# Round 2 Districts

## 1NC

### Off 1

#### The court will strike down aggregate contribution limits to political parties now – it’ll be close

Chemerinsky, 13 (Erwin, American lawyer and law professor. He is a prominent scholar in United States constitutional law and federal civil procedure. He is the current and founding dean of the University of California, Irvine School of Law, “Symposium: The distinction between contribution limits and expenditure limits,” http://www.scotusblog.com/2013/08/symposium-the-distinction-between-contribution-limits-and-expenditure-limits/)

For almost forty years, since Buckley v. Valeo in 1976, campaign finance law has been based on the distinction between contribution limits and expenditure limits. In Buckley, the Court held that contribution limits – restrictions on the amount that a person gives to a candidate or a committee – are generally constitutional. But expenditure limits – restrictions on what a person spends overall – are unconstitutional. Citizens United v. Federal Elections Commission in 2010 applied this distinction and held that limits on independent expenditures by corporations violate the First Amendment.¶ McCutcheon v. Federal Election Commission provides the Supreme Court with an occasion to reconsider this distinction. The issue in McCutcheon is whether aggregate limits on contributions are constitutional. Specifically, the plaintiffs are challenging the Bipartisan Campaign Reform Act’s $74,600 two-year ceiling on contributions to non-candidate committees and the $48,600 two-year ceiling on donations to candidate organizations.¶ Options: The Court could say . . .¶ The Court certainly could rule on this, even declaring it unconstitutional, without calling into question the constitutionality of all contribution limits. In fact, in Randall v. Sorrell (2006), the Court found Vermont’s limits on contributions to be so restrictive as to violate the First Amendment without reconsidering the basic distinction between limits on contributions and limits on expenditures. Vermont law restricted contributions so that the amount that any single individual could contribute to the campaign of a candidate for state office during a “two-year general election cycle” was $400 for governor, lieutenant governor, and other statewide offices; $300 for state senator; and $200 for state representative. The Court noted that the contribution limits in the Vermont law were lower than those upheld in Buckley or in any other Supreme Court decision, that they were the lowest in the country, and that they were not indexed to keep pace with inflation.¶ The aggregate contribution limits being challenged in McCutcheon are much higher and the Court therefore could distinguish Randall, follow Buckley, and uphold them. Or the Court could strike them down, invalidating aggregate limits as a violation of the First Amendment, but without calling into question all contribution limits. Buckley was based, in part, on the view that large contributions to candidates risk corruption and the appearance of corruption. The Court explained that “[t]o the extent that large contributions are given to secure a political quid pro quo from current and potential office holders, the integrity of our system of representative democracy is undermined. . . . Of almost equal concern as the danger of actual quid pro quo arrangements is the impact of the appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions.’’¶ The Court in McCutcheon could say that aggregate limits on the amount that can be contributed do not help to prevent such corruption or appearance of corruption. The Court could say that aggregate limits on contributions are really much more akin to expenditure limits and therefore unconstitutional. The Court could say that the real purpose of aggregate limits is to equalize political influence, a justification for campaign finance laws that the Court expressly rejected in Citizens United. Or the Court could distinguish aggregate limits to candidate committees from those to non-candidate committees, such as political parties.¶ Five votes to reconsider Buckley?¶ Underlying McCutcheon, though, is the question of whether the five conservative Justices want to reconsider Buckley’s holding that contribution limits are generally constitutional. In assessing this, it is important to note that three of these Justices – Antonin Scalia, Anthony Kennedy, and Clarence Thomas – have already called for the distinction between contribution and expenditure limits to be overruled. In his separate opinion in Colorado Republican Federal Campaign Committee v. Federal Election Commission, Justice Thomas declared: “I would reject the framework established by Buckley v. Valeo. . . . Instead, I begin with the premise that there is no constitutionally significant difference between campaign contributions and expenditures: both forms of speech are central to the First Amendment.’’¶ In Nixon v. Shrink Missouri Government PAC (2000), the Supreme Court reaffirmed Buckley’s distinction between contributions and expenditures, but four Justices sharply disagreed. Three Justices – Kennedy, Scalia, and Thomas – expressly declared their desire to overrule Buckley’s approval of contribution limits. Justice Kennedy wrote a strong dissent in which he lamented that ‘‘[t]he Court’s decision has lasting consequences for political speech in the course of elections, the speech upon which democracy depends.’’ He accused the Court of being “almost indifferent’’ to freedom of speech and said that he would overrule Buckley. Justice Thomas, joined by Justice Scalia, wrote a lengthier dissent, which began by declaring: “In the process of ratifying Missouri’s sweeping repression of political speech, the Court today adopts the analytical fallacies of our flawed decision in Buckley v. Valeo….Under the guise of applying Buckley, the Court proceeds to weaken the already enfeebled constitutional protection that Buckley afforded campaign contributions. As I indicated [previously], our decision in Buckley was in error, and I would overrule it.”¶ Therefore, it is likely that Justices Scalia, Kennedy, and Thomas are votes to strike down the aggregate contribution limits in McCutcheon and more generally to find contribution limits to violate the First Amendment. The crucial question in McCutcheon will be whether Chief Justice John Roberts and Justice Samuel Alito will join them and how far they are willing to go in reconsidering the distinction between contributions and expenditures.¶ The Chief Justice and Justice Alito were with Justices Scalia, Kennedy, and Thomas in Citizens United in its strong endorsement of the view that spending of money in election campaigns is political speech protected by the First Amendment and in invalidating limits on independent corporate political expenditures. Roberts and Alito also were with Scalia, Kennedy, and Thomas in Davis v. Federal Election Commission (2008), in declaring unconstitutional the “millionaire’s provision” of the Bipartisan Campaign Finance Reform Act unconstitutional. This provision increased contribution limits for opponents of a candidate who spent more than $350,000 of his or her personal funds. Most recently, in Arizona Free Enterprise Club’s Freedom Club PAC v. Bennett (2011), these five Justices were in the majority to declare unconstitutional a public funding system that increased the contribution and spending limits for those not taking public money based on the amount spent by opponents.¶ By contrast, Justices Ruth Bader Ginsburg, Stephen Breyer, and Sonia Sotomayor strongly dissented in Citizens United, and Justice Elena Kagan, who as Solicitor General argued for the constitutionality of the law in Citizens United, wrote the dissent in Arizona Free Enterprise Club. They are obviously much more likely to uphold the challenged provisions in McCutcheon and to adhere to Buckley’s distinction between contributions and expenditures.¶ What seems absent on the current Court is any Justice who takes the position espoused by Justice John Paul Stevens, that there is no meaningful distinction between contribution and expenditure limits and that expenditure limits should be constitutional. This long has been my view. Elected officials can be influenced by who spends money on their behalf, just as they can be influenced by who directly contributes money to them. The perception of corruption might be generated by large expenditures for a candidate, just as it can be caused by large contributions. Moreover, I agree with Justice Stevens’s statement in his concurrence in Nixon v. Shrink that “[m]oney is property; it is not speech. . . . These property rights are not entitled to the same protection as the right to say what one pleases.’’¶ Prediction¶ Predicting Supreme Court decisions is always tempting and always dangerous. But for what it’s worth, my prediction is that the Court will vote five-four to strike down the aggregate contribution limits being challenged in McCutcheon and that it will do so without overruling the distinction between contributions and expenditures that is at the core of Buckley. When faced to confront the question in some future case, I fear that the Chief Justice and Justice Alito will join Justices Scalia, Kennedy, and Thomas in rejecting this distinction and they well might signal this in McCutcheon.

#### Capital key to strike down aggregate limits --- Citizens United proves

Gora 13 (Joel, professor of law at Brooklyn Law School, “Symposium: McCutcheon v. FEC and the fork in the road,” http://www.scotusblog.com/2013/08/symposium-mccutcheon-v-fec-and-the-fork-in-the-road/#more-168568)

The future of Buckley? Will the McCutcheon case disturb that Buckley equilibrium and call into question the continued validity of contribution limits in general, as some fear? The challengers say it is not necessary to reach that question because, even viewed as contribution limits under the Buckley framework (which they contend requires a much more probing analysis than commonly thought), the aggregate limits are clearly unconstitutional. The aggregate candidate limits are not required to prevent quid pro quo corruption because every separate contribution to a candidate is within the legal base limit. And the aggregate committee caps, claimed to be anti-circumvention safeguards, are constitutionally unnecessary and defective because of all the other statutory and regulatory safeguards in place to insure that the base contribution amount that any one contributor can give to any one party committee cannot be used as a conduit for corruption.¶ But the challengers also contend that the aggregate limits really operate like expenditure limits – i.e., limiting the donor’s overall ability to support a message they endorse, and controlling not just how much can be contributed, but how many candidates and committees the contributor can express support for. Given that, strict scrutiny is the standard of review. To the extent that some of the briefs supporting the law fret that eliminating those aggregate limits will give the wealthy too much political influence and sway, they seem to underscore that these can be viewed as questionable expenditure limits designed to “level the playing field” – the kiss of death for any campaign finance law. Either way, the challengers say, whether viewed as contribution controls or expenditure limits, a careful analysis of the interlocking statutory protections against corruption will show that the aggregate limits fail strict or even close scrutiny and must be struck down.¶ Enter the Roberts Court Of course, the $64,000 question is how the Roberts Court is likely to view these issues. The Court has certainly developed a decided track record on campaign finance issues. Five cases, five decisions striking down various campaign finance mechanisms as violating the First Amendment. Pervading these cases is the application of real strict scrutiny to campaign finance laws, measuring the burdens they impose on candidates, parties and groups, carefully probing in great detail the weight of the justifications offered for the mechanism at issue and showing a deep distrust and a severe skepticism of those justifications. Chief Justice John Roberts wrote a very muscular decision in the Arizona public financing case striking down a scheme that merely gave publicly funded candidates more government financing to counter spending by privately funded candidates. Even that was too much of a burden on the right of the privately funded candidate to spend their own money on their campaign. Here the restrictions are direct and potent and tell the contributor: You’ve expressed enough support for the candidates and party of your choice.¶ As is so often the case, the disposition may come down to Justice Anthony Kennedy. He, of course, is the author of the notorious Citizens United v. Federal Elections Commission (2010) decision, for which, despite its support in some quarters as a proper vindication of core First Amendment rights of all groups and individuals, the Court has taken a brutal battering in the court of public opinion.¶ Many are already raising the specter of the McCutcheon case being another Citizens United, this time dramatically changing the basic law on contribution limits. But McCutcheon and the RNC are not making that argument and are not challenging the validity of the base limits on contributions to candidates or parties. They think they can win within the traditional Buckley framework that permits contribution regulation, but only if properly justified. And Justice Kennedy in Citizens United went out of the way to say that the case involved independent expenditures only, with no direct impact on the validity of contribution limits. But one of the linchpins of his decision was that the only compelling interest that justifies campaign finance limitations is preventing direct quid pro quo corruption. To the extent the supporters of the law seem to be claiming that contributors like McCutcheon might have greater access to and influence on Republican elected officials, these days that does not seem to be much of a winning argument in the Supreme Court.¶ Finally, a win for McCutcheon and the RNC would have one other positive effect. It might give parties and candidates more financial wherewithal to counter the recent rise of “super PACs,” as exaggerated as their electoral impact seemed to be.

#### The plan forces a trade off --- massively spends court capital

McGinnis and Rappaport ’02 (John O., Prof of Law @ Cardozo Law, and Michael B., Prof of Law @ University of San Diego Law, “Our Supermajoritarian Constitution,” 80 Tex. L. Rev. 703)

Significantly, the Supreme Court has not declared these substitutions unconstitutional. In fact, the Court has upheld certain exercises of presidential authority to conclude international agreements that had binding effect [\*768] under domestic law. n276 While the causes of the Court's behavior are complex, the most important reason of the Court's failure to police the treaty clause appears to be its historic deference to the other branches regarding foreign affairs. n277 The consequences of the Court's failure thus underscore that supermajority rules, like other constitutional restraints, often require judicial enforcement.¶ Nevertheless, judicial enforcement of supermajority rules in this area would bump up against the strong institutional reasons that lead courts to defer in foreign affairs. A decision, even if correct as a matter of law, may have dramatically unfortunate consequences that could erode the Court's prestige. n278 For this reason, one may suspect that a Court with many other duties it finds more palatable, like protecting individual rights, might be reluctant to enforce strictly supermajority rules in this area even if clearly given the responsibility to do so. n279 Thus, the enforcement of a supermajority rule in foreign affairs may be more difficult than in the domestic arena, because of the nature of the subject matter.¶ n278. See John O. McGinnis, Constitutional Review by the Executive in Foreign Affairs and War Powers: A Consequence of Rational Choice in the Separation of Powers, 56 Law & Contemp. Probs., Autumn 1993, at 293, 306-07 (contemplating that judicial decisions concerning foreign affairs would jeopardize the political capital of the Court).

#### Key to domestic political moderation – stops the Tea Party

Sides 10/16 (John, Associate Professor of Political Science – George Washington University, “Why striking down campaign contribution limits might make politics better,” Washington Post, <http://www.washingtonpost.com/blogs/monkey-cage/wp/2013/10/16/why-striking-down-campaign-contribution-limits-might-make-politics-better/>)

Finally, I want to say more about why striking down aggregate contribution limits might actually attenuate ideological extremism (assuming I’m mostly wrong on my first point that people will not try to circumvent contribution limits!). The current campaign finance system – with its emphasis on interest group spending — favors highly ideological factions that have the means and motive to run independent campaigns. Rules that channel more money through party organizations and candidates might dampen the power of groups like the Tea Party. Against this claim, Bob suggests that political parties ran ads in 2012 that were just as “aggressive” and negative as interest groups. Research by the Wesleyan Media Project indicates that this is not true. But this finding is not relevant to my argument. My point about moderation is not about the tone or content of political ads, but is tied to the nomination process where party factions fight their ideological battles. A generation ago, such battles were waged internally in the proverbial smoke-filled rooms. Today they might be hashed out in the open through primary elections. The advantage goes to the interest group that can raise a lot of money and mobilize its partisan faction of voters. Ideological moderation seems more plausible when political resources are controlled primarily by party leaders whose chief incentive is to win elections rather than take positions. Like Bob, I support reasonable contribution limits, but I do not think the retention of aggregate limits on party committees and candidates improves the current campaign finance system. I certainly do not think, as Bob suggests, that a favorable ruling for McCutcheon will encourage “more money from fewer sources to flow more freely.” That dynamic was partially spurred by Citizens United. If anything removing the aggregate limits could make the system more accountable by channeling funds to political committees that are transparent, particularly party and candidate committees, which must face the voters at the ballot box.

#### That will result in protectionism

Lighthizer 10 (Robert, deputy trade representative in the Reagan administration, “Throwing Free Trade Overboard,” November 12, <http://www.nytimes.com/2010/11/13/opinion/13lighthizer.html>)

But those expectations could be upset by an unexpected force: the Tea Party. Strangely, for a movement named after an 18th-century protest against import levies, Tea Partyers are largely skeptical about free trade’s benefits — according to a recent poll by NBC and The Wall Street Journal, 61 percent of Tea Party sympathizers believe it has hurt the United States. The movement has already forced the Republicans to alter their agenda in several policy areas. Should the same thing happen with free trade, America’s stance toward open markets and globalization could shift drastically. At first glance, the Tea Party’s position may seem contradictory: its small-government, pro-business views usually go hand in hand with free trade. But if you consider the dominant themes underlying its agenda, it makes sense that the movement would be wary about free-trade policies. For starters, Tea Partyers are frustrated with Washington, and that includes its failure to make free trade work for America. Our trade deficit in manufactured goods was about $4.3 trillion during the last decade, and the country lost some 5.6 million manufacturing jobs. And while the Tea Party supports market outcomes, its members appear to believe that the rest of the world is stacking the free-trade deck against us. They have a point: most policymakers agree that the Chinese currency is grossly and deliberately undervalued, that China fails to respect intellectual property rights and that it uses government subsidies to protect its own manufacturing base. Meanwhile, the movement says, the United States does virtually nothing in response. The Republican establishment will argue that its trade agenda is consistent with Tea Party ideals, that its goal is to get government out of the way and allow American companies to thrive in competitive markets. But Tea Partyers will ask, what good does it do to reduce the role of our government if foreign governments are free to rig the rules, attack American industries and take American jobs? As a result, the otherwise pro-market Tea Party may find its economic program far more at home with a nationalist trade policy that confronts foreign abuses and fights for American companies. Tea Partyers also have an instinctive aversion to deficits, and they are undoubtedly concerned that our enormous trade imbalances — which require us to sell hundreds of billions of dollars in assets each year — will leave our children dependent on foreign decision makers. Indeed, the value of foreign investments in the United States now exceeds the value of American investments abroad by $2.74 trillion, and China alone has roughly $2.5 trillion in foreign currency reserves, primarily dollars. Deficits, moreover, aren’t just a statistic; they raise serious concerns about America’s global leadership role. The Tea Party will demand to know why, if our trade policy is so successful, so many experts believe that the 21st century will belong to China, not the United States. And the Republican establishment will have to deal with the fact that Tea Party heroes like Alexander Hamilton, Theodore Roosevelt and Ronald Reagan had no problem restricting imports to promote our national interest. Given the Tea Party’s desire to restore America’s greatness, it will push Washington to stand up to China and re-establish American pre-eminence, even at the cost of the country’s free-trade record. Finally, trade is an issue where Tea Party concerns about “elites” thwarting the will of the voters will resonate. In this case, the elites include both Democrats and Republicans. You would need a high-powered microscope to tell the difference between Bill Clinton and George W. Bush on the subject of trade. Even during this slow economic recovery, Mr. Obama is pushing for a new market-opening round of talks at the World Trade Organization. Among Republicans, not one major elected figure expresses the skepticism toward free trade held by over three-fifths of Tea Partyers. In the face of soaring trade deficits and talk of American decline, the Tea Party may ask whether this is yet another area where the establishment has simply gotten it wrong. In short, the apparent contradiction between the Tea Party’s fiscal conservatism and its skepticism about free trade may not be a contradiction at all. If the Tea Party continues to influence the Republican agenda, it may not only spell bad news for the South Korea free trade agreement — it could also mean a fundamental reorientation of our country’s attitude toward trade and globalization.

#### Trade leadership solves war

**Panitchpakdi 4** (DG Supachai, Former Director-General – World Trade Organization, “American Leadership and the World Trade Organization: What is the Alternative?”, National Press Club, 2-26, http://www.wto.org/french/ news\_f/spsp\_f/spsp22\_f.htm)

I can sum up my message today in three sentences: The United States, more than any single country, created the world trading system. The US has never had more riding on the strength of that system. And US leadership — especially in the current Doha trade talks — is indispensable to the system's success. It is true that as the WTO's importance to the world economy increases, so too does the challenge of making it work: there are more countries, more issues, trade is in the spot light as never before. But the fiction that there is an alternative to the WTO — or to US leadership — is both naïve and dangerous. Naïve because it fails to recognize that multilateralism has become more — not less — important to advancing US interests. Dangerous because it risks undermining the very objectives the US seeks — freer trade, stronger rules, a more open and secure world economy. The Doha Round is a crucial test. The core issues — services, agriculture, and industrial tariffs — are obviously directly relevant to the US. America is highly competitive in services — the fastest growing sector of the world economy, and where the scope for liberalization is greatest. In agriculture too the US is competitive across many commodities — but sky-high global barriers and subsidies impede and distort agricultural trade. Industrial tariffs also offer scope for further liberalization — especially in certain markets and sectors. But what is at stake in these talks is more than the economic benefits that would flow from a successful deal. The real issue is the relevance of the multilateral trading system. Its expanded rules, broader membership, and binding dispute mechanism means that the new WTO — created less than ten years ago — is pivotal to international economic relations. But this means that the costs of failure are also higher — with ramifications that can be felt more widely. Advancing the Doha agenda would confirm the WTO as the focal point for global trade negotiations, and as the key forum for international economic cooperation. The credibility of the institution would be greatly enhanced. But if the Doha negotiations stumble, doubts may grow, not just about the WTO's effectiveness, but about the future of multilateralism in trade. This should be a major concern to the US for two reasons: First, the US is now integrated with the world economy as never before. A quarter of US GDP is tied to international trade, up from 10 per cent in 1970 — the largest such increase of any developed economy over this period. A third of US growth since 1990 has been generated by trade. And America's trade is increasingly global in scope — 37 per cent with Canada and Mexico, 23 per cent with Europe, 27 per cent with Asia. Last year alone, exports to China rose by almost 30 per cent. The US has also grown more reliant on the rules of the multilateral system to keep world markets open. Not only has it initiated more WTO dispute proceedings than any other country — some 75 since 1995 — according to USTR it has also won or successfully settled most of the cases it has brought. The point is this: even the US cannot achieve prosperity on its own; it is increasingly dependent on international trade, and the rules-based economic order that underpins it. As the biggest economy, largest trader and one of the most open markets in the world, it is axiomatic that the US has the greatest interest in widening and deepening the multilateral system. Furthermore, expanding international trade through the WTO generates increased global prosperity, in turn creating yet more opportunities for the US economy. The second point is that strengthening the world trading system is essential to America's wider global objectives. Fighting terrorism, reducing poverty, improving health, integrating China and other countries in the global economy — all of these issues are linked, in one way or another, to world trade. This is not to say that trade is the answer to all America's economic concerns; only that meaningful solutions are inconceivable without it. The world trading system is the linchpin of today's global order — underpinning its security as well as its prosperity. A successful WTO is an example of how multilateralism can work. Conversely, if it weakens or fails, much else could fail with it. This is something which the US — at the epicentre of a more interdependent world — cannot afford to ignore. These priorities must continue to guide US policy — as they have done since the Second World War. America has been the main driving force behind eight rounds of multilateral trade negotiations, including the successful conclusion of the Uruguay Round and the creation of the WTO. The US — together with the EU — was instrumental in launching the latest Doha Round two years ago. Likewise, the recent initiative, spearheaded by Ambassador Zoellick, to re-energize the negotiations and move them towards a successful conclusion is yet another example of how essential the US is to the multilateral process — signalling that the US remains committed to further liberalization, that the Round is moving, and that other countries have a tangible reason to get on board. The reality is this: when the US leads the system can move forward; when it withdraws, the system drifts. The fact that US leadership is essential, does not mean it is easy. As WTO rules have expanded, so too has as the complexity of the issues the WTO deals with — everything from agriculture and accounting, to tariffs and telecommunication. The WTO is also exerting huge gravitational pull on countries to join — and participate actively — in the system. The WTO now has 146 Members — up from just 23 in 1947 — and this could easily rise to 170 or more within a decade. Emerging powers like China, Brazil, and India rightly demand a greater say in an institution in which they have a growing stake. So too do a rising number of voices outside the system as well. More and more people recognize that the WTO matters. More non-state actors — businesses, unions, environmentalists, development NGOs — want the multilateral system to reflect their causes and concerns. A decade ago, few people had even heard of the GATT. Today the WTO is front page news. A more visible WTO has inevitably become a more politicized WTO. The sound and fury surrounding the WTO's recent Ministerial Meeting in Cancun — let alone Seattle — underline how challenging managing the WTO can be. But these challenges can be exaggerated. They exist precisely because so many countries have embraced a common vision. Countries the world over have turned to open trade — and a rules-based system — as the key to their growth and development. They agreed to the Doha Round because they believed their interests lay in freer trade, stronger rules, a more effective WTO. Even in Cancun the great debate was whether the multilateral trading system was moving fast and far enough — not whether it should be rolled back. Indeed, it is critically important that we draw the right conclusions from Cancun — which are only now becoming clearer. The disappointment was that ministers were unable to reach agreement. The achievement was that they exposed the risks of failure, highlighted the need for North-South collaboration, and — after a period of introspection — acknowledged the inescapable logic of negotiation. Cancun showed that, if the challenges have increased, it is because the stakes are higher. The bigger challenge to American leadership comes from inside — not outside — the United States. In America's current debate about trade, jobs and globalization we have heard a lot about the costs of liberalization. We need to hear more about the opportunities. We need to be reminded of the advantages of America's openness and its trade with the world — about the economic growth tied to exports; the inflation-fighting role of imports, the innovative stimulus of global competition. We need to explain that freer trade works precisely because it involves positive change — better products, better job opportunities, better ways of doing things, better standards of living. While it is true that change can be threatening for people and societies, it is equally true that the vulnerable are not helped by resisting change — by putting up barriers and shutting out competition. They are helped by training, education, new and better opportunities that — with the right support policies — can flow from a globalized economy. The fact is that for every job in the US threatened by imports there is a growing number of high-paid, high skill jobs created by exports. Exports supported 7 million workers a decade ago; that number is approaching around 12 million today. And these new jobs — in aerospace, finance, information technology — pay 10 per cent more than the average American wage. We especially need to inject some clarity — and facts — into the current debate over the outsourcing of services jobs. Over the next decade, the US is projected to create an average of more than 2 million new services jobs a year — compared to roughly 200,000 services jobs that will be outsourced. I am well aware that this issue is the source of much anxiety in America today. Many Americans worry about the potential job losses that might arise from foreign competition in services sectors. But it’s worth remembering that concerns about the impact of foreign competition are not new. Many of the reservations people are expressing today are echoes of what we heard in the 1970s and 1980s. But people at that time didn’t fully appreciate the power of American ingenuity. Remarkable advances in technology and productivity laid the foundation for unprecedented job creation in the 1990s and there is no reason to doubt that this country, which has shown time and again such remarkable potential for competing in the global economy, will not soon embark again on such a burst of job-creation. America's openness to service-sector trade — combined with the high skills of its workforce — will lead to more growth, stronger industries, and a shift towards higher value-added, higher-paying employment. Conversely, closing the door to service trade is a strategy for killing jobs, not saving them. Americans have never run from a challenge and have never been defeatist in the face of strong competition.

Part of this challenge is to create the conditions for global growth and job creation here and around the world. I believe Americans realize what is at stake. The process of opening to global trade can be disruptive, but they recognize that the US economy cannot grow and prosper any other way. They recognize the importance of finding global solutions to shared global problems. Besides, what is the alternative to the WTO? Some argue that the world's only superpower need not be tied down by the constraints of the multilateral system. They claim that US sovereignty is compromised by international rules, and that multilateral institutions limit rather than expand US influence. Americans should be deeply sceptical about these claims. Almost none of the trade issues facing the US today are any easier to solve unilaterally, bilaterally or regionally. The reality is probably just the opposite. What sense does it make — for example — to negotiate e-commerce rules bilaterally? Who would be interested in disciplining agricultural subsidies in a regional agreement but not globally? How can bilateral deals — even dozens of them — come close to matching the economic impact of agreeing to global free trade among 146 countries? Bilateral and regional deals can sometimes be a complement to the multilateral system, but they can never be a substitute. There is a bigger danger. By treating some countries preferentially, bilateral and regional deals exclude others — fragmenting global trade and distorting the world economy. Instead of liberalizing trade — and widening growth — they carve it up. Worse, they have a domino effect: bilateral deals inevitably beget more bilateral deals, as countries left outside are forced to seek their own preferential arrangements, or risk further marginalization. This is precisely what we see happening today. There are already over two hundred bilateral and regional agreements in existence, and each month we hear of a new or expanded deal. There is a basic contradiction in the assumption that bilateral approaches serve to strengthen the multilateral, rules-based system. Even when intended to spur free trade, they can ultimately risk undermining it. This is in no one's interest, least of all the United States. America led in the creation of the multilateral system after 1945 precisely to avoid a return to hostile blocs — blocs that had done so much to fuel interwar instability and conflict. America's vision, in the words of Cordell Hull, was that “enduring peace and the welfare of nations was indissolubly connected with the friendliness, fairness and freedom of world trade”. Trade would bind nations together, making another war unthinkable. Non-discriminatory rules would prevent a return to preferential deals and closed alliances. A network of multilateral initiatives and organizations — the Marshal Plan, the IMF, the World Bank, and the GATT, now the WTO — would provide the institutional bedrock for the international rule of law, not power. Underpinning all this was the idea that freedom — free trade, free democracies, the free exchange of ideas — was essential to peace and prosperity, a more just world. It is a vision that has emerged pre-eminent a half century later. Trade has expanded twenty-fold since 1950. Millions in Asia, Latin America, and Africa are being lifted out of poverty, and millions more have new hope for the future. All the great powers — the US, Europe, Japan, India, China and soon Russia — are part of a rules-based multilateral trading system, greatly increasing the chances for world prosperity and peace. There is a growing realization that — in our interdependent world — sovereignty is constrained, not by multilateral rules, but by the absence of rules. All of these were America’s objectives. The US needs to be both clearer about the magnitude of what it has achieved, and more realistic about what it is trying to — and can — accomplish. Multilateralism can be slow, messy, and tortuous. But it is also indispensable to managing an increasingly integrated global economy. Multilateralism is based on the belief that all countries — even powerful countries like the United States — are made stronger and more secure through international co-operation and rules, and by working to strengthen one another from within a system, not outside of it. Multilateralism's greatest ideal is the ideal of negotiation, compromise, consensus, not coercion. As Churchill said of democracy, it is the worst possible system except for all the others. I do not believe America's long-term economic interests have changed. Nor do I believe that America's vision for a just international order has become blurred. If anything, the American vision has been sharpened since the terrorist attacks on New York and Washington; sharpened by the realization that there is now a new struggle globally between the forces of openness and modernity, and the forces of separatism and reaction. More than ever, America's interests lie in an open world economy resting on the foundation of a strong, rules-based multilateral system. More and more, America's growth and security are tied to the growth and security of the world economy as a whole. American leadership today is more — not less — important to our increasingly interconnected planet. A recent successful, and much needed, example is the multilateral agreement on intellectual property rights and access to medicines for poor countries, in which the US played a pivotal role. It would be a tragic mistake if the Doha Round, which offers the world a once-in-a-generation opportunity to eliminate trade distortions, to strengthen trade rules, and open markets across the world, were allowed to founder. We need courage and the collective political will to ensure a balanced and equitable outcome. What is the alternative? It is a fragmented world, with greater conflict and uncertainty. A world of the past, not the future — one that America turned away from after 1945, and that we should reject just as decisively today. America must lead. The multilateral trading system is too important to fail. The world depends on it. So does America.

### Off 2

#### A. Interpretation – targeted killing is distinct from signature strikes – precise definitions are key

Uebersax 12 (John, psychologist, writer and former RAND Corporation military analyst, "The Four Kinds of Drone Strikes," http://satyagraha.wordpress.com/2012/05/23/the-four-kinds-of-drone-strikes/)

We must begin with clear terms, and that is the purpose of the present article. Drone strikes, that is, the launching of explosive missiles from a remotely operated aerial vehicle, come in four varieties: targeted killings, signature strikes, overt combat operations, and covert combat operations. We shall consider each in turn.¶ Targeted killing. This occurs when a drone strike is used to kill a terrorist whose identity is known, and whose name has been placed on a hit list, due to being deemed a ‘direct and immediate threat’ to US security. The government would like people to think this means these strikes target a terrorist literally with his or her hand on a detonator. But, in actuality, the only real criterion is that the government believes the target is sufficiently closely affiliated with terrorist organizations (e.g., a propagandist or financier) to justify assassination. This is likely the rarest form of drone strike. However it receives the most publicity, because the government likes to crow when it kills a high-ranking terrorist.¶ Signature strikes. In signature strikes, the target is a person whose name is not known, but whose actions fit the profile (or ‘signature’) of a high-ranking terrorist. There is some ambiguity concerning the meaning of this term. Some use it in the sense just stated — i.e., a strike against an anonymous terrorist leader. Others use it more broadly to include killing of any non-identified militants, whether high-ranking or not. However from the moral standpoint it makes a major difference whether an anonymous targeted victim is a high-level leader, or simply an anonymous combatant. For this reason it is advantageous to restrict the term “signature strike” to the targeting of anonymous high-level leaders, and to assign strikes against anonymous non-leaders to the two further categories below.¶ Overt combat operation. This category includes drone strikes conducted as part of regular military operations. These strikes are presumably run by uniformed military personnel according to codes of military conduct, and are, logically and legally, not much different from ordinary air or artillery strikes. As a part of routine warfare, such strikes are subject to the provisions of the Geneva Conventions. Three items of the Geneva Conventions are of special interest here: (1) strikes should occur only in the context of a legally declared war; (2) they should be conducted by lawful combatants (which, many experts believe, excludes use of non-uniformed, civilian contractor operators); and (3) standard provisions concerning the need to report casualties, especially civilian casualties, are in effect.¶ Covert combat operation. Finally, there are covert combat operations. These, like the former category, are launched against usual military targets – e.g., any hostile militant, not just high-ranking ones. But why should these strikes be covert? The obvious answer is: to mask something shady. Covert combat strikes can evade all those irritating constraints on military tactics imposed by the Geneva Conventions, International Law, public opinion, and basic human decency.¶ The specific terms used above to distinguish these four kinds of strikes are admittedly arbitrary, and perhaps some other nomenclature would be more advantageous. But we need some fixed set of terms to refer to these fundamentally different kinds of strikes. Without such terms, the US government will continue to have its way by relying on public confusion and terminological sophistry. For example, if there is only a single generic term, the government may issue a claim such as “drone strikes comply with international law.” This is perhaps technically true for, say, overt military drone strikes, but it is not true for signature strikes. With more precise terms, it would be more difficult for the government to mislead the public.

#### B. Vote neg –

#### A. Precision – our interpretation is exclusive and has an intent to define – accurate reading of the resolution is a pre-requisite to fairness and education – they make the resolution meaningless

#### B. Limits – expanding the term to include unknown terrorist identities makes the term limitless, destroying in depth education

### Off 3

#### The President of the United States should issue an executive order repealing, via the appropriate administrative agencies, its targeted killing policy involving drone strikes in order to comply with international law.

#### Solves –

#### Executive orders concerning war powers are common, have the same effect as the plan, and withstand judicial scrutiny

Duncan 10 (John C. – Associate Professor of Law, College of Law, Florida A & M University; Ph.D., Stanford University; J.D., Yale Law School, “A CRITICAL CONSIDERATION OF EXECUTIVE ORDERS: GLIMMERINGS OF AUTOPOIESIS IN THE EXECUTIVE ROLE”, Vermont Law Review, 35 Vt. L. Rev. 333, lexis)

Executive orders make "legally binding pronouncements" in fields of authority generally conceded to the President. n92 A prominent example of this use is in the area of security classifications. n93 President Franklin Roosevelt issued an executive order to establish the system of security classification in use today. n94 Subsequent administrations followed the President's lead, issuing their own executive orders on the subject. n95 In 1994, Congress specifically required "presidential issuance of an executive order on classification," by way of an "amendment to the National Security Act of 1947 . . . ." n96 The other areas in which Congress concedes broad power to the President "include ongoing governance of civil servants, foreign service and consular activities, operation and discipline in the military, controls on government contracting, and, until recently, the management and control of public lands." n97 Although there are also statutes that address these areas, most basic policy comes from executive orders. n98 Executive orders commonly address matters "concerning military personnel" n99 and foreign policy. n100 "[D]uring periods of heightened national security activity," executive orders regularly authorize the transfer of responsibilities, personnel, or resources from selected parts of the government to the military or vice versa. n101 Many executive orders have also guided the management of public lands, such as orders creating, expanding, or decommissioning military installations, and creating reservations for sovereign Native American communities. n102 [\*347] Executive orders serve to implement both regulations and congressional regulatory programs. n103 Regulatory orders may target specific businesses and people, or may be designed for general applicability. n104 Many executive orders have constituted "delegations of authority originally conferred on the president by statute" and concerning specific agencies or executive-branch officers. n105 Congress may confer to the President, within the statutory language, broad delegatory authority to subordinate officials, while nevertheless expecting the President to "retain[] ultimate responsibility for the manner in which ." n106 "[I]t is common today for [the President] to cite this provision of law . . . as the authority to support an order." n107 Many presidents, especially after World War II, used executive orders-with or without congressional approval-to create new agencies, eliminate existing organizations, and reorganize others. n108 Orders in this category include President Kennedy's creation of the Peace Corps, n109 and President Nixon's establishment of the Cabinet Committee on Environmental Quality, the Council on Environmental Policy, and reorganization of the Office of the President. n110 At the core of this reorganization was the creation of the Office of Management and Budget. n111 President Clinton continued the practice of creating agencies, including the National Economic Council, with the issuance of his second executive order. n112 President Clinton also used an executive order "to cut one hundred thousand positions from the federal service" a decision which would have merited no congressional review, despite its impact. n113 President George W. Bush created the Office of Homeland Security as his key organizational reaction to the terrorist attacks of September 11, 2001, despite the fact that [\*348] Congress at the time appeared willing to enact whatever legislation he sought. n114 President Obama created several positions of Special Advisor to the President on specific issues of concern, for which there is often already a cabinet or agency position. n115 Other executive orders have served "to alter pay grades, address regulation of the behavior of civil servants, outline disciplinary actions for conduct on and off the job, and establish days off, as in the closing of federal offices." n116 Executive orders have often served "to exempt named individuals from mandatory retirement, to create individual exceptions to policies governing pay grades and classifications, and to provide for temporary reassignment of personnel in times of war or national emergency." n117 Orders can authorize "exceptions from normal operations" or announce temporary or permanent appointments. n118 Many orders have also addressed the management of public lands, although the affected lands are frequently parts of military reservations. n119 The fact that an executive order has the effect of a statute makes it a law of the land in the same manner as congressional legislation or a judicial decision. n120 In fact, an executive order that establishes the precise rules and regulations for governing the execution of a federal statute has the same effect as if those details had formed a part of the original act itself. n121 However, if there is no constitutional or congressional authorization, an executive order may have no legal effect. n122 Importantly, executive orders designed to carry a statute into effect are invalid if they are inconsistent [\*349] with the statute itself, for any other construction would permit the executive branch to overturn congressional legislation capriciously. n123 The application of this rule allows the President to create an order under the presumption that it is within the power of the executive branch to do so. Indeed, a contestant carries the burden of proving that an executive action exceeds the President's authority. n124 That is, as a practical matter, the burden of persuasion with respect to an executive order's invalidity is firmly upon anyone who tries to question it. n125 The President thus has great discretion in issuing regulations. n126 An executive order, with proper congressional authorization enjoys a strong presumption of validity, and the judiciary is likely to interpret it broadly. n127 If Congress appropriates funds for a President to carry out a directive, this constitutes congressional ratification thereof. n128 Alternatively, Congress may simply refer to a presidential directive in later legislation and thereby retroactively shield it from any future challenge. n1

### Off 4

#### The affirmative’s acquiescence to the law cements epistemologically suspect juridical warfare---that naturalizes global preemptive violence

Morrissey 11 (John Morrissey, Lecturer in Political and Cultural Geography, National University of Ireland, Galway; has held visiting research fellowships at University College Cork, City University of New York, Virginia Tech and the University of Cambridge. Liberal Lawfare and Biopolitics: US Juridical Warfare in the War on Terror, Geopolitics, Volume 16, Issue 2, 2011)

Foucault’s envisioning of a more governmentalized and securitized modernity, framed by a ubiquitous architecture of security, speaks on various levels to the contemporary US military’s efforts in the war on terror, but I want to mention three specifically, which I draw upon through the course of the paper. First, in the long war in the Middle East and Central Asia, the US military actively seeks to legally facilitate both the ‘circulation’ and ‘conduct’ of a target population: its own troops. This may not be commonly recognized in biopolitical critiques of the war on terror but, as will be seen later, the Judge Advocate General Corps has long been proactive in a ‘juridical’ form of warfare, or lawfare, that sees US troops as ‘technical-biopolitical’ objects of management whose ‘operational capabilities’ on the ground must be legally enabled. Secondly, as I have explored elsewhere, the US military’s ‘grand strategy of security’ in the war on terror — which includes a broad spectrum of tactics and technologies of security, including juridical techniques — has been relentlessly justified by a power/knowledge assemblage in Washington that has successfully scripted a neoliberal political economy argument for its global forward presence.’9 Securitizing economic volatility and threat and regulating a neoliberal world order for the good of the global economy are powerful discursive touchstones registered perennially on multiple forums in Washington — from the Pentagon to the war colleges, from IR and Strategic Studies policy institutes to the House and Senate Armed Services Committees — and the endgame is the legitimization of the military’s geopolitical and biopolitical technologies of power overseas,20 Finally, Foucault’s conceptualization of a ‘society of security’ is marked by an urge to ‘govern by contingency’, to ‘anticipate the aleatory’, to ‘allow for the evental’.2’ It is a ‘security society’ in which the very language of security is promissory, therapeutic and appealing to liberal improvement. The lawfare of the contemporary US military is precisely orientated to plan for the ‘evental’, to anticipate a 4 series of future events in its various ‘security zones’ — what the Pentagon terms ‘Areas of Responsibility’ or ‘AORs’ (see figure 1)•fl These AORs equate, in effect, to what Foucault calls “spaces of security”, comprising “a series of possible events” that must be securitized by inserting both “the temporal” and “the uncertain”. And it is through preemptive juridical securitization ‘beyond the battlefield’ that the US military anticipates and enables the necessary biopolitical modalities of power and management on the ground for any future interventionary action. AORs and the ‘milieu’ of security For CENTCOM Commander General David Petraeus, and the other five US regional commanders across the globe, the population’ of primary concern in their respective AORs is the US military personnel deployed therein. For Petraeus and his fellow commanders, US ground troops present perhaps less a collection of “juridical-political” subjects and more what Foucault calls “technical- political” objects of “management and government”.25 In effect, they are tasked with governing “spaces of security” in which “a series of uncertain elements” can unfold in what Foucault terms the “milieu”.26 What is at stake in the milieu’ is “the problem of circulation and causality”, which must be anticipated and pLanned for in terms of “a series of possible events” that need to “be regulated within a multivalent and transformable framework”.27 And the “technical problem” posed by the eighteenth-century town planners Foucault has in mind is precisely the same technical problem of 5 space, population and regulation that US military strategists and Judge Advocate General Corps (JAG) personnel have in the twenty-first century. For US military JAGs, their endeavours to legally securitize the AORs of their regional commanders are ultimately orientated to “fabricate, organize, and plan a milieu” even before ground troops are deployed (as in the case of the first action in the war on terror, which I return to later: the negotiation by CENTCOM JAGs of a Status of Forces Agreement with Uzbekistan in early October 2OO1).2 JAGs play a key role in legally conditioning the battlefield, in regulating the circulation of troops, in optimizing their operational capacities, and in sanctioning the privilege to kill. The JAG’s milieu is a “field of intervention”, in other words, in which they are seeking to “affect, precisely, a population”.29 To this end, securing the aleatory or the uncertain is key. As Michael Dillon argues, central to the securing of populations are the “sciences of the aleatory or the contingent” in which the “government of population” is achieved by the regulation of “statistics and probability”.30 As he points out elsewhere, you “cannot secure anything unless you know what it is”, and therefore securitization demands that “people, territory, and things are transformed into epistemic objects”.3’ And in planning the milieu of US ground forces overseas, JAGs translate regional AORs into legally-enabled grids upon which US military operations take place. This is part of the production of what Matt Hannah terms “mappable landscapes of expectation”;32 and to this end, the aleatory is anticipated by planning for the ‘evental’ in the promissory language of securitization. The ontology of the event’ has recently garnered wide academic engagement. Randy Martin, for example, has underlined the evental discursive underpinnings of US military strategy in the war on terror; highlighting how the risk of future events results in ‘preemption’ being the tactic of their securitization.33 Naomi Klein has laid bare the powerful event-based logic of disaster capitalism’;34 while others have pointed out how an ascendant logic of premediation’. in which the future is already anticipated and mediated”. is a marked feature of the “post-9/1 I cultural landscape”.35 But it was Foucault who first cited the import of the evental’ in the realm of biopolitics. He points to the “anti-scarcity system” of seventeenth-century Europe as an early exemplar of a new ‘evental’ biopolitics in which “an event that could take place” is prevented before it “becomes a reality”.36 To this end, the figure of ‘population’ becomes both an ‘object’, “on which and towards which mechanisms are directed in order to have a particular effect on it”, but also a ‘subject’, “called upon to conduct itself in such and such a fashion”.37 Echoing Foucault, David Nally usefully argues that the emergence of the “era of bio-power” was facilitated by “the ability of ‘government’ to seize, manage and control individual bodies and whole populations”.38 And this is part of Michael Dillon’s argument about the “very operational heart of the security dispositif of the biopolitics of security”, which seeks to ‘strategize’, ‘secure’. ‘regulate’ and ‘manipulate’ the “circulation of species Iife”.3 For the US military, it is exactly the circulation and regulation of life that is central to its tactics of lawfare to juridically secure the necessary legal geographies and biopolitics of its overseas ground presence.

#### The impact is permanent warfare

Jabri 6 (Vivienne Jabri , Director of the Centre for International Relations and Senior Lecturer at the Department of War Studies, King’s College London, War, Security and the Liberal State, Security Dialogue, 37;47 )

LATE MODERN TRANSFORMATIONS are often conceived in terms of the sociopolitical and economic manifestations of change emergent from a globalized arena. What is less apparent is how late modernity as a distinct era has impacted upon our conceptions of the social sphere, our lived experience, and our reflections upon the discourses and institutions that form the taken-for-granted backdrop of the known and the knowable. The paradigmatic certainties of modernity – the state, citizenship, democratic space, humanity’s infinite capacity for progress, the defeat of dogma and the culmination of modernity’s apotheosis in the free-wheeling market place – have in the late modern era come face to face with uncertainty, unpre- dictability and the gradual erosion of the modern belief that we could indeed simply move on, assisted by science and technology, towards a condition where instrumental rationality would become the linchpin of government and human interaction irrespective of difference. Progress came to be associated with peace, and both were constitutively linked to the universal, the global, the human, and therefore the cosmopolitan. What shatters such illusions is the recollection of the 20th century as the ‘age of extremes’ (Hobsbawm, 1995), and the 21st as the age of the ever-present condition of war. While we might prefer a forgetting of things past, a therapeutic anamnesis that manages to reconfigure history, it is perhaps the continuities with the past that act as antidote to such righteous comforts. How, then, do we begin to conceptualize war in conditions where distinctions disappear, where war is conceived, or indeed articulated in political discourse, in terms of peace and security, so that the political is somehow banished in the name of governmentalizing practices whose purview knows no bounds, whose remit is precisely the banishment of limits, of boundaries and distinctions. Boundaries, however, do not disappear. Rather, they become manifest in every instance of violence, every instance of control, every instance of practices targeted against a constructed other, the enemy within and without, the all-pervasive presence, the defences against which come to form the legitimizing tool of war. Any scholarly take on the present juncture of history, any analysis of the dynamics of the present, must somehow render the narrative in measured tones, taking all factors into account, lest the narrator is accused of exaggeration at best and particular political affiliations at worst. When the late modern condition of the West, of the European arena, is one of camps, one of the detention of groups of people irrespective of their individual needs as migrants, one of the incarceration without due process of suspects, one of overwhelming police powers to stop, search and detain, one of indefinite detention in locations beyond law, one of invasion and occupation, then language itself is challenged in its efforts to contain the description of what is. The critical scholarly take on the present is then precisely to reveal the conditions of possibility in relation to how we got here, to unravel the enabling dynamics that led to the disappearance of distinctions between war and criminality, war and peace, war and security. When such distinctions disappear, impunity is the result, accountability shifts beyond sight, and violence comes to form the linchpin of control. We can reveal the operations of violence, but far more critical is the revelation of power and how power operates in the present. As the article argues, such an exploration raises fundamental questions relating to the relationship of power and violence, and their mutual interconnection in the complex interstices of disrupted time and space locations. Power and violence are hence separable analytical categories, separable practices; they are at the same time connected in ways that work on populations and on bodies – with violence often targeted against the latter so that the former are reigned in, governed. Where Michel Foucault sought, in his later writings, to distinguish between power and violence, to reveal the subtle workings of power, now, in the present, this article will venture, perhaps the distinction is no longer viable when we witness the indistinctions I highlight above The article provides an analysis of the place of war in late modern politics. In particular, it concentrates on the implications of war for our conceptions of the liberty–security problematique in the context of the modern liberal state. The first section of the article argues the case for the figure of war as analyser of the present. The second section of the article reveals the con- ditions of possibility for a distinctly late modern mode of war and its imbri- cations in politics. The final section of the article concentrates on the political implications of the primacy of war in late modernity, and in particular on possibilities of dissent and articulations of political agency. The aim through- out is to provide the theoretical and conceptual tools that might begin to meet the challenges of the present and to open an agenda of research that concentrates on the politics of the present, the capacities or otherwise of contestation and accountability, and the institutional locations wherein such political agency might emerge. The Figure of War and the Spectre of Security The so-called war against terrorism is constructed as a global war, transcend- ing space and seemingly defiant of international conventions. It is dis- tinguished from previous global wars, including the first and the second world wars, in that the latter two have, in historiography, always been analysed as interstate confrontations, albeit ones that at certain times and in particular locations peripherally involved non-state militias. Such distinc- tions from the old, of course, will be subject to future historical narratives on the present confrontation and its various parameters. What is of interest in the present discussion is the distinctly global aspect of this war, for it is the globality1 of the war against terrorism that renders it particularly relevant and pertinent to investigations that are primarily interested in the relation- ship between war and politics, war and the political processes defining the modern state. The initial premise of the present article is that war, rather than being confined to its own time and space, permeates the normality of the political process, has, in other words, a defining influence on elements con- sidered to be constitutive of liberal democratic politics, including executive answerability, legislative scrutiny, a public sphere of discourse and inter- action, equal citizenship under the law and, to follow liberal thinkers such as Habermas, political legitimacy based on free and equal communicative practices underpinning social solidarity (Habermas, 1997). War disrupts these elements and is a time of crisis and emergency. A war that has a permanence to it clearly normalizes the exceptional, inscribing emergency into the daily routines of social and political life. While the elements of war – conflict, social fragmentation, exclusion – may run silently through the assemblages of control in liberal society (Deleuze, 1986), nevertheless the persistent iteration of war into politics brings these practices to the fore, and with them a call for a rethinking of war’s relationship to politics. The distinctly global spatiality of this war suggests particular challenges that have direct impact on the liberal state, its obligations towards its citizenry, and the extent to which it is implicated in undermining its own political institutions. It would, however, be a mistake to assume that the practices involved in this global war are in any way anathema to the liberal state. The analysis provided here would argue that while it is crucial to acknowledge the transformative impact of the war against terrorism, it is equally as important to appreciate the continuities in social and political life that are the enabling conditions of this global war, forming its conditions of possibility. These enabling conditions are not just present or apparent at global level, but incorporate local practices that are deep-rooted and institu- tionalized. The mutually reinforcing relationship between global and local conditions renders this particular war distinctly all-pervasive, and poten- tially, in terms of implications, far more threatening to the spaces available for political contestation and dissent. Contemporary global politics is dominated by what might be called a ‘matrix of war’2 constituted by a series of transnational practices that vari- ously target states, communities and individuals. These practices involve states as agents, bureaucracies of states and supranational organizations, quasi-official and private organizations recruited in the service of a global machine that is highly militarized and hence led by the United States, but that nevertheless incorporates within its workings various alliances that are always in flux. The crucial element in understanding the matrix of war is the notion of ‘practice’, for this captures the idea that any practice is not just situated in a system of enablements and constraints, but is itself constitutive of structural continuities, both discursive and institutional. As Paul Veyne (1997: 157) writes in relation to Foucault’s use of the term, ‘practice is not an agency (like the Freudian id) or a prime mover (like the relation of produc- tion), and moreover for Foucault, there is no agency nor any prime mover’. It is in this recursive sense that practices (of violence, exclusion, intimidation, control and so on) become structurated in the routines of institutions as well as lived experience (Jabri, 1996). To label the contemporary global war as a ‘war against terrorism’ confers upon these practices a certain legitimacy, suggesting that they are geared towards the elimination of a direct threat. While the threat of violence perpetrated by clandestine networks against civilians is all too real and requires state responses, many of these responses appear to assume a wide remit of operations – so wide that anyone interested in the liberties associated with the democratic state, or indeed the rights of individuals and communities, is called upon to unravel the implications of such practices. When security becomes the overwhelming imperative of the democratic state, its legitimization is achieved both through a discourse of ‘balance’ between security and liberty and in terms of the ‘protection’ of liberty.3 The implications of the juxtaposition of security and liberty may be investigated either in terms of a discourse of ‘securitization’ (the power of speech acts to construct a threat juxtaposed with the power of professionals precisely to so construct)4 or, as argued in this article, in terms of a discourse of war. The grammars involved are closely related, and yet that of the latter is, para- doxically, the critical grammar, the grammar that highlights the workings of power and their imbrications with violence. What is missing from the securitization literature is an analytic of war, and it is this analytic that I want to foreground in this article. The practices that I highlight above seem at first hand to constitute differ- ent response mechanisms in the face of what is deemed to be an emergency situation in the aftermath of the events of 11 September 2001. The invasion and occupation of Iraq, the incarceration without due process of prisoners in camps from Afghanistan to Guantánamo and other places as yet un- identified, the use of torture against detainees, extra-judicial assassination, the detention and deportation – again without due process – of foreign nationals deemed a threat, increasing restrictions on refugees, their confine- ment in camps and detention centres, the construction of the movement of peoples in security terms, and restrictions on civil liberties through domestic legislation in the UK, the USA and other European states are all represented in political discourse as necessary security measures geared towards the protection of society. All are at the same time institutional measures targeted against a particular other as enemy and source of danger. It could be argued that the above practices remain unrelated and must hence be subject to different modes of analysis. To begin with, these practices involve different agents and are framed around different issues. Afghanistan and Iraq may be described as situations of war, and the incarceration of refugees as encompassing practices of security. However, what links these elements is not so much that they constitute a constructed taxonomy of dif- ferentiated practices. Rather, what links them is the element of antagonism directed against distinct and particular others. Such a perspective suggests that the politics of security, including the production of fear and a whole array of exclusionary measures, comes to service practices that constitute war and locates the discourse of war at the heart of politics, not just domes- tically, but, more crucially in the present context, globally. The implications for the late modern state and the distinctly liberal state are monumental, for a perpetual war on a global scale has implications for political structures and political agency, for our conceptions of citizenship and the role of the state in meeting the claims of its citizens,5 and for the workings of a public sphere that is increasingly global and hence increasingly multicultural. The matrix of war is centrally constituted around the element of antago- nism, having an association with existential threat: the idea that the continued presence of the other constitutes a danger not just to the well-being of society but to its continued existence in the form familiar to its members, hence the relative ease with which European politicians speak of migrants of particular origins as forming a threat to the ‘idea of Europe’ and its Christian origins.6 Herein lies a discourse of cultural and racial exclusion based on a certain fear of the other. While the war against specific clandestine organiza- tions7 involves operations on both sides that may be conceptualized as a classical war of attrition, what I am referring to as the matrix of war is far more complex, for here we have a set of diffuse practices, violence, disci- plinarity and control that at one and same time target the other typified in cultural and racial terms and instantiate a wider remit of operations that impact upon society as a whole. The practices of warfare taking place in the immediate aftermath of 11 September 2001 combine with societal processes, reflected in media representations and in the wider public sphere, where increasingly the source of threat, indeed the source of terror, is perceived as the cultural other, and specifically the other associated variously with Islam, the Middle East and South Asia. There is, then, a particularity to what Agamben (1995, 2004) calls the ‘state of exception’, a state not so much generalized and generalizable, but one that is experienced differently by different sectors of the global population. It is precisely this differential experience of the exception that draws attention to practices as diverse as the formulation of interrogation techniques by military intelligence in the Pentagon, to the recent provisions of counter-terrorism measures in the UK,8 to the legitimizing discourses surrounding the invasion of Iraq. All are practices that draw upon a discourse of legitimization based on prevention and pre-emption. Enemies constructed in the discourses of war are hence always potential, always abstract even when identified, and, in being so, always drawn widely and, in consequence, communally. There is, hence, a ‘profile’ to the state of exception and its experience. Practices that profile particular communities, including the citizens of European states, create particular challenges to the self-understanding of the liberal democratic state and its capacity, in the 21st century, to deal with difference. While a number of measures undertaken in the name of security, such as proposals for the introduction of identity cards in the UK or increasing surveillance of financial transactions in the USA, might encompass the population as a whole, the politics of exception is marked by racial and cul- tural signification. Those targeted by exceptional measures are members of particular racial and cultural communities. The assumed threat that under- pins the measures highlighted above is one that is now openly associated variously with Islam as an ideology, Islam as a mode of religious identi- fication, Islam as a distinct mode of lifestyle and practice, and Islam as a particular brand associated with particular organizations that espouse some form of a return to an Islamic Caliphate. When practices are informed by a discourse of antagonism, no distinctions are made between these various forms of individual and communal identification. When communal profiling takes place, the distinction between, for example, the choice of a particular lifestyle and the choice of a particular organization disappears, and diversity within the profiled community is sacrificed in the name of some ‘pre- cautionary’ practice that targets all in the name of security.9 The practices and language of antagonism, when racially and culturally inscribed, place the onus of guilt onto the entire community so identified, so that its indi- vidual members can no longer simply be citizens of a secular, multicultural state, but are constituted in discourse as particular citizens, subjected to particular and hence exceptional practices. When the Minister of State for the UK Home Office states that members of the Muslim community should expect to be stopped by the police, she is simply expressing the condition of the present, which is that the Muslim community is particularly vulnerable to state scrutiny and invasive measures that do not apply to the rest of the citizenry.10 We know, too, that a distinctly racial profiling is taking place, so that those who are physically profiled are subjected to exceptional measures. Even as the so-called war against terrorism recognizes no boundaries as limits to its practices – indeed, many of its practices occur at transnational, often indefinable, spaces – what is crucial to understand, however, is that this does not mean that boundaries are no longer constructed or that they do not impinge on the sphere of the political. The paradox of the current context is that while the war against terrorism in all its manifestations assumes a boundless arena, borders and boundaries are at the heart of its operations. The point to stress is that these boundaries and the exclusionist practices that sustain them are not coterminous with those of the state; rather, they could be said to be located and perpetually constructed upon the corporeality of those constructed as enemies, as threats to security. It is indeed the corporeal removal of such subjects that lies at the heart of what are constructed as counter-terrorist measures, typified in practices of direct war, in the use of torture, in extra-judicial incarceration and in judicially sanctioned detention. We might, then, ask if such measures constitute violence or relations of power, where, following Foucault, we assume that the former acts upon bodies with a view to injury, while the latter acts upon the actions of subjects and assumes, as Deleuze (1986: 70–93) suggests, a relation of forces and hence a subject who can act. What I want to argue here is that violence is imbricated in relations of power, is a mode of control, a technology of governmentality. When the population of Iraq is targeted through aerial bombardment, the consequence goes beyond injury and seeks the pacifica- tion of the Middle East as a political region. When legislative and bureaucratic measures are put in place in the name of security, those targeted are categories of population. At the same time, the war against terrorism and the security discourses utilized in its legitimiza- tion are conducted and constructed in terms that imply the defence or protection of populations. One option is to limit policing, military and intel- ligence efforts through the targeting of particular organizations. However, it is the limitless construction of the war against terrorism, its targeting of particular racial and cultural communities, that is the source of the challenge presented to the liberal democratic state. In conditions constructed in terms of emergency, war permeates discourses on politics, so that these come to be subject to the restraints and imperatives of war and practices constituted in terms of the demands of security against an existential threat. The implications for liberal democratic politics and our conceptions of the modern state and its institutions are far-reaching,11 for the liberal democratic polity that considers itself in a state of perpetual war is also a state that is in a permanent state of mobilization, where every aspect of public life is geared towards combat against potential enemies, internal and external. One of the most significant lessons we learn from Michel Foucault’s writ- ings is that war, or ‘the distant roar of battle’ (Foucault, 1977: 308), is never quite so distant from liberal governmentality. Conceived in Foucaultian terms, war and counter-terrorist measures come to be seen not as discontinuity from liberal government, but as emergent from the enabling conditions that liberal government and the modern state has historically set in place. On reading Foucault’s renditions on the emergence of the disciplinary society, what we see is the continuation of war in society and not, as in Hobbes and elsewhere in the history of thought, the idea that wars happen at the outskirts of society and its civil order. The disciplinary society is not simply an accumulation of institutional and bureaucratic procedures that permeate the everyday and the routine; rather, it has running through its interstices the constitutive elements of war as continuity, including confrontation, struggle and the corporeal removal of those deemed enemies of society. In Society Must Be Defended (Foucault, 2003) and the first volume of the History of Sexuality (Foucault, 1998), we see reference to the discursive and institutional continuities that structurate war in society. Reference to the ‘distant roar of battle’ suggests confrontation and struggle; it suggests the ever-present construction of threat accrued to the particular other; it suggests the immediacy of threat and the construction of fear of the enemy; and ultimately it calls for the corporeal removal of the enemy as source of threat. The analytic of war also encompasses the techniques of the military and their presence in the social sphere – in particular, the control and regulation of bodies, timed pre- cision and instrumentality that turn a war machine into an active and live killing machine. In the matrix of war, there is hence the level of discourse and the level of institutional practices; both are mutually implicating and mutually enabling. There is also the level of bodies and the level of population. In Foucault’s (1998: 152) terms: ‘the biological and the historical are not con- secutive to one another . . . but are bound together in an increasingly com- plex fashion in accordance with the development of the modern technologies of power that take life as their objective’. What the above suggests is the idea of war as a continuity in social and political life. The matrix of war suggests both discursive and institutional practices, technologies that target bodies and populations, enacted in a complex array of locations. The critical moment of this form of analysis is to point out that war is not simply an isolated occurrence taking place as some form of interruption to an existing peaceful order. Rather, this peaceful order is imbricated with the elements of war, present as continuities in social and political life, elements that are deeply rooted and enabling of the actuality of war in its traditional battlefield sense. This implies a continuity of sorts between the disciplinary, the carceral and the violent manifestations of government.

#### Our alternative is to refuse technical debates about war powers in favor of subjecting the 1ac’s discourse to rigorous democratic scrutiny

Rana 12 (Aziz Rana, Assistant Professor of Law, Cornell University Law School; A.B., Harvard College; J.D., Yale Law School; PhD., Harvard University, July 2012, “NATIONAL SECURITY: LEAD ARTICLE: Who Decides on Security?,” 44 Conn. L. Rev. 1417)

But this mode of popular involvement comes at a key cost. Secret information is generally treated as worthy of a higher status than information already present in the public realm—the shared collective information through which ordinary citizens reach conclusions about emergency and defense. Yet, oftentimes, as with the lead up to the Iraq War in 2003, although the actual content of this secret information is flawed,197 its status as secret masks these problems and allows policymakers to cloak their positions in added authority. This reality highlights the importance of approaching security information with far greater collective skepticism; it also means that security judgments may be more ‘Hobbesian’—marked fundamentally by epistemological uncertainty as opposed to verifiable fact—than policymakers admit. If the objective sociological claims at the center of the modern security concept are themselves profoundly contested, what does this meahn for reform efforts that seek to recalibrate the relationship between liberty and security? Above all, it indicates that the central problem with the procedural solutions offered by constitutional scholars-emphasizing new statutory frameworks or greater judicial assertiveness-is that they mistake a question of politics for one of law. In other words, such scholars ignore the extent to which governing practices are the product of background political judgments about threat, democratic knowledge, professional expertise, and the necessity for insulated decision-making. To the extent that Americans are convinced that they face continuous danger from hidden and potentially limitless assailants-danger too complex for the average citizen to comprehend independently-it is inevitable that institutions (regardless of legal reform initiatives) will operate to centralize power in those hands presumed to enjoy military and security expertise. Thus, any systematic effort to challenge the current framing of the relationship between security and liberty must begin by challenging the underlying assumptions about knowledge and security upon which legal and political arrangements rest. Without a sustained and public debate about the validity of security expertise, its supporting institutions, and the broader legitimacy of secret information, there can be no substantive shift in our constitutional politics. The problem at present, however, is that it remains unclear which popular base exists in society to raise these questions. Unless such a base fully emerges, we can expect our prevailing security arrangements to become ever more entrenched.

### 1NC Deterrence Frontline

#### Backlash inevitable – plan doesn’t end surveillance drones and can’t make new norms – your Whibley evidence concludes neg

#### Nuclear modernization isn’t k2 deterrence

Travis Sharp 10, Research Associate at the Center for a New American Security, “The Numbers Game”, Nukes of Hazard, Center for Arms Control & Nonproliferation, 2-24, http://www.nukesofhazardblog.com/story/2010/2/24/123221/390

This complaint is regularly expressed by Keith Payne, the paragon of conservative nuclear strategists. For instance, Payne wrote last year that “informed estimates about the functioning of deterrence must also include assessments of opponent decision-making processes, values, intentions, histories, levels of determination, goals, stakes and worldviews.” Since deterrence is not a quantifiable or scientific outcome, Payne concluded,¶ In the contemporary strategic environment, it is impossible to provide high-confidence, quantitatively precise and enduring answers to the question “how much is enough” for deterrence. The familiar game of linking some specific number of nuclear weapons with confidence in deterrence and the adequacy of U.S. strategic forces in general remains popular, but it now is unsupportable…even if done rigorously, identifying the requirements for deterrence is an incomplete basis for defining the necessary parameters for U.S. strategic forces in general.¶ Before considering whether this “numbers game” critique is justified, a comment is needed on Bolton’s and Payne’s methodology. Deterrence indubitably involves historical, cultural, psychological, and political calculations, as Payne suggests. NOH readers should recognize, however, that predicating deterrence on potential adversaries’ values, goals, stakes, and worldviews allows Bolton and Payne to configure U.S. nuclear forces according to how evil they perceive other countries to be. Do we really want to dismiss targeting-based deterrence analyses, such as Cimbala’s JFQ article and Lieber’s and Press’s Foreign Affairs appendix, as mere Cold War remnants and replace them with 1 inflammatory Ahmadinejad quote = 1 credible limited U.S. counterforce option? Payne is arguing, laudably, for recognizing deterrence’s complexity. Yet will an injection of red-blooded Manichaeism make U.S. nuclear policy more effective? I doubt it.¶ Payne is right that it is difficult to formulate “quantitatively precise” answers to deterrence questions, but that uncertainty doesn’t necessarily justify rounding up to the larger U.S. nuclear arsenal he would prefer. As Charles Glaser convincingly put it, “Deterrence is likely to be effective because, as was argued extensively during the Cold War, even relatively little credibility is sufficient when the costs of retaliation are so large.” In other words, a little nuke still goes a long way.

#### 1NC Odle isn’t reverse causal – sure other countries justify their policy because we do, doesn’t mean they would stop because we stop

#### Obama circumvents the aff

Lohmann 13 **(**Julia, director of the Harvard Law National Security Research Committee, BA in political science from the University of California, Berkeley, “Distinguishing CIA-Led from Military-Led Targeted Killings,” <http://www.lawfareblog.com/wiki/the-lawfare-wiki-document-library/targeted-killing/effects-of-particular-tactic-on-issues-related-to-targeted-killings/>)

The U.S. military—in particular, the Special Operations Command (SOCOM), and its subsidiary entity, the Joint Special Operations Command (JSOC)—is responsible for carrying out military-led targeted killings.¶ Military-led targeted killings are subject to various legal restrictions, including a complex web of statutes and executive orders. For example, because the Covert Action Statute does not distinguish among institutions undertaking covert actions, targeted killings conducted by the military that fall within the definition of “covert action” set forth in 50 U.S.C. § 413(b) are subject to the same statutory constraints as are CIA covert actions. 50 U.S.C. § 413b(e). However, as Robert Chesney explains, many military-led targeted killings may fall into one of the CAS exceptions—for instance, that for traditional military activities—so that the statute’s requirements will not always apply to military-led targetings. Such activities are exempted from the CAS’s presidential finding and authorization requirements, as well as its congressional reporting rules.¶ Because such unacknowledged military operations are, in many respects, indistinguishable from traditional covert actions conducted by the CIA, this exception may provide a “loophole” allowing the President to circumvent existing oversight mechanisms without substantively changing his operational decisions. However, at least some military-led targetings do not fall within the CAS exceptions, and are thus subject to that statute’s oversight requirements. For instance, Chesney and Kenneth Anderson explain, some believe that the traditional military activities exception to the CAS only applies in the context of overt hostilities, yet it is not clear that the world’s tacit awareness that targeted killing operations are conducted (albeit not officially acknowledged) by the U.S. military, such as the drone program in Pakistan, makes those operations sufficiently overt to place them within the traditional military activities exception, and thus outside the constraints of the CAS.¶ Chesney asserts, however, that despite the gaps in the CAS’s applicability to military-led targeted killings, those targetings are nevertheless subject to a web of oversight created by executive orders that, taken together, largely mirrors the presidential authorization requirements of the CAS. But, this process is not enshrined in statute or regulation and arguably could be changed or revoked by the President at any time. Moreover, this internal Executive Branch process does not involve Congress or the Judiciary in either ex ante or ex post oversight of military-led targeted killings, and thus, Philip Alston asserts, it may be insufficient to provide a meaningful check against arbitrary and overzealous Executive actions.

#### 1AC Boyle ev says countries already have the technology now – if it’s in their self-interest they’ll adopt and use the tech even post plan

#### Drone arms race inevitable

USA Today 13

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

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

#### Your impact ev is all in the context of drones spreading – this is inevitable and already happening

#### U.S. can’t effectively signal

Zenko 13 (Micah, Council on Foreign Relations Center for Preventive Action Douglas Dillon fellow, "The Signal and the Noise," Foreign Policy, 2-2-13, www.foreignpolicy.com/articles/2013/02/20/the\_signal\_and\_the\_noise)

Later, Gen. Austin observed of cutting forces from the Middle East: "Once you reduce the presence in the region, you could very well signal the wrong things to our adversaries." Sen. Kelly Ayotte echoed his observation, claiming that President Obama's plan to withdraw 34,000 thousand U.S. troops from Afghanistan within one year "leaves us dangerously low on military personnel...it's going to send a clear signal that America's commitment to Afghanistan is going wobbly." Similarly, during a separate House Armed Services Committee hearing, Deputy Secretary of Defense Ashton Carter ominously warned of the possibility of sequestration: "Perhaps most important, the world is watching. Our friends and allies are watching, potential foes -- all over the world." These routine and unchallenged assertions highlight what is perhaps the most widely agreed-upon conventional wisdom in U.S. foreign and national security policymaking: the inherent power of signaling. This psychological capability rests on two core assumptions: All relevant international audiences can or will accurately interpret the signals conveyed, and upon correctly comprehending this signal, these audiences will act as intended by U.S. policymakers. Many policymakers and pundits fundamentally believe that the Pentagon is an omni-directional radar that uniformly transmits signals via presidential declarations, defense spending levels, visits with defense ministers, or troop deployments to receptive antennas. A bit of digging, however, exposes cracks in the premises underlying signaling theories. There is a half-century of social science research demonstrating the cultural and cognitive biases that make communication difficult between two humans. Why would this be any different between two states, or between a state and non-state actor? Unlike foreign policy signaling in the context of disputes or escalating crises -- of which there is an extensive body of research into types and effectiveness -- policymakers' claims about signaling are merely made in a peacetime vacuum. These signals are never articulated with a precision that could be tested or falsified, and thus policymakers cannot be judged misleading or wrong. Paired with the faith in signaling is the assumption that policymakers can read the minds of potential or actual friends and adversaries. During the cycle of congressional hearings this spring, you can rest assured that elected representatives and expert witnesses will claim to know what the Iranian supreme leader thinks, how "the Taliban" perceives White House pronouncements about Afghanistan, or how allies in East Asia will react to sequestration. This self-assuredness is referred to as the illusion of transparency by psychologists, or how "people overestimate others' ability to know them, and...also overestimate their ability to know others." Policymakers also conceive of signaling as a one-way transmission: something that the United States does and others absorb. You rarely read or hear critical thinking from U.S. policymakers about how to interpret the signals from others states. Moreover, since U.S. officials correctly downplay the attention-seeking actions of adversaries -- such as Iran's near-weekly pronouncement of inventing a new drone or missile -- wouldn't it be safer to assume that the majority of U.S. signals are similarly dismissed? During my encounters with foreign officials, few take U.S. government pronouncements seriously, and instead assume they are made to appease domestic audiences.

### 1NC I-Law Frontline

#### Ilaw fails --- states will either inevitably cooperate, or ilaw can’t convince them to

Eric A. Posner 9, Kirkland and Ellis Professor of Law at the University of Chicago Law School. The Perils of Global Legalism, 34-6

34 ¶ Most global legalists acknowledge that international law is created and enforced by states. They believe that states are willing to expand international law along legalistic lines because states’ long-term interests lie in solving global collective action problems. In the absence of a world govern- ment or other forms of integration, international law seems like the only way for states to solve these problems. The great difﬁculty for the global legalist is explaining why, if states create and maintain international law, they will also not break it when they prefer to free ride. In the absence of an enforcement mechanism, what ensures that states that create law and legal institutions that are supposed to solve global collective action prob- lems will not ignore them? ¶ For the rational choice theorist, the answer is plain: states cannot solve global collective action problems by creating institutions that themselves depend on global collective action. This is not to say that international law is not possible at all. Certainly, states can cooperate by threatening to retaliate against cheaters, and where international problems are matters of coordination rather than conﬂ ict, international law can go far, indeed.7 But if states (or the individuals who control states) cannot create a global government or q uasi-g overnment institutions, then it seems unlikely that they can solve, in spontaneous fashion, the types of problems that, at the national level, require the action of governments. ¶ Global legalists are not enthusiasts for rational choice theory and have ¶ 35¶ grappled with this problem in other ways.8 I will criticize their attempts in chapter 3. Here I want to focus on one approach, which is to insist that just as individuals can be loyal to government, so too can individuals (and their governments) be loyal to international law and be willing to defer to its requirements even when self-i nterest does not strictly demand that they do so. International law has force because (or to the extent that) it is legitimate.9 ¶ What makes governance or law legitimate? This is a complicated ques- tion best left to philosophers, but a simple and adequate point for present purposes is that no system of law will be perceived as legitimate unless those governed by that law believe that the law does good — serves their interests or respects and enforces their values. Perhaps more is required than this — such as political participation, for example — but we can treat the ﬁ rst condition as necessary if not sufﬁ cient. If individuals believe that a system of law does not advance their interests and respect their values, that instead it advances the interests of others or is dysfunctional and helps no one at all, they will not believe that the law is legitimate and will not voluntarily submit to its authority. ¶ Unfortunately, international law does not satisfy this condition, mainly because of its institutional weaknesses; but of course, its institutional weaknesses stem from the state system — states are not willing to tolerate powerful international agencies. In classic international law, states enjoy sovereign equality, which means that international law cannot be created unless all agree, and that international law binds all states equally. What this means is that if nearly everyone in the world agrees that some global legal instrument would be beneﬁ cial (a climate treaty, the UN charter), it can be blocked by a tiny country like Iceland (population 300,000) or a dictatorship like North Korea. What is the attraction of a system that puts a tiny country like Iceland on equal footing with China? When then at- torney general Robert Jackson tried to justify American aid for Britain at the onset of World War II on the grounds that the Nazi Germany was the aggressor, international lawyers complained that the United States could not claim neutrality while providing aid to a belligerent — there was no such thing as an aggressor in international law.10 Nazi Germany had not agreed to such a rule of international law; therefore, such a rule could not exist. Only through the destruction of Nazi Germany could international law be changed; East and West Germany could reenter international so-¶ 36¶ ciety only on other people’s terms. How could such a system be perceived to be legitimate? ¶ There is, of course, a reason why international law works in this fash- ion. Because no world government can compel states to comply with inter- national law, states will comply with international law only when doing so is in their interest. In this way, international law always depends on state consent. So international law must take states as they are, which means that little states, big states, good states, and bad states, all exist on a plane of equality. ¶

#### Other things cause air pollution – factories and industry specially

#### Detention is a massive alt cause

Tarnogorski 10

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USA and Laws of War (Al-Bihani v. Obama)

http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=112282

The significance of this appellate ruling extends beyond one specific case of a Yemeni petitioner kept in detention. Firstly, it could sway the direction of judicial decisions in similar cases—though this seems rather unlikely in view of the shift of the Obama administration’s stance on the treatment of enemy combatants and Supreme Court’s Hamdi v Rumsfeld (2004) and Boumediene v. Bush (2008) decisions. Secondly and more importantly, the court took a position on the powers of the U.S. president as the commander-in-chief under the 18 September 2001 Authorization for Use of Military Force against states, organizations and persons responsible for the terrorist attacks of 11 September 2001. The court found that these presidential prerogatives were not limited by the international laws of war, which had not been transposed as a whole into the domestic law. It is for the legislative branch, not for international law, to delineate the limits of the president’s constitutional powers to use armed force. These powers extend to leaving at the president’s discretion the detention of persons deemed to be enemy belligerents or supporters thereof. The Al-Bihani v. Obama decision is consistent with the U.S. dualist stance on international law, as reflected, for instance, in the Supreme Court’s Medellin v. Texas ruling (2008). The United States respects binding international laws, but the extent of its commitment is at all times determined by the American sovereign. The ruling on Al-Bihani’s appeal does not amount to a permission to violate international law; it only means that international law does not constitute the basis for judicial decisions of a U.S. court. This judgment is without prejudice to the binding power of international humanitarian law, yet it effectively restricts the application of international public law and contributes to cementing a negative image of the U.S. as a power given to opportunistic treatment of international standards.

#### Crossx proves they can’t articulate how aligning with norms creates new treaties

#### No disease can cause human extinction – they either kill their hosts too quickly or aren’t lethal

**Posner 05** (Richard A, judge on the U.S. Court of Appeals, Seventh Circuit, and senior lecturer at the University of Chicago Law School, Winter. “Catastrophe: the dozen most significant catastrophic risks and what we can do about them.” http://findarticles.com/p/articles/mi\_kmske/is\_3\_11/ai\_n29167514/pg\_2?tag=content;col1)

Yet the fact that Homo sapiens has managed to survive every disease to assail it in the 200,000 years or so of its existence is a source of genuine comfort, at least if the focus is on extinction events. There have been enormously destructive plagues, such as the Black Death, smallpox, and now AIDS, but none has come close to destroying the entire human race. There is a biological reason. Natural selection favors germs of limited lethality; they are fitter in an evolutionary sense because their genes are more likely to be spread if the germs do not kill their hosts too quickly. The AIDS virus is an example of a lethal virus, wholly natural, that by lying dormant yet infectious in its host for years maximizes its spread. Yet there is no danger that AIDS will destroy the entire human race. The likelihood of a natural pandemic that would cause the extiinction of the human race is probably even less today than in the past (except in prehistoric times, when people lived in small, scattered bands, which would have limited the spread of disease), despite wider human contacts that make it more difficult to localize an infectious disease. The reason is improvements in medical science. But the comfort is a small one. Pandemics can still impose enormous losses and resist prevention and cure: the lesson of the AIDS pandemic. And there is always a lust time.

#### USA can’t solve agreements.

Schreurs ’12 [Miranda A. Schreurs, Director of the Environmental Policy Research Centre, Free University of Berlin, "Breaking the impasse in the international climate negotiations: The potential of green technologies," Energy Policy 48, September 2012, pp. 5-12, Elsevier]

 The Durban outcome has kept the international negotiation process alive, but does not reﬂect the urgency of the problem at hand. That no post-Kyoto agreement is expected to enter into force until 2020 and the content of the agreement still needs to be developed also raises the question of whether the international community will be able to put a break on rising greenhouse gas emissions, let alone reduce them on the order that will be necessary to stay within the 1.5 to 2.0 degree Centrigrade temperature goal. The general scientiﬁc consensus is that if the rise in greenhouse gases is not halted by 2020 and then reduced on the order of 50% below 1990 levels by 2050, then it will be next to impossible to maintain the rise in greenhouse gases to within the 2 degrees Centigrade range. One very major challenge to the future agreement is the domestic political situation in the United States, which makes passage of national climate legislation, let alone ratiﬁcation of a global climate agreement highly unlikely in the near future. Already in Cancun, Japan made it clear that it opposes a second phase for the Kyoto Protocol. Yoshito Sengoku, Japan’s Chief Cabinet Secretary, announced that Japan would ‘‘sternly oppose debate for extending the Kyoto Protocol into a second phase which is unfair and ineffective.’’ (United Press International (UPI), 2010; MOFA, 2010). With its rapidly rising greenhouse gas emissions tied to the extraction of oil from tar sands in Alberta, Canada has pulled out of the agreement. Also problematic is the resistance of many developing countries to the establishment of binding emission reduction targets and timetables. India strongly pushed the perspective of per capita equity arguing that it should not be held captive by a problem largely caused by other countries. With its low per capita greenhouse gas emission levels as a result of high levels of poverty, India will be reluctant to accept commitments that could affect its economic growth perspectives.

#### Alt causes to treaty failure – uneven adoption and unequal requirements

#### No impact to warming

Taylor 117/27/2011 [James Taylor, senior fellow for environment policy at The Heartland Institute and managing editor of Environment & Climate News “New NASA Data Blow Gaping Hole In Global Warming Alarmism,” http://www.forbes.com/sites/jamestaylor/2011/07/27/new-nasa-data-blow-gaping-hold-in-global-warming-alarmism/]

NASA satellite data from the years 2000 through 2011 show the Earth’s atmosphere is allowing far more heat to be released into space than alarmist computer models have predicted, reports a new study in the peer-reviewed science journal Remote Sensing. The study indicates far less future global warming will occur than United Nations computer models have predicted, and supports prior studies indicating increases in atmospheric carbon dioxide trap far less heat than alarmists have claimed. Study co-author Dr. Roy Spencer, a principal research scientist at the University of Alabama in Huntsville and U.S. Science Team Leader for the Advanced Microwave Scanning Radiometer flying on NASA’s Aqua satellite, reports that real-world data from NASA’s Terra satellite contradict multiple assumptions fed into alarmist computer models. “The satellite observations suggest there is much more energy lost to space during and after warming than the climate models show,” Spencer said in a July 26 University of Alabama press release. “There is a huge discrepancy between the data and the forecasts that is especially big over the oceans.” In addition to finding that far less heat is being trapped than alarmist computer models have predicted, the NASA satellite data show the atmosphere begins shedding heat into space long before United Nations computer models predicted. The new findings are extremely important and should dramatically alter the global warming debate. Scientists on all sides of the global warming debate are in general agreement about how much heat is being directly trapped by human emissions of carbon dioxide (the answer is “not much”). However, the single most important issue in the global warming debate is whether carbon dioxide emissions will indirectly trap far more heat by causing large increases in atmospheric humidity and cirrus clouds. Alarmist computer models assume human carbon dioxide emissions indirectly cause substantial increases in atmospheric humidity and cirrus clouds (each of which are very effective at trapping heat), but real-world data have long shown that carbon dioxide emissions are not causing as much atmospheric humidity and cirrus clouds as the alarmist computer models have predicted. The new NASA Terra satellite data are consistent with long-term NOAA and NASA data indicating atmospheric humidity and cirrus clouds are not increasing in the manner predicted by alarmist computer models. The Terra satellite data also support data collected by NASA’s ERBS satellite showing far more longwave radiation (and thus, heat) escaped into space between 1985 and 1999 than alarmist computer models had predicted. Together, the NASA ERBS and Terra satellite data show that for 25 years and counting, carbon dioxide emissions have directly and indirectly trapped far less heat than alarmist computer models have predicted. In short, the central premise of alarmist global warming theory is that carbon dioxide emissions should be directly and indirectly trapping a certain amount of heat in the earth’s atmosphere and preventing it from escaping into space. Real-world measurements, however, show far less heat is being trapped in the earth’s atmosphere than the alarmist computer models predict, and far more heat is escaping into space than the alarmist computer models predict. When objective NASA satellite data, reported in a peer-reviewed scientific journal, show a “huge discrepancy” between alarmist climate models and real-world facts, climate scientists, the media and our elected officials would be wise to take notice. Whether or not they do so will tell us a great deal about how honest the purveyors of global warming alarmism truly are.

#### Warming inevitable and not anthropogenic.

**Bell 3-19** [Larry, climate, energy, and environmental writer for Forbes, University of Houston full/tenured Professor of Architecture; Endowed Professor of Space Architecture; Director of the Sasakawa International Center for Space Architecture; Head of the Graduate Program in Space Architecture; former full Professor/ Head of the University of Illinois Industrial Design Graduate Program; Associate Fellow, American Institute for Aeronautics and Astronautics, “The Feverish Hunt For Evidence Of A Man-Made Global Warming Crisis” http://www.forbes.com/sites/larrybell/2013/03/19/the-feverish-hunt-for-evidence-of-a-man-made-global-warming-crisis/2/]

Indeed, climate really does change without any help from us, and we can be very grateful that it does. Over the past 800,000 years, much of the Northern Hemisphere has been covered by ice up to miles thick at regular intervals lasting about 100,000 years each. Much shorter interglacial cycles like our current one lasting 10,000 to 15,000 years have offered reprieves from bitter cold.¶ And yes, from this perspective, current temperatures are abnormally warm. By about 12,000 to 15,000 years ago Earth had warmed enough to halt the advance of glaciers and cause sea levels to rise, and the average temperature has held fairly constant ever since, with brief intermissions.¶ Although temperatures have been generally mild over the past 500 years, we should remember that significant fluctuations are still normal. The past century has witnessed two distinct periods of warming. The first occurred between 1900 and 1945, and the second, following a slight cool-down, began quite abruptly in 1975. That second period rose at quite a constant rate until 1998, and then stopped and began falling again after reaching a high of 1.16ºF above the average global mean.¶ But What About Those “Observed” Human Greenhouse Influences?¶ The IPCC stated in its last 2007 Summary for Policymaker’s Report that “Most of the observed increase in globally averaged temperature since the mid-20th century [which is very small] is very likely due to the observed increase in anthropogenic [human-caused] greenhouse gas concentrations.” And there can be no doubt here that they are referring to CO2, not water vapor, which constitutes the most important greenhouse gas of all. That’s because the climate models don’t know how to “observe” it, plus there aren’t any good historic records to enable trends to be revealed.¶ Besides, unlike carbon, there is little incentive to attach much attention to anthropogenic water vapor. After all, no one has yet figured out a way to regulate or tax it.¶ A key problem in determining changes and influences of water vapor concentrations in the Earth’s atmosphere is that they are extremely variable. Differences range by orders of magnitude in various places. Instead, alarmists sweep the problem to one side by simply calling it a CO2 “feedback” amplification effect, always assuming that the dominant feedback is “positive” (warming) rather than “negative” (cooling). In reality, due to clouds and other factors, those feedbacks could go both ways, and no one knows for sure which direction dominates climate over the long run.¶ Treating water vapor as a known feedback revolves around an assumption that relative humidity is a constant, which it isn’t. Since it is known to vary nearly as widely as actual water vapor concentrations, no observational evidence exists to support a CO2 warming amplification conclusion.¶ But let’s imagine that CO2 is the big greenhouse culprit rather than a bit-player, and that its influences are predominately warming. Even if CO2 levels were to double, it would make little difference. While the first CO2 molecules matter a lot, successive ones have less and less effect. That’s because the carbon that exists in the atmosphere now has already “soaked up” its favorite wavelengths of light, and is close to a saturation point. Those carbon molecules that follow manage to grab a bit more light from wavelengths close to favorite bands, but can’t do much more…there simply aren’t many left-over photons at the right wavelengths. For those of you who are mathematically inclined, that diminishing absorption rate follows a logarithmic curve.¶ Who Hid the Carbon Prosecuting Evidence?¶ Since water vapor and clouds are so complex and difficult to model, their influences are neglected in IPCC reports. What about other evidence to support an IPCC claim that “most” mid-century warming can “very likely” be attributed to human greenhouse emissions? Well, if it’s there, it must me very well hidden, since direct measurements seem not to know where it is.¶ For example, virtually all climate models have predicted that if greenhouse gases caused warming, there is supposed to be a telltale “hot spot” in the atmosphere about 10 km above the tropics. Weather balloons (radiosondes) and satellites have scanned these regions for years, and there is no such pattern. It wasn’t even there during the recent warming spell between 1979 (when satellites were first available) and 1999.¶ How have the committed greenhouse zealots explained this? They claim that it’s there, but simply hidden by “fog in the data”…lost in the statistical “noise”. Yet although radiosondes and satellites each have special limitations, their measurements show very good agreement that the “human signature” doesn’t exist. Suggestions to the contrary are based upon climate model data outputs which yield a wide range of divergence and uncertainty…an example of garbage in, gospel out.

#### Drones are highly effective - eliminate important terrorist human capital and prevent communication and training

Byman 13 (Daniel L., Research Director of Saban Center for Middle East Policy, “Why Drones Work: The Case for Washington's Weapon of Choice”, Foreign Affairs, July/August 2013, <http://www.brookings.edu/research/articles/2013/06/17-drones-obama-weapon-choice-us-counterterrorism-byman>)

The Obama administration relies on drones for one simple reason: they work. According to data compiled by the New America Foundation, since Obama has been in the White House, U.S. drones have killed an estimated 3,300 al Qaeda, Taliban, and other jihadist operatives in Pakistan and Yemen. That number includes over 50 senior leaders of al Qaeda and the Taliban—top figures who are not easily replaced. In 2010, Osama bin Laden warned his chief aide, Atiyah Abd al-Rahman, who was later killed by a drone strike in the Waziristan region of Pakistan in 2011, that when experienced leaders are eliminated, the result is “the rise of lower leaders who are not as experienced as the former leaders” and who are prone to errors and miscalculations. And drones also hurt terrorist organizations when they eliminate operatives who are lower down on the food chain but who boast special skills: passport forgers, bomb makers, recruiters, and fundraisers.¶ Drones have also undercut terrorists’ ability to communicate and to train new recruits. In order to avoid attracting drones, al Qaeda and Taliban operatives try to avoid using electronic devices or gathering in large numbers. A tip sheet found among jihadists in Mali advised militants to “maintain complete silence of all wireless contacts” and “avoid gathering in open areas.” Leaders, however, cannot give orders when they are incommunicado, and training on a large scale is nearly impossible when a drone strike could wipe out an entire group of new recruits. Drones have turned al Qaeda’s command and training structures into a liability, forcing the group to choose between having no leaders and risking dead leaders.

#### 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.

#### No spillover – Courts lack competence to enforce international law

McGinnis, 6 – Professor of Law, Northwestern University School of Law (John O., “FOREIGN TO OUR CONSTITUTION,” Northwestern University Law Review, 100 Nw. U.L. Rev. 303. Lexis.)

It should be noted that the Court has not engaged in this kind of analysis. Instead it has cited to foreign and international law without undertaking the hard work of interrogating the nature of the international law at issue or surveying the field of all relevant foreign law. In Lawrence, for instance, it cited to European law without considering relevant differences between the United States and Europe, either in culture or legal system, or providing a rule of decision about why the different laws of other nations might be more relevant. But more fundamentally, judges would have very limited ability to make these kinds of determinations. To understand whether a foreign law casts doubt on the wisdom of our own law, one would have to undertake a systematic comparative enterprise of the two different cultures and legal systems to determine whether the other legal culture had sufficiently good methods of rule generation, and whether the systems were sufficiently alike that it made sense to conclude that the difference between their rules and ours on an issue cast doubt on the beneficence of ours. The question is not a strictly legal one but demands comparative cultural sociology as well as comparative law. Moreover, one could not pick out one or a few other nations for comparisons to ours because that would be selection bias. All nations, including those agreeing with our approach, would have to be factored into any calculus, again after making allowances for relevant difference in circumstances. This enterprise, a kind of global regression analysis, seems beyond judicial competence, particularly if it were done according to some set of neutral principles, on all constitutional issues or even all issues involving substantive due process. [n61](http://www.lexisnexis.com/lnacui2api/frame.do?reloadEntirePage=true&rand=1296546187849&returnToKey=20_T11130458015&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.651063.4896517337" \l "n61)Even a justice-seeking conception of the Constitution must take seriously questions of institutional competence.

#### No impact to air pollution

**Schwartz ‘3** (Joel, Adjunct Scholar – Competitive Enterprise Institute, “Particulate Air Pollution: Weighing the Risks”, April, http://cei.org/pdf/3452.pdf)

Nonetheless, both the Bush Administration and congressional Democrats have proposed sweeping new measures to further crack down on power plant emissions. The Administration’s Clear Skies Initiative and a more stringent Democratic alternative are largely justified by **claims th**at current levels of **particulate matter** (PM) **pose a serious public health threat**. Supporters of these bills promise substantial benefits from additional PM reductions. Nevertheless, the benefit claims for PM reductions **rest on a weak foundation**. EPA based its new annual fine PM (PM2.5) standard on a study known as the American Cancer Society (ACS) study of PM and mortality, which assessed the association between the risk of death between 1982 and 1998 with PM2.5 levels in dozens of American cities. Although the ACS study reported an association between PM and mortality, some odd features of the ACS results suggest that PM is not the culprit. For example, according to the ACS results, PM increased mortality in men, but not women; in those with no more than a high school degree, but not those with at least some college education; in former- smokers, but not current- or never-smokers; and in those who said they were moderately active, but not those who said they were very active or sedentary. These odd variations in **the relationship between PM** 2.5 **and mortality seem biologically implausible**. Even more surprising, the ACS study reported that higher PM2.5 levels were not associated with an increased risk of mortality due to respiratory disease; a surprising finding, given that PM would be expected to exert its effects through the respiratory system. EPA also ignored the results of **another epidemiologic study that found no effect of PM2.5 on mortality** in a cohort of veterans with high blood pressure, even though this relatively unhealthy cohort should have been more susceptible to the effects of pollution than the general population. The evidence therefore suggests that the existing annual standard for PM2.5 is unnecessarily stringent. Attaining the standard will be expensive, but is unlikely to improve public health.

#### No water wars—their ev is hype.

**Katz** **11**—Lecturer of Geography and Environmental Studies @ University of Haifa [Dr. David Katz (PhD in Natural Resource Policy & MA in Applied Economics @ University of Michigan), “Hydro-Political Hyperbole: Examining Incentives for Overemphasizing the Risks of Water Wars,” Global Environmental Politics, Volume 11, Number 1, February 2011, pp. 12-35]

Evidence and Perception

In sum, despite some instances of violent conflict over water, there is little systematic evidence of war over water resources. Evidence for a deterministic relationship between water scarcity and the outbreak of armed conflict is **particularly weak**. Less ambitious claims that water shortages will contribute to insecurity, which can, in turn, lead to violent conflict, have more empirical support. Even here, however, the importance of water as a causal variable is questionable. Several studies have found that variables such as regime type and institutional capacity are much more important indicators of conflict potential, 43 and may have mitigating effects on any water-conflict link. As a consequence of **accumulated research**, many scholars have concluded that **risks of water wars are low**, 44 and others have toned down or qualified their statements about the likelihood of future water wars.45 Some governmental reports have limited their contentions to highlighting that water scarcity can aggravate conflicts and increase insecurity,46 and many studies now emphasize water as a tool for **cooperation**.47 Warnings and predictions of imminent water wars continue to be commonplace, however. In a review of published academic literature, Gupta and van der Zaag find that articles on water conflict outnumber those on cooperation by nearly three to one, and are five times more likely to be cited.48 This article will now turn to offering possible explanations for the persistence and popularity of such declarations despite the bulk of expert opinion downplaying the risks of water wars. Incentives to Stress a Water War Scenario Incentives Presented in Existing Literature Observers have noted that various actors may have incentives to stress or even **exaggerate** the risks of water wars. Lonergan notes, for instance, that in “many cases, the comments are little more than **media hype**; in others, statements have been made for **political reasons**.”49 Beyond mere acknowledgement of the possibility of such incentives, however, little research has attempted to understand what these incentives are and how they may differ between actors. An understanding of the different motivations of various groups of actors to stress the possibility of imminent water wars can help explain the continued seemingly disproportionate popularity of such messages and help to evaluate such warnings more critically.pg. 17-18 //1nc

## 2NC Round 2

### 2NC Overview

#### Global movements against neoliberalism will be effective now---the plan’s consolidation of U.S.-driven economic orthodoxy causes extinction

Shiva 12 (Vandana Shiva, founder of the Research Foundation for Science, Technology and Ecology, Ph.D. in Philosophy from the University of Western Ontario, chairs the Commission on the Future of Food set up by the Region of Tuscany in Italy and is a member of the Scientific Committee which advises President Zapatero of Spain, March 1, 2012, “Imposed Austerity vs Chosen Simplicity: Who Will Pay For Which Adjustments?,” online: http://www.ethicalmarkets.com/2012/03/01/imposed-austerity-vs-chosen-simplicity-who-will-pay-for-which-adjustments/)

The dominant economic model based on limitless growth on a limited planet is leading to an overshoot of the human use of the earth’s resources. This is leading to an ecological catastrophe. It is also leading to intense and violent resource grab of the remaining resources of the earth by the rich from the poor. The resource grab is an adjustment by the rich and powerful to a shrinking resource base – land, biodiversity, water – without adjusting the old resource intensive, limitless growth paradigm to the new reality. Its only outcome can be ecological scarcity for the poor in the short term, with deepening poverty and deprivation. In the long run it means the extinction of our species, as climate catastrophe and extinction of other species makes the planet un-inhabitable for human societies. Failure to make an ecological adjustment to planetary limits and ecological justice is a threat to human survival. The Green Economy being pushed at Rio +20 could well become the biggest resource grabs in human history with corporations appropriating the planet’s green wealth, the biodiversity, to become the green oil to make bio-fuel, energy plastics, chemicals – everything that the petrochemical era based on fossil fuels gave us. Movements worldwide have started to say “No to the Green Economy of the 1%”. But an ecological adjustment is possible, and is happening. This ecological adjustment involves seeing ourselves as a part of the fragile ecological web, not outside and above it, immune from the ecological consequences of our actions. Ecological adjustment also implies that we see ourselves as members of the earth community, sharing the earth’s resources equitably with all species and within the human community. Ecological adjustment requires an end to resource grab, and the privatization of our land, bio diversity and seeds, water and atmosphere. Ecological adjustment is based on the recovery of the commons and the creation of Earth Democracy. The dominant economic model based on resource monopolies and the rule of an oligarchy is not just in conflict with ecological limits of the planet. It is in conflict with the principles of democracy, and governance by the people, of the people, for the people. The adjustment from the oligarchy is to further strangle democracy and crush civil liberties and people’s freedom. Bharti Mittal’s statement that politics should not interfere with the economy reflects the mindset of the oligarchy that democracy can be done away with. This anti-democratic adjustment includes laws like homeland security in U.S., and multiple security laws in India. The calls for a democratic adjustment from below are witnessed worldwide in the rise of non-violent protests, from the Arab spring to the American autumn of “Occupy” and the Russian winter challenging the hijack of elections and electoral democracy. And these movements for democratic adjustment are also rising everywhere in response to the “austerity” programmes imposed by IMF, World Bank and financial institutions which created the financial crisis. The Third World had its structural Adjustment and Forced Austerity, through the 1980s and 1990s, leading to IMF riots. India’s structural adjustment of 1991 has given us the agrarian crisis with quarter million farmer suicides and food crisis pushing every 4th Indian to hunger and every 2nd Indian child to severe malnutrition; people are paying with their very lives for adjustment imposed by the World Bank/IMF. The trade liberalization reforms dismantled our food security system, based on universal PDS. It opened up the seed sector to seed MNCs. And now an attempt is being made through the Food Security Act to make our public feeding programmes a market for food MNCs. The forced austerity continues through imposition of so called reforms, such as Foreign Direct Investment (FDI) in retail, which would rob 50 million of their livelihoods in retail and millions more by changing the production system. Europe started having its forced austerity in 2010. And everywhere there are anti-austerity protests from U.K., to Italy, Greece, Spain, Ireland, Iceland, and Portugal. The banks which have created the crisis want society to adjust by destroying jobs and livelihoods, pensions and social security, public services and the commons. The people want financial systems to adjust to the limits set by nature, social justice and democracy. And the precariousness of the living conditions of the 99% has created a new class which Guy Standing calls the “Precariate”. If the Industrial Revolution gave us the industrial working class, the proletariat, globalization and the “free market” which is destroying the livelihoods of peasants in India and China through land grabs, or the chances of economic security for the young in what were the rich industrialized countries, has created a global class of the precarious. As Barbara Ehrenreich and John Ehrenreich have written in “The making of the American 99%”, this new class of the dispossessed and excluded include “middle class professional, factory workers, truck drivers, and nurses as well as the much poorer people who clean the houses, manicure the fingernails, and maintain the lawn of the affluent”. Forced austerity based on the old paradigm allows the 1% super rich, the oligarchs, to grab the planets resources while pushing out the 99% from access to resources, livelihoods, jobs and any form of freedom, democracy and economic security. It is often said that with increasing growth, India and China are replicating the resource intensive and wasteful lifestyles of the Western countries. The reality is that while a small 3 to 4% of India is joining the mad race for consuming the earth with more and more automobiles and air conditioners, the large majority of India is being pushed into “de-consumption” – losing their entitlements to basic needs of food and water because of resource and land grab, market grab, and destruction of livelihoods. The hunger and malnutrition crisis in India is an example of the “de-consumption” forced on the poor by the rich, through the imposed austerity built into the trade liberalization and “economic reform” policies. There is another paradigm emerging which is shared by Gandhi and the new movements of the 99%, the paradigm of voluntary simplicity of reducing one ecological foot print while increasing human well being for all. Instead of forced austerity that helps the rich become super rich, the powerful become totalitarian, chosen simplicity enables us all to adjust ecologically, to reduce over consumption of the planets resources, it allows us to adjust socially to enhance democracy and it creates a path for economic adjustment based on justice and equity. Forced austerity makes the poor and working families pay for the excesses of limitless greed and accumulation by the super rich. Chosen simplicity stops these excesses and allow us to flower into an Earth Democracy where the rights and freedoms of all species and all people are protected and respected.

#### Structural violence outweighs – locks in social and environmental tension---culminates in extinction and makes war inevitable

Szentes 8 (Tamás Szentes, Professor Emeritus at the Corvinus University of Budapest. “Globalisation and prospects of the world society” 4/22/08 http://www.eadi.org/fileadmin/Documents/Events/exco/Glob.\_\_\_prospects\_-\_jav..pdf)

It’ s a common place that human society can survive and develop only in a lasting real peace. Without peace countries cannot develop. Although since 1945 there has been no world war, but --numerous local wars took place, --terrorism has spread all over the world, undermining security even in the most developed and powerful countries, --arms race and militarisation have not ended with the collapse of the Soviet bloc, but escalated and continued, extending also to weapons of mass destruction and misusing enormous resources badly needed for development, --many “invisible wars” are suffered by the poor and oppressed people, manifested in mass misery, poverty, unemployment, homelessness, starvation and malnutrition, epidemics and poor health conditions, exploitation and oppression, racial and other discrimination, physical terror, organised injustice, disguised forms of violence, the denial or regular infringement of the democratic rights of citizens, women, youth, ethnic or religious minorities, etc., and last but not least, in the degradation of human environment, which means that --the “war against Nature”, i.e. the disturbance of ecological balance, wasteful management of natural resources, and large-scale pollution of our environment, is still going on, causing also losses and fatal dangers for human life. Behind global terrorism and “invisible wars” we find striking international and intrasociety inequities and distorted development patterns , which tend to generate social as well as international tensions, thus paving the way for unrest and “visible” wars. It is a commonplace now that peace is not merely the absence of war. The prerequisites of a lasting peace between and within societies involve not only - though, of course, necessarily - demilitarisation, but also a systematic and gradual elimination of the roots of violence, of the causes of “invisible wars”, of the structural and institutional bases of large-scale international and intra-society inequalities, exploitation and oppression. Peace requires a process of social and national emancipation, a progressive, democratic transformation of societies and the world bringing about equal rights and opportunities for all people, sovereign participation and mutually advantageous co-operation among nations. It further requires a pluralistic democracy on global level with an appropriate system of proportional representation of the world society, articulation of diverse interests and their peaceful reconciliation, by non-violent conflict management, and thus also a global governance with a really global institutional system. Under the contemporary conditions of accelerating globalisation and deepening global interdependencies in our world, peace is indivisible in both time and space. It cannot exist if reduced to a period only after or before war, and cannot be safeguarded in one part of the world when some others suffer visible or invisible wars. Thus, peace requires, indeed, a new, demilitarised and democratic world order, which can provide equal opportunities for sustainable development. “Sustainability of development” (both on national and world level) is often interpreted as an issue of environmental protection only and reduced to the need for preserving the ecological balance and delivering the next generations not a destroyed Nature with overexhausted resources and polluted environment. However, no ecological balance can be ensured, unless the deep international development gap and intra-society inequalities are substantially reduced. Owing to global interdependencies there may exist hardly any “zero-sum-games”, in which one can gain at the expense of others, but, instead, the “negative-sum-games” tend to pred

ominate, in which everybody must suffer, later or sooner, directly or indirectly, losses. Therefore, the actual question is not about “sustainability of development” but rather about the “sustainability of human life”, i.e. survival of mankind – because of ecological imbalance and globalised terrorism. When Professor Louk de la Rive Box was the president of EADI, one day we had an exchange of views on the state and future of development studies. We agreed that development studies are not any more restricted to the case of underdeveloped countries, as the developed ones (as well as the former “socialist” countries) are also facing development problems, such as those of structural and institutional (and even system-) transformation, requirements of changes in development patterns, and concerns about natural environment. While all these are true, today I would dare say that besides (or even instead of) “development studies” we must speak about and make “survival studies”. While the monetary, financial, and debt crises are cyclical, we live in an almost permanent crisis of the world society, which is multidimensional in nature, involving not only economic but also socio-psychological, behavioural, cultural and political aspects. The narrow-minded, election-oriented, selfish behaviour motivated by thirst for power and wealth, which still characterise the political leadership almost all over the world, paves the way for the final, last catastrophe. One cannot doubt, of course, that great many positive historical changes have also taken place in the world in the last century. Such as decolonisation, transformation of socio-economic systems, democratisation of political life in some former fascist or authoritarian states, institutionalisation of welfare policies in several countries, rise of international organisations and new forums for negotiations, conflict management and cooperation, institutionalisation of international assistance programmes by multilateral agencies, codification of human rights, and rights of sovereignty and democracy also on international level, collapse of the militarised Soviet bloc and system-change3 in the countries concerned, the end of cold war, etc., to mention only a few. Nevertheless, the crisis of the world society has extended and deepened, approaching to a point of bifurcation that necessarily puts an end to the present tendencies, either by the final catastrophe or a common solution. Under the circumstances provided by rapidly progressing science and technological revolutions, human society cannot survive unless such profound intra-society and international inequalities prevailing today are soon eliminated. Like a single spacecraft, the Earth can no longer afford to have a 'crew' divided into two parts: the rich, privileged, wellfed, well-educated, on the one hand, and the poor, deprived, starving, sick and uneducated, on the other. Dangerous 'zero-sum-games' (which mostly prove to be “negative-sum-games”) can hardly be played any more by visible or invisible wars in the world society. Because of global interdependencies, the apparent winner becomes also a loser. The real choice for the world society is between negative- and positive-sum-games: i.e. between, on the one hand, continuation of visible and “invisible wars”, as long as this is possible at all, and, on the other, transformation of the world order by demilitarisation and democratization. No ideological or terminological camouflage can conceal this real dilemma any more, which is to be faced not in the distant future, by the next generations, but in the coming years, because of global terrorism soon having nuclear and other mass destructive weapons, and also due to irreversible changes in natural environment.

### Perm Do Both – 2NC

#### -- Links swamp the permutation---it instrumentalizes the alternative which only masks the plan’s violent governmentality---internal contradictions means it inevitably fails

Sjoberg 13 (Laura Sjoberg, Department of Political Science, University of Florida , Gainesville The paradox of security cosmopolitanism?, Critical Studies on Security, 1:1, 29-34)

Particularly, Burke suggests that security cosmopolitanism ‘rejects a procedural faith in strongly post-Westphalian forms of government and democracy’ (p. 17) and reiterates that such an approach includes ‘no automatic faith in any one institutional design’ (p. 24). This seems to move away from one of the prominent critiques of, in Anna Agathangelou and Ling’s (2009) words, the ‘neoliberal imperium,’ as reliant on Western, liberal notions of governance to the detriment of those on whom such a form of government is imposed. Burke clearly problematizes this imposition, framing many of the serious problems in global politics as a result of ‘choices that create destructive dynamics and constraints’ (p. 15) at least in part by Western, liberal governments – characterizing modernity as culpable for insecurity. At the same time, the solution seems to be clearly situated within the discursive framework of the problem. Burke suggests that there should be a primary concern for ‘effectiveness, equality, fairness, and justice – not for states, per se, but for human beings, and the global biosphere’ (p. 24). Unless the only problem with modernity is the post- Westphalian structure of the state (which this approach does not eschew, but claims not to privilege), then this statement of values might entrench the problem. Many of the ideas of equality, fairness, and justice that come to mind with the (somewhat rehearsed) use of those words in progressive politics are inseparable from an ethos of enlightenment modernity. This may be problematic on a number of levels. First, it may fail to interrupt the series of choices that Burke suggests produce a cycle of insecurity. Second, it may fold back onto itself in the recommendations that security cosmopolitanism produces. This especially concerned me in Burke’s discussion of how to end ‘dangerous processes,’ where he places ‘greater faith in the ethical, normative, and legal suppression of dangerous processes and actions than in formalistic or procedural solutions’ (p. 24). It seems to me that there is a good argument that ‘suppression’ is itself a ‘dangerous process,’ yet Burke’s framework does not really include a mechanism for internal critique. Another problem that seems to confound security cosmopolitanism is evaluating the relationships between power, governance, and governmentality. There are certainly several ways in which Burke uses a notion of the state that distinguishes security cosmopolitanism from the mainstream neoliberal literature. For example, he characterizes the ‘state as an entity whose national survival depends on its global participation, obligations, and depen- dencies,’ (citing Burke 2013a, 5). This view of the state sees it as not only survival-seeking (in the neo-neo synthesis sense) but also dependent on its positive interactions with other states for survival. Burke’s approach to government/governance initially appears to be global rather than state-based, another potentially transformative move. For example, he sees the job of security cosmopolitanism as to ‘theorize and defend norms for the respon- sible conduct and conceptualization of global security governance’ (p. 21). At the same time, later in the article, Burke suggests entrenching the current structure of the state. His practical approach of looking for the ‘solidarity of the governing with the governed’ seems to simultaneously interrogate the current power structures and reify them. Burke says: Such a ‘solidarity of the governed’ that engages in a ‘practical interrogation of power’ ought to be a significant feature of security cosmopolitanism. At the same time, however, security cosmopolitanism must be concerned with improving the global governance of security by elites and experts. (p. 21) This attachment to the improvement of existing structures of governance seems to be at the heart of what I see as the failure of the radical potential in the idea of security cosmopolitanism. When discussing how the power dynamics between the elite and the subordinated might change, Burke suggests that ‘voluntary renunciation of the privileges and powers of both state and corporate sovereignty will no doubt be a necessary feature of such an order’ (p. 25). Relying on the voluntary renunciation of power by the powerful seems both unrealistic and not particularly theoretically innovative. This seems to be at the center of a paradox inherent in security cosmopolitanism: Faith in the Western liberal state is insidious, but the Western liberal state does not have to be. Modernity causes insecurity, but need not be discarded fully. Some universalizations are dangerous, others are benign. Dangerous processes must be stopped, even if by dangerous processes. Moral entrepreneurship is the key, but ther e is no clear foundation for what counts as moral. The security cosmopolitanism critique is inspired by consequentialism, but lacks deontological foundations despite deontological implications. Burke calls for (and indeed demands) to ‘take responsibility for it’ (p. 23) in terms of ‘both formal and moral accountability’ (p. 24). In so doing, he endorses (Booth’s vision of) ‘moral progress’ (p. 25), despite understanding the insidious deployment of various notions of moral progress by others. Security cosmopolitanism, then, is a proclamation for radical change that is initially stalled by its internal contradictions and further handicapped by its lack of capacity to enact the very sort of radical change Burke sees it as fundamental to righting the wrongs he sees in the world. The result seems to be the (potential) reification of existing governments/governmentality through what essentially appears to be a non-anthropocentric ‘human security’ which cannot be clearly distinguished from current notions of human security (p. 15). It appears to remain top-down and without clear moral foundation while claiming significant improvement over existing approaches. This appearance/seduction of improvement without real promise for change might be more insidious than the nihilism of which many post-structuralists are accused, as it seductively appears to solve a problem it does not solve.

#### -- Their *initial framing* precludes change. Forgetting the 1AC is necessary.

**Bleiker 1** (Roland, Senior Lecturer and Co-Director – Rotary Centre of International Studies in Peace and Conflict Resolution, The Zen of International Relations, Ed. Chan, Mandeville, and Blieker, p. 38-39)

The power to tell stories is the power to define common sense. Prevalent IR stories have been told for so long that they no longer appear as stories. They are accepted as fact for their metaphorical dimensions have vanished from our collective memories. We have become accustomed to our distorting IR metaphors until we come to lie, as Nietzsche would say “herd-like in a style obligatory for all. As a result dominant ir stories have successfully transformed one specific interpretation of world political realities, the realist one, into reality per se. Realist perceptions of the international have gradually become accepted as common sense, to the point that any critique against them has to be evaluated in terms of an already existing and objectified world view. There are powerful mechanisms of control precisely in this ability to determine meaning and rationality. 'Defining common sense', Steve Smith argues, 'is the ultimate act of political power.’8 It separates the possible from the impossible and directs the theory and practice of international relations on a particular path. The prime objective of this essay is to challenge prevalent IR stories. The most effective way of doing so, the chapter argues, is not to critique but to forget them, to tell new stories that are not constrained by the boundaries of established and objectified IR narratives. Such an approach diverges from many critical engagements with world politics. Most challenges against dominant IR stories have been advanced in the form of critiques. While critiquing orthodox IR stories remains an important task, it is not sufficient. Exploring the origins of problems, in this case discourse of power politics and their positivist framing of the political practice, cannot overcome all the existing theoretical and practical dilemmas. By articulating critique in relation to arguments advanced by orthodox IR theory, the impact of critical voices remains confined within the larger discursive boundaries that have been established through the initial framing of debates. A successful challenge to orthodox IR stories must do more than merely critique their narrow and problematic nature. To be effective, critique must be supplemented with a process of forgetting the object of critique, of theorizing world politics beyond the agendas, issues and terminologies that are prest by orthodox debates. Indeed the most powerful potential of critical scholarship may well lie in the attempt to tell different stories about IR, for once theres stories have become validated , they may well open up spaces for a more inclusive and less violence prone practice of real world politics.

### 2NC AT: Engagement Good

#### Reformist measures aimed at the laws of war are grounded in the West’s attempts at define itself as civilized against the savage other---their impacts can’t be separated from the process of colonial identity formation---turns the case because it causes ineffective modeling that displaces effective local forms of regulating violence

Mégret 6 (Frédéric Mégret, Assistant-Professor, Faculty of Law, University of Toronto, From ‘savages’ to ‘unlawful combatants’: a postcolonial look at international law’s ‘other’, http://people.mcgill.ca/files/frederic.megret/Megret-SavagesandtheLawsofWar.pdf)

Far from being merely a perversion, I have sought to show how exclusion and the creation of an ‘other’ may have been at the very foundation of international humanitarian law, a phenomenon bound to re-emerge in times of strain. I have tried to show how the laws of war have always stood for a particular vision of what legitimate warfare is which is almost entirely informed by the European experience. Although the laws of war have accomplished something of a Copernican anthropological revolution over the last fifty years, there is more to practices such as Guantánamo than the mere onslaught of power and violence against the Law: something like the discreet exclusionary work of law itself. It is this model — putatively universal but profoundly exclusive — that has been expanded the world over, to the point of saturating legal and moral public discourse about war. It is this model that exercises a monopoly over our imaginations about state violence and what can be done about it. In the process of expansion of the laws of war, warfare the world over has become something very much like (if not much worse than) what nineteenth century humanitarians had sought to avert. In that respect, humanitarian lawyers rightly prophesized the danger, but that prophecy also ended up being a startlingly self-realizing one. In many ways, international humanitarian law was the solution to the problem it simultaneously crystallized (something that could be said of much of international law). It may be that such is the price to pay if one is to ever achieve a modicum of regulation in warfare. It is also important, however, to assess what has been lost in embracing a regulatory model that is so tainted with the ideology that gave rise to it, and so committed to the entrenchment of state power. In the nineteenth Century, one of the already mentioned fathers of international humanitarian law, de Martens, felt it was axiomatic that ‘the mission of European nations is precisely to inculcate oriental tribes and peoples ideas about the law, and to initiate them to the eternal and benevolent principles that have placed Europe at the head of civilization and humanity’.174 The question international humanitarian lawyers should be asking themselves as a matter of some urgency is: how have the laws of war been instrumental in reinforcing the very categories from which they supposedly drew and, with the benefit of hindsight, what is the balance sheet of international humanitarian law’s mediation of the colonial encounter? Through colonization, did the non-Western world at least get the benefits of forms of regulation which were either unknown to them or in bad need of being updated for the purposes of international interaction? The laws of war beyond the West have been simultaneously enthusiastically embraced as part of the standard baggage of civilization, and routinely trampled. They have often proved far less effective than had been hoped at protecting the victims of armed conflict. The improbability of legal transplants is partly to blame. The laws of war presuppose a number of social ideal-types — the responsible commander, the chivalrous officer, the reliable NCO, the disciplined foot-soldier — that cannot be recreated at a moment’s notice once the laws of war have been cut off from their cultural base. Much of the sustainability of the laws of war relies on these shared assumptions about role-playing to make sense of otherwise enigmatic legal injunctions. By transferring only the thinnest of superstructure, the risk is that non-Western militaries will have inherited legal forms uninhabited by social purpose. The irony of course, is that by the time the non-Western world had committed to some of the archetypes implicit in the laws of war, international humanitarian law turned out to not be very good at restraining warfare at all and, in fact, particularly hopeless in regulating warfare among or within the recent converts. But perhaps more attention should be paid to what the laws of war have excluded or obscured, instead of simply to what the laws of war have failed or succeeded in doing. Much international humanitarian scholarship over the past thirty years has been devoted to the worthy task of showing how traditions of restraint in warfare have existed in many non- Western cultures.175 This is undeniably a welcome (re)discovery that was long overdue. Maybe the laws of war were indeed merely giving a universal expression to what was otherwise an extremely widespread aspiration, in which case no culture could be said to have been specifically dispossessed of anything. But typically this scholarship may well end up overemphasizing the similarities between such traditions, at the expense of what was specific about the development of the contemporary laws of war. That traditions of restraint in the use of violence by social entities against each other have existed almost universally is quite clear. The modern version of the laws of war, however, that which became globalized, is clearly, as I hope to have demonstrated, about more than a simple intuition that not all is permitted in times of war. The particular way that fundamental idea was expressed (through international law, through the language of statehood) for example will often have been as important as the message (the disincarnated idea that restraint in warfare is an obligation). One fruitful and so far hardly pursued avenue of research, therefore, would try to assess the extent to which the contemporary laws of war ended up displacing existing, richly situated traditions for the benefit of a relatively decontextualised universalism. A history of how the laws of war have consequently impoverished cultural registers to deal with organized violence is still to be written, but it might shed light on the devastating consequences of conflicts in places like Africa for example. In the meantime, it is tempting to think that the universalization of the laws of war has often left the non-Western world in the worst of places: one where existing traditions have been sufficiently destabilized to be discredited, but where the promise of ‘civilization’, hailed as the prize for massive societal transformation along Western lines, has failed to materialize. The (missed) encounter between colonialism and the laws of war has also had implications for the ‘civilized world’ itself and our understanding of the emergence and development of international law. The exclusion of the non-civilized was obviously a consequence of international law’s prescriptions. But it was also a cause of the tonality of these prescriptions, part of a complex dialectical process of constitution (in the sense of ‘coming into being’) of international law, which conferred it its particular civilizational hue. The relation of public international law to the problem of war was never, needless to say, that of an already constituted set of norms to be applied to a novel and, to a degree, extraneous social problem. Instead, international law became what it eventually became by upholding itself as a vision of ‘civilization’ against the simultaneously constituted ‘savagery’, fantasized or not, of the non-Western warrior, so that this contrast, recycled through the ages and the endless echo of repetition, would be received as the original matrix through which international law ‘saw the world’. As such, the emergence of the modern laws of war was as much about identity as it was about norms.176 The ‘law of humanity’, as Ruti Teitel put it, ‘did the work of drawing the line between the ‘civilized’ and the ‘barbarians’’ and ‘supplied the sense that there was such a thing as international law’.177 Indeed, because of the centrality of the problem of war to international relations, the laws of war became central to international law’s self-image and still retain a unique place in the framing of a distinct reformist sensitivity, not to mention the discipline’s relatively good conscience.

#### There’s also a positive peace tradeoff link – focus on executive war powers disregards the state of violence during peacetime – it makes us see a state of non-conflict as one of peace when politics is just as violent and infused in our legal structures whether or not we are at war. The temporality of war and war powers obfuscates the violence done by the political process outside of what is normally understood as war

### Framework – 2NC

#### -- Our framework is necessary to reclaim the political from state-focused methods that constrict democratic dialogue. Vote negative to reject simplistic yes/no legal debates and the threat of immediate consequences in favor of intellectual recalibration

Biswas 7 (Shampa Biswas, Prof of Politics @ Whitman “Empire and Global Public Intellectuals: Reading Edward Said as an International Relations Theorist” Millennium 36 (1) p. 117-125)

The recent resuscitation of the project of Empire should give International Relations scholars particular pause.1 For a discipline long premised on a triumphant Westphalian sovereignty, there should be something remarkable about the ease with which the case for brute force, regime change and empire-building is being formulated in widespread commentary spanning the political spectrum. Writing after the 1991 Gulf War, Edward Said notes the US hesitance to use the word ‘empire’ despite its long imperial history.2 This hesitance too is increasingly under attack as even self-designated liberal commentators such as Michael Ignatieff urge the US to overcome its unease with the ‘e-word’ and selfconsciously don the mantle of imperial power, contravening the limits of sovereign authority and remaking the world in its universalist image of ‘democracy’ and ‘freedom’.3 Rashid Khalidi has argued that the US invasion and occupation of Iraq does indeed mark a new stage in American world hegemony, replacing the indirect and proxy forms of Cold War domination with a regime much more reminiscent of European colonial empires in the Middle East.4 The ease with which a defence of empire has been mounted and a colonial project so unabashedly resurrected makes this a particularly opportune, if not necessary, moment, as scholars of ‘the global’, to take stock of our disciplinary complicities with power, to account for colonialist imaginaries that are lodged at the heart of a discipline ostensibly interested in power but perhaps far too deluded by the formal equality of state sovereignty and overly concerned with security and order. Perhaps more than any other scholar, Edward Said’s groundbreaking work in Orientalism has argued and demonstrated the long and deep complicity of academic scholarship with colonial domination.5 In addition to spawning whole new areas of scholarship such as postcolonial studies, Said’s writings have had considerable influence in his own discipline of comparative literature but also in such varied disciplines as anthropology, geography and history, all of which have taken serious and sustained stock of their own participation in imperial projects and in fact regrouped around that consciousness in a way that has simply not happened with International Relations.6 It has been 30 years since Stanley Hoffman accused IR of being an ‘American social science’ and noted its too close connections to US foreign policy elites and US preoccupations of the Cold War to be able to make any universal claims,7 yet there seems to be a curious amnesia and lack of curiosity about the political history of the discipline, and in particular its own complicities in the production of empire.8 Through what discourses the imperial gets reproduced, resurrected and re-energised is a question that should be very much at the heart of a discipline whose task it is to examine the contours of global power. Thinking this failure of IR through some of Edward Said’s critical scholarly work from his long distinguished career as an intellectual and activist, this article is an attempt to politicise and hence render questionable the disciplinary traps that have, ironically, circumscribed the ability of scholars whose very business it is to think about global politics to actually think globally and politically. What Edward Said has to offer IR scholars, I believe, is a certain kind of global sensibility, a critical but sympathetic and felt awareness of an inhabited and cohabited world. Furthermore, it is a profoundly political sensibility whose globalism is predicated on a cognisance of the imperial and a firm non-imperial ethic in its formulation. I make this argument by travelling through a couple of Said’s thematic foci in his enormous corpus of writing. Using a lot of Said’s reflections on the role of public intellectuals, I argue in this article that IR scholars need to develop what I call a ‘global intellectual posture’. In the 1993 Reith Lectures delivered on BBC channels, Said outlines three positions for public intellectuals to assume – as an outsider/exile/marginal, as an ‘amateur’, and as a disturber of the status quo speaking ‘truth to power’ and self-consciously siding with those who are underrepresented and disadvantaged.9 Beginning with a discussion of Said’s critique of ‘professionalism’ and the ‘cult of expertise’ as it applies to International Relations, I first argue the importance, for scholars of global politics, of taking politics seriously. Second, I turn to Said’s comments on the posture of exile and his critique of identity politics, particularly in its nationalist formulations, to ask what it means for students of global politics to take the global seriously. Finally, I attend to some of Said’s comments on humanism and contrapuntality to examine what IR scholars can learn from Said about feeling and thinking globally concretely, thoroughly and carefully. IR Professionals in an Age of Empire: From ‘International Experts’ to ‘Global Public Intellectuals’ One of the profound effects of the war on terror initiated by the Bush administration has been a significant constriction of a democratic public sphere, which has included the active and aggressive curtailment of intellectual and political dissent and a sharp delineation of national boundaries along with concentration of state power. The academy in this context has become a particularly embattled site with some highly disturbing onslaughts on academic freedom. At the most obvious level, this has involved fairly well-calibrated neoconservative attacks on US higher education that have invoked the mantra of ‘liberal bias’ and demanded legislative regulation and reform10, an onslaught supported by a well-funded network of conservative think tanks, centres, institutes and ‘concerned citizen groups’ within and outside the higher education establishment11 and with considerable reach among sitting legislators, jurists and policy-makers as well as the media. But what has in part made possible the encroachment of such nationalist and statist agendas has been a larger history of the corporatisation of the university and the accompanying ‘professionalisation’ that goes with it. Expressing concern with ‘academic acquiescence in the decline of public discourse in the United States’, Herbert Reid has examined the ways in which the university is beginning to operate as another transnational corporation12, and critiqued the consolidation of a ‘culture of professionalism’ where academic bureaucrats engage in bureaucratic role-playing, minor academic turf battles mask the larger managerial power play on campuses and the increasing influence of a relatively autonomous administrative elite and the rise of insular ‘expert cultures’ have led to academics relinquishing their claims to public space and authority.13 While it is no surprise that the US academy should find itself too at that uneasy confluence of neoliberal globalising dynamics and exclusivist nationalist agendas that is the predicament of many contemporary institutions around the world, there is much reason for concern and an urgent need to rethink the role and place of intellectual labour in the democratic process. This is especially true for scholars of the global writing in this age of globalisation and empire. Edward Said has written extensively on the place of the academy as one of the few and increasingly precarious spaces for democratic deliberation and argued the necessity for public intellectuals immured from the seductions of power.14 Defending the US academy as one of the last remaining utopian spaces, ‘the one public space available to real alternative intellectual practices: no other institution like it on such a scale exists anywhere else in the world today’15, and lauding the remarkable critical theoretical and historical work of many academic intellectuals in a lot of his work, Said also complains that ‘the American University, with its munificence, utopian sanctuary, and remarkable diversity, has defanged (intellectuals)’16. The most serious threat to the ‘intellectual vocation’, he argues, is ‘professionalism’ and mounts a pointed attack on the proliferation of ‘specializations’ and the ‘cult of expertise’ with their focus on ‘relatively narrow areas of knowledge’, ‘technical formalism’, ‘impersonal theories and methodologies’, and most worrisome of all, their ability and willingness to be seduced by power.17 Said mentions in this context the funding of academic programmes and research which came out of the exigencies of the Cold War18, an area in which there was considerable traffic of political scientists (largely trained as IR and comparative politics scholars) with institutions of policy-making. Looking at various influential US academics as ‘organic intellectuals’ involved in a dialectical relationship with foreign policy-makers and examining the institutional relationships at and among numerous think tanks and universities that create convergent perspectives and interests, Christopher Clement has studied US intervention in the Third World both during and after the Cold War made possible and justified through various forms of ‘intellectual articulation’.19 This is not simply a matter of scholars working for the state, but indeed a larger question of intellectual orientation. I

t is not uncommon for IR scholars to feel the need to formulate their scholarly conclusions in terms of its relevance for global politics, where ‘relevance’ is measured entirely in terms of policy wisdom. Edward Said’s searing indictment of US intellectuals – policy-experts and Middle East experts - in the context of the first Gulf War20 is certainly even more resonant in the contemporary context preceding and following the 2003 invasion of Iraq. The space for a critical appraisal of the motivations and conduct of this war has been considerably diminished by the expertise-framed national debate wherein certain kinds of ethical questions irreducible to formulaic ‘for or against’ and ‘costs and benefits’ analysis can simply not be raised. In effect, what Said argues for, and IR scholars need to pay particular heed to, is an understanding of ‘intellectual relevance’ that is larger and more worthwhile, that is about the posing of critical, historical, ethical and perhaps unanswerable questions rather than the offering of recipes and solutions, that is about politics (rather than techno-expertise) in the most fundamental and important senses of the vocation.21

#### It makes strategy impossible and causes conflicts to spiral out of control—try or die for the alt because we link turn every impact

Saperstein, professor of physics and fellow – Center for Peace and Conflict Studies @ Wayne State University, ‘97 (Alvin M, “Complexity, Chaos, and National Security Policy: Metaphors or Tools?” in Complexity, Global Politics, and National Security, eds. David S. Alberts and Thomas J. Czerwinski, National Defense University)

The goals of the national Security policy maker are not so obvious in a Prigoginian ("Self Organizing Criticality") world. Should policy be aimed at encouraging or discouraging the creation of new nations, the breakup of the old? Should new alliances, new armies, new bones of contention be anticipated? All of these are the possible system elements and interactions (between the elements) which may arise and evolve via the life of the system. It is now clear that all of these SOC possibilities must be anticipated as well as the vagaries of dealing with the usual interactions between the Newtonian elements of longlived nation’s and alliances. For example, should the "West" have encouraged the breakup of Yugoslavia? (There is a long history of eastern European people living at peace with each other in strongly ruled, multinational, non-democratic States.) Are we better off competing with oppressive but strong oligarchies or dealing with fragmented—even worse, fractal—democracies?20 One of the prime reasons for our failure to successfully deal with Iraq—a "sovereign" element in the Newtonian system—is that we fear to deal with its possible break-up. Similarly, there were important confusions in our society in anticipating and dealing with the break-up of the Soviet Union. Our policies towards China have also suffered from these confusions. In the Newtonian scheme-of-things, nations are sovereign states and deal only with each others’ sovereigns. "Infringing upon sovereignty" is severely frowned upon. It is clear that we still speak to such a world, though we no longer live it. It is not evident to me that a single metaphor/tool—like chaos—is available or useful to us in dealing with a world system characterized by "complexity." Instead of specific new tools, these metaphors can contribute to the development of the new attitudes required for the more complex modern world. They can help sharpen minds dulled by a Newtonian world view so as to be alert to all new possibilities. (It should be obvious that such alertness and openness was always present in some outstanding historic leaders whose minds were, perhaps, not so overburdened with Newtonian simplicities.) Above all, we have to be alert to (and be able to respond to) the possibility of bifurcation21 (Fig.6a) of the existing system into very different possible worlds, containing new and different elements interacting in novel ways. Such bifurcations may occur at national levels—where nations rise and fall, where they are of interest to the strategist, and at local levels—of tactical interest, where military, governmental, or corporate units are created or destroyed. Though these bifurcations are contingent, the probabilities of their occurrence, and their outcomes, are not structureless; familiarity and insight into the fundamental aspects of the system can lead to clues as to when the probabilities of such change are large, and when they are small. Thus we shall need very flexible diplomats and soldiers at all levels.22 (The metaphors of complexity may be helpful in recruiting as well as in educating them.) They will have to be very knowledgeable about past behavior of the system and its elements—as determining the chances for radical transformation of the system. They will have to be open and adaptable to the new and novel which may confront them - with or without rational anticipation.23 Clearly, the new policy makers will have to be thoroughly cognizant of the relevant elements of anthropology, sociology, and psychology, as well as history. Knowledge of the functioning of existing governments, their departments or military units, will not be sufficient, as these elements may be bubbling-up or dissolving into the inchoate foam of people and groups below. Not only are flexibility and imagination required for attaining one’s ends in a complex system. The ends themselves will often be shifting and/or unclear. In some cases it may be desirable to fragment competing parties ("divide and conquer"—e.g., the British role in India); in other cases to consolidate them (create alliances or nations—e.g., the creation of Yugoslavia24). Of utmost importance is the recognition that the policymaker can help direct these shifts, by influencing the elements at a lower level than those of the system of interest; e.g., in a system of nations, it may be advisable to attempt to influence their individual citizens.25 So much for the sanctity of national sovereignty! In mathematical terms, the usual way of seeking the "best" solution to a problem is to look for some maximum value of a function-surface over the space of values pertinent to the problem (e.g., Axelrod and Bennett 1991). The highest maximum (or the lowest minimum) is the best solution—the desired policy—and if the surface is known, that best solution can eventually be found. However, in a "Self-Organizing Criticality" world, the act of moving over the surface in search of its maximum can radically change the surface. It will thus act more as an elastic membrane than as a fixed-function surface. Thus we may not be able to look for the "good strategy" in opposition to the "bad strategy" but may have to settle for the "contextually appropriate strategy." Conclusion: Chaos and Complexity—Tool and/or Metaphor? It is clear that successful military and political policy makers have always entertained the potentiality of chaos and have sought the tools of redundancy and flexibility of resources to deal with that possibility. The only new tool to deal with chaos presented here is the engineering tool of attempting to predict crisis instability and then avoid it or be prepared to live with it. Quantitative dynamical models of the system of interest may be useful in making such predictions. If they are inadequate or unavailable, verbal models have a long history, and potentiality, of use. If the leaders of the pre-WWI European states had recognized that the railroad schedule dominated mobilization of their troops was a source of great crisis instability (Tuchman 1962, van Creveld 1989), perhaps they would have avoided starting—and being trapped by—the process. But this recognition would have required that the chaos metaphor be more commonly found in the "intellectual air" of turn-of-the-century Europe than was the case in that rapidly industrializing Newtonian-reductionist society. Given a Newtonian paradigm, the policymaker strives to be efficient in reacting to a given "field of endeavor"; chaos is to be avoided or dealt with by overwhelming force and/or redundant means of force delivery. The present world seems to require a Prigoginean outlook: don’t accept the battlefield or the world system as a fixed given. The complexity, or adaptive self-organizing, metaphor should be very useful for the necessary education, recruitment, planning, and thinking required to deal with and survive our future.

However, no obvious specific tool—like predicting crisis instability— comes to mind. The metaphor require that one should always be contemplating the future. And, among these considerations for the future, always include attempts to change the field of endeavor itself. Hence, it may not be useful for the policymaker to always look for the uniquely "best solution." It may be necessary to settle for a local temporary maximum—a good solution, rather than the best. In the elastic fabric of our present and future world, the "perfect" is often the enemy of the "good."

## Deterrence

### 2NC Deterrence D

#### Nuclear modernization not key to deterrence – they’ve conceded that a super tiny nuclear arsenal is enough to check any escalation – that’s Sharp

#### They have ONE card on deterrence theory – and Freedman is citing empirics without ever using 1) actual examples or 2) statistics to prove his point

#### AND Freedman concludes diplomacy is more important – inevitable trade collapse tanks diplomacy and means you can’t solve the advantage

**Deterrence theory is wrong**

**Wellen ‘3-8**

(Russ, Foreign Policy in Focus, think tank, book review, “Ability of Nuclear Deterrence to Defuse Crises Exaggerated” http://www.fpif.org/blog/ability\_of\_nuclear\_deterrence\_to\_defuse\_crises\_exaggerated?utm\_source=feedburner&utm\_medium=feed&utm\_campaign=Feed%3A+FPIF+%28Foreign+Policy+In+Focus+%28All+News%29%29)

During the Cold War, nuclear deterrence failed to thwart crises, which were subsequently solved with good, old politics. We may owe thanks for the absence of war (other than proxy) during the Long Peace -- aka the Cold War -- between the United States and the Soviet Union less to nuclear deterrence, as is commonly assumed, than to the "underlying politics." That's a thesis beginning to gain credibility which Francis J. Gavin presents as well as anyone (though I've just begun the book) in Nuclear Statecraft: History and Strategy in America's Atomic Age (Cornell University Press, 2012). Theories about nuclear weapons, he writes (my additions bracketed): … were based on a certain view of the world: that the international system was no longer solely driven by geopolitical competition between the great states. While these drives still mattered, international relations were now shaped by the existence of and interaction between rival nuclear forces. The weapons themselves -- their lethality, their numbers, their deployments -- drove the politics, not the other way around. The interaction could produce outcomes -- arms races, dangerous crises, and even inadvertent war -- separate from the political sources of the rivalry. These theories implied that the most effective policy might not be focusing on the underlying political dispute between rivals but to control their [nuclear] weapons and their interactions. [In part, it] meant that mutual efforts had to be made to limit dangers and to negotiate, not about the core geopolitical issues driving the dispute, but control of the weapons themselves. "This is an extraordinary way of viewing international relations," Gavin continues. But, he asks, "does it accurately reflect the way the world works?" He then attempts to answer his own question. (Emphasis added.) It is interesting to reflect on how rarely the ups and downs of the superpower geopolitical competition mirrored the movements of the arms race. The Soviets pushed the United States aggressively on the issue of West Germany's military status by threatening West Berlin's viability at a time when the USSR was not only weak but potentially open to a US first strike in the late 1950s and early 1960s. The Soviets left West Berlin alone after 1962, even as the US nuclear superiority that arguably helped protect the city disappeared. Why? Because the core geopolitical questions surrounding West Germany's military and political status were resolved, largely to the Soviet Union's satisfaction. In fact, it is very hard to find any evidence that … the Soviets ever considered launching a "bolt from the blue" against the United States. Ward Wilson also approached the failure of deterrence in the Berlin crisis of 1948. In his book, Five Myths About Nuclear Weapons (Houghton Mifflin Harcourt, 2013), about which we recently posted, he writes: Historians debate whether the redeployment of [nuclear weapons-capable] B-29s to England successfully deterred the Soviets. But few ask how Stalin could have initiated the crisis in the first place. When he ordered access to Berlin cut off, the United States had a monopoly on nuclear weapons. (the Soviet Union would not explode its first nuclear weapons for another year). Cutting off access to Berlin carried with it a significant risk of war. Where two large armed groups confront each other in a narrow space, there is always the possibility of accidental escalation. Or escalation could have been intentional. One of the options considered by Washington during the crisis was sending an armored column to force its way up the autobahn to Berlin. Given the risk of provoking a nuclear war and the U.S. nuclear monopoly, why wasn't Stalin deterred from initiating the blockade? If the risk of nuclear war deters, why did Stalin start a crisis that could have led to the use of nuclear weapons against his country? In other words, politics often proceed independently of considerations of the threat of nuclear attacks. Meanwhile, far from lending clarity to international relations, nuclear deterrence just creates another obstacle and adds another layer of complexity to world peace.

Conventional weapons solve- don't need nukes

**Gerson ‘9** (CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE RETHINKING U.S. NUCLEAR POSTURE MODERATOR: JAMES ACTON, ASSOCIATE, NONPROLIFERATION PROGRAM, CARNEGIE ENDOWMENT SPEAKERS: MICHAEL S. GERSON, RESEARCH ANALYST, CENTER FOR NAVAL ANALYSES Transcript by Federal News Service Washington, D.C.

The National Academy of Sciences report on the future of U.S. nuclear weapons policy advocated “no first use.” Again, along these lines that the major conventional threat had disappeared, therefore we didn’t need to rely on the threat of nuclear weapons to deter – to help to bolster deterrence of a conventional attack. Moreover**, the conventional capability – U.S. conventional superiority demonstrated so well in the first Gulf War** **made it such that conventional capabilities were absolutely sufficient for deterrence**. Even Paul Nitze, one of the architects of NSC- 68 in 1994 asked “is it time to junk our nukes?” His argument was smart conventional weapons should be the principal U.S. deterrent**. They’re safer,** they **cause less collateral damage,** they **provide more flexibility,** there’s **less risk of escalation, and** perhaps **most importantly, they’re highly credible**. So **people who had once concocted rather elaborate scenarios for nuclear war-fighting came around to this view, that smart conventional weapons would be the principal deterrent**, whereas those in favor of no-first-use advocated one set of use.

**No modernization regardless and nuclear deterrence is outdated**

**WaPo ‘12** [Washington Post “Aging U.S. nuclear arsenal slated for costly and long-delayed modernization”, http://www.washingtonpost.com/world/nationa l-security/us-nuclear-arsenal-is-ready-for-overhaul/2012/09/15/428237de-f830-11e1-8253-3f495ae70650\_story.html]

There is no official price tag for the effort to upgrade and maintain the 5,113 warheads in the inventory, to replace old delivery systems and to renovate the aging facilities where nuclear work is performed. A study this summer by the nonpartisan Stimson Center, a Washington think tank, estimated costs would be at least $352 billion over the coming decade to operate and modernize the current arsenal. Others say the figure could be far higher, particularly if the work is delayed even longer. The timing does not fit with the nation’s evolving defense posture, either. Over the past decade, the U.S. military has moved away from nuclear deterrence and major military interventions in favor of more precise tactics rooted in Special Operations forces and quick tactical strikes deemed more effective against today’s enemies. Federal officials and many outside analysts are nonetheless convinced that, after years of delay, the government must invest huge sums if it is to maintain the air, sea and land nuclear triad on which the country has relied since the start of the Cold War. Failing to act before the end of next year, they say, is likely to mean that there won’t be enough time to design and build the new systems that would be required if the old arsenal is no longer safe or reliable. “I’ve been doing this for 20 years, and I haven’t seen a moment like this,” Thomas P. D’Agostino, who leads the National Nuclear Security Administration (NNSA), the federal agency charged with managing the safety of the nuclear arsenal, said in an interview. The debate over the future of the nation’s nuclear arsenal is playing out in Congress and within the administration. Public reports, interviews with government officials and outside experts and visits to nuclear facilities rarely seen by outsiders provided a portrait of the scope and cost of maintaining and refurbishing the nuclear stockpile underlying the debate.

**No scenario for losing deterrence – subs check**

Kristensen ‘12 -- FAS nuclear weapons expert [Hans, "DOD: Strategic Stability Not Threatened Even by Greater Russian Nuclear Forces," FAS, 10-10-12, www.fas.org/blog/ssp/2012/10/strategicstability.php, accessed 1-27-13, mss]

DOD: Strategic Stability Not Threatened Even by Greater Russian Nuclear Forces A Department of Defense (DOD) report on Russian nuclear forces, conducted in coordination with the Director of National Intelligence and sent to Congress in May 2012, concludes that even the most worst-case scenario of a Russian surprise disarming first strike against the United States would have “little to no effect” on the U.S. ability to retaliate with a devastating strike against Russia. I know, even thinking about scenarios such as this sounds like an echo from the Cold War, but the Obama administration has actually come under attack from some for considering further reductions of U.S. nuclear forces when Russia and others are modernizing their forces. The point would be, presumably, that reducing while others are modernizing would somehow give them an advantage over the United States. But the DOD report concludes that Russia “would not be able to achieve a militarily significant advantage by any plausible expansion of its strategic nuclear forces, even in a cheating or breakout scenario under the New START Treaty” (emphasis added). The conclusions are important because the report come after Vladimir Putin earlier this year announced plans to produce “over 400” new nuclear missiles during the next decade. Putin’s plan follows the Obama administration’s plan to spend more than $200 billion over the next decade to modernize U.S. strategic forces and weapons factories. The conclusions may also hint at some of the findings of the Obama administration’s ongoing (but delayed and secret) review of U.S. nuclear targeting policy. No Effects on Strategic Stability The DOD report – Report on the Strategic Nuclear Forces of the Russian Federation Pursuant to Section 1240 of the National Defense Authorization Act for Fiscal Year 2012 – was obtained under the Freedom of Information Act. It describes the U.S. intelligence community’s projection for the likely development of Russian nuclear forces through 2017 and 2022, the timelines of the New START Treaty, and possible implications for U.S. national security and strategic stability. Much of the report’s content was deleted before release – including general and widely reported factual information about Russian nuclear weapons systems that is not classified. But the important concluding section that describes the effects of possible shifts in the number and composition of Russian nuclear forces on strategic stability was released in its entirety. The section “Effects on Strategic Stability” begins by defining that stability in the strategic nuclear relationship between the United States and the Russian Federation depends upon the assured capability of each side to deliver a sufficient number of nuclear warheads to inflict unacceptable damage on the other side, even with an opponent attempting a disarming first strike. Consequently, the report concludes, “the only Russian shift in its nuclear forces that could undermine the basic framework of mutual deterrence that exists between the United States and the Russian Federation is a scenario that enables Russia to deny the United States the assured ability to respond against a substantial number of highly valued Russian targets following a Russian attempt at a disarming first strike” (emphasis added). The DOD concludes that such a first strike scenario “will most likely not occur.” But even if it did and Russia deployed additional strategic warheads to conduct a disarming first strike, even significantly above the New START Treaty limits, DOD concludes that it “would have little to no effects on the U.S. assured second-strike capabilities that underwrite our strategic deterrence posture” (emphasis added). In fact, the DOD report states, the “Russian Federation…would not be able to achieve a militarily significant advantage by any plausible expansion of its strategic nuclear forces, even in a cheating or breakout scenario under the New START Treaty, primarily because of the inherent survivability of the planned U.S. Strategic force structure, particularly the OHIO-class ballistic missile submarines, a number of which are at sea at any given time.” Implications These are BIG conclusions with BIG implications. They reaffirm conclusions made by DOD in 2010 [http://www.foreign.senate.gov/publications/download/executive-report-111-06-treaty-with-russia-on-measures-for-further-reduction-and-limitation-of-strategic-offensive-arms-the-new-start-treaty], but the new report is important because it comes after Russia earlier this year announced plans to produce “over 400” nuclear missiles over the next decade. In the real world, however, Russian nuclear forces are not increasing. Even with Putin’s missile production plan, simultaneous retirement of older missile will continue the downward trend and result in a net reduction of Russian strategic nuclear forces over the next decade and a half. This fact has not stopped some from arguing against additional U.S. nuclear reductions. Their argument is that reductions are unwise at a time when Russia and others are modernizing their nuclear forces. Others have even argued that Russia could break out of the New START Treaty by cheating and presumably achieve some strategic advantage. Even the U.S. Senate’s advice and consent resolution that in 2010 approved the New START Treaty required that “the President should regulate reductions in United States strategic offensive arms so that the number of accountable strategic offensive arms under the New START Treaty possessed by the Russian Federation in no case exceeds the comparable number of accountable strategic offensive arms possessed by the United States to such an extent that a strategic imbalance endangers the national security interests of the United States” (emphasis added). A similar obsession with numbers was echoed in the 2012 report by the State Department’s International Strategic Advisory Board on future U.S.-Russian “Mutual Assured Stability,” which concluded that it requires some “rough parity” of nuclear forces. (A similar number obsession has evolved with NATO about non-strategic nuclear weapons, but that’s another story). But the DOD report appears to conclude that such warnings and parity requirement are missing the point. Strategic stability and deterrence today are provided by a secure retaliatory capability, primarily ballistic missile submarines. In fact, although ICBMs and bombers also play a role in the U.S. nuclear posture, they seem oddly absent from the report’s description of what is required to maintain strategic stability based on a sufficient secure retaliatory capability. Retaining that capability, it seems, does not even require the ballistic missile submarines to be on alert (although the report doesn’t explicitly say so). It only requires that a sufficient number of submarines “are at sea” and secure at any given time – or perhaps even only in a crisis. Likewise, the conclusion that a Russian disarming first strike “will most likely not occur” may be obvious to most but, if formal, seems to remove the need for having ICBMs on alert, as long as a sufficient number of submarines are at sea to provide the basic deterrence that underpins strategic stability.

**Deterrence is sufficient in the status quo – primacy is a paper tiger
Bin 06** (Li Bin, a Chinese physicist, works on arms control and international security, professor of the Department of International Relations and Institute of International Studies, Tsinghua University, directs the Arms Control Program at Tsinghua University, 2006, “Paper Tiger with Whitened Teeth”, Issue 4, <http://www.chinasecurity.us/index.php?option=com_content&view=article&id=213&Itemid=8&lang=zh>)

The Lieber and Press paper also raises the concern that China might use nuclear weapons to destroy American cities if the United States supports the separatists in Taiwan in a war for separation, a suggestion which arose from a Chinese military scholar.6 In fact, a more accurate interpretation of this comment is that China could extend its nuclear deterrence to dissuade mass conventional attack from the United States in a Sino-U.S. war over Taiwan. The idea is that China could compensate for its conventional inferiority vis-à-vis the United States by adding the influence of nuclear weapons. However, the United States should not be concerned about this for two reasons. First, China’s leaders fully understand that nuclear weapons are a paper tiger in this kind of conventional conflict. No matter who is defeated in conventional war (if it ever came to that), neither China nor the United States would be able to alter the outcome using nuclear weapons. The second reason is that to deter a nuclear attack (minimum deterrence) does not require nuclear primacy. A retaliatory nuclear force larger than the base criterion described by Robert McNamara should be sufficient for this purpose.7 The coercive power of minimum nuclear deterrence (deterring others from using nuclear weapons) has been held by the United States for over half a century. If the United States would achieve nuclear primacy today, it would make little contribution to the U.S. minimum nuclear deterrence.

**History proves**

**Blair and Yali 06** [Bruce G. Blair, President of the World Security Institute, author of numerous articles and books on security issues including the Logic of Accidental Nuclear War and Global Zero Alert for Nuclear Forces, and Chen Yali, editor in chief of Washington Observer, a Program Manager of Chen Shi China Research Group, Autumn 2006, “The Fallacy of Nuclear Primacy”, pp. 51-77, World Security Institute, <http://www.wsichina.org/cs4_4.pdf>.]

All sides all but ignored the theoretical first strike capability of the United States during the past 15 years (and much longer in the case of China). This history is not a perfect crucible for testing all of the professors’ hypotheses, but the preponderance of evidence so far refutes their argument. What this recent history really seems to be suggesting is that U.S. nuclear primacy is an academic artifice that was and is practically useless for understanding America’s relations with other nuclear powers. Nuclear primacy in modern times offers no exploitable political leverage. Russia and China appear quite confident in their deterrent arsenals in spite of the lopsided U.S. advantage estimated by models of nuclear war.

**Can’t solve irrational actors**

**Blair and Yali 06 –**[Bruce G. Blair, President of the World Security Institute, author of numerous articles and books on security issues including the Logic of Accidental Nuclear War and Global Zero Alert for Nuclear Forces, and Chen Yali, editor in chief of Washington Observer, a Program Manager of Chen Shi China Research Group, Autumn 2006, “The Fallacy of Nuclear Primacy”, pp. 51-77, World Security Institute, <http://www.wsichina.org/cs4_4.pdf>.]

In all calculations of nuclear primacy and deterrence, the players are assumed to be rational. However, rational actors might lapse into irrational behavior in readily imaginable ways that are completely obtuse to the nuclear primacy framework. The obvious scenario in this regard concerns the defeat of China’s military force in a potential Taiwan conflict. The Taiwan issue has been a core national interest of China, one that arouses such fervent emotions throughout the country that irrational behavior in its use of nuclear weapons cannot be ruled out.

### 2NC Inev

#### At worst it takes a long time

Zenko 13 (Micah, Douglas Dillon fellow in the Center for Preventive Action (CPA) at the Council on Foreign Relations (CFR). Previously, he worked for five years at the Harvard Kennedy School and in Washington, DC, at the Brookings Institution, Congressional Research Service, and State Department’s Office of Policy Planning, “Reforming U.S. Drone Strike Policies,” January, Council Special Report No. 65, i.cfr.org/content/publications/attachments/Drones\_CSR65.pdf‎)

Based on current trends, it is unlikely that most states will have, within ten years, the complete system architecture required to carry out¶ distant drone strikes that would be harmful to U.S. national interests.¶ However, those candidates able to obtain this technology will most¶ likely be states with the financial resources to purchase or the industrial¶ base to manufacture tactical short-range armed drones with limited¶ firepower that lack the precision of U.S. laser-guided munitions; the¶ intelligence collection and military command-and-control capabilities needed to deploy drones via line-of-sight communications; and crossborder¶ adversaries who currently face attacks or the threat of attacks¶ by manned aircraft, such as Israel into Lebanon, Egypt, or Syria; Russia¶ into Georgia or Azerbaijan; Turkey into Iraq; and Saudi Arabia into¶ Yemen. When compared to distant U.S. drone strikes, these contingencies¶ do not require system-wide infrastructure and host-state support.¶ Given the costs to conduct manned-aircraft strikes with minimal threat¶ to pilots, it is questionable whether states will undertake the significant¶ investment required for armed drones in the near term.

### 2NC Circumvention

#### She did not answer circumvention – just said it applied to the CP – that may be true but it ALSO TAKES OUT THE CASE – you can vote neg on presumption because this dropped arg is deadly

#### Obama won’t listen – there are special exceptions and covert actions that make attacks inevitable. More regulation could be revoked by the president because it’s a completely internal process that the other branches do not know about. That’s Lohmann

#### Obama refuses to seek Congressional approval for drone use

Alston 11—Professor of Law @ New York University [Philip Alston (UN Special Rapporteur on extrajudicial, summary or arbitrary executions from 2004 until 2010) “The CIA and Targeted Killings Beyond Borders,” Harvard National Security Journal, 2 Harv. Nat'l Sec. J. 283, 2011]

And fourth, the Obama administration has signaled that it does not regard the deployment of drones to a foreign country for the purposes of killing to require congressional approval unless the strikes reached an unspecified but clearly high threshold such as if "we were carpet-bombing a country using Predators." n136 Drones thus become an especially attractive  [\*328]  way for a President to undertake lethal operations in various countries without seeking the sort of authorization that might provoke a sustained and structured public debate.

#### Ambiguity means the plan doesn’t establish a precedent

Westerland et al. 10—Professor of Political Science @ University of Arizona [Chad Westerland, Jeffrey A. Segal (Chair of Political Science and SUNY Distinguished Professor @ StonyBrook University), Lee Epstein (Professor of Law and Political Science @ Northwestern University), Charles M. Cameron (Professor of Politics and Public Affairs @ Princeton University) Scott Comparato (Professor of Political Science @ Southern Illinois University), “Strategic Defiance and Compliance in the U.S. Courts of Appeals,” American Journal of Political Science, Vol. 54, No. 4, October 2010, Pg. 891–905]

Two features of the “horizontal stare decisis” equilibrium stand out. First, adherence to precedent is less likely when the sitting court finds the precedent highly objectionable—in this sense, stare decisis is conditional. Defiance will be more likely if the policy preferences of the sitting court are distant from those of the enacting court. Second, adherence to precedent is less likely if the precedent is old. Essentially, the intergenerational log-roll involves amovingwindow: older precedents are discarded while younger ones are afforded respect, especially if they are not too objectionable. These two features seem likely to emerge in any model of horizontal stare decisis with actors whose policy preferences differ.

A third feature is not explicitly analyzed in Rasmusen’s formal model but seems worth considering: enacting High Court uncertainty or ambivalence about the best policy. If the initial enacting High Court is itself split or uncertain about the best policy—as manifest, for example, by numerous dissents and concurrences—this uncertainty may allow subsequent High Courts legitimately to deviate from the precedent. Subsequent High Court deference to precedent may require the enacting High Court to speak with a clear, unified voice, especially in complex cases. Pg. 899

#### Emergencies will be constructed

Fatovic, 9 – Director of Graduate Studies for Political Science at Florida International University (Clement, *Outside the Law: Emergency and Executive Power.* pp 1-5.)

But the problem for any legal order is that law aims at fixity in a world beset by flux. The greatest challenge to legally established order comes not from the resistance of particular groups or individuals who object to any of its substantive aims but from the unruliness of the world itself. The stability, predictability, and regularity sought by law eventually runs up against the unavoidable instability, unpredictability, and irregularity of the world. Events constantly threaten to disrupt and destabilize the artificial order established by law. Emergencies-sudden and extreme occurrences such as the devastating terrorist attacks of September 11, an overwhelming natural disaster like Hurricane Katrina, a pandemic outbreak of avian flu, a catastrophic economic collapse, or a severe food shortage, to name just a few-dramatize the limitations of the law in dealing with unexpected and incalculable contingencies. Designed for the ordinary and the normal, law cannot always provide for such extraordinary occurrences in spite of its aspiration to comprehensiveness. When such events arise, the responsibility for formulating a response usually falls to the executive. The executive has a unique relationship to the law and the order that it seeks, especially in a liberal constitutional system committed to the rule of law. Not only is the executive the authority most directly responsible for enforcing the law and maintaining order in ordinary circumstances, it is also the authority most immediately responsible for restoring order in extraordinary circumstances. But while the executive is expected to uphold and follow the law in normal times, emergencies sometimes compel the executive to exceed the strict letter of the law. Given the unique and irrepressible nature of emergencies, the law often provides little effective guidance, leaving executives to their own devices. Executives possess special resources and characteristics that enable them to formulate responses more rapidly, flexibly, and decisively than can legislatures, courts, and bureaucracies. Even where the law seeks to anticipate and provide for emergencies by specifying the kinds of actions that public officials are permitted or required to take, emergencies create unique opportunities for the executive to exercise an extraordinary degree of discretion. And when the law seems to be inadequate to the situation at hand, executives often claim that it [is] necessary to go beyond its dictates by consolidating those powers ordinarily exercised by other branches of government or even by expanding the range of powers ordinarily permitted. But in seeking to bring order to the chaos that emergencies instigate, executives who take such action also bring attention to the deficiencies of the law in maintaining order, often with serious consequences for the rule of law. The kind of extralegal action that executives are frequently called upon to take in response to emergencies is deeply problematic for liberal constitutionalism, which gives pride of place to the rule of law, both in its self-definition and in its standard mode of operation. If emergencies test the limits of those general and prospective rules that are designed to make governmental action limited and predictable, that is because emergencies are largely unpredictable and potentially limitless.1 Yet the rule of law, which has enjoyed a distinguished position in constitutional thought going back to Aristotle, has always sought to place limits on what government may do by substituting the arbitrariness and unpredictability of extemporary decrees with the impartiality and regularity of impersonal rules promulgated in advance. The protection of individual freedom within liberal constitutionalism has come to be unimaginable where government does not operate according to general and determinate rules.2 The rule of law has achieved primacy within liberal constitutionalism because it is considered vital to the protection of individual freedom. As Max Weber famously explained of the modern bureaucratic state, legitimacy in the liberal state is not based on habitual obedience to traditions or customs sanctified by time or on personal devotion to a charismatic individual endowed with superhuman gifts but on belief in the legality of a state that is functionally competent in administering highly impersonal but "rational rules." 3 In fact, its entire history and aim can be summed up as an attempt to curtail the kind of discretionary action associated with the arbitrary "rule of men"-by making government itself subject to the law. The apparent primacy of law in liberal constitutionalism has led some critics to question its capacity to deal with emergencies. Foremost among these critics is German political and constitutional theorist Carl Schmitt, who concluded that liberalism is incapable of dealing with the "exception" or "a case of extreme peril" that poses "a danger to the existence of the state" without resorting to measures that contradict and undermine its commitments to the rule of law, the separation of powers, the preservation of civil liberties, and other core values.4 In Schmitt's view, liberalism is wedded to a "normativistic" approach that seeks to regulate life according to strictly codified legal and moral rules that not only obscure the "decisionistic" basis of all law but also deny the role of personal decision-making in the interpretation, enforcement, and application of law. 5 Because legitimacy in a liberal constitutional order is based largely on adherence to formal legal procedures that restrict the kinds of actions governments are permitted to take, actions that have not been specified or authorized in advance are simply ruled out. According to Schmitt, the liberal demand that governmental action always be controllable is based on the naive belief that the world is thoroughly calculable. 6 If it expects regularity and predictability in government, it is because it understands the world in those terms, making it oblivious to the problems of contingency. Not only does this belief that the world is subject to a rational and predictable order make it difficult for liberalism to justify actions that stand outside that order, it also makes it difficult for liberalism even to acknowledge emergencies when they do arise. But Schmitt's critique goes even further than this. When liberal constitutionalism does acknowledge the exception, its commitment to the rule of law forces it to choose between potential suicide if it adheres strictly to its legalistic ideals and undeniable hypocrisy if ignores those ideals? Either way, the argument goes, emergencies expose the inherent shortcomings and weaknesses of liberalism. It is undeniable that the rule of law occupies a privileged position within liberal constitutionalism, but it is a mistake to identify liberal constitutionalism with an excessively legalistic orientation that renders it incapable of dealing effectively with emergencies. Schmitt is correct in pointing out that liberal normativism seeks to render government action as impersonal and predictable as possible in normal circumstances, but the history of liberal 'I· constitutional thought leading up to the American Founding reveals that its main proponents recognized the need to supplement the rule of law with a personal element in cases of emergency. The political writings of John Locke, David Hume, William Blackstone, and those Founders who advocated a strong presidency indicate that many early liberal constitutionalists were highly attuned to the limitations of law in dealing with events that disrupt the regular order. They were well aware that rigid adherence to the formalities of law, both in responding to emergencies and in constraining the official who formulates the response, could undermine important substantive aims and values, thereby sacrificing the ends for the means. Their reflections on the chronic instability and irregularity of politics reveal an appreciation for the inescapable-albeit temporary-need for the sort of discretionary action that the law ordinarily seeks to circumscribe. As Locke explained in his classic formulation, that "it is impossible to foresee, and so by laws to provide for, all Accidents and Necessities, that may concern the publick means that the formal powers of the executive specified in law must be supplemented with "prerogative," the "Power to act according to discretion, for the publick good, without the prescription of the Law, and sometimes even against it." 8 Unlike the powers of the Hobbesian sovereign, which are effectively absolute and unlimited, the exercise of prerogative is, in principle, limited in scope and duration to cases of emergency. The power to act outside and even against the law does not mean that the executive is "above the law”—morally or politically unaccountable—but it does mean that executive power is ultimately irreducible to law.

#### Wartime means Obama ignores the decision – that undermines Court legitimacy and makes the plan worthless

Pushaw, 4 – Professor of law @ Pepperdine University (Robert J. Jr., Defending Deference: A Response to Professors Epstein and Wells,” Missouri Law Review, Vol. 69)

Civil libertarians have urged the Court to exercise the same sort of judicial review over war powers as it does in purely domestic cases—i.e., independently interpreting and applying the law of the Constitution, despite the contrary view of the political branches and regardless of the political repercussions.54 This proposed solution ignores the institutional differences, embedded in the Constitution, that have always led federal judges to review warmaking under special standards. Most obviously, the President can act with a speed, decisiveness, and access to information (often highly confidential) that cannot be matched by Congress, which must garner a majority of hundreds of legislators representing multiple interests.55 Moreover, the judiciary by design acts far more slowly than either political branch. A court must wait for parties to initiate a suit, oversee the litigation process, and render a deliberative judgment that applies the law to the pertinent facts.56 Hence, by the time federal judges (particularly those on the Supreme Court) decide a case, the action taken by the executive is several years old. Sometimes, this delay is long enough that the crisis has passed and the Court’s detached perspective has been restored.57 At other times, however, the war rages, the President’s action is set in stone, and he will ignore any judicial orders that he conform his conduct to constitutional norms.58 In such critical situations, issuing a judgment simply weakens the Court as an institution, as Chief Justice Taney learned the hard way.59 Professor Wells understands the foregoing institutional differences and thus does not naively demand that the Court exercise regular judicial review to safeguard individual constitutional rights, come hell or high water. Nonetheless, she remains troubled by cases in which the Court’s examination of executive action is so cursory as to amount to an abdication of its responsibilities—and a stamp of constitutional approval for the President’s actions.60 Therefore, she proposes a compromise: requiring the President to establish a reasonable basis for the measures he has taken in response to a genuine risk to national security.61 In this way, federal judges would ensure accountability not by substituting their judgments for those of executive officials (as hap-pens with normal judicial review), but rather by forcing them to adequately justify their decisions.62 This proposal intelligently blends a concern for individual rights with pragmatism. Civil libertarians often overlook the basic point that constitutional rights are not absolute, but rather may be infringed if the government has a compelling reason for doing so and employs the least restrictive means to achieve that interest.63 Obviously, national security is a compelling governmental interest.64 Professor Wells’s crucial insight is that courts should not allow the President simply to assert that “national security” necessitated his actions; rather, he must concretely demonstrate that his policies were a reasonable and narrowly tailored response to a particular risk that had been assessed accurately.65 Although this approach is plausible in theory, I am not sure it would work well in practice. Presumably, the President almost always will be able to set forth plausible justifications for his actions, often based on a wide array of factors—including highly sensitive intelligence that he does not wish to dis-close.66 Moreover, if the President’s response seems unduly harsh, he will likely cite the wisdom of erring on the side of caution. If the Court disagrees, it will have to find that those proffered reasons are pretextual and that the President overreacted emotionally instead of rationally evaluating and responding to the true risks involved. But are judges competent to make such determinations? And even if they are, would they be willing to impugn the President’s integrity and judgment? If so, what effect might such a judicial decision have on America’s foreign relations? These questions are worth pondering before concluding that “hard look” review would be an improvement over the Court’s established approach. Moreover, such searching scrutiny will be useless in situations where the President has made a wartime decision that he will not change, even if judicially ordered to do so. For instance, assume that the Court in Korematsu had applied “hard look” review and found that President Roosevelt had wildly exaggerated the sabotage and espionage risks posed by Japanese-Americans and had imprisoned them based on unfounded fears and prejudice (as appears to have been the case). If the Court accordingly had struck down FDR’s order to relocate them, he would likely have disobeyed it. Professor Wells could reply that this result would have been better than what happened, which was that the Court engaged in “pretend” review and stained its reputation by upholding the constitutionality of the President’s odious and unwarranted racial discrimination. I would agree. But I submit that the solution in such unique situations (i.e., where a politically strong President has made a final decision and will defy any contrary court judgment) is not judicial review in any form—ordinary, deferential, or hard look. Rather, the Court should simply declare the matter to be a political question and dismiss the case. Although such Bickelian manipulation of the political question doctrine might be legally unprincipled and morally craven, 67 at least it would avoid giving the President political cover by blessing his unconstitutional conduct and instead would force him to shoulder full responsibility. Pg. 968-970

### 2NC No Model

#### Group the last three arguments -

#### No modeling – our evidence cites social science between states – prefer it because it addresses the psychology of how other countries perceive us. That’s Zenko.

#### Low cost makes drone prolif inevitable - US policy not key

Lewis 12 (Michael, Associate Professor of Law at Ohio Northern University, "SYMPOSIUM: THE 2009 AIR AND MISSILE WARFARE MANUAL: A CRITICAL ANALYSIS: Drones and the Boundaries of the Battlefield," Spring, 47 Tex. Int'l L.J. 293, lexis)

The driving force behind the western militaries' development of drone technology was to minimize the number of human lives placed at risk to collect intelligence and to deliver small amounts of ordnance with some degree of precision. However, it is the relatively low cost of drones compared to that of modern combat aircraft that will drive the proliferation of drones over the next decade. More basic drones cost less than 1/20th as much as the latest combat aircraft and even the more advanced drones that feature jet propulsion and employ some stealth technology are less than 1/10th the cost. n13 With defense budgets around the world under increasing pressure, drones will be seen as an attractive alternative to manned aircraft for certain types of missions.

#### There will be drones – too late to stop them – industry means we’ll still produce. And the race has *already begun* – it’s too late to stop it – that’s USA today

#### Drones inevitable – global demand too strong

Mclean and Sussex 13 (Wayne McLean, PhD Researcher, Politics and International Relations Program at University of Tasmania and Matthew Sussex, Director, Politics and International Relations at University of Tasmania, May 28, 2013 “The debate over military technology: in defence of drones,” The Conversation, <http://theconversation.com/the-debate-over-military-technology-in-defence-of-drones-14627>)

Drones are therefore becoming a fact of warfare, and the US is not alone in integrating unmanned systems into its defence forces. China has an active drone program and recently considered using them in Myanmar to counter drug-trafficking. Indonesia’s drone program, underway since 2004, includes the “Wulung” drone that is primarily used for surveillance. But weaponising them is a relatively simple process.¶ For its part, Australia is actively embracing drones as vital tools on the modern battlefield. The recently released Defence White Paper tacitly calls for further integration of unmanned equipment into the force. Currently, the ADF uses leased Israeli Heron drones in Afghanistan, but lags behind many global and regional competitors. At the same time, Australia is likely to becoming increasingly linked to (and reliant on) the core US systems.¶ The answer, then, is not to fear drones irrationally. They are a reality, and will become more widespread in militaries worldwide. In fact, drones bring many benefits to the Australian Defence Force. They are cheap, for one thing: a Predator drone costs only A$4 million compared to A$67 million for an F/A-18 Super Hornet. They ameliorate many of the costs associated with maintaining large standing armies, or a large border protection service. They enable better integration with US forces, and the technology used to develop them often has highly marketable civilian applications.

#### No reverse modeling - norms can’t solve

Saunders 13 **(**Paul, executive director of The Center for the National Interest and associate publisher of The National Interest. He served in the State Department from 2003 to 2005, “We Won't Always Drone Alone,” <http://nationalinterest.org/commentary/we-wont-always-drone-alone-8177>)

A broader and deeper challenge is how others—outside the United States—will use drones, whether armed or unarmed, and what lessons they will draw from Washington’s approach. Thus far, the principal lesson may well be that drones can be extremely effective in killing your opponents, wherever they are, without risking your own troops and without sending soldiers or law enforcement personnel across another country’s borders. It seems less likely that others will adopt U.S.-style legal standards and oversight procedures, or that they will always ask other governments before sending drones into their airspace.¶ Based on their actions, it is almost as if Obama administration officials believe that the United States and its allies will have a long-term monopoly on drones. How else can one explain their exuberant confidence in launching drone attacks? However, the administration’s dramatic expansion in drone strikes—and their apparent effectiveness—will only further shorten Washington’s reign as the drone capital of the world by increasing the incentives to others eager to develop, refine or buy the technology.¶ Have Obama administration officials given any thought to what the world might look like when armed drones are more widespread and when Americans or U.S. allies and partners could become targets? To an outsider, there is little evidence of this kind of thinking in the administration’s use of drones.¶ This is a serious problem. According to an unclassified July 2012 report by the Government Accountability Office, at least 76 countries already have acquired unmanned aerial vehicles, known as UAVs or drones; the report also states that “countries of concern” are attempting to acquire advanced UAVs from foreign suppliers as well as seeking illegal access to U.S. technology. And a 2012 special report by the United Kingdom’s Guardian newspaper indicated that China has 10 or more models, though not all are armed. Other sources identify additional varieties in China. At least 50 countries are trying to build 900 different types of drones, the GAO writes.¶ More generally, the administration’s expanding use of drones is a powerful endorsement of not only the technology, but of the practice of targeted killing as an instrument of foreign and security policy. Having provided this powerful impetus, the United States should not be surprised if others—with differing legal standards and more creative efforts at self-justification—seize upon it once they have the necessary capabilities. According to the GAO, this is already happening—in government-speak, “while only a limited number of countries have fielded lethal or weaponized UAVs, this threat is anticipated to grow.” From this perspective, it is ironic that a president so critical of his predecessor’s unilateralism would practice it himself—particularly in a manner that other governments will find much easier to emulate than the Bush administration’s larger-scale use of force. How does the Obama administration plan to respond if and when China or Russia uses armed UAVs to attack groups they define as terrorists?

#### U.S. drone use doesn’t set a precedent, restraint doesn’t solve it, and norms don’t apply to drones at all in the first place

Amitai Etzioni 13, professor of international relations at George Washington University, March/April 2013, “The Great Drone Debate,” Military Review, <http://usacac.army.mil/CAC2/MilitaryReview/Archives/English/MilitaryReview_20130430_art004.pdf>

Other critics contend that by the United States using drones, it leads other countries into making and using them. For example, Medea Benjamin, the cofounder of the anti-war activist group CODEPINK and author of a book about drones argues that, “The proliferation of drones should evoke reﬂection on the precedent that the United States is setting by killing anyone it wants, anywhere it wants, on the basis of secret information. Other nations and non-state entities are watching—and are bound to start acting in a similar fashion.”60 Indeed scores of countries are now manufacturing or purchasing drones. There can be little doubt that the fact that drones have served the United States well has helped to popularize them. However, it does not follow that United States should not have employed drones in the hope that such a show of restraint would deter others. First of all, this would have meant that either the United States would have had to allow terrorists in hardto-reach places, say North Waziristan, to either roam and rest freely—or it would have had to use bombs that would have caused much greater collateral damage.

Further, the record shows that even when the United States did not develop a particular weapon, others did. Thus, China has taken the lead in the development of anti-ship missiles and seemingly cyber weapons as well. One must keep in mind that the international environment is a hostile one. Countries—and especially non-state actors— most of the time do not play by some set of self constraining rules. Rather, they tend to employ whatever weapons they can obtain that will further their interests. The United States correctly does not assume that it can rely on some non-existent implicit gentleman’s agreements that call for the avoidance of new military technology by nation X or terrorist group Y—if the United States refrains from employing that technology.

I am not arguing that there are no natural norms that restrain behavior. There are certainly some that exist, particularly in situations where all parties beneﬁt from the norms (e.g., the granting of diplomatic immunity) or where particularly horrifying weapons are involved (e.g., weapons of mass destruction). However drones are but one step—following bombers and missiles—in the development of distant battleﬁeld technologies. (Robotic soldiers—or future ﬁghting machines— are next in line). In such circumstances, the role of norms is much more limited.