# 1AC

No changes

# 2AC Case

#### No impact to hege

Fettweis 10 (Christopher J. Professor of Political Science at Tulane, Dangerous Times-The International Politics of Great Power Peace, pg. 175-6)

If the only thing standing between the world and chaos is the US military presence, then an adjustment in grand strategy would be exceptionally counter-productive. But it is worth recalling that none of the other explanations for the decline of war – nuclear weapons, complex economic interdependence, international and domestic political institutions, evolution in ideas and norms – necessitate an activist America to maintain their validity. Were American to become more restrained, nuclear weapons would still affect the calculations of the would be aggressor; the process of globalization would continue, deepening the complexity of economic interdependence; the United Nations could still deploy peacekeepers where necessary; and democracy would not shrivel where it currently exists. More importantly,the idea that war is a worthwhile way to resolve conflict would have no reason to return. As was argued in chapter 2, normative evolution is typically unidirectional. Strategic restraint in such a world be virtually risk free.

#### Statisically unipolarity is THE most conflict prone system

Montiero 12 [Nuno P. Monteiro is Assistant Professor of Political Science at Yale University, “Unrest Assured: Why Unipolarity is Not Peaceful”, International Security, Vol. 36, No. 3 (Winter 2011/12), pp. 9–40, Chetan]

**Wohlforth claims not only that the unipole can stave off challenges and preclude major power rivalries, but also that it is able to prevent conflicts among other states** and create incentives for them to side with it. 39 The unipole’s advantage is so great that it can settle any quarrel in which it intervenes. **As Wohlforth writes, “For as long as unipolarity obtains....second-tier states are less likely to engage in conflict-prone rivalries** for security or prestige. Once the sole pole takes sides, there can be little doubt about which party will prevail.” 40 This is the core logic of Wohlforth’s argument that unipolarity is peaceful. But what specifically does his argument say about each of the six possible kinds of war I identified in the previous section? Clearly, great power war is impossible in a unipolar world. In Wohlforth’s famous formulation: “Two states measured up in 1990. One is gone. No new pole has appeared: 2 1 1.” 41 Furthermore, by arguing that unipolarity precludes hegemonic rivalries, Wohlforth makes no room for wars between the sole great power and major powers. These are, according to him, the two main reasons why a unipolar world is peaceful. Unipolarity, he writes, “means the absence of two big problems that bedeviled the statesmen of past epochs: hegemonic rivalry and balance-of-power politics among major powers.” 42 I agree with Wohlforth on these two points, but they are only part of the picture. Granted, the absence of great power wars is an important contribution toward peace, but great power competition—and the conflict it might engender—would signal the emergence of one or more peer competitors to the unipole, and thus indicate that a transition to a bipolar or multipolar system was already under way. In this sense, great power conflict should be discussed within the context of unipolar durability, not unipolar peace. Indeed, including this subject in discussions of unipolar peacefulness parallels the mistakes made in the debate about the Cold War bipolar system. Then, arguments about how the two superpowers were unlikely to fight each other were often taken to mean that the system was peaceful. This thinking ignored the possibility of wars between a superpower and a lesser state, as well as armed conflicts among two or more lesser states, often acting as great power proxies. 43 In addition, **Wohlforth claims that wars among major powers are unlikely**, because the unipole will prevent conflict from erupting among important states. He writes, “The sole pole’s power advantages matter only to the degree that it is engaged, and it is most likely to be engaged in politics among the other major powers. 44 I agree that if the unipole were to pursue a strategy of defensive dominance, major power wars would be unlikely. Yet, there is no compelling reason to expect that it will always follow such a course. Should the unipole decide to disengage, as Wohlforth implies, major power wars would be possible. At the same time, Wohlforth argues that the unipole’s power preponderance makes the expected costs of balancing prohibitive, leading minor powers to bandwagon. This is his explanation for the absence of wars between the sole great power and minor powers. But, as I show, the costs of balancing relative to bandwagoning vary among minor powers. So Wohlforth’s argument underplays the likelihood of this type of war. Finally, Wohlforth’s argument does not exclude all kinds of war. **Although power preponderance allows the unipole to manage conflicts globally, this argument is not meant to apply to relations between major and minor powers,** or among the latter. As Wohlforth explains, his argument “applies with less force to potential security competition between regional powers, or between a second-tier state and a lesser power with which the system leader lacks close ties.” 45 Despite this caveat, Wohlforth does not fully explore the consequences of potential conflict between major and minor powers or among the latter for his view that unipolarity leads to peace. **How well**, then, **does the argument that unipolar systems are peaceful account for the first two decades of unipolarity** since the end of the Cold War? Table 1 presents a list of great powers divided into three periods: 1816 to 1945, multipolarity; 1946 to 1989, bipolarity; and since 1990, unipolarity. 46 Table 2 presents summary data about the incidence of war during each of these periods. **Unipolarity is the most conflict prone of all the systems, according to** at least **two important criteria: the percentage of years that great powers spend at war and the incidence of war involving great powers**. In multipolarity, 18 percent of great power years were spent at war. In bipolarity, the ratio is 16 percent. **In unipolarity**, however, **a remarkable 59 percent of great power years** until now **were spent at war**. This is by far the highest percentage in all three systems. Furthermore, **during** periods of **multipolarity and bipolarity, the probability that war** involving a great power **would break out in any given year was, respectively, 4.2 percent and 3.4 percent. Under unipolarity, it is 18.2 percent**—or more than four times higher. 47 **These figures provide no evidence that unipolarity is peaceful**. 48 In sum, the argument that unipolarity makes for peace is heavily weighted toward interactions among the most powerful states in the system. This should come as no surprise given that Wohlforth makes a structural argument: peace flows from the unipolar structure of international politics, not from any particular characteristic of the unipole. 49 Structural **analyses of the international system are usually centered on interactions between great powers**. 50 As Waltz writes, “The theory, like the story, of international politics is written in terms of the great powers of an era.” 51 In the sections that follow, however, I show that **in the case of unipolarity, an investigation of its peacefulness must consider** potential **causes of conflict beyond interactions between the most important states in the system.**

#### It’s not a question of winning battles or the war – terrorists organizations are comparatively gaining a foothold compared to where they were BEFORE the war on terror – that’s evans

#### The US is losing the WOT

Rozeff 13 (Aug 12, Michael S., Professor Emeritus Finance and Managerial Economics, author of “Essays on American Empire” The Market Oracle, “Is the U.S Losing the War of Terror?” http://www.marketoracle.co.uk/Article41825.html)

How’s the global war on terror (GWOT) going for the U.S.? That’s easy. The U.S. is losing. One sign is that the GWOT is 12 years old. The U.S. hasn’t licked terror yet. What else? Iraq is a total fiasco for the U.S. and a disaster for Iraqis. The U.S. invasion produced a civil war, then a weak government, new insurgencies and a base for al Qaeda operations. Today and every day, dozens and dozens of Iraqis are still being killed and wounded The U.S. still hasn’t “won” in Afghanistan, no matter how you define winning. Another weak and corrupt government was put in. The Taliban is alive and kicking. So is al Qaeda. Al Qaeda affiliates have appeared. Affiliates are new recruits in a network of sub-organizations. Jihadist insurgents moved into Pakistan, destabilizing that country. Al Qaeda remains in Saudi Arabia, Uzbekistan, Spain, Germany, China, the Philippines, Malaysia and Indonesia. Al Qaeda has grown in Yemen where the U.S. now has operations.

### k – 2AC

#### Case outweigh –

#### Perm – do the plan and non-mutually exclusive parts of the alternative

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

#### The alt creates a political void filled by elites – locking in oppression

Cook 92 (Anthony, Associate Professor – Georgetown Law, New England Law Review, Spring, 26 New Eng.L. Rev. 751, Lexis)

The effect of deconstructing the power of the author to impose a fixed meaning on the text or offer a continuous narrative is both debilitating and liberating. It is debilitating in that any attempt to say what should be done within even our insular Foucaultian preoccupations may be oppositionalized and deconstructed as an illegitimate privileging of one term, value, perspective or narrative over another. The struggle over meaning might continue ad infinitum. That is, if a deconstructionist is theoretically consistent and sees deconstruction not as a political tool but as a philosophical orientation, political action is impossible, because such action requires a degree of closure that deconstruction, as a theoretical matter, does not permit. Moreover, the approach is debilitating because deconstruction without material rootedness, without goals and vision, **creates a political** and spiritual **void** into which the socially real power we theoretically deconstruct steps and **steps on** the disempowered and dispossessed.  [\*762]  To those dying from AIDS, stifled by poverty, dehumanized by sexism and racism, crippled by drugs and brutalized by the many forms of physical, political and economic violence that characterizes our narcissistic culture, power hardly seems a matter of illegitimate theoretical privileging. When vision, social theory and political struggle do not accompany critique, the **void will be filled** by the rich, the powerful and the charismatic, those who influence us through their eloquence, prestige, wealth and power.

#### The impact is extinction

Rorty 98 (Richard, Professor of Comparative Literature – Stanford University, Achieving Our Country: Leftist Thought in Twentieth-Century America, p. 89-94)

At that point, something will crack. The nonsuburban electorate will decide that the system has failed and start looking around for a strongman to vote for someone willing to assure them that, once he is elected, the smug bureaucrats, tricky lawyers, overpaid bond salesmen, and postmodernist professors will no longer be calling the shots. A scenario like that of Sinclair Lewis’ novel It Can’t Happen Here may then be played out. For once such a strongman takes office, nobody can predict what will happen. In 1932, most of the predictions made about what would happen if Hindenburg named Hitler chancellor were **wildly overoptimistic**. One thing that is very likely to happen is that **the gains made in the past forty years** by black and brown Americans, and by homosexuals, **will be wiped out**. Jocular contempt for women will come back into fashion. The words "nigger" and "kike" will once again be heard in the workplace. **All the sadism** which the academic Left has tried to make unaccept­able to its students will come flooding back. All the resent­ment which badly educated Americans feel about having their manners dictated to them by college graduates will find an outlet. But such a renewal of sadism will not alter the effects of selfishness. For after my imagined strongman takes charge, he will quickly make his peace with the international super­rich, just as Hitler made his with the German industrialists. He will invoke the glorious memory of the Gulf War to **pro­voke military adventures which will** generate short-term prosperity. He will be a disaster for the country and the world. People will wonder why there was so little resistance to his evitable rise. Where, they will ask, was the American Left? Why was it only rightists like Buchanan who spoke to the workers about the consequences of globalization? Why could not the Left channel the mounting rage of the newly dispossessed? It is often said that we Americans, at the end of the twenti­eth century, no longer have a Left. Since nobody denies the existence of what I have called the cultural Left, this amounts to an admission that that Left is unable to engage in national politics. It is not the sort of Left which can be asked to deal with the consequences of globalization. To get the country to deal with those consequences, the present cultural Left would have to transform itself by opening relations with the residue of the old reformist Left, and in particular with the labor unions. It would have to talk much more about money, even at the cost of talking less about stigma. I have two suggestions about how to effect this transition. The first is that the Left should put a moratorium on theory. It should try to kick its philosophy habit. The second is that the Left should try to mobilize what remains of our pride in being Americans. It should ask the public to consider how the country of Lincoln and Whitman might be achieved. In support of my first suggestion, let me cite a passage from Dewey's Reconstruction in Philosophy in which he ex­presses his exasperation with the sort of sterile debate now going on under the rubric of "individualism versus commu­nitarianism." Dewey thought that all discussions which took this dichotomy seriously suffer from a common defect. They are all committed to the logic of general notions under which specific situa­tions are to be brought. What we want is light upon this or that group of individuals, this or that concrete human being, this or that special institution or social arrangement. For such a logic of inquiry, the tradition­ally accepted logic substitutes discussion of the mean­ing of concepts and their dialectical relationships with one another. Dewey was right to be exasperated by sociopolitical theory conducted at this level of abstraction. He was wrong when he went on to say that ascending to this level is typically a right­ist maneuver, one which supplies "the apparatus for intellec­tual justifications of the established order. "9 For such ascents are now more common on the Left than on the Right. The contemporary academic Left seems to think that the higher your level of abstraction, the more subversive of the estab­lished order you can be. The more sweeping and novel your conceptual apparatus, the more radical your critique. When one of today's academic leftists says that some topic has been "inadequately theorized," you can be pretty certain that he or she is going to drag in either philosophy of lan­guage, or Lacanian psychoanalysis, or some neo-Marxist ver­sion of economic determinism. Theorists of the Left think that dissolving political agents into plays of differential sub­jectivity, or political initiatives into pursuits of Lacan's im­possible object of desire, helps to subvert the established order. Such subversion, they say, is accomplished by "problematizing familiar concepts." Recent attempts to subvert social institutions by prob­lematizing concepts have produced a few very good books. They have also produced many thousands of books which represent scholastic philosophizing at its worst. The authors of these purportedly "subversive" books honestly believe that they are serving human liberty. But it is almost impossi­ble to clamber back down from their books to a level of ab­straction on which one might discuss the merits of a law, a treaty, a candidate, or a political strategy. Even though what these authors "theorize" is often something very concrete and near at hand-a current TV show, a media celebrity, a re­cent scandal-they offer the most abstract and barren expla­nations imaginable. These futile attempts to philosophize one's way into polit­ical relevance are a symptom of what happens when a Left re­treats from activism and adopts a spectatorial approach to the problems of its country. Disengagement from practice pro­duces **theoretical hallucinations**. These result in an intellec­tual environment which is, as Mark Edmundson says in his book Nightmare on Main Street, Gothic. The cultural Left is haunted by ubiquitous specters, the most frightening of which is called "power." This is the name of what Edmund­son calls Foucault's "haunting agency, which is everywhere and nowhere, as evanescent and insistent as a resourceful spook."10

#### Alternative fails – critical theory has no mechanism to translate theory into practice

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

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

### Congress CP – 2AC

#### 1. Perm do both

#### 2. Solves none of the case -

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

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

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

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

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

#### only court action solves the independent judiciary advantage – turns the counterplan – deference sets a model which causes global instability – that’s Mirow and CJA – and indefinite detention policy is uniquely important – that’s McCormack

#### Court has unique symbolic effect --- key to foreign perception of the plan

Fontana 8 (David, Associate Professor of Law – George Washington University Law School, “The Supreme Court: Missing in Action”, Dissent Magazine, Spring, http://www.dissentmagazine.org/article/?article=1165)

*The Results of Inaction*  
What is the problem with this approach? The answer, simply put, is that it legitimates and even catalyzes political activity by Congress and the president, but it does so without including in this political activity the critically influential background voice of the Supreme Court on issues related to individual rights. The Court has two main powers: one has to do with law and compulsion, the other has to do with political debate. The Court can legally compel other branches of government to do something. When it told states and the federal government in Roe v. Wade that they could not criminalize all abortions, for example, the Court’s decision was a binding legal order. But the Supreme Court also plays a role in political debate, even when it does not order anyone to do anything. If the Justices discuss the potential problems for individual rights of a governmental action, even if they don’t contravene the action, their decision still has enormous import. This is because other actors (members of Congress, lawyers, newspaper editorial writers, college teachers, and many others) can now recite the Court’s language in support of their cause. Supreme Court phrases such as “one person, one vote” have enormous symbolic effect and practical influence. If there had been a case about torture, for example, and some of the justices had written in detail about its evils, then Senator Patrick Leahy (senior Democrat on the Judiciary Committee) could have used the Justices’ arguments to criticize attorney general nominee Michael Mukasey during his confirmation hearings. Attorneys for those being detained at Guantánamo could have made appearances on CNN and (even) Fox News reciting the evils of torture as described by the Court. Concerns about rights could have been presented far more effectively than if, as actually happened, the Court refused to speak to these issues. The Supreme Court’s discussion of constitutional questions is particularly important for two reasons. First, the justices view these questions from a distinct standpoint. While members of Congress and the president have to focus more on short-term and tangible goods, members of the Court (regardless of which president appointed them) focus more on the long term and on abstract values. The Court offers a perspective that the other branches simply cannot offer. Second, when the Supreme Court presents this perspective, people listen. It is and has been for some time the most popular branch of American government. Although there is some debate about terminology and measurement, most scholars agree that the Court enjoys “diffuse” rather than “specific” support. Thus, even when Americans don’t like a specific decision, they still support the Court. By contrast, when the president or Congress does something Americans don’t like, their support drops substantially. AMERICANS BECOME more aware of the Court the more it involves itself in controversies. This is because of what political scientists call “positivity bias.” The legitimating symbols of the Court (the robes, the appearance of detachment, the sophisticated legal opinions) help to separate it from other political institutions—and in a good way for the Court. If the Justices had drawn attention to violations of individual rights, most of America would have listened and possibly agreed. As it is, our politics has been devoid of a voice—and an authoritative voice—on individual rights. For most of the time since September 11, few major political figures have been willing to stand up and speak in support of these rights. Recall that the Patriot Act was passed in 2001 by a vote of ninety-eight to one in the Senate, with very little debate. Congress overwhelmingly passed the Detainee Treatment Act (DTA) of 2005, which barred many of those complaining of torture from access to a U.S. court. Congress also overwhelmingly passed the Military Commissions Act (MCA) of 2006, which prevented aliens detained by the government from challenging their detention—and barred them from looking to the Geneva Conventions as a source of a legal claim.

#### Members of congress have openly defended a right to indefinite detention *without judicial review* – review is critical to check dictatorialexecutive power – that’s Martin

**3. Perm do the CP – it’s an example of the congress legislating the plans’ restriction**

**4. Congress will roll back the counterplan during a conflict – kills solvency**

Tisler **11**

[Tiffany, J.D. Candidate, University of Toledo, 2011., FEDERAL ENVIRONMENTAL LAW WAIVERS AND HOMELAND SECURITY: ASSESSING WAIVER APPLICATION IN HOMELAND SECURITY SETTINGS AT THE SOUTHERN BORDER IN COMPARISON TO NATIONAL SECURITY SETTINGS INVOLVING THE MILITARY, Spring, 2011 The University of Toledo Law Review, L/N]

In times of war, the conflict between national-security goals and environmental laws tends to come out in favor of national security, n54 and shortly after 9/11 the United States was at war. As it was, the U.S. military never particularly liked the pre-9/11 waiver system, finding the scope of waivers too narrow and the time limits incompatible with long-term activities. n55 Thus, sensing the time to strike, the military began lobbying for changes to environmental-waiver provisions in the aftermath of 9/11. n56 The military has since actively and successfully sought changes to the waiver system, giving them much broader authority to disregard environmental laws, especially for reasons of "military readiness." n57 First, the military convinced Congress to attach riders to the 2004 and 2005 Defense Appropriations Acts exempting them from provisions of the Marine Mammal Protection Act ("MMPA"), some provisions of the ESA, and the entire Migratory [\*784] Bird Treaty Act. n58 Not only did the military successfully change the application of various sections of statute, it also changed the waiver structure for the MMPA, giving the Secretary of Defense the authority to grant waivers in addition to the President. n59 Though not always successful, military lobbying efforts have removed many external checks on military activities that impact the environment, creating a dim future for the environment. n60

#### 5. Counterplan is a voting issue

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

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

#### 6. Congress doesn’t have the authority to uphold the forrest decision and

#### Judicial restrictions are comparatively more effective at restraining the executive than statutory ones

Pearlstein 6 (Deborah, Visiting Scholar, Woodrow Wilson School for Public and International Affairs, Princeton University; Director, U.S. Law and Security Program, Human Rights First, "Finding Effective Constraints on Executive Power: Interrogation, Detention, and Torture," http://www.acslaw.org/files/Microsoft%20Word%20-%205\_Pearlstein.pdf)

While the courts continue to debate the limits of inherent executive power under the Federal Constitution, the ¶ past several years have taught us important lessons about how and to what extent constitutional and subconstitutional constraints may effectively check the broadest assertions of executive power. Following the ¶ publication in 2004 of photographs of U.S. troops torturing captives at the U.S.-run Abu Ghraib prison in Iraq, ¶ executive branch use of torture and other forms of coercive interrogation has raised profound questions of ¶ policy and morality. Are such tactics useful in combating the terrorist threat? Is a government ever morally ¶ justified in using such techniques? What are the negative consequences for U.S. strategic security goals from the ¶ public exposure of such practices? The practice has also raised serious questions of law regarding the¶ extraterritorial application of U.S. constitutional and treaty obligations, the scope of the ban on “cruel, inhuman ¶ and degrading treatment” under U.S. law,1¶ and the adequacy of enforcement mechanisms to hold accountable ¶ those who violate such prohibitions.¶ Perhaps above all, the practice has raised hard questions about what remains of meaningful constraints on ¶ executive power. The conduct revealed in the Abu Ghraib photos was immediately and widely condemned by¶ political leaders on both sides of the aisle.2¶ In the intense scrutiny of executive branch practice that followed, it ¶ became clear that the executive had not only contemplated the use of coercion up to and including torture, but ¶ that, arguably at least, the torture and abuse documented in an ever-widening series of incidents from¶ Afghanistan to Iraq to the U.S. Naval Base at Guantánamo Bay was the result of a combination of direct¶ executive authorization, and executive knowledge of wrongdoing coupled with a failure to correct and punish.3¶ Further, executive conduct in this realm was justified, at least for a time, by a sweepingly broad assertion of ¶ presidential power according to which the federal law criminalizing torture could be found unconstitutional if ¶ interpreted to constrain the ability of the President as commander in chief to authorize coercive interrogation.4¶ Whatever the theoretical merits of coercive interrogation as applied in a targeted way against the most ¶ heinous of suspects, the widespread torture and abuse of scores of apparently innocent detainees was an ¶ outcome no one purported to seek. Yet there are now hundreds of officially documented incidents of torture and ¶ abuse in U.S. custody since 2002, only a fraction of which occurred at Abu Ghraib. Among the most troubling ¶ statistics is the Pentagon’s documentation of more than two dozen homicides in U.S. detention facilities ¶ worldwide since 2002 (only one of which was at Abu Ghraib), including at least eight individuals who were ¶ tortured to death.5¶ Whether or not one believes that the executive bears direct political or legal responsibility for ¶ this conduct,6¶ few dispute that the most egregious of these acts are unlawful, and that the consequences of their ¶ revelation for U.S. policy have been overwhelmingly adverse.7¶ How is it, then, that the structures of our constitutional democracy, theoretically designed to avoid outcomes ¶ in which the power of the executive branch is exercised over a period of time without check in a manifestly ¶ unlawful way, failed to do so in this case? Our Constitution and laws are replete with basic affirmative human rights; the structural separation of powers among the branches is also designed to protect individual rights; and, ¶ particularly since World War II, executive power to act in the realm of national security has been constrained by ¶ a rich canon of statutes and regulations. Were none of these tools sufficient? What lessons can we take from the ¶ example of torture for the prospects of effectively constraining executive national security power going ¶ forward? ¶ This Article suggests some answers to each of these questions. Following a discussion of why torture and ¶ abuse in the “war on terror” became such a pervasive problem in the years after September 11, this Article ¶ argues that the most effective power-checking tools (at least at the margins) have emerged from less classically ¶ “democratic” sources: a highly professionalized military and intelligence community; the media and the¶ organizations of non-governmental civil society; and the active engagement of the courts. While it is true that ¶ many of our core democratic structures failed to constrain executive operations in prisoner detention and ¶ treatment (particularly Congress, charged as a co-equal partner in U.S. national security and foreign affairs ¶ powers),8¶ these other levers have seen at least modest success in changing the course of executive policy. ¶ Indeed, this Article suggests that effective constraints on executive power going forward are more likely to be ¶ found in the reinforcement and enhancement of the courts and these other arguably undemocratic institutions, ¶ than through congressional or other “hardcore” democratic checks on power.

#### Court action is critical

Simpson 13 (Mike Simpson, May 16, writer and teacher on topics related to government and politics, Tutor2u, online learning resource of the year via BETT, the world’s leading educational show, “Revision Update: US / UK Politics: Exemplar Answer: A Bill of Rights?” <http://www.tutor2u.net/blog/index.php/politics/print/revision-update-us-uk-politics-exemplar-answer-a-bill-of-rights>)

The concept of “paper rights” would suggest that rights exist on paper (in a bill of rights) but that they are not enforced in practice. This would suggest that the judiciary need to play an active role in the defence of rights and liberties. The role of an independent judiciary in enforcing the “rule of law” allows them to stand up to the arbitrary exercise of power by executives and legislatures which might see the tyranny of the majority override minority and individual rights. The record of the Supreme Court in this regard might be regarded as inadequate in this regard. The Roberts Court has failed to protect rights as outlined in the Bill of Rights. The composition of the court has a conservative bias. The Bush appointment of Alito was critical in this regard as the departure of Justice O’Connor allowed GW Bush to replace a centrist with a conservative. The above ruling and others such as Florence v Board of Chosen Freeholders 2012 allowing strip searches for any offence contrary to privacy rights established under the fourth amendment; Wal-mart v Dukes 2011 which prevented a case to prove sex discrimination contrary to equal protection 14th amendment rights; and Baze v Rees which allowed lethal injection contrary to 8th amendment rights which prevent “cruel and unusual” punishments. The Supreme Court has not ruled on the constitutionality of the Patriot Act. In Russia, the courts upheld the decision to punish the members of “Pussy Riot” which illustrates the need for a judiciary to be independent in order to enforce a bill of rights.

of national security, complete deference is likely to clash with their understanding of their role as judges

### Prez Powers DA – 2AC

#### 1. No link – plan only affects one issue that is not central to Obama’s presidential powers – make them read a card that says the plan prevents Obama from using executive power in other instances

#### Judicial Independence outweighs – 1ac had six scenarios -

#### It’s modeled globally – that’s CJA – and key to stability in Latin America – that’s Cooper – this is the only mechanism for solving disease and escalatory war –

#### Latin American instability turns heg – that’s Sabatini

#### And it’s key to stability in Africa – this is key to prevent global economic collapse and congo forest destruction that’s Sites and Business Day

#### 3. Plan allows for better executive decision making

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

The psychology of accountability further suggests that opponents of deference are correct to push for more rigorous judicial review. Psychologists describe the phenomenon of accountability as the expectation that one may have to justify one's actions as sufficiently compelling or face negative consequences. Research shows that people who know they will be accountable reach better-reasoned decisions and avoid many of the problems that lead to skewed risk assessment. **Judicial review**, with its requirement that officials explain and justify their infringement of civil liberties, **can serve as a mechanism of accountability**, **thus improving executive branch decision making in times of crisis**. Furthermore, the contextual nature of civil liberties cases suggests that judicial review may be a necessary aspect of executive accountability.

#### 4. The president will do whatever he wants anyway- post-Hamdan Bush proves

#### No internal link - in cases of extreme threats to national security the prez has the ability to make limited exceptions which is probably sufficient to maintain hegemony – its illogical that a particular aspect of war powers authority is key to the entire perception of American heg

#### 5. Fisa thumps

**WSJ 13**  – Wall Street Journal, “The Absent Commander in Chief”, 6/16/13 <http://online.wsj.com/article/SB10001424127887324188604578545233232040760.html>

Even an effort by Mr. Obama to lead from behind would be better than this abdication. The President's mistake seems to be a combination of moral afflatus—how could anyone possibly imagine that he would abuse government power?—and treating the current furor as a law school seminar. The political danger is a lot greater than that. A real and growing risk is that Congress will move in a way that limits the war powers of the Commander in Chief and endangers national security. To take one example, support seems to be growing for Senate legislation from Democrats Ron Wyden and Jeff Merkley of Oregon and Republican Mike Lee of Utah that would require the declassification of certain legal opinions from the oversight court under the Foreign Intelligence Surveillance Act, or FISA. This infringes on executive power because the President has traditionally defined what is secret, especially in times of war.

#### 6. Limits on prez powers solve global nuclear war

Sloane 08

[Robert, Associate Professor of Law, Boston University School of Law, THE SCOPE OF EXECUTIVE POWER IN THE TWENTYFIRST CENTURY: AN INTRODUCTION, 2008, <http://www.bu.edu/law/central/jd/organizations/journals/bulr/documents/SLOANE.pdf>]

There is a great deal more constitutional history that arguably bears on the scope of the executive power in the twenty-first century. But it is vital to appreciate that the scope of the executive power, particularly in the twenty-first century, is not only a constitutional or historical issue. As an international lawyer rather than a constitutionalist, I want to stress briefly that these debates and their concrete manifestations in U.S. law and policy potentially exert a profound effect on the shape of international law. Justice Sutherland’s sweeping dicta in United States v. Curtiss-Wright Export Corp., that the President enjoys a “very delicate, plenary and exclusive power . . . as the sole organ of the federal government in the field of international relations – a power which does not require as a basis for its exercise an act of Congress,”52 has been (correctly, in my view) criticized on a host of grounds.53 But in practice, in part for institutional and structural reasons,54 it accurately reflects the general preeminence of the President in the realm of U.S. foreign affairs. Because of the nature of the international legal and political system, what U.S. Presidents do and say often establish precedents that strongly influence what other states do and say – with potentially dramatic consequences for the shape of customary international law. The paradigmatic example is the establishment of customary international law on the continental shelf following the Truman Proclamation of September 28, 1945,55 which produced an echo of similar claims and counterclaims, culminating in a whole new corpus of the international law of the sea for what had previously been understood only as a geological term of art.56 Many states took note, for example, when in the 2002 National Security Strategy of the United States (“NSS”), President Bush asserted that the United States had the right under international law to engage in preventive wars of self-defense.57 While, contrary to popular belief, the United States never in fact formally relied on that doctrine in practice, many would argue that President Bush de facto exercised this purported right when he initiated an armed conflict with Iraq based on claims, which have since proved unfounded, about its incipient programs to develop catastrophic weapons. The 2006 NSS notably retreats from the 2002 NSS’s robust claims of a right to engage in preventive wars of self-defense.58 Yet even within this brief, four-year period, an astonishing number of other states have asserted a comparable right to engage in preventive self-defense. These include not only states that the United States has described as “rogue states,” such as North Korea and Iran, but Australia, Japan, the United Kingdom, China, India, Iran, Israel, Russia, and (though technically not a state) Taiwan.59 I doubt we will welcome the consequences of this pattern for the evolving jus ad bellum of the twenty-first century. Equally, after President Bush's decision to declare a global war on terror or terrorism - rather than, for example, the Taliban, al-Qaeda, and their immediate allies - virtually every insurgency or disaffected minority around the world, including peoples suffering under repressive regimes and seeking to assert legitimate rights to liberty and self-determination, has been recharacterized by opportunistic state elites as part of the enemy in this global war. n60 The techniques employed and justified by the United States, including the resurrection of rationalized torture as an "enhanced interrogation technique," n61 likewise have emerged - and will continue to emerge - in the [\*351] practice of other states. Because of customary international law's acute sensitivity to authoritative assertions of power, the widespread repetition of claims and practices initiated by the U.S. executive may well shape international law in ways the United States ultimately finds disagreeable in the future. So as we debate the scope of the executive power in the twenty-first century, the stakes, as several panelists point out, could not be higher. They include more than national issues such as the potential for executive branch officials to be prosecuted or impeached for exceeding the legal scope of their authority or violating valid statutes. n62 They also include international issues like the potential use of catastrophic weapons by a **rogue regime asserting a right to engage in preventive war;** **the deterioration of international human rights norms against practices like torture**, norms which took years to establish; and the atrophy of genuine U.S. power in the international arena, which, as diplomats, statesmen, and international relations theorists of all political persuasions appreciate, demands far more than the largest and most technologically advanced military arsenal. In short, what Presidents do, internationally as well as domestically - the precedents they establish - may affect not only the technical scope of the executive power, as a matter of constitutional law, but **the practical ability of future Presidents to exercise that power** both at home and abroad. We should candidly debate whether terrorism or other perceived crises require an expanded scope of executive power in the twenty-first century. But it is dangerous to cloak the true stakes of that debate with the expedient of a new - and, in the view of most, indefensible - "monarchical executive" theory, which claims to be coextensive with the defensible, if controversial, original Unitary Executive theory. n63 We should also weigh the costs and benefits of an expanded scope of executive power. But it is vital to appreciate that there are costs. They include not only short-term, acute consequences but long-term, systemic consequences that may not become fully apparent for years. In fact, the exorbitant exercise of broad, supposedly inherent, executive powers may well - as in the aftermath of the Nixon administration - culminate in precisely the sort of reactive statutory constraints and de facto diplomatic obstacles that proponents of a robust executive regard as misguided and a threat to U.S. national security in the twenty-first century.

#### 7. Executive power kills multilat

Posner & Abebe 11 -- Assistant Professor and Kirkland & Ellis Professor, University of Chicago Law School (Eric A. & Daniel, 2011, "The Flaws of Foreign Affairs Legalism," Virgina Journal of International Law 51:507, http://www.ericposner.com/THE%20FLAWS%20OF%20FOREIGN%20AFFAIRS%20LEGALISM.pdf)

For example, one of the authors and Cass Sunstein proposed recently that the Chevron deference doctrine should be extended to executive ac- tions touching on foreign affairs. 11 In their criticism of this proposal, Derek Jinks and Neil Katyal display the characteristic legalist suspicion of the executive. 12 They argue that increased judicial deference to exec- utive decision-making will have **negative consequences for international law:** The United Nations, whatever its limitations, now provides a highly legitimated institutional vehicle for global cooperation in an astonishingly wide array of substantive domains — including national security and human rights. International human rights and humanitarian law provide a widely accepted normative framework that defines with increasing precision the constitu- tional principles of the international order. These developments, and many others like them, provide an institutional structure by which, and a normative framework within which, **effective** and principled **international cooperation is possible**. Posner and Sun- stein would set that project back when the United States, and the world, need it the most. 13 Jinks and Katyal believe that deference to the executive in foreign af- fairs harms international cooperation because the **executive is hostile to international law and cooperation**, whereas **the judiciary promotes inter- national law**. 14 Why would the executive be hostile to international law and the judi- ciary favorable to it? Jinks and Katyal’s main argument is that the exec- utive cares about the short term, looking only to the next election. Con- versely, the judiciary, because it enjoys lifetime tenure, takes the longer view, 15 which is one that recognizes the importance of international law for American security and prosperity. The normative implication of the argument is straightforward. Be- cause the judiciary supports international law and the executive rejects it, and because international law is good and necessary, power should be transferred from the executive to the courts. Courts should derive their power either from an interpretation of the Constitution that emphasizes limited executive power and robust judicial review, or from statutes that regulate foreign relations, which Congress should enact. 16 This is the es- sence of foreign affairs legalism.

#### Only multilateral cooperation prevents great power wars that make extinction inevitable.

**Dyer**, 12/30/**2004** (Gwynne – former senior lecturer in war studies at the Royal Military Academy Sandhurt, The End of War, The Toronto Star, p. lexis)

The "firebreak" against nuclear weapons use that we began building after Hiroshima and Nagasaki has held for well over half a century now. But the proliferation of nuclear weapons to new powers is a major challenge to the stability of the system. So are the coming crises, mostly environmental in origin, which will hit some countries much harder than others, and may drive some to desperation. Add in the huge impending shifts in the great-power system as China and India grow to rival the United States in GDP over the next 30 or 40 years and it will be hard to keep things from spinning out of control. With good luck and good management, we may be able to ride out the next half-century without the first-magnitude catastrophe of a **global nuclear war**, but the potential certainly exists for a major die-back of human population. We cannot command the good luck, but good management is something we can choose to provide. It depends, above all, on **preserving and extending the multilateral system** that we have been building since the end of World War II. The rising powers must be absorbed into a system that **emphasizes co-operation and makes room for them**, rather than one that deals in confrontation and raw military power. If they are obliged to play the traditional great-power game of winners and losers, then history will repeat itself and **everybody loses**.

### AT US/Israel Relations

#### -- U.S.-Israeli ties resilient – political disputes don’t spill over

Steinberg 98 (Gerald M., Professor of Political Science – Bar-Ilan University, MERIA Journal, November, 2(4), http://www.gloria-center.org/meria/1998/11/steinberg.html)

Over the past thirty years, the strategic relationship has gradually evolved from an ad hoc framework to a high institutionalized structure. This process was marked by a series of bilateral MOUs beginning in the late 1970s, followed by the creation of specific and permanent institutions, including the joint political-military working group (JPMG), which meets twice a year. The combination of military assistance provided by the United States, and an increasing number of joint projects have increased the level of formal institutionalization and direct consultation. After Israel gained the formal status of a "non-NATO ally," these relationships intensified. Israel played a major role in the U.S. SDI program, and had a larger volume of related contracts than any other non-U.S. participant. The Lavi combat aircraft research and development program (which was more of an Israeli effort which included American components and was financed largely by the United States until was canceled in 1987) created additional direct links along a wide spectrum of levels. More recently, the Arrow Ballistic Missile Defense System and additional R&D projects related to BPI and laser-based defenses against short-range tactical missiles (Nautilus) have increased the range of the formal strategic interaction. These are relatively large (in terms of budget and manpower) R&D programs, and the progress of the programs to advanced development and testing. These institutions, structures and the formal network of relations and interactions have demonstrated a resilience to political friction in the relationship between Israel and the United States For example, in 1990, conflict grew over the political process, settlements, and the peace negotiations, and the leaking of State Department documents (which are later shown to be inaccurate) charging that Israel had violated American limitations on the transfer of military technology. However, the available evidence indicates that the overall strategic relationship, characterized by weapons and technology deliveries, meetings of various joint groups, such as the JPMG, and other cooperative activities, was not affected. Similarly, more recent tension with the United States over the Israeli policies with respect to the negotiations with the Palestinians, settlements, etc. have also apparently not had an impact on the strategic relationship. As a result, the strategic relationship appears to be independent of the status of the political relations, is sufficiently robust in order to ride-out short term policy disagreements.

#### -- Single conflict won’t break relations

Bard 97 (Mitchell G., Executive Director – American Israeli Cooperative Enterprise, Middle East Quarterly, June)

These pervasive ties create a **durable context** which **absorb** many of the vagaries of current politics. Take the election of Binyamin Netanyahu as prime minister of Israel in May 1996, an event might have augered a deterioration in U.S.-Israel relations. Netanyahu's platform on the peace process was at odds with American policy. Within weeks of Netanyahu's victory it became clear that the overall relationship was as close as ever. Netanyahu visited the United States in a near triumphal tour, charming Clinton, addressing a joint session of Congress, and causing gridlock on the streets of Manhattan. Differences between leaders in Israel and the United States are relatively narrow, being primarily about disagreements over the means to common ends. Certain issues, such as unilateral Israeli actions in Jerusalem and building settlements, have consistently provoked tensions -- most recently the building at Har Homa. These spats produce some public and private recriminations, but **do not much affect the overall relationship**. In the worst case, an American administration may seek to pressure the Israelis and might even reduce the level of cooperation (for example, by suspending arms deliveries or reducing strategic cooperation), but the ties today are so **broad** and **deep** that the alliance is **unlikely to crack**. Unlike Dwight Eisenhower in 1956-57, no president today can credibly threaten a cutoff of aid, for Congress would not support such action. Economic, academic, and personal relations between citizens of the two countries are **largely immune** to **political vagaries**. Further development of this remarkable relationship might be retarded, but **not reversed**.

#### -- Relations will rapidly recover

Reich 95 (Bernard, Professor of Political Science – George Washington University, Securing the Covenant, p. 4)

Despite the positive character of their links, perfect congruence of perspective and policy between the two partners is rare. Although the relations are special, points of discord and difficulty exist from time to time; but these are not permanently damaging and there is a rapid recovery and a return to close ties. The U.S.-Israel relationship is replete with examples of this oscillation. Endurance and resilience are trademarks of this special relationship, the hallmark of which is the ability to endure crises in which the parties have conflicting interests. There often are periods of coolness and discord on specific issues, but because of the relationship’s fundamentals the United States and Israel have a familial linkage – it is intimate and intense, and each is involved in the affairs of the other. Israeli envoys enjoy privileged access to the president and other senior U.S. officials, just as Israel’s government regularly welcomes U.S. diplomats and numerous visiting dignitaries. Israelis have exploited their access to the Congress and their connections with the U.S. Jewish community to influence the nature and direction of U.S. policy and can identify a measure of achievement in that effort. At the same time, they have avoided becoming entangled in U.S. elections and partisan struggles even though, at times, Israelis have preferred one or another party or candidate. For its part, the United States has sought, also with some success, to affect the outcome of Israel’s elections and the direction of its policies.

#### -- Tactical differences don’t damage the foundation of the alliance

Steinberg 98 (Gerald M., Professor of Political Science – Bar-Ilan University, MERIA Journal, November, 2(4), http://www.gloria-center.org/meria/1998/11/steinberg.html)

Based on the fundamental pillars of the American-Israeli strategic alliance, as examined in this analysis, the prospects for continuation of this alliance in the next decade would appear to be relatively positive. The long history of cooperation, the political support system that underpins the alliance, and the shared threat perceptions point towards continued and in some ways, perhaps strengthened strategic cooperation. Although there are always differences and ups and down in the relationship between Washington and Jerusalem, these are largely tactical, and did not reflect fundamental differences in objectives.

### PIC

#### 1. Perm Do Both – using both terms solves

#### 2. Replacing “bad” terms with “nicer” terms makes things worse – it transfers the negative connotation onto an acceptable usage. The only way to solve is to stick with the original term and give it new meaning.

Zizek 97 (Slavoj, Moving away from the darkness, The Plague of Fantasies, New York: Verso, 1997, 111-2//uwyo-ajl)

In his formidable Fear in the Occident,7 Jean Delumeau draws attention to the unerring succession of atutudes in a medieval city infested by plague: first, people ignore it and behave as if nothing terrible is really going on; then they withdraw into privacy, avoiding contact with each other; then they start to resort to religious fervour, staging processions, confessing their sins, and so on; then they say to themselves 'What the hell, let's enjoy it while it lasts!', and indulge passionately in orgies of sex, eating, drinking and dancing; finally, they return to life as usual, and again behave as if nothing terrible is going on. However, this second 'life as usual' does not occupy the same structural role as the first: it is, as it were, located on the other side of the Moebius band, since it no longtt signals the desperate attempt to ignore the reality of plague, but, rather its exact opposite: resigned acceptance of it . . . . Does not the same go for the gradual replacement of (sexually, racially...) aggressive with more 'correct' expressions, like the chain nigger - Negro - black - African American or crippled - disabled - bodily challenged? This replacement functions as a metaphorical substitution which potentially proliferate and enhances the very (racist, etc.) effect it tries to banish, adding insult to injury. In analogy to Delumeau, one should therefore claim that the only way actually to abolish the hatred-effect is, paradoxically, to create the circumstances in which one can return to the first link in the chain and use it in a non-aggressive way -like following the patterns of 'life as usual' the second time in the case of plague. That is to say: as long as the expression 'crippled' contains a surplus, an indelible mark, of aggressivity this surplus will not only be more or less automatically **transferred** on to any of its 'correct' metaphorical substitutes, it will even be **enhanced** by dint of this substitution. The strategy of returning to the first link, of course, is risky; however, the moment it is fully accepted by the group targeted by it, it definitely can work. When radical African-Americans call each other 'niggers', it is wrong to dismiss this strategy as a mere ironic identification with the aggressor; rather, the point is that it functions as an autonomous act of dismissing the aggressive sting.

3. Perm Do the CP –

a) not functionally competitive – results in the same policy as the Aff.

b) textual competition bad – they enable the neg to steal the whole plan and claim competition off of changing a single word or punctuation.

c) text of the plan is not the text of the bill – it’s just a roadmap – we can permute the way specific terms should be used in the actual legislation.

4. Focus on language blocks meaningful political dialogue and action.

**Churchill 96** (Ward, Professor, Indigenous Studies, University of Colorado Boulder. From A Native Son, p. 460)

There can be little doubt that matters of linguistic appropriateness and precision are of serious and legitimate concern. By the same token, however, it must be conceded that such preoccupations arrive at a point of **diminishing return**. After that, they **degenerate rapidly** into liabilities rather than benefits to comprehension. By now, it should be evident that much of what is mentioned in this article falls under the latter category; it is, by and large, inept, esoteric, and semantically silly, bearing no more relevance in the real world than the question of how many angels can dance on the head of a pin. Ultimately, it is a means to **stultify and divide** people rather than stimulate and unite them. Nonetheless, such “issues” of word choice have come to dominate dialogue in a significant and apparently growing segment of the Left. Speakers, writers, and organizers or persuasions are drawn, with increasing vociferousness and persistence, into heated confrontations, not about what they’ve said, but about how they’ve said it. Decisions on whether to enter into alliances, or even to work with other parties, seem more and more contingent not upon the prospect of a common agenda, but upon mutual adherence to certain elements of a prescribed vernacular. Mounting quantities of a progressive time, energy, and attention are squandered in perversions of Mao’s principle of criticism/self-criticism – now variously called “process,” “line sharpening,” or even ‘struggle” – in which there occurs a virtually **endless stream** of talk about how to talk about “the issues.” All of this happens at the **direct expense** of actually understanding the issues themselves, **much less doing something** about them. It is impossible to escape the conclusion that the dynamic at hand adds up to a pronounced avoidance syndrome, a masturbatory ritual through which an opposition nearly paralyzed by its own deeply felt sense of impotence pretends to be engaged in something “meaningful.” In the end, it reduces to a tragic delusion at best, cynical game playing or intentional disruption at worst. With this said, it is only fair to observe that it’s **high time to get off this nonsense**, and on with the real work of effecting positive social change.

Re-using supposedly injurious terms solves best – the plan is subversive resignification.

Disch 99 **(**Lisa, associate professor of political science at the University of Minnesota, “Judith Butler and the Politics of the Performative,” *Political Theory* 27:4)

Judith Butler's longstanding political concern has been to discern what in the structure of subjectivity makes it so difficult to shift from moralized to politicized mobilization and so easy to fall into identity politics and the politics of scapegoating. In The Psychic Life of Power, she analyzes the psychic and social process of subject formation to disclose the investments that stand in the way of "the development of forms of differentiation [that could] lead to fundamentally more capacious, generous, and 'unthreatened' bearings of the self in the midst of community" (CR, 140). In Excitable Speech, she rebuts the work of the theorists who introduced hate speech into the legal arsenal. Whereas they share her premise that we are linguistic beings, Butler charges that in advocating speech codes, censorship, and other regulatory approaches to linguistic injury, hate speech theorists **destroy "something fundamental about language** and, more specifically, about the subject's constitution in language" (ES, 27). Butler proposes to counter injurious speech with "**subversive resignification**": the insubordinate use of a derogatory term or authoritative convention to defuse its power to injure and to expose "prevailing forms of authority and the exclusions by which they proceed" (ES, 157-58). These two books are especially important for answering the charge that poststructuralist critics of humanism demolish political agency when they take issue with autonomy. Butler's theory of "insurrectionary" speech acts opens up the possibility of an agency that does not fantasize "the restoration of a sovereign autonomy in speech" but, rather, **plays our dependency on sanctioned forms of address into an everyday resistance** (ES, 145, 15). Insurrectionary speech does considerable theoretical work to break the impasse between autonomy and determinism that stalls many discussions of political agency in "postliberatory times" (The Psychic Life of Power [PL], 18). And although this contribution is significant, it may strike some readers as incomplete. Butler is more attentive to examples where dominant institutions (such as the courts and the military) have subversively resignified potentially insurrectionary initiatives (such as hate speech) than she is to instances where performative agency has transformed the status quo. Even if Butler's own examples do not establish it as such, I will argue that the "politics of the performative" is a politics of insurrection. First, I offer a brief summary of Butler's concepts "heterosexual matrix," "heterosexual melancholy," and "gender performativity," as these are indispensable to appreciating her recent writings.

# 1AR

**Judicial Modeling**

**1AR Heg Defense**

**All their impacts are empirically denied**

**Fettweis, 10** – Christopher, Professor of national security affairs at the US Naval War College, ‘Threat and Anxiety in US Foreign Policy’, Survival, Volume 52, Issue 2, April 2010, Pages 59-82.

One potential explanation for the growth of global peace can be dismissed fairly quickly: **US actions do not seem to have contributed much**. The limited evidence suggests that there is little reason to believe in the stabilising power of the US hegemon, and that there is no relation between the relative level of American activism and international stability. During the 1990s, the United States cut back on its defence spending fairly **substantially**. By 1998, the United States was spending $100 billion less on defence in real terms than it had in 1990, a 25% reduction.29 To internationalists, defence hawks and other believers in hegemonic stability, this irresponsible 'peace dividend' endangered both national and global security. 'No serious analyst of American military capabilities', argued neo-conservatives William Kristol and Robert Kagan in 1996, 'doubts that the defense budget has been cut much too far to meet America's responsibilities to itself and to world peace'.30 And yet the verdict from the 1990s is fairly plain: **the world grew more peaceful while the United States cut its forces**. No state seemed to believe that its security was endangered by a less-capable US military, or at least none took any action that would suggest such a belief. No militaries were **enhanced to address power vacuums**; no security dilemmas **drove insecurity or arms races**; no regional **balancing occurred** once the stabilis-ing presence of the US military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in US military capabilities. Most of all, the United States was no less safe. The **incidence and magnitude of global conflict declined while the United States cut its military spending** under President Bill Clinton, and kept declining as the George W. Bush administration ramped the spending back up. Complex statistical analysis is unnecessary to reach the conclusion that world peace and US military expenditure are unrelated.

**No transition wars – rising states will integrate into international institutions- no incentives for aggression**

**Ikenberry, 11** – (May/June issue of Foreign Affairs, G. John, PhD, Albert G. Milbank Professor of Politics and International Affairs at Princeton University in the Department of Politics and the Woodrow Wilson School of Public and International Affairs, “The Future of the Liberal World Order,” http://www.foreignaffairs.com/ articles/67730/g-john-ikenberry/the-future-of-the-liberal-world-order?page=show)

But this panicked narrative misses a deeper reality: although the United States' position in the global system is changing, the liberal international order is alive and well. The struggle over international order today is not about fundamental principles. China and other emerging great powers do not want to contest the basic rules and principles of the liberal international order; **they wish to gain more authority and leadership within it.** Indeed, today's power transition represents not **the defeat of the liberal order but its ultimate ascendance**. Brazil, China, and India have all become more prosperous and capable by operating inside the existing international order -- benefiting from its rules, practices, and institutions, including the World Trade Organization (WTO) and the newly organized G-20. Their economic success and growing influence are tied to the liberal internationalist organization of world politics, and **they have deep interests in preserving that system**. In the meantime, alternatives to an open and rule-based order have yet to crystallize. Even though the last decade has brought remarkable upheavals in the global system -- the emergence of new powers, bitter disputes among Western allies over the United States' unipolar ambitions, and a global financial crisis and recession -- the liberal international order has no competitors. On the contrary, the rise of non-Western powers and the growth of economic and security interdependence are creating new constituencies for it. To be sure, as wealth and power become less concentrated in the United States' hands, the country will be less able to shape world politics. But the underlying foundations of the liberal international order **will survive and thrive**. Indeed, now may be the best time for the United States and its democratic partners to update the liberal order for a new era, ensuring that it continues to provide the benefits of security and prosperity that it has provided since the middle of the twentieth century.

**No impact to the transition**

**Ikenberry, 08** professor of Politics and International Affairs at Princeton University (John, The Rise of China and the Future of the West Can the Liberal System Survive?, Foreign Affairs, Jan/Feb)

Some observers believe that the American era is coming to an end, as the Western-oriented world order is replaced by one increasingly dominated by the East. The historian Niall Ferguson has written that the bloody twentieth century witnessed "the descent of the West" and "a reorientation of the world" toward the East. Realists go on to note that as China gets more powerful and the United States' position erodes, two things are likely to happen: China will try to use its growing influence to reshape the rules and institutions of the international system to better serve its interests, and other states in the system -- especially the declining hegemon -- will start to see China as a growing security threat. The result of these developments, they predict, will be tension, distrust, and conflict, the typical features of a power transition. In this view, the drama of China's rise will feature an increasingly powerful China and a declining United States locked in an epic battle over the rules and leadership of the international system. And as the world's largest country emerges not from within but outside the established post-World War II international order, it is a drama that will end with the grand ascendance of China and the onset of an Asian-centered world order. That course, however, is not inevitable. The rise of China does not have to trigger a wrenching hegemonic transition. The U.S.-Chinese power transition can be very different from those of the past because China faces an international order that is **fundamentally different** from those that past rising states confronted. China does not just face the United States; it faces a Western-centered system that is open, integrated, and rule-based, with wide and deep political foundations. The nuclear revolution, meanwhile, has made war among great powers unlikely -- eliminating the **major tool** that rising powers have used to overturn international systems defended by declining hegemonic states. Today's Western order, in short, is hard to overturn and easy to join. This unusually durable and expansive order is itself the product of farsighted U.S. leadership. After World War II, the United States did not simply establish itself as the leading world power. It led in the creation of universal institutions that not only invitedglobal membershipbut also brought democracies and market societies closer together. It built an order that facilitated the participation and integration of both established great powers and newly independent states. (It is often forgotten that this postwar order was designed in large part to reintegrate the defeated Axis states and the beleaguered Allied states into a unified international system.) Today, China can gain full access to and thrive within this system. And if it does, China will rise, but the Western order -- if managed properly -- will live on.

**State Secrets 1AR**

We solve intel

**Secrets don’t actually protect national security – your authors are biased**

**Holmes 9** -- Walter E. Meyer Professor of Law, New York University School of Law (Stephen, 4/30/2009, "In Case of Emergency: Misunderstanding Tradeoffs in the War on Terror," http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1140&context=californialawreview)

The question is: who should decide which information to reveal or conceal? Or, formulating the question with an eye to institutional design: how should the decision-making process be organized to increase the chances that choices about concealment will be relatively reasonable, rather than whimsical and capricious? Secrecy is a serious problem during national emergencies because disclosure and concealment are both risky, for different reasons and--depending on context-to a different extent. It is also an empirical question, since we are talking about predicting the real-world effects, whether harmful or beneficial, of revealing closely held intelligence. Without delving deeply into this issue, we can say one thing with confidence: a well-designed national-security constitution would not assign the right and responsibility to make the conceal/reveal decision to parties with a reputational stake in the choice. Covert operatives themselves **consistently over-value** the secrets **that inflate their personal feelings of self-importance**. 4 8 They also **exaggerate the damage to national security** that the release of such secret information would cause. No system for deciding what to conceal and what to reveal, if crafted to supply the defects of human nature, would place unmonitored discretion in the hands of executive-branch officials whose **self- image as custodians of precious secrets might interfere with an objective assessment of the actual consequences** of classification and declassification in any particular case.

**Judges can handle genuine secrets discreetly**

**Yakamoto 5** (Eric, Prof of Law @ Harvard, Law and Contemporary Problems, V. 68, Spring)

In this light, the fourth task is for the court to carefully and openly scrutinize executive actions with dual goals in mind: to afford the executive broad leeway in most of its effort to protect the nation's people, and simultaneously to call the executive to account publicly for apparent transgressions. And, as Judge Doumars observed in *Hamdi* and as the Second Circuit echoed in *Padilla*, when those transgressions curtail fundamental liberties under the possibly false mantle of national security, the call for an accounting requires the executive to proffer bona fide evidence of the danger posed by those targeted and the appropriateness of the government's restrictions. **Genuine secrets**, of course, **can be handled discreetly** -- for example, through in-camera review and under seal. But an executive's bald claims of "confidentiality" or "security risk" should not trigger a hands-off judicial posture.

**Condo**

**1AR Long**

**reject the team – 4 pieces of offense**

**1. Strat skew – multiple conditional worlds means we cant read our best offense--this link turns advocacy skills -- neg flex is inevitable because of pre round condo which means aff fairness outweighs education – you can get something from books but clash is only possible in a debate round**

**2. Shallow debates – it incentivizes them going for the least covered argument, which link turns advocacy skills**

**3. Legitimizes contradictions – kills real world education and is illogical – policymakers don’t take contradictory stances on things**

**4. Incentivizes no cost options – justifies bad CPs and kritiks that kill education and clash and discourage negative critical thinking**

**Even if skews are inevitable advocacies create a unique skew because they affect the way we debate other issues**

**No uniqueness to their offense – 2AC’s will always do their best and debate will be hard without conditionality**

**perms don’t check – they’re just tests of competition**

**1 condo solves their offense and prevents judge intervention – default to competing interpretations of debate should be like – the judge should be a norm setter and deter future abuses**

**Abelism**

**1AR**

**Voting Issue – Ableist Speech strengthens oppression and destroys the purposes of public debate**

**Wheelchair Dancer 8** (“On Making Argument: Disability and Language”, 4/28/8, http://cripwheels.blogspot.com/2008/04/on–making–argument–disability–and.html)

If you are feeling a little bit of resistance, here, I'd ask you to think about it. If perhaps what I am saying feels like a burden –– too much to take on? a restriction on your carefree speech? –– perhaps that feeling can also serve as an indicator of how pervasive and thus important the issue is. As a community, we've accepted that commonly used words can be slurs, and as a rule, we avoid them, hopefully in the name of principle, but sometimes only in the name of civility. Do you go around using derivatives of the b\*ch word? If you do, I bet you check which community you are in.... Same thing for the N word. These days, depending on your age, you might say something is retarded or spastic, but you probably never say that it's gay. I'd like to suggest that society as a whole has not paid the same kind of attention to disabled people's concerns about language. By not paying attention to the literal value, the very real substantive, physical, psychological, sensory, and emotional experiences that come with these linguistic moves, we have created a negative rhetorical climate. In this world, it is too easy for feminists and people of colour to base their claims on argumentative strategies that depend, as their signature moves, on **marginalizing the experience of disabled people** and on disparaging their appearance and bodies. Much of the blogosphere discourse of the previous weeks has studied the relationships between race, (white) feminism and feminists, and WOC bloggers. To me, the intellectual takeaway has been an emerging understanding of how, in conversation, notions of appropriation, citation, ironization, and metaphorization can be deployed as strategies of legitimation and exclusion. And, as a result, I question how "oppressed, minoritized" groups differentiate themselves from other groups in order to seek justice and claim authority. Must we always define ourselves in opposition and distance to a minoritized and oppressed group that can be perceived as even more unsavory than the one from which one currently speaks? As I watched the discussion about who among the feminist and WOC bloggers has power and authority and how that is achieved, I began to recognise a new power dynamic both on the internet and in the world at large. Feminism takes on misogyny. The WOC have been engaging feminism. But from my point of view, a wide variety of powerful feminist and anti–racist discourse is predicated on negative disability stereotyping. There's a kind of hierarchy here: the lack of awareness about disability, disability culture and identity, and our civil rights movement has resulted in a kind of domino effect where disability images are the metaphor of last resort: the bottom, the worst. Disability language has about it a kind of untouchable quality –– as if the horror and weakness of a disabled body were the one true, reliable thing, a touchstone to which we can turn when we know we can't use misogynistic or racist language. When we engage in these kinds of argumentative strategies, we **exclude a whole population** of people whose histories are intricately bound up with ours. When we deploy these kinds of strategies to underscore the value of our own existence in the world, **we reaffirm and strengthen the systems of oppression** that motivated us to speak out in the first place.

**The critique solves by confronting ableism at the level of rhetoric– it exposes the attitudes that keep ableism alive, leads to productive corrective practices, and failure to confront it means that ALL efforts to challenge oppression will operate within the context of ableism.**

**Cherney 11** (James L., Wayne State University, “The Rhetoric of Ableism”, Disability Studies Quarterly, Vol. 31, No. 3, http://dsq–sds.org/article/view/1665/1606 Accessed 1/27/12 GAL)

In this essay I analyze ableism as a rhetorical problem for three reasons. First, ableist culture sustains and perpetuates itself via rhetoric; the ways of interpreting disability and assumptions about bodies that produce ableism are learned. The previous generation teaches it to the next and cultures spread it to each other through modes of intercultural exchange. **Adopting a rhetorical perspective to** the problem of **ableism** thus **exposes the social systems that keep it alive**. This informs my second reason for viewing ableism as rhetoric, as revealing how it thrives suggests ways of curtailing its growth and promoting its demise. Many of the strategies already adopted by disability rights activists to confront ableism explicitly or implicitly address it as rhetoric. Public demonstrations, countercultural performances, autobiography, transformative histories of disability and disabling practices, and critiques of ableist films and novels all apply rhetorical solutions to the problem. Identifying ableism as rhetoric and exploring its systems dynamic reveals how these corrective practices work. We can use such information to refine the successful techniques, reinvent those that fail, and realize new tactics. Third, I contend that any means of challenging ableism must eventually encounter its rhetorical power. As I explain below, ableism is that most insidious form of rhetoric that has become reified and so widely accepted as common sense that it denies its own rhetoricity—it "goes without saying." To fully address it we must name its presence, for cultural assumptions accepted uncritically adopt the mantle of "simple truth" and become extremely difficult to rebut. As the neologism "ableism" itself testifies, we need new words to reveal the places it resides and new language to describe how it feels. Without doing so, ableist ways of thinking and interpreting will operate as the context for making sense of **any acts challenging discrimination**, which undermines their impact, reduces their symbolic potential, and can even transform them into superficial measures that give the appearance of change yet elide a recalcitrant ableist system.

**Word PIC**

**1AR Connotation**

**Re-using supposedly injurious terms solves best – the plan is subversive resignification.**

**Disch, 99** (Lisa, associate professor of political science at the University of Minnesota, “Judith Butler and the Politics of the Performative,” Political Theory 27:4)

Judith Butler's longstanding political concern has been to discern what in the structure of subjectivity makes it so difficult to shift from moralized to politicized mobilization and so easy to fall into identity politics and the politics of scapegoating. In The Psychic Life of Power, she analyzes the psychic and social process of subject formation to disclose the investments that stand in the way of "the development of forms of differentiation [that could] lead to fundamentally more capacious, generous, and 'unthreatened' bearings of the self in the midst of community" (CR, 140). In Excitable Speech, she rebuts the work of the theorists who introduced hate speech into the legal arsenal. Whereas they share her premise that we are linguistic beings, Butler charges that in advocating speech codes, censorship, and other regulatory approaches to linguistic injury, hate speech theorists **destroy "something fundamental about language** and, more specifically, about the subject's constitution in language" (ES, 27). Butler proposes to counter injurious speech with "**subversive resignification**": the insubordinate use of a derogatory term or authoritative convention to defuse its power to injure and to expose "prevailing forms of authority and the exclusions by which they proceed" (ES, 157-58). These two books are especially important for answering the charge that poststructuralist critics of humanism demolish political agency when they take issue with autonomy. Butler's theory of "insurrectionary" speech acts opens up the possibility of an agency that does not fantasize "the restoration of a sovereign autonomy in speech" but, rather, **plays our dependency on sanctioned forms of address into an everyday resistance** (ES, 145, 15). Insurrectionary speech does considerable theoretical work to break the impasse between autonomy and determinism that stalls many discussions of political agency in "postliberatory times" (The Psychic Life of Power [PL], 18). And although this contribution is significant, it may strike some readers as incomplete. Butler is more attentive to examples where dominant institutions (such as the courts and the military) have subversively resignified potentially insurrectionary initiatives (such as hate speech) than she is to instances where performative agency has transformed the status quo. Even if Butler's own examples do not establish it as such, I will argue that the "politics of the performative" is a politics of insurrection. First, I offer a brief summary of Butler's concepts "heterosexual matrix," "heterosexual melancholy," and "gender performativity," as these are indispensable to appreciating her recent writings.