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### Terror 1AC

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

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

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

#### And detention outweighs the alt causes

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

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

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

#### Legitimacy is crucial to sustainable and effective US hegemony—judicial review is key

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

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

**U.S. leadership is key to global stability and preventing great power wars**

Zhang and Shi 11 (Yuhan, 1-22, Carnegie Endowment for International Peace, and Lin Shi, Columbia University, “America’s Decline: A Harbinger of Conflcit and Rivalry,” EAST ASIA FORUM, <http://www.eastasiaforum.org/2011/01/22/americas-decline-a-harbinger-of-conflict-and-rivalry/>)

This does not necessarily mean that the US is in systemic decline, but it encompasses a trend that appears to be negative and perhaps alarming. Although the US still possesses incomparable military prowess and its economy remains the world’s largest, the once seemingly indomitable chasm that separated America from anyone else is narrowing. Thus, the global distribution of power is shifting, and the inevitable result will be a world that is less peaceful, liberal and prosperous, burdened by a dearth of effective conflict regulation. Over the past two decades, no other state has had the ability to seriously challenge the US military. Under these circumstances, motivated by both opportunity and fear, **many actors have bandwagoned with US hegemony** and accepted a subordinate role. Canada, most of Western Europe, India, Japan, South Korea, Australia, Singapore and the Philippines have all joined the US, **creating a status quo that has tended to mute great power conflicts**. However, **as** the **hegemony** that drew these powers together **withers,** so will the pulling power behind the US alliance. **The result will be an** international **order where power is more diffuse,** American interests and influence can be more readily challenged, **and conflicts or wars may be harder to avoid. As history attests, power decline and redistribution result in military confrontation.** For example, in the late 19th century America’s emergence as a regional power saw it launch its first overseas war of conquest towards Spain. By the turn of the 20th century, accompanying the increase in US power and waning of British power, the American Navy had begun to challenge the notion that Britain ‘rules the waves.’ Such a notion would eventually see the US attain the status of sole guardians of the Western Hemisphere’s security to become the order-creating Leviathan shaping the international system with democracy and rule of law. Defining this US-centred system are three key characteristics: enforcement of property rights, constraints on the actions of powerful individuals and groups and some degree of equal opportunities for broad segments of society. As a result of such political stability, free markets, liberal trade and flexible financial mechanisms have appeared. And, with this, many countries have sought opportunities to enter this system, proliferating stable and cooperative relations. However, what will happen to these advances as America’s influence declines? Given that America’s authority, although sullied at times, has benefited people across much of Latin America, Central and Eastern Europe, the Balkans, as well as parts of Africa and, quite extensively, Asia, the answer to this question could affect global society in a profoundly detrimental way. Public imagination and academia have anticipated that **a post-hegemonic world would return to** the problems of the 1930s: **regional blocs, trade conflicts and strategic rivalry.** Furthermore, multilateral institutions such as the IMF, the World Bank or the WTO might give way to regional organisations. For example, Europe and East Asia would each step forward to fill the vacuum left by Washington’s withering leadership to pursue their own visions of regional political and economic orders. **Free markets would become more politicised — and, well, less free — and major powers would compete for supremacy.** Additionally, such power plays have historically possessed a zero-sum element. In the late 1960s and 1970s, US economic power declined relative to the rise of the Japanese and Western European economies, with the US dollar also becoming less attractive. And, as American power eroded, so did international regimes (such as the Bretton Woods System in 1973). **A world without American hegemony is one where great power wars re-emerge,** the liberal international system is supplanted by an authoritarian one, and trade protectionism devolves into restrictive, anti-globalisation barriers. This, at least, is one possibility we can forecast in a future that will inevitably be devoid of unrivalled US primacy.

**Indefinite detention increases terrorism—multiple warrants**

Scheinin 12 (January 11, Martin, professor of international law and former UN Special Rapporteur on human rights and counter-terrorism from 2005 to 2011, “Should Human Rights Take a Back Seat in Wartime?” <http://www.realclearworld.com/articles/2012/01/11/national_defense_authorization_act_scheinin_interview-full.html>)

The National Defense Authorization Act (NDAA), signed by President Barack Obama December 31, 2011, codifies into law the post-9/11 practice of indefinite detention without charge of terrorist suspects. Martin Scheinin, professor of international law and former UN Special Rapporteur on human rights and counter-terrorism from 2005 to 2011, offered his thoughts on the new law and its potential implications for the global counter-terrorism struggle. Casey L. Coombs: First, Mr. Scheinin, could you provide your general impressions of the NDAA’s indefinite detention provisions vis-à-vis international legal standards governing civil liberties? Martin Scheinin: The NDAA builds upon the well-established rule in international humanitarian law (law of armed conflict) that during an international armed conflict combatants, i.e. soldiers of one of the states involved in the war, can be detained as prisoners of war until the end of hostilities. When there is an international armed conflict and when someone is a combatant, then such detention does not amount to arbitrary detention that would violate international human rights law. The NDAA extends the possibility - even presumption - of indefinite detention to terrorism, far beyond genuine situations of international or even non-international armed conflict. And it extends indefinite detention to persons who are not combatants, or analogously situated persons in a non-international armed conflict. For instance, persons who are held to have provided substantial support to terrorism would be subject to indefinite detention. This approach has no support in the laws of war and will unavoidably result in what human rights law considers arbitrary detention and hence a violation of international treaties legally binding upon the United States, such as the International Covenant on Civil and Political Rights. CLC: As a world leader and active promoter of universal human rights, the practice of indefinite detention without charge would seem to clash with U.S. ideals. Could you comment on this contradiction? MS: One of the main lessons learned in the international fight against terrorism is that counter-terrorism professionals have gradually come to learn and admit that human rights violations are not an acceptable shortcut in an effective fight against terrorism. Such measures tend to backfire in multiple ways. They result in legal problems by hampering prosecution, trial and punishment. The use of torture is a clear example here. They also tend to alienate the communities with which authorities should be working in order to detect and prevent terrorism. And they add to causes of terrorism, both by perpetuating "root causes" that involve the alienation of communities and by providing "triggering causes" through which bitter individuals make the morally inexcusable decision to turn to methods of terrorism. The NDAA is just one more step in the wrong direction, by aggravating the counterproductive effects of human rights violating measures put in place in the name of countering terrorism. CLC: Does the NDAA afford the U.S. a practical advantage in the fight against terrorism? Or might the law undermine its global credibility? MS: It is hard to see any practical advantage gained through the NDAA. It is just another form of what I call symbolic legislation, enacted because the legislators want to be seen as being "tough" or as "doing something." The law is written as just affirming existing powers and practices and hence not providing any meaningful new tools in the combat of terrorism. By constraining the choices by the executive, it nevertheless hampers effective counter-terrorism work, including criminal investigation and prosecution, as well as international counter-terrorism cooperation, markedly in the issue of closing the Guantanamo Bay detention facility. Hence, it carries the risk of distancing the United States from its closest allies and the international community generally. And of course these kinds of legal provisions are always open for bad faith copying by repressive governments that will use them for their own political purposes.

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

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

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

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

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

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

**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

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

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

**Plan**

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

**Venezuela Advantage: 1AC**

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

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

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

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

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

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

**Now is the key time – Maduro is consolidating power in Venezuela – a signal of an independent judiciary is crucial to a smooth, democratic transition**

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

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

#### Venezuelan Stability is crucial to stops Russian Arctic development

**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

#### Supreme court action to restrict detention powers is key

Reinhardt 6 (Stephen, Judge, U.S. Court of Appeals for the Ninth Circuit, "The Judicial Role in National Security," http://www.bu.edu/law/central/jd/organizations/journals/bulr/volume86n5/documents/REINHARDTv.2.pdf)

The role of judges during times of war – whether it be a traditional war or a ¶ “war on terrorism” – is essentially no different than during times of peace: it is ¶ to interpret the law to the best of our ability, consistent with our ¶ constitutionally mandated role **and without regard to external pressure**. Among ¶ the differences in wartime for the judiciary, however, is one that involves a ¶ principle that is essential to the proper operation of the federal courts – **judicial** ¶ **independence**. In wartime, the need for judicial independence is **at its highest**, ¶ yet the very concept is **at its most vulnerable**, imperiled by threats both within ¶ and without the judiciary. Externally, there is pressure from the elected ¶ branches, and often the public, to afford far more deference than may be ¶ desirable to the President and Congress, as they wage wars to keep the nation ¶ safe. Often this pressure includes threats of retribution, including threats to ¶ strip the courts of jurisdiction. Internally, judges may question their own right ¶ or ability to make the necessary, potentially perilous judgments at the very ¶ time when it is most important that they exercise their full authority. This ¶ concern is exacerbated by the fact that the judiciary is essentially a ¶ conservative institution and judges are generally conservative individuals who ¶ dislike controversy, risk taking, and change. ¶ As Professor Stone can tell you, the history of judicial responses to threats ¶ to our liberties in wartime is mixed at best.1¶ Now, in the first years of the ¶ twenty-first century, the threat to judicial independence is **proving particularly troublesome**, and I am not referring just to those demagogues who rush to the ¶ steps of the Capitol to call for legislation stripping the federal courts of ¶ jurisdiction every time they do not like a decision bolstering the Bill of Rights. ¶ Rather, I refer to the chilling reality that, as we enter the fifth year of the socalled “Global War on Terror,” we are faced with a conflict with no projected ¶ or foreseeable end, and, thus, with the prospect that the war-related challenges ¶ to constitutional rights and to judicial independence, which typically subside ¶ with the end of a conflict, will continue unabated into the indefinite future. In ¶ an era of “war without end,” any inclination of judges to lessen the necessary ¶ constitutional vigilance will not only seriously jeopardize basic rights to ¶ privacy and liberty, but also **will make it more difficult to fend off** other, nonwar-related challenges to judicial **independence**, and as a result cause harm to ¶ all of our fundamental rights and liberties. ¶ Archibald Cox – who knew a thing or two about the necessity of ¶ government actors being independent – emphasized that an essential element ¶ of judicial independence is that “there shall be no tampering with the ¶ organization or jurisdiction of the courts for the purposes of controlling their ¶ decisions upon constitutional questions.”2¶ Applying Professor Cox’s precept ¶ to current events, we might question whether some recent actions and ¶ arguments advanced by the elected branches constitute threats to judicial ¶ independence. Congress, for instance, recently passed the Detainee Treatment ¶ Act.3¶ The Graham-Levin Amendment, which is part of that legislation, ¶ prohibits any court from hearing or considering habeas petitions filed by aliens ¶ detained at Guantanamo Bay.4¶ The Supreme Court has been asked to rule on ¶ whether the Act applies only prospectively, or whether it applies to pending ¶ habeas petitions as well. It is unclear at this time which interpretation will ¶ prevail.5¶ But if the Act is ultimately construed as applying to pending appeals, ¶ one must ask whether it constitutes “tampering with the . . . jurisdiction of the ¶ courts for the purposes of controlling their decisions,” which Professor Cox ¶ identified as a key marker of a violation of judicial independence. All of this, ¶ of course, is wholly aside from the question of whether Congress and the ¶ President may strip the courts of such jurisdiction prospectively. And it is, of ¶ course, also wholly apart from the Padilla case,6¶ in which many critics believe ¶ that the administration has played fast and loose with the courts’ jurisdiction in ¶ order to avoid a substantive decision on a fundamental issue of great ¶ importance to all Americans. ¶ Another possible **threat to judicial independence** involves the position taken ¶ by the administration regarding the scope of its war powers. In challenging ¶ cases brought by individuals charged as enemy combatants or detained at ¶ Guantanamo, the administration has argued that the President has “inherent ¶ powers” as Commander in Chief under Article II and that actions he takes ¶ pursuant to those powers are essentially not reviewable by courts or subject to ¶ limitation by Congress.7¶ The administration’s position in the initial round of ¶ Guantanamo cases was that no court anywhere had any jurisdiction to consider ¶ any claim, be it torture or pending execution, by any individual held on that ¶ American base, which is located on territory under American jurisdiction, for ¶ an indefinite period.8¶ The executive branch has also relied on sweeping and ¶ often startling assertions of executive authority in defending the ¶ administration’s domestic surveillance program, asserting at times as well a ¶ congressional resolution for the authorization of the use of military force. To ¶ some extent, such assertions carry with them a challenge to judicial ¶ independence, as they seem to rely on the proposition that a broad range of ¶ cases – those that in the administration’s view relate to the President’s exercise ¶ of power as Commander in Chief (and that is a broad range of cases indeed) – ¶ are, in effect, beyond the reach of judicial review. The full implications of the ¶ President’s arguments are open to debate, especially since the scope of the ¶ inherent power appears, in the view of some current and former administration ¶ lawyers, to be limitless. What is clear, however, is that the administration’s ¶ stance raises important questions about how the constitutionally imposed ¶ system of checks and balances should operate during periods of military ¶ conflict, **questions judges should not shirk from resolving**. ¶ The fundamental question, I suppose, is whether the role of the judge should ¶ change in wartime. The answer is that while our function does not change, the ¶ manner in which we perform the balancing of interests that we so often ¶ undertake in constitutional cases does. In times of national emergency, we ¶ must necessarily give greater weight in many instances to the governmental, ¶ more specifically the national security, interest than we might at other times. ¶ As courts have often recognized, the government’s interests in protecting the ¶ nation’s security are heightened during periods of military conflict. ¶ Accordingly, particular searches or detentions that might be unconstitutional ¶ during peacetime may well be deemed constitutional during times of war – not ¶ because the role of the judge is any different, and not because courts curtail ¶ their constitutionally mandated role, but because a governmental interest that ¶ may be insufficient to justify such deprivations in peacetime may be ¶ sufficiently substantial to justify that action during times of national ¶ emergency. **Courts must not**, however, at any time allow the balancing to turn ¶ into a routine licensing of unbridled and unsupervised governmental power.

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

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

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

#### Econ decline causes war

**Royal 10** (Jedediah, Director of Cooperative Threat Reduction – U.S. Department of Defense, “Economic Integration, Economic Signaling and the Problem of Economic Crises”, Economics of War and Peace: Economic, Legal and Political Perspectives, Ed. Goldsmith and Brauer, p. 213-215)

Less intuitive is how periods of economic decline may increase the likelihood of external conflict. Political science literature has contributed a moderate degree of attention to the impact of economic decline and the security and defence behaviour of interdependent states. Research in this vein has been considered at systemic, dyadic and national levels. Several notable contributions follow. First, on the systemic level, Pollins (2008) advances Modelski and Thompson's (1996) work on leadership cycle theory, finding that rhythms in the global economy are associated with the rise and fall of a pre-eminent power and the often bloody transition from one pre-eminent leader to the next. As such, exogenous shocks such as economic crises could usher in a redistribution of relative power (see also Gilpin. 1981) that leads to uncertainty about power balances, increasing the risk of miscalculation (Feaver, 1995). Alternatively, even a relatively certain redistribution of power could lead to a permissive environment for conflict as a rising power may seek to challenge a declining power (Werner. 1999). Separately, Pollins (1996) also shows that global economic cycles combined with parallel leadership cycles impact the likelihood of conflict among major, medium and small powers, although he suggests that the causes and connections between global economic conditions and security conditions remain unknown. Second, on a dyadic level, Copeland's (1996, 2000) theory of trade expectations suggests that 'future expectation of trade' is a significant variable in understanding economic conditions and security behaviour of states. He argues that interdependent states are likely to gain pacific benefits from trade so long as they have an optimistic view of future trade relations. However, if the expectations of future trade decline, particularly for difficult to replace items such as energy resources, the likelihood for conflict increases**,** as states will be inclined to use force to gain access to those resources. Crises could potentially be the trigger for decreased trade expectations either on its own o

r because it triggers protectionist moves by interdependent states.4 Third, others have considered the link between economic decline and external armed conflict at a national level. Blomberg and Hess (2002) find a strong correlation between internal conflict and external conflict, particularlyduring periods of economic downturn. They write: The linkages between internal and external conflict and prosperity are strong and mutually reinforcing. Economic conflict tends to spawn internal conflict, which in turn returns the favour. Moreover, the presence of a recession tends to amplify the extent to which international and external conflicts self-reinforce each other. (Blomberg & Hess, 2002. p. 89) Economic decline has also been linked with an increase in the likelihood of terrorism (Blomberg, Hess, & Weerapana, 2004), which has the capacity to spill across borders and lead to external tensions. Furthermore, crises generally reduce the popularity of a sitting government. "Diversionary theory" suggests that, when facing unpopularity arising from economic decline, sitting governments have increased incentives to fabricate externalmilitary conflicts to create a 'rally around the flag' effect.

Wang (1996), DeRouen (1995). and Blomberg, Hess, and Thacker (2006) find supporting evidence showing that economic decline and use of force are at least indirectly correlated. Gelpi (1997), Miller (1999), and Kisangani and Pickering (2009) suggest that the tendency towards diversionary tactics are greater for democratic states than autocratic states, due to the fact that democratic leaders are generally more susceptible to being removed from office due to lack of domestic support. DeRouen (2000) has provided evidence showing that periods of weak economic performance in the United States, and thus weak Presidential popularity, are statistically linked to an increase in theuse of force. In summary, recent economic scholarship positively correlates economic integration with an increase in the frequency of economic crises, whereas political science scholarship links economic decline with external conflictat systemic, dyadic and national levels.5 This implied connection between integration, crises and armed conflict has not featured prominently in the economic-security debate and deserves more attention.

# 2AC

## T

### 2AC Restrict =/= prohibit

#### We meet – we end indefinite detention

#### We meet – the plan overturns that portion of the NDAA

#### 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.

#### Authority is a vague term

Webster's New World Law Dictionary 6 ("authority," p. 37-8)

authority n. 1 The authorization, permission, power or right to act on another's behalf and to bind them by such actions. See also agency, agent, and principal. 2 The right or power to command, govern, or enforce obedience. 3 A legal writing, such as judicial decision, law review article or legal treatise, or a statute's legislative history that provides information or insight on how to interpret and apply the law. See also precedent.

#### Reasons to prefer

AND

#### Precision and grammar go aff – only our interpretation sets a clear brightline for topicality –

#### We’re better for neg ground – specific statutes enable us to spike links

#### Competing interpretations is bad – causes a race to the bottom and trades off with substantive debate about the topic – reasonability is best and good is good enough.

## S

### 2AC Circumvention

#### Doesn’t take out judicial exchanges in Venezuela – the *decision* is the internal link

#### Will comply – even if they disagree

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

## Legitimacy

## Venezuela

## Off

### OLC CP – 2AC

#### Perm do both – solves the links

#### 2. Can’t solve the case –

#### OLC fails at executive restraint

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

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

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

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

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

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

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

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

#### Doesn’t solve Venezuela –

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

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

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

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

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

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

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

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

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

#### That sets a precedent against global secessionism

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

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

#### Impact is global nuclear war

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

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

### 2AC Drone Shift

#### non-unique, - decreasing detainees now

Brookings 8 (Benjamin Wittes and Zaahira Wyne with Erin Miller, Julia Pilcer, and Georgina Druce, December 16, 2008, “The Current Detainee Population of Guantánamo: An Empirical Study” http://www.brookings.edu/~/media/research/files/reports/2008/12/16%20detainees%20wittes/1216\_detainees\_wittes)

As of December 16, 2008, the detention facility at Guantánamo Bay, Cuba held 248 detainees. This figure represents only a fraction of the 779 who have passed through the facility since it opened in 2002. Of the 558 detainees who remained at the base long enough to go through the CSRT process, 330 have been transferred or released. Over that same time period, 20 additional detainees have arrived at Guantánamo. Fourteen of these came in September 2006, when the CIA transferred the so-called high-value detainees, whom it had previously held for interrogation in its secret detention program overseas; six additional detainees arrived between March 2007 and March 2008.21 Our calculations concerning the current population have a small but real margin of error, described below in our discussion of sources and methods.

#### Your evidence assumes other countries have drones now – cross-x

#### Previous rulings non-unique

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

The short chapter that follows aims to take Judge Brown’s suggestion seriously. As I explain, although Judge Brown is clearly correct that judicial review has affected the size of the detainee populations within the territorial United States and at Guantanamo, it does not even remotely follow that the jurisprudence of the past decade has precipitated a shift away from detention and toward targeted killings. To the contrary, the jurisprudence of Judge Brown’s own court has simultaneously (1) left the government with far greater detention authority than might otherwise be apparent where noncitizens outside the United States are concerned; and (2) for better or worse, added a semblance of legitimacy to a regime that had previously and repeatedly been decried as lawless. And in cases where judicial review prompted the government to release those against whom it had insufficient evidence, the effects of such review can only be seen as salutary. Thus, at the end of a decade where not a single U.S. military detainee was freed by order of a federal judge, it is more than a little ironic for Judge Brown to identify “take no prisoners” as Boumediene’s true legacy.

#### All their “precedent” evidence relies on the assertion that there’s a causal link between U.S. drone doctrine and other’ countries choices---that’s not true---no tangible evidence

Kenneth Anderson 11, Professor of International Law at American University, 10/9/11, “What Kind of Drones Arms Race Is Coming?,” <http://www.volokh.com/2011/10/09/what-kind-of-drones-arms-race-is-coming/#more-51516>

New York Times national security correspondent Scott Shane has an opinion piece in today’s Sunday Times predicting an “arms race” in military drones. The methodology essentially looks at the US as the leader, followed by Israel – countries that have built, deployed and used drones in both surveillance and as weapons platforms. It then looks at the list of other countries that are following fast in US footsteps to both build and deploy, as well as purchase or sell the technology – noting, correctly, that the list is a long one, starting with China. The predicament is put this way:

Eventually, the United States will face a military adversary or terrorist group armed with drones, military analysts say. But what the short-run hazard experts foresee is not an attack on the United States, which faces no enemies with significant combat drone capabilities, but the political and legal challenges posed when another country follows the American example. The Bush administration, and even more aggressively the Obama administration, embraced an extraordinary principle: that the United States can send this robotic weapon over borders to kill perceived enemies, even American citizens, who are viewed as a threat.

“Is this the world we want to live in?” asks Micah Zenko, a fellow at the Council on Foreign Relations. “Because we’re creating it.”

By asserting that “we’re” creating it, this is a claim that there is an arms race among states over military drones, and that it is a consequence of the US creating the technology and deploying it – and then, beyond the technology, changing the normative legal and moral rules in the international community about using it across borders. In effect, the combination of those two, technological and normative, forces other countries in strategic competition with the US to follow suit. (The other unstated premise underlying the whole opinion piece is a studiously neutral moral relativism signaled by that otherwise unexamined phrase “perceived enemies.” Does it matter if they are not merely our “perceived” but are our actual enemies? Irrespective of what one might be entitled to do to them, is it so very difficult to conclude, even in the New York Times, that Anwar al-Awlaki was, in objective terms, our enemy?)

It sounds like it must be true. But is it? There are a number of reasons to doubt that moves by other countries are an arms race in the sense that the US “created” it or could have stopped it, or that something different would have happened had the US not pursued the technology or not used it in the ways it has against non-state terrorist actors. Here are a couple of quick reasons why I don’t find this thesis very persuasive, and what I think the real “arms race” surrounding drones will be.

Unmanned aerial vehicles have clearly got a big push from the US military in the way of research, development, and deployment. But the reality today is that the technology will transform civil aviation, in many of the same ways and for the same reasons that another robotic technology, driverless cars (which Google is busily plying up and down the streets of San Francisco, but which started as a DARPA project). UAVs will eventually move into many roles in ordinary aviation, because it is cheaper, relatively safer, more reliable – and it will eventually include cargo planes, crop dusting, border patrol, forest fire patrols, and many other tasks. There is a reason for this – the avionics involved are simply not so complicated as to be beyond the abilities of many, many states. Military applications will carry drones many different directions, from next-generation unmanned fighter aircraft able to operate against other craft at much higher G stresses to tiny surveillance drones. But the flying-around technology for aircraft that are generally sizes flown today is not that difficult, and any substantial state that feels like developing them will be able to do so.

But the point is that this was happening anyway, and the technology was already available. The US might have been first, but it hasn’t sparked an arms race in any sense that absent the US push, no one would have done this. That’s just a fantasy reading of where the technology in general aviation was already going; Zenko’s ‘original sin’ attribution of this to the US opening Pandora’s box is not a credible understanding of the development and applications of the technology. Had the US not moved on this, the result would have been a US playing catch-up to someone else. For that matter, the off-the-shelf technology for small, hobbyist UAVs is simple enough and available enough that terrorists will eventually try to do their own amateur version, putting some kind of bomb on it.

Moving on from the avionics, weaponizing the craft is also not difficult. The US stuck an anti-tank missile on a Predator; this is also not rocket science. Many states can build drones, many states can operate them, and crudely weaponizing them is also not rocket science. The US didn’t spark an arms race; this would occur to any state with a drone. To the extent that there is real development here, it lies in the development of specialized weapons that enable vastly more discriminating targeting. The details are sketchy, but there are indications from DangerRoom and other observers (including some comments from military officials off the record) that US military budgets include amounts for much smaller missiles designed not as anti-tank weapons, but to penetrate and kill persons inside a car without blowing it to bits, for example. This is genuinely harder to do – but still not all that difficult for a major state, whether leading NATO states, China, Russia, or India. The question is whether it would be a bad thing to have states competing to come up with weapons technologies that are … more discriminating.

#### No link uniqueness- we use drones when capturing is impossible now- and there wouldn’t be a shift

Robert Chesney 11, Charles I. Francis Professor in Law at the UT School of Law as well as a non-resident Senior Fellow at Brookings, "Examining the Evidence of a Detention-Drone Strike Tradeoff", October 17, www.lawfareblog.com/2011/10/examining-the-evidence-of-a-detention-drone-strike-tradeoff/

Yesterday Jack linked to this piece by Noah Feldman, which among other things advances the argument that the Obama administration has resorted to drone strikes at least in part in order to avoid having to grapple with the legal and political problems associated with military detention:¶ Guantanamo is still open, in part because Congress put obstacles in the way. Instead of detaining new terror suspects there, however, Obama vastly expanded the tactic of targeting them, with eight times more drone strikes in his first year than in all of Bush’s time in office.¶ Is there truly a detention-drone strike tradeoff, such that the Obama administration favors killing rather than capturing? As an initial matter, the numbers quoted above aren’t correct according to the New America Foundation database of drone strikes in Pakistan, 2008 saw a total of 33 strikes, while in 2009 there were 53 (51 subsequent to President Obama’s inauguration). Of course, you can recapture something close to the same point conveyed in the quote by looking instead to the full number of strikes conducted under Bush and Obama, respectively. There were relatively few drone strikes prior to 2008, after all, while the numbers jump to 118 for 2010 and at least 60 this year (plus an emerging Yemen drone strike campaign). But what does all this really prove?¶ Not much, I think. Most if not all of the difference in drone strike rates can be accounted for by specific policy decisions relating to the quantity of drones available for these missions, the locations in Pakistan where drones have been permitted to operate, and most notably whether drone strikes were conditioned on obtaining Pakistani permission. Here is how I summarize the matter in my forthcoming article on the legal consequences of the convergence of military and intelligence activities:¶ According to an analysis published by the New America Foundation, two more drone strikes in Pakistan’s FATA region followed in 2005, with at least two more in 2006, four more in 2007, and four more in the first half of 2008.[1] The pattern was halting at best. Yet that soon changed. U.S. policy up to that point had been to obtain Pakistan’s consent for strikes,[2] and toward that end to provide the Pakistani government with advance notification of them.[3] But intelligence suggested that on some occasions “the Pakistanis would delay planned strikes in order to warn al Qaeda and the Afghan Taliban, whose fighters would then disperse.”[4] A former official explained that in this environment, it was rare to get permission and not have the target slip away: “If you had to ask for permission, you got one of three answers: either ‘No,’ or ‘We’re thinking about it,’ or ‘Oops, where did the target go?”[5]¶ Declaring that he’d “had enough,” Bush in the summer of 2008 “ordered stepped-up Predator drone strikes on al Qaeda leaders and specific camps,” and specified that Pakistani officials going forward should receive only “‘concurrent notification’…meaning they learned of a strike as it was underway or, just to be sure, a few minutes after.”[6] Pakistani permission no longer was required.[7] ¶ The results were dramatic. The CIA conducted dozens of strikes in Pakistan over the remainder of 2008, vastly exceeding the number of strikes over the prior four years combined.[8] That pace continued in 2009, which eventually saw a total of 53 strikes.[9] And then, in 2010, the rate more than doubled, with 188 attacks (followed by 56 more as of late August 2011).[10] The further acceleration in 2010 appears to stem at least in part from a meeting in October 2009 during which President Obama granted a CIA request both for more drones and for permission to extend drone operations into areas of Pakistan’s FATA that previously had been off limits or at least discouraged.[11] ¶ There is an additional reason to doubt that the number of drone strikes tells us much about a potential detention/targeting tradeoff: most of these strikes involved circumstances in which there was no feasible option for capturing the target. These strikes are concentrated in the FATA region, after all. ¶ Having said all that: it does not follow that there is no detention-targeting tradeoff at work. I’m just saying that drone strikes in the FATA typically should not be understood in that way (though there might be limited exceptions where a capture raid could have been feasible). Where else to look, then, for evidence of a detention/targeting tradeoff?¶ Bear in mind that it is not as if we can simply assume that the same number of targets emerge in the same locations and circumstances each year, enabling an apples-to-apples comparison. But set that aside.¶ First, consider locations that (i) are outside Afghanistan (since we obviously still do conduct detention ops for new captures there) and (ii) entail host-state government control over the relevant territory plus a willingness either to enable us to conduct our own ops on their territory or to simply effectuate captures themselves and then turn the person(s) over to us. This is how most GTMO detainees captured outside Afghanistan ended up at GTMO. Think Bosnia with respect to the Boumediene petitioners, Pakistan’s non-FATA regions, and a variety of African and Asian states where such conditions obtained in years past. In such locations, we seem to be using neither drones nor detention. Rather, we either are relying on host-state intervention or we are limiting ourselves to surveillance. Very hard to know how much of each might be going on, of course. If it is occurring often, moreover, it might reflect a decline in host-state willingness to cooperate with us (in light of increased domestic and diplomatic pressure from being seen to be responsible for funneling someone into our hands, and the backdrop understanding that, in the age of wikileaks, we simply can’t promise credibly that such cooperation will be kept secret). In any event, this tradeoff is not about detention versus targeting, but something much more complex and difficult to measure.

#### Not an alt cause

#### Drone arms race inevitable

USA Today 13

(1/9, http://www.usatoday.com/story/news/world/2013/01/08/experts-drones-basis-for-new-global-arms-race/1819091/, “Experts: Drones basis for new global arms race”, AB)

The success of U.S. drones in Iraq and Afghanistan has triggered a global arms race, raising concerns the remotely piloted aircraft could fall into unfriendly hands, military experts say. The number of countries that have acquired or developed drones expanded to more than 75, up from about 40 in 2005, according to the Government Accountability Office, the investigative arm of Congress. Iran and China are among the countries that have fielded their own systems. "People have seen the successes we've had," said Lt. Gen. Larry James, the Air Force's deputy chief of staff for intelligence, surveillance and reconnaissance. The U.S. military has used drones extensively in Afghanistan, primarily to watch over enemy targets. Armed drones have been used to target terrorist leaders with missiles that are fired from miles away.

### Security K – 2AC

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

#### Net benefits-

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

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

#### No impact– prefer topic specific ev

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

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

#### 2. 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.

#### 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

#### 3. Perm – do both

#### 5. Reps don't shape reality.

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

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

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

#### 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

#### 6. 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.

#### 7. Case outweighs-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 2AC CIR

#### Immigration won’t pass

CNN 11-13-13 (CNN, “Boehner rules out immigration reform this year”, November 13th, 2013, http://politicalticker.blogs.cnn.com/2013/11/13/boehner-rules-out-immigration-reform-this-year/comment-page-26/)//moxley

If there were any doubts that comprehensive immigration reform efforts were dead on Capitol Hill this year, House Speaker John Boehner eliminated them on Wednesday. Boehner repeated his long standing opposition to the Senate-passed immigration bill and his pledge the House would never vote on it, **but he went a step further**, drawing a bright line: "I'll make clear we have no intention ever of going to conference on the Senate bill." Last week the third ranking House Republican, GOP Whip Kevin McCarthy, R-California, told immigration reform advocates that **there wasn't enough time left this year for the House to take up immigration reform.** The House is in session 15 days between now and the end of the year. After Republicans lost the presidential election in 2012 and Hispanic voters voted overwhelmingly for President Obama, Boehner said it was time for Congress to pass major immigration reforms. "I think a comprehensive approach is long overdue. And I’m confident that the president, myself, others can find the common ground to take care of this issue once and for all," Boehner said in an interview with ABC News the week after the election. Facing sharp divisions inside his conference on the issue, Boehner insists he still wants action but says any legislation has to be done in pieces. "I want us to deal with this issue but I want to deal with it in a common sense step by step way," he said Wednesday. A series of targeted immigration bills have passed the House Judiciary Committee - mostly focused on border security and enforcement - but GOP leaders have not scheduled any floor votes on any of them. A significant bloc of House conservatives is adamantly opposed to any measure that provides a path to citizenship or legal status for the 11 million undocumented workers in the United States. So far, none of the House GOP proposals addresses that issue, but opponents worry that any negotiation with the Senate would ratchet up pressure on House Republicans to deal with questions of citizenship.

#### Immigration not key to economy

Mike Flynn 13, Breitbart reporter, July 13, "White House Oversells Economic Benefits of Immigration Reform," www.breitbart.com/Big-Government/2013/07/13/white-house-oversells-economic-benefits-of-immigration-reform

On Saturday, President Obama used his weekly radio address to tout the economic benefits of passing the Senate immigration reform bill. On Wednesday, the White House issued a report saying the immigration reform bill would both trim the deficit and boost the economy over the next two decades. Even accepting the Administration's numbers at face-value, the report shows how little would be gained economically from reform in the long-term. In the short-term, however, there are some very real costs ignored by the White House.¶ The White House report draws heavily from a CBO analysis on the economic impact of the Senate bill, released in mid-June. The CBO estimates that, under the Senate bill, in 20 years, the nation's GDP would be $1.4 trillion higher than it otherwise would be if the bill didn't pass. The Administration claims the bill will grow the economy by 5.4% in that time-frame. ¶ Which sounds impressive, until one realizes that we are talking about a 20 year window here. An incremental growth of 5% over two decades isn't exactly an economic bonanza. In that time-span the US economy will generate $300-500 trillion in total economic impact. An extra few trillion is at the margins or the margins.¶ Worse, the economic benefits the CBO estimates will accrue only begin at least a decade after enactment. Through 2031, Gross National Product, which measures the output of US residents and firms, would be lower than it otherwise would be. In ten years, the per capita GNP would be almost 1% lower than without the Senate bill. ¶ The CBO analysis also shows that average wages of American workers would be lower than they otherwise would be through at least the first 10 years of the law's enactment. The unemployment rate would also rise for the first decade, due to a large increase in the labor force.¶ Supporters and opponents of immigration reform both overstate its economic impact. In a nation of more than 300 million people and a $16 trillion economy, any economic impact is going to be felt at the margins. The CBO, however, finds that, for at least a decade, the economic effects of the Senate bill are negative at the margins. After 2 decades, the CBO says the effects become positive at the margin. ¶ A decade of relatively worse economic performance to secure marginally better performance 20 years from now is not an obviously good bargain. One can make many argument in favor of immigration reform. Economic growth, however, seems a very weak one.

#### Capital fails on immigration - GOP won't respond to political muscle

Nowicki 10/20/13 (Dan, Arizona Republic, "Hopes dim for immigration reform," http://www.azcentral.com/news/politics/articles/20130923immigration-reform-hopes-dim.html)

The impact of the past several weeks of partisan bitterness on the immigration-reform dynamics remains unclear, with some House Republicans harboring hard feelings toward Obama and others seeing a positive post-shutdown opportunity to govern “and show the country that we can do our jobs,” said Tamar Jacoby, president of ImmigrationWorks USA, a national coalition of business groups that backs immigration reform. Which House GOP faction wins out in the short term remains to be seen, although the bruised egos represent a fresh challenge for reform supporters.¶ “House Republicans will not do this if they see it as ‘the president just beat us and now he’s going to shove this down our throats,’ ” Jacoby said. “That is just not a way to get it done. What could potentially make it doable is if people see it as good for the country, good for the party and something that is basically framed as a conservative reform, which is the opposite of doing something because President Obama is muscling them.”

#### 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

#### Bond thumps

Levy 10/4/13 (Pema, Newsweek, "The Supreme Court Takes on the Toxic Avenger," http://www.newsweek.com/supreme-court-takes-toxic-avenger-124)

Instead, the jealous Pennsylvania woman has become an unlikely protagonist in a landmark legal case taken up by conservatives to prove that in prosecuting her, the federal government overreached its constitutional powers. Now Carol Anne Bond’s case is headed for the Supreme Court, the latest round in the ongoing battle between big government and states’ rights.¶ “It’s a constitutional dispute wrapped up in a sad soap opera,” said Elizabeth Wydra, chief counsel at the liberal Constitution Accountability Center. But the melodrama belies the importance of the issues at stake: The case of Bond v. United States could tip the scales in the right-left struggle over the role of government.

#### ACA rollout thumps Obama’s capital AND undermines his ability to use the bully pulpit to secure immigration reform

Nicholas and Nelson 11/10/13 (Peter and Colleen, Wall St Journal, "Health-Law Rollout Weighs on Obama's Ratings, Agenda," http://online.wsj.com/news/articles/SB10001424052702304868404579190222632451560)

WASHINGTON—President Barack Obama, bogged down by problems with his signature health-care program, is seeing both his approval and personal-favorability ratings with Americans sag, creating new complications for his second-term agenda.¶ During past turbulence in Washington, Americans' approval of the job Mr. Obama is doing dipped. But in those stretches, Mr. Obama was buoyed by voters' general admiration for him as a person and by their trust in his credibility.¶ That has changed recently, particularly as thousands of Americans lose their insurance coverage under the health law's rollout, despite the president's pledge that anyone who liked their current plan could keep it.¶ The president has apologized to Americans about the insurance-cancellation notices, and he is taking other steps to shore up his political standing. But if his reservoir of personal goodwill continues to diminish, it could hamper him at a time when his administration is trying to repair the insurance website on which much of the Affordable Care Act rests.¶ An Obama administration official said the recent standoff over the government shutdown and raising the nation's borrowing limit was bound to take a toll on the president's popularity. "I think the president took on the least amount of water after that fight than any of the other actors involved," the official said.¶ President Barack Obama speaks at Boston's Faneuil Hall about the federal health care law in October. AP¶ Going forward, Mr. Obama wants to enlist the public as allies in the push to pass an immigration overhaul, expand access to early-childhood education and raise the minimum wage. All these goals already are drawing resistance from congressional Republicans, and if the public sours on him, the job is that much more difficult.¶ "His credibility is hurt, because he said things that aren't quite true," said Lou D'Allesandro, deputy Democratic leader in the New Hampshire Senate, referring to the vow that Americans could keep their health plans. "Unless a couple of dramatic things happen, he could be a lame duck by January."

#### 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.

## 1AR

### CP

#### This card slays his analytic answers

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

In Uganda, for example, the precedent established by this Court in Hamdan v. Rumsfeld, 548 U.S. 557¶ (2006), and Boumediene, influenced judges and legislators to incorporate the principles of judicial review¶ and enforceability in their domestic war crimes bill. In Nepal, this Court has served as a model for the nascent¶ judiciary. In Somaliland, the government relied heavily on U.S. terrorism legislation when drafting terrorism¶ legislation for the region. And in the South Sudan peace process, the Sudan People’s Liberation Movement/Army¶ (SPLM/A), the leading political party in the Government of Southern Sudan, relied on U.S. precedent to argue¶ for the primacy of law and the importance of enforceability of previous adjudicative decisions in the Abyei Arbitration, one of the most important and¶ contentious issues in the ongoing implementation of the peace agreement.¶ Foreign judges also follow the work of this Court closely. In a number of the judicial training programs¶ PILPG has conducted, foreign judges have asked PILPG detailed questions about the role of this Court¶ in upholding rule of law during the war on terror.¶ A review of foreign precedent confirms how closely foreign judges follow this Court. In numerous foreign¶ states, and in the international war crimes tribunals, judges regularly cite the precedent of this Court to¶ establish their own legitimacy, to shore up judicial authority against overreaching by powerful executives,¶ and to develop a strong rule of law within their own legal systems.

### SPF Sunscreen

#### No SPF

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

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

### Colonialism

#### No impact to colonialism – your scholarship is flawed

Rotter 00 (Andrew J., Professor of History – Colgate University, “Saidism Without Said: Orientialism and U.S. Diplomatic History”, The American Historical Review, 105(4), p. 1208-1210)

A third and yet more troubling problem for historians reading Orientalism is Said’s dubious epistemological relationship to matters of cause and effect. Discourse theory and postmodernism generally have shaken old certainties about history as a kind of science, a divining rod, which, properly wielded, will indicate the truth. In the postmodern universe, there is no truth, just self-serving “realities” promoted by regimes of power. “Reality is the creature of language,” and “Western Man a modern-day Gulliver, tied down with ideological ropes and incapable of transcendence because he can never get beyond the veil of language to the reality ‘out there,’” as three historians have summarized it. Following Nietzsche and Heidegger, postmodernists like Michel Foucault deny the linearity of the historical process; thus “causation should be pitched out.” For better or worse, most historians still believe that they are engaged in a search for reasons why things happened as they did. An event occurs, like the American Revolution. It is not, they say, a construct or a representation but a revolution, properly named. There are reasons why the revolution occurred. and even though historians might assign different weights to these reasons or argue over whether some of them mattered at all, they still believe that the causes of the revolution are knowable, that they preceded the act of revolution itself, and that they are important to understand. One of the contributions of discourse theory has been to complicate—a virtue, in its own terms—comfortable assumptions about historical causation. But do the difficulties of ascribing cause make the effort itself a fool’s errand? Said seems unsure. At times, James Clifford has pointed out, Said “suggests that authenticity,’ ‘experience,’ ‘reality,’ ‘presence,’ are mere rhetorical contrivances.” Elsewhere in Orientalism, he posits “an old-fashioned existential realism.” Sometimes, Orientalism “distorts, dominates, or ignores some real or authentic feature of the Orient”: sometimes, Said “denies the existence of any ‘real’ Orient.” There is, he asserts, a relationship between the discourse of Orientalism and the exercise of power by the West over the Mideast. The discourse, Said wrote, “is by no means in direct, corresponding relationship with political power in the raw, but rather is produced and exists in uneven exchange with various kinds of power,” including political, intellectual, cultural, and moral. Making allowances for lifting this quotation out of a longer passage, it is nevertheless reasonable to wonder about the agency of that word “produced.” Does Said mean to say, as his grammar suggests, that the discourse is “produced . . . with various kinds of power” rather than by power, or that the discourse has an independent source? Is discourse a dependent variable where power is concerned, providing a reservoir of culturally shaped images from which the powerful can draw to justify decisions made for reasons of perceived strategic or economic interest?7 Said’s efforts to illuminate these connections arc not always successful. Responding to Bernard Lewis’s attack on Orientalism, Said insisted that “there is a remarkable (but nonetheless intelligible) coincidence between the rise of modern Orientalist scholarship and the acquisition of vast Eastern empires by Britain and France.” “Coincidence” is far from cause and effect. In Culture and Imperialism, where the relationship between discourse and power is the heart of the matter, Said admitted: “It is difficult to connect these different realms, to show the involvements of culture with expanding empires, to make observations about art that preserve its unique endowments and at the same time map its affiliations.” Saids subsequent use of language indicates the difficulty. His definition of imperialism includes not just the “practice” and “theory” of domination but also the “attitudes of a dominating metropolitan center ruling a distant territory”—a statement that calls to mind Mark Lilla’s comment that “postmodcrnism is long on attitude and short on argument.” Said struggles to decide whether culture and politics are separate spheres in some ways connected or finally the same thing. Novels never “‘caused’” imperialism, but reading Conrad’s Heart of Darkness “was part of the European effort to hold on to, think about, plan for Africa”; and, while no one would construe Moby Dick as “a mere literary decoration of events in the real world. . the fact is that during the nineteenth century the United States did expand territorially, most often at the expense of native peoples, and in time came to gain hegemony over the North American continent and the territories and seas adjacent to it.” That is a fact; what it has to do with Moby Dick is less clear.8 I am picking here at the most provocative and vulnerable part of Said’s argument. Said’s notion of power is more refined than the foregoing decontextualized summary admits. He defines Orientalism as “a style of thought,” a way of thinking about the East in such a way as to dominate it. Orientalism gave the West “the power to say what was significant about (the Other], classify him among others of his breed, put him in his place,” as Michael Dalby has summarized it. For Said, as for Foucault, knowledge is power. This equation, however arresting. may not say enough to historians of the state. It certainly does not say enough to historians of U.S. foreign relations, on which more shortly.