# 1AC

### Terror

#### Indefinite detention hurts the war on terror – impedes intelligence gathering, destroys credibility, and alienates key allies

Hathaway, et al, ’13 [Oona (Gerard C. and Bernice Latrobe Smith Professor of International Law, Yale Law School); Samuel Adelsberg (J.D. candidate at Yale Law School); Spencer Amdur (J.D. candidate at Yale Law School); Freya Pitts (J.D. candidate at Yale Law School); Philip Levitz (J.D. from Yale Law School); and Sirine Shebaya (J.D. from Yale Law School), “The Power To Detain: Detention of Terrorism Suspects After 9/11”, The Yale Journal of International Law, Vol. 38, 2013]

The least contested bases for detention authority in any context are postconviction criminal detention and pre-verdict detention for those who pose a risk of flight. It is often assumed that such criminal detention is ill-suited to terrorists. However, with very little fanfare, federal district court dockets have been flush with terrorism cases over the past decade. Strikingly, during the first two years of Barack Obama’s presidency, the annual number of terrorism prosecutions doubled, while the conviction rate for the nearly 500 cases has stayed constant at around 90 percent. 233 One reason for this increase in prosecutions is the recognition by both the Bush and Obama Administrations that trying suspected terrorists in criminal courts has certain strategic and moral advantages in the fight against terrorism. Predictability Post-conviction detention of terrorists after prosecution in federal court provides a level of predictability that is absent in the military commission system. Federal courts have years of experience trying and convicting dangerous criminals, including international terrorists, and the rules are well established and understood. The current military commission system, on the other hand, is an untested adjudicatory regime with no established jurisprudence to guide the parties and judges.234 As discussed above, conviction rates in terrorism trials have been close to 90% since 2001, despite a huge increase in the absolute number of such prosecutions. The military commissions, by contrast, have convicted three people since 2001, and three more have pled guilty.235 Several defendants had their charges dropped,236 and others have been charged but not tried.237 Their procedures have been challenged at every stage, and it is unclear what their final form will ultimately look like. The commissions’ track record is short, and in light of their mixed results thus far, their future performance is uncertain. Furthermore, those who have been convicted by the commissions have received extremely short sentences.238 By contrast, favorable sentencing guidelines in federal terrorism trials allow the government to incapacitate dangerous individuals for long periods of time, if not for the life of the defendant.239 While it is difficult to estimate the counterfactual results were the defendants in each case to have been tried in the other system, it is clear that the military commission system is highly unproven and unpredictable compared to the federal courts.240 2. Fairness and Legitimacy Federal courts are also fairer and more legitimate fora than military commissions. The procedural protections they offer are the source of their legitimacy, and they reduce the risk of error.241 At every turn, the military commissions’ deviations from established criminal procedure has been challenged—sometimes successfully.242 Even where commission procedures are constitutional, they are not widely accepted, and are a novel judicial framework.243 Federal criminal procedure, on the other hand, is as legitimate a criminal process as we have. Both acceptance and accuracy are important to the fight against terrorism. As several successful habeas corpus petitions have demonstrated, insufficient procedural protections create a real danger of erroneous imprisonment for extended periods.244 Meanwhile, local populations are more likely to cooperate in policing when they believe they have been treated fairly.245 The understanding that a more legitimate detention regime will be a more effective one is echoed in statements from within the Department of Defense and the White House.246 3. Strategic Advantages Furthermore, our allies in the fight against terrorism also recognize and respond to the difference in legitimacy and fairness between civilian and military courts. Increased international cooperation is another advantage of criminal prosecution. Many of our key allies have been unwilling to cooperate in cases involving law of war detention or prosecution but have cooperated in criminal law prosecution. In fact, many of our extradition treaties, including those with allies such as India and Germany, forbid extradition when the defendant will not be tried in a criminal court.247 This issue has played out in practice several times. An al-Shabaab operative was recently extradited from the Netherlands only after assurances from the United States that he would be prosecuted in criminal court.248 Two similar cases arose in 2007,249 and several more are pending.250 The use of military commissions may similarly hinder other kinds of international prosecutorial cooperation, such as testimony- and evidence-sharing. Finally, the criminal justice system is simply a more agile and versatile prosecution forum. Federal jurisdiction offers an extensive variety of antiterrorism statutes that can be marshaled to prosecute terrorist activity committed outside the United States, and subsequently to detain those who are convicted.251 This greater variety of offenses—military commissions can only punish a narrow set of traditional offenses against the laws of war252 —offers prosecutors important flexibility. For instance, it might be very difficult to prove al Qaeda membership in an MCA prosecution or a law-of-war habeas proceeding; but if the defendant has received training at a terrorist camp or participated in a specific terrorist act, federal prosecutors may convict under various statutes tailored to more specific criminal behavior.253 The federal criminal system also allows for more flexible interactions between prosecutors and defendants. Proffer and plea agreements are powerful incentives for defendants to cooperate, and often lead to valuable intelligence-gathering. The legitimacy and consistency of the federal courts, discussed above, also push defendants to cooperate, which in turn produces more intelligence over the course of prosecution.254

#### Indefinite detention creates recruitment propaganda 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.

#### Terrorist organizations are gaining strength now

**Evans 13**(Andrew, quoting: Derek Chollet, assistant secretary of Defense for International Security Affairs and Michael Sheehan, assistant secretary of Defense for Special Operations/Low Intensity Conflict and Interdependent Capabilities, “Al Qaeda growing threat in Middle East, Obama officials say”, http://freebeacon.com/the-tide-of-war-is-rising/, 4/10/13)

Defense and military officials testified that al Qaeda is gaining a foothold in several areas throughout the Middle East and Northern Africa in a hearing before a subcommittee of the Senate Armed Services Committee Tuesday afternoon. The terrorist organization is seeking to exploit the upheaval in the Middle East following uprisings over the past two years that overthrew many longstanding governments across the region, testified Derek Chollet, assistant secretary of Defense for International Security Affairs. Chollet also said the administration is worried about the possibility that al Qaeda could establish strongholds in multiple countries, including Syria and Mali. When pressed by Sen. John McCain (R., Ariz.), Michael Sheehan, assistant secretary of Defense for Special Operations/Low Intensity Conflict and Interdependent Capabilities, said al Qaeda affiliates are gaining strength in Syria. Sheehan and McCain differed in their respective assessments of al Qaeda’s capacity in Libya during an acrimonious exchange. Sheehan asserted al Qaeda has “failed to demonstrate strategic capability in those new areas” such as Libya that are outside of their traditional strongholds. “I just came from Libya, Mr. Sheehan,” McCain said. “I just came from there. That is patently false. That is a false statement.” Al Qaeda remains strong in the mountains between Afghanistan and Pakistan as well as in Yemen, Sheehan said. He argued that the military has had great success in targeting and eliminating the terrorist organization’s leadership. When asked by McCain, Sheehan refused to answer whether he would support arming the Syrian opposition, saying he would rather discuss that issue in the closed session that immediately followed the open hearing. “The American people should not know how the members of our Department of Defense feel about an issue of the slaughter of 70,000 or more people, millions of refugees?” McCain asked in response. Chollet testified that the U.S. government is supplying the Syrian opposition with “non-lethal” support. He also said al Qaeda is losing the “hearts and minds” of the Syrian people. Sen. Deb Fischer (R., Neb.) expressed concern that the American military is spread too thinly across the globe, a concern that Adm. William McRaven, commander of the U.S. Special Operations Command, rejected. “I’m not sure that I think we’re spread to thin,” McRaven said, noting that on any given day the United States has special operations forces in 70 to 90 countries. Sheehan said United Nations forces, which will likely replace the French forces currently in Mali, will not be able to take on the al Qaeda affiliate there and root it out. That will be a job for other, better equipped forces, like French forces with U.S. support, Sheehan said. McCain returned to the issue of America’s policy toward Syria at the end of the hearing. “The reality on the ground is that arms and people are flowing freely all across North Africa, and many of them are coming in to Syria,” he said. “The situation continues to become more radicalized in Syria as 80,000 more people have been massacred while we sit by and watch and figure out reasons why we can’t intervene,” McCain said.

#### 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.

#### Extinction – tech and poor response mechanisms

Nathan Myhrvold '13, 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.

#### Only by ending indefinite detention, thus increasing US legitimacy and winning hearts and minds, can we win the war on terror

Spaulding 9 (Suzanne E., counsel of record, AMICI CURIAE OF FORMER NATIONAL SECURITY OFFICIALS AND COUNTERTERRORISM EXPERTS IN SUPPORT OF PETITIONER, http://www.cnss.org/data/files/DetentionDue\_Process/Enemy\_Combatants/AlMarri\_v\_Spagone\_Amicus\_Brief\_1.28.09.pdf)

Imprisonment without trial of individuals seized inside the United States promotes the false narrative of a United States engaged in a war on Islam and Muslims, which the terrorists exploit for recruitment. Seizing individuals off the streets of America, declaring them enemy combatants, and asserting the right to keep them locked up indefinitely, with no formal charges or trial, is so far outside the traditions of fundamental fairness on which this Nation was founded that it perpetuates the perception generated by al Qaeda that we have abandoned our commitment to the rule of law. We recognize that the security threat springs from the terrorists: U.S. policies and actions in no way justify the conduct of the terrorists. But the perception that the United States is failing to act in accordance with its fundamental values feeds the terrorist narrative, and thus undermines our efforts to confront the terrorist threat.12 The significance of this dynamic is now broadly understood. As Retired General Wesley Clark said in an article about this very case: [Treating al-Marri as an enemy combatant] endangers our political traditions and our commitment to liberty, and further damages America’s legitimacy in the eyes of others. . . . We train our soldiers to respect the line between combatant and civilian. Our political leaders must also respect this distinction, lest we unwittingly endanger the values for which we are fighting, and further compromise our efforts to strengthen our security. Wesley K. Clark & Kal Raustiala, Why Terrorists Aren’t Soldiers, N.Y.Times, Aug. 8, 2007, at A19. Jeffrey H. Smith, former CIA General Counsel, testified before the Senate Armed Services Committee in 2007: “In our efforts to get tough with the terrorists we have strayed from some of our fundamental principles and undermined 60 years of American leadership in the law of war. In six short years, our disregard for the rule of law has undermined our standing in the world and, with it, our ability to achieve our objectives in the broader war.” Meeting to Receive Testimony on Legal Issues Regarding Individuals Detained by the Department of Defense as Unlawful Enemy Combatants: Hearing Before the S. Comm. on Armed Services, 110th Cong. 3 (Apr. 26, 2007) (statement of Jeffrey H. Smith, Senior Partner, Arnold & Porter LLP), available at http://armedservices.senate.gov/statemnt/2007/April/Smith%2004- 26-07.pdf. One reason the United States does not face the level of homegrown terrorism threat that Europe has experienced is that immigrants are better integrated into American society. See James Fallows, Declaring Victory, The Atlantic, Sept. 2006, at 60 (“Something about the Arab and Muslim immigrants who have come to America, or about their absorption here, has made them basically similar to other well-assimilated American ethnic groups – and basically different from the estranged Muslim underclass of much of Europe.”). Working with these Muslim communities in the United States, and building trust, is one of the most promising avenues for deterring young people from extremism. See Muslim Public Affairs Council, The Impact of 9/11 on Muslim American Young People 1 (June 2007) (“The more narrow the orbit of acceptance is toward young Muslims who are traversing the various stages of adolescence toward becoming young professionals, the more likely we will begin to see serious cases of radicalization that can evolve into trends.”), available at <http://www.mpac.org/publications/youth-> paper/MPAC-Special-Report--Muslim-Youth.pdf.13 See also Stephen Magagnini, Local FBI chief rebuilds trust with Muslim leaders, Sacramento Bee, Dec. 1, 2008, available at http://www.sacbee.com/101/story/1438316.html. Policies that drive a wedge between these communities and the government or the rest of society frustrate efforts aimed at increasing trust and understanding and, instead, increase a sense of alienation. In 2008, the Department of Homeland Security issued a memorandum that reflects how seriously those with responsibility for protecting the territory and people of the United States take the battle for hearts and minds. It concludes that “Bin Laden and his followers will succeed if they convince large numbers of people that America and the West are at war with Islam and that a ‘clash of civilizations’ is inherent.” Memorandum from the U.S. Dep’t of Homeland Security, Terminology to Define the Terrorists: Recommendations from American Muslims 7 (Jan. 2008). The DHS memorandum mphasized the importance of conveying the message that “Muslims have been, and will continue to be part of the fabric of our country. . . . We must emphasize that Muslims are not ‘outsiders’ looking in, but are an integral part of America and the West.” Id. at 8. This essential message is dramatically undermined by seizing and indefinitely detaining Muslims inside the United States on the basis of an executive branch allegation that they are enemy combatants. While this policy may not expressly target Muslims, it has been applied only against Muslims, as have nearly all of the harsh policies adopted after 9/11.14 This fuels the terrorist narrative of a war on Islam. The DHS memorandum clearly explains the danger inherent in inadvertently reinforcing al Qaeda’s propaganda. “Bin Laden’s narrative presumes a war against Islam and rampant mistreatment of Muslims by the American and other Western governments. Extremist recruiters argue that Muslims should segregate from the larger society; moreover, their recruitment pitch depends on isolation.” Memorandum from the U.S. Dep’t of Homeland Security, Terminology to Define the Terrorists: Recommendations from American Muslims 8 (Jan. 2008). The terrorist seeks to undercut an individual’s sense of identity as a Muslim citizen of a state that values fair treatment and protects fundamental human rights. Policies that appear to accord Muslim suspects less than full equality under the law reinforce this dangerous and misleading message. See Islamic Extremism in Europe: Hearing Before the Subcomm. on European Affairs of the S. Foreign Relations Comm., 109th Cong. 7 (Apr. 5, 2006) (statement of Daniel Fried, Assistant Secretary of State for European Affairs), available at http://foreign.senate.gov/testimony/2006/FriedTestimony060405.pdf (“[W]e must also intensify our efforts to counter the extremist ideas that drive Islamic terrorism. . . . It . . . requires us to demonstrate through our own nation’s experience that Muslims can be patriotic, democratic, and religious at the same time.”). Senior Counterterrorism Analyst Gina Bennett, until recently the Deputy National Intelligence Officer for Transnational Threats, first highlighted the national security risk of a double standard in an intelligence assessment written back in 1993, which also provided the first serious warning about Usama Bin Laden. That assessment, titled “The Wandering Mujahidin: Armed and Dangerous,” concludes: “The growing perception by Muslims that the U.S. follows a double standard with regard to Islamic issues – particularly in Iraq, Bosnia, Algeria, and the Israelioccupied territories – heightens the possibility that Americans will become the targets of radical Muslims’ wrath. Afghan war veterans, scattered through the world, could surprise the U.S. with violence in unexpected locales.” Gina Bennett, The Wandering Mujahidin: Armed and Dangerous, Weekend Edition (U.S. Dep’t of State, Bureau of Intelligence and Research), Aug. 21-22, 1993, at 5, available at http://www.nationalsecuritymom.com/3/WanderingM ujahidin.pdf. The foresight of this analysis was tragically proven on September 11, 2001. The danger to Americans of sending a message that the United States has a double standard for Muslims can no longer be viewed as hypothetical. Nor is the impact of such messages considered hypothetical by those serving in Iraq and Afghanistan. As former Navy General Counsel Alberto Mora has testified, “there are serving U.S. flag-rank officers who maintain that the first and second identifiable causes of U.S. combat deaths in Iraq – as judged by their effectiveness in recruiting insurgent fighters into combat – are, respectively the symbols of Abu Ghraib and Guantánamo.” Hearing on the Treatment of Detainees in U.S. Custody Before the S. Comm. on Armed Services, 110th Cong. 5 (June 17, 2008) (statement of Alberta Mora, General Counsel, Dep’t of the Navy), available at http://armedservices.senate.gov/statemnt/2008/June/Mora%2006- 17-08.pdf. Again, harsh policies and actions that were directed only against Muslims fueled recruitment efforts, with direct and deadly consequences. b. Military detention of Mr. al-Marri feeds the false narrative that the terrorists are holy warriors. By treating a terrorism suspect apprehended within the United States as an “enemy combatant,” rather than as a criminal suspect, we grant the suspect the very status a terrorist seeks, a status widely honored by those to whom terrorists propound their narrative. See Memorandum from the U.S. Dep’t of Homeland Security, Terminology to Define the Terrorists: Recommendations from American Muslims 9 (Jan. 2008) (“Words matter. The terminology the [United States] uses should convey the magnitude of the threat we face, but also avoid inflating the religious bases and glamorous appeal of the extremists’ ideology. Instead, [United States’] terminology should depict the terrorists as the dangerous cult leaders they are. They have no honor, they have no dignity, and they offer no answers. While acknowledging that they have the capacity to destroy, we should constantly emphasize that they cannot build societies, and do not provide solutions to the problems people across the globe face.”). The dilemma we create for ourselves takes on particular force where, as here, military imprisonment is indefinite.15 As a military captive, the terrorism suspect is the continuing object of our own military force, and by imposing that force for an indefinite period of time, we continue to validate the terrorist narrative of the warrior and martyr. The prisoner may be regularly, if not constantly, in the public’s mind, always available as a source of inspiration. For example, a relatively insignificant Sudanese cameraman named Sami al Hajj became famous around the world by the mere fact of his long impris-onment at Guantanamo Bay as an enemy combatant. His captivity was regularly reported by al Jazeera and other Arabic news outlets, and closely followed by the more than a billion people reached by those outlets. See, e.g., Profile: Sami al-Hajj, Al Jazeera, May 2, 2008, available at http://english.aljazeera.net/news/americas/2008/05/200 861505753353325.html; Sami al-Hajj Hits Out at U.S. Captors, Al Jazeera, May 31, 2008, available at http://english.aljazeera.net/news/africa/2008/05/20086 150155542220.html. In contrast, treating the terrorism suspect seized in the United States as a criminal suspect pursuant to statutes that proscribe engagement in terrorist activity focuses the narrative on the alleged terrorist activity, rather than his status as “warrior,” thereby deconstructing the terrorist narrative. The heroism of armed conflict against the enemy becomes the cowardice of anonymous violence against innocent victims. The aspiring member of a great army, when isolated to his crime, becomes a small-minded individual. About a warrior held in a military prison an extravagant mythology may be erected; but the fellow in the dock of a public trial, forced to witness the deliberate presentation of evidence of his cowardice becomes pathetic. His narrative loses the power to inspire. Like Ramzi Yousef, Fawaz Yunis, and many others convicted of terrorist acts in U.S. courts, he may soon be forgotten. Thus, the Director of National Intelligence’s National Counterterrorism Center has urged intelligence professionals to Never use the terms “jihadist” or “mujahideen” in conversation to describe the terrorists. A mu-ahed, a holy warrior, is a positive characterization in the context of a just war. . . . Calling our enemies jihadists and their movement a global jihad unintentionally legitimizes their actions. Counterterrorism Communications Center, National Counterterrorism Center, Office of the Director of National Intelligence, Words that Work and Words that Don’t: A Guide for Counterterrorism Communication, March 14, 2008, at 2; see also Memorandum from the U.S. Dep’t of Homeland Security, Terminology to Define the Terrorists: Recommendations from American Muslims 3 (Jan. 2008) (“The consensus is that we must carefully avoid giving bin Laden and other al-Qaeda leaders the legitimacy they crave, but do not possess, by characterizing them as religious figures, or in terms that may make them seem to be noble in the eyes of some.”). General Clark has also made this point: By treating such terrorists as combatants . . . we accord them a mark of respect and dignify their acts. And we undercut our own efforts against them in the process. . . . If we are to defeat terrorists across the globe, we must do everything possible to deny legitimacy to their aims and means, and gain legitimacy for ourselves. . . . . [T]he more appropriate designation for terrorists is not “unlawful combatant” but the one long used by the United States: “criminal.” Wesley K. Clark & Kal Raustiala, Why Terrorists Aren’t Soldiers, N.Y.Times, Aug. 8, 2007, at A19. In sum, the government’s argument that national security concerns justify and require the indefinite emilitary imprisonment of Mr. al-Marri as an enemy combatant is precisely backwards. Using the paradigm of the “war on terror” and the label “enemy combatant” to justify the indefinite military detention of individuals seized inside the United States does not preserve our national security; it threatens it. Unwavering Commitment To America’s Fundamental Values Makes Our Nation Strong And Is Essential To Protect The Nation Against The Terrorist Threat. Discrediting the terrorist narrative and offering a positive alternative – i.e., a narrative of equality, justice, and commitment to the rule of law – is critical to effective counterterrorism strategy. The national security benefits of adhering to our fundamental principles are broadly understood. See Office of the Executive, National Strategy for Combating Terrorism, 2 (Feb. 2003) (The Bush Administration declared, in the 2003 National Strategy for Combating Terrorism, “We will use the power of our values to shape a free and more prosperous world. We will employ the legitimacy of our government and our cause to craft strong and agile partnerships.”); Michael German, Squaring the Error, in Law vs. War: Competing Approaches to Fighting Terrorism 11, 15-16 (Strategic Studies Institute, U.S. Army War College, 2005) (“This is a battle for legitimacy, and as such, it is one that we should easily win. As an open and free democracy regulated by the rule of law, we offer a future of peace and prosperity that the jihadist movement does not. . . . Respect for the rule of law, international conventions, and treaty obligations will not make us weaker, it will engender international cooperation and good will that make it impossible for extremist movements to prosper.”), available at http://www.strategicstudiesinstitute.army.mil/pubs/di splay.cfm?pubID=613; Dr. Kenneth Payne, Waging Communication War, Parameters: U.S. Army War College Quarterly, Summer 2008, at 37, 45 (“[E]ffective communication rests on credibility; communications that are not believed are simply hot air.”). Ultimately, the most credible voices revealing the emptiness of the terrorist narrative will be Muslim voices. However, these voices are more likely to be heard if American policies do not hand a megaphone to al Qaeda and their ilk. The reality of a United States that is willing to fairly prosecute the terrorism suspect in a public trial will diminish and discredit the terrorists’ lies and strengthen the credibility of the counter-narrative. This is how violent extremism will ultimately be defeated. In the words of President Obama, “We know that **to be truly secure, we must adhere to our values as vigilantly as we protect our safety – with no exceptions**.” President-Elect Barack Obama, Remarks at Announcement of Intelligence Team (Jan. 9, 2009). CONCLUSION The decision in this case will reinforce one of two narratives – our own or the terrorist’s – and thereby either aid or encumber the Nation’s ongoing counterterrorism efforts. The Court should reverse.

### Plan

####  The United States federal judiciary should affirm the United States District Court for the Southern District of New York's ruling against the indefinite detention provisions of the National Defense Authorization Act.

### Venezuela 1AC

#### US efforts to push Judicial Reforms in Venezuela though the Organization of American States 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

#### Now is the key time – Judicial independence reforms must come quickly before Maduro consolidates power, the OAS is the best forum

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.

#### Judicial independence in Venezuela is crucial to democracy and stability

Provea 13 (Venezuelan Program of Education and Action on Human Rights, “The political use of the Venezuelan judicial system,” Venezuela: International Bulletin on Human Rights Issue No. 5, August 13, <http://www.derechos.org.ve/pw/wp-content/uploads/boletin_05_eng.pdf>)

“In recent years, the Commission has heard of cases in which members of the judiciary have expressly stated their support for the executive, showing the lack of independence of this institution. The Commission has also observed how certain failures caused by the lack of independence of the judiciary is exacerbated in cases of high political significance, and consequently affects society’s confidence in justice.” Four years later the situation is even more worrying. The judiciary and the Public Prosecutor are political instruments of the executive branch to criminalize social protest and to persecute dissident voices. As it has been indicated by several Venezuelan human rights organizations in a statement of July 26 there is “a deep concern over the progressive weakening of judicial guarantees in Venezuela and prosecution as a method to criminalize those with critical positions and to discard them.” The use of justice, to face social protest, led by the working men and women of the country, is expressed in the opening of lawsuits against student leaders, community, indigenous and unions and even, in some cases, by applying military justice. The most emblematic case is the trial of the unionist Rubén González after the Criminal Chamber of the Supreme Court set aside the judgment against him, which was deliberately biased in favor of the government, (that verdict sentencing him to seven years in prison). The Criminal Chamber overturned the judgement after unions announced the call for a strike in response to the decision. In its judgment the Criminal Chamber said: “[the judgement] injured the constitutional rights of the defense, due process and hence to effective judicial protection as provided in Articles 26 and 49.1 of the Constitution of the Bolivarian Republic of Venezuela, what ultimately denied the exercise of procedural defenses that our legal system provides in a criminal trial” This biased and unconstitutional conduct of a criminal court The political use of the Venezuelan judicial system has been repeated in trials of other social leaders, some of whom have more than six years on probation. But there are two major elements in the manipulation of the justice system. One of them is a priori defense of senior government officials from the high courts to the claims brought by individuals for violations of their rights. It is even exclude senior officials of their constitutional obligations, through sentences being handed down by the Constitutional Court, which imposed same criteria to other courts. Although the Constitution provides that any public official should give timely and adequate response to the requests made by any person, but when the request is made to the President of the Republic, the Constitutional Court stated that: “In this regard, it is noted that the multiple functions assigned to the President and the scale of these, prevents suchpublic officer to be given equal treatment as any other official who did not answer, -within the time periods-to requests that have been made.” A study conducted by PROVEA on the behavior of the Supreme Court of Justice to complaints against senior government officials, determined that only 7.14% of decisions are in favor of the petitioners, but when it came to action against the National Assembly, the General Prosecutor or against the President of the Republic, the petitioners did not receive positive responses in any case. The other outstanding feature is the use of Justice to prosecute political dissidents. An emblematic case is the open trial against General Francisco Vicente Uson Ramirez, who in a television program gave his opinion about alleged human rights violations in a particular fact. The many irregularities in the judicial process, generated his case had to be presented at the Inter-American system for the protection of human rights, which concluded in a judgment handed down by the Inter-American Court of Human Rights on November 20, 2009. Conclusion issued by the IACHR in its Report on Democracy and Human Rights in Venezuela, is fully in effect: “The lack of independence and autonomy of the judiciary from political power is one of the weakest points of democracy in Venezuela, a situation that seriously hinders the free exercise of human rights in Venezuela. According to the Commission, is the lack of independence that has allowed the possibility of using the punitive power of the State to criminalize human rights defenders in Venezuela, prosecute peaceful social protest and prosecute political dissidents.”

#### Venezuelan Stability is crucial to oil investment, stops Russian Arctic development, paves the way for US Middle East oil independence, and lowers global oil prices

**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.

**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

**Extinction – it’s categorically different from all other impacts**

**Bostrom 2** (Nick, PhD Philosophy – Oxford University, “Existential Risks: Analyzing Human Extinction Scenarios”, Journal of Evolution and Technology, Vol. 9, March, http://www.nickbostrom.com/existential/risks.html)

The unique challenge of existential risks Risks in this sixth category are a recent phenomenon. This is part of the reason why **it is useful to distinguish them from other risks**. We have not evolved mechanisms, either biologically or culturally, for managing such risks. Our intuitions and coping strategies have been shaped by our long experience with risks such as dangerous animals, hostile individuals or tribes, poisonous foods, automobile accidents, Chernobyl, Bhopal, volcano eruptions, earthquakes, draughts, World War I, World War II, epidemics of influenza, smallpox, black plague, and AIDS. These types of disasters have occurred many times and our cultural attitudes towards risk have been shaped by trial-and-error in managing such hazards. But tragic as such events are to the people immediately affected, in the big picture of things – from the perspective of humankind as a **whole – even the worst of these catastrophes are** **mere ripples** **on the surface of the great sea of life**. They haven’t significantly affected the total amount of human suffering or happiness **or determined the long-term fate of our species**. With the exception of a species-destroying comet or asteroid impact (an extremely rare occurrence), there were probably no significant existential risks in human history until the mid-twentieth century, and certainly none that it was within our power to do something about. The first manmade existential risk was the inaugural detonation of an atomic bomb. At the time, there was some concern that the explosion might start a runaway chain-reaction by “igniting” the atmosphere. Although we now know that such an outcome was physically impossible, it qualifies as an existential risk that was present at the time. For there to be a risk, given the knowledge and understanding available, it suffices that there is some subjective probability of an adverse outcome, even if it later turns out that objectively there was no chance of something bad happening. If we don’t know whether something is objectively risky or not, then it is risky in the subjective sense. The subjective sense is of course what we must base our decisions on.[[2]](http://www.nickbostrom.com/existential/risks.html#_ftn2) At any given time we must use our best current subjective estimate of what the objective risk factors are.[[3]](http://www.nickbostrom.com/existential/risks.html#_ftn3) **A much greater existential risk** **emerged with the build-up of nuclear arsenals in the US and** the **USSR**. **An all-out nuclear war was a possibility with both a substantial probability and with consequences that might** have been persistent enough to **qualify as global and terminal**. There was a real worry among those best acquainted with the information available at the time that a nuclear Armageddon would occur and that it **might annihilate our species** or permanently destroy human civilization.[[4]](http://www.nickbostrom.com/existential/risks.html#_ftn4)  Russia and the US retain large nuclear arsenals that could be used in a future confrontation, either accidentally or deliberately. There is also a risk that other states may one day build up large nuclear arsenals. Note however that **a smaller nuclear exchange**, between India and Pakistan for instance, **is not an existential risk, since it would not destroy** or thwart **humankind’s potential permanently**. Such a war might however be a local terminal risk for the cities most likely to be targeted. Unfortunately, we shall see that nuclear Armageddon and comet or asteroid strikes are mere preludes to the existential risks that we will encounter in the 21st century.

**Middle East oil dependence erodes US Hegemony**

**Miller 12** [Paul, assistant professor of international-security studies at the National Defense University, “Fading Arab Oil Empire”, 6/28/12, <http://nationalinterest.org/article/the-fading-arab-oil-empire-7072?page=1>]

SINCE 1945, the United States has rightly sought to prevent any single power from dominating the Middle East’s oil supplies. An oil hegemon, whether Soviet, Baathist, Nasserite, Iranian or Islamist, would have had the capacity to blackmail the United States and the world with economic warfare. To that end, the United States supported anticommunist monarchies and autocracies in Saudi Arabia, Kuwait and Bahrain, among others, during the Cold War. It has armed Saudi Arabia with a staggering $81.6 billion of arms sales since 1950, almost a fifth of all U.S. weapons shipments. It supported Iraq against Iran in the 1980s before fighting Iraq to defend Kuwait and Saudi Arabia in 1990–1991. After the 2001 terrorist attacks, it further bolstered ties in the region, adding Kuwait, Bahrain and Morocco to its collection of major non-NATO allies, which includes Egypt, Israel and Jordan. In 2003, it invaded and occupied Iraq over fears, later proven overblown, that Iraq’s WMD proliferation might give Saddam Hussein or allied terrorists unacceptable leverage in the region. The U.S. military’s Central Command, formed in 1983, has a forward headquarters in Qatar, and the U.S. Navy’s Fifth Fleet is based in Bahrain. This military infrastructure guarantees a long-term U.S. military presence in the region. Those policies were largely sensible efforts to maintain the security of world energy supplies. However, they make less sense in light of the brewing realities in the world oil market. These developments—the world’s increasing energy efficiency and the Middle East’s loss of its comparative advantage in oil production—will take time to play out fully. But they have been under way for several decades already. In two decades or so, the global oil market and the Middle East’s geopolitical influence will be dramatically different from what they are today. The Middle East will remain an important player, but it will no longer be able to act as the “central bank of oil,” as the princes of Saudi Arabia style their kingdom. Moreover, it will forever lose the ability to credibly threaten to wield oil as a weapon. The sword of Damocles that has implicitly hovered over the West since the 1970s will be gone. That means the central goal of U.S. foreign policy in the Middle East will essentially be achieved: no power will be able to threaten the United States with unacceptable leverage over the American economy. That is because oil itself will be less important, and the world oil market will be more diffuse and diverse. The importance of this development cannot be overstated. It is a tectonic shift in the geopolitical balance of power, a strategically pivotal development only slightly less momentous than the fall of the Soviet Union. It is the slow-motion collapse of the Middle Eastern oil empire. In turn, the United States can and should begin to **adapt its foreign policy** to reflect these realities. It can look with more complacency on the rise and fall of particular regimes across the Middle East and North Africa. The Arab Spring, even if it brings to power moderate Islamist governments, is unlikely to threaten American interests. Washington also can play a less active part in conflicts between states, reverting to a role more like its indirect support for Iraq against Iran and less like its direct involvement in the 1991 and 2003 Iraq wars. Further, it can speak out more freely against tyranny and human-rights abuses, especially in Saudi Arabia, one of the most oppressive countries on earth. It can reclaim its position as the advocate of global liberalism, undoing the damage to the U.S. brand done by its close association with Middle Eastern dictators. THE UNITED States has additional interests in the Middle East, but they are outweighed by those in other parts of the world. For example, the region is a hotbed of terrorism and may become a major locus of WMD proliferation. But South Asia hosts terrorist groups, including Al Qaeda, that threaten the United States more directly. Further, South Asia is home to two declared nuclear powers. Thus, South Asia—not the Middle East—should be the focus of U.S. counterterrorism and counterproliferation efforts in coming decades. Additionally, the Middle East has two of the world’s most important choke points for ocean-going trade: the Suez Canal and the Strait of Hormuz. But governments in the region, heavily reliant on exports, have strong interests in keeping trade routes open. Despite Iranian leaders’ recent threats, no government is likely to cut off its own economic lifeline voluntarily. Meanwhile, the Malacca Strait in East Asia will remain important for a diverse array of ocean-going trade for the foreseeable future. Finally, the United States rightly is committed to Israel’s security. If Iran succeeds in building a nuclear weapon, Israel could face a potential existential threat—the same threat fellow U.S. allies in East Asia, including South Korea, Taiwan and Japan, have been facing from North Korea since 2006. Once again, U.S. interests in the Middle East are no more, and probably less, important than U.S. interests in other regions. The changing realities of the world energy market do not mean the United States can or should ignore the Middle East. Certainly, Israel’s security and Iran’s behavior will keep the region a focus for policy makers’ attention. But, placed in a global perspective, the United States has more or **deeper interests at stake in other regions** of the world—especially Europe and Asia—than in the Middle East. Budget cuts are concentrating minds inside the Beltway with newfound discipline. And a new presidential term begins next January, either with President Obama or Mitt Romney taking over. This confluence of events gives American policy makers a powerful opportunity to reassess U.S. grand strategy, along with its attendant military-deployment and force structure. As they do so, they should recognize the emerging realities in the Middle East. Our rationale for guaranteeing the region’s stability in exchange for cheap oil is fading, and that mission quickly is becoming more trouble than it is worth.

**US Hegemony prevents global nuclear conflicts**

**Kagan 7 Senior associate at the Carnegie Endowment for International Peace** [Robert Kagan (Senior transatlantic fellow at the German Marshall Fund), “End of Dreams, Return of History,” Policy Review, August & September 2007, pg. http://www.hoover.org/publications/policyreview/8552512.html]

The jostling for status and influence among these ambitious nations and would-be nations is a second defining feature of the new post-Cold War international system. Nationalism in all its forms is back, if it ever went away, and so is international competition for power, influence, honor, and status. American predominance prevents these **rivalries from intensifying** — its regional as well as its global predominance. Were the United States to diminish its influence in the regions where it is currently the strongest power, the other nations would settle disputes as great and lesser powers have done in the past: sometimes through diplomacy and accommodation but often through confrontation and wars of varying scope, intensity, and destructiveness. One novel aspect of such a multipolar world is that most of these powers would possess **nuclear weapons**. That could make wars between them less likely, or it could simply make them more catastrophic. It is easy but also dangerous to underestimate the role the United States plays in providing a measure of stability in the world even as it also disrupts stability. For instance, the United States is the dominant naval power everywhere, such that other nations cannot compete with it even in their home waters. They either happily or grudgingly allow the United States Navy to be the guarantor of international waterways and trade routes, of international access to markets and raw materials such as oil. Even when the United States engages in a war, it is able to play its role as guardian of the waterways. In a more genuinely multipolar world, however, it would not. Nations would compete for naval dominance at least in their own regions and possibly beyond. Conflict between nations would involve struggles on the oceans as well as on land. Armed embargos, of the kind used in World War I and other major conflicts, would disrupt trade flows in a way that is now impossible. Such order as exists in the world rests not merely on the goodwill of peoples but on a foundation provided by American power. Even the European Union, that great geopolitical miracle, owes its founding to American power, for without it the European nations after World War ii would never have felt secure enough to reintegrate Germany. Most Europeans recoil at the thought, but even today Europe’s stability depends on the guarantee, however distant and one hopes unnecessary, that the United States could step in to check any dangerous development on the continent. In a genuinely multipolar world, that would not be possible without renewing the danger of world war. People who believe greater equality among nations would be preferable to the present American predominance often succumb to a basic logical fallacy. They believe the order the world enjoys today exists independently of American power. They imagine that in a world where American power was diminished, the aspects of international order that they like would remain in place. But that’s not the way it works. International order does not rest on ideas and institutions. It is shaped by configurations of power. The international order we know today reflects the distribution of power in the world since World War II, and especially since the end of the Cold War. A different configuration of power, a multipolar world in which the poles were Russia, China, the United States, India, and Europe, would produce its own kind of order, with different rules and norms reflecting the interests of the powerful states that would have a hand in shaping it. Would that international order be an improvement? Perhaps for Beijing and Moscow it would. But it is doubtful that it would suit the tastes of enlightenment liberals in the United States and Europe. The current order, of course, is not only far from perfect but also offers no guarantee against major conflict among the world’s great powers. Even under the umbrella of unipolarity, regional conflicts involving the large powers may erupt. War could erupt between **China and Taiwan** and draw in both the United States and Japan. War could erupt between **Russia and Georgia**, forcing the United States and its European allies to decide whether to intervene or suffer the consequences of a Russian victory. Conflict between **India and Pakistan** remains possible, as does conflict between **Iran and Israel** or other Middle Eastern states. These, too, could draw in other great powers, including the United States. Such conflicts may be unavoidable no matter what policies the United States pursues. But they are more likely to erupt if the United States weakens or withdraws from its positions of regional dominance. This is especially true in East Asia, where most nations agree that a reliable American power has a stabilizing and pacific effect on the region. That is certainly the view of most of China ’s neighbors. But even China, which seeks gradually to supplant the United States as the dominant power in the region, faces the dilemma that an American withdrawal could unleash an ambitious, independent, nationalist Japan. In Europe, too, the departure of the United States from the scene — even if it remained the world’s most powerful nation — could be destabilizing. It could tempt Russia to an even more overbearing and potentially forceful approach to unruly nations on its periphery. Although some realist theorists seem to imagine that the disappearance of the Soviet Union put an end to the possibility of confrontation between Russia and the West, and therefore to the need for a permanent American role in Europe, history suggests that conflicts in Europe involving Russia are possible even without Soviet communism. If the United States withdrew from Europe — if it adopted what some call a strategy of “offshore balancing” — this could in time increase the likelihood of conflict involving Russia and its near neighbors, which could in turn draw the United States back in under unfavorable circumstances. It is also optimistic to imagine that a retrenchment of the American position in the Middle East and the assumption of a more passive, “offshore” role would lead to greater stability there. The vital interest the United States has in access to oil and the role it plays in keeping access open to other nations in Europe and Asia make it unlikely that American leaders could or would stand back and hope for the best while the powers in the region battle it out. Nor would a more “even-handed” policy toward Israel, which some see as the magic key to unlocking peace, stability, and comity in the Middle East, obviate the need to come to Israel ’s aid if its security became threatened. That commitment, paired with the American commitment to protect strategic oil supplies for most of the world, practically ensures a heavy American military presence in the region, both on the seas and on the ground. The subtraction of American power from any region would not end conflict but would simply change the equation. In the Middle East, competition for influence among powers both inside and outside the region has raged for at least two centuries. The rise of Islamic fundamentalism doesn’t change this. It only adds a new and more threatening dimension to the competition, which neither a sudden end to the conflict between Israel and the Palestinians nor an immediate American withdrawal from Iraq would change. **The alternative to American predominance** in the region **is not balance and peace**. It is further competition. The region and the states within it remain relatively weak. A diminution of American influence would not be followed by a diminution of other external influences. One could expect deeper involvement by both China and Russia, if only to secure their interests. 18 And one could also expect the more powerful states of the region, particularly Iran, to expand and fill the vacuum. It is doubtful that any American administration would voluntarily take actions that could shift the balance of power in the Middle East further toward Russia, China, or Iran. The world hasn ’t changed that much. An American withdrawal from Iraq will not return things to “normal” or to a new kind of stability in the region. It will produce a new instability, one likely to draw the United States back in again. The alternative to American regional predominance in the Middle East and elsewhere is not a new regional stability. In an era of burgeoning nationalism, the future is likely to be one of intensified competition among nations and nationalist movements. Difficult as it may be to extend American predominance into the future, no one should imagine that a reduction of American power or a retraction of American influence and global involvement will provide an easier path.

#### The Forrest decision is key

RT 12 ("Supreme Court asked to strike down NDAA's indefinite detention clause," http://rt.com/usa/supreme-court-ndaa-indefinite-016/)

The US Supreme Court has been asked to step in and make sure the military cannot detain US citizens indefinitely without charge or trial as guaranteed in this year’s National Defense Authorization Act, or NDAA.¶ Attorneys representing the plaintiffs in the case of Hedges, et al. v. Obama filed an emergency motion with the Supreme Court on Wednesday asking the top justices in the United States to stop a White House-ordered stay that ensures US citizens can be locked up without due process [pdf].¶ Under a provision of the 2012 NDAA, the US government can indefinitely imprison any person suspected of terrorist activity without ever requiring them to be brought to trial. In September, US District Judge Katherine Forrest granted a permanent injunction against that part of the annual defense bill, Section 1021, essentially barring the White House from using the law. In response, US President Barack Obama asked the Second Circuit Court to intervene, and they did so by placing a stay on Judge Forrest’s injunction. On Wednesday, the plaintiffs urged the Supreme Court take action and eliminate the appellate decision.¶ “The effect of the Second Circuit stay is to place the plaintiffs in this action and many United States civilians and citizens in actual and imminent danger of losing their core First Amendment rights and fundamental Equal Protection liberties. The stay actually upends the status quo that has been in place for most of our nation’s history: that the military cannot detain civilians,” the plaintiffs argue.¶ Additionally, the plaintiffs argue that the stay ensures that any US citizen is now fair game to be imprisoned indefinitely in military jails “for the first time since the internment of Japanese-Americans during World War II.”¶ Attorneys Carl Mayer and Bruce Afran have filed their request insisting the Supreme Court vacates the Second Circuit’s stay with Associate Justice Ruth Joan Bader Ginsburg, who can at any time now make a ruling that will reinstate the original injunction against Sec. 1021 or disregard the plaintiffs’ plea.¶ Mr. Mayer previously told RT that he is fully prepared to present his arguments before the Supreme Court and suggested the Obama administration is likely to lose that battle.¶ “I think they are ill advised to appeal this at all,” he told RT. “The Obama administration has now lost three times. They lost the temporary injunction, they lost the motion for reconsideration and they lost the hearing for permanent injunction. I say three strikes and you’re out.”¶ Speaking of Pres. Obama, Mayer added, “He knows as a former constitutional law professor that this is wholly unconstitutional.”¶ Mayer and Afran are asking for the Supreme Court to vacate the Second Circuit’s stay because the plaintiffs say the president’s argument that Judge Forrest’s injunction intrudes upon the executive power to detain Americans under the Authorization for the Use of Military Force (AUMF) is incorrect.¶ “No court in the long history of litigation under the AUMF,” write the plaintiffs, has agreed that that legislation allows for the indefinite detention of persons who’ve “substantially supported” terrorists, as outlined in the NDAA. On the president’s part, however, he argues that the injunction impedes that ability; the plaintiffs say he simply doesn’t have that power.¶ But because the language in the 2012 NDAA is so vague, warns Mayer, the White House could make anything possible.¶ “If any journalist or activist is seen as reporting or offering opinions about groups that could somehow be linked not just to al-Qaeda but to any opponent of the United States or even opponents of our allies,” he told RT they could be imprisoned.¶ “The decision to vigorously fight Forrest’s ruling is a further example of the Obama White House’s steady and relentless assault against civil liberties, an assault that is more severe than that carried out by George W. Bush,” plaintiff Chris Hedges wrote earlier this year.

#### Supreme court action is key to end indefinite detention and affirm the court’s duty and independence

Martin 13 (Ronald, Contributor @ Tenth Amendment Center, "Indefinite Detention is Patently Unconstitutional," http://tenthamendmentcenter.com/2013/06/27/indefinite-detention-is-patently-unconstitutional/#.Uhj8TJLqnoI)

In January 2012, New York Times Pulitzer Prize winning reporter Christopher Hedges filed a federal lawsuit against President Obama, challenging detention provisions in the National Defense Authorization Act (NDAA) of Fiscal Year 2012.¶ The Act authorized $662 billion in funding, “for defense of the United States and it’s interests abroad.” Central to Hedges’ suit, a controversial provision set forth in subsection 1021 of Title X, Sub-title (d) entitled “Counter-Terrorism,” authorizing indefinite military detention of individuals the government suspects are involved in terrorism, including U.S. citizens arrested on American soil.¶ Over the last two years, a broad coalition including the Tenth Amendment Center, the American Civil Liberties Union, the Bill of Rights Defense Committee, and many others formed in opposition to indefinite detention provisions, concerned with over-broad language open to wide interpretation and the growing scope of presidential authority. In support of Hedges, many of these individuals and organizations joined together as an Amicus Curiae, otherwise known as a Friend of the Court. The coalition filed an Amicus Brief supporting Hedges’ interpretation of the controversial issues abounding in Hedges v. Obama. The Amicus Curiae states, “Each entity is dedicated, inter alia (among other things), to the correct construction, interpretation, and application of the law.”¶ For those not familiar with an Amicus Brief, it is a document filed with a court by a person or group not directly involved in the case. The brief often contains information useful to a judge when evaluating the merits of a case and it becomes part of the official record. In addition to filing a brief, Amicus Curiae can involve itself in a case in many ways. It can contribute academic evaluations of subject matters, it can testify in a case, and on rare cases it can help contribute to oral arguments. Many times, state and local governments also join a case as a “Friend” if they believe it will impact them. This happened in Hedges v. Obama. A large number of concerned individuals and advocacy organizations enjoined the case as Amicus Curiae.¶ The Amicus Brief of this case commences by focusing on the ambiguity of the language in section 1021 of the 2012 NDAA.¶ “Rarely has a short statute been subject to more radically different interpretations than Section 1021 of the NDAA of 2012.”¶ The “Friends” contend the verbiage offers diametrically opposite meanings.¶ ”The Framers would be greatly shocked to hear the United States assert that an American President has power to place civilians in the U.S. or citizens abroad into military custody absent status as armed combatants. No President has ever held such power.”¶ As the Amicus Curiae implies, the language of this law is dangerously vague. Many believe the provisions of Section 1021 grant dictatorial powers to the federal government to arrest any American citizen without a warrant and indefinitely detain them without charge. Detainees can be shipped to the military’s offshore prisons and kept there until “the end of hostilities.”¶ Section 1021 defines a “covered person” as “one subject to detention” and “a person who was part of or substantially supported al-Qaeda, the Taliban, or associated forces engaged in hostilities against the United States or it’s coalition partners, including any person who has committed a belligerent act or has directly supported such hostilities in aid of such enemy forces.” However, the law does not define “substantially supported” or “associated forces,” leaving those nebulous terms open to interpretation.¶ The White House and Senate sponsors maintain the Authorization for Use of Military Force (AUMF) previously granted presidential authority for indefinite detention. In their Appellant Brief, the Department of Justice contends that the NDAA does no more than “explicitly reaffirm…the President’s detention authority under AUMF,” a Congressional Joint Resolution passed Sept. 14, 2001.¶ In response to this claim, the plaintiffs’ Coalition rebuts, “If the Government’s theory was true, then the U.S. Senate spent weeks debating and enacting, and the U.S. Department of Justice has worked mightily to uphold a meaningless and unnecessary statute.”¶ The Amicus Curiae addresses a second issue.¶ “The Legislative History of the NDAA Reveals a Gap between the Clear Purpose and the Ambiguous Statutory Language. The NDAA detention provisions, and one amendment which was adopted creating subsection (e), were not drafted in haste. Rather, the legislative history suggests another reason for the stark difference of statutory interpretation.”¶ This section continues, contrasting the original Senate bill (S. 1253) that included limiting language excluding the ability of the government to detain citizens of the United States under the act and the final version of the NDAA. This limiting language was deleted in a substitute bill (S. 1867), by Senator Carl Levin (D-MI). The record shows that this limiting language was removed at the request of the president in order to keep the law consistent with the AUMF of 2001.¶ This fact stands in stark contrast to public statements made by Pres. Obama on the detention issue, including his signing statement.¶ “I want to clarify, that my Administration will not authorize the indefinite detention without trial of American citizens…My Administration will interpret section 1021 in a manner that ensures that any detention it authorizes complies with the Constitution, the laws of war, and all other applicable law.”¶ However in May 2012, Judge Katherine Forrest, (an Obama-appointed judge) ruled part of section 1021 unconstitutional.¶ “The plaintiffs do have standing, and that section 1021 is facially unconstitutional.”¶ In her ruling, Forrest asserted that the provision denies First and Fifth Amendment rights, and she granted a temporary restraining order against Section 1021 of the NDAA. The government responded by requesting that the judge reverse her ruling, claiming the plaintiffs did not have standing to bring the case against the government because they had yet to be indefinitely detained. And the administration argued that even if Mr. Hedges and the other plaintiffs did have standing, they were the only seven American citizens covered by the temporary restraining order.¶ In spite of the administration’s arguments, Judge Forrest returned a clarifying order, making it abundantly clear, without any equivocation, that the temporary restraining order applied to ALL American citizens. According to the judge, the government cannot indefinitely detain any American citizen without access to due process.¶ In September 2012, Judge Forrest issued a permanent injunction against indefinite detention of American citizens, but the Obama administration appealed and was granted a stay pending that appeal.¶ The next consequential argument forwarded in the Amicus Brief is that the 2001 AUMF is not a Constitutional Declaration of War.¶ “The Government misunderstands the Constitution which was written for a time of war, as well as a time of peace. There is only one provision in the Constitution which can be suspended in wartime conditions: the writ of habeus corpus, and that suspension requires an act of Congress. U.S. Constitution, Article I, Section 9. And there is only one wartime exception, that being the right to a Grand Jury indictment as set forth in the Fifth Amendment. The war power does not trump the rights and protections of the people in any other instances.”¶ “The Government’s sole support in attempt to sweep aside the Constitution’s Bill of Rights, is the Congressional declaration of war against the Imperial Department of Japan in World War II (Govt. Br., p.47), which the Government claims to have been: -stated in broadest terms, with no precise descriptions of who may be the subject of force (including detention) or under what circumstances, and without any express carve-outs for arguably protected speech. This pattern holds for every authorization for the use of military force in our nation’s history-including the AUMF.’”¶ Rather than offering support for the Government’s claim, the differences between the 2001 and 1941 declarations undermine it.¶ In contrast the AUMF provides: “that the President is authorized to use all necessary and appropriate force against those nations, organizations or persons he determines planned,authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.” [Pub. L. 107-40, 115 Stat. 224 (Sept. 18, 2001)§ 2(a)¶ The first and most obvious difference between the two resolutions is that the U.S. actually declared war against Japan. Even though the Government argues the Constitution “imposes no constraints on how the declaration should be worded, Congress has never been at a loss for words when declaring war from 1812 to 1941.'”¶ Secondly, the 1941 declaration “authorizes and directs” the President to take action, while the 2001 AUMF merely leaves it to the President’s discretion to “determine” the force necessary.¶ “In 1941, Congress instructed the President to use all of the nation’s military force and government resources to carry on war against a clearly identified enemy, while the 2001 AUMF empowered the President to identify the enemy."¶ Lastly, the 1941 declaration specified a time when the president’s authority ended, when the war was successfully terminated, while the AUMF set no definite time for the president’s power to cease. In the wake of 9/11, Congressman Ron Paul implored Congress to address the war declaration issue, but found little interest in the constitutional process.¶ “As the Apellees have demonstrated, the Constitution does not confer upon the President or upon Congress any power to subject civilians to detention by the military as AUMF and Section 1021 (b)(2) do, even if the nation is at war.”¶ Access to habeus corpus is “not a satisfactory remedy to the burden of military detention” for a citizen who is suspected of “substantially supporting a force associated with any enemy, al-Qaeda, the Taliban, or otherwise.” Not only is habeas relief unsatisfactory, imposing upon an American citizen the burden of seeking habeas relief to escape from military detention is constitutionally impermissible under the Treason Clause of Article III, Section 3. In Federalist No. 43, James Madison asserted that the Treason Clause must be understood as one of the enumerated powers of the federal government, placing severe limits on the legislative power not only to define the elements of treason, but to preclude Congress from evading the constitutional definition of treason by "new-fangled and artificial” definitions.¶ Lastly, the Amicus Brief discusses the judicial branch's duty to address constitutional issues in the case asserted by many states.¶ After the enactment of the NDAA of 2012, many state and local officials expressed opposition to the constitutional violations perceived in Section 1021. State legislators and local officials have taken different approaches in battling this unconstitutional overreach. Some states have passed non-binding resolutions, while others like Virginia and Alaska have enacted laws nullifying Section 1021 by “barring any state agency or political subdivision or employee or National Guard from knowingly aiding an agency of the armed forces of the United States in the unlawful NDAA detention of any citizen…”¶ “These efforts do not break new ground, they build on lessons learned since the beginning of the Republic. When the federal government breeches the bounds of its authority, the nation’s sovereign states can be expected to respond to protect the liberties of the people.” As Chief Justice John Marshall observed, "vesting such power in the courts requires a judge to look into the Constitution, examining it’s text to determine whether actions of the two other branches conform to the written instrument." Marbury v. Madison, 5 U.S. (1 Cranch) 137, 178-79 (1803).¶ “In this case, the executive branch is arguing on behalf of the legislative branch that the judicial branch may not even look into the Constitution to determine if Section 1021 (b) (2) violates First and Fifth Amendments. As Chief Justice John Marshall responded in Marbury, the Government’s claim is too extravagant to be maintained.”¶ The appeals process continues and the case is expected to ultimately be heard by the Supreme Court. If the Plaintiff and it’s coalition are correct, then the district court’s conclusion that, “Section 1021(b)(2), and its companion subsections (d) and (e), differ materially from AUMF, creating a reasonable and objective fear of detention , and should be affirmed” as Unconstitutional.

#### Multiple controversial decisions coming now - docket proves

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.

# 2AC

## T

### GSPEC 2AC

#### Cross-x checks – they couldve asked grounds – the plan is also INCREDIBLY specific to this – we uphold a decision

#### 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 referred 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.

#### 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

## Terror

## Venezuela

### HEg

#### Heg is Good-

#### First- Threats are inevitable, Thayer evidence indicates that only heg causes bandwagoning, deterrence, international institutions and economic stability that can confront the challenges that face the world

#### Second- We will always be engaged- isolationist tendencies come and go, its just a question of doing more effective interventions to prevent drawn out violence- Iraq proves- That’s kagan

#### Third- Barnett evidence indicates stewardship of the global order requires killing to prevent larger scale violence- anarchy is inevitable, its just a question of controlling escalation which only hegemony allows for

And the transition goes nuclear

 Posen and Ross 97

[Barry Posen, Professor of Political Science in the Defense and Arms Control Studies Program at MIT, Andrew Ross, Professor of National Security Studies at the Naval War College, International Security, Winter 1997]

The United States can, more easily than most, go it alone. Yet we do not find the arguments of the neo-isolationists compelling. Their strategy serves U.S. interests only if they are narrowly construed. First, though the neo-isolationists have a strong case in their argument that the United States is currently quite secure, disengagement is unlikely to make the United States more secure, and would probably make it less secure. The disappearance of the United States from the world stage would likely precipitate a good deal of competition abroad for security. Without a U.S. presence, aspiring regional hegemons would see more opportunities. States formerly defended by the United States would have to look to their own military power; local arms competitions are to be expected. Proliferation of nuclear weapons would intensify if the U.S. nuclear guarantee were withdrawn. Some states would seek weapons of mass destruction because they were simply unable to compete conventionally with their neighbors. This new flurry of competitive behavior would probably energize many hypothesized immediate causes of war, including preemptive motives, preventive motives, economic motives, and the propensity for miscalculation**. There would** like **be more war. W**eapons of **m**ass **d**estruction **might be used in** some of **the wars**, with unpleasant effects even for those not directly involved.

### Saudi Prolif

#### Proliferation does not escalate to war. It de-escalates conflicts

**Tepperman**, 9/7/**2009** (John - journalist based in New York Cuty, Why obama should learn to love the bomb, Newsweek, p.lexis)

**A growing and compelling body of research** suggests that nuclear weapons may not, in fact, make the world more dangerous, as Obama and most people assume. The bomb may actually make us safer. In this era of rogue states and transnational terrorists, that idea sounds so obviously wrongheaded that few politicians or policymakers are willing to entertain it. But that's a mistake. Knowing the truth about nukes would have a profound impact on government policy. Obama's idealistic campaign, so out of character for a pragmatic administration, may be unlikely to get far (past presidents have tried and failed). But it's not even clear he should make the effort. There are more important measures the U.S. government can and should take to make the real world safer, and these mustn't be ignored in the name of a dreamy ideal (a nuke-free planet) that's both unrealistic and possibly undesirable. The argument that nuclear weapons can be agents of peace as well as destruction rests on two deceptively simple observations. First, nuclear weapons have not been used since 1945. Second, there's never been a nuclear, or even a nonnuclear, war between two states that possess them. Just stop for a second and think about that: it's hard to overstate how remarkable it is, especially given the singular viciousness of the 20th century. As Kenneth Waltz, the leading "nuclear optimist" and a professor emeritus of political science at UC Berkeley puts it, "We now have 64 years of experience since Hiroshima. It's striking and against all historical precedent that for that substantial period, there has not been any war among nuclear states." To understand why--and why the next 64 years are likely to play out the same way--you need to start by recognizing that all states are **rational on some basic level**. Their leaders may be stupid, petty, venal, even evil, but they tend to do things only when they're **pretty sure they can get away with them**. Take war: a country will start a fight only when it's almost certain it can get what it wants at an acceptable price. **Not even Hitler or Saddam** waged wars they didn't think they could win. The problem historically has been that leaders often make the **wrong gamble and underestimate** the other side--and millions of innocents pay the price. Nuclear weapons change all that by making the costs of war **obvious**, inevitable, **and unacceptable**. § Marked 19:11 § Suddenly, when both sides have the ability to turn the other to ashes with the push of a button--and everybody knows it--the basic math shifts. Even the **craziest tin-pot dictator** is forced to accept that war with a nuclear state is **unwinnable** and thus not worth the effort. As Waltz puts it, "**Why fight if you can't win and might lose everything**?" Why indeed? The iron logic of deterrence and mutually assured destruction is so compelling, it's led to what's known as the nuclear peace: the virtually unprecedented stretch since the end of World War II in which all the world's major powers have avoided coming to blows. They did fight proxy wars, ranging from Korea to Vietnam to Angola to Latin America. But these never matched the furious destruction of full-on, great-power war (World War II alone was responsible for some 50 million to 70 million deaths). And since the end of the Cold War, such bloodshed has declined precipitously. Meanwhile, the nuclear powers have scrupulously avoided direct combat, and there's very good reason to think they always will. There have been some near misses, but a close look at these cases is fundamentally reassuring--because in each instance, very different **leaders all came to the same safe conclusion**. Take the mother of all nuclear standoffs: the Cuban missile crisis. For 13 days in October 1962, the United States and the Soviet Union each threatened the other with destruction. But both countries soon stepped back from the brink when they recognized that a war would have **meant curtains** for everyone. As important as the fact that they did is the reason why: Soviet leader Nikita Khrushchev's aide Fyodor Burlatsky said later on, "It is impossible to win a nuclear war, and both sides realized that, maybe for the first time." The record since then shows the same pattern repeating: nuclear-armed enemies slide toward war, **then pull back**, always for the same reasons. The best recent example is India and Pakistan, which fought three bloody wars after independence before acquiring their own nukes in 1998. Getting their hands on weapons of mass destruction didn't do anything to lessen their animosity. But it did **dramatically mellow their behavior**. Since acquiring atomic weapons, the two sides have never fought another war, **despite severe provocations** (like Pakistani-based terrorist attacks on India in 2001 and 2008). They have skirmished once. But during that flare-up, in Kashmir in 1999, both countries were careful to keep the fighting limited and to avoid threatening the other's vital interests. Sumit Ganguly, an Indiana University professor and coauthor of the forthcoming India, Pakistan, and the Bomb, has found that on both sides, officials' thinking was strikingly similar to that of the Russians and Americans in 1962. The prospect of war brought Delhi and Islamabad face to face with a nuclear holocaust, and leaders in each country did what they had to do to avoid it.

**Relations impact empirically denied**

**Bronson 6**, Rachel, Vice President, Studies at The Chicago Council on Global Affairs [“ 5 Myths About U.S.-Saudi Relations,” May 21st http://www.washingtonpost.com/wp-dyn/content/article/2006/05/19/AR2006051901758.html]

A major reason for the close ties between the two nations was their common Cold War fight against communism. Both countries worried about the Soviet Union, and that solidified their oil and defense interests, and minimized differences. In hindsight, by supporting religious zealots in the battle against communism, the two countries contributed to the rise of radical Islamic movements. 2 The 9/11 hijackers undermined otherwise strong U.S.- Saudi ties. Actually, things were never that smooth. Historians refer to the "special relationship" established when Saudi Arabia's King Abdel Aziz and President Franklin D. Roosevelt met in 1945. But since then the relationship has endured oil embargoes, U.S. restrictions on arms sales to Saudi Arabia, and tensions around Israel and Palestine. Dissension permeates the entire history of **U.S.-**Saudi relations**.** Since the end of the Cold War, relations have become particularly fraught, with the 9/11 attacks being the most recent issue. Oil, defense and some regional interests keep the countries together, but both sides have made clear that the relationship is less special today. In 2005, Rice stated that "for 60 years . . . the United States pursued stability at the expense of democracy in this region here in the Middle East -- and we achieved neither."

**Oil not key**

**Palmquist 8,** citing Rachel Bronson, former director of Middle East studies at the Council on Foreign Relations, vice president for programs and studies at the Chicago Council on Global Affairs, Matt, graduate of Northwestern University's Medill School of Journalism [“An Inconvenient Alliance,” August 26th, <http://www.miller-mccune.com/politics/the-inconvenient-alliance-4304/>]

With gas prices climbing past $4 a gallon, the media, Congress and the public are blaming oil companies and questioning U.S. energy policy, particularly vis-à-vis Saudi Arabia, the world’s leading oil exporter. And, indeed, the story of the complex relationship between the United States and the kingdom has in recent years often been viewed through the dark prism of petroleum. When you scan the rather jaded titles of recent books on the subject — from Sleeping With the Devil: How Washington Sold Our Soul for Saudi Crude, by former Central Intelligence Agency case officer Robert Baer, to America’s Kingdom: Mythmaking on the Saudi Oil Frontier, by University of Pennsylvania political scientist Robert Vitalis — the conclusion is plain: Oil is the binding force in the unique, uncomfortable U.S.-Saudi alliance, which has been so polluted by profit and political quid pro quos that it’s unclear where the true power lies. In these times of $125-a-barrel oil, though, the more accurate lens for looking at the Saudi-American relationship may be inside Rachel Bronson’s book, Thicker Than Oil: America’s Uneasy Partnership With Saudi Arabia, issued in 2006 to short but generally positive reviews and now out in paperback. Bronson, formerly the director of Middle East studies at the Council on Foreign Relations and now vice president for programs and studies at the Chicago Council on Global Affairs, presents a comprehensive history of the United States’ far-from-consistent policy toward Saudi Arabia and argues against the conventional wisdom that oil forms the basis of relations. Instead, Bronson suggests, it was primarily the shared (and expensive) commitment to resisting communism, whenever and wherever Moscow-backed beliefs seemed to spread, that aligned America and Saudi Arabia. In Bronson’s analysis, the end of the Cold War and the disappearance of common communist enemies created a void between the two countries, which has been increasingly filled and exploited by the forces of religious extremism and terrorism.

### Methane

#### No methane leaks

Cathles 12—Professor of Earth and Atmospheric Sciences @ Cornell University [Cathles, Lawrence M., Larry D. Brown (Professor of Earth and Atmospheric Sciences @ Cornell University), Milton Taam (Electric Software, Inc.), Andrew Hunter (Professor of chemical and Biological Engineering, Cornell University) "A commentary on "The greenhouse gas footprint of natural gas in shale formations" by R.W. Howarth, R. Santoro, and Anthony Ingraffea." Climatic Change, 2012, pg. http://cce.cornell.edu/EnergyClimateChange/NaturalGasDev/Documents/PDFs/FINAL%20Short%20Version%2010-4-11.pdf .

Howarth et al. were correct to highlight concerns that leakage of methane during production and transmission could significantly affect the greenhouse impact of natural gas, especially gas extracted from shales. And we concur with them that much better data is needed to monitor this leakage. However, our review of their own sources finds no evidence that gas is being vented directly into the atmosphere at rates that could justify their conclusions. In contrast their sources make clear that there are effective technologies to reduce methane emissions to the point they are an insignificant addition to methane’s greenhouse combustion footprint, if indeed this is not already the case**.** More reasonable estimates of production losses, and more appropriate bases of comparison (electricity and a 100 year GWP) show natural gas, including shale gas, has half to 1/3rd the greenhouse impact of coal, and thus remains an attractive transition fuel to low carbon alternatives.

## Off

### CP

#### Ten plank counterplans are SUPER abusive – jacks all 2ac ability to respond to arguments, moots our offense, are bad for education because no single actor would approve – it’s extra abusive when they have no solvency advocate for doing all the planks – independent reasons to reject the team - the damage has been done, it destroys our aff strategy

#### AQAP will use bioweapons

CSARN 11, City Security and Resilience Networks group, a not-for-profit membership group of business and public sector security and emergency planning leaders, 9/2/11, “AQAP / Black Banners analysis,” http://worldreports.csarn.org/2011/09/aqap-black-banners-analysis-.html

On 12 August the New York Times reported leaked US intelligence assessments (which were likely provided by Saudi Arabia) suggesting that al-Qaeda in the Arabian Peninsula (AQAP) is experimenting with the use of the biological toxin ricin. We believe this to be credible as AQAP called for chemists and microbiologists to volunteer in its English language publication, Inspire, last year. Furthermore, at least one of its senior bomb-makers trained with al-Qaeda in Afghanistan before 9/11 – when the movement is known to have experimented with chemical and biological weapons. AQAP also has a reputation as the movement’s most innovative element.

#### Extinction

Matheny 7 Jason G. Matheny, research associate with the Future of Humanity Institute at Oxford University, 2007, “Reducing the Risk of Human Extinction,” http://www.upmc-biosecurity.org/website/resources/publications/2007/2007-10-15-reducingrisk.html

Of current extinction risks, the most severe may be bioterrorism. The knowledge needed to engineer a virus is modest compared to that needed to build a nuclear weapon; the necessary equipment and materials are increasingly accessible and because biological agents are self-replicating, a weapon can have an exponential effect on a population (Warrick, 2006; Williams, 2006).5 Current U.S. biodefense efforts are funded at $5 billion per year to develop and stockpile new drugs and vaccines, monitor biological agents and emerging diseases, and strengthen the capacities of local health systems to respond to pandemics (Lam, Franco, & Shuler, 2006).

#### Doesn’t solve the internal link to terrorism the problem is resource trade off and they don’t solve motivation

#### Looming defense cuts mean no political support for icebreakers

Myers 11/16 – research associate in the national security studies program of the Council on Foreign Relations (Seth, “On Thin Ice in the Arctic,” 11/16/12, http://www.latimes.com/news/opinion/commentary/la-oe-myers-arctic-20121116,0,7013629.story, SJF)

To meet this challenge, the Coast Guard has three Arctic-capable icebreakers: two heavy-duty icebreakers — both of which were commissioned in the mid-1970s — and a more modern medium-duty icebreaker, the Healy. Were all three operational, the United States would lag behind several other Arctic nations in capabilities; in fact, only one — the Healy — is currently operational. According to a Coast Guard study, it will need at least six heavy-duty and four medium icebreakers just to meet mission requirements. The Navy is not significantly better equipped. After its 2011 Fleet Arctic Operations War Game, the Navy concluded that it was not able to adequately perform long-term Arctic operations and would have to rely on support from the Coast Guard, among others, to bolster its capacity. The 2013 fiscal year budget includes money to begin the acquisition of one icebreaker, but it remains unpassed. With the threat of automatic spending cuts in early 2013, known as sequestration — and other cuts to the defense budget likely even if the so-called fiscal cliff is averted — there seems to be little appetite in Washington to invest in new and upgraded Arctic-capable systems.

#### US judicial independence is crucial to African stability

CJA et al 3 ("Brief of the Center for Justice and Accountability, International League for Human Rights, and Individual Advocates for the Independence of the Judiciary in Emerging Democracies," October, Odah vs. USA and Rasul vs. Bush, http://jenner.com/system/assets/assets/5567/original/AmiciCuriae\_Center\_for\_Justice\_Int\_League\_Human\_Rights\_Adv\_For\_Indep\_Judiciary2.pdf?1323207521)

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

#### Instability and conflict escalate to great power war

Glick 7 (Caroline, Senior Middle East Fellow – Center for Security Policy, “Condi’s African Holiday”, 12-12, [http://www.centerforsecuritypolicy.org/home.aspx?sid=56&categoryid=56&subcategoryid=90&newsid=11568](http://www.centerforsecuritypolicy.org/home.aspx?sid=56&categoryid=56&subcategoryid=90&newsid=11568%29))

US Secretary of State Condoleezza Rice introduced a new venue for her superficial and destructive stewardship of US foreign policy during her lightning visit to the Horn of Africa last Wednesday. The Horn of Africa is a dangerous and strategically vital place. Small wars, which rage continuously, can easily escalate into big wars. Local conflicts have regional and global aspects. All of the conflicts in this tinderbox, which controls shipping lanes from the Indian Ocean into the Red Sea, can potentially give rise to regional, and indeed global conflagrations between competing regional actors and global powers. Located in and around the Horn of Africa are the states of Eritrea, Djibouti, Ethiopia, Somalia, Sudan and Kenya. Eritrea, which gained independence from Ethiopia in 1993 after a 30-year civil war, is a major source of regional conflict. Eritrea has a nagging border dispute with Ethiopia which could easily ignite. The two countries fought a bloody border war from 1998-2000 over control of the town of Badme. Although a UN mandated body determined in 2002 that the disputed town belonged to Eritrea, Ethiopia has rejected the finding and so the conflict festers. Eritrea also fights a proxy war against Ethiopia in Somalia and in Ethiopia's rebellious Ogaden region. In Somalia, Eritrea is the primary sponsor of the al-Qaida-linked Islamic Courts Union which took control of Somalia in June, 2006. In November 2006, the ICU government declared jihad against Ethiopia and Kenya. Backed by the US, Ethiopia invaded Somalia last December to restore the recognized Transitional Federal Government to power which the ICU had deposed. Although the Ethiopian army successfully ousted the ICU from power in less than a week, backed by massive military and financial assistance from Eritrea, as well as Egypt and Libya, the ICU has waged a brutal insurgency against the TFG and the Ethiopian military for the past year. The senior ICU leadership, including Sheikh Hassan Dahir Aweys and Sheikh Sharif Ahmed have received safe haven in Eritrea. In September, the exiled ICU leadership held a nine-day conference in the Eritrean capital of Asmara where they formed the Alliance for the Re-Liberation of Somalia headed by Ahmed. Eritrean President-for-life Isaias Afwerki declared his country's support for the insurgents stating, "The Eritrean people's support to the Somali people is consistent and historical, as well as a legal and moral obligation." Although touted in the West as a moderate, Ahmed has openly supported jihad and terrorism against Ethiopia, Kenya and the West. Aweys, for his part, is wanted by the FBI in connection with his role in the bombing of the US embassies in Kenya and Tanzania in 1998. Then there is Eritrea's support for the Ogaden separatists in Ethiopia. The Ogaden rebels are Somali ethnics who live in the region bordering Somalia and Kenya. The rebellion is run by the Ogaden National Liberation Front (ONLF) which uses terror and sabotage as its preferred methods of warfare. It targets not only Ethiopian forces and military installations, but locals who wish to maintain their allegiance to Ethiopia or reach a negotiated resolution of the conflict. In their most sensationalist attack to date, in April ONLF terror forces attacked a Chinese-run oil installation in April killing nine Chinese and 65 Ethiopians. Ethiopia, for its part has fought a brutal counter-insurgency to restore its control over the region. Human rights organizations have accused Ethiopia of massive human rights abuses of civilians in Ogaden. Then there is Sudan. As Eric Reeves wrote in the Boston Globe on Saturday, "The brutal regime in Khartoum, the capital of Sudan, has orchestrated genocidal counter-insurgency war in Darfur for five years, and is now poised for victory in its ghastly assault on the region's African populations." The Islamist government of Omar Hasan Ahmad al-Bashir is refusing to accept non-African states as members of the hybrid UN-African Union peacekeeping mission to Darfur that is due to replace the undermanned and demoralized African Union peacekeeping force whose mandate ends on December 31. Without its UN component of non-African states, the UN Security Council mandated force will be unable to operate effectively. Khartoum's veto led Jean-Marie Guehenno, the UN undersecretary for peacekeeping to warn last month that the entire peacekeeping mission may have to be aborted. And the Darfur region is not the only one at risk. Due to Khartoum's refusal to carry out the terms of its 2005 peace treaty with the Southern Sudanese that ended Khartoum's 20-year war and genocide against the region's Christian and animist population, the unsteady peace may be undone. Given Khartoum's apparent sprint to victory over the international community regarding Darfur, there is little reason to doubt that once victory is secured, it will renew its attacks in the south. The conflicts in the Horn of Africa have regional and global dimensions. Regionally, Egypt has played a central role in sponsoring and fomenting conflicts. Egypt's meddling advances its interest of preventing the African nations from mounting a unified challenge to Egypt's colonial legacy of extraordinary rights to the waters of the Nile River which flows through all countries of the region.

### K

#### 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 – super abusive with MULTIPLE PLANKS

#### Perm do both – solves the residual links

#### 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.

#### 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

#### Framework – evaluate the aff vs. status quo or a competitive policy option. That’s best for fairness and predictability – there are too many frameworks to predict and they moot all of the 1ac – makes it impossible to be aff. Only our framework solves activism.

#### Perm do the plan and the alternative

#### . 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.

#### K doesn’t come first

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

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

#### 3. Extinction outweighs

Bok 88

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

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

#### 4. Perm do both

#### 5. True constraints are possible – court rulings are binding – past decisions prove

#### 6. Even if they aren’t – the president will go along with them anyway – takes out the impact

Bradley and Morrison 13

[Curtis, William Van Alstyne Professor of Law, Duke Law School. and Trevor, Liviu Librescu Professor of Law, Columbia Law School, Presidential Power, Historical Practice, And Legal Constraint, 2013 Directors of The Columbia Law Review Association, Inc. Columbia Law Review May, 2013, L/N]

Insisting on a sharp distinction between the law governing presidential authority that is subject to judicial review and the law that is not also takes for granted a phenomenon that merits attention - that Presidents follow judicial decisions. n118 That assumption is generally accurate in the United States today. To take one relatively recent example, despite disagreeing with the Supreme Court's determination in Hamdan v. Rumsfeld that Common Article 3 of the Geneva Conventions applies to the war on terror, the Bush Administration quickly accepted it. n119 But the reason why Presidents abide by court decisions has a connection to the broader issue [\*1131] of the constraining effect of law. An executive obligation to comply with judicial decisions is itself part of the practice-based constitutional law of the United States, so presidential compliance with this obligation may demonstrate that such law can in fact constrain the President. This is true, as we explain further in Part III, even if the effect on presidential behavior is motivated by concerns about external political perceptions rather than an internal sense of fidelity to law (or judicial review). n120

#### 7. Posner and Vermeule are wrong---external checks are effective

Aziz Z. Huq 12, Assistant Professor of Law, University of Chicago Law School, "Binding the Executive (by Law or by Politics)", May 25, www.law.uchicago.edu/files/file/400-ah-binding.pdf

Paulson ’ s genuflection and Obama ’ s reticence, I will contend here, are symptomatic of our political system ’ s operation rather than being aberration al . It is generally the case that even in the heart of crisis, and even on matters where executive competence is supposedly at an acme , legislators employ formal institutional powers not only to delay executive initiatives but also affirmatively to end presidential policies. 20 Numerous examples from recent events illustrate the point. Congressional adversaries of Obama, for instance, cut off his policy of emptying Guantánamo Bay via appropriations riders. 21 Deficit hawks spent 2011 resisting the President’s solutions to federal debt, while the President declined to short - circuit negotiations with unilateral action. 22 Even in military matters, a growing body of empirical research suggests Congress often successfully influences the course of overseas engagements to a greater degree than legal scholars have discerned or acknowledged. 23¶ That work suggests that the failure of absolute congressional control over military matters cannot be taken as evidence of “the inability of law to constrain the executive ” in more subtle ways (p 5). The conventional narrative of executive dominance , in other words, is at best incomplete and demands supplementing .¶ This Review uses The Executive Unbound as a platform to explore how the boundaries of discretionary executive action are established. As the controversial national security policies of the Bush administration recede in time, the issue of executive power becomes ripe for reconsideration. Arguments for or against binding the executive are starting to lose their partisan coloration. There is more room to investigate the dynamics of executive power in a purely positive fashion without the impinging taint of ideological coloration.¶ Notwithstanding this emerging space for analys i s, t here is still surprising inattention to evidence of whether the executive is constrained and to the positive question of how constraint works. The Executive Unbound is a significant advance because it takes seriously this second “ mechanism question. ” Future studies of the executive branch will ignore its i mportant and trenchant analysis at their peril. 24 Following PV ’ s lead, I focus on the descriptive , positive question of how the executive is constrained . I do speak briefly and in concluding to normative matters . B ut f irst and foremost, my arguments should be understood as positive and not normative in nature unless otherwise noted.¶ Articulating and answering the question “ W hat binds the executive ?” , The Executive Unbound draws a sharp line between legal and political constraints on discretion — a distinction between laws and institutions on the one hand, and the incentives created by political competition on the other hand . While legal constraints usually fail, it argues, political constraints can prevail. PV thus postulate what I call a “strong law/ politics dichotomy. ” My central claim in this Review is that this strong law/politics dichotomy cannot withstand scrutiny. While doctrinal scholars exaggerate law ’s autonomy, I contend, the realists PV underestimate the extent to which legal rules and institutions play a pivotal role in the production of executive constraint. Further, the political mechanisms they identify as substitutes for legal checks cannot alone do the work of regulating executive discretion. Diverging from both legalist and realist positions, I suggest that law and politics do not operate as substitutes in the regulation of executive authority. 25 They instead work as interlocking complements. An account of the borders of executive discretion must focus on the interaction of partisan and electoral forces on the one hand and legal rules. It must specify the conditions under which the interaction of political actors’ exertions and legal rules will prove effective in limiting such discretion.

#### 8. No biopower impact---US democratic system prevents genocide

Edward Ross Dickinson 4, Associate Professor, History Ph.D., U.C. Berkeley, Central European History, Vol. 37 No. 1, p. 34-36

And it is, of course, embedded in a broader discursive complex (institutions, professions, fields of social, medical, and psychological expertise) that pursues these same aims in often even more effective and inescapable ways.89 In short, the continuities between early twentieth-century biopolitical discourse and the practices of the welfare state in our own time are unmistakable.¶ Both are instances of the “disciplinary society” and of biopolitical, regulatory, social-engineering modernity, and they share that genealogy with more authoritarian states, including the National Socialist state, but also fascist Italy, for example. And it is certainly fruitful to view them from this very broad perspective. But that analysis can easily become superficial and misleading, because it obfuscates the profoundly different strategic and local dynamics of power in the two kinds of regimes. Clearly the democratic welfare state is not only formally but also substantively quite different from totalitarianism. Above all, again, it has nowhere developed the fateful, radicalizing dynamic that characterized National Socialism (or for that matter Stalinism), the psychotic logic that leads from economistic population management to mass murder. Again, there is always the potential for such a discursive regime to generate coercive policies.¶ In those cases in which the regime of rights does not successfully produce “health,” such a system can —and historically does— create compulsory programs to enforce it. But again, there are political and policy potentials and constraints in such a structuring of biopolitics that are very different from those of National Socialist Germany. Democratic biopolitical regimes require, enable, and incite a degree of self-direction and participation that is functionally incompatible with authoritarian or totalitarian structures. And this pursuit of biopolitical ends through a regime of democratic citizenship does appear, historically, to have imposed increasingly narrow limits on coercive policies, and to have generated a “logic” or imperative of increasing liberalization. Despite limitations imposed by political context and the slow pace of discursive change, I think this is the unmistakable message of the really very impressive waves of legislative and welfare reforms in the 1920s or the 1970s in Germany.90¶ Of course it is not yet clear whether this is an irreversible dynamic of such systems. Nevertheless, such regimes are characterized by sufficient degrees of autonomy (and of the potential for its expansion) for sufficient numbers of people that I think it becomes useful to conceive of them as productive of a strategic configuration of power relations that might fruitfully be analyzed as a condition of “liberty,” just as much as they are productive of constraint, oppression, or manipulation. At the very least, totalitarianism cannot be the sole orientation point for our understanding of biopolitics, the only end point of the logic of social engineering. ¶ This notion is not at all at odds with the core of Foucauldian (and Peukertian) theory. Democratic welfare states are regimes of power/knowledge no less than early twentieth-century totalitarian states; these systems are not “opposites,” in the sense that they are two alternative ways of organizing the same thing. But they are two very different ways of organizing it. The concept “power” should not be read as a universal stifling night of oppression, manipulation, and entrapment, in which all political and social orders are grey, are essentially or effectively “the same.” Power is a set of social relations, in which individuals and groups have varying degrees of autonomy and effective subjectivity. And discourse is, as Foucault argued, “tactically polyvalent.” Discursive elements (like the various elements of biopolitics) can be combined in different ways to form parts of quite different strategies (like totalitarianism or the democratic welfare state); they cannot be assigned to one place in a structure, but rather circulate. The varying possible constellations of power in modern societies create “multiple modernities,” modern societies with quite radically differing potentials.91

### 2AC Legitimacy

#### Crossapply 1AC controvery now – wakefield

#### Huge controversial decisions coming now – abortion, establishment clause, campaign finance, aff action

Eastman 10/5/13 (John, professor and former dean at Chapman University's Dale E. Fowler School of Law, "Controversy again on docket for Supreme Court," http://www.latimes.com/opinion/commentary/la-oe-eastman-supreme-court-preview-20131006,0,5689006.story)

The Supreme Court convenes for its new term Monday, the first Monday in October. It is hard to imagine how the coming term could possibly compare with the highly contentious and high-profile decisions of the last two: Obamacare in 2012, and the same-sex marriage cases this June. Yet there are several cases among the 52 already on the court's docket that have landmark potential and will certainly be contentious, covering subjects such as abortion, campaign finance, legislative prayer and affirmative action. The court seems increasingly to be at the center of every national controversy.¶ On the second day of oral argument, for example, the court will consider in McCutcheon vs. FEC the constitutionality of aggregate donation caps on political donors. This is somewhat of a follow-on case to Citizens United, so all of the controversy still swirling around that case is likely to be repeated here.¶ Federal law limits contributions to candidates to $2,500, which the Supreme Court has previously upheld because of the important governmental interest in preventing quid-pro-quo corruption, but it also imposes an aggregate cap of $46,500 on total donations to all candidates, which does not further that interest at all (or at most only marginally). The aggregate cap simply prevents a donor from providing maximum $2,500 contributions to 20 or more candidates. The goal seems to be to lessen the political speech of wealthy donors, a "level-the-playing-field" purpose that has been repeatedly rejected by the Supreme Court, and rightly so; the 1st Amendment does not allow government to restrict the speech of some to enhance the relative weight of others' speech.¶ Two abortion cases may make this one of the most significant terms for the issue in decades. One, Cline vs. Oklahoma Center for Reproductive Justice, challenges Oklahoma's law requiring that abortion-inducing drugs be administered only according to the guidelines on FDA-approved labels. That case is on hold pending a request to the Oklahoma Supreme Court about the proper interpretation of the Oklahoma law.¶ Another, Horne vs. Isaacson, was filed last week. It asks the court to review the U.S. 9th Circuit Court of Appeals' decision holding unconstitutional Arizona's decision to regulate non-emergency abortions after 20 weeks because of legislative findings that a fetus feels pain by that point in a pregnancy. If the court accepts the case, we'll have oral argument in the spring and perhaps a dramatic abortion decision by June; the petition asks the court to revisit Roe vs. Wade, if existing precedent does not permit a state to protect against fetal pain.¶ The establishment clause is also again on the docket. Town of Greece vs. Galloway explores whether an invocation before a city council meeting that mentioned Jesus Christ violates the church/state separation. The Supreme Court has previously upheld legislative prayer but cautioned against prayer that proselytizes. The lower court in this case found that the mere mention of the name of Jesus Christ crossed that ephemeral line, contrary to a long historical tradition. The Supreme Court is poised to make significant revision of its establishment clause jurisprudence, which has become increasingly hostile to religion in recent years. This case provides a suitable vehicle to start moving away from that hostility, and the notorious case that engendered the hostility, Lemon vs. Kurtzman, may be on the chopping block. One can only hope.¶ And after the somewhat stillborn decision last term in the University of Texas affirmative action case, Schuette vs. Coalition to Defend Affirmative Action will give the court another opportunity to confront race-based admissions, albeit from the other side of the coin. After a University of Michigan Law School race-based admissions plan was upheld a decade ago as barely constitutional, voters in Michigan decided to ban the use of race in admissions altogether. The Coalition to Defend Affirmative Action By Any Means Necessary — its name reveals a lot about its tactics — contended that the state's requirement that every student be treated equally without regard to skin color violated the Constitution's requirement that everyone be treated equally. The 6th Circuit agreed with that "impeccable" logic, and it is now up to the Supreme Court to restore some semblance of sanity to its equal protection jurisprudence.

#### Why would detention policy affect court ability to protect the environment?

#### Legitimacy low – DOMA

Sanchez 13

[Elizabeth, Charisma News, Supreme Court Loses Legitimacy, Authority With Gay Rights Ruling, 6/28/13, <http://www.charismanews.com/politics/40067-supreme-court-loses-legitimacy-authority-with-gay-rights-ruling>]

The 5-4 opinion by the Supreme Court on the Federal Defense of Marriage Act (DOMA) raises serious questions about the legitimacy of the Court’s authority. History has proven that the Supreme Court does not always issue legitimate opinions. In Dred Scott v. Sandford, 60 U.S. 393 (1857), Chief Justice Roger Taney wrote for the majority that while some states had granted citizenship to blacks, the U.S. Constitution did not recognize citizenship of blacks. Taney wrote that blacks were “regarded as beings of inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights that the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his own benefit.” Thus, according to the Supreme Court, Scott had no standing to file the suit. As might be expected, this decision created further rift between the North and the South in the days leading up to the Civil War. The Fourteenth Amendment later put the nail in the coffin of the Dred Scott decision. This decision was thus made illegitimate and is repudiated today. In Buck v. Bell, 274 U.S. 200 (1927), Justice Oliver Wendell Holmes, writing for the Court, described Charlottesville, Va., native Carrie Buck, whom he described as an “imbecile,” as the “probable potential parent of socially inadequate offspring, likewise afflicted,” and he went on to say that “her welfare and that of society will be promoted by her sterilization.” His infamous words still cause one to shudder when he wrote, “Three generations of imbeciles are enough.” The Buck v. Bell case approved forced sterilization to prevent “feebleminded and socially inadequate” people from having children. This horrible decision set the stage for more than 60,000 sterilizations in the United States and was cited favorably at the Nuremberg trials in defense of Nazi sterilization experiments. Incredibly, this decision has never been overturned. Even so, this decision was illegitimate and is repudiated today. In Korematsu v. U.S., 324 U.S. 885 (1945), the Supreme Court upheld Executive Order 9066, which ordered Japanese Americans to be herded into internment camps during World War II. Citizenship had no value to the Japanese. All persons of Japanese descent were placed in custody, despite the constitutional guarantee of the Fifth Amendment. This decision, too, is illegitimate. Justice O’Connor, writing in Planned Parenthood of Southeastern Penn. v. Casey, 505 U.S. 833, 864-869 (1992), candidly acknowledged, “As Americans of each succeeding generation are rightly told, the Court cannot buy support for its decisions by spending money and, except to a minor degree, it cannot independently coerce obedience to its decrees. The Court’s power lies, rather, in its legitimacy, a product of substance and perception that shows itself in the people’s acceptance of the Judiciary as fit to determine what the Nation’s law means and to declare what it demands. ... “The Court must take care to speak and act in ways that allow people to accept its decisions on the terms the Court claims for them, as grounded truly in principle, not as compromises with social and political pressures having, as such, no bearing on the principled choices that the Court is obliged to make. Thus, the Court’s legitimacy depends on making legally principled decisions under circumstances in which their principled character is sufficiently plausible to be accepted by the Nation.” “The 5-4 decision by the Supreme Court in the Federal Defense of Marriage Act case has caused millions of Americans to lose confidence in the Court,” says Mat Staver, founder and chairman of Liberty Counsel. “The decision is as far removed from the Constitution and the Court’s prior precedent as the east is from the west. Led by Justice Kennedy, the majority of the justices have cut the tether that once connected them to the Constitution. "This decision does not even pretend to be governed by the Constitution or Court precedent. Although the Court used the words 'equal protection,' the Court never engaged in an equal protection analysis. Not once did the Court identify the right sought by the petitioners. "Not once did the Court ask whether the claimed right was protected, either by an enumerated provision of the Constitution or deeply rooted in history and necessary to ordered liberty. Not once did the Court seek to determine the level of judicial scrutiny the case should receive. In short, the opinion represents the personal views of five Justices and it finds no support in the Constitution or reason. As history has shown us, such decisions delegitimize the Court. "On top of this flawed opinion, the majority demeaned the Court and weakened its authority by labeling as hateful those who believe that marriage is the union of one man and one woman. Marriage pre-dates religion and all civil authorities. It is ontologically a union of a man and a woman and is part of the natural created order. Such irresponsible language by the Court undermines its legitimacy in the eyes of the people. The Court does not have unlimited authority. This decision presumed too much of the people’s blind acceptance of its authority. Just like a corporate act cannot be ultra vires (beyond its authority), the people may determine that this decision is beyond the authority of this Court. If that happens, the Court will lose its authority,” concludes Staver.

**Legitimacy is resilient**

Gibson 6 (James L. Professor of Government & Professor of African, June, 15, “The Legitimacy of the United States Supreme Court in a Polarized Polity,” Pa24, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=909162)

Conventional political science wisdom holds that contemporary American politics is characterized by deep and profound partisan and ideological divisions. Unanswered is the question of whether those divisions have spilled over into threats to the legitimacy of the United States Supreme Court. Since the Court is often intimately involved in making policy in many policy areas that divide Americans, including the contested 2000 presidential election, it is reasonable to hypothesize that loyalty toward the institution depends upon policy and/or ideological agreement and partisanship. Using data stretching from 1987 through 2005, the analysis reveals that Court support has not declined. Nor is it connected to partisan and ideological identifications. Instead, support is embedded within a larger set of relatively stable democratic values. Institutional legitimacy may not be obdurate, but it does not seem to be caught up in the divisiveness that characterizes so much of American politics - at least not at present.

#### One detention case won’t spill over to broader destruction of legitimacy – squo proves

#### DA is non-uniqued by previous detention statutes

#### Implicit overrules like the Aff have a minimal impact on Court legitimacy

Dunn 3 (Pintip Hompleum, BA @ Harvard, JD @ Yale, "How Judges Overrule: Speech Act Theory and the Doctrine of Stare Decisis," 113 Yale L.J. 493, lexis)

After all, in issuing a judgment, the Court never says solely that it "disagrees with the Court of Appeals," or that it "holds that the Court of Appeals is correct." If we see statements similar to these, they are usually accompanied by a statement further explaining that the case is "affirmed" or "reversed."n120 Because the act of overruling is arguably more powerful than the judgment, as it substitutes the old law with a new one, the Court should be equally concerned - if not more so - that the meaning of its action passes into the future preserved.¶ [\*513] In light of these compelling reasons to use ritualized language, we have to assume that the Court has its own reasons for using a variety of terms. That reason may well be its attempt to mask the act of overruling as a performative utterance.¶ Austin distinguishes between explicit and implicit performatives, characterizing the former as including unambiguous expressions, such as "I order you to go," and the latter as lacking such certainty as in the imperative, "Go."n121 The trouble with implicit performatives, he claims, is that it is always left unclear whether the imperative, "Go," is an order or merely a warning or advice. n122 This lack of clarity may lead to circumstances in which we cannot "decide whether or not the utterance is performative at all." n123 But this may be exactly what the Court wants. Since the very act of overruling threatens the Court's legitimacy to rule, it may be to the Justices' advantage if their words - while distinct enough to set forth a precise rule - are nondescript enough to avoid the alarm bells set off when there is a departure from precedent. The ideal statement, then, would function as a performative utterance while not drawing attention to itself as one. In such a case, the Justices' actions would not be as scrutinized, and if the nondescript language directs the audience's attention elsewhere, the Court may be able to sneak the act of overruling by with minimal damage to its legitimacy.

#### Environmental protections rulings will outweigh – EPA case is on the docket now

#### Zero risk of public backlash, even if they hate the substance of the decision

Young ’12 (Ernest A., Alston & Bird Professor, Duke Law School, POPULAR CONSTITUTIONALISM AND THE UNDERENFORCEMENT PROBLEM: THE CASE OF THE NATIONAL HEALTHCARE LAW, 75 Law & Contemp. Prob. 157, ln)

There is a second aspect to the story, however. That aspect focuses on public perceptions of the status and role of the courts - particularly the U.S. Supreme Court. Public opinion evolves not only with respect to matters of policy - for example, the appropriate level of government regulation and social provision - but also with respect to the role of judicial review itself. Because doctrinal underenforcement consists in the courts' willingness to defer constitutional judgments to other actors, broad trends in public opinion influence not only the weight that the courts give to other political institutions but also the confidence with which the courts approach their own tasks. Although the Supreme Court started out in a precarious institutional position with uncertain popular legitimacy, over time it has solidified its role and achieved an impressive level of "diffuse support" - that is, support that does not depend on public agreement with the merits of particular decisions. n19 To the extent that judicial review seems accepted, respected, even desired, we can expect the Court to defer less to Congress, the President, or state institutions on particular issues.

### 2AC Debt Ceiling

#### Neither side will blink---shutdown proves GOP will allow a default over Obamacare

NYT 10/2/13 ( “Obama Says He Won’t Negotiate Until Government Reopens,” <http://www.nytimes.com/news/fiscal-crisis/2013/10/02/obama-says-he-wont-negotiate-until-government-reopens/>)

In their first meeting since a budget impasse shuttered many federal operations, President Obama told Republican leaders on Wednesday that he would negotiate with them only after they agreed to the financing needed to reopen the government and also to an essential increase in the nation’s debt limit, without add-ons. ¶ The president’s position reflected the White House view that the Republicans’ strategy is failing. ¶ The meeting at the White House, just over an hour long, ended without any resolution. As they left, Republican and Democratic leaders separately reiterated their contrary positions to waiting reporters. The House speaker, John A. Boehner, Republican of Ohio, said that Mr. Obama “will not negotiate,” while Senator Harry Reid, Democrat of Nevada and the Senate’s majority leader, said that Democrats would agree to spending at levels already passed by the House. “My friend John Boehner cannot take ‘yes’ for an answer,.” he said. ¶ The meeting was the first time that the president linked the two actions that he and a divided Congress are fighting over this month: a budget for the fiscal year that began on Tuesday, and an increase in the debt ceiling by Oct. 17, when the Treasury Department will otherwise breach its authority to borrow the money necessary to cover the nation’s existing obligations to citizens, contractors and creditors. ¶ Only when those actions are taken, Mr. Obama said, would he agree to revive bipartisan talks toward a long-term budget deal addressing the growing costs of Medicare and Medicaid and the inadequacy of federal tax revenues.¶ While the lack of a budget forced the government shutdown this week, failure to raise the debt limit would have worse repercussions, threatening America’s credit rating with a globe-shaking default and risking an economic relapse at home. Yet the refusal of the Republican-led House earlier this week to approve government funding until Mr. Obama agrees to delay his signature health-care law – a non-negotiable demand, he has said – raised fears from Washington to Wall Street that Republicans likewise would carry out their threat to withhold approval for an increase in the debt ceiling.

#### Clean debt ceiling increase won’t pass AND Obama won’t accept conditions

Mattingly 10/6/13 (Phil, Bloomberg, "Boehner Says He Doesn’t Have Votes for Clean Debt Limit Bill (2)," http://www.businessweek.com/news/2013-10-06/boehner-says-he-doesn-t-have-votes-to-increase-debt-limit-1)

U.S. Speaker John Boehner said the House can’t pass an increase to the U.S. debt ceiling without packaging it with other provisions -- a nonstarter for President Barack Obama.¶ “We are not going to pass a clean debt limit,” Boehner said in an interview on ABC’s “This Week” program. “The votes are not in the House to pass a clean debt limit.”¶ Boehner’s comments came as the government remains partially shut down for the sixth day and just 11 days from when Treasury Secretary Jacob J. Lew told lawmakers the U.S. will exhaust measures to avoid breaching the debt ceiling.¶ The Obama administration has said it won’t negotiate with Republicans over funding the government or raising the debt ceiling, arguing that it is part of the basic functions of Congress and shouldn’t be used as point of leverage.

#### No escalation

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

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

#### No link – the plan affirms a lower court ruling – that’s fundamentally different from the broad overruling of precedent neg evidence assumes

#### No impact - ignore the hype, we could prioritize payments and programs

Wash Times 10/3/13 ("What will really happen if we don't raise the debt ceiling," http://communities.washingtontimes.com/neighborhood/unicorn-diaries/2013/oct/3/what-will-really-happen-if-we-dont-raise-debt-ceil/#ixzz2gxqsMFS5)

For all the political panic over hitting the debt ceiling, the actual results of doing so are not that serious. The U.S. has never defaulted on its outstanding debt, and will not if nothing is done in the next two weeks. Instead, not raising the debt ceiling simply means that no new debt can subsequently be incurred. If the government’s borrowing cap isn’t increased, it will be forced to balance its books. ¶ With no more easy money to spend, the government would have to prioritize its expenses, only spending as much as it is collecting over a given period of time. It could no longer pay out sums far greater than its revenues for indefinite periods of time.¶ The government has estimated that it will take in about $3 trillion in fiscal year 2013. Without an increase in the debt limit, the government’s budget for the same fiscal year could not top that number. Economists have already proven that the government could easily pay for Social Security, federal employee pensions, Medicare, Medicaid, the interest on the national debt, national defense, food stamps, education, law enforcement, and transportation with a budget balanced at that level.¶ In all likelihood, Congress will vote to raise the debt ceiling. It has done so for many generations, even when contentious items like Obamacare were on the table. Obama and his spin machine will try to convince the public that not raising the debt limit will be the death knell of America, and in turn, the public will heap so much pressure on Republican lawmakers that they’ll have no choice but to cave.¶ This debt ceiling deadline comes at a time of unprecedented turmoil. But even if it were left untouched, the sky would not fall, as the Democrats would like you to believe.

#### Plan’s announced in June

The Hill 13 (6/9, Staffwriter Sam Baker “Decision on gay marriage highlights Supreme Court’s term” <http://thehill.com/homenews/news/304225-decision-on-gay-marriage-highlights-supreme-courts-summer-term#ixzz2gJR8Vkpt>)

The marriage rulings will likely be the last ones released before the justices leave town for summer vacations and teaching positions, although the specific timing is hard to predict. The court doesn’t announce when specific decisions are coming, or even set a fixed end date by which all decisions will be released. But the last rulings, which are usually the most controversial, tend to come out at the end of June. (The court’s ruling on ObamaCare, for example, was released June 28.)

#### 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”).

#### No link – Obama isn’t going to push actions that *limit* his powers

#### Aff allows Obama to shift blame onto the court

Whittington 5 (Keith E., Cromwell Professor of Politics – Princeton University, ““Interpose Your Friendly Hand”: Political Supports for the Exercise of Judicial Review by the United States Supreme Court”, American Political Science Review, 99(4), November, p. 585, 591-592)

Political leaders in such a situation will have reason to support or, at minimum, tolerate the active exercise of judicial review. In the American context, the presidency is a particularly useful site for locating such behavior. The Constitution gives the president a powerful role in selecting and speaking to federal judges. As national party leaders, presidents and presidential candidates are both conscious of the fragmented nature of American political parties and sensitive to policy goals that will not be shared by all of the president’s putative partisan allies in Congress. We would expect political support for judicial review to make itself apparent in any of four fields of activity: (1) in the selection of “activist” judges, (2) in the encouragement of specific judicial action consistent with the political needs of coalition leaders, (3) in the congenial reception of judicial action after it has been taken, and (4) in the public expression of generalized support for judicial supremacy in the articulation of constitutional commitments. Although it might sometimes be the case that judges and elected officials act in more-or-less explicit concert to shift the politically appropriate decisions into the judicial arena for resolution, it is also the case that judges might act independently of elected officials but nonetheless in ways that elected officials find congenial to their own interests and are willing and able to accommodate. Although Attorney General Richard Olney and perhaps President Grover Cleveland thought the 1894 federal income tax was politically unwise and socially unjust, they did not necessarily therefore think judicial intervention was appropriate in the case considered in more detail later (Eggert 1974, 101– 14). If a majority of the justices and Cleveland-allies in and around the administration had more serious doubts about the constitutionality of the tax, however, the White House would hardly feel aggrieved. We should be equally interested in how judges might exploit the political space open to them to render controversial decisions and in how elected officials might anticipate the utility of future acts of judicial review to their own interests.

[CONTINUES]

There are some issues that politicians cannot easily handle. For individual legislators, their constituents may be sharply divided on a given issue or overwhelmingly hostile to a policy that the legislator would nonetheless like to see adopted. Party leaders, including presidents and legislative leaders, must similarly sometimes manage deeply divided or cross-pressured coalitions. When faced with such issues, elected officials may actively seek to turn over controversial political questions to the courts so as to circumvent a paralyzed legislature and avoid the political fallout that would come with taking direct action themselves. As Mark Graber (1993) has detailed in cases such as slavery and abortion, elected officials may prefer judicial resolution of disruptive political issues to direct legislative action, especially when the courts are believed to be sympathetic to the politician’s own substantive preferences but even when the attitude of the courts is uncertain or unfavorable (see also, Lovell 2003). Even when politicians do not invite judicial intervention, strategically minded courts will take into account not only the policy preferences of well-positioned policymakers but also the willingness of those potential policymakers to act if doing so means that they must assume responsibility for policy outcomes. For cross-pressured politicians and coalition leaders, shifting blame for controversial decisions to the Court and obscuring their own relationship to those decisions may preserve electoral support and coalition unity without threatening active judicial review (Arnold 1990; Fiorina 1986; Weaver 1986). The conditions for the exercise of judicial review may be relatively favorable when judicial invalidations of legislative policy can be managed to the electoral benefit of most legislators. In the cases considered previously, fractious coalitions produced legislation that presidents and party leaders deplored but were unwilling to block. Divisions within the governing coalition can also prevent legislative action that political leaders want taken, as illustrated in the following case.

#### Multiple controversial decisions coming now - docket proves

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.

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

#### Obama executive order solves

Weisenyhal 9/30/13 (Joe. Executive Editor for Business Insider, “It Increasingly Looks Like Obama Will Have To Raise The Debt Ceiling All By Himself,” <http://www.businessinsider.com/it-increasingly-looks-like-obama-will-have-to-raise-the-debt-ceiling-all-by-himself-2013-9>)

With no movement on either side and the debt ceiling fast approaching, there's increasing talk that the solution will be for Obama to issue an executive order and require the Treasury to continue paying U.S. debt holders even if the debt ceiling isn't raised.¶ Here's Greg Valliere at Potomac Research:¶ HOW DOES THIS END? What worries many clients we talk with is the absence of a clear end-game. We think three key elements will have to be part of the final outcome: First, a nasty signal from the stock market. Second, a daring move from Barack Obama to raise the debt ceiling by executive order if default appears to be imminent. Third, a capitulation by Boehner, ending the shut-down and debt crisis in an arrangement between a third of the House GOP and virtually all of the Democrats. ¶ Valliere isn't the only one seeing this outcome.¶ Here's David Kotok at Cumberland Advisors:¶ We expect this craziness to last into October and run up against the debt limit fight. In the final gasping throes of squabbling, we expect President Obama to use the President Clinton designed executive order strategy so that the US doesn’t default. There will then ensue a protracted court fight leading to a Supreme Court decision. The impasse may go that far. This is our American way. “Man Plans and God Laughs” says the Yiddish Proverb.¶ Indeed, back in 2011, Bill Clinton said he'd raise the debt ceiling by invoking the 14th Amendment rather than negotiate with the House GOP.¶ This time around, again, Clinton is advising Obama to call the GOP's bluff.

#### Chinese property bubble will pop – decks the global economy

Colombo 9/27/13 (Jesse, Contributor @ Forbes, "Bubblecovery: Why Our Economic Recovery Is Actually An Illusion," http://www.forbes.com/sites/jessecolombo/2013/09/27/bubblecovery-why-our-economic-recovery-is-actually-an-illusion/)

As with the 2003-2007 Bubblecovery, I expect the current Bubblecovery to cause a devastating economic crisis when the post-2009 bubbles collectively pop. Unfortunately, the next bubble-induced crisis is likely to be even more severe than the last one because the global economy is in a much weaker state than it was in before the last crisis started.¶ This is an overview of the primary economic bubbles that I am warning about. I will be writing about each of these bubbles in much greater detail in coming posts.¶ China: In recent years, China has become notorious for building countless empty “ghost cities” and other wildly ambitious infrastructure projects for the sake of boosting economic growth. China’s frantic building activity is fueled by a multi-trillion dollar debt bubble that will cause the country to replicate Japan’s experience after its bubble popped.

#### Japan economic collapse coming now – tax increases and decline in government bonds prove – decks the global econ

Holliday 10/4/13 (Katie, Writer @ CNBC, "SocGen: Don't let the shutdown distract you from Japan," http://www.cnbc.com/id/101086245)

While the U.S. government shutdown and impending debt-ceiling debate has investors transfixed, they need to keep an eye on developments in Japan, warns Societe Generale's strategist Albert Edwards.¶ Edwards said in a note that a recent decline in the benchmark 10-year Japanese government bond (JGB) yield below 0.65 percent - not far from all-time lows of 0.43 percent - could be a worrying sign for Japan as well as global markets. The benchmark 10-year yield was trading at 0.657 percent on Friday.¶ "We believe it is always worth keeping a close eye on events in Japan, not just for its own sake, but for what that might mean for the wider global economy and markets," said Edwards.¶ Japan is the world's third-largest economy and is home to one of the one of the world's biggest government bond markets. What happens in the JGB market can have wider implications for global markets.¶ This year, Japanese policy makers have embarked on an ambitious attempt to revitalize its beleaguered economy through aggressive monetary easing, fiscal stimulus and structural reform. So far, the policies have given Japan a boost. The economy grew at a healthy annualized rate of 3.8 percent in the second quarter of this year, following 4.1 percent growth in the first quarter.¶ However, Edwards said the decline in bond yields could be a sign that Prime Minister Shinzo Abe's decision to push through with a planned sales tax hike is a repeat of past mistakes.¶ This week Abe confirmed that the scheduled tax hike, which will see the consumption tax rise from 5 to 8 percent in April. The last time the tax was hiked in 1997 it was blamed for pushing Japan back into a recession.¶ "The recent decision to press ahead with the rise in the consumption tax from 5% to 8% in April next year is seen by many as a major policy error," he said.¶ The JGB bond rally could have broader implications for the rest of Asia, emerging markets and U.S. Treasurys, added Edwards.¶ If the BOJ undertakes more monetary stimulus to offset the impact of the sales tax on the economy, it could weaken the yen and subsequently lead to strength in other Asian currencies, hurting the global economic recovery and depressing U.S. bond yields, said Edwards.¶ "In my view we are quickening the pace towards losing control of both the Japanese currency and inflation," said Edwards.

#### No internal link – any fight would happen after the debt ceiling had been resolved

#### Terror Massively turns the DA

Perry 6 (William J., Professor – Stanford University and Senior Fellow – Spogli Institute for International Studies, Annals of the American Academy of Political and Social Science, September, p. 86)

Of course, terrorists setting off a nuclear bomb on U.S. soil would not be equivalent to the nuclear holocaust threatened during the cold war. But it would be the single worst catastrophe this country has ever suffered. Just one bomb could result in more than one hundred thousand deaths, and there could be more than one attack. The direct economic losses from the blast would be hundreds of billions of dollars, but the indirect economic impact would be even greater, as worldwide financial markets would collapse in a way that would make the market setback after 9/11 seem mild. And the social and political effects are incalculable, especially if the weapon were detonated in Washington or Moscow or London, crippling the government of that nation.

# 1AR

### CCP

**The CCP must lose popular support to prevent inevitable nuclear war**

**McAdam 5**, Brian Former Canadian diplomat. “Imminent collapse of Communism in China: Truth or Speculation” Prime Time 2005 www.primetimecrime.com/contributing/2005/20050805McAdam.htm

“The CCP’s main aim for the civilian economy is to support the building of modern millitary weapons and to support the aims of the PLA.” The CCP has been posing an increasing threat to the rest of the world for a long time, with generals threatening nuclear attacks to maintain control**. China can launch nuclear weapons that in thirty minutes could kill one hundred million people**. China seems to be engaging in nuclear brinkmanship. “History demonstrates that a free people, who are free to choose, do not wage aggressive war. The only ultimate deterrence is democracy,” writes Constantine Menges. The world’s best hope is to nurture and empower the pro-democracy forces in China to bring about a transition. Menges writes in the final chapter of his book China-The Gathering Storm before he died: “History has no guarantees about the future. China may become democratic in the next years or not for decades. We know that a nuclear-armed Communist China, where the regime controls an advanced technology sector and is far better armed, would be a state that could become ever more dangerous. We know that Communist regimes can reform and evolve from reform Communism to political democracy. **We know that this is better for their people and for peace** – these are the lessons of Eastern Europe since 1989 and in Western Europe and Japan since 1945.

#### Chinese Democracy prevents a right-wing military takeover – this would prompt global war

Henry J. **Hyde**, **5** Chairman of the House International Relations Committee. “Hong Kong, China and the World”. Heritage Foundation 2k5 http://www.heritage.org/Research/AsiaandthePacific/hl862.cfm

The entire world has a vital interest in ensuring that China's rising power is channeled into productive directions and away from the threat of a revolutionary impact that would wreak havoc on the international system in which its presence and influence will steadily increase. The most beneficent outcome can best be ensured by an increasingly democratic and cooperative China, one in which its dynamism and stability are in balance, and one that is prepared to accept broad responsibilities commensurate with its increasing power. Within the once-monolithic leadership in Beijing, many different visions of China's political future certainly exist, even if they are rarely voiced aloud. How deep are the ranks of those who dream of the emergence of a truly democratic China, one assuming its rightful place among the community of nations, cannot be known. But they are not without rivals. For there is also the very real possibility of what may be termed a "white revolution," defined as the triumph of the forces of reaction and authoritarianism over the forces of political liberalization. The assumption of a commanding position by **an unconstrained elite** atop an enormously expanding power to direct as they please is a prospect to be feared by all. Enamored of an aggressive and intoxicating nationalism, it **would soon wreak havoc on the world.**

**Chinese democracy prevents nuclear war, extinction is inevitable absent alternatives**

**Santoli 2k5** (Al, “Can future nuclear war be prevented?” http://www.asiaamerica.org/publications/cif/cif-08-2005.htm)

American and Japanese security experts have stated that the free world faces even greater potential military destruction than during World War II and the Cold War. The lethality of today's weapons systems and the vulnerability of our dependency on sensitive technologies - both civilian and military - would make an aggressive surprise attack using a combination of nuclear, electromagnetic pulse and cyber weapon extremely difficult to recover from. Some authorities such as Tokyo Governor Ishihara advocate "economic containment" against China. However, it should be remembered that economic "containment" against Japan led to a widespread World War some 60 years ago. It would also be difficult to curtail trade and investment in China because of the greed and selfishness of international corporations and investors who are trapped by Beijing in trying to recoup the billions of dollars they have made in unwise investments. Chinese strategic planners call this entrapment of the capitalists, "Encircling Politics with Commerce." Many of the politicians who set security and trade policies are heavily supported by these same unwise investors and corporate executives. A more effective strategy may be to empower the Chinese people through keeping open inter-Chinese communications systems. So-called psychological operations by the West has failed miserably in the Muslim world and should be avoided. International human rights organizations and media defenders have accused Western companies such as Yahoo, AOL, NORTEL, Google, and Cisco Systems of providing communist Chinese authorities with the ability to control information on the internet. Worse, Western-provided technology has enabled Chinese cyber police to arrest and persecute dissidents who seek to open Chinese society for peace and equitable treatment of all citizens. The United States, Japan, Taiwan, the European Union and other open societies should impose strict regulations on companies to deny dictators the technology to persecute cyber dissidents and other advocates of peace and democracy. This basic human rights issue is a central ingredient needed to deter a devastating nuclear war.

#### No lashout---CCP would fear retaliation AND even if the order was issues the PLA would not obey

Gilley 5 (Bruce, Professor of International Affairs @ New School University and Former Contributing Editor @ the Far Eastern Economic Review, “China’s Democratic Future,”)

More ominous as a piece of "last ditchism" would be an attack on Taiwan. U.S. officials and many overseas democrats believe that there is a significant chance of an attack on Taiwan if the CCP is embattled at home. Indeed, China's strategic journals make frequent reference to this contingency: "The need for military preparations against Taiwan is all the more pressing in light of China's growing social tensions and unstable factors which some people, including the U.S. might take advantage of under the flag of 'humanism' to paralyze the Chinese government," one wrote. Such a move would allow the government to impose martial law on the country as part of war preparations, making the crushing of protest easier. It would also offer the possibility, if successful, of CCP survival through enhanced nationalist legitimacy. Yet the risks, even to a dying regime, may be too high. An unprovoked attack on Taiwan would almost certainly bring the U.S. and its allies to the island's rescue. Those forces would not stop at Taiwan but might march on Beijing and oust the CCP, or attempt to do so through stiff sanctions, calling it a threat to regional and world peace. Such an attack might also face the opposition of the peoples of Fujian, who would be expected to provide logistical support and possibly bear the worst burdens of war. They, like much of coastal China, look to Taiwan for investment and culture and have a close affinity with the island. As a result, there are doubts about whether such a plan could be put into action. A failed war would prompt a Taiwan declaration of independence and a further backlash against the CCP at home, just as the May Fourth students of 1919 berated the Republican government for weakness in the face of foreign powers. Failed wars brought down authoritarian regimes in Greece and Portugal in 1974 and in Argentina in 1983. Even if CCP leaders wanted war, it is unlikely that the PLA would oblige. Top officers would see the disastrous implications of attacking Taiwan. Military caution would also guard against the even wilder scenario of the use ofnuclear weapons against Japan or the U. S. At the height of the Tiananmen protests it appears there was consideration given to the use of nuclear weapons in case the battle to suppress the protestors drew in outside Countries .41 But even then, the threats did not appear to gain even minimal support. In an atmosphere in which the military is thinking about its future, the resort to nuclear confrontation would not make sense.

#### US China war is inevitable - Chinese transition from communism to fascism causes power struggles

**Frisch 05** Research Ed/geopolitical analyst for HSL(Itntl. investment,economic, geopolitical newsletter) (Gordon, Commentary on Global Issues, 3/5<http://www.jrnyquist.com/frisch_2005_0621.htm>) //khirn

The continent of Asia is torn by disparate political governments, religions and philosophies—democracies in Japan, Taiwan, Singapore and Bangladesh; federal republics in India, Sri Lanka and Pakistan; communist governments in Vietnam, Laos, and N. Korea; constitutional monarchy in Thailand; authoritarian leaders in Central Asian countries and Russia; a military junta in Myanmar; and a mutant form of capitalism and communism in China. Throw in oftentimes-fatal overdoses of Hindu nationalism, Islamic radicalism and Marxism and Asia has perennial recipes for conflict. Great uncertainty lies ahead, both for Asia and the world. China’s economic locomotive is speeding out of its long dark tunnel of communism, poverty and backwardness. However, it’s still unknown if the light at the end of China’s Maoist tunnel is a modern nation or a bright explosion resulting from pressures for political and societal reform. William Hawkins, U.S. Business and Industry Council, says “…China has learned from Russia’s mistakes, dumping Marxism, but merely moved from ‘communism to fascism,’ using the energy of capitalism to animate the ambitions of tyranny.” Logic says China’s volatile mix of capitalism and communism will lead to an inevitable explosion. When that happens, China’s communist leadership may revert to Mao’s dictum, “political power grows out of the barrel of a gun.” If past is prologue, the Tiananmen Square crackdown indicates the direction. One of the biggest U.S. market crashes in history, the dot.com crash, occurred from March 2000 to October 2002, during which the Nasdaq Composite Index lost 78 percent of its value. It accelerated a process already underway: hi-tech outsourcing, and India was probably the major beneficiary. At first, Indian companies were simply call centers and backroom processors for tedious hi-tech tasks farmed out to them by U.S. companies trying to cut costs and survive the crash. But business rapidly evolved, and today Bangalore is an Indian Silicon Valley where Indian companies conduct their own R&D, with and without western guidance, and design, develop, produce and market their own hi-tech products. Ironically, many non-Indian “techies,” including U.S. engineers, now seek jobs in Bangalore. India is taking the hi-tech knowledge they learned from U.S. Silicon Valley companies and applying it to businesses all across India, creating a productivity boom. China is doing the same, as third-world students surpass their first-world teachers, and produce more for less. The U.S. is importing more and more hi-tech products from Asia (which U.S. hi-tech companies invented), which are now produced much cheaper there. Globalization is not only mercilessly leveling the playing fields, it’s ruthlessly wrecking trade balances. What lies ahead? Cold War II is looming, with China and the U.S. as main adversaries in the Pacific Rim, which will be the main battlefield. The Pacific Rim encompasses half the world’s surface area, over half of the world’s economy, and the world’s six largest militaries. Unrealized by most, including the media and policymakers, the U.S. Pacific Command (PACOM) is the U.S. military’s largest and most important command, extending from East Africa to the International Date Line. PACOM is “the NATO of the Pacific,” and Robert Kaplan, Senior Fellow at the non-partisan New America Foundation, says “…the center of gravity of American strategic concern is already the Pacific, not the Middle East.” U.S. troops fighting in the Mideast (CENTCOM’s area of control) are essentially borrowed from PACOM.

#### No risk of escalation - as long as we fight before China overtakes us, we’ll win easily – one Trident submarine can deal with the entire Chinese arsenal 7 times over

**Godwin,** Prof Intl Affairs National War College, visiting Prof at Chinese National Defense University, **2k** (Paul HB Washington Journal of Modern China. China's Defense Modernization: Aspirations and Capabilities <http://www.ndu.edu/inss/symposia/pacific2000/godwinpaper.htm>)

Although definitely a menacing capability, China confronts approximately 8,000 U.S. strategic weapons deployed on 575 ICBMs, 102 strategic bombers, and 17 SSBN. A single Trident-armed U.S. SSBN carries 24 multiple-warhead missiles capable of delivering 144 extremely accurate weapons. Thus, just one American SSBN can carry more than seven times the total number of warheads carried on all of China’s D-5 ICBMs **-- and at a much higher degree of readiness.** Deterrence under these conditions would seem to be assured.

#### No US-China war

Shor 12 (Francis, Professor of History – Wayne State, “Declining US Hegemony and Rising Chinese Power: A Formula for Conflict?”, Perspectives on Global Development and Technology, 11(1), pp. 157-167)

While the United States no longer dominates the global economy as it did during the first two decades after WWII, it still is the leading economic power in the world. However, over the last few decades China, with all its internal contradictions, has made enormous leaps until it now occupies the number two spot. In fact, the IMF recently projected that the Chinese economy would become the world's largest in 2016. In manufacturing China has displaced the US in so many areas, including becoming the number one producer of steel and exporter of four-fifths of all of the textile products in the world and two-thirds of the world's copy machines, DVD players, and microwaves ovens. Yet, a significant portion of this manufacturing is still owned by foreign companies, including U.S. firms like General Motors. [5] On the other hand, China is also the largest holder of U.S. foreign reserves, e.g. treasury bonds. This may be one of the reasons mitigating full-blown conflict with the U.S. now, since China has such a large stake in the U.S. economy, both as a holder of bonds and as the leading exporter of goods to the U.S. Nonetheless, "the U.S. has blocked several large scale Chinese investments and buyouts of oil companies, technology firms, and other enterprises." [6] In effect, there are still clear nation-centric responses to China's rising economic power, especially as an expression of the U.S. governing elite's ideological commitment to national security.

### Indonesia

#### JERVIS

### Environment

#### Models flawed – over predicts losses

Knight 12 [Richard, “Biodiversity loss: How accurate are the numbers?,” 4-24, <http://www.bbc.co.uk/news/magazine-17826898>]

Twenty years ago, the Earth Summit in Rio resulted in a Convention on Biological Diversity, now signed by 193 nations, to prevent species loss. But can we tell how many species are becoming extinct? One statement on the Convention's website claims: "We are indeed experiencing the greatest wave of extinction since the disappearance of the dinosaurs." While that may (or may not) be true, the next sentence is spuriously precise: "Every hour three species disappear. Every day up to 150 species are lost." Even putting aside the apparent mathematical error in that claim (on the face of it, if three species are disappearing every hour, 72 would be lost every day) there is an obvious problem in generating any such number. No-one knows how many species exist. And if we don't know a species exists, we won't miss it when it's gone. "Current estimates of the number of species can vary from, let's say, two million species to over 30 or even 100 million species," says Dr Braulio Dias, executive secretary of the Convention on Biological Diversity. "So we don't have a good estimate to an order of magnitude of precision," he says. It is possible to count the number of species known to be extinct. The International Union for Conservation of Nature (IUCN) does just that. It has listed 801 animal and plant species (mostly animal) known to have gone extinct since 1500. But if it's really true that up to 150 species are being lost every day, shouldn't we expect to be able to name more than 801 extinct species in 512 years? Professor Georgina Mace, who works in the Centre for Population Biology at Imperial College London, says the IUCN's method is helpful but inadequate. "It is never going to get us the answers we need," she says. That's why scientists prefer to use a mathematical model to estimate species loss. Recently, however, that model has been attacked in the pages of Nature. Professor Stephen Hubbell from the University of California, Los Angeles, says that an error in the model means that it has - for years - over-estimated the rate of species loss. The model applies something called the "species to area relationship" to habitat loss. Put simply, an estimate is made of the number of species in a given area, or habitat - the larger the area, the greater the number of species are said to be in it. Then the model is worked backwards - the smaller the area, the fewer the species. In other words, if you measure habitat loss, you can use the model to calculate how many species are being lost as that habitat gets smaller. The problem, says Hubbell, is that the model does not work in reverse. "The method," he says, "when extrapolated backward, doesn't take into account the fact that you need to remove more area to get to the whole range of a species than you need to remove area to find the first individual of a species." Hubbell's point is that if you increase a habitat by, say, five hectares, and your calculations show that you expect there to be five new species in those five hectares, it is wrong to assume that reversing the model, and shrinking your habitat, eliminates five species. That's because it takes more area to establish extinction - to show that every individual in a species has been eliminated - than it does to discover a new species, which requires coming across just one individual of that species. Hubbell says when corrected the model shows about half as many species going extinct as previously reported. Unfortunately for scientists trying to measure species loss, the problems don't end there. They also need to calculate the 'background rate' of extinction. If you want to work out the impact of human life on biodiversity, you need to know how many species would have gone extinct anyway without us being here. Mace says that is difficult. "Background rates are not constant either," she says. "If you look back through the history of life on Earth, there have been major periods of extinctions The level of uncertainty faced by researchers in this field means it is perhaps not surprising that no-one can be sure of the scale of species loss. It also means that when a representative of the Convention of Biological Diversity claimed "every hour three species disappear" he must have known it was too precise.

### Iran

**No escalation to great power war or nuclear use**

**Davis et al 11**,– senior political scientist at RAND - 6/6/ Iran’s Nuclear Future: Critical U.S. Policy Choices, Prepared for the United States Air Force, RAND, (Lynn E. Davis, Jeffrey Martini, Alireza Nader, Dalia Dassa Kaye, James T. Quinlivan, Paul Steinberg), http://www.rand.org/content/dam/rand/pubs/monographs/2011/RAND\_MG1087.pdf

Current U.S. Conventional and Nuclear Posture Is Sufficient. The case for why Iran will be deterred from using nuclear weapons against U.S. military forces rests on a number of considerations. First, while possibilities of a proxy conflict or limited military engagements exist, it is difficult to see a conflict between the United States and Iran escalating to a major conventional conflict, because Iran faces overwhelming destruction. Crossing the nuclear threshold risks further devastation for Iran, thereby directly threatening the regime’s survival; also, in using its nuclear weapons, Iran would be using up the very weapons it had acquired for other purposes. Second, the United States, with the deployment of long-range conventional precision-strike systems, has credible military capabilities to inflict high levels of devastation without resorting to the use of nuclear weapons. In this approach, existing U.S. declarations with respect to using nuclear weapons would remain unchanged. The threat of U.S. nuclear retaliation could be made more explicit in the event of a conventional conflict so as to reduce the prospect of Iran misreading U.S. intentions.

### Conventional War

#### No answer to our external impact –

#### Proliferation prevents conventional wars from happening because the nuclear weapons make the cost of going to war too high – that causes more mellow actions and leaders will avoid going to war – that’s the tepperman evidence – he incorrectly assumes this is defense

#### Conventional war outweighs nuclear war –

#### 1. Absent nuclear weapons, conventional war is more probable – it removes restraints on aggression

**Waltz**, **1981** (Kenneth – professor emeritus of political science at the University of California, Berkeley, The spread of nuclear weapons, Adelphi Papers, No. 171, p. http://www.mtholyoke.edu/acad/intrel/waltz1.htm)

A deterrent strategy promises less damage, should deterrence fail, than does the Schles­inger-Brown ‘countervailing’ strategy, a strat­egy which contemplates fighting a limited, strategic nuclear war. War-fighting strategies offer no clear place to stop short of victory for some and defeat for others. Deterrent strategies do, and that place is where one country threat­ens another’s vital interests. Deterrent strate­gies **lower the probability** that wars will be fought. If wars are nevertheless fought, deter­rent strategies lower the probability that they will become wars of high intensity. A war between the United States and the Soviet Union that did get out of control would be catastrophic. If they set out to destroy each other, they would greatly reduce the world’s store of developed resources while killing mil­lions outside of their own borders through fall­out. Even while destroying themselves, states with few weapons would do **less damage** to others. As ever, the biggest international dangers come from the strongest states. Fearing the world’s destruction, one may prefer a world of conventional great powers having a higher probability of fighting less destructive wars to a world of nuclear great powers having a lower probability of fighting more destructive wars. But that choice **effectively disappeared** with the production of atomic bombs by the United States during World War II. Since the great powers are **unlikely to be drawn into the nuclear wars** of others, the added global dangers posed by the spread of nuclear weapons are **small**.

#### We’ll concede deterrence, that turns all of their impacts because it is a terminal conflict mitigator.

#### Conventional wars escalate to nuclear war

**Posen**, Fall **1982** (Barry R. - Ford International Professor of Political Science at MIT, Inadvertent nuclear war?, International Security, p. 28-29)

Could a major East-West conventional war be kept conventional? American policymakers increasingly seem to think so. Recent discussions of such a clash reflects belief that protracted conventional conflict is possible, if only the West fields sufficient conventional forces and acquires an adequate industrial mobilization base. indeed, the Reagan Administration has embraced the idea of preparing for a long conventional war, as evidenced by its concern with the mobilization potential of the American defense industry.1 Underlying this policy is the belief that the United States should be prepared to fight a war that, in duration and character, **resembles World War II**. American decision-makers seem confident of their ability to avoid nuclear escalation if they so desire. That confidence is **dangerous and unwarranted**. It fails to take into account that **intense conventional operations** may cause nuclear escalation by threatening or destroying strategic nuclear forces. The operational requirements (or preferences) for conducting a conventional war may thus **unleash enormous, and possibly uncontrollable, escalatory pressures** despite the desires of American or Soviet policymakers. Moreover, the potential sources of such escalation are deeply rooted in the nature of the force structures and military strategies of the superpowers, as well as in the technological and geographical circumstances of large-scale East-West conflict. If the escalatory pressures that could attend a major conventional war are to be prevented from driving decision-makers towards decisions they neither intend nor wish to make, those pressures must be recognized and guarded against by the leaders of both superpowers.2

#### Independently, European conventional wars are probable

**Kaiser**, 2/5/**2009** (Karl – director of the Program on Transatlantic Relations at the Weatherhead Center for International Affairs and adjunct professor of public policy at the Kennedy School, An alternative to nato membership, International Herald Tribune, p. lexis)

First, domestic conditions speak against membership. The **reckless engagement** with a superior Russian military by Georgia's president, Mikheil Saakashvili, although he had been thoroughly briefed by the United States about the Russian potential, demonstrated to NATO how bad leadership in combination with a very old conflict can **drag the Atlantic alliance into a war** it does not want. In Ukraine there is no majority support for membership among the general population; indeed, in the eastern part of the country there is strong opposition. If ever the leadership were to force this issue it would risk a deep split, with potentially disastrous consequences for the integrity of Ukraine. Second, contrary to the expectations at the end of the Cold War, large-scale conventional warfare in Europe has reappeared as a **threatening possibility**. The worst possible scenario for NATO would be that the alliance would be unable to defend an ally under Article V because of lack of political will (even now the majority of people in some NATO countries do not support going to war over Central European members), or for military reasons—as would be the case for Georgia and Ukraine under the present circumstances. This would expose NATO as a paper tiger and cause it to loose the essence of its credibility and meaning.

#### Conventional European wars escalate to nuclear war

**Axelrod**, **1990** (Robert - Institute of Public Policy Studies at the University of Michigan, The concept of stability in the context of conventional war in europe, Journal of Peace Research, Vol. 27, No. 3, p. 247)

Before proceeding, however, it is worth point out that studying conventional warfare is important not only for its own sake, but also for the avoidance of nuclear war. The outbreak of conventional war in Europe would entail a **risk of escalation to nuclear war**. The risk would be **substantial** because the stakes in Europe are so **high**, the combat could be **very intense** from the very beginning, thousands of tactical nuclear weapons makes command and control **difficult**, and in any case NATO is pledged to use nuclear weapons if necessary to prevent a Warsaw Pact victory.

### Asia

#### CP text explicitly says to prevent asia prolif – that’s bad

**Alagappa ‘8** (Muthiah, Distinguished Senior Fellow – East-West Center, in “The Long Shadow: Nuclear Weapons and Security in 21st Century Asia, Ed. Muthiah Alagappa , p. 26)

In exploring the implications of national nuclear strategies and more broadly nuclear weapons for national and regional security, this study advances three propositions. First it posits that nuclear weapons strengthen weaker powers and have a modifying effect on structure and its consequences. However, they do not fundamentally alter the distribution of power to make a difference in system structure or the pattern of security interaction. Nuclear weapons have not substantially altered the security dynamics in Asia. Certain nuclear strategies such as compellence, counterforce, and limited war could and have intensified existing threat perceptions and lines of enmity. However, they have not created new ones. Other strategies such as existential, minimum, and extended deterrence, and a posture of general deterrence have not exacerbated security situations. In fact, they have had an ameliorating effect. **By contributing to greater self-reliance in deterrence, nuclear weapons reduce the salience of external balancing** as a rationale for alliance among nuclear weapon states. However, alliances and alignments among them still make sense for other reasons. For nonnuclear weapon states that perceive a nuclear threat, alliance with a nuclear weapon state that can extend the deterrence function of its nuclear arsenal provides an incentive for alliance formation and sustenance. On conflict resolution, nuclear weapons do not advance or obstruct settlement of disputes. When they are relevant, nuclear weapons contribute to a situation of no war and no peace. **The logic of the enormous destruction power of nuclear weapons argues against conflict resolution through the physical use of violence.** However, nuclear weapons are not a barrier to peaceful conflict resolution. The grave risks associated with escalation to nuclear war in certain cases have induced parties to explore a diplomatic settlement. Dispute settlement, however, hinges on the willingness or unwillingness of conflicting parties to negotiate and compromise on political differences that underlie the dispute. Second, the study posits that **nuclear weapons have contributed to the security of states and reinforced stability in the Asian security region** that is underpinned by several pillars. Although there could be some destabilizing consequences, thus far nuclear weapons have not undermined stability in Asia. In fact, they have contributed to stability by assuaging national security concerns, preventing the outbreak of major wars, strengthening the status quo, increasing deterrence dominance, and reinforcing the trend in the region toward a reduction in the salience of force in international politics. For a number of reasons (acceptance of the political and territorial status quo; increase in the political, diplomatic, and economic cost of using force in a situation of complex interdependence; and the impracticability of resolving conflicts through the use of force) the offensive roles of force have been on the decline in Asia. Nuclear weapons reinforce this trend by enhancing deterrence dominance and making the cost of war among nuclear weapon states catastrophic and prohibitive, especially in a situation of complex interdependence.