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#### The United States Federal Judiciary should restrict the war powers authority of the President of the United States to detain individuals indefinitely on the grounds that the International Covenant on Civil and Political Rights is self-executing.

### Legitimacy 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.

### 1AC – ICCPR [Women]

#### Squo detention jurisprudence misreads the ICCPR's mandates as non-self-executing - leads to treaty non-compliance

Loan 5 (Jeffrey, LLM @ Victoria University-Wellington, "SOSA v. ALVAREZ-MACHAIN: EXTRATERRITORIAL ABDUCTION AND THE RIGHTS OF INDIVIDUALS UNDER INTERNATIONAL LAW," 12 ILSA J Int'l & Comp L 253, lexis)

The Supreme Court did not seem particularly swayed by the rights afforded by the ICCPR. Although the ICCPR had not been ratified by the United States at the time of Alvarez's abduction, n102 it was in force when the Supreme Court had to consider his suit based on the violation of customary international law. The Court placed great weight on the Senate's decision not to make the Covenant directly enforceable in domestic law, stating that "Several times, indeed, the Senate has expressly declined to give the federal courts the task of interpreting and applying international human rights law, as when its ratification of the International Covenant on Civil and Political Rights declared that the substantive provisions of the document were not self-executing." n103 Such an assertion is to drastically misread the extent of the non-self-executing declaration and the relationship between the ICCPR and customary international law.¶ Under the Constitution of the United States a treaty is as much a part of domestic law as an Act passed by the legislature. n104 However, by attaching a non-self-executing declaration to the ratified treaty the legislature can either remove the standing of any individual to bring a claim under the treaty, remove the right of any individual to rely on the treaty in any form, or deny the existence of a cause of action in the absence of other incorporating legislation. n105 When the Senate ratified the ICCPR, a non-self- executing declaration was attached with the Senate Foreign Relations Committee accentuating that its "intent is to clarify that the Covenant will not create a private cause of action in US courts." n106¶ In Sosa v. Alvarez-Machain, the Court used the legislative desire that causes of action should not be directly founded on the ICCPR to dismiss any relevance that the ICCPR may have in creating customary international law. The implication of this approach is that Justice Souter viewed the non-self-executing declaration as taking precedence over the content of customary international law. The ICJ has declared that there are "no grounds for holding that when customary international law is comprised of rules identical to those of treaty law, the latter 'supervenes' the former, so that the customary international law has no further existence of its own." n107 However, it appears that this is precisely the basis of the Supreme Court's approach to examining the ICCPR: the Court used the fact that the prohibition on arbitrary detention under ICCPR was not directly enforceable in domestic law to undermine the applicability of the same right being enforceable through customary international law. n108 The Court placed too much weight on the status of the ICCPR under United States law rather than examining international practice concerning such rights. Alvarez was not seeking to create a cause of action based on the ICCPR, but merely claiming that multilateral instruments such as the ICCPR directly inform the content of customary international law.¶ Furthermore, the extent to which the ICCPR is self-executing in the domestic law of the United States is irrelevant as the ATS incorporates the "law of nations." The Court should have recognized the role that multilateral [\*275] conventions, such as the ICCPR, have in formulating customary international law and examined whether state practice and jurisprudence based on the rights under the Convention had developed into a binding international norm prohibiting abduction and arbitrary detention. Given the influence that the ICCPR has on the formation of customary international law and the fact that the United States is a party to the Convention, it is remarkable that the United States Supreme Court viewed itself as being prevented from "interpreting and applying" the ICCPR. n109 The Court's refusal to give adequate weight to the rights contained within the ICCPR essentially negates the principle purpose of the Covenant, which is to protect individuals from their own government.

#### Judicial enforcement of the ICCPR key to global promotion and enforcement

Kaye 13 (David, Assistant Clinical Professor of Law @ UC Irvine, "State Execution of the International

Covenant on Civil and Political Rights," http://www.law.uci.edu/lawreview/vol3/no1/kaye.pdf)

Second, state execution would provide individual citizens, judges, legislators, ¶ and others with a mechanism to engage with the norms of human rights law. ¶ Americans have very little connection or experience with international law ¶ generally and human rights law specifically, even though many of its core ¶ principles are a part of U.S. law and bind the United States under the Supremacy ¶ Clause. As Catherine Powell put it, “most Americans see international human ¶ rights law as an irrelevant offshore body of law.”128 Yet this perception of ¶ irrelevance misses the reality of an increasing dynamism of human rights discourse ¶ and litigation in Europe and the Americas that is informing American ¶ constitutional adjudication, as seen in Roper v. Simmons,¶ 129 Lawrence v. Texas,¶ 130 ¶ Hamdan v. Rumsfeld,¶ 131 and other decisions by the Supreme Court. Until litigants ¶ are provided with the tools themselves to deploy human rights treaty arguments, ¶ the ICCPR will continue to be seen as a distant, largely inapplicable body of law.132 ¶ With state execution of the ICCPR, the ability of the United States to ¶ influence the development of human rights law may change as well. That influence ¶ has decreased in the years since President Carter first submitted the ICCPR to the ¶ Senate in 1978. The United States has mechanisms to influence individual state ¶ behavior, through its domestic sanctions against serious human rights violators, ¶ visa denial programs, economic and military aid conditionality requirements, ¶ actions on the United Nations Security Council, and so forth.133 Yet its capacity to ¶ influence law and doctrine is weak because of its failure to engage human rights ¶ law qua human rights law. ¶ The doctrinal development of human rights law has advanced significantly ¶ since U.S. ratification, mainly in the context of the European and Inter-American ¶ human rights systems. The European Court of Human Rights, implementing ¶ norms of the European Convention on Human Rights that closely mirror those in ¶ the ICCPR, has adjudicated thousands of cases that touch on all areas of civil and ¶ political rights. The United States has limited impact over human rights ¶ jurisprudence in Europe in part because our courts do not engage the language of ¶ the ICCPR and other human rights treaties. As a result, human rights norms that ¶ may influence American law—as seen, for instance, in Supreme Court ¶ jurisprudence in Lawrence, Graham, Roper, and other recent cases—develop without the input of American legal institutions. State execution provides a direct ¶ opportunity for American judges to evaluate the provisions of the ICCPR in the ¶ context of the United States. To be sure, such consideration would require state ¶ actors to ensure that their behavior conforms to the requirements of the ¶ Covenant, but it would also allow judges considerable authority to influence the ¶ development of human rights norms abroad.

#### ICCPR is key to the global protection of internal self-determination

Fromherz 8 (Christopher, J.D. Candidate, 2008, University of Pennsylvania Law School, "INDIGENOUS PEOPLES' COURTS: EGALITARIAN JURIDICAL PLURALISM, SELF-DETERMINATION, AND THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES," 156 U. Pa. L. Rev. 1341, lexis)

In 1966, the ICCPR and ICESCR were opened for signature. Included among their conferred rights, as discussed earlier, was the Article 1 collective "right of self-determination" for "all peoples." n74 During drafting, Western countries fought the inclusion of the collective right to self-determination in both the ICCPR and the ICESCR, arguing that these foundational human rights treaties were focused on individual and not collective rights. n75 Meanwhile, the Soviet Union, along with many developing countries, strongly supported including the right on anticolonialist principles. n76 The right contained in Common Article 1 has been interpreted as containing rights to both "internal" and "external" self-determination, though the focus of the UN Human Rights Committee, which is charged with monitoring states' compliance with international human rights norms, n77 has historically been on the latter. n78¶ [\*1359] The concept of external self-determination has always been tied to the movement for colonial independence. Heavily influenced by the 1960 UN Declaration on Granting Independence to Colonial Countries and Peoples (the Colonial Peoples' Declaration), which, like the DRIP, reproduced Common Article 1(1) verbatim, n79 the International Court of Justice (ICJ) authoritatively laid down the rule of external self-determination for colonial peoples in two opinions: the Advisory Opinion on Namibia n80 and the Advisory Opinion on Western Sahara. n81¶ The Namibia and Western Sahara cases clearly affirmed the right of colonial peoples to self-determination, as declared in the Colonial Peoples' Declaration. n82 More interesting for our purposes, however, is what these cases (and international practice) confirm about the scope of the right to self-determination as it is applied to colonies. Despite using language identical to that of Common Article 1(1) of the ICCPR and ICESCR, the right declared in the Colonial Peoples' Declaration concerns only "external self-determination" and expires once it has been exercised, either by the choice to form a new state or to associate or integrate with an existing state. n83¶ [\*1360] The contours of the Article 1 right to internal self-determination - the right to self-government rooted in the Wilsonian conception - have been defined with reference to the specific political rights conferred by other substantive provisions of the ICCPR. n84 In other words, internal self-determination has generally been interpreted as the right to have the essential political rights conferred by the ICCPR protected, as a proxy for the existence of genuine self-government. In sharp contrast to the right to external self-determination for colonial peoples, the right to internal self-determination is a continuous right. n85 The right can be conceptualized as applying to three demographics within a state: (1) the whole population; (2) racial or religious minorities suffering gross discrimination; and (3) ethnic groups, indigenous peoples, and other minorities. n86

**Internal self-determination stops cascading ethnic conflicts which culminate in nuclear war – the alternative is global secessionism**

**Crawford 9**, Dr. Crawford is the Associate Director of the Institute of European Studies and Lecture of International and Area Studies at UC Berkeley, Ethnic Conflict in Georgia: What Lies Ahead, http://rpgp. berkeley.edu/node/87)

Ironically, **at the same time that the demands of exclusive cultural groups for state sovereignty and "national self-determination" escalate around the globe, support for the international legal norms of established state sovereignty and non-intervention has also disappeared**. Together, **these** two **trends are dangerously explosive. We are likely to see more oppression of minorities in ethnically defined states**, more **slaughter of** innocent **civilians** caught in cultural conflicts, the **continued** **violent breakup of sovereign countries**, and **more invasions and occupation of disputed territory, as powerful countries--nursing other resentments and fears against one another**--seize the opportunity to **take sides. It will** thus **not be long until nuclear powers end up confronting one another. The** absurd **trigger for** this **conflict will be** the **nationalist demands of ethnic and sectarian political entrepreneurs**--who are often just thugs in disguise. Note the timing of the U.S. announcement of a missile defense pact with Poland, as Russian tanks rolled through Georgia to halt Georgia's military incursion into Ossetian territory. **Unless we act quickly to reach wider international agreement on global solutions to violent cultural disputes, more exclusive territorial claims of small and distinct cultural groups and violent responses to those claims will suck nuclear powers into deadly international conflict**. The crisis in **Georgia is not** an **isolated** one. **Across the globe we hear** the **battle cry of Kosovars, Tibetans, South Ossetians, Abkhazians, Kurds, Kashmiris and** so many **others**: “Give us a state of our own.” With few exceptions, that battle cry long ago slashed the world up into separate homogeneous ethnic and religious states, dislocating millions of people, sparking mass atrocities and forced expulsions, and igniting bouts of ethnic cleansing and genocide. In the remaining multi-ethnic societies of the 21st century, that battle cry threatens again; and with the non-intervention norm in tatters, the consequences will be disastrous. Because the earth does not hold enough land for each and every ethnic or religious group to own the piece that it thinks it deserves, secessionist attempts and communal conflicts over territory will escalate. The morally indignant will respond to this escalation with calls for humanitarian military missions to free one group from the oppression of another and support its "right" to exclusive territory. Those missions will be mired in the deadly consequences of communal conflict for long periods of time. Small secessionist groups will seek the "protection" of neighboring states, who are often only too eager to challenge their rivals. Tossing aside international law and claiming that they are on the side of the angels, powerful countries will continue to see disputed terrain as a strategic outpost for themselves, and they will help one ethnic or religious group oust the other. Cynically citing the international legal principle of non-intervention in the territory of a sovereign state, Russia opposed the U.S. when NATO bombed Serbia on behalf of ethnic Albanians there and again when it recognized Kosovo’s independence. But Russia--long before it granted diplomatic recognition of their independence--assisted South Ossetia and Abkhazia in their bid for secession from Georgia, with the knowledge that these groups could not exist on their own and would seek Russian protection--even annexation. And in that process, many innocent Georgians suffered--just as innocent Serbs suffered in Kosovo--people who just happened to be of the "wrong" ethnicity and living in the "wrong" place. **That suffering is rarely reported**. In 1993, in a war that was barely recognized and in a gruesome ethnic cleansing that boggles the imagination, 240,000 Georgians were expelled from Abkhazia. 100,000 Serbs were forced to leave Kosovo after 1999--another unrecognized ethnic clensing. Today, the homes and churches of the remaining Serbs living there are being destroyed by the Kosovars, who want the land for themselves alone. Gangs of Ossetian militias regularly destroy the homes of Georgians who have lived in the region for decades. In March we saw angry Tibetans, led by Buddhist monks, destroying the homes and shops of Chinese people living in Lhasa. Instead of supporting the human rights of all who live in multi-ethnic states and seeking to bring about sustainable harmony and justice, we have reached for a tempting but poisonous antidote to cultural conflict: the separation of ethnic and religious groups into new independent nation states. And though separation is sometimes warranted to halt communal violence, it creates new problems, does not solve the old ones, and chips away at the value of human equality. The **secession that separation entails leads to more bloodshed, more refugees, and more entrenched ethnic and religious hatred, more "humanitarian" intervention, more drawn-out military conflicts, more dangerous confrontations between powerful, nuclear-armed countries**. The same scenario will be acted out when we piously support dominant states who claim sovereignty over disputed territory and repress the secessionists. Repression leads to more violence as those who are oppressed are swayed to join the separatist cause. Instead of supporting ethnonationalist separatism in the guise of the right of “national self-determination” or opposing the intervention of others only when it suits our strategic interests, we need to take a consistent stand in support of human rights and equal treatment of all cultural groups within multiethnic societies. Of course this means both opposing oppression on the part of powerful states and opposing violent responses to that oppression. We can pressure China to halt abuses of Tibetans without abetting Tibetan secessionists; we can oppose Russia’s invasion of Georgia and its support for Ossetian secession without condoning Georgia’s military incursions into Ossetian territory. We must revive and strengthen the principle of non-intervention and at the same time, provide even stronger support for human rights in contested territory. **Only** the **revitalization and enforcement of international legal norms can halt the coming spiral of violent global confrontation triggered by ethnic and sectarian conflicts**.

#### Unchecked secessionism makes every impact inevitable

Gottlieb 93 (Gideon, Leo Spitz Professor of International Law and Diplomacy – University of Chicago, Nation Against State, p. 26-27)

Self-determination unleashed and unchecked by balancing principles constitutes a menace to the society of states. There is simply no way in which all the hundreds of peoples who aspire to sovereign independence can be granted a state of their own without loosening fearful anarchy and disorder on a planetary scale. The proliferation of territorial entities poses exponentially greater problems for the control of weapons of mass destruction and multiplies situations in which external intervention could threaten peace. It increases problems for the management of all global issues, including terrorism, AIDS, the environment, and population growth. It creates conditions in which domestic strife in remote territories can drag powerful neighbors into local hostilities, creating ever widening circles of conflict. Events in the aftermath of the breakup of the Soviet Union drove this point home. Like Russian dolls, ever smaller ethnic groups dwelling in larger units emerged to secede and to demand independence. Georgia, for example, has to contend with the claims of South Ossetians and Abkhazians for independence, just as the Russian Federation is confronted with the separatism of Tartaristan. An international system made up of several hundred independent territorial states cannot be the basis for global security and prosperity.

#### Judicial incorporation of the ICCPR is key to the effective protection of reproductive rights

Hammell 11 (Hilary, University of Washington School of Law, J.D. Class of 2012, "FROM PAGE TO PRACTICE: BROADENING THE LENS FOR REPRODUCTIVE AND SEXUAL RIGHTS: IS THE RIGHT TO HEALTH A NECESSARY PRECONDITION FOR GENDER EQUALITY?," 35 N.Y.U. Rev. L. & Soc. Change 131, lexis)

As mentioned in Part IV(A), the United States is not a party to any of the treaties that explicitly create a right to health, but it is a party to the ICCPR. The decision in K.L., along with Concluding Observations from the Human Rights Committee, suggest that the ICCPR constructs at least a minimal version of the right to health, and that right to health encompasses abortion. n336 While the United States has stated that the [\*186] ICCPR is not self-executing, n337 the fact that other bodies have interpreted its guarantee of "civil and political" rights as giving rise to a right to health could be useful for advocacy in the United States. Tysiac's reasoning might similarly be useful. In Tysiac, the European Convention was found to construct a right to health, at least in certain abortion-related circumstances, n338 even though the European Convention, like the ICCPR and the U.S. Constitution, is mainly a civil-and political-rights document that does not explicitly contain a right to health. Similarly, while the United States has not ratified the strongest gender-equality treaty, CEDAW, it has ratified CERD. CERD requires that state parties "guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality ... in the enjoyment of ... the right to public health, medical care, social security, and social services." n339 However, the U.S. Senate has declared that CERD, like the ICCPR, is "non-self-executing." n340¶ While Congress' declarations that these treaties are non-self-executing limits the effectiveness of some forms of advocacy, it may not be an insurmountable barrier. The "non-self-executing" doctrine is a judicially-created doctrine that requires courts to wait for Congress to specifically write legislation purporting to "give effect" to the treaties. n341 One option would be for advocates to challenge the "non-self-executing" doctrine [\*187] itself and to push for the ratification of other international human rights treaties, such as CEDAW and ICESCR. The doctrine seems to conflict with the text of Article VI of the U.S. Constitution, which states that treaties ratified by the Senate become the supreme law of the land. n342 Many have thus argued that this doctrine is problematic and perhaps itself unenforceable. n343 Those interested in pursuing a right-to-health approach to substantive equality in the United States arising from international human rights law as treaty law may have to scrutinize the boundaries, meanings, and validity of the "non-self-executing" doctrine. These tactics may in fact be the most promising - if long-term - vehicles for achieving a right to health in the United States along the lines of the model required by international human rights law and described in this Article. n344

#### That’s key to solving overpopulation

Ehrlich and Ehrlich 97 (Paul and Anne, Prof of Population Studies + Senior Research Associate in Biological Sciences @ Stanford, Winter, 27 Envtl. L. 1187, lexis)

**The key to any humane management of human population size is regulation of birth rates**. The objective is to avoid a death-rate solution to the population outbreak in which billions of people perish prematurely and in misery. This means that people **must have both the knowledge and means to control their reproduction**. Human beings have exercised some control over their reproduction for at least thousands and perhaps hundreds of thousands of years. 48 The techniques employed have ranged from crocodile dung suppositories in ancient Egypt 49 to infanticide from hunter-gatherer times up to 1979 in China, 50 and have varied in both their efficacy and social acceptability just as modern techniques do. In the 20th century, the story of birth control in the now-industrialized nations has been one of gradual acceptance of modern forms of contraception, strongly associated with the movement for women's liberation and an assertion of women's rights to determine the number and timing of children they bear. 51

#### Overpopulation causes extinction via environmental destruction

Cote 04 (Robin, Author, Lecturer + member of non-profit The Life Center, "Overpopulation Equals Disaster," http://www.truth101.org/vs-overpopulation.html)

By their support of anti-choice laws, such as restrictions on foreign aid, (http://www.pro-truth.net/30-references.html#gag) and by their opposition to certain practices, the anti-abortion promoters deny sex education, birth control, and abortion to millions in third-world countries while the impoverished overpopulation in these countries is busy cutting down what’s left of the rain forests to feed still more unwanted children. The rain forests are not only the homes for most life forms on this planet, these forests are also an essential requirement for a stable global environment.

In the developed countries, to accommodate the increasing population, people are busy building still more factories and cars which produce even more pollution. Pollution is destroying the ozone layer at a phenomenal rate and has already begun to produce an irreversible, environmental disaster of as-yet unimaginable proportions.

**Outlawing abortion is like playing a variation of Russian roulette where it's your turn until the gun goes off.**

#### US policy is critical to the success of global efforts to slow population growth – overpop risks extinction and makes every impact inevitable

De Valk 03 (EJ, Expert on Biodiversity @ Population Connection, "Statement of Policy--Mission Statement," 5/3, http://www.populationconnection.org/About\_Us/policies.html)

Population Connection believes the well-being and even the survival of humanity depend on the attainment of an equilibrium between population and the environment. Just as the earth and its resources of land, air and water are limited, so are the demands that can be placed upon them.¶ Continued population growth is foremost among the factors aggravating deforestation, wildlife extinction, climate change and other critical environmental and social problems. It also erodes democratic government, multiplies urban problems, consumes agricultural land, increases volumes of waste, heightens competition for scarce resources and threatens the aspirations of the poor for a better life. ¶ **The only acceptable solution to the population problem is through** expanding educational, advocacy and service efforts that lower birth rates. Rather than support a larger population at a poorer level, we believe it is preferable to support a smaller population at adequate standards of living. ¶ Population Connection recognizes the gravity of global overpopulation and encourages citizens in every nation to work towards slowing population growth. Recognizing the interdependence of the nations of the earth, we support the development and growth of citizen organizations in other countries dedicated to those ends. ¶ As a U.S. based organization, Population Connection works primarily to educate and motivate Americans to help meet the global population challenge, and to mobilize this support for the adoption of policies and programs necessary to slow global population growth. Because the United States is the chief consumer of the world's resources, slowing its population growth is disproportionately important for protecting the global environment. **Because the United States has a major influence on international political, economic and military affairs**, reshaping its policies is important **for the success of international efforts to slow population growth.**

### Circ

#### Obama will comply with the i-law ruling - no circumvention

Koh 12 (Harold Hongju, Legal Adviser, U.S. Department of State: Martin R. Flug ’55 Professor of International Law (on leave), Yale Law School, "Twenty-First Century International Lawmaking," http://www.state.gov/s/l/releases/remarks/199319.htm)

I’ve talked about a host of ways to undertake an obligation, but that’s only the beginning. You then face what international relations people call “the compliance question:” if the United States can lawfully enter into an international agreement, how do you ensure that we’ll comply? My office’s lawmaking practice is not limited to joining treaties and other agreements; we spend just as much time ensuring the U.S. is in a position to comply with its international obligations. I sometimes am asked by my European counterparts why the United States seems slow to join international agreements, suggesting that this shows that the United States doesn’t really care about international law. In fact, it reveals the opposite: before we undertake international commitments, we think very carefully about what they entail, precisely because we take so seriously those commitments we do make.¶ In my academic work, I have described a pervasive phenomenon in international affairs that I call “transnational legal process:” that international law is primarily enforced not by coercion, but by a process of internalized compliance. Nations tend to obey international law, because their government bureaucracies adopt standard operating procedures and other internal mechanisms that foster default patterns of habitual compliance with international legal rules. When I became Legal Adviser, I found that this is even truer than I thought. For example, most people are unaware of the so-called “C-175” process, named after a 1955 State Department Circular setting out a standardized procedure for concluding international agreements. The few academics who have ever noticed that process often assume it is nothing more than a rubber stamp. But having now seen it from the inside, I can tell you that the process is exhaustive and designed to ensure that all proposed U.S. international agreements — even if concluded by a different agency — are subject to a rigorous legal and policy review by the State Department before an any agreement is negotiated and concluded. Through this process, the State Department plays the same kind of clearinghouse role with respect to international agreements that OMB plays with regard to federal regulations. The C-175 process ensures not only that we have the legal authority to conclude the agreement in question, but also that every agency’s lawyers fully understand the nature of the domestic and international legal obligations we will undertake, so that we can accurately evaluate whether the United States will be able to comply with its new international legal obligations.

#### The president believes in the law

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

# 2AC

## T

### GSPEC 2AC

#### We meet - spec the grounds – ICCPR incorporation

#### And the 1AC clearly assumes the supreme court – cross-x checks, you could’ve asked

#### Counter-interpretation –

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

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

Id. at 315 (quoting U.S. Const., art. I, §8). The Court referred to the use of "any" in Section 101 ("Whoever invents or discovers any new and useful process . . . or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title"), and reiterated that the statutory language shows that Congress "plainly contemplated that the patent laws would be given wide scope." Id. at 308. The Court referred to the legislative intent to include within the scope of Section 101 "anything under the sun that is made by man," id. at 309 (citing S. Rep. 82-1979, at 5; H.R. Rep. 82-1923, at 6 (1952)), and stated that the unforeseeable future should not be inhibited by judicial restriction of the "broad general language" of Section 101: A rule that unanticipated inventions are without protection would conflict with the core concept of the patent law that anticipation undermines patentability. Mr. Justice Douglas reminded that the [\*981] inventions most benefiting mankind are those that push back the frontiers of chemistry, physics, and the like. Congress employed broad general language in [\*\*103] drafting §101 precisely because such inventions are often unforeseeable.

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

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

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

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

#### A2: Conditional

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

#### A2: No Solvency

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

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

## ICCPR

#### State institutions inevitable – our education is valuable teaches us to direct that opposition to those levers of power

Lawrence **Grossburg**, University of Illinois, We Gotta Get Outta This Place, **1992**, p. 391-393

**The Left needs institutions which can operate within the systems of governance, understanding that such institutions are the mediating structures by which power is actively realized.** It is often **by directing opposition against specific institutions** that **power can be challenged.** The Left has assumed from some time now that, since it has so little access to the apparatuses of agency, its only alternative is to seek a public voice in the media through tactical protests. **The Left** does in fact need more visibility, but it also **needs greater access to the entire range of apparatuses of decision making and power**. Otherwise, the Left has nothing but its own self-righteousness. **It is not individuals who have produced** starvation and the other **social disgraces** of our world, **although it is individuals who must take responsibility for eliminating them. But to do so, they must act within organizations, and within the system of organizations which in fact have the capacity** (as well as the moral responsibility) **to fight them.** Without such organizations, the only models of political commit­ment are self-interest and charity. Charity suggests that we act on behalf of others who cannot act on their own behalf. But we are all precariously caught in the circuits of global capitalism, and every­one’s position is increasingly precarious and uncertain. It will not take much to change the position of any individual in the United States, as the experience of many of the homeless, the elderly and the “fallen” middle class demonstrates. Nor are there any guarantees about the future of any single nation. We can imagine ourselves involved in a politics where acting for another is always acting for oneself as well, a politics in which everyone struggles with the resources they have to make their lives (and the world) better, since the two are so intimately tied together! For example, we need to think of affirmation action as in everyone’s best interests, because of the possibilities it opens. We need to think with what Axelos has described as a “planetary thought” which “would be a coherent thought—but not a rationalizing and ‘rationalist’ inflection; it would be a fragmentary thought of the open totality—for what we can grasp are fragments unveiled on the horizon of the totality. Such a politics will not begin by distinguishing between the local and the global (and certainly not by valorizing one over the other) for the ways in which the former are incorporated into the latter preclude the luxury of such choices. **Resistance is always a local struggle, even when** (as in parts of the ecology movement) **it is imagined to connect into its global structures of articulation**: Think globally, act locally. Opposition is predicated precisely on locating the points of articulation between them, the points at which the global becomes local, and the local opens up onto the global. Since the meaning of these terms has to be understood in the context of any particular struggle, one is always acting both globally and locally: Think globally, act appropriately! Fight locally because that is the scene of action, but aim for the global because that is the scene of agency. “Local struggles directly target national and international axioms, at the precise point of their insertion into the field of imma­nence. This requires the imagination and construction of forms of unity, commonality and social agency which do not deny differences. Without such commonality, politics is too easily reduced to a ques­tion of individual rights (i.e., in the terms of classical utility theory); difference ends up “trumping” politics, bringing it to an end. The struggle against the disciplined mobilization of everyday life can only be built on affective commonalities, a shared “responsible yearning: a yearning out towards something more and something better than this and this place now.” The Left, after all, is defined by its common commitment to principles of justice, equality and democ­racy (although these might conflict) in economic, political and cultural life. It is based on the hope, perhaps even the illusion, that such things are possible. **The construction of an affective commonal­ity attempts to mobilize people in a common struggle, despite the fact that they have no common identity or character, recognizing that they are the only force capable of providing a new historical and oppositional agency. It strives to organize minorities into a new majority.**

## Legitimacy

### 2AC Sustainable

#### Two-thousand years of history prove

William Wohlforth 8 Daniel Webster Professor of Government, Dartmouth. BA in IR, MA in IR and MPhil and PhD in pol sci, Yale, Unipolarity, Status Competition, and Great Power War, October 2008, World Politics Vol. 61, Iss. 1; pg. 28, 31 pgs, Proquest

Despite increasingly compelling findings concerning the importance of status seeking in human behavior, research on its connection to war waned some three decades ago.38 Yet empirical studies of the relationship between both systemic and dyadic capabilities distributions and war have continued to cumulate. If the relationships implied by the status theory run afoul of well-established patterns or general historical findings, then there is little reason to continue investigating them. **The clearest empirical implication** of the theory **is that** status **competition is unlikely to cause great power military conflict in unipolar systems**. If status competition is an important contributory cause of great power war, then, ceteris paribus, unipolar systems should be markedly less war-prone than bipolar or multipolar systems. And this appears to be the case. As Daniel Geller notes in a review of the empirical literature: "**The only polar structure that appears to influence conflict probability is unipolarity**."39 In addition, a larger number of studies at the dyadic level support the related expectation that narrow capabilities gaps and ambiguous or unstable capabilities hierarchies increase the probability of war.40 These studies are based entirely on post-sixteenth-century European history, and most are limited to the post-1815 period covered by the standard data sets. Though the systems coded as unipolar, near-unipolar, and hegemonic are all marked by a high concentration of capabilities in a single state, these studies operationalize unipolarity in a variety of ways, often very differently from the definition adopted here. An ongoing collaborative project looking at ancient interstate systems over the course of two thousand years suggests that historical systems that come closest to the definition of unipolarity used here exhibit precisely the behavioral properties implied by the theory. 41 As David C. Kang's research shows, the East Asian system between 1300 and 1900 was an unusually stratified unipolar structure, with an economic and militarily dominant China interacting with a small number of geographically proximate, clearly weaker East Asian states.42 Status politics existed, but actors were channeled by elaborate cultural understandings and interstate practices into clearly recognized ranks. Warfare was exceedingly rare, and the major outbreaks occurred precisely when the theory would predict: when China's capabilities waned, reducing the clarity of the underlying material hierarchy and increasing status dissonance for lesser powers. Much more research is needed, but initial exploration of other arguably unipolar systems-for example, Rome, Assyria, the Amarna system-appears consistent with the hypothesis.43 Status Competition and Causal Mechanisms Both theory and evidence demonstrate convincingly that competition for status is a driver of human behavior, and social identity theory and related literatures suggest the conditions under which it might come to the fore in great power relations. Both the systemic and dyadic findings presented in large-N studies are broadly consistent with the theory, but they are also consistent with power transition and other rationalist theories of hegemonic war.

#### the system is sustainable

**Brooks and Wohlforth 09**

Steven G. Brooks --AND-- William C. Wohlforth, Associate Professors of Government at Dartmouth College, 09

[“Reshaping the World Order,” Foreign Affairs, March/April 2009, http://www.foreignaffairs.com/articles/64652/stephen-g-brooks-and-william-c-wohlforth/reshaping-the-world-order]

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Now, the conventional wisdom is that the world is rapidly approaching the end of the unipolar system with the United States as the sole superpower. A dispassionate look at the facts shows that this view understates U.S. power as much as recent talk of empire exaggerated it. That the United States weighs more on the traditional scales of world power than has any other state in modern history is as true now as it was when the commentator Charles Krauthammer proclaimed the advent of a "unipolar moment" in these pages nearly two decades ago. The United States continues to account for about half the world's defense spending and one-quarter of its economic output. Some of the reasons for bearishness concern public policy problems that can be fixed (expensive health care in the United States, for example), whereas many of the reasons for bullishness are more fundamental (such as the greater demographic challenges faced by the United States' potential rivals). So why has opinion shifted so quickly from visions of empire to gloomy declinism? One reason is that the United States' successes at the turn of the century led to irrational exuberance, thereby setting unreasonably high standards for measuring the superpower's performance. From 1999 to 2003, seemingly easy U.S. victories in Kosovo, Afghanistan, and Iraq led some to conclude that the United States could do what no great power in history had managed before: effortlessly defeat its adversaries. It was only a matter of time before such pie-in-the-sky benchmarks proved unattainable. Subsequent difficulties in Afghanistan and Iraq dashed illusions of omnipotence, but these upsets hardly displaced the United States as the world's leading state, and there is no reason to believe that the militaries of its putative rivals would have performed any better. The United States did not cease to be a superpower when its policies in Cuba and Vietnam failed in the 1960s; bipolarity lived on for three decades. Likewise, the United States remains the sole superpower today. Another key reason for the multipolar mania is "the rise of the rest." Impressed by the rapid economic growth of China and India, many write as if multipolarity has already returned. But such pronouncements mistake current trajectories for final outcomes -- a common strategic error with deep psychological roots. The greatest concern in the Cold War, for example, came not from the Soviet Union's actually attaining parity with the United States but from the expectation that it would do so in the future. Veterans of that era recall how the launch of Sputnik in 1957 fed the perception that Soviet power was growing rapidly, leading some policymakers and analysts to start acting as if the Soviet Union were already as powerful as the United States. A state that is rising should not be confused with one that has risen, just as a state that is declining should not be written off as having already declined. China is generally seen as the country best positioned to emerge as a superpower challenger to the United States. Yet depending on how one measures GDP, China's economy is between 20 percent and 43 percent the size of the United States'. More dramatic is the difference in GDP per capita, for which all measures show China's as being less than 10 percent of the United States'. Absent a 1930s-style depression that spares potential U.S. rivals, the United States will not be replaced as the sole superpower for a very long time. Real multipolarity -- an international system of three or more evenly matched powers -- is nowhere on the horizon. Relative power between states shifts slowly. This tendency to conflate trends with outcomes is often driven by the examination in isolation of certain components of state power. If the habit during the Cold War was to focus on military power, the recent trend has been to single out economic output. No declinist tract is complete without a passage noting that although the United States may remain a military superpower, economic multipolarity is, or soon will be, the order of the day. Much as highlighting the Soviet Union's military power meant overlooking the country's economic and technological feet of clay, examining only economic output means putting on blinders. In 1991, Japan's economy was two-thirds the size of the United States', which, according to the current popular metric, would mean that with the Soviet Union's demise, the world shifted from bipolarity to, well, bipolarity. Such a partial assessment of power will produce no more accurate an analysis today. Nor will giving in to apprehension about the growing importance of nonstate actors. The National Intelligence Council's report Global Trends 2025 grabbed headlines by forecasting the coming multipolarity, anticipating a power shift as much to nonstate actors as to fast-growing countries. But nonstate actors are nothing new -- compare the scale and scope of today's pirates off the Somali coast with those of their eighteenth-century predecessors or the political power of today's multinational corporations with that of such behemoths as the British East India Company -- and projections of their rise may well be as much hype as reflections of reality. And even if the power of nonstate actors is rising, this should only increase the incentives for interstate cooperation; nonstate threats do not affect just the United States. Most nonstate actors' behavior, moreover, still revolves around influencing the decisions of states. Nongovernmental organizations typically focus on trying to get states to change their policies, and the same is true of most terrorists. When it comes to making, managing, and remaking international institutions, states remain the most important actors -- and the United States is the most important of them. No other country will match the United States' combination of wealth, size, technological capacity, and productivity in the foreseeable future. The world is and will long remain a 1 + x world, with one superpower and x number of major powers. A shift from 1 + 3 to 1 + 4 or 5 or 6 would have many important consequences, but it would not change the fact that the United States will long be in a far stronger position to lead the world than any other state.

### A2: Heg Prolif

#### Prolif is super slow—empirics disprove their fear mongering.

Hymans 12—Jacques E. C. Hymans is Associate Professor of IR at USC [May/June 2012, “Botching the Bomb,” *Foreign Affairs*, http://www.foreignaffairs.com/articles/137403/jacques-e-c-hymans/botching-the-bomb?page=show]

The chronic problem of nuclear proliferation is once again dominating the news. A fierce debate has developed over how to respond to the threat posed by Iran's nuclear activities, which most experts believe are aimed at producing a nuclear weapon or at least the capacity to assemble one. In this debate, one side is pushing for a near-term military attack to damage or destroy Iran's nuclear program, and the other side is hoping that strict sanctions against the Islamic Republic will soften it up for a diplomatic solution. Both sides, however, share the underlying assumption that unless outside powers intervene in a dramatic fashion, it is inevitable that Iran will achieve its supposed nuclear goals very soon.

Yet there is another possibility. The Iranians had to work for 25 years just to start accumulating uranium enriched to 20 percent, which is not even weapons grade. The slow pace of Iranian nuclear progress to date strongly suggests that Iran could still need a very long time to actually build a bomb -- or could even ultimately fail to do so. Indeed, global trends in proliferation suggest that either of those outcomes might be more likely than Iranian success in the near future. Despite regular warnings that proliferation is spinning out of control, the fact is that since the 1970s, there has been a persistent slowdown in the pace of technical progress on nuclear weapons projects and an equally dramatic decline in their ultimate success rate.

The great proliferation slowdown can be attributed in part to U.S. and international nonproliferation efforts. But it is mostly the result of the dysfunctional management tendencies of the states that have sought the bomb in recent decades. Weak institutions in those states have permitted political leaders to unintentionally undermine the performance of their nuclear scientists, engineers, and technicians. The harder politicians have pushed to achieve their nuclear ambitions, the less productive their nuclear programs have become. Meanwhile, military attacks by foreign powers have tended to unite politicians and scientists in a common cause to build the bomb. Therefore, taking radical steps to rein in Iran would be not only risky but also potentially counterproductive, and much less likely to succeed than the simplest policy of all: getting out of the way and allowing the Iranian nuclear program's worst enemies -- Iran's political leaders -- to hinder the country's nuclear progress all by themselves.

NUCLEAR DOGS THAT HAVE NOT BARKED

"Today, almost any industrialized country can produce a nuclear weapon in four to five years," a former chief of Israeli military intelligence recently wrote in The New York Times, echoing a widely held belief. Indeed, the more nuclear technology and know-how have diffused around the world, the more the timeline for building a bomb should have shrunk. But in fact, rather than speeding up over the past four decades, proliferation has gone into slow motion.

Seven countries launched dedicated nuclear weapons projects before 1970, and all seven succeeded in relatively short order. By contrast, of the ten countries that have launched dedicated nuclear weapons projects since 1970, only three have achieved a bomb. And only one of the six states that failed -- Iraq -- had made much progress toward its ultimate goal by the time it gave up trying. (The jury is still out on Iran's program.) What is more, even the successful projects of recent decades have needed a long time to achieve their ends. The average timeline to the bomb for successful projects launched before 1970 was about seven years; the average timeline to the bomb for successful projects launched after 1970 has been about 17 years.

#### Prolif decreases the risk of war—robust statistical, empirical evidence proves.

Asal and Beardsley 7 (Victor, Assistant Prof. Pol. Sci.—SUNY Albany, and Kyle, Assistant Prof. Pol. Sci.—Emory U., Journal of Peace Research, “Proliferation and International Crisis Behavior,” 44:2, Sage)

As Model 1 in Table IV illustrates, all of our variables are statistically significant except for the protracted conflict variable. Our primary independent variable, the number of nuclear actors involved in the crisis, has a negative relationship with the severity of violence and is significant. This lends preliminary support to the argument that nuclear weapons have a restraining affect on crisis behavior, as stated in H1. It should be noted that, of the crises that involved four nuclear actors—Suez Nationalization War (1956), Berlin Wall (1961), October Yom Kippur War (1973), and Iraq No-Fly Zone (1992)—and five nuclear actors—Gulf War (1990)—only two are not full-scale wars. While this demonstrates that the pacifying effect of more nuclear actors is not strong enough to prevent war in all situations, it does not necessarily weaken the argument that there is actually a pacifying effect. The positive and statistically significant coefficient on the variable that counts the number of crisis actors has a magnitude greater than that on the variable that counts the number of nuclear actors. Since increases in the number of overall actors in a crisis are strongly associated with higher levels of violence, it should be no surprise that many of the conflicts with many nuclear actors—by extension, many general actors as well—experienced war. Therefore, the results can only suggest that, keeping the number of crisis actors fixed, increasing the proportion of nuclear actors has a pacifying effect. They do not suggest that adding nuclear actors to a crisis will decrease the risk of high levels violence; but rather, adding more actors of any type to a crisis can have a destabilizing effect. Also in Table IV, Model 2 demonstrates that the effect of a nuclear dyad is only approaching statistical significance, but does have a sign that indicates higher levels of violence are less likely in crises with opponents that have nuclear weapons than other crises. This lukewarm result suggests that it might not be necessary for nuclear actors to face each other in order to get the effect of decreased propensity for violence. All actors should tend to be more cautious in escalation when there is a nuclear opponent, regardless of their own capabilities. While this might weaken support for focusing on specifically a ‘balance of terror’ as a source of stability (see Gaddis, 1986; Waltz, 1990; Sagan & Waltz, 2003; Mearsheimer, 1990), it supports the logic in this article that nuclear weapons can serve as a deterrent of aggression from both nuclear and non-nuclear opponents.6 Model 3 transforms the violence variable to a binary indicator of war and demonstrates that the principal relationship between the number of nuclear actors and violence holds for the most crucial outcome of full-scale war. Model 4 demonstrates that accounting for the presence of new nuclear actors does not greatly change the results. The coefficient on the new nuclear actor variable is statistically insignificant, which lends credence to the optimists’ view that new nuclear-weapon states should not be presupposed to behave less responsibly than the USA, USSR, UK, France, and China did during the Cold War. Finally, Model 5 similarly illustrates that crises involving superpowers are not more or less prone to violence than others. Superpower activity appears to not be driving the observed relationships between the number of nuclear-crisis actors and restraint toward violence. It is important to establish more specifically what the change in the probability of full-scale war is when nuclear actors are involved. Table V presents the probability of different levels of violence as the number of nuclear actors increases in the Clarify simulations. The control variables are held at their modes or means, with the exception of the variable that counts the number of crisis actors. Because it would be impossible to have, say, five nuclear-crisis actors and only two crisis actors, the number of crisis actors is held constant at five. As we can see, the impact of an increase in the number of nuclear actors is substantial. Starting from a crisis situation without any nuclear actors, including one nuclear actor (out of five) reduces the likelihood of fullscale war by nine percentage points. As we continue to add nuclear actors, the likelihood of full-scale war declines sharply, so that the probability of a war with the maximum number of nuclear actors is about three times less than the probability with no nuclear actors. In addition, the probabilities of no violence and only minor clashes increase substantially as the number of nuclear actors increases. The probability of serious clashes is relatively constant. Overall, the analysis lends significant support to the more optimistic proliferation argument related to the expectation of violent conflict when nuclear actors are involved. While the presence of nuclear powers does not prevent war, it significantly reduces the probability of full-scale war, with more reduction as the number of nuclear powers involved in the conflict increases. As mentioned, concerns about selection effects in deterrence models, as raised by Fearon (2002), should be taken seriously. While we control for the strategic selection of serious threats within crises, we are unable to control for the non-random initial initiation of a crisis in which the actors may choose to enter a crisis based on some ex ante assessment of the outcomes. To account for possible selection bias caused by the use of a truncated sample that does not include any non-crisis cases, one would need to use another dataset in which the crisis cases are a subset and then run Heckman type selection models (see Lemke & Reed, 2001). It would, however, be difficult to think of a different unit of analysis that might be employed, such that the set of crises is a subset of a larger category of interaction. While dyadyear datasets have often been employed to similar ends, the key independent variable here, which is specific to crises as the unit of analysis, does not lend itself to a dyadic setup. Moreover, selection bias concerns are likely not valid in disputing the claims of this analysis. If selection bias were present, it would tend to bias the effect of nuclear weapons downward, because the set of observed crises with nuclear actors likely has a disproportionate share of resolved actors that have chosen to take their chances against a nuclear opponent. Despite this potential mitigating bias, the results are statistically significant, which strengthens the case for the explanations provided in this study.

### A2: History

**Reality shapes language—focus on discourse distracts from solving the problem**

Matthew **Roskoski** and Joe **Peabody**, Florida State University, “A Linguistic and Philosophical Critique of Language Arguments”, 1991, http://debate.uvm.edu/Library/DebateTheoryLibrary/Roskoski&Peabody-LangCritiques.

Previously, we have argued that the language advocates have erroneously reversed the causal relationship between language and reality. We have defended the thesis that reality shapes language, rather than the obverse. Now we will also contend that to attempt to solve a problem by editing the language which is symptomatic of that problem will generally trade off with solving the reality which is the source of the problem. There are several reasons why this is true. The first, and most obvious, is that we may often be fooled into thinking that language "arguments" have generated real change. As Graddol and Swan observe, "**when compared with larger social and ideological struggles, linguistic reform may seem quite a trivial concern," further noting "there is also the danger that effective change at this level is mistaken for real social change"** (Graddol & Swan 195). The second reason is that the **language we find objectionable can serve as a signal** or an indicator **of the corresponding objectionable reality.**  The third reason is that **restricting language only limits the overt expressions of any objectionable reality, while leaving subtle and** hence **more dangerous expressions unregulated.** Once we drive the objectionable idea underground it will be more difficult to identify, more difficult to root out, more difficult to counteract, and more likely to have its undesirable effect. The fourth reason is that **objectionable speech can create a "backlash" effect that raises the consciousness of people exposed to the speech.**  Strossen observes that "ugly and abominable as these expressions are, they undoubtably have had the beneficial result of raising social consciousness about the underlying societal problem..." (560).

## Off

### 2AC Legal/Security

#### 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

#### Incorporation of international law is the most effective means of eradicating legal forms of violence – it effectuates protections for racial minorities and open space for structural change in domestic law

Saito 2 (Natsu Taylor, Professor of Law, Georgia State University, "Asserting Plenary Power Over the "Other": Indians, Immigrants, Colonial Subjects, and Why U.S. Jurisprudence Needs To Incorporate International Law," 20 Yale L. & Pol'y Rev. 427, lexis)

If the United States complied with international law, it would both allow for real self-determination, and would provide all peoples within its jurisdiction protections similar to, but more extensive than those provided by the Constitution. These are embodied in the general provisions for human rights included in the U.N. Charter n300 and the Universal Declaration of Human Rights, n301 the Convention on the Prevention and Punishment of the Crime of Genocide, n302 the International Covenant on Civil and Political Rights n303 and the International Covenant on Economic, Social and Cultural Rights, n304 and the Convention on the Rights of the Child, n305 among other instruments. Put most succinctly, the incorporation of international law into U.S. jurisprudence is the most promising way to ensure the end of genocidal and ecocidal policies and practices, the adherence to existing treaties, the return of unceded land, and the implementation of political self-determination. n306¶ The integration of international law into U.S. jurisprudence would also dramatically improve the legal posture of African Americans and other "minorities" who have been treated as Other, but are not officially subject to the plenary power doctrine, as has been recognized by advocates of racial justice from Frederick Douglass and W.E.B. DuBois to Martin Luther King, Jr. and Malcolm X. n307 In 1947, the National Association for the Advancement of Colored People (NAACP) denounced U.S. racial discrimination in a petition to the United Nations and in 1951, the Civil Rights Congress filed another petition entitled "We Charge Genocide." The potential impact of international human [\*476] rights law on racial justice in the United States can be seen by considering one of many possible examples, the United States' systematic use of "law enforcement" to crush political dissent.¶ In 1975, a lengthy investigation by the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the "Church Committee") revealed that since the mid-1950s federal intelligence and law enforcement agencies had engaged in concerted efforts "to disrupt, ... discredit, or otherwise neutralize" organizations which challenged the social, political or racial hierarchy. n308 The groups targeted included all of the civil rights organizations, from King's Southern Christian Leadership Conference to the Black Panther Party, the American Indian Movement, the Puerto Rican Young Lords and others who advocated Puerto Rican independence, and the Chicano Brown Berets. n309 The emergence of leadership of color was perceived as a threat to the government, and multiracial coalitions were particularly targeted. n310 Government tactics included intentional dissemination of misleading information about the groups and their leaders, repeated arrests of activists on false charges, wrongful convictions and imprisonment, use of infiltrators and agents provocateur to disrupt organizations, orchestration of military and police actions to erode community support, physical assaults, and outright assassinations. n311¶ The Church Committee hearings were suspended in 1975, just before testimony was to be heard about attacks on American Indian and Latino organizations, and they have never been resumed. n312 Despite the Committee's harsh condemnation of the agencies' practices as constituting a "record of abuse," n313 many similar programs continue to be implemented today. n314 Some who were wrongfully incarcerated as a result of these programs have been released but others remain in prison, and no acknowledgment of or redress for these actions has been extended to the victims or their families. n315 Intraconstitutional responses [\*477] to these violations of both the Constitution and international law have proven ineffective, in large measure because these programs were carried out by the very agencies charged with upholding the law and the Constitution, with the specific intent of preventing the expression of political dissent or the implementation of meaningful social change. n316¶ International law, particularly as articulated in the Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), n317 specifically prohibits such conduct by a government towards its citizens. If American courts would enforce these treaties, both of which have been ratified by the United States, the abuses documented by the Church Committee and others could be fully investigated, legislation implemented to prevent such practices, and victims identified and compensated to the extent possible. This, in turn, would make the constitutional guarantees that are supposed to protect those who work for racial and economic justice actually effective. n318¶ Generally, compliance with international law would require adherence to international standards of civil and political rights, thus opening up the polity to the possibility of structural change. It would also mean abolishing the de facto existence of separate systems of law for different groups, n319 and complying with the provisions of the Racial Discrimination Convention, as well as other international law concerning the treatment of ethnic, racial, religious, and linguistic minorities. It would require something the United States has fought since the formation of the United Nations n320 - acknowledging that U.S. domestic policies with respect to race are not consistent with international norms and genuinely participating in international fora such as the 2001 U.N. Conference on Racism in Durban, South Africa rather than walking out of them, literally or figuratively. n321

#### 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.

#### Alt doesn’t solve – crossx proves you cant create the world of the alt

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

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

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

#### Perm do both - Critical approaches to the law fail – working within legal restrictions is key to positive jurisprudence

Litowitz 97 (Douglas, Prof of Law @ Ohio Northern University College of Law, Postmodern philosophy and law, p. 5-6)

In chapter 8 I argue that although the postmodern treatment of law is useful as a critique or "check" against the existing terms and concepts within both the practice of law and the enterprise of mainstream legal scholarship, it nevertheless fails to offer a positive jurisprudence. Although various postmodern thinkers have met with varying degrees of success, none have set forth a workable, normative vision for the reform of the legal system. I argue that postmodern legal theory correctly points out that we can no longer naively rely on the foundations once offered in support of our legal system, and that we must perform a genealogy and deconstruction of our existing legal concepts. But this interesting critical effort is accompanied by a less successful effort to build a new vision for the law. When postmodern antifoundationalism is wedded to an external perspective on the legal system, the result is a line of thought which is of limited value to the players within the legal system, who must decide cases and enact statutes from an internal perspective. While I am generally critical of postmodern legal theory, I nevertheless attempt to explain four significant contributions postmodernism can make to legal theory.

#### 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.

#### Ceding legal restriction leads to authoritarianism – turns their impact

Scheuerman 6 (William, Prof of Poli Sci @ Indiana, “Survey Article: Emergency Powers and the Rule of

Law After 9/11\*” The Journal of Political Philosophy: Volume 14, Number 1 p. 73-74\_

By the conclusion of Tushnet’s argument, however, it remains unclear what remains of the rule of law. Like Cole, Tushnet accurately identifies a key tension in Gross’ argument: Gross insists on the extra-legality of emergency action while simultaneously suggesting how various legal mechanisms (e.g., a retrospective judicial condemnation) might work to restrain the executive. Tushnet resolves this tension, however, by systematically eliminating Gross’ residual legalistic impulses. Contra Gross, courts “can neither endorse nor condemn” emergency action, since “extra-constitutional powers are ‘reviewed’—and disciplined—not by law but by a mobilized citizenry.”51 Because Schmitt was right to argue that emergency power and legality do not mix, the only effective restraints on their exercise are somehow non-legal: only “the vigilance of the public acting, as it was put in the era of the American Revolution, ‘out of doors,’” can protect us from potentially abusive forms of emergency rule.52 Tushnet’s proposal is even more vulnerable to some of the criticisms directed against Gross. Most obviously, a model which condones executive crisis measures beyond the bounds of the law while disparaging the possibility of legal controls altogether hardly seems supportive of the rule of law. Tushnet’s radical democratic allusions to a “mobilized citizenry” obviously distinguishes him from Schmitt. Yet his sharp conceptual juxtaposition of democratic politics to traditional elements of liberal legality (e.g., the idea of a people acting “out of [legal] doors”) echoes Schmitt’s attempt to draw a bright line between democracy and liberalism. As has been widely noted in the secondary literature in Schmitt, however, this leaves Schmitt with a portrayal of democracy amounting to little more than mass-based authoritarian rule**,** in which “the people” become a plaything of their rulers. Democracy without civil liberties, the rule of law, or constitutionalism is not, in fact, democracy, but instead most likely rule of the mob by politically manipulative elites. The same can probably be expected of a democracy in which the citizenry lacks effective legal restraints on executive emergency action. Given Tushnet’s endorsement of some of Schmitt’s ideas, it might be useful for him better to explain how his model of crisis government would help secure us from yet another variety of executive-centered mass rule. Recent political history provides examples galore of political leaders relying on the specter of crises—real or otherwise—to generate “vigilant” public support while undertaking illegal and unconstitutional action. Authoritarian emergency government and some measure of popular mobilization are by no means necessarily opposed.

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

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

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

#### 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.

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

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

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

#### Only interrogating the failures of the American legal system allows us to prevent future institutionalized torture like indefinite detention – legal discussions are uniquely critical

Mayerfeld, 7 – Associate Professor of Political Science, University of Washington (Jamie, “Playing by Our Own Rules: How U.S. Marginalization of International Human Rights Law Led to Torture.” 20 Harv. Hum. Rts. J. 89 2007. HeinOnline.)

Americans need to ask themselves how the United States could adopt a policy of torture, and why, in particular, our legal system failed to prevent it. We all know that the terrorist threat made coercive interrogation newly respectable in the eyes of some public officials, that a general climate of fear and anger following the attacks of September 11 weakened public opposi- tion to torture, and that the Republican majority that controlled Congress until January 2007 chose, for both strategic and ideological reasons, to keep loose reins on the executive branch. However, we expect the law to protect fundamental human rights against bureaucratic zeal, partisan calculations, and shifts in public sentiment. The terrorist attacks of September 11 may have increased the temptation to authorize torture, but an effective legal regime is one that prevents torture precisely when its use becomes most tempting. Since we normally expect the law to erect impregnable barriers against the use of torture, we must ask why, in this case, the barriers gave way so easily. What makes the question even more acute is the emphatic prohibition of torture in both domestic and international law. Coverage of the torture outbreak has rightly focused attention on deci- sions by President Bush and his advisors. The Administration authorized physical and psychological coercion to extract information from prisoners, defending its policy with novel legal doctrines and tactics. Its choices, which break with decades of official U.S. policy and have provoked wide- spread shock and dismay among legal scholars and practitioners, are the proximate cause of the torture epidemic. Yet a full explanation of the problem must extend beyond the choices of Administration officials. The American philosophy of government is pre- mised on the Madisonian truth that fundamental rights, beginning with the right against government brutality, must not depend on the individual rectitude of public officials.2 3 Fundamental rights must be insulated from the misguided impulses of political leaders by strong institutional protec- tions. The much-vaunted virtue of the American political system is not the moral infallibility of its public officials, but their voluntary submission to the discipline of wise institutions. This is the familiar theory that former Secretary of Defense Donald Rumsfeld invoked when he told the Congres- sional Armed Services Committees, shortly after the Abu Ghraib revela- tions: "Mr. Chairman, I know you join me today in saying to the world, judge us by our actions, watch how Americans, watch how a democracy deals with the wrongdoing and with scandal and the pain of acknowledging and correcting our own mistakes and our own weaknesses." 24 Yet our polit- ical institutions have not performed as expected: the ability of the Bush Administration to adopt torture, and to maintain its policy in the face of explosive revelations, defies the story Americans tell about themselves as members of a rights-protecting democracy. It is essential that we under- stand why the American legal and political system failed. I shall argue that a principal (though not sole) cause of the failure was the longstanding refusal of the United States to incorporate international human rights law into its legal system. Well before the inauguration of George W. Bush and the events of September 11, the United States chose to loosen the binding force of its international human rights agreements. This choice had fateful consequences when the United States declared a "Global War on Terror" following the September 11 attacks. The U.S. marginalization of international human rights law made it far easier for Bush Administration officials to institutionalize abusive treatment. Major legal obstacles that would otherwise have confronted the Bush Administra- tion had been removed by previous congresses and administrations. The error of the traditional policy should now be manifest. International human rights law anticipates, and can help block, maneuvers like those used by the Bush Administration to violate human rights norms. The les- son of recent experience is that domestic human rights protections need international reinforcement. International human rights law helps fulfill the promises to individual freedom and dignity enshrined in our own Con- stitution. Only through the full adoption of international human rights law can the United States make a genuine commitment to human rights and be held to that commitment.

#### --Torture is a deontological evil that must be rejected

**Gross,** (Oren, Professor, Law, University of Minnesota, MINNESOTA LAW REVIEW, June 20**04**, p. 1492-1493.

Absolutists - those who believe that an unconditional ban on torture ought to apply without exception regardless of circumstances - often base their position on deontological grounds. For adherents of the absolutist view of morality, torture is intrinsically wrong. It violates the physical and mental integrity of the person subjected to it, negates her autonomy, and deprives her of human dignity. It reduces her to a mere object, a body from which information is to be extracted; it coerces her to act in a manner that may be contrary to her most fundamental beliefs, values, and interests, depriving her of any choice and controlling her voice. Torture is also wrong because of its depraving and corrupting effects on individual torturers and society at large. Moreover, torture is an evil that can never be justified or excused. Under no circumstances should the resort to torture be morally acceptable or legally permissible. It is a reprehensible action whose wrongfulness may never be assuaged or rectified morally even if the consequences of taking such action in any particular case are deemed to be, on the whole, good. Indeed, one may argue that the inherent wrongfulness of torture and possible good consequences are incommensurable, i.e., they cannot be measured by any common currency and therefore cannot be compared, or balanced, one against the other. The conclusion drawn from such a claim is that "the wrong of torture can be taken as a trump or side constraint on welfare maximization in all possible cases."

### Fem K 2ac

#### 1. Perm do both – state action key to disrupting patriarchy

**Harrington**, lawyer, 19**92** (Mona, Gendered States, ed: Peterson, p. 66-68)

ln the face of such pressures, l believe that feminist critics of the present state system should beware. The very fact that the state creates, condenses, and focuses political power may make it the best friend, not the enemy, of feminists-because the availability of real political power is essential to real democratic control. Not sufficient, I know, but essential. My basic premise is that political power can significantly disrupt patriarchal and class (which is to say, economic) power. It holds the potential, at least, for disrupting the patriarchal/economic oppression of those in the lower reaches of class, sex, and race hierarchies. It is indisputable that, in the nineteenth and twentieth centuries, it has been the political power of states that has confronted the massive economic power privately constructed out of industrial processes and has imposed obligations on employers for the welfare of workers as well as providing additional social supports for the population at large. And the political tempering of economic power has been the most responsive to broad public needs in liberal democracies, where goverments must respond roughly to tIme interests of voters. Of course, this is not the whole story. The nation-states of this period have also perpetrated horrors of torture and war, have aided the development of elite-controlled industrial wealth, and have not sufficiently responded to the human needs of their less powerful constituents. But I believe it is better to try to restrain the horrors and abuses than to give up on the limits that state organized political power can bring to bear on the forms of class-based, race- based, sex-based power that constitute the greatest sources of oppression we are likely to face. Here I think feminists should be particularly alarmed about the new structures of interational economic power proliferating and forming linkages to the political internationalism just noted.

#### 2. 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

#### 3. 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.

#### 4 Gender inequality isn’t the root cause of war and violence – such claims lack empirical support

Goldstein 1 (Joshua, Int’l Rel Prof @ American U, War and Gender, p. 412)

First, peace activists face a dilemma in thinking about causes of war and working for peace. Many peace scholars and activists support the approach, “if you want peace, work for justice.” Then, if one believes that sexism contributes to war one can work for gender justice specifically (perhaps among others) in order to pursue peace. This approach brings strategic allies to the peace movement (women, labor, minorities), but rests on the assumption that injustices cause war. The evidence in this book **s**uggests that causality runs at least as strongly the other way. War is not a product of capitalism, imperialism, gender, innate aggression, or any other single cause, although all of these influence wars’ outbreaks and outcomes. Rather, war has in part fueled and sustained these and other injustices.9 So,”if you want peace, work for peace.” Indeed, **i**f you want justice (gender and others), work for peace. Causality does not run just upward through the levels of analysis, from types of individuals, societies, and governments up to war. It runs downward too. Enloe suggests that changes in attitudes towards war and the military may be the most important way to “reverse women’s oppression.” The dilemma is that peace work focused on justice brings to the peace movement energy, allies, and moral grounding, yet, in light of this book’s evidence, the emphasis on injustice as the main cause of war seems to be empirically inadequate.

#### 5. Alternative is vague – voting issue – neg can shift to get around our offense, kills faireness – also justifies permutation do the alt- also means no floating piks

#### 6. Case is a disad to the alt- the aff solves multiple scenarios for conflict

#### Viewing all problems through the lens of gender is counter-productive --- blocks crucial progressive action

**Jarvis 00** (Daryl, Lecturer in Government and International Relations – University of Sydney, International Relations and the Challenge of Postmodernism: Defending the Discipline)

Celebrating and reifying difference as a political end in itself thus run the risk of creating increasingly divisive and incommensurate discourses where each group claims a knowledge or experienced based legitimacy but, in doing so, precluding the possibility of common understanding or intergroup political discourse. Instead, difference produces antithetical dis­cord and political-tribalism: only working class Hispanics living in South Central Los Angeles, for instance, can speak of, for, and about their com­munity, its concerns, interests and needs; only female African Americans living in the projects of Chicago can speak "legitimately" of the housing and social problems endemic to inner city living. Discourse becomes con­fined not to conversations between identity groups since this is impossible, but story telling of personal/group experiences where the "other" listens intently until their turn comes to tell their own stories and experiences. Appropriating the voice or pain of others by speaking, writing, or theoriz­ing on issues, perspectives, or events not indicative of one's group-identity becomes not only illegitimate but a medium of oppression and a means to silence others. The very activity of theory and political discourse as it has been understood traditionally in International Relations, and the social sciences more generally, is thus rendered inappropriate in the new milieu of identity politics. Politically, progressives obviously see a danger in this type of discourse and, from a social scientific perspective, understand it to be less than rig­orous. Generalizing, as with theorizing, for example, has fallen victim to postmodern feminist reactions against **methodological essentialism** and the adoption of what Jane Martin calls the instillation of **false difference** into identity discourse. By reacting against the assumption that "all indi­viduals in the world called `women' were exactly like us" (i.e. white, mid­dle class, educated, etc.), feminists now tend "a priori to give privileged status to a predetermined set of analytic categories and to affirm the exis**­**tence of nothing but difference." In avoiding the "pitfall of false unity," feminists have thus "walked straight into the trap of false difference. Club words now dominate the discourse. Essentialism, ahistoricism, uni­versalism, and androcentrism, for example, have become the "prime idiom[s] of intellectual terrorism and the privileged instrument[s] of polit­ical orthodoxy." While sympathetic to the cause, even feminists like Jane Martin are critical of the methods that have arisen to circumvent the evils of essentialism, characterizing contemporary feminist scholarship as imposing its own "chilly climate" on those who question the method­ological proclivity for difference and historicism. Postmodern feminists, she argues, have fallen victim to compulsory historicism, and by "rejecting one kind of essence talk but adopting another," have followed a course "whose logical conclusion all but precludes the use of language." For Martin, this approaches a "**dogmatism** on the methodological level that we do not countenance in other contexts.... It **rules out theories, categories, and research projects** in advance; prejudges the extent of difference and the nonexistence of similarity." In all, it speaks to a methodological **trap** th**at produces many of the same problems as before**, but this time in a language otherwise viewed as progressive, sensitive to the particularities of identity and gender, and destructive of conventional boundaries in disci­plinary knowledge and theoretical endeavor.

#### Your link argument is terrible – we don’t posit women as irrational babymakers, our Cote evidence is all about anti-women’s rights actions being bad – the aff is a step in the right direction

#### -- Alt fails – reverses the error and can’t build transformational theory

**Caprioli 4** (Mary, Professor of Political Science – University of Tennessee, “Feminist IR Theory and Quantitative Methodology: A Critical Analysis”, International Studies Review, 42(1), March, http://www.blackwell-synergy.com/links/doi/10.1111/0020-8833.00076)

If researchers cannot add gender to an analysis, then they must necessarily use a purely female-centered analysis, even though the utility of using a purely female centered analysis seems **equally biased**. Such research would merely be gendercentric based on women rather than men, and it would thereby provide an equally biased account of international relations as those that are male-centric. Although one might speculate that having research done from the two opposing worldviews might more fully explain international relations, surely an integrated approach would offer a more comprehensive analysis of world affairs. Beyond a female-centric analysis, some scholars (for example, Carver 2002) argue that feminist research must offer a critique of gender as a set of power relations. Gender categories, however, do exist and have very real implications for individuals, social relations, and international affairs. Critiquing the social construction of gender is important, but it fails to provide new theories of international relations or to address the implications of gender for what happens in the world.

#### It’s impossible to transform politics without addressing the state—criticism that refuses the state cedes the most important political battles to the right

**Shaw 99** (Martin, professor of IR at the University of Sussex, “The Unfinished Global Revolution: Intellectuals and the New Politics of International Relations”, <http://sussex.ac.uk/Users/hafa3/unfinished.pdf>)

The mistakes in this passage are also twofold. First, the myth of globalisation as threat or onslaught – which can only be resisted – is combined with the myth of the weakening of the state.56 Second, hopes for ‘an alternative social order’ are vested in the ‘resurrection’ of civil society, but Cox himself identifies a fundamental difficulty with this scenario, the ‘the still small development of civil society.’57 The expansion of civil society is indeed crucial to the long-term consolidation of a worldwide democratic order. But civil society is not only too weak to take the full weight of global transformation, it is also still too national in form.58 Moreover, it is theoretically and practically inconceivable that we can advance emancipation without simultaneously transforming state power.59 While Booth explicitly rejects world government, Cox largely avoids the role of internationalised state organisations. He sees nation-states as playing ‘the role of agencies of the global economy’60 and seems incapable either of understanding the global transformations of state power, or envisaging a constructive role for them. Critical international theorists have dug themselves into a hole over this issue. In committing themselves to ‘globalization from below’, as Richard Falk61 calls it, they are simply missing political battles that matter in today’s world. Falk is certainly moving towards a new position when he writes: An immediate goal of those disparate social forces that constitute globalizationfrom-below is to reinstrumentalize the state to the extent that it redefines its role as mediating between the logic of capital the priorities of its peoples, including their short-term and longer-term goals.62 But this tortuous language is hardly necessary. People’s movements have been on the streets throughout the last decade, trying to make both national and international state organisations responsive and accountable. The real question is how could this question ever have been marginalised in any serious radical project? It often seems that international theorists like Cox and Falk have left the state – and war – aside.63 Critics evacuate the harsher edges of world politics for the soft ‘non-realist’ territory of political economy, gender and civil society. No such refuge is possible, however. Economic and gender inequalities will not be solved so long as the repressive state is untamed. The new international relations will have to formulate its response the continuing role of organised violence in the world order. A loose ‘governance without government’ is all too fashionable in international circles.64 However, while Booth is obviously right that all government is imperfect, the differences between 'relatively decent' and tyrannical government, both nationally and globally, are absolutely critical. Without addressing the nature of contemporary global state networks, and a serious discussion of the ways in which they can be developed into an adequate global authority framework sustained by and sustaining local democracies, we have hardly begun to fashion a new agenda.

#### -- This shatters the alt – violent conflict blocks transition to alternative IR

**Linklater 90** (Andrew, Senior Lecturer in Politics – Monash University, Beyond Realism and Marxism: Critical Theory and International Relations, p. 32)

These theoretical disagreements with Marxism generate major differences at the practical level. It is necessary to conclude that a post-Marxist critical theory of international relations must concede that technical and practical orientations to foreign policy are **inescapable** at least at this juncture. Such an approach must appreciate the need for classical realist methods of protecting the state under conditions of insecurity and distrust, and recognise the importance of the rationalist defence of order and legitimacy in the context of anarchy. It is important to take account of the rationalist claim that order is unlikely to survive if the major powers cannot reconcile their different national security interests. In a similar vein, a critical approach to international relations is obliged to conclude that the project of emancipation will **not make significant progress** if international order is in decline. One of its principal tasks would then be to understand how the community of states can be expanded so that it approximates a condition which maximises the importance of freedom and universality. In this case, a critical theory of international relations which recognises the strengths of realism and Marxism must aim for a political practice which deals concurrently with the problem of power, the need for order and the possibility of emancipation through the extension of human community.

#### \_\_\_\_\_\_\_\_\_\_\_ risks large-scale short-term death. Policy change is necessary to alleviate real and on-going suffering. Abstract claims of “epistemology” and non-impacts like “technological rationality” are ivory-tower constructions that condemn millions to death.

**Jarvis 00** (Darryl, Senior Lecturer in International Relations – University of Sydney, International Relations and the Challenge of Postmodernism, p. 128-129)

Perhaps more alarming though is the outright violence Ashley recommends in response to what at best seem trite, if not imagined, injustices. Inculpating modernity, positivism, technical rationality, or realism with violence, racism, war, and countless other crimes not only smacks of anthropomorphism but, as demonstrated by Ashley’s torturous prose and reasoning, requires a dubious logic to make such connections in the first place. Are we really to believe that ethereal entities like positivism, modernism, or realism emanate a “violence” that marginalizes dissidents? Indeed, where is this violence, repression, and marginalization? As self-professed dissidents supposedly exiled from the discipline, Ashley and Walker appear remarkably well integrated into the academy—vocal, published, and at the center of the Third Debate and the forefront of theoretical research. Likewise, is Ashley seriously suggesting that, on the basis of this largely imaged violence, global transformation (perhaps even revolutionary violence) is a necessary, let alone desirable, response? Has the rationale for emancipation or the fight for justice been reduced to such vacuous revolutionary slogans as “Down with positivism and rationality”? The point is surely trite. Apart from members of the academy, who has heard of positivism and who for a moment imagines that they need to be emancipated from it, or from modernity, rationality, or realism for that matter? In an era of unprecedented change and turmoil, of new political and military configurations, of war in the Balkans and ethnic cleansing, is Ashley really suggesting that some of the greatest threats facing humankind or some of the great moments of history rest on such **innocuous** and largely unknown **nonrealities** like positivism and realism? These are **imagined and fictitious enemies**, **theoretical fabrications** that represent arcane, self-serving debates superfluous to the lives of most people and, arguably, to most issues of importance in international relations. More is the pity that such irrational and obviously abstruse debate should so occupy us at a time of great global turmoil. That it does and continues to do so reflect our lack of judicious criteria for evaluating theory and, more importantly, the lack of attachment theorists have to the real world. Certainly it is right and proper that we ponder the depths of our theoretical imaginations, engage in epistemological and ontological debate, and analyze the sociology of our knowledge. But to support that this is the only task of international theory, let alone the most important one, **smacks of intellectual elitism** and **displays** a certain **contempt** for those who search for guidance in their daily struggle as actors in international politics. What does Ashley’s project, his deconstructive efforts, or valiant fight against positivism say to the truly marginalized, oppressed, and destitute? How does it help solve the plight of the poor, the displaced refugees, the casualties of war, or the émigrés of death squads? Does it in any way speak to those whose actions and thoughts comprise the policy and practice of international relations? On all these questions one must answer **no**. This is not to say, of course, that all theory should be judged by its technical rationality and problem-solving capacity as Ashley forcefully argues. But to support that problem-solving technical theory is not necessary—or in some way bad—is a **contemptuous position** that abrogates any hope of solving some of the **nightmarish realities that millions confront daily**. As Holsti argues, we need ask of these theorists and their theories the ultimate question, **“So what?”** To what purpose do they deconstruct, problematize, destabilize, undermine, ridicule, and belittle modernist and rationalist approaches? Does this get us any further, make the world any better, or enhance the human condition? In what sense can this “debate toward [a] bottomless pit of epistemology and metaphysics” be judged pertinent, relevant, helpful, or cogent to anyone other than those foolish enough to be scholastically excited by abstract and recondite debate. Contrary to Ashley’s assertions, then, a poststructural approach fails to empower the marginalized and, in fact, abandons them. Rather than analyze the political economy of power, wealth, oppression, production, or international relations and render and intelligible understanding of these processes, Ashley succeeds in ostracizing those he portends to represent by delivering an obscure and highly convoluted discourse. If Ashley wishes to chastise structural realism for its abstractness and detachment, he must be prepared also to face similar criticism, especially when he so adamantly intends his work to address the real life plight of those who struggle at marginal places.

#### The state is not inherently patriarchal –- reformism is a more effective way to challenge patriarchy

**Rhode ’94** (Deborah L., Professor of Law – Stanford, 107 Harv. L. Rev. 1181, April, Lexis)

Neither can the state be understood solely as an instrument of men's interests. As a threshold matter, what constitutes those interests is not self-evident, as MacKinnon's own illustrations suggest. If, for example, policies liberalizing abortion serve male objectives by enhancing access to female sexuality, policies curtailing abortion presumably also serve male objectives by reducing female autonomy. n23 In effect, patriarchal frameworks verge on tautology. Almost any gender-related policy can be seen as either directly serving men's immediate interests, or as compromising short-term concerns in the service of broader, long-term goals, such as "normalizing" the system and stabilizing power relations. A framework that can characterize all state interventions as directly or indirectly patriarchal offers little practical guidance in challenging the conditions it condemns. And if women are not a homogenous group with unitary concerns, surely the same is true of men. Moreover, if the state is best understood as a network of institutions with complex, sometimes competing agendas, then the patriarchal model of single-minded instrumentalism seems highly implausible. It is difficult to dismiss all the anti-discrimination initiatives of the last quarter century as purely counter-revolutionary strategies. And it is precisely these initiatives, with their appeal to "male" norms of "objectivity and the impersonality of procedure, that [have created] [\*1186] leverage for the representation of women's interests." n24 Cross-cultural research also suggests that the status of women is positively correlated with a strong state, which is scarcely the relationship that patriarchal frameworks imply. n25 While the "tyrannies" of public and private dependence are plainly related, many feminists challenge the claim that they are the same. As Carole Pateman notes, women do not "live with the state and are better able to make collective struggle against institutions than individuals." n26 To advance that struggle, feminists need more concrete and contextual accounts of state institutions than patriarchal frameworks have supplied. Lumping together police, welfare workers, and Pentagon officials as agents of a unitary patriarchal structure does more to obscure than to advance analysis. What seems necessary is a contextual approach that can account for greater complexities in women's relationships with governing institutions. Yet despite their limitations, patriarchal theories underscore an insight that generally informs feminist theorizing. As Part II reflects, governmental institutions are implicated in the most fundamental structures of sex-based inequality and in the strategies necessary to address it. [Continues] These tensions within the women's movement are, of course, by no means unique. For any subordinate group, the state is a primary source of both repression and assistance in the struggle for equality. These constituencies cannot be "for" or "against" state involvement in any categorical sense. The questions are always what forms of involvement, to what ends, and who makes these decisions. From some feminist perspectives, liberalism has failed to respond adequately to those questions because of deeper difficulties. In part, the problem stems from undue faith in formal rights. The priority granted to individual entitlements undermines the public's sense of collective responsibility. This critique has attracted its own share of criticism from within as well as from outside the feminist community. As many left feminists, including critical race theorists, have noted, rights-based claims have played a crucial role in advancing group as well as individual interests. n32 Such claims can express desires not only for autonomy, but also for participation in the struggles that shape women's collective existence. The priority that state institutions place on rights is not in itself problematic. The central difficulty is the limited scope and inadequate enforcement of currently recognized entitlements. Since rights-oriented campaigns can advance as well as restrict political struggle, evaluation of their strategic value demands historically-situated contextual analysis.

####  Indefinite detention is a form of torture – it rises to the level of cruel, degrading treatment that produces feelings of absolute despair and powerlessness

Goering 13 (Curt, executive director of the Center for Victims of Torture, "End indefinite detention now," http://thehill.com/blogs/congress-blog/homeland-security/313761-end-indefinite-detention-now)

Indefinite detention is an unlawful practice that rises to the level of cruel, inhuman and degrading treatment in direct violation of U.S. laws and our obligations under international laws, including the UN Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, signed by the United States 25 years ago during President Reagan’s final year in office.¶ Placing prisoners in custody indefinitely without charge or trial has absolutely no place in our laws. As Sen. Patrick Leahy (D-Vt.) said during the hearing, “Countries that champion the rule of law and human rights do not lock away prisoners indefinitely without charge or trial.”¶ We oppose indefinite detention on behalf of torture survivors, because among those we care for are survivors who have suffered while being imprisoned without charge or trial and without being told when, if ever, they might be released.¶ From our experience healing survivors of torture and war related atrocities, we know indefinite detention causes severe, prolonged and harmful health and mental health problems for those imprisoned. Our intensive work with individual torture survivors, combined with medical literature that documents the damaging physical and psychological effects of indefinite detention, causes us to oppose this practice. For example, research by Physicians for Human Rights has found that the effects of indefinite detention include depression and suicide; Post Traumatic Stress Disorder; and damage to the body’s immune, cardiovascular and central nervous systems.¶ Many of the survivors we serve who were imprisoned without trial or charge speak of the absolute despair they felt, never knowing if their detention would come to an end. CVT clinicians who work with survivors of torture that have been indefinitely detained tell us that with no defined end, survivors feel there is no guarantee there will ever be an end. This creates severe, chronic emotional distress: hopelessness, debilitation, uncertainty, and powerlessness. The hunger strike among the detainees at Guantanamo underscores the despair among prisoners facing indefinite detention. Hunger strikes are a form of expression by individuals who have no other way of making their demands known.

#### Only interrogating the failures of the American legal system allows us to prevent future institutionalized torture – legal discussions are uniquely critical

Mayerfeld, 7 – Associate Professor of Political Science, University of Washington (Jamie, “Playing by Our Own Rules: How U.S. Marginalization of International Human Rights Law Led to Torture.” 20 Harv. Hum. Rts. J. 89 2007. HeinOnline.)

Americans need to ask themselves how the United States could adopt a policy of torture, and why, in particular, our legal system failed to prevent it. We all know that the terrorist threat made coercive interrogation newly respectable in the eyes of some public officials, that a general climate of fear and anger following the attacks of September 11 weakened public opposi- tion to torture, and that the Republican majority that controlled Congress until January 2007 chose, for both strategic and ideological reasons, to keep loose reins on the executive branch. However, we expect the law to protect fundamental human rights against bureaucratic zeal, partisan calculations, and shifts in public sentiment. The terrorist attacks of September 11 may have increased the temptation to authorize torture, but an effective legal regime is one that prevents torture precisely when its use becomes most tempting. Since we normally expect the law to erect impregnable barriers against the use of torture, we must ask why, in this case, the barriers gave way so easily. What makes the question even more acute is the emphatic prohibition of torture in both domestic and international law. Coverage of the torture outbreak has rightly focused attention on deci- sions by President Bush and his advisors. The Administration authorized physical and psychological coercion to extract information from prisoners, defending its policy with novel legal doctrines and tactics. Its choices, which break with decades of official U.S. policy and have provoked wide- spread shock and dismay among legal scholars and practitioners, are the proximate cause of the torture epidemic. Yet a full explanation of the problem must extend beyond the choices of Administration officials. The American philosophy of government is pre- mised on the Madisonian truth that fundamental rights, beginning with the right against government brutality, must not depend on the individual rectitude of public officials.2 3 Fundamental rights must be insulated from the misguided impulses of political leaders by strong institutional protec- tions. The much-vaunted virtue of the American political system is not the moral infallibility of its public officials, but their voluntary submission to the discipline of wise institutions. This is the familiar theory that former Secretary of Defense Donald Rumsfeld invoked when he told the Congres- sional Armed Services Committees, shortly after the Abu Ghraib revela- tions: "Mr. Chairman, I know you join me today in saying to the world, judge us by our actions, watch how Americans, watch how a democracy deals with the wrongdoing and with scandal and the pain of acknowledging and correcting our own mistakes and our own weaknesses." 24 Yet our polit- ical institutions have not performed as expected: the ability of the Bush Administration to adopt torture, and to maintain its policy in the face of explosive revelations, defies the story Americans tell about themselves as members of a rights-protecting democracy. It is essential that we under- stand why the American legal and political system failed. I shall argue that a principal (though not sole) cause of the failure was the longstanding refusal of the United States to incorporate international human rights law into its legal system. Well before the inauguration of George W. Bush and the events of September 11, the United States chose to loosen the binding force of its international human rights agreements. This choice had fateful consequences when the United States declared a "Global War on Terror" following the September 11 attacks. The U.S. marginalization of international human rights law made it far easier for Bush Administration officials to institutionalize abusive treatment. Major legal obstacles that would otherwise have confronted the Bush Administra- tion had been removed by previous congresses and administrations. The error of the traditional policy should now be manifest. International human rights law anticipates, and can help block, maneuvers like those used by the Bush Administration to violate human rights norms. The les- son of recent experience is that domestic human rights protections need international reinforcement. International human rights law helps fulfill the promises to individual freedom and dignity enshrined in our own Con- stitution. Only through the full adoption of international human rights law can the United States make a genuine commitment to human rights and be held to that commitment.

**Torture dehumanizes victim and torturer alike – Only finding ways to publically expose and repair the social harms created by torture can break the cycle of vengeance that threatens to collapse the social order – turns your V2L impacts**

**Chanbonpin 11** (Kim, Assistant Professor of Law at John Marshall Law School, “"We Don't Want Dollars, Just Change": Narrative Counter-Terrorism Strategy, an Inclusive Model for Social Healing, and the Truth About Torture Commission”, 6 Nw. J. L. and Soc. Pol'y 1, Winter, L/N)

Torture by government (even on non-citizens) represents a breach of social and legal norms that injures not only individuals, but society as a whole. Torture, almost by definition, requires the dehumanization of all parties involved. n21 When a person is tortured, he is **robbed of his very humanity**. As Professors J. Jeremy Wisnewski and R.D. Emerick assert: "The very thing that constitutes us--the fact that we are agents capable of exercising our autonomy in the world--is what we are deprived of when we are subjected to torture." n22 A torture victim's psychic and physical associations with the social world around him are disrupted by the abuse and, once broken, those bonds are nearly irreparable. n23 Nor does the torturer escape from the experience unharmed. To be successful at his task, the agent of torture has been desensitized to violence and cruelty. n24 [\*7] The torturer must adopt the fiction that his victim has ceased to be worthy of humane treatment and dignity. n25 This fantasy wreaks havoc on basic epistemological notions of humanity shared by people as social beings. n26 As former United Nations Secretary-General Kofi Annan has observed, "Torture is an atrocious violation of human dignity. It dehumanizes both the victim and the perpetrator." n27 Therefore, both the tortured and the torturers require some repair, some healing, some renewal of their humanity. Furthermore, the U.S. public has also been adversely impacted by the government's torture policies. As targets of the terrorist attacks on September 11, 2001, as witnesses of the photos of detainee abuse at Abu Ghraib, as readers of the series of Office of Legal Counsel (OLC) memos (collectively, the Torture Memos) authorizing torturous interrogation methods, the U.S. body politic is also in need of repair and healing. The aim of the redress project I propose in this Article, then, is to seek out ways to publicly repair those social harms.

This Article posits that the post-9/11 torture program has--in addition to individual and corporeal wounds--created social wounds. Radiating beyond the particular injuries suffered by individual victims of torture is a broader social trauma. The violation of domestic and international laws prohibiting torture represents a breach of social and legal norms that has injured society as a whole. Other scholars have described the special dangers associated with injuries wrought by widespread, systematic human rights abuses. For one, when government is responsible for transgressing its own laws, it is deeply unsettling because it demonstrates government's potential to deviate from the established social order again in the future. In addition, violent abuses such as torture tend to create and perpetuate a continuing cycle of vengeance and retribution. n28 The project of social healing, then, is to break that cycle and find ways to publicly repair social harms

#### No solvency - incorporation of gender can’t challenge underlying structures of oppression

Saloom 6 (Rachel, JD Univ of Georgia School of Law and M.A. in Middle Eastern Studies from U of Chicago, Fall , Rachel, A Feminist Inquiry into International Law and International Relations, 12 Roger Williams U. L. Rev. 159, lexis)

There is not much consensus between the gender theorists and those who adhere to current approaches to international law and international relations. The biggest obstacle for gender theorists is the application of their theories. It would be valuable to determine how international relations or international law would operate if gender were taken into account. Gender theorists themselves have trouble formulating ways to apply their theories. Most scholars believe that the "add women and stir" approach generally fails. [91](http://web.lexis-nexis.com/scholastic/document?_m=a2ac53a45e1fe17371cdbaa2cf370390&_docnum=3&wchp=dGLbVzW-zSkVk&_md5=2c8e9aab339ea5ca4d4f4fae4578bb53" \l "n91#n91" \t "_self) The notion that "bringing in" more women to the areas of international law and international relations can transform existing practices has not been met with much optimism. [92](http://web.lexis-nexis.com/scholastic/document?_m=a2ac53a45e1fe17371cdbaa2cf370390&_docnum=3&wchp=dGLbVzW-zSkVk&_md5=2c8e9aab339ea5ca4d4f4fae4578bb53" \l "n92#n92" \t "_self) Theorists argue that adding women into existing frameworks fails to address the larger androcentric biases that exist. Many theorists criticize this approach, supporting their criticisms with allegations that the issues that gender scholars and practitioners want to address cannot be neatly incorporated in the current framework. Smith argues that: The issues raised by feminism not only do not fit with the discipline, they disrupt the entire edifice of community and society upon which [international relations] and the other social sciences are built. Their foundations are so embedded in gendered identities, subjectivities, and therefore reified structures of common sense that they simply cannot be amended to take account of gender. [93](http://web.lexis-nexis.com/scholastic/document?_m=a2ac53a45e1fe17371cdbaa2cf370390&_docnum=3&wchp=dGLbVzW-zSkVk&_md5=2c8e9aab339ea5ca4d4f4fae4578bb53" \l "n93#n93" \t "_self) Hooper also concurs with Smith's conclusions. She posits that "grafting the gender variable" onto a highly masculinized  [\*177]  framework is doomed for failure. [94](http://web.lexis-nexis.com/scholastic/document?_m=a2ac53a45e1fe17371cdbaa2cf370390&_docnum=3&wchp=dGLbVzW-zSkVk&_md5=2c8e9aab339ea5ca4d4f4fae4578bb53" \l "n94#n94" \t "_self) She believes that adding gender to a checklist will not change the power dynamic that exists in international law and international relations. [95](http://web.lexis-nexis.com/scholastic/document?_m=a2ac53a45e1fe17371cdbaa2cf370390&_docnum=3&wchp=dGLbVzW-zSkVk&_md5=2c8e9aab339ea5ca4d4f4fae4578bb53" \l "n95#n95" \t "_self) In the same manner, public international law is often preoccupied with issues of conflict, state sovereignty and use of force. [96](http://web.lexis-nexis.com/scholastic/document?_m=a2ac53a45e1fe17371cdbaa2cf370390&_docnum=3&wchp=dGLbVzW-zSkVk&_md5=2c8e9aab339ea5ca4d4f4fae4578bb53" \l "n96#n96" \t "_self) When gender is discussed in international law, it is usually relegated to the human rights law sphere. [97](http://web.lexis-nexis.com/scholastic/document?_m=a2ac53a45e1fe17371cdbaa2cf370390&_docnum=3&wchp=dGLbVzW-zSkVk&_md5=2c8e9aab339ea5ca4d4f4fae4578bb53" \l "n97#n97" \t "_self) If the consensus of feminist theorists is that more radical approaches are necessary to change the gender bias that exists, then theorists must formulate other alternatives to make the change in gender bias a feasible option. However, if the proponents of the status quo are even partially correct, then the feminist criticisms become even more difficult to implement. The question then becomes whether it is even desirable to wholly reject state-centrism as a masculinist androcentric paradigm.

#### Only the perm solves – criticism without an affirmative political component will be coopted

**Best and Kellner 1** (Steven, Associate Professor of Philosophy and Humanities – University of Texas and Douglas, Philosophy of Education Chair – UCLA, “Postmodern Politics and the Battle for the Future,” Illuminations, http://www.uta.edu/huma/illuminations/kell28.htm)

The emphasis on local struggles and micropower, cultural politics which redefine the political, and attempts to develop political forms relevant to the problems and developments of the contemporary age is extremely valuable, but there are also certain limitations to the dominant forms of postmodern politics. While an emphasis on micropolitics and local struggles can be a healthy substitute for excessively utopian and ambitious political projects, one should not lose sight that key sources of political power and oppression are precisely the big targets aimed at by modern theory, including capital, the state, imperialism, and patriarchy. Taking on such major targets involves coalitions and multi-front struggle, often requiring a **politics of alliance** and solidarity that cuts across group identifications to mobilize sufficient power to struggle against, say, the evils of capitalism or the state. Thus, while today we need the expansion of localized cultural practices, they attain their real significance only within the struggle for the transformation of society as a whole. Without this systemic emphasis, cultural and identity politics remain **confined to the margins** of society and are in danger of **degenerating into narcissism, hedonism, aestheticism**, or personal therapy, where they **pose no danger** and are **immediately coopted** by the culture industries. In such cases, the political is merely the personal, and the original intentions of the 1960s goal to broaden the political field are inverted and perverted. Just as economic and political demands have their referent in subjectivity in everyday life, so these cultural and existential issues find their ultimate meaning in the demand for a new society and mode of production. Yet we would insist that it is not a question of micro vs macropolitics, as if it were an either/or proposition, but rather both dimensions are important for the struggles of the present and future.[15] Likewise, we would argue that we need to combine the most affirmative and negative perspectives, embodying Marcuse's declaration that critical social theory should be both more negative and utopian in reference to the status quo.[16] There are certainly many things to be depressed about is in the negative and cynical postmodernism of a Baudrillard, yet **without a positive political vision** merely citing the negative might lead to **apathy and depression** that only benefits the existing order. For a dialectical politics, however, positive vision of what could be is articulated in conjunction with critical analysis of what is in a multioptic perspective that focuses on the forces of domination as well as possibilities of emancipation.

#### -- Turn – political vacuum --

#### -- Alternative fails – no mechanism to translate theory into practice

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

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

#### -- Case outweighs.

### China SoPo 2AC

#### ---There is no link to this DA – their link evidence is all about the US asserting its western values and specific security concerns – not an example of the plan because the plan incorporates a deal we’ve already agreed to

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

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

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

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

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

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

#### ---Status quo disproves the impact – US has diplomatic ties with many regional powers such as South Korea – plan wouldn’t change those ties

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

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

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

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

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

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

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

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

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