# 1AC

## 1AC Octas UGA

**Plan**

#### The United States federal judiciary should rule that the President of the United States lacks the war powers authority to detain individuals indefinitely.

**Venezuela 1AC**

**US efforts to push Judicial Reforms in Venezuela through the Inter-American Human Rights Commission are hampered by hypocritical indefinite detention policy**

**Bosworth 13** (James, Former Associate for Communications at The Inter-American Dialogue and Director of Research at The Rendon Group, Consultant at the Woodrow Wilson International Center for Scholars, “Protecting the IACHR, now make it stronger,” 3-25-13, <http://www.bloggingsbyboz.com/2013/03/protecting-iachr-now-make-it-stronger.html>)

Last Friday, the OAS voted to reform the Inter-American Commission on Human **Rights** (IACHR). Most importantly, the organization managed to **push back** against a set of cynical and **harmful proposals by** four countries - Bolivia, Ecuador, Nicaragua and **Venezuela** - that would have weakened the organization and reduced its funding sources. Those four countries ended up isolated from the other 30 voting members of the OAS who remained committed to strengthening the Inter-American human rights system. Sources: AQ, Pan-American Post, IPS, Ecuador wanted the system to be funded only by countries that have signed the San Jose Pact and wanted all the rapporteurs funded equally. This would have eliminated most of the funding for the IACHR coming from the US, Canada and Europe without guarantees of pledges to replace that money. It also would have weakened the Special Rapporteur on Freedom of Expression, a particularly thorn in the side for Ecuador's censorship-loving president. Of course, the ALBA criticisms aren't actually about funding. The ALBA countries tried to weaken the IACHR because they are annoyed that any independent outside organizations criticizes their abuses of human rights and free speech. So, good on the rest of the Americas including the US, Brazil and Mexico for working to stop those proposals from being implemented. All three of those countries have all recently faced **tough criticisms** from the IACHR, making it notable that they still defended the commission at this session. From the speech of Deputy Secretary Burns: This is why we actively respond to the Commission even as it raises challenging issues for us – from the death penalty and the human rights of migrants and incarcerated children, to **the status of detainees** at Guantanamo Bay. And this is why we continue to collaborate with the Commission – including its recent on-site visit to immigrant detention facilities in the United States. We do this not because we always see eye to eye with the Commission. We do it because we are secure in our **commitment to democratic principles** and in our conviction that we are accountable to our citizens for the protection of their human rights. We do it because we believe that no government should place itself beyond international scrutiny when it comes to the protection of basic human rights and civil liberties. Strong words that I absolutely agree with. However.... On 12 March the US formally answered questions to the IACHR about the detainees held at Guantanamo Bay. At that time, the US lawyer did not provide any timeline for closing the detention center and refused to admit anyone is being held in "indefinite detention," though the fact they are held without trial and without a potential release date seems to be the definition of that term. Though the US defended the conditions of the prison, as far as I can tell, no representative from the IACHR has been allowed to visit. On the issue of immigrant detentions, here is the IACHR in July 2009 based on its visits to detention centers (longer report released in 2011): Finally, the Rapporteurship was distressed at the use of solitary confinement to ostensibly provide personal protection for vulnerable immigrant detainees, including homosexuals, transgender detainees, detainees with mental illnesses, and other minority populations. The use of solitary confinement as a solution to safeguard threatened populations effectively punishes the victims. The Rapporteurship urges the U.S. Government to establish alternatives to protect vulnerable populations in detention and to provide the mentally-ill with appropriate treatment in a proper environment. Here is the NYT yesterday: On any given day, about 300 immigrants are held in solitary confinement at the 50 largest detention facilities that make up the sprawling patchwork of holding centers nationwide overseen by Immigration and Customs Enforcement officials, according to new federal data. Nearly half are isolated for 15 days or more, the point at which psychiatric experts say they are at risk for severe mental harm, with about 35 detainees kept for more than 75 days. Four years after the IACHR visited the immigrant detention facilities and spoke out against the practice of solitary confinement, the article in the NYT from 2013 reads just like the IACHR report from 2009. Nothing has been done to respond to those criticisms. The US gets credit for fighting back against the ALBA countries' push to silence the IACHR. The commission provides a needed voice for the hemisphere's human rights. Over the past month, with the purpose of protecting and strengthening human rights in the hemisphere, I've heard US officials praise Brazil, Mexico and Uruguay for listening and acting on the recommendations of the IACHR. The sad truth is that the US praised those other countries because the US hasn't acted on many of the important criticisms that it has received from the IACHR. It's part of the **credibility gap** that the US faces in this hemisphere. Last week, the Obama administration played a vital role in protecting human rights in the hemisphere by leading the effort at the OAS to maintain a strong IACHR. We need to remember that nothing the US says diplomatically at the OAS will be as powerful as the US ability to **lead by example**. If the US really wants stronger human rights protections in this hemisphere, that effort starts at home. The issues raised by Deputy Secretary Burns in his OAS speech - **Guantanamo and immigrant detention conditions - would be great places to start.**

#### Specifically true for a lack US Judicial Independence – sends a signal of appropriate balancing

**Yamamato 13** (Eric K., law professor at the University of Hawai'i William S. Richardson School of Law, BA University of Hawaiʻi at Mānoa 1975, JD UC Berkeley School of Law 1978, Race, Rights and Reparation: Law and the Japanese American Internment, 2013, p. 411-412)

For all these reasons, Justice Jackson’s warning still resonates loudly today. How will the judiciary prevent false **executive claims** of national security necessity from becoming a “**loaded weapon**” aimed at the essence of American democracy— the balance of national security and civil liberties? Rasul confirmed the salience of **judicial oversight** of executive national security policies. Yet the Rasul majority failed to articulate the appropriate level of judicial review of executive national security actions that curtail fundamental liberties. Deferential judicial review effectively affords the President a **blank check**. Unyielding scrutiny, however, may unduly constrain the executive. Ordinary judicial review doctrine embraces deferential review for most government actions, giving the President wide leeway to act in the best interest of the country. That doctrine also mandates heightened scrutiny where government action restricts fundamental liberties. It is still an open question whether the national security setting alters this paradigm of judicial review. Varying approaches persist. Some judges and scholars, including former Chief Justice William Rehnquist, argued that the judiciary should play a muted role in reviewing military necessity restrictions of civil liberties during military conflict: An entirely separate and important philosophical question is whether occasional presidential excesses and judicial restraint in wartime are desirable or undesirable. . . . [T]here is every reason to believe that the historic trend against the least justified of the curtailments of civil liberty in wartime will continue in the future. It is neither desirable nor remotely likely that civil liberty will occupy as favored a position in wartime as it does in peacetime. But it is both desirable and likely that more **careful attention** will **be paid by the courts** to the basis for the government’s claims of necessity as a basis for curtailing civil liberty. The laws will thus not be silent in time of war, but they will speak with a somewhat different voice.1210 By adopting this posture of sharply limited judicial review or almost total judicial deference to executive actions, courts would have a straightforward task. They would simply align with the executive whenever it invokes national security, even when fundamental liberties are significantly restricted. For others, the highly deferential approach conflicts with constitutional mandates. The judiciary’s purpose is to serve as a constitutional check on the two political branches of government, particularly where fundamental liberties are at stake.1211 Without close **judicial scrutiny,** no governmental body exists to assure executive and legislative accountability under law. The consequences of this were seen in the wartime internment cases. A watchful care approach would call for the judiciary to apply a heightened standard of review to executive restrictions of fundamental liberties even during times of war or national security crises, accounting for the government’s security concerns in the court’s analysis of the government’s asserted compelling interest.1212 During the Civil War, the U.S. Supreme Court barred President Lincoln from suspending the writ of habeas corpus if the civilian courts were open and functioning. The Court ruled that the safeguards of liberty [should receive the] watchful care of those [e]ntrusted with the guardianship of the Constitution and laws [namely, the judiciary].1213 This heightened scrutiny, or watchful care, approach calls for careful judicial assessment of the government’s proffered security justification for the restrictions. Under this approach, [e]xcept as to actions under civilly-declared martial law . . . a heightened standard of review [should] be applied to evaluate government restrictions of constitutionally-protected liberties ostensibly justified by military necessity or national security. At the same time, the watchful care approach affords the government needed protection for sensitive information or policies. In particular, a **heightened standard of review** confirms the appropriate **competency of federal courts** to adjudicate disputes at the intersection of civil liberties and national security. It **announces a confidence that courts possess** existing tools for ensuring strict confidentiality where warranted. Secrecy has its proper place. But the internment illustrates that the executive branch historically has invoked confidentiality to evade accountability.1214 How will American courts respond today and in the future? Some predict that “blind acceptance by the courts of the government’s insistence on the need for secrecy . . . [will] impermissibly compromise the **independence of the judiciary** and open the door to possible abuse.”1215 Yet, in hearing habeas corpus challenges after Rasul and Boumediene, the federal courts have more consistently scrutinized the government’s justification for indefinite detention, upholding 16 detentions and invalidating 37 others.1216 In his final pronouncement, Fred Korematsu urged that through public and judicial vigilance “the internment can remain a lighthouse that helps . . . navigate the rocky shores triangulated by freedom, equality, and security.”121

#### Venezuelan denunciation of the Convention means that the OAS’s Inter-American Commission is key to promoting judicial independence

Biron 13 (Carey L. Biron, Inter Press Service, “Venezuelan Pullout from Rights Pact Called “Deeply Concerning,” <http://www.ipsnews.net/2013/09/venezuelan-pullout-from-rights-pact-called-deeply-concerning/>)

WASHINGTON, Sep 10 2013 (IPS) - The Inter-American Commission on Human Rights (IACHR) says it is “deeply concerned” over the Venezuelan government’s decision to withdraw from the American Convention on Human Rights, a move that went into effect Tuesday. The Venezuelan government has denounced the four-decade-old convention, which currently covers 23 of the 35 members of the Organisation of American States (OAS), as a tool of U.S. meddling in Latin America. But rights groups warn the move will eliminate a court-of-last-resort option for Venezuelans who feel they are unable to receive a fair judicial response within their own country – an option that remains guaranteed in the Venezuelan constitution. “This comes at the expense of the protection of rights of the people of Venezuela, who are stripped of a mechanism to protect their human rights,” the IACHR, based here in Washington, stated Tuesday. “The Inter-American Commission calls on Venezuela to reconsider this decision … [and] regrets that, despite repeated calls by the Commission and by other international bodies for Venezuela to reconsider its decision to denounce the Convention, the State of Venezuela has not reversed that decision.” The American Convention on Human Rights sets out how OAS countries must guarantee citizens’ human rights. It also empowers the IACHR and the Inter-American Court of Human Rights, based in Costa Rica, to monitor and rule on rights-related complaints that have not been dealt with through domestic judicial channels. Venezuela is the third country to formally denounce the American Convention on Human Rights and withdraw from the Inter-American Court’s jurisdiction. Trinidad & Tobago made a similar decision in 1998 after the court criticised that country’s use of the death penalty, while Peru tried to do the same the following year. “It is very unfortunate that the Venezuelan government has decided to go through with this action,” Francisco Quintana, programme director for the Andean, North America and Caribbean region at the Centre for Justice and International Law (CEJIL), a Washington-based advocacy group, told IPS. “Yet if the government thought it was going to get away from this international supervision completely, that’s not right – at least with regard to any human rights violations that occurred before Sep. 10.” Indeed, given that Venezuela remains a member of the OAS, the IACHR will maintain jurisdiction to monitor the country’s human rights situation. Further, as Quintana notes, the Inter-American Court will be able to continue hearing cases of alleged rights violations from during the period that Venezuela was party to the convention, from 1977 until Tuesday. Yet critics worry about the potential impact not only on Venezuelans who have suffered abuses but also on the strength of the overall Inter-American structure, one of the world’s oldest pan-regional rights systems. The United Nations warned Tuesday the move could “have a very negative impact on human rights in [Venezuela] and beyond”. ‘Grave backlash’ Tuesday’s withdrawal follows through on one of the last policy decisions made by former president Hugo Chavez, who in July 2012 stepped up complaints that the Inter-American Court was interfering in domestic affairs. Chavez had earlier accused the OAS of supporting a coup against his government. But the final motivation to withdraw appears to have been a ruling by the Inter-American Court in favour of Raul Diaz Pena, a Venezuelan who was found to have been mistreated in prison after being convicted of placing bombs near Caracas embassies. “The Venezuelan government was against the external supervision of human rights issues from an international organ – over the past decade, the Inter-American Court lodged many cases against Venezuela, and the Chavez administration began to view these as political attacks,” CEJIL’s Quintana says. “While the court established that there were clear violations of human rights, many didn’t even take place under Chavez. Some had to do with judicial independence, others with excessive force by the police – a wide range of cases, which offered no reason for the government to become frustrated with the system as a whole. After all, these rights were explicitly protected by the system and the convention.” On Monday, CEJIL and more than 50 other organisations from 14 countries throughout the region derided the Venezuelan move and lamented its broader implications. “Venezuela’s denunciation of the American Convention represents a grave backlash for the protection of human rights in the region,” the groups warned. “Additionally, this denunciation is preceded in recent years by the non-compliance of most of the sentences and measures of protection issued by the Inter-American Court.” Also on Monday, Venezuela’s president, Nicolas Maduro, reiterated Chavez’s charge that the Inter-American system was a U.S. pawn. “[T]he U.S. is not part of the human rights system, does not acknowledge the court’s jurisdiction or the commission, but … the commission headquarters is in Washington,” President Maduro said at a news conference, according to media reports. “Almost all participants and bureaucracy that are part of the IACHR are captured by the interests of the State Department of the United States.” Indeed, the United States, itself a member of the OAS, has signed but never ratified the American Convention on Human Rights, part of a longstanding suspicion of international legal instruments. Yet rights groups are suggesting that Maduro’s criticism underlines an incongruous policy stance. “The Venezuelan government’s attitude is highly contradictory,” Guadalupe Marengo, deputy director of the Americas programme at Amnesty International, a watchdog group, said Tuesday. “On the one hand it is promoting universal ratification of the American Convention on Human Rights and urging other countries to ratify this instrument while, on the other, it is withdrawing from it and denying its inhabitants access to the protection of one of its bodies.”

**Now is the key time – Maduro is consolidating power in Venezuela**

**The Economist 13** (“Latin America’s Venezuela problem: Ostrich diplomacy, Venezuela’s neighbours studiously ignore the crisis unfolding next door,” 6-8-13, <http://www.economist.com/news/americas/21579067-venezuelas-neighbours-studiously-ignore-crisis-unfolding-next-door-ostrich-diplomacy/>)

FOR Latin American presidents of all political persuasions, a knock on the door from Henrique Capriles is a far from welcome sound these days. Not that the leader of Venezuela’s opposition is a particularly boring or obnoxious guest, despite the strenuous efforts of President Nicolás Maduro to portray him as a “murderous fascist”. It’s just that having Mr Capriles round for a cup of tea can get you into all sorts of trouble, as Colombia’s Juan Manuel Santos found out to his cost. On May 29th a shirtsleeved Mr Santos held a private meeting of about an hour with Mr Capriles, which provoked a barrage of invective from the Venezuelan government. The Colombian president had “put a bomb under” relations between the two countries, said Diosdado Cabello, the speaker of Venezuela’s National Assembly. Venezuela would have to “review” its support for Colombia’s peace talks with the leftist FARC guerrillas, added Elías Jaua, the foreign minister. To top things off, Mr Maduro said certain Colombian institutions “at the highest level” were plotting with the Venezuelan opposition to inject him with a poison that would lead to a slow death. Mr Santos said this was “crazy”. His foreign minister declined to engage in microphone diplomacy. Colombia and Venezuela, whose governments are poles apart ideologically, have enjoyed a friendship of convenience in recent years after a very rocky decade. The reason for all the huffing and puffing is that Mr Capriles, who came within an ace of winning a snap presidential election on April 14th, has challenged the result in the **supreme court** and is seeking to persuade the region’s governments of his case. Mr Maduro is the chosen successor of Hugo Chávez, who died of cancer in March, five months after being re-elected. He heads a weak administration beset by political and economic problems and desperate to hang on to the international support that Chávez built up over more than a decade of oil diplomacy. With the Chávez charisma gone, the new president’s **legitimacy in doubt** and the money running out, bluster is one of the few resources not in short supply. This week was to have been Peru’s turn to receive a visit from Mr Capriles. But such was the panic in Ollanta Humala’s government at having to decide whether to receive him that the trip was postponed. Peru currently chairs the South American Union (Unasur), one of several regional bodies failing to deal with the Venezuelan crisis. Unasur held an emergency meeting on the eve of Mr Maduro’s inauguration to insist on an audit of the election result. But although the opposition says the partial audit now under way is insufficient, Unasur has failed to pursue the case. Peru’s foreign minister stood down—officially for health reasons—shortly after he had the effrontery to say publicly that a fresh Unasur summit on the subject was being mooted. Most Latin American and Caribbean governments are either ideologically close to the chavista regime, dependent on its oil-fuelled largesse, or simply disinclined to incur its wrath. The Organisation of American States (OAS), whose annual assembly began on June 4th in Guatemala, is bound by treaty to monitor its members’ democratic credentials. But the OAS’s Democratic Charter, launched in 2001, has so far been used only to protect presidents (including Chávez) and to bludgeon puny countries such as Honduras and Paraguay. Brazil, which has the muscle to take on a country the size of Venezuela, seems more concerned with protecting its businesses, which are making billions from trade with its northern neighbour. Ahead of the OAS meeting its secretary-general, José Miguel Insulza, said the “atmosphere” was not conducive to a discussion of the Venezuelan crisis—a diplomatic way of saying no one was prepared to pick up the hot potato. Mr Insulza himself has in the past admitted that Venezuela is in breach of the **Democratic Charter**. Among other things, it requires an **independent judiciary** and guarantees recourse to the inter-American human-rights system. Venezuela has announced that it will abandon the system later this year. The ostrich approach may not work for ever. For one thing, the Venezuelan **opposition’s campaign** across the region is putting presidents under pressure from their parliaments and civic groups to **support democracy**. Second, Venezuela’s **political fragility** and Mr Maduro’s weakness threaten instability which the region may be unable to ignore. Shutting the door in Mr Capriles’ face could prove a short-sighted policy, as well as a shameful one.

#### Venezuelan Stability stops Russian Arctic development and jumpstarts the US Economy

**Weafer 13** (Chris Weafer is chief strategist at Sberbank Investment Research, BBC Monitoring Former Soviet Union – Political, “No business as usual for Russia in Venezuela – paper,” 3-12-13, Supplied by BBC Worldwide Monitoring)

Despite assurances from government officials in Caracas that it will be business as usual after the death of Venezuelan President Hugo Chavez last week, his passing will almost certainly lead to the start of political and social changes in that country. The only question is the **time frame**. Chavez's death and the emergence of a new presidential administration will surely have a significant impact on the global oil industry and price of oil, although perhaps on an even longer timeline. According to the BP Energy Review, Venezuela sits on the world's largest exploitable reserves of oil. Chavez's policies have led not only to no significant exploitation of those reserves but have actually directly led to a cut in the country's average daily oil output by one-third in the 14 years he served as president. In 1999, the country produced an average of 3.5 million barrels per day, while the current average output has dropped to 2.5 million barrels. With the right investments, the country may easily support average daily oil output of 5 million barrels and probably higher, according to industry estimates. There can be little doubt that as of last week, Venezuela has become the **most important target location** for foreign oil majors, especially **US companies**. Russian oil majors still have a small advantage, and senior executives from state-owned Rosneft and Gazprom will be eager to ensure good relations with the next administration. But they must know that there is now a limited window to convert promised cooperation with the Venezuelan state-owned oil company, PDVSA, into actual projects. Oil executives from Houston will soon be descending on Venezuela with lucrative alternatives, and **PDVSA**, in dire need of capital investment, **will** surely **be listening to** their **offers**. For Russia, that means three risks. First, Gazprom and Rosneft will have more competition for joint-venture deals in that country. Second, Venezuela is an **easier alternative** to the hostile and unpredictable **Russian Arctic** for US oil companies, which may make it harder for Moscow to attract joint-venture deals. Finally, the prospect of more oil coming out of Venezuela adds to the growth projections for shale oil as a significant longer-term threat to the price of oil, and therefore, to the Russian economy. None of this will be lost on the Kremlin. It means that there will have to be greater urgency to convert promised deals into real projects in Venezuela. At the same time, the Kremlin will want to conclude more joint ventures to **exploit the Arctic**. It also means that the clock counting down to lower oil revenues is now ticking, increasing the need for more urgent progress in economic reforms. The Venezuelan constitution mandates that a new election must take place within 30 days. As it stands today, the current vice president, Nicolas Maduro, is expected to be elected to replace Chavez. Maduro said he intends to stick with the economic and political policies and ideologies of his former boss, but since Maduro is no Chavez, this will be virtually impossible to achieve. Chavez was a hugely charismatic, larger-than-life leader who managed to maintain unity of purpose among the many vested interests in the country. At the same time, he stayed popular with the people even as the economy slid further into trouble. With oil averaging over 110 dollars per barrel last year, the Venezuelan state budget ran a deficit of close to 20 per cent of gross domestic product. Now that Chavez is gone, the soon-to-be-elected president Maduro will come under **increasing pressure** to take actions to start improving the economy. No different from President Vladimir Putin's situation when he took over an ailing economy in Russia in 2000, **the only place** that the new Venezuelan president can get revenue is from **the oil sector**. But after Chavez practically destroyed PDVSA when he fired 20,000 skilled engineers and other workers in 2002, PDVSA will need a huge boost to capital spending and joint-venture partnerships. Although politically risky, Maduro may have no other choice than to ask ExxonMobil and Chevron, two of the US majors that had their local projects nationalized by Chavez, to come back. Venezuela is certainly an attractive option for the world's big oil majors. Recoverable reserves are now put at just under 300 billion barrels, compared to about 265 billion in Saudi Arabia and less than 100 billion in Russia. Most of Venezuelan oil is heavy and more expensive to refine, but it lies only a few hundred meters below the Orinoco Belt. That makes it a lot more attractive than, for example, speculatively drilling in the hostile Russian Arctic while dodging icebergs. The Orinoco Belt is an extremely important natural environment, and the inevitable objections from domestic, regional and international environmentalists will slow any development. But as has happened in similar situations elsewhere, the quest for the prize will almost certainly prevail. Venezuela needs the money. Venezuela has also very likely moved to near the top of the US government's list of geopolitical priorities. The US is set on a course to become **energy independent**, and the International Energy Agency calculates this may take two to three decades based on current trends and with optimistic assumptions for US shale oil production. Such assumptions have always been speculative when it comes to the oil industry. But a more achievable target for the US is to become **regionally oil independent** -that is, to only source its oil requirements domestically and from Canada, Mexico and now perhaps from **Venezuela**. That would allow the US to become completely independent of Middle East oil within 10 years or so. A change in Venezuela's political and economic priorities would also weaken the Cuban economy since Chavez supplied Cuba with almost free oil. That would hasten the inevitable regime change there as well, an extra bonus for Washington. But while such an outcome would be **very favourable for the US economy**, it would **accelerate the game change** already started in the global oil industry with the rapid growth in **shale oil volumes**. No matter how you work the assumptions, the world is heading for a lot more oil supply over the balance of this decade. New major oil production will come from North America, Iraq and the Caspian Sea, where Kazakhstan's giant Kashagan field starts to produce from this year, almost certainly from Venezuela if a new administration takes concrete steps to increase foreign investment and production in the oil sector. This may be the real reason Russian officials shed a few tears at Chavez's funeral on Friday.

#### Economic decline causes nuclear war

Harris and Burrows, 9 – \*counselor in the National Intelligence Council, the principal drafter of Global Trends 2025, \*\*member of the NIC’s Long Range Analysis Unit “Revisiting the Future: Geopolitical Effects of the Financial Crisis”, Washington Quarterly, http://www.twq.com/09april/docs/09apr\_burrows.pdf)

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

**Russian energy development in the Arctic causes escalating military competition**

**Talmadge 12** (Eric – AP, Huffington Post, “Arctic Climate Change Opening Region To New Military Activity’, 4/16, http://www.huffingtonpost.com/2012/04/16/arctic-climate-change-military-activity\_n\_1427565.html)

To the world's military leaders, the debate over climate change is long over. **They are preparing for a new kind of Cold War in the Arctic**, anticipating that rising temperatures there will open up a treasure trove of resources, long-dreamed-of sea lanes and **a slew of potential conflicts**. By Arctic standards, **the region is already buzzing with military activity**, and experts believe that **will increase significantly** in the years ahead. Last month, Norway wrapped up one of the largest Arctic maneuvers ever — Exercise Cold Response — with 16,300 troops from 14 countries training on the ice for everything from high intensity warfare to terror threats. Attesting to the harsh conditions, five Norwegian troops were killed when their C-130 Hercules aircraft crashed near the summit of Kebnekaise, Sweden's highest mountain. The U.S., Canada and Denmark held major exercises two months ago, and in an unprecedented move, the military chiefs of the eight main Arctic powers — Canada, the U.S., Russia, Iceland, Denmark, Sweden, Norway and Finland — gathered at a Canadian military base last week to specifically discuss regional security issues. None of this means a shooting war is likely at the North Pole any time soon. But as the number of workers and ships increases in the High North to exploit oil and gas reserves, **so will the need for policing, border patrols and** — if push comes to shove — **military muscle to enforce rival claims**. The U.S. Geological Survey estimates that 13 percent of the world's undiscovered oil and **30 percent of its untapped natural gas is in the Arctic**. Shipping lanes could be regularly open across the Arctic by 2030 as rising temperatures continue to melt the sea ice, according to a National Research Council analysis commissioned by the U.S. Navy last year. What countries should do about climate change remains a heated political debate. But that has not stopped north-looking militaries from moving ahead with strategies that assume current trends will continue. Russia, Canada and the United States have the biggest stakes in the Arctic. With its military budget stretched thin by Iraq, Afghanistan and more pressing issues elsewhere, the United States has been something of a reluctant northern power, though its nuclear-powered submarine fleet, which can navigate for months underwater and below the ice cap, remains second to none. Russia — one-third of which lies within the Arctic Circle — **has been the most aggressive in establishing itself as the emerging region's superpower**. Rob Huebert, an associate political science professor at the University of Calgary in Canada, said Russia has recovered enough from its economic troubles of the 1990s to significantly rebuild its Arctic military capabilities, which were a key to the overall Cold War strategy of the Soviet Union, and has increased its bomber patrols and submarine activity. He said that has in turn led other Arctic countries — Norway, Denmark and Canada — to resume regional military exercises that they had abandoned or cut back on after the Soviet collapse. Even non-Arctic nations such as France have expressed interest in deploying their militaries to the Arctic. "We have an entire ocean region that had previously been closed to the world now opening up," Huebert said. "There are numerous factors now coming together that are mutually reinforcing themselves, causing a buildup of military capabilities in the region. **This is only going to increase as time goes on**." Noting that the Arctic is warming twice as fast as the rest of the globe, the U.S. Navy in 2009 announced a beefed-up Arctic Roadmap by its own task force on climate change that called for a three-stage strategy to increase readiness, build cooperative relations with Arctic nations and identify areas of potential conflict. "**We want to maintain our edge up there**," said Cmdr. Ian Johnson, the captain of the USS Connecticut, which is one of the U.S. Navy's most Arctic-capable nuclear submarines and was deployed to the North Pole last year. "Our interest in **the Arctic** has never really waned. It **remains very important**." **But the U.S. remains ill-equipped for large-scale Arctic missions**, according to a simulation conducted by the U.S. Naval War College. A summary released last month found the Navy is "inadequately prepared to conduct sustained maritime operations in the Arctic" because it **lacks ships** able to operate in or near Arctic ice, **support facilities and adequate communications**. "The findings indicate the Navy is entering a new realm in the Arctic," said Walter Berbrick, a War College professor who participated in the simulation. "Instead of other nations relying on the U.S. Navy for capabilities and resources, sustained operations in the Arctic region will require the Navy to rely on other nations for capabilities and resources." He added that although the U.S. nuclear submarine fleet is a major asset, the Navy has severe gaps elsewhere — **it doesn't have any icebreakers**, for example. The only one in operation belongs to the Coast Guard. **The U.S. is currently mulling whether to add more icebreakers**.

**De-escalation is key to prevent Arctic conflicts from going nuclear – draws in major powers**

**Wallace and Staples 10** (Michael Wallace and Steven Staples. \*Professor Emeritus at the University of British Columbia and President of the Rideau Institute in Ottawa “Ridding the Arctic of Nuclear Weapons: A Task Long Overdue,”http://www.arcticsecurity.org/docs/arctic-nuclear-report-web.pdf)

The fact is, the Arctic is becoming a zone of increased military competition. Russian President Medvedev has announced the creation of a special military force to defend Arctic claims. Last year Russian General Vladimir Shamanov declared that Russian troops would step up training for Arctic combat, and that Russia’s submarine fleet would increase its “operational radius.” 55 Recently, two Russian attack submarines were spotted off the U.S. east coast for the first time in 15 years. 56 In January 2009, on the eve of Obama’s inauguration, President Bush issued a National Security Presidential Directive on Arctic Regional Policy. It affirmed as a priority the preservation of U.S. military vessel and aircraft mobility and transit throughout the Arctic, including the Northwest Passage, **and foresaw greater capabilities to protect U.S. borders in the Arctic**. 57 The Bush administration’s disastrous eight years in office, particularly its decision to withdraw from the ABM treaty and deploy missile defence interceptors and a radar station in Eastern Europe, have greatly contributed to the instability we are seeing today, even though the Obama administration has scaled back the planned deployments. The Arctic has figured in this renewed interest in Cold War weapons systems, particularly the upgrading of the Thule Ballistic Missile Early Warning System radar in Northern Greenland for ballistic missile defence. The Canadian government, as well, has put forward new military capabilities to protect Canadian sovereignty claims in the Arctic, including proposed ice-capable ships, a northern military training base and a deep-water port. Earlier this year Denmark released an all-party defence position paper that suggests the country should create a dedicated Arctic military contingent that draws on army, navy and air force assets with shipbased helicopters able to drop troops anywhere. 58 Danish fighter planes would be tasked to patrol Greenlandic airspace. Last year Norway chose to buy 48 Lockheed Martin F-35 fighter jets, partly because of their suitability for Arctic patrols. In March, that country held a major Arctic military practice involving 7,000 soldiers from 13 countries in which a fictional country called Northland seized offshore oil rigs. 59 The manoeuvres prompted a protest from Russia – which objected again in June after Sweden held its largest northern military exercise since the end of the Second World War. About 12,000 troops, 50 aircraft and several warships were involved. 609 Ridding the Arctic of Nuclear Weapons: A Task Long Overdue Jayantha Dhanapala, President of Pugwash and former UN under-secretary for disarmament affairs, summarized the situation bluntly: “From those in the international peace and security sector, **deep concerns are being expressed over the fact that two nuclear weapon states** – the United States and the Russian Federation, which **together own 95 per cent of the nuclear weapons in the world** **– converge on the Arctic and have competing claims**. These claims, together **with those of other allied NATO countries** – Canada, Denmark, Iceland, and Norway – could, **if unresolved**, **lead to conflict escalating into the threat or use of nuclear weapons**.” 61 Many will no doubt argue that this is excessively alarmist, but **no circumstance in which nuclear powers find themselves in military confrontation can be taken lightly**. The current geo-political threat level is nebulous and low – for now, according to Rob Huebert of the University of Calgary, “[the] issue is the uncertainty as Arctic states and non-Arctic states begin to recognize the geo-political/economic significance of the Arctic because of climate change.” 62

### Legitimacy

#### Ending indefinite detention is CRITICAL in re-establishing US foreign policy credibility abroad AND discouraging Arab countries from using Guantanamo as a pre-text for repression

Randall 13 (Diane, executive secretary of the Friends Committee on National Legislation, "America Must Be Better Than Guantanamo," 7/18, http://www.popularresistance.org/america-must-be-better-than-guantanamo/)

If President Barack Obama and the U.S. Congress want to act immediately to bolster the flagging faith among the international community and among much-needed allies in the Arab World, there is one policy lever that could help: Guantanamo Bay.¶ Speaking as the head of a Quaker faith lobby in Washington DC, and as someone who just returned, this month, from the protested and politically active streets of Istanbul, I can attest to the urgency of this moment.¶ From Istanbul to Sana’a, from Beirut to Baghdad, and from Cairo to Kabul, the protests are becoming more common, calls for reform more frequent, and disregard for America’s role in the region more apparent.¶ Whatever moral authority America once commanded continues to wither as we violate our country’s cherished values of human rights and the rule of law with the continued operation of Guantanamo.¶ There, at Guantanamo, 166 detainees live in captivity; over 80 of those men have been on a hunger strike, many being force-fed against their will. Over half of the total detainees have been cleared of charges and await release. The world watches our government’s inaction to address this injustice.¶ Additionally, and in violation of international law prohibitions against “cruel, inhumane and degrading treatment,” several dozen inmates who remain on hunger strike are being force fed. After being physically immobilized, a two-foot long nasal tube is lodged into their bodies. The process ruptures the protective lining of their throats and stomachs and ruptures any sense of dignity, causing injury to body and soul.¶ The harm to these detainees is awful in the very action, but the fact that America — which considers itself the standard bearer for freedom and justice — is allowing this wound to fester harms our nation’s effectiveness with nations around the globe.¶ This Pentagon malpractice is fueling, quite fast and furiously, anti-American sentiment abroad. And while Sens. Diane Feinstein (D-CA) and Richard Durbin (D-IL) have called for the Pentagon to end force feedings and implement the same prisoner protections currently in place at federal prisons, the world isn’t seeing the nuance among America’s leadership.¶ Beyond the absolute illegality and the severe human rights implications here, the message America is sending to leaders in Yemen, Sudan, Egypt, Pakistan, Afghanistan, Syria, and Libya is one that encourages the contravening of the rule of law, criminal justice, and due process in a court.¶ This is hardly the message we want to send to leaders who may be keen to excuse a similar flouting of democratic governance and principles in their countries. This is especially poignant for a president who made a campaign promise to close the detention camp at Guantanamo Bay.¶ If America cannot keep its promises, how can we expect others, such as Egypt’s Mohamed Morsi, Afghanistan’s Hamid Karzai, or Iraq’s Nur al-Maliki, to keep theirs?¶ Despite President Obama’s recent re-focus on Guantanamo, which has garnered little in terms of a new tack, it is up to Congress to legally lift the restrictions on moving detainees to prisons in the U.S. or to foreign countries. While Obama could veto any forthcoming National Defense Authorization Act, if it includes those restrictions, that move is highly unlikely since Guantanamo is such a small portion of the defense-funding bill.¶ The real task, then, lies in the moral argument that must be made by our leaders and by the American people. We live in a country that believes in the rule of law. Yet, in practice, we are operating in direct, deplorable contradiction with this ethos through our continued and indefinite detention and treatment of persons who have not been charged and should have been released years ago from Guantanamo Bay.

#### And detention outweighs the alt causes

Welsh 11 (David, JD University of Utah, “Procedural Justice Post-9/11: The Effects of Procedurally

Unfair Treatment of Detainees on Perceptions of Global Legitimacy” University of New Hampshire Law Review, <http://law.unh.edu/assets/images/uploads/publications/unh-law-review-vol-09-no2-welsh.pdf>)

The Global War on Terror has been ideologically framed as a struggle between the principles of freedom and democracy on the one hand and tyranny and extremism on the other. 2 Although this war has arguably led to a short-term disruption of terrorist threats such as al-Qaeda, it has also damaged America’s image both at home and abroad. 3 Throughout the world, there is a growing consensus that America has “a lack of credibility as a fair and just world leader.” 4 The perceived legitimacy of the United States in the War on Terror is critical because terrorism is not a conventional threat that can surrender or can be defeated in the traditional sense. Instead, this battle can only be won through legitimizing the rule of law and undermining the use of terror as a means of political influence. 5 Although a variety of political, economic, and security policies have negatively impacted the perceived legitimacy of the United States, one of the most damaging has been the detention, treatment, and trial (or in many cases the lack thereof) of suspected terrorists. While many scholars have raised constitutional questions about the legality of U.S. detention procedures, 6 this article offers a psychological perspective of legitimacy in the context of detention.

#### Credibility is key to rebuilding support for the Trans-Pacific Partnership

Campbell and Pall 10/10/13 (Kurt and Douglas, assistant secretary of state for East Asian and Pacific affairs during the first Obama term + served in the Reagan and Bush administrations at the State Department and on the National Security Council staff, "Will Obama's absence from key Asia summit impact U.S. global interests?," http://www.pbs.org/newshour/bb/asia/july-dec13/asia\_10-10.html)

KURT CAMPBELL: Look, Judy, it's a very subtle game in Asia. It's a long-term game, as Doug suggests.¶ Look, all the countries in Asia want the United States there. We have never been more popular. We have never been more welcome at every table. I think we are in a subtle competition with China. We're both working with them in some circumstances, and other areas, we're competing for influence.¶ Countries want to see that they can rely on us, because they're being reminded on a regular basis that, look, China says we're going to be your neighbor for 1,000 years. Can you really count on the United States in certain circumstances?¶ And so when it comes to that critical trade deal, when it comes to hard determinations about whether you want to work with the United States in the security realm, countries have to think twice. Now, I agree with Doug we can recover from this, but we have to recognize that these have an enduring quality that tend to eat at some of our credibility.¶ JUDY WOODRUFF: Doug Paal, how does the administration recovery? What are some steps they can take right now?¶ DOUGLAS PAAL: Well, first, reschedule some of these meetings so that we get out there.¶ We also have to put a program of cooperative activity, most importantly, push the Trans-Pacific Partnership, which is a very substantial trade agreement for this. Waiting for president to the arrive before each of the leaders would put the sensitive issues they're prepared to compromise on, on the table together with us and our sensitive issues, that's a big thing that still waits to be done.

#### US credibility key to restarting and completing TPP negotiations – key to containing Chinese regional influence

Keller 11/10/13 (Bill, Pulitzer Prize winning journalist @ NYT, "Salvaging Obama," http://www.nytimes.com/2013/11/11/opinion/keller-salvaging-obama.html?\_r=0&pagewanted=print)

Rebalance foreign policy.¶ For years the administration has talked of “rebalancing” our military strategy to address an increasingly assertive China. The Pentagon, liberated from Iraq and drawing down in Afghanistan, has taken some modest steps in this direction, deploying more of the Navy to Asia, devoting more resources to China’s space and cyber threats. But our rivalry with China is not, and should never be, primarily military. We need to compete on the fields of economics and diplomacy. Unfortunately the civilian custodians of our foreign policy have been bogged down in the Middle East, a region that matters a lot, but not as much as it did when we were more dependent on imported oil.¶ In the Middle East, Obama is now pretty much where he wants to be — jaw-jaw, not war-war, as Churchill liked to say — and that is clearly where the American people prefer him to be. Talks (hopeful) are underway to rid Syria of chemical weapons and (less hopeful) to find a diplomatic end to that country’s civil war. There is fitful progress in the talks aimed at testing whether Iran’s new president has the will and the authority to put a verifiable lid on that country’s nuclear program. Talks are taking place on the eternal conundrum of Israel’s coexistence with the Palestinians. Success at any of those tables would be a blessing to humanity and a great lift for the president.¶ But while diplomats are patiently tending these negotiations, there is time to pay attention to unfinished Asia business. The biggest item awaiting some Washington juice is the Trans-Pacific Partnership, an immense, stalled, Asian free-trade agreement that would do more to counter burgeoning China than any number of battleships.¶ Like most free-trade agreements, it has opposition, from critics who fear it would insufficiently protect labor, consumers, the environment and intellectual property. It’s time for the administration to cut some deals, crack some heads and open up those Asian markets.

#### **Failed TPP negotiations ensures the emergence of a Chinese-led economic model**

Ikenson 12/6/13 (Dan, director of Cato's Herbert A. Stiefel Center for Trade Policy Studies + Contributor @ Forbes, "The President's Indifference Imperils The Trans-Pacific Partnership," http://www.forbes.com/sites/danikenson/2013/12/06/the-presidents-indifference-imperils-the-trans-pacific-partnership/)

In a Reuters op-ed this week, Council on Foreign Relations’ scholar Edward Alden lavishes praise on the Obama administration for “quietly embrac[ing] the most ambitious agenda on trade and investment liberalization in the past two decades.” Ted’s take evokes this Washington Post article from last March, in which Howard Schneider noted the emergence of a robust trade agenda and marveled at its meaning. At the time, the announcement of an October 2013 deadline for completing the Trans-Pacific Partnership talks, the launch of the Transatlantic Trade and Investment Partnership negotiations, progress on a revised Information Technology Agreement, and fresh prospects for salvaging some elements of the Doha Round warranted a reappraisal of the state of U.S. trade policy. ¶ In President Obama – both Alden and Schneider suggest – we are observing a metamorphosis from committed trade skeptic into someone seeking to create “a legacy in international economic and trade policy,” as another effusive optimist put it. At the time, I cautioned against crediting the president for a job not yet done and suggested that “Obama’s Trade Policy Should Be Judged on Its Accomplishments, Not Its Promise.”¶ Nine months later, it is waning promise more than notable accomplishment that explains any convergence between the two. Though Doha-lite-lite may have produced some minor agreements (news is still breaking), the ITA has so far failed, and it has become obvious that any benefits from the TTIP – if agreement is eventually struck – are several years away. ¶ But it is the TPP that really matters most to U.S. trade policy. Much time, effort, and credibility have been invested in the TPP negotiations – the economic arm of the administration’s “pivot” to Asia. If TPP fails to produce a comprehensive, ambitious agreement, the economic and diplomatic consequences will be far reaching. Not only would a U.S. reputation already sullied by scandal, equivocation and hypocrisy slip further, but an alternative model for economic integration in the dynamic Asia-Pacific region driven by Chinese priorities would emerge to fill the void.

#### This Chinese-led economic model destroys global capitalism, interdependence and multilateral cooperation

**Posen 9** (Adam, deputy director and senior fellow of the Peterson Institute for International Economics (Adam, “Economic leadership beyond the crisis,” http://clients.squareeye.com/uploads/foresight/documents/PN%20USA\_FINAL\_LR\_1.pdf)

In the postwar period, US power and prestige, beyond the nation’s military might, have been based largely on American relative economic size and success. These facts enabled the US to promote economic openness and buy-in to a set of economic institutions, formal and informal, that resulted in increasing international economic integration. With the exception of the immediate post-Bretton Woods oil-shock period (1974-85), this combination produced generally growing prosperity at home and abroad, and underpinned the idea that there were benefits to other countries of following the American model and playing by American rules.¶ Initially this system was most influential and successful in those countries in tight military alliance with the US, such as Canada, West Germany, Japan, South Korea, and the United Kingdom. With the collapse of Soviet communism in 1989, and the concomitant switch of important emerging economies, notably Brazil, China, India, and Mexico, to increasingly free-market capitalism, global integration on American terms through American leadership has been increasingly dominant for the last two decades. The global financial crisis of 2008-09, however, represents a challenge to that world order. While overt financial panic has been averted, and most economic forecasts are for recovery to begin in the US and the major emerging markets well before end of 2009 (a belief I share), there remain significant risks for the US and its leadership. The global financial system, including but not limited to US-based entities, has not yet been sustainably reformed. In fact, financial stability will come under strain again when the current government financial guarantees and public ownership of financial firms and assets are unwound over the next couple of years. The growth rate of the US economy and the ability of the US government to finance responses to future crises, both military and economic, will be meaningfully curtailed for several years to come.¶ Furthermore, the crisis will accelerate at least temporarily two related long-term trends eroding the viability of the current international economic arrangements. First, perhaps inevitably, the economic size and importance of China, India, Brazil, and other emerging markets (including oil-exporters like Russia) has been catching up with the US, and even more so with demographically and productivity challenged Europe and northeast Asia. Second, pressure has been building over the past fifteen years or so of these developing countries’ economic rise to give their governments more voice and weight in international economic decision-making. Again, this implies a transfer of relative voting share from the US, but an even greater one from overrepresented Western Europe. The near certainty that Brazil, China, and India, are to be less harmed in real economic terms by the current crisis than either the US or most other advanced economies will only emphasise their growing strength, and their ability to claim a role in leadership. The need for capital transfers from China and oil-exporters to fund deficits and bank recapitalisation throughout the West, not just in the US, increases these rising countries’ leverage and legitimacy in international economic discussions.¶ One aspect of this particular crisis is that American economic policymakers, both Democratic and Republican, became increasingly infatuated with financial services and innovation beginning in the mid-1990s. This reflected a number of factors, some ideological, some institutional, and some interest group driven. The key point here is that export of financial services and promotion of financial liberalisation on the US securitised model abroad came to dominate the US international economic policy agenda, and thus that of the IMF, the OECD, and the G8 as well. This came to be embodied by American multinational commercial and investment banks, in perception and in practice. That particular version of the American economic model has been widely discredited, because of the crisis’ apparent origins in US lax regulation and over-consumption, as well as in excessive faith in American-style financial markets.¶ Thus, American global economic leadership has been eroded over the long-term by the rise of major emerging market economies, disrupted in the shortterm by the nature and scope of the financial crisis, and partially discredited by the excessive reliance upon and overselling of US-led financial capitalism. This crisis therefore presents the possibility of the US model for economic development being displaced, not only deservedly tarnished, and the US having limited resources in the near-term to try to respond to that challenge. Additionally, the US’ traditional allies and co-capitalists in Western Europe and Northeast Asia have been at least as damaged economically by the crisis (though less damaged reputationally).¶ Is there an alternative economic model?¶ The preceding description would seem to confirm the rise of the Rest over the West. That would be premature. The empirical record is that economic recovery from financial crises, while painful, is doable even by the poorest countries, and in advanced countries rarely leads to significant political dislocation. Even large fiscal debt burdens can be reined in over a few years where political will and institutions allow, and the US has historically fit in that category. A few years of slower growth will be costly, but also may put the US back on a sustainable growth path in terms of savings versus consumption.¶ Though the relative rise of the major emerging markets will be accelerated by the crisis, that acceleration will be insufficient to rapidly close the gap with the US in size, let alone in technology and well-being. None of those countries, except perhaps for China, can think in terms of rivaling the US in all the aspects of national power. These would include: a large, dynamic and open economy; favorable demographic dynamics; monetary stability and a currency with a global role; an ability to project hard power abroad; and an attractive economic model to export for wide emulation.¶ This last point is key. In the area of alternative economic models, one cannot beat something with nothing – communism fell not just because of its internal contradictions, or the costly military build-up, but because capitalism presented a clearly superior alternative. The Chinese model is in part the American capitalist (albeit not high church financial liberalisation) model, and is in part mercantilism. There has been concern that some developing or small countries could take the lesson from China that building up lots of hard currency reserves through undervaluation and export orientation is smart. That would erode globalisation, and lead to greater conflict with and criticism of the US-led system.¶ While in the abstract that is a concern, most emerging markets – and notably Brazil, India, Mexico, South Africa, and South Korea – are not pursuing that extreme line. The recent victory of the incumbent Congress Party in India is one indication, and the statements about openness of Brazilian President Lula is another. Mexico’s continued orientation towards NAFTA while seeking other investment flows (outside petroleum sector, admittedly) to and from abroad is a particularly brave example. Germany’s and Japan’s obvious crisis-prompted difficulties emerging from their very high export dependence, despite their being wealthy, serve as cautionary examples on the other side. So unlike in the1970s, the last time that the US economic performance and leadership were seriously compromised, we will not see leading developing economies like Brazil and India going down the import substitution or other self-destructive and uncooperative paths.¶ If this assessment is correct, the policy challenge is to deal with relative US economic decline, but not outright hostility to the US model or displacement of the current international economic system. That is reassuring, for it leaves us in the realm of normal economic diplomacy, perhaps to be pursued more multilaterally and less high-handedly than the US has done over the past 20 years. It also suggests that adjustment of current international economic institutions is all that is required, rather than desperately defending economic globalisation itself.¶ For all of that reassurance, however, the need to get buy-in from the rising new players to the current system is more pressing on the economic front than it ever has been before. Due to the crisis, the ability of the US and the other advanced industrial democracies to put up money and markets for rewards and side-payments to those new players is also more limited than it has been in the past, and will remain so for at least the next few years. The need for the US to avoid excessive domestic self-absorption is a real concern as well, given the combination of foreign policy fatigue from the Bush foreign policy agenda and economic insecurity from the financial crisis.¶ Managing the post-crisis global economy¶ Thus, the US faces a challenging but not truly threatening global economic situation as a result of the crisis and longer-term financial trends. Failure to act affirmatively to manage the situation, however, bears two significant and related risks: first, that China and perhaps some other rising economic powers will opportunistically divert countries in US-oriented integrated relationships to their economic sphere(s); second, that a leadership vacuum will arise in international financial affairs and in multilateral trade efforts, which will over time erode support for a globally integrated economy. Both of these risks if realised would diminish US foreign policy influence, make the economic system less resilient in response to future shocks (to every country’s detriment), reduce economic growth and thus the rate of reduction in global poverty, and conflict with other foreign policy goals like controlling climate change or managing migration and demographic shifts. If the US is to rise to the challenge, it should concentrate on the following priority measures.

#### Economic nationalism will collapse growth and prompt global war

**Garten 9** (Jeffrey, professor at the Yale School of Management, “The Dangers of Turning Inward”, 3/5, Wall Street Journal, http://www.business.illinois.edu/aguilera/Teaching/WSJ09\_Dangers\_of\_Turning\_Inward.pdf)

The last time we saw sustained economic nationalism was in the 1930s, when capital flows and trade among countries collapsed, and every country went its own way. World growth went into a ditch, political ties among nations deteriorated, nationalism and populism combined to create fascist governments in Europe and Asia, and a world war took place. It took at least a generation for globalization to get back on track. There have been some bouts of inward- looking governmental action since then, such as the early 1970s when the U.S. cut the dollar from its gold base and imposed export embargoes on soybeans and steel scrap. However, the economic conditions were not sufficiently bad for the trend to sustain itself.¶ The kind of economic nationalism we are seeing today is not yet extreme. It is also understandable. The political pressures could hardly be worse. Over the last decade, the global economy grew on average about 4% to 5%, and this year it will come to a grinding halt: 0.5% according to the International Monetary Fund, where projections usually err on the optimistic side. World trade, which has grown much faster than global gross domestic product for many years, is projected to decline this year for the first time since 1982. Foreign direct investment last year slumped by 10% from 2007. Most dramatically, capital flows into emerging market nations are projected to drop this year by nearly 80% compared to 2007.¶ The aggregate figures don't tell the story of what is unraveling in individual countries. In the last quarter of 2008, U.S. GDP dropped by 6.2% at an annual rate, the U.K. by 5.9%, Germany by 8.2%, Japan by 12.7% and South Korea by 20.8%. Mexico, Thailand and Singapore and most of Eastern Europe are also in deep trouble. In every case, employment has been plummeting. So far popular demonstrations against government policies have taken place in the U.K., France, Greece, Russia and throughout Eastern Europe. And the governments of Iceland and Latvia have fallen over the crisis.¶ Governments could therefore be forgiven if they are preoccupied above all with the workers and companies within their own borders. Most officials don't know what to do because they haven't seen this level of distress before. They are living from day to day, desperately improvising and trying to hold off political pressure to take severe measures they know could be satisfying right now but cause bigger damage later. Thinking about how their policies might affect other countries is not their main focus, let alone taking the time to try to coordinate them internationally.¶ Besides, whether it's in Washington, Brussels, Paris, Beijing, Brazilia or Tokyo, it is hard to find many top officials who wouldn't say that whatever measures they are taking that may undermine global commerce are strictly temporary. They all profess that when the crisis is over, they will resume their support for globalization. They underestimate, however, how hard it could be to reverse course.¶ Political figures take comfort, too, from the global institutions that were not present in the 1930s -- the IMF, the World Bank and the World Trade Organization, all of which are assumed to be keeping globalization alive. This is a false sense of security, since these institutions are guided by sovereign countries. Government officials often feel that because they are going to endless crisis summit meetings -- the next big one is in London on April 2, when the world's top 20 nations will be assembling -- that some international coordination is actually taking place. This is mostly an illusion. With a few exceptions, such as the so-called Plaza Agreements of 1984 when currencies were realigned, it is difficult to point to a meeting where anything major has been said and subsequently implemented. ¶ But as the pressure on politicians mounts, decisions are being made on an incremental and ad hoc basis that amounts to a disturbing trend.¶ Classic trade protectionism is on the rise. In the first half of 2008, the number of investigations in the World Trade Organization relating to antidumping cases -- selling below cost -- was up 30% from the year before. Washington has recently expanded sanctions against European food products in retaliation for Europe's boycott against hormone- treated American beef -- an old dispute, to be sure, but one that is escalating.¶ In the last several months, the E.U. reintroduced export subsidies on butter and cheese. India raised tariffs on steel products, as did Russia on imported cars. Indonesia ingenuously designated that just a few of its ports could be used to import toys, creating a trade-blocking bottleneck. Brazil and Argentina have been pressing for a higher external tariff on imports into a South American bloc of countries called Mercosur. Just this week, the E.U. agreed to levy tariffs on American exports of biodiesel fuel, possibly a first shot in what may become a gigantic trade war fought over different environmental policies -- some based on taxes, some on regulation, some on cap and trade -- being embraced by individual countries.¶ Much bigger problems have arisen in more non-traditional areas and derive from recent direct intervention of governments. The much-publicized "Buy America" provision of the U.S. stimulus package restricts purchases of construction-related goods to many U.S. manufacturers, and although it is riddled with exceptions, it does reveal Washington's state of mind. The bailout of GM and Chrysler is a purely national deal. Such exclusion against foreign firms is a violation of so-called "national treatment" clauses in trade agreements, and the E.U. has already put Washington on notice that it will pursue legal trade remedies if the final bailout package is discriminatory.¶ Uncle Sam is not the only economic nationalist. The Japanese government is offering to help a broad array of its corporations -- but certainly not subsidiaries of foreign companies in Japan -- by purchasing the stock of these firms directly, thereby not just saving them but providing an advantage over competition from non-Japanese sources. The French government has created a sovereign wealth fund to make sure that certain "national champions," such as car- parts manufacturer Valeo and aeronautics component maker Daher, aren't bought by foreign investors.¶ Government involvement in financial institutions has taken on an anti-globalization tone. British regulators are pushing their global banks to redirect foreign lending to the U.K. when credit is sorely needed and where it can be monitored. Just this past week, the Royal Bank of Scotland announced it was closing shop in 60 foreign countries. Western European banks that were heavily invested in countries such as Hungary, the Czech Republic and the Baltics have pulled back their credits, causing a devastating deflation throughout Eastern Europe. The Swiss are reportedly considering more lenient accounting policies for loans their banks make domestically as opposed to abroad.¶ This de-globalizing trend could well be amplified by Washington's effort to exercise tight oversight of several big financial institutions. Already AIG's prime Asian asset, American International Assurance Company, is on the block. As the feds take an ever bigger stake in Citigroup, they may well force it to divest itself of many of its prized global holdings, such as Banamex in Mexico and Citi Handlowy in Poland. It appears that new legislation under the Troubled Asset Relief Program will also restrict the employment of foreign nationals in hundreds of American banks in which the government has a stake.¶ Whether or not it goes into bankruptcy, General Motors will be pressed to sell many of its foreign subsidiaries, too. Even Chinese multinationals such as Haier and Lenovo are beating a retreat to their own shores where the risks seem lower than operating in an uncertain global economy. The government in Beijing is never far away from such fundamental strategic decisions.¶ Then there is the currency issue. Economic nationalists are mercantilists. They are willing to keep their currency cheap in order to make their exports more competitive. China is doing just that. A big question is whether other Asian exporters that have been badly hurt from the crisis -- Taiwan, South Korea and Thailand, for example -- will follow suit. Competitive devaluations were a major feature of the 1930s.¶ It's no accident that the European Union has called an emergency summit for this Sunday to consider what to do with rising protectionism of all kinds.¶ There are a number of reasons why economic nationalism could escalate. The recession could last well beyond this year. It is also worrisome that the forces of economic nationalism were gathering even before the crisis hit, and have deeper roots than most people know. Congress denied President Bush authority to negotiate trade agreements two years ago, fearing that America was not benefiting enough from open trade, and an effort to reform immigration was paralyzed for years. Globally, international trade negotiations called the Doha Round collapsed well before Bear Stearns and Lehman Brothers did. Concerns that trade was worsening income distribution were growing in every major industrial nation since the late 1990s.¶ Whenever countries turned inward over the past half-century, Washington was a powerful countervailing force, preaching the gospel of globalization and open markets for goods, services and capital. As the Obama administration works feverishly to fire up America's growth engines, patch up its financial system and keep its housing market from collapsing further, and as its major long-term objectives center on health, education and reducing energy dependence on foreign sources, the country's preoccupations are more purely domestic than at any time since the 1930s.¶ In the past, American business leaders from companies such as IBM, GE, Goldman Sachs and, yes, Citigroup and Merrill Lynch beat the drum for open global markets. As their share prices collapse, some voices are muted, some silenced. It is not easy to find anyone in America who has the stature and courage to press for a more open global economy in the midst of the current economic and political crosswinds.¶ And given that the global rot started in the U.S. with egregiously irresponsible lending, borrowing and regulation, America's brand of capitalism is in serious disrepute around the world. Even if President Obama had the mental bandwidth to become a cheerleader for globalization, America's do-as-I-say-and-not-as-I-do leadership has been badly compromised.¶ If economic nationalism puts a monkey wrench in the wheels of global commerce, the damage could be severe. The U.S. is a good example. It is inconceivable that Uncle Sam could mount a serious recovery without a massive expansion of exports -- the very activity that was responsible for so much of America's economic growth during the middle of this decade. But that won't be possible if other nations block imports.¶ For generations, the deficits that we have run this past decade and the trillions of dollars we are spending now mean we will be highly dependent on foreign loans from China, Japan and other parts of the world. But these will not be forthcoming at prices we can afford without a global financial system built on deep collaboration between debtors and creditors -- including keeping our market open to foreign goods and services.¶ The Obama administration talks about a super-competitive economy, based on high-quality jobs -- which means knowledge-intensive jobs. This won't happen if we are not able to continue to bring in the brightest people from all over the world to work and live here. Silicon Valley, to take one example, would be a pale shadow of itself without Indian, Chinese and Israeli brain power in its midst.¶ More generally, without an open global economy, worldwide industries such as autos, steel, banking and telecommunications cannot be rationalized and restructured efficiently, and we'll be doomed to have excessive capacity and booms and busts forever. The big emerging markets such as China, India, Brazil, Turkey and South Africa will never be fully integrated into the world economy, depriving them and us of future economic growth. The productivity of billions of men and women entering the global workforce will be stunted to everyone's detriment.¶ Of course, no one would say that globalization is without its problems. Trade surges and products made by low-priced labor can lead to job displacement and increasing income inequality. Proud national cultures can be undermined. But these challenges can be met by reasonable regulation and by domestic policies that provide a strong social safety net and the kind of education that helps people acquire new skills for a competitive world. With the right responses of governments, the benefits should far outweigh the disadvantages. For thousands of years, globalization has increased global wealth, individual choice and human freedom.¶ The point is, economic nationalism, with its implicit autarchic and save-yourself character, embodies exactly the wrong spirit and runs in precisely the wrong direction from the global system that will be necessary to create the future we all want.¶ As happened in the 1930s, economic nationalism is also sure to poison geopolitics. Governments under economic pressure have far fewer resources to take care of their citizens and to deal with rising anger and social tensions. Whether or not they are democracies, their tenure can be threatened by popular resentment. The temptation for governments to whip up enthusiasm for something that distracts citizens from their economic woes -- a war or a jihad against unpopular minorities, for example -- is great. That's not all. As an economically enfeebled South Korea withdraws foreign aid from North Korea, could we see an even more irrational activity from Pyongyang? As the Pakistani economy goes into the tank, will the government be more likely to compromise with terrorists to alleviate at least one source of pressure? As Ukraine strains under the weight of an IMF bailout, is a civil war with Cold War overtones between Europe and Russia be in the cards?¶ And beyond all that, how will economically embattled and inward-looking governments be able to deal with the critical issues that need global resolution such as control of nuclear weapons, or a treaty to manage climate change, or help to the hundreds of millions of people who are now falling back into poverty?

#### Economic nationalism causes economic collapse, terrorism, and great power wars – the impact is extinction

**Panzner 8 (**Michael,faculty at the New York Institute of Finance, 25-year veteran of the global stock, bond, and currency markets who has worked in New York and London for HSBC, Soros Funds, ABN Amro, Dresdner Bank, and JPMorgan Chase, Financial Armageddon: Protect Your Future from Economic Collapse, Revised and Updated Edition, p. 136-138, googlebooks)

Continuing calls for curbs on the flow of finance and trade will inspire the United States and other nations to spew forth protectionist legislation like the notorious Smoot-Hawley bill. Introduced at the start of the Great Depression, it triggered a series of tit-for-tat economic responses, which many commentators believe helped turn a serious economic downturn into a prolonged and devastating global disaster, But if history is any guide, those lessons will have been long forgotten during the next collapse. Eventually, fed by a mood of desperation and growing public anger, restrictions on trade, finance, investment, and immigration will almost certainly intensify. ¶ Authorities and ordinary citizens will likely scrutinize the cross-border movement of Americans and outsiders alike, and lawmakers may even call for a general crackdown on nonessential travel. Meanwhile, many nations will make transporting or sending funds to other countries exceedingly difficult. As desperate officials try to limit the fallout from decades of ill-conceived, corrupt, and reckless policies, they will introduce controls on foreign exchange, foreign individuals and companies seeking to acquire certain American infrastructure assets, or trying to buy property and other assets on the (heap thanks to a rapidly depreciating dollar, will be stymied by limits on investment by noncitizens. Those efforts will cause spasms to ripple across economies and markets, disrupting global payment, settlement, and clearing mechanisms. All of this will, of course, continue to undermine business confidence and consumer spending. ¶ In a world of lockouts and lockdowns, any link that transmits systemic financial pressures across markets through arbitrage or portfolio-based risk management, or that allows diseases to be easily spread from one country to the next by tourists and wildlife, or that otherwise facilitates unwelcome exchanges of any kind will be viewed with suspicion and dealt with accordingly. ¶ The rise in isolationism and protectionism will bring about ever more heated arguments and dangerous confrontations over shared sources of oil, gas, and other key commodities as well as factors of production that must, out of necessity, be acquired from less-than-friendly nations. Whether involving raw materials used in strategic industries or basic necessities such as food, water, and energy, efforts to secure adequate supplies will take increasing precedence in a world where demand seems constantly out of kilter with supply. Disputes over the misuse, overuse, and pollution of the environment and natural resources will become more commonplace. Around the world, such tensions will give rise to full-scale military encounters, often with minimal provocation. ¶ In some instances, economic conditions will serve as a convenient pretext for conflicts that stem from cultural and religious differences. Alternatively, nations may look to divert attention away from domestic problems by channeling frustration and populist sentiment toward other countries and cultures. Enabled by cheap technology and the waning threat of American retribution, terrorist groups will likely boost the frequency and scale of their horrifying attacks, bringing the threat of random violence to a whole new level. ¶ Turbulent conditions will encourage aggressive saber rattling and interdictions by rogue nations running amok. Age-old clashes will also take on a new, more healed sense of urgency. China will likely assume an increasingly belligerent posture toward Taiwan, while Iran may embark on overt colonization of its neighbors in the Mideast. Israel, for its part, may look to draw a dwindling list of allies from around the world into a growing number of conflicts. Some observers, like John Mearsheimer, a political scientist at the University of Chicago, have even speculated that an "intense confrontation" between the United States and China is "inevitable" at some point. ¶ More than a few disputes will turn out to be almost wholly ideological. Growing cultural and religious differences will be transformed from wars of words to battles soaked in blood. Long-simmering resentments could also degenerate quickly, spurring the basest of human instincts and triggering genocidal acts. Terrorists employing biological or nuclear weapons will vie with conventional forces using jets, cruise missiles, and bunker-busting bombs to cause widespread destruction. Many will interpret stepped-up conflicts between Muslims and Western societies as the beginnings of a new world war.

#### AND multilateral economic cooperation solves key global threats – especially global warming

**Matthews 07** (Jessica, president of the Carnegie Endowment for International Peace, "Europe and the US: Confronting Global Challenges," 11/8, http://www.carnegieendowment.org/files/transcript\_mandelson.pdf)

Now, the question I want to answer today is, how do we do this and to what purpose? Firstly, fundamentally, we must engage with economic globalization, accept it, shape it. We’re not going to roll it back, and if we could, we shouldn’t seek to do so. In fact, I’d argue that the preservation of an equitable economic globalization should be the core political commitment at the heart of the transatlantic economic relationship, equivalent in its way to the mutual commitment to democracy that the Atlantic Charter embodied six decades ago, because managed right, an economically integrated world is ultimately not only a more stable and a more equitable world; it is also our principal means of meeting the increasing number of global challenges that require collective action.¶ The reshaping of the global economy and the huge dramatic changes that are taking place in the economic landscape of the world certainly test the nerves of us in Europe and the nerves of you too in the United States. But just because it tests our nerves doesn’t mean to say that these changes are not in our interests.¶ It’s true that some parts of our manufacturing sectors are certainly facing some tough competitive pressure. It is true that this will force us to think about how we choose to educate and to train ourselves in the future, and how we ensure that the benefits of economic growth are equitably shared. That’s a major policy challenge for us on both sides of the Atlantic. It is true that because of these great changes and the huge anxiety that they are generating amongst people on both sides of the Atlantic that policymakers are under increasing pressure to show that our embrace of economic globalization is not naivety, that we’re not being taken for a ride, in other words, by the rest of the world; to show that – as we need to do as policymakers – to show that closing the gate to the outside world is not a better alternative to keeping that gate open to the rest of the world.¶ Now, these debates are broadly the same in Europe and the United States. But in an open global market, we have to understand that the growing economies of the developing world are also a competitive stimulus and a real engine for the growth of our own economies. They are a market for our goods and for our investment. They are a source of downward pressure on consumer prices and inflation at home. They are also the driving force that has lifted perhaps half a billion people out of poverty in half a human lifetime, which is hard to argue against.¶ In defending and preserving this openness to the world and this growth of the global economy and its integration, the EU and the U.S. are faced with some simple realities. The first is that we now live in a world that is increasingly economically multi-polar. One billion new workers have entered the global labor force in the space of just two decades in the world. In those 20-odd years, China has risen from a country with which the EU traded almost literally nothing to becoming our biggest trading partner for manufacturers.¶ In some ways, an older balance of economic power is reasserting itself in the world. In 1830, India and China were the two biggest economies in the world – in 1830. By 2050, they will again be amongst the very largest economies in the world. Of course, this is not the only way of weighing power in the modern world, far from it. But it is fundamental. And that’s in the nature of the fundamental revolution in economic terms, and also political terms, therefore, that the world is undergoing.¶ Now, the machinery of what you might call the Atlantic consensus – the World Bank, the IMF, GATT, G7 or G8 – was conceived and rooted in the assumption that the global economic and political order could and would indeed be governed largely by the Atlantic world. That assumption now no longer holds. There has been a reorientation from the Atlantic to the Pacific and beyond. Now, the multilateral institutions that survive, therefore, will be those ones that are able to adapt to this new 21st century landscape.¶ The second simple reality that I would identify for you is that economic globalization means interdependence. This is not simply a question of global supply chains and production lines. Our open markets are a ladder out of poverty for the developing world. Their growing markets are a source of growth for us. That is the fundamental interdependence that links and joins us and our interests together in the global economy. A world of growing prosperity and economic integration is a more stable world, even if it doesn’t always feel that way¶ Now, for that reason, multilateral institutions in the multilateral trading system will matter more than ever in the new global age of the 21st century. There is no going it alone in this century, in this global age. Interdependence doesn’t allow going it alone in the way that we have tried to practice or imagine it was possible in the past. Our ability to get things done multilaterally will define the extent to which we can shape globalization in a way that makes it equitable and sustainable and binds in the big new players who are emerging in that global economy. It will certainly define the extent to which we can confront huge pressing problems such as global warming, migration, nuclear proliferation, and energy security.

**It’s the most likely scenario for extinction**

**Deibel 7** [Terry L. Professor of IR at National War College, 2007 “Foreign Affairs Strategy: Logic for American Statecraft”, Conclusion: American Foreign Affairs Strategy Today]

Finally, **there is one major existential threat** to American security (as well as prosperity) of a nonviolent nature, **which**, though far in the future, **demands urgent action. It is the threat of global warming to the stability of the climate upon which all earthly life depends. Scientists** worldwide have **been observing** the gathering of this threat **for three decades now, and what was once a** mere **possibility has passed through probability to near certainty**. Indeed **not one of more than 900 articles on climate change published in refereed scientific journals from 1993 to 2003 doubted that anthropogenic warming is occurring. “In legitimate scientific circles**,” writes Elizabeth Kolbert, “**it is virtually impossible to find evidence of disagreement over the fun damentals of global warming**.” Evidence from a vast international scientific monitoring effort accumulates almost weekly, as this sample of newspaper reports shows: an international panel predicts “brutal droughts, floods and violent storms across the planet over the next century”; climate change could “literally alter ocean currents, wipe away huge portions of Alpine Snowcaps and aid the spread of cholera and malaria”; “glaciers in the Antarctic and in Greenland are melting much faster than expected, and…worldwide, plants are blooming several days earlier than a decade ago”; “rising sea temperatures have been accompanied by a significant global increase in the most destructive hurricanes”; “NASA scientists have concluded from direct temperature measurements that 2005 was the hottest year on record, with 1998 a close second”;“**Earth’s warming climate is estimated to contribute to more than 150,000 deaths and 5 million illnesses each year” as disease spreads**; “widespread bleaching from Texas to Trinidad…killed broad swaths of corals” due to a 2-degree rise in sea temperatures. “**The world is slowly disintegrating**,” concluded Inuit hunter Noah Metuq, who lives 30 miles from the Arctic Circle. “They call it climate change…but we just call it breaking up.” From the founding of the first cities some 6,000 years ago until the beginning of the industrial revolution, carbon dioxide levels in the atmosphere remained relatively constant at about 280 parts per million (ppm). At present they are accelerating toward 400 ppm, and by 2050 they will reach 500 ppm, about double pre-industrial levels. **Unfortunately, atmospheric CO2 lasts about a century, so there is no way immediately to reduce levels, only to slow their increase, we are thus in for significant global warming; the only debate is how much and how serous the effects will be**. As the newspaper stories quoted above show, **we are already experiencing** the effects of 1-2 degree warming in more **violent storms, spread of disease, mass die offs of plants and animals, species extinction, and** threatened **inundation of low-lying countries** like the Pacific nation of Kiribati and the Netherlands at a warming of 5 degrees or less **the Greenland and West Antarctic ice sheets could disintegrate, leading to a sea level of rise of 20 feet** that would cover North Carolina’s outer banks, swamp the southern third of Florida, and inundate Manhattan up to the middle of Greenwich Village. **Another catastrophic effect would be the collapse of the Atlantic thermohaline circulation that keeps the winter weather in Europe far warmer than its latitude would otherwise allow**. Economist William Cline once estimated the damage to the United States alone from moderate levels of warming at 1-6 percent of GDP annually; severe warming could cost 13-26 percent of GDP. But **the most frightening scenario is runaway greenhouse warming, based on positive feedback from the buildup of water vapor in the atmosphere that is both caused by and causes hotter surface temperatures**. Past ice age transitions, associated with only 5-10 degree changes in average global temperatures, took place in just decades, even though no one was then pouring ever-increasing amounts of carbon into the atmosphere. Faced with this specter, the best one can conclude is that “humankind’s **continuing enhancement of the natural greenhouse effect is akin to playing Russian roulette with the earth’s climate and humanity’s life support system**. At worst, says physics professor Marty Hoffert of New York University, “**we’re just going to burn everything up; we’re going to heat the atmosphere to the temperature it was in the Cretaceous when there were crocodiles at the poles, and then everything will collapse**.” During the Cold War, astronomer Carl Sagan popularized a theory of nuclear winter to describe how a thermonuclear war between the Untied States and the Soviet Union would not only destroy both countries but possibly end life on this planet. **Global warming is the** post-Cold War era’s **equivalent of nuclear winter** at least as serious **and considerably better supported scientifically**. Over the long run **it puts dangers form** terrorism and traditional **military challenges to shame. It is a threat** not only to the security and prosperity to the United States, but potentially **to the continued existence of life on this planet**.

#### Multilateral cooperation independently solves multiple existential threats

**Dyer 4** (Gwynne, worked as a freelance journalist, columnist, broadcaster and lecturer on international affairs for more than 20 years, but he was originally trained as an historian. Born in Newfoundland, he received degrees from Canadian, American and British universities, finishing with a Ph.D. in Military and Middle Eastern History from the University of London, "The end of war," Toronto Star, 12/30, l/n)

War is deeply embedded in our history and our culture, probably since before we were even fully human, but weaning ourselves away from it should not be a bigger mountain to climb than some of the other changes we have already made in the way we live, given the right incentives. And we have certainly been given the right incentives: The holiday from history that we have enjoyed since the early '90s may be drawing to an end, and another great-power war, fought next time with nuclear weapons, may be lurking in our future..¶ The "firebreak" against nuclear weapons use that we began building after Hiroshima and Nagasaki has held for well over half a century now. But the proliferation of nuclear weapons to new powers is a major challenge to the stability of the system. So are the coming crises, mostly environmental in origin, which will hit some countries much harder than others, and may drive some to desperation.¶ Add in the huge impending shifts in the great-power system as China and India grow to rival the United States in GDP over the next 30 or 40 years and it will be hard to keep things from spinning out of control. With good luck and good management, we may be able to ride out the next half-century without the first-magnitude catastrophe of a global nuclear war, but the potential certainly exists for a major die-back of human population.¶ We cannot command the good luck, but good management is something we can choose to provide. It depends, above all, on preserving and extending the multilateral system that we have been building since the end of World War II. The rising powers must be absorbed into a system that emphasizes co-operation and makes room for them, rather than one that deals in confrontation and raw military power. If they are obliged to play the traditional great-power game of winners and losers, then history will repeat itself and everybody loses.¶ Our hopes for mitigating the severity of the coming environmental crises also depend on early and concerted global action of a sort that can only happen in a basically co-operative international system. ¶ When the great powers are locked into a military confrontation, there is simply not enough spare attention, let alone enough trust, to make deals on those issues, so the highest priority at the moment is to keep the multilateral approach alive and avoid a drift back into alliance systems and arms races. And there is no point in dreaming that we can leap straight into some never-land of universal brotherhood; we will have to confront these challenges and solve the problem of war within the context of the existing state system.

**Indefinite detention is the key internal link to recruitment and causes a resource trade off which shatters the ability to fight terrorism**

**Powell 8** (Catherine, Georgetown Law Visiting Professor for the 2012-13 academic year and teaches international law, constitutional law, and constitutional rights in comparative perspective. She has recently served in government on Secretary of State Hillary Clinton’s Policy Planning Staff and on the White House National Security Staff, where she was Director for Human Rights. “Scholars’ Statement of Principles for the New President on U.S. Detention Policy: An Agenda for Change\*” <http://www.law.yale.edu/documents/pdf/Alumni_Affairs/Scholars_Statement.pdf>)

Across the political spectrum, there is a growing consensus that the existing system of long term detention of terrorism suspects without trial through the network of facilities in Guantanamo and elsewhere is an unsustainable liability for the United States that must be changed. The current policies undermine the rule of law and our national security. The last seven years have seen a dangerous erosion of the rule of law in the United States through a disingenuous interpretation of the laws of war, the denial of ordinary legal process, the violation of the most basic rights, and the use of unreliable evidence (including secret and coerced evidence). The current detention policies also point to the inherent fallibility of “preventive” determinations that are based on assessment of future dangerousness (as opposed to past criminal conduct). Empirical studies demonstrate that “preventive” detention determinations that rely on assessment of future dangerousness generate unacceptably high levels of false positives (i.e., detention of innocent people).1 Indeed, while the Bush Administration once claimed the Guantanamo detainees were “the worst of the worst,” following minimal judicial intervention, it subsequently released more than 300 of them, as of the end of 2006.2 Because it is viewed as unprincipled, unreliable, and illegitimate, the existing detention system undermines our national security. Because the current system threatens our national security, we strongly oppose any effort to extend the status quo by establishing either (1) a comprehensive system of long-term “preventive” detention without trial for suspected terrorists, or (2) a specialized national security court to make “preventive” detention determinations and ultimately to try terrorism suspects.3 Despite dressed up procedures, these proposals would make some of the most notorious aspects of the current failed system permanent. To the extent such systems were established within the territorial United States as opposed to on Guantanamo or elsewhere, they would essentially bring the failed Guantanamo system home. Perhaps most fundamental is the fact that the supporters of these proposals typically fail to make clear who should be detained, much less how such individuals, once designated, can prove they are no longer a threat. Without a reasonably precise definition, not only is arbitrary and indefinite detention possible, it is nearly inevitable. Moreover, many of the proponents of a renewed “preventive” detention regime explicitly underscore the primacy of interrogation with respect to detainees’ otherwise-recognized rights. A detention system that permits ongoing interrogation inevitably treats individuals as means to an end, regardless of the danger they individually pose, thereby creating perverse incentives to prolonged, incommunicado, arbitrary (and indefinite) detention, minimized procedural protections, and coercive interrogation. Such **arrangements instill resentment and provide propaganda for recruitment of future terrorists, undermine our relationships with our allies, and embolden terrorists as “combatants” in a “war on terror”** (rather than delegitimizing them as criminals in the ordinary criminal justice system).4 Moreover, the current system of long term (and, essentially, **indefinite) detention diverts resources and attention away from other, more effective means of combating terrorism.** Reflecting what has now become a broad consensus around the need to use the full range of instruments of state power to combat terrorism, the bi-partisan 9/11 Commission pointed out that “long-term success [in efforts to pursue al Qaeda] demands the use of all elements of national power: diplomacy, intelligence, covert action, law enforcement, economic policy, foreign aid, public diplomacy, and homeland defense.”5 Thus, in addition to revamping the existing detention program to bring it within the rule of law, the incoming President should work with Congress to utilize this broad array of tools to vigorously prosecute terrorism.

**Terrorism goes nuclear---high risk of theft and attacks escalate**

**Dvorkin 12** (Vladimir Z., Major General (retired), doctor of technical sciences, professor, and senior fellow at the Center for International Security of the Institute of World Economy and International Relations of the Russian Academy of Sciences. The Center participates in the working group of the U.S.-Russia Initiative to Prevent Nuclear Terrorism, 9/21/12, "What Can Destroy Strategic Stability: Nuclear Terrorism is a Real Threat," belfercenter.ksg.harvard.edu/publication/22333/what\_can\_destroy\_strategic\_stability.html)

Hundreds of scientific papers and reports have been published on nuclear terrorism. International conferences have been held on this threat with participation of Russian organizations, including IMEMO and the Institute of U.S. and Canadian Studies. Recommendations on how to combat the threat have been issued by the International Luxembourg Forum on Preventing Nuclear Catastrophe, Pugwash Conferences on Science and World Affairs, Russian-American Elbe Group, and other organizations. The UN General Assembly adopted the International Convention for the Suppression of Acts of Nuclear Terrorism in 2005 and cooperation among intelligence services of leading states in this sphere is developing.¶ At the same time, these efforts fall short for a number of reasons, partly because various acts of nuclear terrorism are possible. Dispersal of radioactive material by detonation of conventional explosives (“dirty bombs”) is a method that is most accessible for terrorists. With the wide spread of radioactive sources, raw materials for such attacks have become much more accessible than weapons-useable nuclear material or nuclear weapons. The use of “**dirty bombs**” will not cause many immediate casualties, but it will result into long-term radioactive contamination, contributing to the spread of **panic and socio-economic destabilization**.¶ Severe **consequences can be caused by sabotaging nuclear power plants, research reactors, and radioactive materials storage facilities. Large cities are especially vulnerable to such attacks. A large city may host dozens of research reactors with a nuclear power plant or a couple of spent nuclear fuel storage facilities and dozens of large radioactive materials storage facilities located nearby.** The past few years have seen significant efforts made to enhance organizational and physical aspects of security at facilities, especially at nuclear power plants. Efforts have also been made to improve security culture. But these efforts do not preclude the possibility that **well-trained terrorists may be able to penetrate nuclear facilities**.¶ Some estimates show that sabotage of a research reactor in a metropolis may expose hundreds of thousands to high doses of radiation. A formidable part of the city would become uninhabitable for a long time.¶ Of all the scenarios, it is building an improvised nuclear device by terrorists that poses the maximum risk. **There are no engineering problems that cannot be solved if terrorists decide to build a simple “gun-type” nuclear device.** Information on the design of such devices, as well as implosion-type devices, is available in the public domain. It is the acquisition of weapons-grade uranium that presents the sole serious obstacle. Despite numerous preventive measures taken, we cannot rule out the possibility that such materials can be bought on the black market. **Theft of weapons-grade uranium is also possible**. Research reactor fuel is considered to be particularly vulnerable to theft, as it is scattered at sites in dozens of countries. There are about 100 research reactors in the world that run on weapons-grade uranium fuel, according to the International Atomic Energy Agency (IAEA).¶ A terrorist “gun-type” uranium bomb can have a yield of least 10-15 kt, which is **comparable to the yield of the bomb dropped on Hiroshima**. The explosion of such a bomb in a modern metropolis can kill and wound hundreds of thousands and cause serious economic damage. There will also be long-term sociopsychological and political consequences.¶ The vast majority of states have introduced unprecedented security and surveillance measures at transportation and other large-scale public facilities after the terrorist attacks in the United States, Great Britain, Italy, and other countries. These measures have proved burdensome for the countries’ populations, but the public has accepted them as necessary. A nuclear terrorist attack will make the public accept further measures meant to enhance control even if these measures significantly restrict the democratic liberties they are accustomed to. Authoritarian states could be expected to adopt even more restrictive measures.¶ If a nuclear terrorist act occurs, nations will delegate tens of thousands of their secret services’ best personnel to investigate and attribute the attack. Radical Islamist groups are among those capable of such an act. We can imagine what would happen if they do so, given the anti-Muslim sentiments and resentment that conventional terrorist attacks by Islamists have generated in developed democratic countries. Mass deportation of the non-indigenous population and severe sanctions would follow such an attack in what will cause **violent protests in the Muslim world**. **Series of armed clashing terrorist attacks may follow**. The prediction that Samuel Huntington has made in his book “The Clash of Civilizations and the Remaking of World Order” may come true. Huntington’s book clearly demonstrates that it is not Islamic extremists that are the cause of the Western world’s problems. Rather there is a deep, intractable conflict that is rooted in the fault lines that run between Islam and Christianity. This is especially dangerous for Russia because these fault lines run across its territory. To sum it up, the political leadership of Russia has every reason to revise its list of factors that could undermine strategic stability.  BMD does not deserve to be even last on that list because its effectiveness in repelling massive missile strikes will be extremely low. BMD systems can prove useful only if deployed to defend against launches of individual ballistic missiles or groups of such missiles. Prioritization of other destabilizing factors—that could affect global and regional stability—merits a separate study or studies. But even without them I can conclude that nuclear terrorism should be placed on top of the list. **The threat of nuclear terrorism is real, and a successful nuclear terrorist attack would lead to a radical transformation of the global order**.  All of the threats on the revised list must become a subject of thorough studies by experts. States need to work hard to forge a common understanding of these threats and develop a strategy to combat them.

### Solvency 1AC

#### Obama would comply with the court – costs of circumvention too high

Vladeck 9 (Stephen I.. Professor of Law and Associate Dean for Scholarship at American University Washington College of Law, senior editor of the peer-reviewed Journal of National Security Law and Policy, Supreme Court Fellow at the Constitution Project, and fellow at the Center on National Security at Fordham University School of Law, JD from Yale Law School, 3-1-2009, “The Long War, the Federal Courts, and the Necessity / Legality Paradox,” <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1002&context=facsch_bkrev>)

Moreover, even if one believes that suspensions are unreviewable, there is a critical difference between the Suspension Clause and the issue here: at least with regard to the former, there is a colorable claim that the Constitution itself ousts the courts from reviewing whether there is a “Case[ ] of Rebellion or Invasion [where] the public Safety may require” suspension––and even then, only for the duration of the suspension.179 In contrast, Jackson’s argument sounds purely in pragmatism—courts should not review whether military necessity exists because such review will lead either to the courts affirming an unlawful policy, or to the potential that the political branches will simply ignore a judicial decision invalidating such a policy.180 Like Jackson before him, Wittes seems to believe that the threat to liberty posed by judicial deference in that situation pales in comparison to the threat posed by judicial review. ¶ The problem is that such a belief is based on a series of assumptions that Wittes does not attempt to prove. First, he assumes that the executive branch would ignore a judicial decision invalidating action that might be justified by military necessity.181 While Jackson may arguably have had credible reason to fear such conduct (given his experience with both the Gold Clause Cases182 and the “switch in time”),183 **a lot has changed in the past six-and-a-half decades**, to the point where I, at least, **cannot imagine** a contemporary President possessing the **political capital** to squarely refuse to comply with a Supreme Court decision. But perhaps I am naïve.184

#### Multiple controversial decisions coming now

Wakefield 9/16/13 (Mike, "Supreme Court Preview: Three Cases to Watch Next Term," http://redalertpolitics.com/2013/09/16/supreme-court-preview-three-cases-to-watch-next-term/)

The Supreme Court’s upcoming term will not feature the same blockbuster, hyper-political issues like same-sex marriage or the Voting Rights Act, but Americans should be aware of several important cases on the docket for oral arguments beginning in October. Here are three cases particularly likely to make news and have significant political implications.¶ 1) National Labor Relations Board v. Canning¶ The Supreme Court is set to rule on the constitutionality of President Barack Obama’s controversial recess appointments to the National Labor Relations Board without Senate confirmation. To date, three federal appellate courts have already held that Obama’s appointments were unconstitutional.¶ You may recall that President Obama’s questionable NLRB appointments were part of his administration’s “We can’t wait” call-to-action back in 2011, in which Obama announced that he intended to do as much as possible without Congress’s approval using executive orders or other means. The Supreme Court is likely to hand Obama an embarrassing rebuke for his impatience, potentially invalidating every action undertaken by the NLRB during the time it had unconfirmed members.¶ 2) Schuette v. Coalition to Defend Affirmative Action¶ Schuette is another college affirmative action case, but with a bizarre twist — the Court is being asked to decide whether the Constitution sometimes might actually require racial discrimination. We previously reported this case as the “worst case of the year.”¶ The case was raised in response to a successful Michigan initiative amending the state’s constitution to prohibit the use of preferential treatment in college admissions and public hiring. The Sixth Circuit Court of Appeals ruled that under the circumstances, the state constitutional amendment requiring equal treatment was prohibited by the U.S. Constitution.¶ Presumably recalling the text of the Fourteenth Amendment, which requires “equal protection under the law,” a dissenting judge on the Sixth Circuit concluded that “a State does not deny equal treatment by mandating it.” Expect the Supreme Court, which in the past has been blunt in its denunciations of truly discriminatory “anti-discrimination” policies, to wholeheartedly agree.¶ 3) McCutcheon v. Federal Election Commission¶ In this campaign finance case, an Alabama resident and the Republican National Committee have asked the Court to strike down the current aggregated political contribution limits as unconstitutional under the First Amendment’s protection of political speech.¶ Currently, individuals may contribute no more than $2,600 per election to a candidate and no more than $32,400 per year to a national political committee like the RNC. However, individuals are also limited by aggregate contribution limits. For example, no individual may donate more than $48,600 to candidates or more than $74,600 to anything else during a two-year election period. That means someone can give the maximum legal contribution of $2,600 to 18 different candidates but not to 19 or more. The Justices may now overturn that somewhat arbitrary limit.¶ Last time the Court issued a significant campaign finance decision, liberals howled about the “end of democracy,” and President Obama took the unprecedented step of publicly scolding the Justices, right to their faces, at his nationally televised State of the Union address. Be on the look out for similarly dramatic hyperbole in the lead up to the decision.

### Extra

**Al Qaeda is still a major threat—predictions of decline are premature and false**

Sinai 13 (Joshua, JINSA Fellow, Washington, DC-based consultant on national security studies, focusing primarily on terrorism, counterterrorism, and homeland security, 3-11-13, “Al Qaeda Threat to U.S. Not Diminished, Data Indicates” The Jewish Institute for National Security Affairs) http://www.jinsa.org/fellowship-program/joshua-sinai/al-qaeda-threat-us-not-diminished-data-indicates#.UbaiWvmsiSo

Conventional wisdom holds that the threat to America posed by al Qaeda and its affiliates is greatly diminished compared to 9/11. Today, it is claimed, al Qaeda is less well organized, with many of its top leaders eliminated, and is so broken into geographically disparate franchises that it is unable to recruit, train, and deploy a specialized cell to carry out a comparable catastrophic attack against America. The fact that no al Qaeda terrorist attacks have been carried out in America over the last two years, while some 20 individuals have plotted to carry out attacks but were arrested and convicted during the pre-incident phases, is seen as evidence that this terrorist threat is decreasing domestically. Therefore, according to this thesis, security authorities should prepare for more numerous and frequently occurring but low casualty attacks mounted by less well-trained and capable homegrown operatives, particularly by what are termed "lone wolves." When a more complete compilation of all the components involved in terrorism are taken into account, however, the magnitude of the threat becomes much clearer and includes a higher likelihood of attempts to carry out catastrophic attacks as well as evidence that al Qaeda continues to recruit and prepare terrorist operatives in the United States. Downplaying the terrorist threat posed by al Qaeda and its affiliates also has significant political implications due in part to the more than $70 billion that is spent annually on America's domestic counterterrorism programs (with larger amounts expended for overseas operations), all of which need to be continuously justified as cost effective by Administration planners and Congressional appropriators. Such purported decline in al Qaeda attacks domestically, however, is now being seized upon by those who favor reduced government funding for counterterrorism programs, including weakening the USA PATRIOT Act, to support their position that a reduced threat requires reduced funding and resources. When the trajectory of attacks by al Qaeda and its associates over the years are carefully studied, however, certain patterns recur. Specifically, every time the threat is underplayed, it is invariably followed by a major attack. In the months leading up to the November 2012 elections, the media was filled with pronouncements that al Qaeda's threat had greatly diminished as a result of the elimination of its leadership and the reduced operational role over attacks by what is termed "al Qaeda Central" in Pakistan's tribal areas. While accurate on one level, this did not stop al Qaeda and its affiliates from continuing to launch major terrorist attacks, including that by its Libyan affiliate against the U.S. consulate in Benghazi on September 11, 2012, which led to severe political repercussions for the Administration for its unpreparedness to anticipate such an attack. This was followed by the launching of the devastating cross-border attack against the natural gas facility in eastern Algeria in mid-January by another al Qaeda affiliate in Mali. Thirty-six foreign workers were murdered in that attack, which, again, was unanticipated.Moreover, the fact that a catastrophic attack against America comparable to 9/11 has not occurred over the past 11 years should not suggest that a future one is not being planned. In summer 2006, al Qaeda-linked operatives in London plotted to detonate liquid explosives on board 10 transatlantic airliners flying from the UK to America and Canada. In September 2009, Najibullah Zazi and his associates were arrested for plotting to conduct a suicide bombing attack against the New York City subway system. On Christmas Day, 2009, Umar Farouk Abdulmutallab failed to detonate plastic explosives while on board an airliner heading to Detroit. Anwar al Awlaki, a former American extremist cleric, reportedly masterminded Abdulmutallab's operation. Awlaki was killed in a drone attack in Yemen on September 30, 2011. The killings of al Awlaki and Samir Khan, another American extremist who had made his way to Yemen in 2009, could well trigger a catastrophic attack by al Qaeda to avenge their deaths.The recent capture of Osama Bin Laden's son-in-law, Sulaiman abu Ghaith, and the decision to try him in New York City, is also likely to trigger a major revenge attack against America. Finally, organizing catastrophic terrorist attacks requires extensive planning, funding and preparation. A terrorist group that feels itself strong will take its time to carefully plan a few but devastating attacks, while a group that regards itself as weak may feel compelled to carry out frequent, but low-casualty attacks to demonstrate its continued relevancy. Some incident databases, such asa recent compilation of data about American al Qaeda terrorists by the UK-based Henry Jackson Society, only account for completed attacks and convictions of those arrested. If such counting is expanded to include other factors, however, then the overall threat becomes much more severe. Other factors, therefore, should include the potential consequences ofthe thwarted attacks had they not been prevented, the number of radicalized Americans who travel overseas to join al Qaeda-affiliated insurgencies, and the extent of radicalized activity by al Qaeda's American sympathizers in jihadi website forums and chatrooms. A more complete accounting of the threat will now reveal that the supportive extremist infrastructure for al Qaeda in America is actually not diminishing and that the purported "lone wolf" actors have actual ties to al Qaeda operatives overseas. We should not, therefore, also be misled into complacencyif catastrophic attacks by al Qaeda do not occur for lengthy periods. Nor so by the comforting but false sense of security that comes with believing that "lone wolf" attacks in the United States are not a product of al Qaeda recruitment and support. It is also possible, nevertheless, that al Qaeda's terrorist planners are considering both types of attacks, infrequent catastrophic and frequent low casualty. This may explain why al Qaeda's propaganda organs are calling on its radicalized followers in the West to take matters into their own hands and embark on any sort of attacks that may be feasible at the moment, but with further surprise attacks of a catastrophic nature still ahead.

#### Extinction – tech and poor response mechanisms

Myhrvold 13 (Nathan, Phd in theoretical and mathematical physics from Princeton, and founded Intellectual Ventures after retiring as chief strategist and chief technology officer of Microsoft Corporation , July 2013, "Stratgic Terrorism: A Call to Action," The Lawfare Research Paper Series No.2, <http://www.lawfareblog.com/wp-content/uploads/2013/07/Strategic-Terrorism-Myhrvold-7-3-2013.pdf>)

Several powerful trends have aligned to profoundly change the way that the world works. Technology now allows stateless groups to organize, recruit, and fund themselves in an unprecedented fashion. That, coupled with the extreme difficulty of finding and punishing a stateless group, means that stateless groups are positioned to be lead players on the world stage. They may act on their own, or they may act as proxies for nation-states that wish to duck responsibility. Either way, stateless groups are forces to be reckoned with. At the same time, a different set of technology trends means that small numbers of people can obtain incredibly lethal power. Now, for the first time in human history, a small group can be as lethal as the largest superpower. Such a group could execute an attack that could kill millions of people. It is technically feasible for such a group to kill billions of people, to end modern civilization—perhaps even to drive the human race to extinction. Our defense establishment was shaped over decades to address what was, for a long time, the only strategic threat our nation faced: Soviet or Chinese missiles. More recently, it has started retooling to address tactical terror attacks like those launched on the morning of 9/11, but the reform process is incomplete and inconsistent. A real defense will require rebuilding our military and intelligence capabilities from the ground up. Yet, so far, strategic terrorism has received relatively little attention in defense agencies, and the efforts that have been launched to combat this existential threat seem fragmented. History suggests what will happen. The only thing that shakes America out of complacency is a direct threat from a determined adversary that confronts us with our shortcomings by repeatedly attacking us or hectoring us for decades.

# 2AC

## T

### GSPEC 2AC

#### We meet - we do spec the grounds - presidential authority to detain

#### Counter-interpretation –

#### Judicial restriction means to reduce the scope of

Newman 8 (Pauline, Judge @ UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT, 545 F.3d 943; 2008 U.S. App. LEXIS 22479; 88 U.S.P.Q.2D (BNA) 1385; 2008-2 U.S. Tax Cas. (CCH) P50,621, IN RE BERNARD L. BILSKI and RAND A. WARSAW, lexis)

Id. at 315 (quoting U.S. Const., art. I, §8). The Court referred to the use of "any" in Section 101 ("Whoever invents or discovers any new and useful process . . . or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title"), and reiterated that the statutory language shows that Congress "plainly contemplated that the patent laws would be given wide scope." Id. at 308. The Court refe

rred to the legislative intent to include within the scope of Section 101 "anything under the sun that is made by man," id. at 309 (citing S. Rep. 82-1979, at 5; H.R. Rep. 82-1923, at 6 (1952)), and stated that the unforeseeable future should not be inhibited by judicial restriction of the "broad general language" of Section 101: A rule that unanticipated inventions are without protection would conflict with the core concept of the patent law that anticipation undermines patentability. Mr. Justice Douglas reminded that the [\*981] inventions most benefiting mankind are those that push back the frontiers of chemistry, physics, and the like. Congress employed broad general language in [\*\*103] drafting §101 precisely because such inventions are often unforeseeable.

#### Aff is an example of a judicial restriction – we resitrict presidential war powers over detention policy – no reason we have to cite grounds

#### Infinitely regressive – there is no resolutional basis – it only says judicial restriction – no reason we have to specify – that’s unpredictable

#### No ground loss – structural disads linked to restrictions or plan topic area provide ground

#### Not a voting issue – if they win this it just means we should be forced to specify.

#### Cross-x checks, they could have also asked pre-round – they asked us enough other questions about internal links

#### A2: Conditional

#### Plan isn’t conditional – we’ll always defend it gets implemented

#### A2: No Solvency

#### Doesn’t implicate solvency – plan solvency is based on review occurring, this still happens

#### And our plan is super specific to upholding a specific ruling – the grounds were stated in that ruling meets we meet

## Solvency

### Rendition

#### Plan’s precedent solves—deference is the legal justification of rendition

Richards 06 [Nelson, JD Cand @ Berkeley, “The Bricker Amendment and Congress’s Failure to Check the Inflation of the Executive’s Foreign Affairs Powers,” 94 Calif. L. Rev. 175, January, LN//uwyo-ajl]

H. Jefferson Powell has posited that the Supreme Court has all but ceded the creation of a foreign affairs and national security legal framework to the OLC. Indeed, he goes so far as to assert that OLC legal opinions, not Supreme Court opinions, are the first sources the executive branch looks to when researching foreign affairs and national security law. Another set of John Yoo's writings support the validity of Powell's claim: the infamous memos declaring enemy combatants outside the protection of the Geneva Conventions. These, combined with the "Torture Memos," the expanding practice of "extraordinary rendition," and the current Administration's blase response to the Supreme Court's ruling that prisoners held at Guantanamo Bay are entitled to judicial access, have brought peculiar focus to the weight and seriousness of the OLC's legal authority. In the realm of foreign affairs, the Court has written off its obligation, claimed in Marbury, as the authoritative interpreter of the Constitution. While it may have reviewed some of the legal premises put forth in the above-mentioned OLC opinions, it has not curbed the OLC's claim to power over foreign affairs. The Court is more than capable of challenging the President. It has the power to send messages to the President, but it has done so only in two narrow contexts: when U.S. citizens are labeled enemy combatants (Hamdi v. Rumsfeld ) and when prisoners are held in U.S. facilities (Rasul v. Bush). The Hamdi and Rasul decisions, which amount to piecemeal restraints on the President's freedom to act, accord with the Court's general failure to check the executive's use of power abroad.

## Venezuela

## Legitimacy

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## Off

### OLC CP – 2AC

#### Perm do both – solves the links

#### 2. Can’t solve the case –

#### OLC fails at executive restraint

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.

#### CP gets overruled and circumvented---data goes aff

Bruce Ackerman 11, Sterling Professor of Law and Political Science at Yale University, “LOST INSIDE THE BELTWAY: A REPLY TO PROFESSOR MORRISON,” Harvard Law Review Forum Vol 124:13, http://www.harvardlawreview.org/media/pdf/vol124forum\_ackerman.pdf

The problem is confirmed by Morrison’s very useful data analysis, which shows that only thirteen percent of OLC opinions have provided a more- or- less clear “no” to the White House during the past generation.34 Morrison’s data- set doesn’t include OLC’s unpublished opinions — which typically involve confidential matters involving national security. Since OLC is almost- certainly more deferential to the White House in these sensitive areas, the percentage of “no’s” would likely sink into the single- digits if these secret opinions could be included in Morrison’s data set.35 And remember, quantitative data can’t take into account the occasions on which the White House is especially exigent in its telephonic demands.36 ¶ \*\*\*TO FOOTNOTES\*\*\*¶ 36 Morrison is undoubtedly right in suggesting that stare decisis plays a restraining role in garden-variety cases. But he also notes that the OLC overrules (or substantially modifies) its own decisions in more than five percent of the opinions in his sample. See Alarmism, supra note P, at NTOP n.NPN. This is a significant percentage, given my focus on the likely way the OLC will function in high-stress situations. It indicates that stare decisis is by no means a rigid rule, and that the OLC cannot credibly claim that its hands are tied when the White House is pressuring it to overrule existing case- law to vindicate a high-priority presidential initiative. ¶ Similarly, Morrison is undoubtedly correct in suggesting that his data fails to reflect the fact that the OLC sometimes informally deflects the White House from a legally problematic initiative. See Alarmism, supra note P, at NTNV. But on high-priority initiatives, the White House won’t easily take an informal “no” for an answer — it will either push the OLC to write a formal opinion saying “yes” or it will withdraw the issue from its jurisdiction and rely on the WHC to uphold the legality of the President’s plan. As a consequence, I believe that Morrison’s data provides an overestimate, not an under-estimate, of likely OLC resistance: it fails to count unreported national security opinions (on which the OLC is probably extremely deferential), and this failure is not mitigated by its additional failure to detect informal modes of OLC resistance.

#### No compliance

Bruce Ackerman 11, Sterling Professor of Law and Political Science at Yale University, “LOST INSIDE THE BELTWAY: A REPLY TO PROFESSOR MORRISON,” Harvard Law Review Forum Vol 124:13, http://www.harvardlawreview.org/media/pdf/vol124forum\_ackerman.pdf

To see why, consider that the relationship between the WHC and the OLC is utterly mysterious to most lawyers, let alone to most Americans. So imagine the scene when some future White House Counsel issues a legal opinion, rubberstamping the President’s latest power- grab, with the peroration: “Ever since Lloyd Cutler assumed the position as White House Counsel in NVTV, this office has, from to time, taken the lead in explaining the constitutional foundations for major presidential initiatives . . . .” ¶ Given pervasive ignorance dealing with Beltway arcana, this famous precedent will go a long way toward legitimating the White House decision to cut out the OLC. Instead of conceding impropriety, our hypothetical Counsel can summon up the great spirit of Lloyd Cutler in support of his leading role. After establishing his distinguished pedigree, Counsel can reinforce his claim to authority with a host of additional arguments: After all, there’s nothing in the Constitution that requires the President to prefer the OLC to the WHC. Article II simply tells the President to “take Care that the Laws be faithfully executed”69 — it doesn’t tell him where to get his legal advice. Moreover, as Morrison acknowledges, the OLC’s traditional role is principally based on executive order, not Congressional statutes.70 If the President prefers to treat his Counsel as a modern-day Cutler, there can be no question that the bureaucracy and military will follow his lead — at least until the courts enter into the field. ¶ Undoubtedly, the Cutler precedent won’t stifle all grumbling from Beltway cognoscenti.71 But it will make it much tougher to convince the generality of lawyerdom, as well as the broader public, that they are witnessing a dreadful act of legal usurpation — even if that’s precisely what is happening.72

#### Conditionality is a voter-

#### A – it results in argument irresponsibility because it encourages contradictory positions

#### B – creates time and strat skews by making the neg a moving target

#### no cost options in the 1nc make the 2ac impossible- one condo advocacy/ dispo solves your offense

#### Uniquely worse with multiple worlds – forces us into strategic double binds and tradeoffs

#### Court action is key to Solve Legitimacy –

#### Interrogation techniques benefit from judicial oversight – it’s a strategic benefit to the war on terror – that’s Powell

#### external oversight via Judicial review is vital to a credible signal of legitimacy in the context of reinvigorating multilateralism – that’s Knowles

#### *Judicial* restrictions are key to effective counterterrorism

Guiora 11 (Amos, Prof of Law @ Univ. of Utah, "Indeﬁnite Detention of Megaterrorists: A Road We Must Not Travel," April, http://johnjayresearch.org/cje/files/2012/10/GUIORA-out.pdf)

Offering modifications or alternatives, such as indefinite detention, to¶ replace existing legal structures\*in¶ whole or in part\*raises a fundamental question: have sufficient controls been created? Although creating¶ alternatives, even if justifiable, is¶ risky, any expansion of executive¶

power\*the net result of Scheid’s¶ proposal\*must be tempered by¶ both independent judicial review¶ and robust congressional oversight.¶ Restraining the executive branch is¶ essential, especially when alternatives are created.¶ When Scheid asked if I would¶ consider commenting on his paper¶ (before I had a chance to read it) I instinctively agreed. My reasons were¶ simple. I first met Scheid when he¶ graciously attended a public lecture I¶ gave at the William Mitchell Law¶ School (hosted by my good friend¶ and colleague, John Radson). His questions were particularly engaging and¶ our subsequent communications\*including Scheid’s insightful and critical¶ blog postings in response to my¶ writings\*have invariably been interesting and thought-provoking.¶ When Scheid explained the article’s thesis I was intrigued, largely¶ because of my own efforts to grapple¶ with how to create alternative legal¶ infrastructures relevant to the post 9/¶ 11 world. As a consistent advocate¶ for the creation of a National Security¶ Court,1¶ I have probed the limits of¶ many of the issues Scheid addresses.¶ Friends and colleagues have criticized various aspects of my proposal;¶ similarly, members of the U.S. Senate¶ Judiciary Committee were skeptical¶ of my proposal when I testified¶ before the committee.¶ Precisely for the above reasons, I¶ feel well suited to respond to Scheid’s¶ proposal. Perhaps I have an insider’s¶ perspective of proposing an alternative and then responding to the inevitable criticism. Experience has¶ taught me that any alternative that¶ involves an expansion of executive¶ powers is only as good as the limits¶ it also imposes.¶ Scheid’s proposal does not conjure up images of President Bush’s¶ ‘‘by all means necessary’’ approach¶ to counterterrorism because it wisely¶ includes independent judicial review¶ in accordance with constitutional¶ principles of checks and balances¶ and separation of powers. The key¶ question, however, is: ‘‘how much¶ judicial review’’? Not enough to ensure effective external restraints on¶ the executive. Although Scheid¶ clearly incorporates some control¶ measures, the overall sense is of¶ insufficient restraint.¶ To push the issue: we must ask¶ whether there are controls, whether¶ they are sufficiently defined, and¶ whether they can be implemented.¶ Simply put, suggesting an alternative¶ alone is not sufficient, particularly¶ when its intended purpose is to¶ create an infrastructure specifically¶ designed to limit rights rather than¶ protect them.

#### Doesn’t solve Venezuela –

#### signals of judicial independence are uniquely key to Venezuelan stability because they prevent overcentralization of Maduro’s power – that’s Yammamoto

#### Venezuela is responding only to the human rights council – this is court based

#### It’s a rubber stamp---1AC economist says external oversight key

Ilya Somin 11, Professor of Law at George Mason University School of Law, June 21 2011, “Obama, the OLC, and the Libya Intervention,” http://www.volokh.com/2011/06/21/obama-the-olc-and-the-libya-intervention/

But I am more skeptical than Balkin that illegal presidential action can be constrained through better consultation with legal experts within the executive branch. The fact is that the president can almost always find respectable lawyers within his administration who will tell him that any policy he really wants to undertake is constitutional. Despite the opposition of the OLC, Obama got the view he wanted from the White House Counsel and from State Department Legal Adviser Harold Koh. Bush, of course, got it from within the OLC itself, in the form of John Yoo’s “torture memo.” This isn’t just because administration lawyers want to tell their political masters what they want to hear. It also arises from the understandable fact that administrations tend to appoint people who share the president’s ideological agenda and approach to constitutional interpretation. By all accounts, John Yoo was and is a true believer in nearly unlimited wartime executive power. He wasn’t simply trying to please Bush or Dick Cheney.¶ Better and more thorough consultation with executive branch lawyers can prevent the president from undertaking actions that virtually all legal experts believe to be unconstitutional. But on the many disputed questions where there is no such consensus, the president will usually be able find administration lawyers who will tell him what he wants to hear. To his credit, Ackerman is aware of this possibility, and recommends a creative institutional fix in his recent book: a new quasi-independent tribunal for assessing constitutional issues within the executive branch. I am somewhat skeptical that his approach will work, and it may well require a constitutional amendment to enact. I may elaborate these points in a future post, if time permits.¶ Regardless, for the foreseeable future, the main constraints on unconstitutional presidential activity must come from outside executive branch – that is, from Congress, the courts, and public opinion. These constraints are highly imperfect. But they do impose genuine costs on presidents who cross the line. Ackerman cites the Watergate scandal, Iran-Contra and the “torture memo” as examples of the sorts of abuses of executive power that need to be restricted. True enough. But it’s worth remembering that Nixon was forced to resign over Watergate, Reagan paid a high political price for Iran-Contra, and the torture memo was a public relations disaster for Bush, whose administration eventually ended up withdrawing it (thanks in large part to the efforts of Jack Goldsmith). On the other side of the ledger, Bill Clinton paid little price for waging an illegal war in Kosovo, though he avoided it in part by keeping that conflict short and limited. It remains to be seen whether President Obama will suffer any political damage over Libya.

#### 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.

#### South Sudan models US precedent of judicial supremacy – key to ensuring peace in the Abyei region

PILPG 8 (Public International Law & Policy Group, a global pro bono law firm that provides legal assistance to foreign governments and international organizations on the negotiation and implementation of peace agreements, the drafting and implementation of post-conflict constitutions, and the creation and operation of war crimes tribunals. PILPG also assists states with the training of judges and the drafting of legislation, “brief of the public international law & policy group as amicus curiae in support of petitioners”, http://www.americanbar.org/content/dam/aba/publishing/preview/publiced\_preview\_briefs\_pdfs\_09\_10\_08\_1234\_PetitionerAmCuPILPG.authcheckdam.pdf)

In the South Sudan peace process, the Sudan People’s Liberation Movement/Army (SPLM/A), the¶ leading political party in the Government of Southern Sudan, relied on U.S. precedent to argue for the primacy¶ of law and the importance of the enforceability of adjudicative decisions in deciding one of the most important and contentious issues in the ongoing peace¶ process. In May 2008, large-scale violence in Abyei, South Sudan, resulted in the destruction of Abyei Town¶ and the displacement of its residents. The violence further threatened to unravel the 2005 Comprehensive¶ Peace Agreement between the Government of Sudan and the SPLM/A. The violence was a result of tension¶ between the parties regarding the long-overdue establishment of boundaries of the Abyei Area, which¶ straddles the North and South of Sudan and was the location of widespread violence during decades of civil¶ war. The parties had agreed in the Comprehensive Peace Agreement to a specific process to determine the¶ boundaries of the Abyei Area. When the Abyei Boundaries Commission issued its binding decision,¶ however, the Government of Sudan refused to implement the ruling. Given the long and violent history between¶ the parties, the unresolved status of Abyei threatened to re-ignite widespread conflict.¶ Rather than returning to hostilities, however, the parties elected to refer the Abyei question to an¶ adjudicative body. On July 7, 2008, the parties signed the Abyei Arbitration Agreement. Under the terms of¶ the Arbitration Agreement, the parties agreed to submit questions regarding the boundaries of the Abyei Area¶ to an arbitration tribunal seated at the Permanent Court of Arbitration in The Hague. The leaders of the¶ SPLM/A told PILPG that they sought recourse to an adjudicative body because they believed that the ruling¶ would be enforceable and would be supported by the international community. ¶ Based on the belief that the U.S. legal system promotes the primacy of law and affirms the critical role¶ of adjudicative bodies in a system dedicated to the rule of law, the SPLM/A cited U.S. court decisions in its¶ submissions to the Abyei Arbitration tribunal. The SPLM/A memorials specifically cited this Court, as well¶ as U.S. district and circuit court decisions, to bolster the SPLM/A’s position that the tribunal should respect¶ the finality of the award of an adjudicative body, such as the Abyei Boundaries Commission.2¶ When the Abyei Arbitration tribunal issued its binding decision in July¶ 2009, the arbitration decision also cited this Court’s precedent.3¶ This Court thus played an important role in the peaceful resolution of one of the most contentious¶ issues in the South Sudan peace process.¶ As the foregoing examples illustrate, foreign governments rely on the precedent set by the U.S. and¶ this Court when addressing new and complex issues in times of conflict. Finding for the Petitioners in the¶ present case will reaffirm this Court’s leadership in promoting respect for rule of law in foreign states during¶ times of conflict.

#### That sets a precedent against global secessionism

Cheney 10/31/13 (Catherine, World Politics Review, "Abyei Vote the Latest Opportunity for Brinkmanship Between Sudan, South Sudan," http://www.worldpoliticsreview.com/trend-lines/13343/abyei-vote-the-latest-opportunity-for-brinkmanship-between-sudan-south-sudan)

Some had hoped Abyei could be a bridge between Sudan and South Sudan rather than a source of greater tension, Temin explained, but this is not possible without the buy-in of important constituencies. ¶ What happens next has implications for the wider world, he added, because “situations like these always have the capacity to be sort of precedent-setting.”¶ “People in Abyei talk about Kosovo and East Timor,” he said. “Whatever the next disputed area is, they could be talking about what happened in Abyei.”

#### Impact is global nuclear war

Shehadi 93 (Kamal, Research Associate – International Institute for Strategic Studies, December, Ethnic Self Determination and the Break Up of States, p. 81)

This paper has argued that self-determination conflicts have direct adverse consequences on international security. As they begin to tear nuclear states apart, the likelihood of nuclear weapons falling into the hands of individuals or groups willing to use them, or to trade them to others, will reach frightening levels. This likelihood increases if a conflict over self-determination **escalates into a war between two nuclear states**. The Russian Federation and Ukraine may fight over the Crimea and the Donbass area; and India and Pakistan may fight over Kashmir. Ethnic conflicts may also spread both within a state and from one state to the next. This can happen in countries where more than one ethnic self-determination conflict is brewing: Russia, India and Ethio­pia, for example. The conflict may also spread by contagion from one country to another if the state is weak politically and militarily and cannot contain the conflict on its doorstep. Lastly, there is a real danger that regional conflicts will erupt over national minorities and borders.

#### 4. Counterplan is a voter

#### A) Topic education – shifts the focus of the debate from whether the president should have the authority and to whether the president should be the person to stop it – causes stale debate about process

#### B) Fairness- steals the entirety off the aff and makes it impossible to generate offense

#### C) Object fiat – fiats the object of the resolution which makes clash impossible- no way to have a stable source of aff offense

#### 5. **CP is misconstrued**

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

#### 6. Perm do the CP – its an example of the president complying with the plans’ restriction

#### 8. Perm do the counterplan then the plan – shields the link to the net benefit because it looks like the court enforcing the XO

#### No institutional memory

Bruce Ackerman 11, Sterling Professor of Law and Political Science at Yale University, “LOST INSIDE THE BELTWAY: A REPLY TO PROFESSOR MORRISON,” Harvard Law Review Forum Vol 124:13, http://www.harvardlawreview.org/media/pdf/vol124forum\_ackerman.pdf

Which leads to a fundamental question. Morrison relies heavily on the “norms” and “longstanding traditions” of the OLC to serve as a bulwark against presidential overreaching. But given the composition of the Office, precisely who is supposed to be safeguarding this tradition? ¶ If we credit Madison’s maxim, we can’t count on the Administration’s appointees to do the job — “enlightened statesmen” will only sometimes manipulate the political networks required to get these plum jobs. And surely youngish up-and-comers are unlikely repositories of the very complex “tradition” Morrison describes — by definition, it takes a good deal of time to master the practice of providing opinions that, in the words of Jack Goldsmith, are “neither like advice from a private attorney nor like a politically neutral ruling from a court. It is something inevitably, and uncomfortably, in between.”15 As his memoirs suggest, even Goldsmith had trouble enacting this “awkward” role during the nine months he served as head of the OLC before he quit under pressure from the Bush White House.16 It’s a bit much to ask young attorney-advisers to serve as the principal guardians of these “cultural norms.” This puts an enormous burden on the (very) small number of senior counsel. ¶ Morrison assures us “that Senior Counsels play a vital role in OLC precisely because they are such rich repositories of institutional memory.”17 While they surely help the transient- lawyers “resist the importuning of . . . clients”18 in garden variety cases, it is unrealistic to expect them effectively to defend entrenched constitutional principles against high-priority presidential initiatives — especially when political appointees, aided by able attorney-advisers, think up all sorts of clever legal arguments to evade and undercut these principles. ¶ The senior counsel’s position is particularly problematic at present. Granting their role as keepers of institutional memory, precisely what are they supposed to be remembering about the operation of the Office during the Bush years? ¶ To be sure, Goldsmith’s legalistic scruples, and the Abu Ghraib scandal, forced the White House to accept the repudiation of a couple of “torture memos.”19 But as Morrison recognizes, the OLC replaced Yoo’s memos “with a more modestly phrased opinion in late 2004 . . . [which] maintained its basic position on the legality of . . . ‘waterboarding’”20 throughout the rest of the Bush Administration. So if the oldtimers act as memory- keepers, are they supposed to tell the transients that the OLC continued to give the Bush White House what it wanted to the bitter end, merely toning down John Yoo’s extravagant legal arguments?

### Security K – 2AC

#### 1. Framework- the role of the ballot is to weigh the plan against a competitive policy option

#### Net benefits-

#### First- Fairness- they moot the entirety of the 1ac, makes it impossible to be affirmative

#### Second – Education- Policy education is good- it teaches future decisionmaking

#### 2. No impact– prefer topic specific ev

**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.

#### 3. 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

#### No link – we’re detaining terrorists in the status quo because we think that they’re a threat to our security – that devalues their lives and causes human rights abuses \*globally\* - the aff is a net decrease in security

#### 4. Perm – do both

#### 5. 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.

#### 6. No impact – security doesn’t result in wars that escalate – Iraq disproves that it would cause extinction – case outweighs any small-scale conflict

#### Threats real and not constructed—rational risk assessment goes aff

**Knudsen 1**– PoliSci Professor at Sodertorn (Olav, Post-Copenhagen Security Studies, Security Dialogue 32:3)

Moreover, I have a problem with the underlying implication that it is unimportant whether states 'really' face dangers from other states or groups. In the Copenhagen school, threats are seen as coming mainly from the actors' own fears, or from what happens when the fears of individuals turn into paranoid political action. In my view, this emphasis on the subjective is a **misleading conception of threat**, in that it discounts an independent existence for what- ever is perceived as a threat. Granted, political life is often marked by misperceptions, mistakes, pure imaginations, ghosts, or mirages, but such phenomena **do not occur simultaneously** to large numbers of politicians, and **hardly most of the time**. During the Cold War, threats - in the sense of plausible possibilities of danger - referred to 'real' phenomena, and they **refer to 'real' phenomena** now. The objects referred to are often not the same, but that is a different matter. Threats have to be dealt with both ín terms of perceptions and in terms of the phenomena which are perceived to be threatening. The point of Waever’s concept of security is not the potential existence of danger somewhere but the use of the word itself by political elites. In his 1997 PhD dissertation, he writes, ’One can View “security” as that which is in language theory called a speech act: it is not interesting as a sign referring to something more real - it is the utterance itself that is the act.’24 The deliberate disregard of objective factors is even more explicitly stated in Buzan & WaeVer’s joint article of the same year.” As a consequence, the phenomenon of threat is reduced to a matter of pure domestic politics.” It seems to me that the security dilemma, as a central notion in security studies, then loses its foundation. Yet I see that Waever himself has no compunction about referring to the security dilemma in a recent article." This discounting of the objective aspect of threats shifts security studies to insignificant concerns. What has long made 'threats' and ’threat perceptions’ important phenomena in the study of IR is the implication that **urgent action may be required**. Urgency, of course, is where Waever first began his argument in favor of an alternative security conception, because a convincing sense of urgency has been the chief culprit behind the abuse of 'security' and the consequent ’politics of panic', as Waever aptly calls it.” Now, here - in the case of urgency - another baby is thrown out with the Waeverian bathwater. When real situations of urgency arise, those situations are challenges to democracy; they are actually at the core of the problematic arising with the process of making security policy in parliamentary democracy. But in Waever’s world, threats are merely more or less persuasive, and the claim of urgency is just another argument. I hold that instead of 'abolishing' threatening phenomena ’out there’ by reconceptualizing them, as Waever does, we should continue paying attention to them, because **situations with a credible claim to urgency will keep coming back** and then we need to know more about how they work in the interrelations of groups and states (such as civil wars, for instance), not least to find adequate democratic procedures for dealing with them.

#### 7. Case outweighs-

#### A) Transition DA – the alt triggers counterbalancing --- that escalates to great power war. That’s zhang/shi Brooks 13/Kagan/etc

#### B) Arctic Development – failure to de-escalate military competition over the arctic causes war with Russia in the world of the Alt – That’s Wallace and Staples

#### Neolib’s inevitable and movements are getting smothered out of existence—no alternative economic system

Jones 11—Owen, Masters at Oxford, named one of the Daily Telegraph's 'Top 100 Most Influential People on the Left' for 2011, author of "Chavs: The Demonization of the Working Class", The Independent, UK, "Owen Jones: Protest without politics will change nothing", 2011, www.independent.co.uk/opinion/commentators/owen-jones-protest-without-politics-will-change-nothing-2373612.html

My first experience of police kettling was aged 16. It was May Day 2001, and the anti-globalisation movement was at its peak. The turn-of-the-century anti-capitalist movement feels largely forgotten today, but it was a big deal at the time. To a left-wing teenager growing up in an age of unchallenged neo-liberal triumphalism, just to have "anti-capitalism" flash up in the headlines was thrilling. Thousands of apparently unstoppable protesters chased the world's rulers from IMF to World Bank summits – from Seattle to Prague to Genoa – and the authorities were rattled. Today, as protesters in nearly a thousand cities across the world follow the example set by the Occupy Wall Street protests, it's worth pondering what happened to the anti-globalisation movement. Its activists did not lack passion or determination. But they did lack a coherent alternative to the neo-liberal project. With no clear political direction, the movement was easily swept away by the jingoism and turmoil that followed 9/11, just two months after Genoa. Don't get me wrong: the Occupy movement is a glimmer of sanity amid today's economic madness. By descending on the West's financial epicentres, it reminds us of how a crisis caused by the banks (a sentence that needs to be repeated until it becomes a cliché) has been cynically transformed into a crisis of public spending. The founding statement of Occupy London puts it succinctly: "We refuse to pay for the banks' crisis." The Occupiers direct their fire at the top 1 per cent, and rightly so – as US billionaire Warren Buffett confessed: "There's class warfare, all right, but it's my class, the rich class, that's making war, and we're winning." The Occupy movement has provoked fury from senior US Republicans such as Presidential contender Herman Cain who – predictably – labelled it "anti-American". They're right to be worried: those camping outside banks threaten to refocus attention on the real villains, and to act as a catalyst for wider dissent. But a coherent alternative to the tottering global economic order remains, it seems, as distant as ever. Neo-liberalism crashes around, half-dead, with no-one to administer the killer blow.There's always a presumption that a crisis of capitalism is good news for the left. Yet in the Great Depression, fascism consumed much of Europe. The economic crisis of the 1970s did lead to a resurgence of radicalism on both left and right. But, spearheaded by Thatcherism and Reaganism, the New Right definitively crushed its opposition in the 1980s.This time round, there doesn't even seem to be an alternative for the right to defeat. That's not the fault of the protesters. In truth, the left has never recovered from being virtually smothered out of existence. It was the victim of a perfect storm: the rise of the New Right; neo-liberal globalisation; and the repeated defeats suffered by the trade union movement. But, above all, it was the aftermath of the collapse of Communism that did for the left. As US neo-conservative Midge Decter triumphantly put it: "It's time to say: We've won. Goodbye." From the British Labour Party to the African National Congress, left-wing movements across the world hurtled to the right in an almost synchronised fashion. It was as though the left wing of the global political spectrum had been sliced off. That's why, although we live in an age of revolt, there remains no left to give it direction and purpose.

#### Enemy creation prevents total war and genocidal =conflict against all

Reinhard 4 – Kenneth Reinhard, Professor of Jewish Studies at UCLA, 2004, “Towards a Political Theology- Of the Neighbor,” online: http://www.cjs.ucla.edu/Mellon/Towards\_Political\_Theology.pdf

If the concept of the political is defined, as Carl Schmitt does, in terms of the Enemy/Friend opposition, the world we find ourselves in today is one from which the political may have already disappeared, or at least has mutated into some strange new shape. A world not anchored by the “us” and “them” binarisms that flourished as recently as the Cold War is one subject to radical instability, both subjectively and politically, as Jacques Derrida points out in The Politics of Friendship:

The effects of this destructuration would be countless: the ‘subject’ in question would be looking for new reconstitutive enmities; it would multiply ‘little wars’ between nation-states; it would sustain at any price so-called ethnic or genocidal struggles; it would seek to pose itself, to find repose, through opposing still identifiable adversaries – China, Islam? Enemies without which … it would lose its political being … without an enemy, and therefore without friends, where does one then find oneself, qua a self? (PF 77)

If one accepts Schmitt’s account of the political, the disappearance of the enemy results in something like global psychosis: since the mirroring relationship between Us and Them provides a form of stability, albeit one based on projective identifications and repudiations, the loss of the enemy threatens to destroy what Lacan calls the “imaginary tripod” that props up the psychotic with a sort of pseudo-subjectivity, until something causes it to collapse, resulting in full-blown delusions, hallucinations, and paranoia.

Hence, for Schmitt, a world without enemies is much more dangerous than one where one is surrounded by enemies; as Derrida writes, the disappearance of the enemy opens the door for “an unheard-of violence, the evil of a malice knowing neither measure nor ground, an unleashing incommensurable in its unprecedented – therefore monstrous –forms; a violence in the face of which what is called hostility, war, conflict, enmity, cruelty, even hatred, would regain reassuring and ultimately appeasing contours, because they would be identifiable” (PF 83).

#### 8. The state will co-opt the alternative and make things worse.

**McCormack 10** (Tara, Lecturer in International Politics at the University of Leicester and has a PhD in International Relations from the University of Westminster, *Critique, Security and Power: The political limits to emancipatory approaches*, page 137-138)

In chapter 7 I engaged with the human security framework and some of the problematic implications of ‘emancipatory’ security policy frameworks. In this chapter I argued that the shift away from the pluralist security framework and the elevation of cosmopolitan and emancipatory goals has served to **enforce international power inequalities** rather than lessen them. Weak or unstable states are subjected to greater international scrutiny and international institutions and other states have greater freedom to intervene, but the citizens of these states have no way of controlling or influencing these international institutions or powerful states. This shift away from the pluralist security framework has not challenged the status quo, which may help to explain why major international institutions and states can easily adopt a more cosmopolitan rhetoric in their security policies. As we have seen, the shift away from the pluralist security framework has entailed a shift towards a more openly hierarchical international system, in which states are differentiated according to, for example, their ability to provide human security for their citizens or their supposed democratic commitments. In this shift, the old pluralist international norms of (formal) international sovereign equality, non-intervention and ‘blindness’ to the content of a state are overturned. Instead, international institutions and states have more freedom to intervene in weak or unstable states in order to ‘protect’ and emancipate individuals globally. Critical and emancipatory security theorists argue that the goal of the emancipation of the individual means that security must be reconceptualised away from the state. As the domestic sphere is understood to be the sphere of insecurity and disorder, the international sphere represents greater emancipatory possibilities, as Tickner argues, ‘if security is to start with the individual, its ties to state sovereignty must be severed’ (1995: 189). For critical and emancipatory theorists there must be a shift towards a ‘cosmopolitan’ legal framework, for example Mary Kaldor (2001: 10), Martin Shaw (2003: 104) and Andrew Linklater (2005). For critical theorists, one of the fundamental problems with Realism is that it is unrealistic. Because it prioritises order and the existing status quo, Realism attempts to impose a particular security framework onto a complex world, ignoring the myriad threats to people emerging from their own governments and societies. Moreover, traditional international theory serves to obscure power relations and omits a study of why the system is as it is: [O]mitting myriad strands of power amounts to exaggerating the simplicity of the entire political system. Today’s conventional portrait of international politics thus too often ends up looking like a Superman comic strip, whereas it probably should resemble a Jackson Pollock. (Enloe, 2002 [1996]: 189) Yet as I have argued, contemporary critical security theorists seem to show a marked lack of engagement with their problematic (whether the international security context, or the Yugoslav break-up and wars). Without concrete engagement and analysis, however, the critical project is undermined and critical theory becomes nothing more than a **request that people behave in a nicer way** to each other. Furthermore, whilst contemporary critical security theorists argue that they present a more realistic image of the world, through exposing power relations, for example, their lack of concrete analysis of the problematic considered renders them actually **unable to engage** with existing power structures and the way in which power is being exercised in the contemporary international system. For critical and emancipatory theorists the central place of the values of the theorist mean that it cannot fulfil its promise to critically engage with contemporary power relations and emancipatory possibilities. Values must be joined with engagement with the material circumstances of the time.

#### 9. doesn’t cause war – it allows for emancipation that creates surival

Ken Booth, visiting researcher - US Naval War College, 2005, Critical Security Studies and World Politics, p. 22

The best starting point for conceptualizing security lies in the real conditions of insecurity suffered by people and collectivities. Look around. What is immediately striking is thatsome degree of insecurity, as a life-determining condition, is universal. To the extent an individualor groupis insecure, to the extent their life choices and changes are taken away; thisis because of the resources and energy they need to invest in seeking safety from domineering threats–whether these are the lack of food for one’s children, or organizing to resist a foreign aggressor.The corollary of the relationship between insecurity and a determined life is that a degree of security creates life possibilities. Security might therefore be conceived as synonymous with opening up space in people’s lives. This allows for individual and collective human becoming–the capacity to have some choice about living differently–consistent with the same but different search by others.Two interrelated conclusion follow from this. First, security can be understood as an instrumental value; it frees its possessors to a greater or lesser extent from life-determining constraints and so allows different life possibilities to be explored. Second,security is not synonymous simply with survival. One can survive without being secure (the experience of refugees in long-term camps in war-torn parts of the world, for example). Security is therefore more than mere animal survival(basic animal existence). It is survival-plus, the plus being the possibility to explore human becoming. As an instrumental value, security is sought because it free people(s)to some degree to do other than deal with threats to their human being. The achievementof a levelof security–and security is always relative –gives to individuals and groups some time, energy, and scope to choose to beor become,other than merely survivingas human biological organisms. Security is an important dimension of the process by which the human species can reinvent itselfbeyond the merely biological.

#### 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.

#### 1AC reps are necessary to motivate action—excluding them makes case a DA

**Watson 11** – PhD @ BC, Professor of Political Science @ Victoria, Scott, Arctic Sovereignty in Canada: A Case of Successful or Failed Securitization?, Scholar)

The most recent military ‘threat’ emerges from Canada’s former Cold War adversary – **Russia**. Since the end of the Cold War, and even earlier, Russia has figured most prominently as challenging Canadian territorial sovereignty in the Arctic, and not as a military threat. But in 2009, the language emanating from Ottawa resembled early Cold War rhetoric. In response to perceived intrusion by Russian bombers nearing Canadian airspace, the Canadian Prime Minister asserted, “I have expressed at various times the deep concern our government has with increasingly aggressive Russian actions around the globe and Russian intrusions into our airspace. We will defend our airspace; we also have obligations of continental defence with the United States. We will fulfill those obligations” (Harper, 2009). In this statement, the Prime Minister portrays Russia in a manner similar to that visited on the USSR during the early Cold War, as aggressive, both against Canada and around the world. In a clear nod to Cold War logic, he also invokes Canada’s continental defence agreement with the US and the Arctic as a zone of insecurity and possible military intrusion. In response to one incident in July 2010, the Canadian Defence Minister, Peter McKay, announced that Canadian jets had “repelled Russian bombers, which had come closer than we have seen in recent times” (MacKay, 2010). In August 2010, the Prime Minister’s office reported another interception, stating, “thanks to the rapid response of the Canadian Forces, at no time did the Russian aircraft enter sovereign Canadian airspace (Soudas, 2010).¶ **The recent provocations and military threat claims highlight the importance of context in understanding securitizing claims.** Though Canadian political elites may employ Cold War rhetoric, or express concern over Russian bombers, these should generally understood to be in a context where a primary concern between the two states is territorial sovereignty, rather than the actual threat of military invasion as during the Cold War. In this context, the securitizing language of Canadian political elites should also be viewed as a strategic act that draws on continued Canadian concerns about its territorial sovereignty in the Arctic and that is designed to gain support for increased military spending or specific military procurement projects, most notably the F‐35 fighter jet purchase.

#### Our advantage isn’t based on myopic security discourse- multiple independent fields support our hegemony advantage, prefer our advantage because it is interdisciplinary

Wohlforth 9 William, professor of government at Dartmouth College, “ Unipolarity, Status Competition, and Great Power War”Project Muse

Mainstream theories generally posit that states come to blows over an international status quo only when it has implications for their security or material well-being. The guiding assumption is that a state’s satisfaction [End Page 34] with its place in the existing order is a function of the material costs and benefits implied by that status.24 By that assumption, once a state’s status in an international order ceases to affect its material wellbeing, its relative standing will have no bearing on decisions for war or peace. But the assumption is undermined by cumulative research in disciplines ranging from neuroscience and evolutionary biology to economics, anthropology, sociology, and psychology that human beings are powerfully motivated by the desire for favorable social status comparisons. This research suggests that the preference for status is a basic disposition rather than merely a strategy for attaining other goals.25 People often seek tangibles not so much because of the welfare or security they bring but because of the social status they confer. Under certain conditions, the search for status will cause people to behave in ways that directly contradict their material interest in security and/or prosperity.

#### 10. 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.

#### 11. Threats real and not constructed—rational risk assessment goes aff

**Knudsen 1**– PoliSci Professor at Sodertorn (Olav, Post-Copenhagen Security Studies, Security Dialogue 32:3)

Moreover, I have a problem with the underlying implication that it is unimportant whether states 'really' face dangers from other states or groups. In the Copenhagen school, threats are seen as coming mainly from the actors' own fears, or from what happens when the fears of individuals turn into paranoid political action. In my view, this emphasis on the subjective is a **misleading conception of threat**, in that it discounts an independent existence for what- ever is perceived as a threat. Granted, political life is often marked by misperceptions, mistakes, pure imaginations, ghosts, or mirages, but such phenomena **do not occur simultaneously** to large numbers of politicians, and **hardly most of the time**. During the Cold War, threats - in the sense of plausible possibilities of danger - referred to 'real' phenomena, and they **refer to 'real' phenomena** now. The objects referred to are often not the same, but that is a different matter. Threats have to be dealt with both ín terms of perceptions and in terms of the phenomena which are perceived to be threatening. The point of Waever’s concept of security is not the potential existence of danger somewhere but the use of the word itself by political elites. In his 1997 PhD dissertation, he writes, ’One can View “security” as that which is in language theory called a speech act: it is not interesting as a sign referring to something more real - it is the utterance itself that is the act.’24 The deliberate disregard of objective factors is even more explicitly stated in Buzan & WaeVer’s joint article of the same year.” As a consequence, the phenomenon of threat is reduced to a matter of pure domestic politics.” It seems to me that the security dilemma, as a central notion in security studies, then loses its foundation. Yet I see that Waever himself has no compunction about referring to the security dilemma in a recent article." This discounting of the objective aspect of threats shifts security studies to insignificant concerns. What has long made 'threats' and ’threat perceptions’ important phenomena in the study of IR is the implication that **urgent action may be required**. Urgency, of course, is where Waever first began his argument in favor of an alternative security conception, because a convincing sense of urgency has been the chief culprit behind the abuse of 'security' and the consequent ’politics of panic', as Waever aptly calls it.” Now, here - in the case of urgency - another baby is thrown out with the Waeverian bathwater. When real situations of urgency arise, those situations are challenges to democracy; they are actually at the core of the problematic arising with the process of making security policy in parliamentary democracy. But in Waever’s world, threats are merely more or less persuasive, and the claim of urgency is just another argument. I hold that instead of 'abolishing' threatening phenomena ’out there’ by reconceptualizing them, as Waever does, we should continue paying attention to them, because **situations with a credible claim to urgency will keep coming back** and then we need to know more about how they work in the interrelations of groups and states (such as civil wars, for instance), not least to find adequate democratic procedures for dealing with them.

#### No policy failure. Language is clear enough to use common assumptions. Policy and theory do succeed on this basis.

**Harvey ’97** (Frank, Associate Prof. Pol. Sci. – Dalhousie U., “The Future’s Back: Nuclear Rivalry, Deterrence Theory, and Crisis Stability after the Cold War”, p. 138-139)

Linguistic Relativism. One approach of postmodernists is to point to the complex nature of language and meaning as a critique of positiv¬ism; this critique is, in turn, relevant to the overwhelming amount of work in IR (Phillips 1977; Giddens 1979; George and Campbell 1990). Although a comprehensive assessment of the linguistic relativism debate is beyond the scope of this project, it is possible to address the underlying philosophical argument, which is fairly straightforward. Building on the work of Wittgenstein (1968), the linguistic variant of the criticism contends that any attempt to reduce everyday terms "to a singular essentialist meaning" is problematic given "the multiplicity of meaning to be found in social activity" (George and Campbell 1990, 273). By implication, a concept, term, word, or symbol cannot correspond "to some ... externally derived foundation or object" and ulti¬mately is context-dependent. Similarly, Phillips argues that the validity of theory cannot be determined because "There is no standard or objective reality (always fixed, never changing) against which to com¬pare a universe of discourse ... nothing exists outside of our language and actions which can be used to justify ... a statement's truth or falsity" (1977, 273). Of course, it is not entirely clear how this "multiplicity of meaning" is sufficient to render meaningless an approach that assumes the existence of an objective reality. An important distinction must be drawn between the assertion that these discrepancies might have a significant impact on scientific theorizing and the assertion that they do have such an effect. In most cases, errors of interpretation and generalization produced by linguistic nuances are relatively insignificant and ultimately have very little impact on the generalizability of social theories. There are numerous words, symbols, concepts, and ideas, for example, that are commonly understood, regardless of other linguistic variations, but the implications of this standardized concep¬tual framework are frequently overlooked and ignored in the post¬modern critique. In any case, it is contingent upon the theorist to specify the precise meaning of any variable or symbol that is central to a theory. Although definitions may vary — possibly partly, but not entirely, as a conse¬quence of language — scholars nevertheless are more likely than not to understand and agree on the underlying meaning of most words, symbols and phrases. The point is that theorists generally do have a common starting point and often suspend, at least temporarily, coun¬terproductive debates over meaning in order to shift emphasis towards the strength and logical consistency of the theory itself, a more important issue that has nothing to do with language. Evaluating the internal consistency of the central assumptions and propositions of a theory, that is, criticising from within, is likely to be more conducive to theoretical progress than the alternative, which is to reject the idea of theory building entirely. Finally, the lack of purity and precision, another consequence of linguistic relativism, does not necessarily imply irrelevance of purpose or approach. The study of international relations may not be exact, given limitations noted by Wittgenstein and others, but precision is a practical research problem, not an insurmountable barrier to progress. In fact, most observers who point to the context-dependent nature of language are critical not so much of the social sciences but of the incorrect application of scientific techniques to derive overly precise measurement of weakly developed concepts. Clearly, **our understanding of the causes of international conflict** — and most notably war — **has improved considerably as a consequence of applying sound scientific methods and valid operationalizations** (Vasquez 1987, 1993). The alternative approach, implicit in much of the postmodern literature, is to fully accept the inadequacy of positivism, throw one's hands up in failure, given the complexity of the subject, and repudiate the entire enterprise. The most relevant question is whether we would know more or less about international relations if we pursued that strategy.

### 2AC PQDoctrine DA

#### 1. No link – plan does not necessitate ruling on the political question doctrine – it doesn’t make a proactive foreign affairs ruling, just applies a regulation – they have to read a piece of evidence saying the plan would use it

#### And 200 years of history disprove the DA - PQD is never cited and previous detention statutes disprove the link

Skinner 8-23 (Gwynne, Willamette University - College of Law, “Misunderstood, Misconstrued, and Now Clearly Dead: The 'Political Question Doctrine' in Cases Arising in the Context of Foreign Affairs,”)

Lower federal courts often cite the “Political Question Doctrine” when dismissing as nonjusticiable individual rights cases arising in the context of foreign or military affairs, especially since the 1962 case of Baker v. Carr. Similarly, such courts have inappropriately begun citing “special factors” counselling hesitation in refusing to recognize constitutional claims (“Bivens claims”) in similar foreign policy contexts. However, a review of 200 years of history reveals that the Supreme Court has never applied the so-called “political question doctrine” as a true justiciability doctrine to dismiss individual rights claims, even those arising in the context of foreign or military affairs. In fact, the Supreme Court has almost always rejected the “political question doctrine” as a basis to preclude adjudication of individual rights claims, even in the context of foreign or military affairs. Although the Supreme Court has invoked a “political question doctrine” in some cases, a close review of those cases demonstrates that rather than dismissing the cases as “nonjusticiable,” the Court in fact adjudicated the case by finding that either the executive or Congress acted constitutionally within their power or discretion. The recent post-9/11 Supreme Court cases of Hamdi v. Rumsfeld, Rasul v. Bush, and Bush v. Boumediene further demonstrate that the doctrine does not exist as a nonjusticiability doctrine in individual rights claims (if it exists as such at all), even in those involving foreign and military affairs. In case there remained any doubt, in 2012 case of Zivotofsky v. Clinton, the Supreme Court for all practical purposes sounded the death knell of the application of the “political question doctrine” as a justiciability doctrine with regard to individual rights claims, including those arising in a foreign policy context. Rather than continuing to erroneously dismiss such cases on political question grounds or using “special factors” as nonjusticiable, federal courts should adjudicate the claims by ruling which branch has what power under the Constitution, and whether the branch acted within its powers. This is an important function of the courts, and one vital to legal and political transparency and democracy. Indeed, this is the approach the Supreme Court has consistently taken – even if the Court has not always well-articulated this approach - and which it affirmed in Zivotofsky.

#### 3. Courts k2 effective foreign policy

Knowles 9 -- Acting assistant Professor, New York University School of Law (Robert, 2009, “American Hegemony and the Foreign Affairs Constitution,” Arizona State Law Journal, 41 Ariz. St. L.J. 87, October)

International relations scholars are still struggling to define the current era. The U.S.-led interna tional order is unipolar, hegemonic, and, in some ways, imperial. In any event, this or der diverges from traditional realist assumptions in important respects. It is unipolar, but stable. It is more hierarchical. The U.S. is not the same as other states; it performs unique functions in the world and has a government open and accessible to foreigners. And **the stability and legitimacy of the system depends more on successful functioning of the U.S. government as a whole than it does on balancing alliances** crafted by elite statesmen practicing realpolitik . “[W]orld power politics are shaped prim arily not by the stru cture created by interstate anarchy but by the fore ign policy developed in Washington.” 368 These differences require a new model for assessing the institutional competences of the executive and judicial branches in foreign affairs. One approach would be to adapt an institutional competence model using insights from a major alternative th eory of international relations – liberalism. Liberal IR theory generally holds that internal characteristics of states – in particular, the form of go vernment – dictate st ates behavior, and that democracies do not go to war against one another. 369 Liberalists also regard economic interdependence and in ternational institutions as important for maintaining peace and stability in the world. 370 Dean Anne-Marie Slaughter has proposed a binary model that distinguishes between liberal, democratic states and non-democratic states. 371 Because domestic and foreign issues are “more convergent” among liberal democracies, Slaughter reasons, the courts should decide issues concerning the scope of the political branches’ powers. 372 With respect to non-liberal states, the position of the U.S. is more “realist,” and courts should deploy a high level of deference. 373 A strength of Dean Slaughter’s binary approach is that it would tend to reduce the uncertainty in foreign affa irs adjudication. Professor Nzelibe has criticized this approach because it would put courts in the difficult position of determining which countri es are liberal democracies. 374 But even if courts are capable of making these dete rminations, they would still face the same dilemmas adjudicating controve rsies regarding non-liberal states. Where is the appropriate boundary betw een foreign affairs and domestic matters? How much discretion should be afforded the executive when individual rights and accountabi lity values are at stake? To resolve these dilemmas, an institutional competence model should be applicable to foreign affairs adjudica tion across the board. In constructing a new realist model, it is worth recalling that the functional justifications for special deference are aimed at addressi ng problems of a particular sort of role effectiveness—which allocation of power among the branches will best achieve general governmental effectiven ess in foreign affairs. In the 21 st Century, America’s global role has changed, and the best means of achieving effectiveness in foreign a ffairs have changed as well. The international realm remains highly politic al—if not as much as in the past— but **it is American politics that matters most.** If the U.S. is truly an empire— and in some respects it is—the prob lems of imperial management will be far different from the problems of ma naging relations with one other great power or many great powers. Similarl y, the management of hegemony or unipolarity requires a di fferent set of competences. Although American predominance is recognized as a sali ent fact, there is no consensus among realists about the precise nature of the current international order. 375 The hegemonic model I offer here adopts **common insights from the three IR frameworks**—unipolar, hegemonic, and imperial—described above. First, the “hybrid” hegemonic mode l assumes that the goal of U.S. foreign affairs should be the **preservation of American hegemony**, which is more stable, more peaceful, and be tter for America’s security and prosperity, than the alternatives. If th e United States were to withdraw from its global leadership role , no other nation would be capable of taking its place. 376 The result would be radical instab ility and a greater risk of major war. 377 In addition, the United States would no longer benefit from the public goods it had form erly produced; as the largest consumer, it would suffer the most. Second, the hegemonic model assumes that American hegemony is unusually stable and durable. 378 As noted above, other nations have many incentives to continue to tolerate the current order. 379 And although other nations or groups of nations—China, the European Union, and India are often mentioned—may eventually overt ake the United States in certain areas, such as manufacturing, the U.S. will remain dominant in most measures of capability for decades to come. In 2025, the U.S. economy is projected to be twice the size of China’s. 380 The U.S. accounted for half of the world’s military spending in 2007 and holds enormous advantages in defense technology that far out strip would-be competitors. 381 Predictions of American decline are not new, and th ey have thus far proved premature. 382 Third, the hegemonic model assumes that preservation of American hegemony depends not just on power, but legitimacy. 383 All three IR frameworks for describing predom inant states—although unipolarity less than hegemony or empire—suggest that legitimacy is crucial to the stability and durability of the system. Although empires and predominant states in unipolar systems can conceivably mainta in their position through the use of force, this is much more likely to ex haust the resources of the predominant state and to lead to counter-bal ancing or the loss of control. 384 Legitimacy as a method of maintaining predominance is far more efficient. The hegemonic model generally values courts’ **institutional competences** more than the anarchic realist model. The courts’ strengths in offering a **stable interpretation of the law**, relative **insulation from political pressure**, and **power to bestow legitimacy** are im portant for realizing the functional constitutional goal of effective U.S. foreign policy. This means that courts’ treatment of deference in foreign affairs will, in most respects, resemble its treatment of domestic affairs. Gi ven the amorphous quality of foreign affairs deference, this “domestication” reduces uncertainty. The increasing boundary problems caused by the pro liferation of treaties and the infiltration of domestic law by fore ign affairs issues are lessened by reducing the deference gap. And the dilemma caused by the need to weigh different functional considerations—liberty, accountability, and effectivenes s—against one another is made less intractable because it becomes part of the same project that the courts constantly grapple with in adjudicating domestic disputes.

#### Aff is key to solve tha impact – your author

Knowles 9 [Spring, 2009, Robert, 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]

American unipolarity has created a challenge for realists. Unipolarity was thought to be inherently unstable because other nations, seeking to protect their own security, form alliances to counter-balance the leading state. n322 But no nation or group of nations has yet attempted to challenge America's military predominance. n323 Although some realists predict that [\*140] counter-balancing will occur or is already in some ways occurring, n324 William Wohlforth has offered a compelling explanation for why true counter-balancing, in the traditional realist sense, will probably not happen for decades. n325 American unipolarity is unprecedented. n326 First, the United States is geographically isolated from other potential rivals, who are located near one another in Eurasia. n327 This mutes the security threat that the U.S. seems to pose while increasing the threats that potential rivals seem to pose to one another. n328 Second, the U.S. far exceeds the capabilities of all other states in every aspect of power - military, economic, technological, and in terms of what is known as "soft power." This advantage "is larger now than any analogous gap in the history of the modern state system." n329 Third, unipolarity is entrenched as the status quo for the first time since the seventeenth century, multiplying free rider problems for potential rivals and rendering less relevant all modern previous experience with balancing. n330 Finally, the potential rivals' possession of nuclear weapons makes the concentration of power in the United States appear less threatening. A war between great powers in today's world is very unlikely. n331 These factors make the current system much more stable, peaceful and durable than the past multi-polar and bipolar systems in which the United States operated for all of its history until 1991. The lack of balancing means that the United States, and by extension the executive branch, faces much weaker external constraints on its exercise of power than in the past. n332 Therefore, the internal processes of the U.S. matter now more than any other nations' have in history. n333 And it is these internal processes, as much as external developments, that will determine the durability of American unipolarity. As one realist scholar has argued, the U.S. can best ensure the [\*141] stability of this unipolar order by ensuring that its predominance appears legitimate. n334 Hegemonic orders take on hierarchical characteristics, with the preeminent power having denser political ties with other nations than in a unipolar order. n335 Stability in hegemonic orders is maintained in part through security guarantees and trade relationships that result in economic specialization among nations. n336 For example, if Nation X's security is supplied by Hegemon Y, Nation X can de-emphasize military power and focus on economic power. In a hegemonic system, the preeminent state has "the power to shape the rules of international politics according to its own interests." n337 The hegemon, in return, provides public goods for the system as a whole. n338 The hegemon possesses not only superior command of military and economic resources but "soft" power, the ability to guide other states' preferences and interests. n339 The durability and stability of hegemonic orders depends on other states' acceptance of the hegemon's role. The hegemon's leadership must be seen as legitimate. n340 [\*142] The United States qualifies as a global hegemon. In many ways, the U.S. acts as a world government. n341 It provides public goods for the world, such as security guarantees, the protection of sea lanes, and support for open markets. n342 After World War II, the U.S. forged a system of military alliances and transnational economic and political institutions - such as the United Nations, NATO, the International Monetary Fund, and the World Bank - that remain in place today. The U.S. provides security for allies such as Japan and Germany by maintaining a strong military presence in Asia and Europe. n343 Because of its overwhelming military might, the U.S. possesses what amounts to a "quasi-monopoly" on the use of force. n344 This prevents other nations from launching wars that would tend to be truly destabilizing. Similarly, the United States provides a public good through its efforts to combat terrorism and confront - even through regime change - rogue states. n345 The United States also provides a public good through its promulgation and enforcement of international norms. It exercises a dominant influence on the definition of international law because it is the largest "consumer" of such law and the only nation capable of enforcing it on a global scale. n346 The U.S. was the primary driver behind the establishment of the United Nations system and the development of contemporary treaties and institutional regimes to effectuate those treaties in both public and private international law. n347 Moreover, controlling international norms are [\*143] sometimes embodied in the U.S. Constitution and domestic law rather than in treaties or customary international law. For example, whether terrorist threats will be countered effectively depends "in large part on U.S. law regarding armed conflict, from rules that define the circumstances under which the President can use force to those that define the proper treatment of enemy combatants." n348 These public goods provided by the United States stabilize the system by legitimizing it and decreasing resistance to it. The transnational political and economic institutions created by the United States provide other countries with informal access to policymaking and tend to reduce resistance to American hegemony, encouraging others to "bandwagon" with the U.S. rather than seek to create alternative centers of power. n349 American hegemony also coincided with the rise of globalization - the increasing integration and standardization of markets and cultures - which tends to stabilize the global system and reduce conflict. n350 The legitimacy of American hegemony is strengthened and sustained by the democratic and accessible nature of the U.S. government. The American constitutional separation of powers is an international public good. The risk that it will hinder the ability of the U.S. to act swiftly, coherently or decisively in foreign affairs is counter-balanced by the benefits it provides in permitting foreigners multiple points of access to the government. n351 Foreign nations and citizens lobby Congress and executive branch agencies in the State, Treasury, Defense, and Commerce Departments, where foreign policy is made. n352 They use the media to broadcast their point of view in an effort to influence the opinion of decision-makers. n353 Because the United States is a nation of immigrants, many American citizens have a specific interest in the fates of particular countries and form "ethnic lobbies" for the purpose of affecting foreign policy. n354 The courts, too, are accessible to foreign nations and non-citizens. The Alien Tort Statute is emerging as an [\*144] important vehicle for adjudicating tort claims among non-citizens in U.S. courts. n355 Empires are more complex than unipolar or hegemonic systems. Empires consist of a "rimless-hub-and-spoke structure," with an imperial core - the preeminent state - ruling the periphery through intermediaries. n356 The core institutionalizes its control through distinct, asymmetrical bargains (heterogeneous contracting) with each part of the periphery. n357 Ties among peripheries (the spokes) are thin, creating firewalls against the spread of resistance to imperial rule from one part of the empire to the other. n358 The success of imperial governance depends on the lack of a "rim." n359 Stability in imperial orders is maintained through "divide and rule," preventing the formation of countervailing alliances in the periphery by exploiting differences among potential challengers. n360 Divide-and-rule strategies include using resources from one part of the empire against challengers in another part and multi-vocal communication - legitimating imperial rule by signaling "different identities ... to different audiences." n361 Although the U.S. has often been labeled an empire, the term applies only in limited respects and in certain situations. Many foreign relations scholars question the comparison. n362 However, the U.S. does exercise informal imperial rule when it has routine and consistent influence over the foreign policies of other nations, who risk losing "crucial military, economic, or political support" if they refuse to comply. n363 The "Status of Force Agreements" ("SOFAs") that govern legal rights and responsibilities of U.S. military personnel and others on U.S. bases throughout the world are typically one-sided. n364 And the U.S. occupations in Iraq and Afghanistan had a strong imperial dynamic because those regimes depended on American support. n365 [\*145] But the management of empire is increasingly difficult in the era of globalization. Heterogeneous contracting and divide-and-rule strategies tend to fail when peripheries can communicate with one another. The U.S. is less able control "the flow of information ... about its bargains and activities around the world." n366 In late 2008, negotiations on the Status of Force Agreement between the U.S. and Iraq were the subject of intense media scrutiny and became an issue in the presidential campaign. n367 Another classic imperial tactic - the use of brutal, overwhelming force to eliminate resistance to imperial rule - is also unlikely to be effective today. The success of counterinsurgency operations depends on winning a battle of ideas, and collateral damage is used by violent extremists, through the Internet and satellite media, to "create widespread sympathy for their cause." n368 The abuses at Abu Ghraib, once public, harmed America's "brand" and diminished support for U.S. policy abroad. n369 Imperial rule, like hegemony, depends on maintaining legitimacy. B. Constructing a Hegemonic Model International relations scholars are still struggling to define the current era. The U.S.-led international order is unipolar, hegemonic, and, in some instances, imperial. In any event, this order diverges from traditional realist assumptions in important respects. It is unipolar, but stable. It is more hierarchical. The U.S. is not the same as other states; it performs unique functions in the world and has a government open and accessible to foreigners. And the stability and legitimacy of the system depends more on successful functioning of the U.S. government as a whole than it does on balancing alliances crafted by elite statesmen practicing realpolitik. "World power politics are shaped primarily not by the structure created by interstate anarchy but by the foreign policy developed in Washington." n370 These differences require a new model for assessing the institutional competences of the executive and judicial branches in foreign affairs. [\*146] One approach would be to adapt an institutional competence model using insights from a major alternative theory of international relations - liberalism. Liberal IR theory generally holds that internal characteristics of states - in particular, the form of government - dictate states' behavior, and that democracies do not go to war against one another. n371 Liberalists also regard economic interdependence and international institutions as important for maintaining peace and stability in the world. n372 Dean Anne-Marie Slaughter has proposed a binary model that distinguishes between liberal, democratic states and non-democratic states. n373 Because domestic and foreign issues are "most convergent" among liberal democracies, Slaughter reasons, the courts should decide issues concerning the scope of the political branches' powers. n374 With respect to non-liberal states, the position of the U.S. is more "realist," and courts should deploy a high level of deference. n375 One strength of this binary approach is that it would tend to reduce the uncertainty in foreign affairs adjudication. Professor Nzelibe has observed that it would put courts in the difficult position of determining which countries are liberal democracies. n376 But even if courts are capable of making these determinations, they would still face the same dilemmas adjudicating controversies regarding non-liberal states. Where is the appropriate boundary between foreign affairs and domestic matters? How much discretion should be afforded the executive when individual rights and accountability values are at stake? To resolve these dilemmas, an institutional competence model should be applicable to foreign affairs adjudication across the board. In constructing a new realist model, it is worth recalling that the functional justifications for special deference are aimed at addressing problems of a particular sort of role effectiveness - which allocation of power among the branches will best achieve general governmental effectiveness in foreign affairs. In the twenty-first century, America's global role has changed, and the best means of achieving effectiveness in foreign affairs have changed as well. The international realm remains highly political - if not as much as in the past - but it is American politics that matters most. If the U.S. is truly an empire - [\*147] and in some respects it is - the problems of imperial management will be far different from the problems of managing relations with one other great power or many great powers. Similarly, the management of hegemony or unipolarity requires a different set of competences. Although American predominance is recognized as a salient fact, there is no consensus among realists about the precise nature of the current international order. n377 The hegemonic model I offer here adopts common insights from the three IR frameworks - unipolar, hegemonic, and imperial - described above. First, the "hybrid" hegemonic model assumes that the goal of U.S. foreign affairs should be the preservation of American hegemony, which is more stable, more peaceful, and better for America's security and prosperity, than the alternatives. If the United States were to withdraw from its global leadership role, no other nation would be capable of taking its place. n378 The result would be radical instability and a greater risk of major war. n379 In addition, the United States would no longer benefit from the public goods it had formerly produced; as the largest consumer, it would suffer the most. Second, the hegemonic model assumes that American hegemony is unusually stable and durable. n380 As noted above, other nations have many incentives to continue to tolerate the current order. n381 And although other nations or groups of nations - China, the European Union, and India are often mentioned - may eventually overtake the United States in certain areas, such as manufacturing, the U.S. will remain dominant in most measures of capability for decades**.** According to 2007 estimates, the U.S. economy was projected to be twice the size of China's in 2025. n382 The U.S. accounted for half of the world's military spending in 2007 and holds enormous advantages in defense technology that far outstrip would-be competitors. n383 Predictions of American decline are not new, and they have thus far proved premature. n384 [\*148] Third, the hegemonic model assumes that preservation of American hegemony depends not just on power, but legitimacy. n385 All three IR frameworks for describing predominant states - although unipolarity less than hegemony or empire - suggest that legitimacy is crucial to the stability and durability of the system. Although empires and predominant states in unipolar systems can conceivably maintain their position through the use of force, this is much more likely to exhaust the resources of the predominant state and to lead to counter-balancing or the loss of control. n386 Legitimacy as a method of maintaining predominance is far more efficient. The hegemonic model generally values courts' institutional competences more than the anarchic realist model. The courts' strengths in offering a stable interpretation of the law, relative insulation from political pressure, and power to bestow legitimacy are importantfor realizing the functional constitutional goal of effective U.S. foreign policy. This means that courts' treatment of deference in foreign affairs will, in most respects, resemble its treatment of domestic affairs. Given the amorphous quality of foreign affairs deference, this "domestication" reduces uncertainty. The increasing boundary problems caused by the proliferation of treaties and the infiltration of domestic law by foreign affairs issues are lessened by reducing the deference gap. And the dilemma caused by the need to weigh different functional considerations - liberty, accountability, and effectiveness - against one another is made less intractable because it becomes part of the same project that the courts constantly grapple with in adjudicating domestic disputes.

#### 4. Courts don’t need to invalidate the political question doctrine

Abebe 12 -- Assistant Professor of Law, The University of Chicago Law School (Daniel, "One Voice or Many? The Political Question Doctrine and Acoustic Dissonance in Foreign Affairs," The Supreme Court Review, 2012 Vol 1, JSTOR)

Courts can gain traction on this question by assessing the background conditions of international politics to understand when a presumption in favor of speaking with one voice is warranted, and when such a presumption is unnecessary. As I have argued in prior scholarship,33 the **courts can adopt a parsimonious framework**, based on the international relations concept of polarity, to assess background international political conditions and the role of the US in the world. Based on this assessment, the courts **would not decide whether a particular foreign affairs question required the application of the political question doctrine**; rather, the assessment would assist the courts in weighing the benefits of speaking with one voice.

#### 5. Judicial review doesn’t hinder the President’s ability to act quickly and decisively

**Wells 04** (Christina, Prof of law @ U of Missouri – Columbia, Missouri Law Review, Fall)

Thus, the threat of judicial review is still a necessary component of making executive actors accountable.  Second, one could argue that judicial review unreasonably burdens the executive's ability to act quickly and decisively in response to an emergent situation. [**238**](http://www.lexis.com/research/retrieve?_m=de0216e9953095373f699f9d14bbb843&csvc=bl&cform=bool&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVlz-zSkAV&_md5=9a947f66e07ba5718a84bf5f543141da#n238) National security emergencies are presumably the last instance in which we want such burdens on executive decision making. [**239**](http://www.lexis.com/research/retrieve?_m=de0216e9953095373f699f9d14bbb843&csvc=bl&cform=bool&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVlz-zSkAV&_md5=9a947f66e07ba5718a84bf5f543141da#n239) While this argument is reasonable as it pertains to executive decisions regarding the actual prosecution of a war -- i.e., decisions to invade a country, troop movements -- the historic patterns described above never involved such decisions. Rather, they involved decisions to pursue groups or individuals via domestic criminal or administrative measures, decisions made over long periods of time. Such actions taken in the name of national security rarely require quick and decisive action. [**240**](http://www.lexis.com/research/retrieve?_m=de0216e9953095373f699f9d14bbb843&csvc=bl&cform=bool&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVlz-zSkAV&_md5=9a947f66e07ba5718a84bf5f543141da#n240) The argument for executive flexibility thus carries less weight in this context than when military decisions are involved. Furthermore, given what we know of past skewed decision making, we may actually want to slow down that decision-making process when restricting civil liberties.

#### 5.5 No link – the plan is a form of stealth overruling that avoids public scrutiny

Friedman 10 (Barry, Prof of Law @ NYU, "The Wages of Stealth Overruling (With Particular

Attention to Miranda v. Arizona), http://georgetownlawjournal.org/files/pdf/99-1/Friedman.pdf)

There is one quite persuasive—perhaps even obvious—explanation that remains for why Justices engage in stealth overruling: avoiding the publicity¶ attendant explicit overruling.185Although public opinion is not often given as a¶ basis for the Court’s decisions, it has played a role with regard to stare decisis.¶ As we have seen, part of the concern about overruling in constitutional cases is¶ the way the public will perceive the decision, especially if it appears fueled by¶ little else but a membership change on the Court.186 This point was poignantly¶ made in Planned Parenthood of Southeastern Pennsylvania v. Casey.¶ 187 The¶ joint opinion of Justices Kennedy, O’Connor, and Souter dwelt in somewhat¶ agonized terms with the crisis of legitimacy the Court would experience if it¶ overruled Roe; they concluded that a “terrible price would be paid for overruling.”188 Although the analysis was somewhat muddled, the conclusion was¶ almost certainly correct. Casey was a case of extremely high salience, and the¶ Justices had seen ample evidence of the uproar that would attend a decision to¶ overrule Roe v. Wade.¶ 185. See Peters,supra note 8, at 1090 (noting public scrutiny provides an “incentive for the Court to¶ overrule precedents it believes to be wrong without being seen to do so”).¶ 186. See supra note 142 and accompanying text.¶ 187. 505 U.S. 833 (1992).¶ 188. Id. at 864; see also Moragne v. States Marine Lines, Inc., 398 U.S. 375, 403 (1970) (favoring¶ respect for precedent given “the necessity of maintaining public faith in the judiciary as a source of¶ impersonal and reasoned judgments”).

#### 6. Lower courts still enforce

Fix & Randazzo 10 -- \*Assistant Professor in the Dept of Poli Sci @ Ga St Univ, PhD in Poli Sci @ Univ South Carolina \*\*Associate Professor in the Department of Political Science at the University of South Carolina, Ph.D. from Michigan State University, Director of the Judicial Research Initiative (Michael P. and Kirk A., 3/16/2010, "Judicial Deference and National Security: Applications of the Political Question and Act of State Doctrines," Democracy and Security, 6(1), http://people.cas.sc.edu/randazzo/fix\_randazzo\_2010\_dem\_and\_sec.pdf)

In sum, it is apparent that the political question doctrine remains a viable tool for the lower federal courts to avoid reaching the merits of cases that challenge national security and foreign policy. This continued use reinforces the judicial branch’s deferential nature to the political branches of govern- ment. Additionally, in three of the four cases discussed above, the US Supreme Court later denied certiorari. 58 While this does not show explicit support by the Supreme Court for these rulings, it illustrates how vehicles for abolish- ing the use of the political question doctrine have been available. Therefore, while the Court may have **decreased its reliance on this doctrine**, it has not attempted to instruct the lower courts to do so; they continue to apply this threshold issue to cases involving questions of national security. As a result, the political question doctrine continues to encourage judicial deference to the executive in national security cases.

#### 7. **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."

#### 8. Political question doctrine dead

Stras 08

[David, associate justice of the Minnesota Supreme Court , The Decline of the Political Question Doctrine, 12/29/08, <http://balkin.blogspot.com/2008/12/decline-of-political-question-doctrine.html>]

Not surprisingly, the Court has limited the application of the political question doctrine to thorny areas that are at the intersection of law and public policy, such as Congress's ability to regulate its own internal processes and matters of foreign affairs. With respect to the latter category, the Court has long declined to interfere with sensitive questions of foreign policy, holding at various points in history that such questions of when a war begins and ends and whether to recognize a foreign government and grant diplomatic immunity to its officials are all nonjusticiable political questions. In fact, some scholars have recognized that the area of foreign affairs was the last bastion where the political question doctrine had "real bite." The question I pose is what is left of the political question doctrine after Boumediene v. Bush? The answer, I believe, is not very much. As an initial matter, a majority of the Court has only employed the political question doctrine twice since 1964 (the year Baker v. Carr was decided) to dismiss a case, though various Justices have endorsed its use in a variety of contexts (e.g., treaty interpretation, political gerrymandering cases, etc.). Second, in Boumediene, the Court quickly dismissed the Government's argument that questions of sovereignty are matters for the political branches to conclusively decide. As the Court stated, "our cases do not hold it is improper for us to inquire into the objective degree of control the Nation asserts over foreign territory . . . . When we have stated that sovereignty is a political question, we have referred not to sovereignty in the general, colloquial sense, meaning the exercise of dominion or power, but sovereignty in the narrow, legal sense of the term, meaning a claim of right." The Court went on to conclude essentially that questions of de jure sovereignty (or a claim of right) are matters for the political branches to decide, but that questions of de facto sovereignty (or practical control over a territory) can be examined by the judicial branch. Given that de jure sovereignty is the clearer purely legal question and that one of the lynchpins of the political question doctrine is the presence or absence of judicially manageable standards, I find the Court's abbreviated discussion of the political question doctrine quite significant, even astonishing. Questions of de facto sovereignty tend to be difficult to determine because of competing indicia of control and, as a result, judicially manageable standards seem to be fairly elusive. (However, I would freely admit that the United States' near-total control of Guantanamo Bay made the question of de facto sovereignty by the United States in Boumediene pretty clear.) I also find the Court's discussion of the political question doctrine to be in stark contrast to its prior case law, which is quite deferential to the political branches on foreign policy questions. For instance, in Chicago & Southern Air Lines, Inc. v. Waterman Steamship Corp., 383 U.S. 103 (1948), the Court held that it could not review decisions of the President to grant or deny certificates of necessity to air carriers wishing to establish air travel routes to foreign countries. As the Court stated: [t]he very nature of executive decisions as to foreign policy is political, not judicial. Such decisions are wholly confided by our Constitution to the political departments of the Government, Executive and Legislative. They are delicate, complex, and involve large elements of prophecy. They are and should be undertaken only by those directly responsible to the people whose welfare they advance or imperil. They are decisions of the kind for which the Judiciary has neither aptitude, facilities, nor responsibility, and have long been held to belong in the domain of political power not subject to judicial intrusion or inquiry. In the past, the Court has held that questions relating to sovereignty, such as whether to recognize a foreign government and grant diplomatic immunity to government officials, were among the "delicate" and "complex" matters that were better left to the "political departments." And as the Court freely concedes in Boumediene, it would have at least deferred to the Executive Branch if the outcome of the case depended on which country possessed de jure sovereignty over Guantanamo Bay. I am surprised, therefore, that not a single Justice on the Court would have dismissed this case on political question grounds, at least as the majority framed the case. (Perhaps the majority opinion could have taken sovereignty off the table by expanding its discussion of extraterritorial application of the Constitution and further distinguishing Eisentrager.)

#### 9. 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.**

### 2AC Iran Sanctions Octas

#### Court will rule for Bond – thumps the DA

Severino 11/5/13 (Carrie, National Review, "Re: Oral Argument in Bond v. United States," http://www.nationalreview.com/bench-memos/363155/re-oral-argument-bond-v-united-states-carrie-severino)

This morning the Supreme Court held oral arguments in Bond v. US, in what looked to be yet another uphill argument for the federal government.¶ Today’s arguments didn’t garner the coverage in the media that some of the “sexier” issues have this term, and had a surprisingly short line for both public and Supreme Court Bar seats. But the collection of international-law scholars present and even the rare visit by retired justice Sandra Day O’Connor hinted at its real significance.¶ The case, which Ed previewed here, and in which my organization filed an amicus brief, deals with the scope of the treaty power, or rather, whether Congress’ power to enact laws can be expanded by the ratification of a treaty.¶ The government claims that Congress may make laws to effect non-self-executing treaties regardless of whether it had independent Article I power to enact those laws. Lawyers for Ms. Bond, defendant in the case, claim that the federal government cannot make laws normally within the state police powers without some specific nexus to proper federal interests, and a treaty doesn’t get you out of that requirement.¶ The issues may seem arcane, but the importance of vigilantly maintaining the constitutional limits on government power cannot be overstated. Large portions of the argument focused on the difficulty in drawing a line to maintain any limits on government power if the administration’s argument were to prevail.¶ The absurd consequences of the government’s position are front and center in the case at hand, in which a woman who was trying to poison her husband’s mistress was prosecuted under a law implementing a chemical-weapons treaty. Justices Kennedy and Alito each mentioned how bizarre it was that the government made a federal case out of what was literally a domestic dispute. Justice Alito also pointed out the the law’s terms were broad enough to encompass him handing out Halloween candy because chocolate is a toxic chemical, at least to dogs, and Justice Breyer noted that the terms of the law would seem to criminalize actions long assumed to be purely the subject of state law, such as arson and poisoning.¶ The lineup after today’s argument seems to be against the federal government, with only Justices Kagan, Sotomayor, and Ginsburg defending a broad interpretation of the treaty power. The three female justices claimed the text of the statute at issue simply mirrored the language in a valid chemical-weapons treaty, and questioned how the treaty could be valid while the statute not. (Paul Clement, arguing for Ms. Bond, along with Justice Scalia, pushed back against the suggestion that the language was identical.). Justice Kagan seemed to be the strongest supporter of the position held by her successor, Solicitor General Verilli, and the government. She attacked Bond on an number of fronts, arguing that the case is equivalent to Missouri v. Holland, the one major precedent in this area of law that concluded almost offhand that if a treaty were valid, it’s enacting legislation would be. She also pushed it onto conservatives’ own turf to argue that the original understanding of the treaty power was broad, citing debates among the Framers as to whether or not to include subject-matter limitations on treaties. (They ultimately chose not to.)¶ The biggest pushback against the government came from the justices’ concern that the government’s position was without any real limit. That seemed to be Justice Breyer’s major concern, and he repeatedly returned to the problem of allowing a treaty passed by the president and the Senate to expand constitutional power. He suggested several possible ways to limit the government’s interpretation, either by limiting the range of chemicals covered by domestic legislation to those listed in the treaty itself, or by reading the treaty only to authorize legislation about “warlike” use of chemicals. But each time, the solicitor general resisted a limitation to the government’s authority, even suggesting that the court would seriously undermine our foreign relations if it did anything else.

#### PC Now on indefinite detention

Gerstein 1/28 [,Josh. White House reporter for POLITICO, specializing in legal and national security issues. “State of the Union Guantanamo Bay Prison” January 28, 2014. http://www.politico.com/story/2014/01/state-of-the-union-guantanamo-bay-prison-102765.html

President Barack Obama used his State of the Union address Tuesday to put new urgency behind his drive to close the Guantanamo Bay prison, raising the issue before a joint session of Congress for the first time in nearly five years. “With the Afghan war ending, this needs to be the year Congress lifts the remaining restrictions on detainee transfers and we close the prison at Guantanamo Bay – because we counter terrorism not just through intelligence and military action, but by remaining true to our Constitutional ideals, and setting an example for the rest of the world,” Obama was to say, according to his prepared remarks. His high-profile mention of the issue was notable not just because he did not bring up the issue during his four previous State of the Union addresses, but because any discussion of the subject is a reminder of one of the most obvious broken promises of Obama’s early presidency: his vow to close the prison within his first year in office. “Guantanamo will be closed no later than one year from now,” Obama declared as he signed an executive order in the Oval Office on the subject on the first full day of his presidency. Obama never made that one-year pledge in front of Congress, but did speak in his February 2009 speech there — one not considered a State of the Union — of having ordered the closing of the prison. The president announced the plan to close the prison in a year confidently and with little controversy, but essentially abandoned it after lawmakers put up resistance to bringing detainees to the U.S and White House aides decided to focus on other priorities like health care reform and the sluggish economy. During his first term, Obama grudgingly signed a series of bills containing language making it virtually impossible to move detainees from Guantanamo to the U.S. and making it difficult to transfer detainees to other countries without extraordinary confidence they would not later engage in terrorism. This essentially stalled the closure process. However, late last year, Congress passed a defense bill that slightly eased the transfer restrictions. The effort to shrink Gitmo’s ranks has also gained a small amount of momentum in recent months, with eight prisoners sent home or elsewhere abroad since August. Obama’s comments Tuesday were in line with those of some legal scholars, who’ve argued that the legal basis for holding the men at Guantanamo will erode or disappear after the U.S. is no longer involved in active combat in Afghanistan —something the president has pledged to bring to an end this year. Courts have upheld the detentions at Guantanamo under the Authorization for Use of Military Force passed by Congress three days after the Sept. 11, 2001, terrorist attacks. That resolution refers to the “nations, organizations, or persons he determines planned, authorized, committed, or aided” those strikes.

#### No strikes

**Rubin, ‘12** – professor at the Interdisciplinary Center in Herzliya, Israel, the Director of the Global Research and International Affairs (GLORIA) Center, and a Senior Fellow at the International Policy Institute for Counterterrorism (Barry, “[Israel Isn’t Going to Attack Iran and Neither Will the United States](http://pjmedia.com/barryrubin/2012/01/26/israel-is-not-about-to-attack-iran-and-neither-is-the-united-states-get-used-to-it/).” http://pjmedia.com/barryrubin/2012/01/26/israel-is-not-about-to-attack-iran-and-neither-is-the-united-states-get-used-to-it/)

The radio superhero The Shadow had the power to “cloud men’s minds.” But nothing clouds men’s minds like anything that has to do with Jews or Israel. This year’s variation on that theme is the idea that Israel is about to attack Iran. Such a claim repeatedly appears in the media. Some have criticized Israel for attacking Iran and turning the Middle East into a cauldron of turmoil (not as if the region needs any help in that department) despite the fact that it hasn’t even happened. On the surface, of course, there is apparent evidence for such a thesis. Israel has talked about attacking Iran and one can make a case for such an operation. Yet any serious consideration of this scenario — based on actual research and real analysis rather than what the uninformed assemble in their own heads or Israeli leaders sending a message to create a situation where an attack isn’t necessary — is this: It isn’t going to happen. Indeed, the main leak from the Israeli government, by an ex-intelligence official who hates Prime Minister Benjamin Netanyahu, has been that the Israeli government already decided not to attack Iran. He says that he worries this might change in the future but there’s no hint that this has happened or will happen. Defense Minister Ehud Barak has publicly denied plans for an imminent attack as have other senior government officials. Of course, one might joke that the fact that Israeli leaders talk about attacking Iran is the biggest proof that they aren’t about to do it. But Israel, like other countries, should be subject to rational analysis. Articles written by others are being spun as saying Israel is going to attack when that’s not what they are saying. I stand by my analysis and before December 31 we will see who was right. I’m not at all worried about stating very clearly that Israel is not going to go to war with Iran. So why are Israelis talking about a potential attack on Iran’s nuclear facilities? Because that’s a good way – indeed, the only way Israel has — to pressure Western countries to work harder on the issue, to increase sanctions and diplomatic efforts. If one believes that somehow pushing Tehran into slowing down or stopping its nuclear weapons drive is the only alternative to war, that greatly concentrates policymakers’ minds. Personally, I don’t participate — consciously or as an instrument — in disinformation campaigns, even if they are for a good cause. Regarding [Ronen Bergman’s article in the New York Times](http://www.nytimes.com/2012/01/29/magazine/will-israel-attack-iran.html?pagewanted=all), I think the answer is simple: Israeli leaders are not announcing that they are about to attack Iran. They are sending a message that the United States and Europe should act more decisively so that Israel does not feel the need to attack Iran in the future. That is a debate that can be held but it does not deal with a different issue: Is Israel about to attack Iran? The answer is “no.”

#### Deal is impossible- Reid won’t bring it to a vote and no support

Johnson 1/29

[Luke, Huffington Post, Senate Democrats Back Off Iran Sanctions Vote, 1/29/14, <http://www.huffingtonpost.com/2014/01/29/senate-democrats-iran-vote_n_4688110.html>]

A controversial Iran sanctions bill is losing steam in the Senate, where at least three of its own Democratic cosponsors are warning that pushing the legislation now could thwart delicate international negotiations. "Now is not the time for a vote on the Iran sanctions bill," Sen. Chris Coons (D-Del.) said at a Wednesday event hosted by Politico. Coons said he still supports the measure, which would increase sanctions on Iran unless its government agrees to restrictions on its programs that go far beyond the demands of any of the countries involved in the talks. But he acknowledged that moving the bill now would interfere with a deal in place between Iran and six world powers, including the United States. Under that six-month deal, Iran has agreed to scale back its uranium enrichment in exchange for sanctions relief. Iranian leaders have already warned that congressional action involving new sanctions would sink the current deal, which would leave the U.S. with few options for resolving concerns with Iran other than going to war. "I think, to the extent that we simply excite the distance and the tension between the Congress and administration on this, that doesn't serve our shared view of making certain that Iran does not acquire a nuclear weapons capability," Coons said. Sen. Kirsten Gillibrand (D-N.Y.), a cosponsor of the sanctions bill, said in a statement to HuffPost on Wednesday, “After speaking with the President, I am comfortable giving him the additional time requested before this bill goes to the floor." Sen. Joe Manchin (D-W.Va.) echoed those sentiments Tuesday night. "I did not sign it with the intention that it would ever be voted upon or used upon while we were negotiating," Manchin said on MSNBC. "I signed it because I wanted to make sure the president had a hammer if he needed it and showed them how determined we were to do it and use it if we had to." He added that it’s better to "give peace a chance." The shifts signal a slowing in momentum for the bill among Democrats, who have faced a full-court press from a number of top administration officials, including President Barack Obama and Secretary of State John Kerry. During Tuesday night’s State of the Union address, Obama vowed to veto the bill if it landed on his desk and urged Congress to let international talks play out. It’s already clear that Congress is reluctant to proceed on the issue. Senate Majority Leader Harry Reid (D-Nev.) has signaled an **unwillingness to bring the sanctions bill to a vote**, and in the House, party leaders have been meeting privately for weeks to figure out how to proceed. Talk in that chamber has centered on the possibility of voting on a non-binding resolution that would allow lawmakers to lay out their preferred endgame in Iran negotiations.

#### Minimum wage thumps

**Golway 1-29-14** (Terry Golway, Director, Center for History, Politics & Policy at Kean University, “State of the Union: Obama’s timely answer to Americans”, January 29, 2014, http://theconversation.com/state-of-the-union-obamas-timely-answer-to-americans-22509)//moxley

But Obama’s embrace of minimum-wage politics is an indication that he is willing to risk his shrinking political capital on an issue that until recently was regarded as the province of far-out lefties: income inequality. So perhaps this speech will reignite the Obama presidency. It won’t be because of the speech’s rhetoric, which was pretty ordinary. It will be because, for the first time in several years, Obama has seized on the right issue at the right time.

#### Court shields – true for detention

Stimson 9

[09/25/09, Cully Stimson is a senior legal fellow at the Heritage Foundation and an instructor at the Naval Justice School former American career appointee at the Pentagon. Stimson was the Deputy Assistant Secretary of Defense for Detainee Affairs., “Punting National Security To The Judiciary”, http://blog.heritage.org/2009/09/25/punting-national-security-to-the-judiciary/]

So what is really going on here? To those of us who have either served in senior policy posts and dealt with these issues on a daily basis, or followed them closely from the outside, it is becoming increasingly clear that this administration is trying to create the appearance of a tough national-security policy regarding the detention of terrorists at Guantanamo, yet allow the courts to make the tough calls on releasing the bad guys. Letting the courts do the dirty work would give the administration plausible cover and distance from the decision-making process. The numbers speak for themselves. Of the 38 detainees whose cases have been adjudicated through the habeas process in federal court in Washington, 30 have been ordered released by civilian judges. That is close to an 80 percent loss rate for the government, which argued for continued detention. Yet, how many of these decisions has this administration appealed, knowing full well that many of those 30 detainees should not in good conscience be let go? The answer: one. Letting the courts do it for him gives the president distance from the unsavory release decisions. It also allows him to state with a straight face, as he did at the Archives speech, “We are not going to release anyone if it would endanger our national security, nor will we release detainees within the United States who endanger the American people.” No, the president won’t release detainees; he’ll sit back and let the courts to do it for him. And the president won’t seek congressional authorization for prolonged detention of the enemy, as he promised, because it will anger his political base on the Left. The ultra-liberals aren’t about to relinquish their “try them or set them free” mantra, even though such a policy threatens to put terrorists back on the battlefield. Moreover, the president would have to spend political capital to win congressional authorization for a prolonged detention policy. Obviously, he would rather spend that capital on other policy priorities. Politically speaking, it is easier to maintain the status quo and let the detainees seek release from federal judges. The passive approach also helps the administration close Gitmo without taking the heat for actually releasing detainees themselves.

#### Obama will bypass Congress

Tobin 1/21 -- Senior Online Editor of Commentary magazine (Johnathan S., 2014, "Will Obama Bypass Congress on Iran?" http://www.commentarymagazine.com/2014/01/21/will-obama-bypass-congress-on-iran-sanctions/)

But the current uphill struggle by a majority of the Senate to ensure that the end of the current talks doesn’t lead to a collapse of the sanctions **may be only a sideshow** to the real fight over Iran that lies ahead in 2014. As the Washington Free Beacon reports, the administration is **thinking ahead** to the next step in the debate over Iran and exploring the possibility of lifting sanctions without congressional approval. Congressional insiders say that the White House is worried Congress will exert oversight of the deal and demand tougher nuclear restrictions on Tehran in exchange for sanctions relief. Top White House aides have been “talking about ways to do that [lift sanctions] without Congress and we have no idea yet what that means,” said one senior congressional aide who works on sanctions. “They’re looking for a way to **lift them by** fiat, overrule U.S. law, drive over the sanctions, and **declare that they are lifted**.” Although only Congress has the power to revoke the sanctions it has enacted, this is **not a far-fetched scenario**. It is entirely possible that the president may wish to end sanctions on his own. That could come as the result of a nuclear deal that failed to satisfy those who rightly worry about the possibility of an agreement that left Iran with its nuclear infrastructure intact. Or it might be part of a further effort to appease Tehran by scaling back sanctions in order to entice it to sign a deal. And the president believes he can achieve these ends by **executive action** that would come dangerously close to unconstitutional behavior, but for which Congress might have no remedy. The key to any unilateral action by the president on sanctions is effective enforcement. It has long been understood by insiders that the U.S. government has only selectively enforced the existing sanctions on Iran. In 2010, the New York Times reported that more than 10,000 exemptions had already been granted by the Treasury Department to companies wishing to transact business with Iran. Since then there have been worries that the administration has been slow to open new cases by which suspicious economic activity with Iran could be proscribed. As the Washington Institute for Near East Policy noted in a paper published in November 2013, **the president can legitimize a policy of non-enforcement by the granting of waivers that could effectively gut any and all sanctions enacted by Congress**. The only effective check on such a decision would be the political firestorm that would inevitably follow a relaxation of the sanctions that would be accurately viewed as a craven offering to the ayatollahs and also an affront to both Congress and America’s Middle East allies such as Israel and Saudi Arabia that rightly fear a nuclear Iran. The administration has already made clear on other contentious issues, such as the application of immigration law, that it will only enforce laws with which it agrees. This is clearly unconstitutional, but as we have already seen with the president’s unilateral actions on immigration, Congress cannot prevent him from doing what he likes in these matters. The same might be true on Iran sanctions, especially if he is prepared to double down on inflammatory arguments falsely labeling sanctions proponents as warmongers. Having begun the process of loosening sanctions on Iran with the interim deal signed in November and seemingly intent on promoting a new détente with Tehran, it requires no great leap of imagination to envision the next step in this process. Unless the president produces a deal that truly ends the Iranian nuclear threat—something that would require the dismantling of Iran’s facilities and ensuring it could not possibly continue enriching uranium or building plutonium plants—a confrontation with Congress is likely. In that event, it appears probable that the president will choose to run roughshod over the will of Congress and the rule of law.

#### Keystone thumps –Senate Dems

USA Today 2/1/14 ("Keystone report ups pressure on Obama for green light," http://www.usatoday.com/story/news/nation/2014/02/01/keystone-pipeline/5113643/)

The White House is facing increased political pressure to greenlight the Keystone XL oil pipeline project, even as environmentalists are redoubling their efforts to fight its construction.¶ A State Department report issued Friday said the venture wouldn't create a significant environmental impact if the project is ultimately approved by the federal government.¶ A coalition of Republicans and Democrats in conservative states has advocated for five years for the pipeline's construction to boost domestic energy production and create jobs amid a weak economic recovery. The 1,179-mile pipeline extension would carry tar sand oil from Canada to Nebraska, then be transported to refineries in Texas. It could carry some 830,000 barrels each day.¶ Sen. Mark Begich, D-Alaska, called it a "common sense project," adding he would continue to work with Republicans to keep pressure on President Obama.¶ Sen. Heidi Heitkamp, D-N.D., another forceful advocate for the pipeline, has argued that not only does the project have enough support to overcome a filibuster in the Senate, but it also has the support of the GOP-controlled House.¶ "It's appalling this process is taking so long. Not only is it unacceptable, but it's embarrassing that we cannot approve a pipeline application in the time it took us to fight World War II," she said.¶ The holdout appears to be Obama, who faces pressure from environmentalists and liberal lawmakers to oppose the project because it does not advance the cause to combat global climate change.¶ However, the political realities of the 2014 midterms could be a catalyst. Several Senate Democrats, such as Begich and Sen. Mary Landrieu, D-La., are running for re-election in conservative states where the project has considerable support, and pipeline approval could be a popular message on the campaign trail.

#### No deal in Iran

Christian Science Monitor 13 ("Senators, defying White House, push a new Iran sanctions bill," http://www.csmonitor.com/USA/Foreign-Policy/2013/1219/Senators-defying-White-House-push-a-new-Iran-sanctions-bill)

Success in those negotiations was always considered a long shot by some nuclear proliferation experts who think it will be difficult to reconcile Iran’s nuclear demands with the bottom-line requirements of the international community. But new US sanctions just as talks on a final deal really get going seem likely to make a long shot that much less reachable.

#### Not intrinsic – no reason a logical decision maker couldn’t do both

#### multilateral economic cooperation independently solve threats including the DA

**Matthews 07** (Jessica, president of the Carnegie Endowment for International Peace, "Europe and the US: Confronting Global Challenges," 11/8, http://www.carnegieendowment.org/files/transcript\_mandelson.pdf)

Now, the question I want to answer today is, how do we do this and to what purpose? Firstly, fundamentally, we must engage with economic globalization, accept it, shape it. We’re not going to roll it back, and if we could, we shouldn’t seek to do so. In fact, I’d argue that the preservation of an equitable economic globalization should be the core political commitment at the heart of the transatlantic economic relationship, equivalent in its way to the mutual commitment to democracy that the Atlantic Charter embodied six decades ago, because managed right, an economically integrated world is ultimately not only a more stable and a more equitable world; it is also our principal means of meeting the increasing number of global challenges that require collective action.¶ The reshaping of the global economy and the huge dramatic changes that are taking place in the economic landscape of the world certainly test the nerves of us in Europe and the nerves of you too in the United States. But just because it tests our nerves doesn’t mean to say that these changes are not in our interests.¶ It’s true that some parts of our manufacturing sectors are certainly facing some tough competitive pressure. It is true that this will force us to think about how we choose to educate and to train ourselves in the future, and how we ensure that the benefits of economic growth are equitably shared. That’s a major policy challenge for us on both sides of the Atlantic. It is true that because of these great changes and the huge anxiety that they are generating amongst people on both sides of the Atlantic that policymakers are under increasing pressure to show that our embrace of economic globalization is not naivety, that we’re not being taken for a ride, in other words, by the rest of the world; to show that – as we need to do as policymakers – to show that closing the gate to the outside world is not a better alternative to keeping that gate open to the rest of the world.¶ Now, these debates are broadly the same in Europe and the United States. But in an open global market, we have to understand that the growing economies of the developing world are also a competitive stimulus and a real engine for the growth of our own economies. They are a market for our goods and for our investment. They are a source of downward pressure on consumer prices and inflation at home. They are also the driving force that has lifted perhaps half a billion people out of poverty in half a human lifetime, which is hard to argue against.¶ In defending and preserving this openness to the world and this growth of the global economy and its integration, the EU and the U.S. are faced with some simple realities. The first is that we now live in a world that is increasingly economically multi-polar. One billion new workers have entered the global labor force in the space of just two decades in the world. In those 20-odd years, China has risen from a country with which the EU traded almost literally nothing to becoming our biggest trading partner for manufacturers.¶ In some ways, an older balance of economic power is reasserting itself in the world. In 1830, India and China were the two biggest economies in the world – in 1830. By 2050, they will again be amongst the very largest economies in the world. Of course, this is not the only way of weighing power in the modern world, far from it. But it is fundamental. And that’s in the nature of the fundamental revolution in economic terms, and also political terms, therefore, that the world is undergoing.¶ Now, the machinery of what you might call the Atlantic consensus – the World Bank, the IMF, GATT, G7 or G8 – was conceived and rooted in the assumption that the global economic and political order could and would indeed be governed largely by the Atlantic world. That assumption now no longer holds. There has been a reorientation from the Atlantic to the Pacific and beyond. Now, the multilateral institutions that survive, therefore, will be those ones that are able to adapt to this new 21st century landscape.¶ The second simple reality that I would identify for you is that economic globalization means interdependence. This is not simply a question of global supply chains and production lines. Our open markets are a ladder out of poverty for the developing world. Their growing markets are a source of growth for us. That is the fundamental interdependence that links and joins us and our interests together in the global economy. A world of growing prosperity and economic integration is a more stable world, even if it doesn’t always feel that way¶ Now, for that reason, multilateral institutions in the multilateral trading system will matter more than ever in the new global age of the 21st century. There is no going it alone in this century, in this global age. Interdependence doesn’t allow going it alone in the way that we have tried to practice or imagine it was possible in the past. Our ability to get things done multilaterally will define the extent to which we can shape globalization in a way that makes it equitable and sustainable and binds in the big new players who are emerging in that global economy. It will certainly define the extent to which we can confront huge pressing problems such as global warming, migration, nuclear proliferation, and energy security.

**It’s the most likely scenario for extinction**

**Deibel 7** [Terry L. Professor of IR at National War College, 2007 “Foreign Affairs Strategy: Logic for American Statecraft”, Conclusion: American Foreign Affairs Strategy Today]

Finally, **there is one major existential threat** to American security (as well as prosperity) of a nonviolent nature, **which**, though far in the future, **demands urgent action. It is the threat of global warming to the stability of the climate upon which all earthly life depends. Scientists** worldwide have **been observing** the gathering of this threat **for three decades now, and what was once a** mere **possibility has passed through probability to near certainty**. Indeed **not one of more than 900 articles on climate change published in refereed scientific journals from 1993 to 2003 doubted that anthropogenic warming is occurring. “In legitimate scientific circles**,” writes Elizabeth Kolbert, “**it is virtually impossible to find evidence of disagreement over the fun damentals of global warming**.” Evidence from a vast international scientific monitoring effort accumulates almost weekly, as this sample of newspaper reports shows: an international panel predicts “brutal droughts, floods and violent storms across the planet over the next century”; climate change could “literally alter ocean currents, wipe away huge portions of Alpine Snowcaps and aid the spread of cholera and malaria”; “glaciers in the Antarctic and in Greenland are melting much faster than expected, and…worldwide, plants are blooming several days earlier than a decade ago”; “rising sea temperatures have been accompanied by a significant global increase in the most destructive hurricanes”; “NASA scientists have concluded from direct temperature measurements that 2005 was the hottest year on record, with 1998 a close second”;“**Earth’s warming climate is estimated to contribute to more than 150,000 deaths and 5 million illnesses each year” as disease spreads**; “widespread bleaching from Texas to Trinidad…killed broad swaths of corals” due to a 2-degree rise in sea temperatures. “**The world is slowly disintegrating**,” concluded Inuit hunter Noah Metuq, who lives 30 miles from the Arctic Circle. “They call it climate change…but we just call it breaking up.” From the founding of the first cities some 6,000 years ago until the beginning of the industrial revolution, carbon dioxide levels in the atmosphere remained relatively constant at about 280 parts per million (ppm). At present they are accelerating toward 400 ppm, and by 2050 they will reach 500 ppm, about double pre-industrial levels. **Unfortunately, atmospheric CO2 lasts about a century, so there is no way immediately to reduce levels, only to slow their increase, we are thus in for significant global warming; the only debate is how much and how serous the effects will be**. As the newspaper stories quoted above show, **we are already experiencing** the effects of 1-2 degree warming in more **violent storms, spread of disease, mass die offs of plants and animals, species extinction, and** threatened **inundation of low-lying countries** like the Pacific nation of Kiribati and the Netherlands at a warming of 5 degrees or less **the Greenland and West Antarctic ice sheets could disintegrate, leading to a sea level of rise of 20 feet** that would cover North Carolina’s outer banks, swamp the southern third of Florida, and inundate Manhattan up to the middle of Greenwich Village. **Another catastrophic effect would be the collapse of the Atlantic thermohaline circulation that keeps the winter weather in Europe far warmer than its latitude would otherwise allow**. Economist William Cline once estimated the damage to the United States alone from moderate levels of warming at 1-6 percent of GDP annually; severe warming could cost 13-26 percent of GDP. But **the most frightening scenario is runaway greenhouse warming, based on positive feedback from the buildup of water vapor in the atmosphere that is both caused by and causes hotter surface temperatures**. Past ice age transitions, associated with only 5-10 degree changes in average global temperatures, took place in just decades, even though no one was then pouring ever-increasing amounts of carbon into the atmosphere. Faced with this specter, the best one can conclude is that “humankind’s **continuing enhancement of the natural greenhouse effect is akin to playing Russian roulette with the earth’s climate and humanity’s life support system**. At worst, says physics professor Marty Hoffert of New York University, “**we’re just going to burn everything up; we’re going to heat the atmosphere to the temperature it was in the Cretaceous when there were crocodiles at the poles, and then everything will collapse**.” During the Cold War, astronomer Carl Sagan popularized a theory of nuclear winter to describe how a thermonuclear war between the Untied States and the Soviet Union would not only destroy both countries but possibly end life on this planet. **Global warming is the** post-Cold War era’s **equivalent of nuclear winter** at least as serious **and considerably better supported scientifically**. Over the long run **it puts dangers form** terrorism and traditional **military challenges to shame. It is a threat** not only to the security and prosperity to the United States, but potentially **to the continued existence of life on this planet**.

# 1AR

#### Scenario Planning is consistent with complexity theory

KAVALSKI ‘7 (Emilian; University of Alberta, “The fifth debate and the emergence of complex international relations theory: notes on the application of complexity theory to the study of international life,” Cambridge Review of International Affairs, v. 20 n. 3, September)

In a further examination of the cognitive perspective, some proponents of CIR theory have suggested ‘scenarios’ as tools for the modelling of complexity (Feder 2002; Harcourt and Muliro 2004). Scenarios are defined as ‘imaginative stories of the future that describe alternative ways the present might evolve over a given period of time’ (Heinzen 2004, 4). They focus on subjective interpretations and perceptions. Understanding complexity, therefore, would depend on the relationship between the ‘cognitive schema’ (that is, available knowledge) and the ‘associative network’ (that is, the activation of the links between different concepts) of the observer (Bradfield 2004, 40). The suggestion is that in some sense ‘we create our own consciousness of complexity by seeking it out’ (LaPorte 1975, 329). In this respect, some proponents of CIR theory have asserted the analysis of discourses as an important distinction between human and nonhuman complex systems (Geyer 2003b, 26).14The intellectual considerations of these epistemological frameworks suggest the challenging conceptual and methodological problems facing CIR theory. On a metatheoretical level, the problem stems from the realization that students of the complexity of international life can never be fully cognizant of the underlying truths, principles and processes that ‘govern reality’ because this would (i) involve (a degree of) simplification of complex phenomena (LaPorte 1975, 50), as well as (ii) imply ‘knowing the not knowable’ (Cioffi-Revilla 1998, 11). As suggested, analytically, the conscious consideration of complexity is hindered by the inherent difficulty of formalizing uncertainty and contingency (Whitman 2005, 105). Some commentators, therefore, have rejected the possibility of constructing comprehensive models for the study of complexity altogether in an attempt to overcome the trap of having to justify their methodologies in ways that are understandable to conventional IR. Therefore, a number of CIR proponents rely on ‘sensemaking’ (Browaeys and Baets 2003, 337; Coghill 2004, 53), ‘whatiffing’ (Beaumont 1994, 171) and other forms of ‘speculative thinking’ (Feder 2002, 114) for their interpretations of the complexity of international life. The claim is that the acceptance of endogeneity as a ‘fact’ of international life provides more insightful modes of analysis than the linear-regression-type approach of traditional IR (Johnston 2005 1040). Without ignoring some controversial aspects of incorporating ontological and epistemological reflection into methodological choices, the claim here is that CIR theory suggests intriguing heuristic devices that both challenge conventional wisdom and provoke analytical imaginations.Complex international relations theory, therefore, proffers analytical tools both for explaining and understanding discontinuities. It is claimed that its approaches offer ‘antidotes’ to the anxiety that randomness engenders in traditional IR as well as provide a paradigm that accepts uncertainty as inevitable (Feder 2002, 117). Thus, in contrast to the typically linear perceptions of change in mainstream IR— that is, changes in variables occur, but the effect is constant—CIR suggests that ‘things suffer change’. The contention is that the unpredictability of the emergent patterns of international life needs to be conceptualized within the framework of self-organizing criticality—that is, their dynamics ‘adapt to, or are themselves on, the edge of chaos, and most of the changes take place through catastrophic events rather than by following a smooth gradual path’ (Dunn 2007, 99). Complex international relations, in other words, suggests that change entails the possibility of a ‘radical qualitative effect’ (Richards 2000, 1). Therefore, the alleged arbitrariness of occurrences that conventional IR might describe as the effects of randomness (or exogenous/surprising shocks) could (and, in fact, more often than not does) reflect ignorance of their interactions. In fact, the reference to ‘chance’ is merely a metaphor for our lack of knowledge of the dynamics of complexity (Smith and Jenks 2006, 273).In this respect, CIR theory sketches the fifth debate in the study of international life (see Table 2). Its outlines follow the proposition of the Gulbenkian Commission to break down the division between ‘natural’ and ‘social’ sciences, since both are pervaded by ‘complexity’. Therefore, scholars should not be ‘conceiving of humanity as mechanical, but rather instead conceiving nature as active and creative [to make] the laws of nature compatible with the idea of novelty and of creativity’ (Wallerstein 1996, 61–63). Complex international relations (unlike other IR approaches) acknowledges that patterns of international life are panarchic ‘hybrids’ of physical and social relations (Urry 2003, 18) and advocates such fusion (through the dissolution of the outdated distinction) of scientific realities (Whitman 2005, 45–64). Its complex adaptive thinking in effect challenges the very existence of ‘objective standards’ for the assessment of competing knowledge claims, because these are ‘not nature’s, but rather always human standards, standards which are not given but made . . . adopted by convention by the members of a specific community’ (Hoffmann and Riley 2002, 304). The complex adaptive thinking of CIR theory, therefore, is an instance of ‘true thinking’—‘thinking that looks disorder and uncertainty straight in the face’ (Smith and Jenks 2006, 4).