BS that somehow the American public **has been scared and overwhelmed by repeated doomsday messaging into some sort of climate fatigue**. If the public’s concern has dropped — and public opinion analysis suggests it has dropped several percent (though is bouncing back a tad) — that is **primarily due to the conservative media’s disinformation** **campaign** impact on Tea Party conservatives and to the treatment of this as a nonissue by most of the rest of the media, intelligentsia and popular culture.

#### No link—we are a challenge message – increases salience and collective action

Brulle 10 (Robert BRULLE Sociology & Envt’l Science @ Drexel ’10 “From Environmental Campaigns to Advancing the Public Dialog: Environmental Communication for Civic Engagement” Environmental Communication 4 (1) p. 92)

From Identity to Challenge Campaigns One of the most common assumptions in designing identity-based environmental communication campaigns is that fear appeals are counterproductive. As Swim et al. (2009, p. 80) note: ‘‘well meaning attempts to create urgency about climate change by appealing to fear of disasters or health risks frequently lead to the exact opposite of the desired response: denial, paralysis, apathy, or actions that can create greater risks than the one being mitigated.’’ While the author goes on to qualify and expand this line of argument, this has been taken as an absolute in the popular press and much of the grey literature produced by nonprofit organizations and foundations. However, the academic literature portrays a much more complex picture: whereas apocalyptic rhetoric has been shown to be able to evoke powerful feelings of issue salience (O’Neill & Nicholson-Cole, 2009, p. 373), reassuring messages, such as those advocated by ecoAmerica, have the least ability to increase issue salience (de Hoog, Stroebe, & de Wit, 2007; Lowe et al., 2006; Meijinders, Cees, Midden, & Wilke, 2001; Witte & Allen, 2000). Additionally, apocalyptic messages do not necessarily result in denial. A number of empirical studies show that individuals respond to threat appeals with an increased focus on collective action (Eagly & Kulesa, 1997; Langford, 2002; Leiserowitz, Kates, & Parris, 2006, p. 437; Maiteny, 2002; Shaiko, 1999; Swim et al., 2009, p. 94). Tomaka, Blascovich, Kelsey, and Leitten (1993, p. 248) distinguish between threat and challenge messaging: threat messages ‘‘are those in which the perception of danger exceeds the perception of abilities or resources to cope with the stressor. Challenge appraisals, in contrast, are those in which the perception of danger does not exceed the perception of resources or abilities to cope.’’ If a meaningful response to a threat can be taken that is within the resources of the individual, this results in a challenge, which ‘‘may galvanize creative ideas and actions in ways that transform and strengthen the resilience and creativity of individuals and communities’’ (Fritze, Blashki, Burke, & Wieseman, 2008, p. 12). While fear appeals can lead to maladaptive behaviors, fear combined with information about effective actions can also be strongly motivating (O’Neill & Nicholson-Cole, 2009, p. 376; Witte & Allen, 2000).

#### Securitizing the environment is good – builds public awareness to solve

**Matthew 2**, Richard A, associate professor of international relations and environmental political at the University of California at Irvine, Summer (ECSP Report 8:109-124)

In addition, environmental security's language and findings can benefit conservation and sustainable development."' Much environmental security literature emphasizes the importance of development assistance, sustainable livelihoods, fair and reasonable access to environmental goods, and conservation practices as the vital upstream measures that in the long run will contribute to higher levels of human and state security. The Organization for Economic Cooperation and Development (OECD) and the International Union for the Conservation of Nature (IUCN) are examples of bodies that have been quick to recognize how the language of environmental security can help them. The scarcity/conflict thesis has alerted these groups to prepare for the possibility of working on environmental rescue projects in regions that are likely to exhibit high levels of related violence and conflict. These groups are also aware that an association with security can expand their acceptance and constituencies in some countries in which the military has political control, For the first time in its history; the contemporary environmental movement can regard military and intelligence agencies as potentialallies in the struggle to contain or reverse humangenerated environmental change. (In many situations, of course, the political history of the military--as well as its environmental record-raise serious concerns about the viability of this cooperation.) Similarly, the language of security has provided a basis for some fruitful discussions between environmental groups and representatives of extractive industries. In many parts of the world, mining and petroleum companies have become embroiled in conflict. These companies have been accused of destroying traditional economies, cultures, and environments; of political corruption; and of using private militaries to advance their interests. They have also been targets of violence, Work is now underway through the environmental security arm of the International Institute for Sustainable Development (IISD) to address these issues with the support of multinational corporations. Third, the general conditions outlined in much environmental security research can help organizations such as USAID, the World Bank, and IUCN identify priority cases--areas in which investments are likely to have the greatest ecological and social returns. For all these reasons, IUCN elected to integrate environmental security into its general plan at the Amman Congress in 2001. Many other environmental groups and development agencies are taking this perspective seriously (e.g. Dabelko, Lonergan& Matthew, 1999). However, for the most part these efforts remain preliminary.' Conclusions Efforts to dismiss environment and security research and policy activities on the grounds that they have been unsuccessful are premature and misguided. This negative criticism has all too often been based on an excessively simplified account of the research findings of Homer-Dixon and a few others. Homer-Dixon’s scarcity-conflict thesis has made important and highly visible contributions to the literature, but it is only a small part of a larger and very compelling theory. This broader theory has roots in antiquity and speaks to the pervasive conflicts and security implications of complex nature-society relationships. The theory places incidents of violence in larger structural and historical contexts while also specifying contemporarily significant clusters of variables. From this more generalized and inclusive perspective, violence and conflict are revealed rarely as a society’s endpoint and far more often as parts of complicated adaptation processes. The contemporary research on this classical problematic has helped to revive elements of security discourse and analysis that were marginalized during the Cold War. It has also made valuable contributions to our understanding of the requirements of human security, the diverse impacts of globalization, and the nature of contemporary transnational security threats. Finall,y environmental security research has been valuable in myriad ways to a range of academics, policymakers, and activists, although the full extent of these contributions remains uncertain, rather than look for reasons to abandon this research and policy agenda, now is the time to recognize and to build on the remarkable achievements of the entire environmental security field.

### AT Reps

#### Reps don't shape reality.

**Balzacq 5** (Thierry, Professor of Political Science and International Relations at Namur University, “The Three Faces of Securitization: Political Agency, Audience and Context” European Journal of International Relations, London: Jun 2005, Volume 11, Issue 2)

However, despite important insights, this position remains highly disputable. The reason behind this qualification is not hard to understand. With great trepidation my contention is that one of the main distinctions we need to take into account while examining securitization is that between 'institutional' and 'brute' threats. In its attempts to follow a more radical approach to security problems wherein threats are institutional, that is, mere products of communicative relations between agents, the CS has neglected the importance of 'external or brute threats', that is, threats that **do not depend** on language mediation to be what they are - hazards for human life. In methodological terms, however, any framework over-emphasizing either institutional or brute threat risks losing sight of important aspects of a **multifaceted phenomenon**. Indeed, securitization, as suggested earlier, is successful when the securitizing agent and the audience reach a common structured perception of an ominous development. In this scheme, there is no security problem except through the language game. Therefore, how problems are 'out there' is exclusively contingent upon how we linguistically depict them. This is not always true. For one, language **does not construct** reality; at best, it shapes our perception of it. Moreover, it is **not theoretically useful** nor is it **empirically credible** to hold that what we say about a problem would determine its essence. For instance, what I say about a typhoon would not change its essence. The consequence of this position, which would require a deeper articulation, is that some security problems are the attribute of the development itself. In short, threats are not only institutional; some of them can actually wreck entire political communities **regardless of** the use of language. Analyzing security problems then becomes a matter of understanding how external contexts, including external objective developments, affect securitization. Thus, far from being a departure from constructivist approaches to security, external developments are central to it.

#### One speech act doesn’t cause securitization – it’s an ongoing process

**Ghughunishvili 10** (Securitization of Migration in the United States after 9/11: Constructing Muslims and Arabs as Enemies Submitted to Central European University Department of International Relations European Studies In partial fulfillment of the requirements for the degree of Master of Arts Supervisor: Professor Paul Roe <http://www.etd.ceu.hu/2010/ghughunishvili_irina.pdf>)

As provided by the Copenhagen School securitization theory is comprised by speech act, acceptance of the audience and facilitating conditions or other non-securitizing actors contribute to a successful securitization. The causality or a one-way relationship between the speech act, the audience and securitizing actor, where politicians use the speech act first to justify exceptional measures, has been criticized by scholars, such as Balzacq. According to him, the one-directional relationship between the three factors, or some of them, is not the best approach. To fully grasp the dynamics, it will be more beneficial to “rather than looking for a one-directional relationship between some or all of the three factors highlighted, it could be profitable to focus on the degree of congruence between them. 26 Among other aspects of the Copenhagen School’s theoretical framework, which he criticizes, the thesis will rely on the criticism of the lack of context and the rejection of a ‘one-way causal’ relationship between the audience and the actor. The process of threat construction, according to him, can be clearer if external context, which stands independently from use of language, can be considered. 27 Balzacq opts for more context-oriented approach when it comes down to securitization through the speech act, where a single speech does not create the discourse, but it is created through a long process, where context is vital. 28 He indicates: In reality, the speech act itself, i.e. literally a single security articulation at a particular point in time, will at best only very rarely explain the entire social process that follows from it. In most cases a security scholar will rather be confronted with a process of articulations creating sequentially a threat text which turns sequentially into a securitization. 29 This type of approach seems more plausible in an empirical study, as it is more likely that a single speech will not be able to securitize an issue, but it is a lengthy process, where a the audience speaks the same language as the securitizing actors and can relate to their speeches.