# 1NC

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#### A. Interpretation – Judicial restrictions must directly prohibit activities currently under the president’s war powers authority – this excludes regulation or oversight

#### Judicial restrictions narrow the scope of authority

Dufresne 71 (Armand, Chief Justice of Maine Supreme Court, 273 A.2d 732; 1971 Me. LEXIS 293, Emile BLIER v. INHABITANTS OF TOWN OF FORT KENT; Emile BLIER v. Clarence BLIER, lexis)

The doctrine of the sovereign immunity of the State is an outgrowth of the medieval concept that "the King can do no wrong." It was extended to all political and governmental agencies of the State on the ground that since the State was not subject to suit nor liable for the torts or negligence of its agents, likewise subdivisions of the State, as governmental agencies of the State, were exempted to respond in damages for the negligent acts of their servants to the same extent as the [\*\*10] State itself was. HN6Go to this Headnote in the case.The basic concept underlying the whole law of torts, however, is that liability follows negligence, and that individuals and corporations are responsible for the negligence of their agents and employees acting in the course of their employment. The doctrine of governmental immunity, running directly counter to that basic concept, has been subjected to judicial restrictions which have narrowed the range of the doctrine. The courts generally, including the Maine Court, have classified the activities of municipal corporations or state agencies as "governmental" and "proprietary", with full liability in tort imposed if the activity was classified as "proprietary" and non-liability [\*736] if it was viewed as "governmental". This distinction between governmental and proprietary functions of units of local governments or state agencies was designed undoubtedly to alleviate the injustice of the results that would flow from an all-inclusive doctrine of sovereign immunity. See, Anderson v. City of Portland, supra; Wilde v. Inhabitants of the Town of Madison, 1950, 145 Me. 83, 87, 72 A.2d 635, 638. Furthermore, our Court relaxed the rule of non-liability where the [\*\*11] tortious act was done by a municipal agent or employee acting not as a public officer, but rather as a special agent following specific authority or order of the governmental unit. Under such circumstances, our Court has said that the doctrine of respondeat superior would apply. Woodcock v. City of Calais, 1877, 66 Me. 234; Michaud v. City of Bangor, 1963, 159 Me. 491, 196 A.2d 106.

#### Statutory restrictions prohibit actions

Lamont 5 (Michael, Legal Analyst @ Occupational health, "Legal: Staying on the right side of the law," http://www.personneltoday.com/articles/01/04/2005/29005/legal-staying-on-the-right-side-of-the-law.htm#.UgFe\_o3qnoI)

It will be obvious what 'conduct' and 'redundancy' dismissals are. A statutory restriction means that the employee is prevented by law from doing the job - for example, a driver who loses his driving licence. 'Some other substantial reason' means "Parliament can't be expected to think of everything".

#### Authority includes delegated powers with a legal basis, not assertions of power

**Words and Phrases 4** (Volume 4a, Cumulative Supplement Pamphlet, p. 275)

U.S.N.Y. 1867. Under the federal judiciary act, giving the Supreme Court jurisdiction to review a final judgement or decree of a state court of last resort in any suit where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, it is held that the term “authority exercised under the United States” must be something more than a bare assertion of such authority, and must be an authority having a real existence derived from competent governmental power, and in this respect the word “authority” stands on the same footing with “treaty” or “statute.” Hence, where a party claimed authority under an order of a federal court which, when rightfully viewed, did not purport to confer any authority upon him, a writ of error to the Supreme Court has dismissed.—Milligar v. Hartupee, 73 U.S. 258, 6 Wall. 258, 18 L.Ed. 829

#### B. Vote Neg –

#### 1. Limits – Oversight of authority allows a litany of new affs in each area – justifies indirect effects of judicial review and affs that don’t alter presidential authority – undermines prep and clash

#### 2. Ground – Restriction ground is the locus of neg prep – their interpretation jacks all core disads because an aff doesn’t have to prevent the president from doing anything

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#### The United States Congress should propose an Amendment to the United States Constitution that subjects United States’ targeted killing operations to judicial ex post review by allowing a cause of action against the government for damages arising directly out of the constitutional provision allegedly offended. The Amendment should specify that it must be ratified immediately. The necessary states should ratify the Amendment. We’ll clarify.

#### Solves –

Miksha 3 (Andre, “Declaring War on the War Powers Resolution”, Valparaiso University Law Review, Spring, 37 Val. U.L. Rev. 651, lexis)

C. The Implications of Modern Warfare A third major problem with the Resolution is that the world is a very different place than it was in 1973. The war powers construct needs to be reconfigured for the post-Cold War era. n187 The proliferation and increased power of intergovernmental organizations and supra-national [\*689] groups is only a small aspect of the change. n188 Warfare continues to change; low-intensity conflicts and small-scale conventional wars have become the norm of modern warfare. n189 Speed in decision-making is at a premium because of advancements in communications, intelligence, and warfare technology. n190 Not only have we benefited from two hundred years of presidential-congressional controversies, but the United States is also fighting wars in a much different manner. n191 Nevertheless, the Constitution vests the sole and exclusive authority to initiate military hostilities in Congress, regardless of the scope, size, or nature of the conflict. n192 The immediacy of contemporary warfare causes a heightened scrutiny of the war powers too. Failed war powers discussions may, in the end, cost lives and not just waste taxpayers' money as in other realms of governmental debate. n193 Contrary to some commentators, the power of the purse is not a sufficient check on the President, nor does the funding of the military act [\*690] as an implicit consent by Congress. n194 One must account for the military realities involved in refusing to fund on-going military operations. War, at the time of the Framers, was much slower; wars lasted years and involved troop movements and communications that were only as fast as a horse or boat. n195 During that period, Congress' deliberative and ensuing check of de-funding a military operation would not be militarily frustrating because armies took so long to coordinate and move. n196 Thus, such a check could be sufficient and historically based, but time is of the essence in today's world. n197 A constitutional amendment allows the government to realign the powers through a process that respects the Constitution's timelessness because the change would be sought and affected through proper constitutional means. n198 IV. THE WAR POWERS AMENDMENT A. Introductory Remarks The War Powers Resolution of 1973 is an unconstitutional determination of the war powers. n199 This Part proposes an alternative in the form of a constitutional amendment, the passage of which would [\*691] satisfy both the Constitution's substantive and procedural requirements. The amendment process will encourage discourse because it is protracted, public, intergovernmental, and intragovernmental. Considering the interests in the balance, a devotion to the righteousness of the process and to the justice of the solution requires nothing less. Surprisingly, most commentators do not suggest a single remedy or solution but only raise questions or possibilities. n200 The repeal of the Resolution hardly seems to be a wise solution, at least by itself, because the Resolution at least sets down some guidelines and a return to pre-1973 jurisprudence would open up a chaotic situation in constitutional law. n201 Serious ends require serious means, and there is no more serious means than a constitutional amendment. n202 Simply put, the amendment [\*692] creates a clear method for the process that will be necessary before introducing U.S. Armed Forces into hostilities.

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#### The court will strike down aggregate limits to campaigns in McCutcheon vs. FEC 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).

#### McCutcheon win strengthens political parties relative to Super PACs

Boschma ’13 (Janie, “Capital Eye Opener, Feb. 27: Lobbyists Worry About SCOTUS Case, Club for Growth Ranks Congress,” http://www.opensecrets.org/news/2013/02/capital-eye-opener-feb-27-1.html)

LOBBYISTS WORRY ABOUT SCOTUS CASE: As we wrote earlier this week, the Supreme Court has agreed to weigh in on whether to remove caps on the total amount an individual can give to candidates and political parties in McCutcheon vs. the Federal Election Commission.¶ Who's most worried about the possible removal of the caps? Lobbyists. They say they actually like the current limit on overall contributions, because it relieves some of the pressure of going to so many fundraisers, especially if they max out early and are no longer legally able to give, according to The Hill. Without a cap, they might be expected to keep attending -- and keep writing checks.¶ As our Research Director Sarah Bryner told The Hill, “Eliminating limits would provide more opportunities for lobbyists to speak with their money, given that they tend to support candidates and parties than super-PACs."¶ And because lobbyists do tend to support parties, getting rid of the cap could give political parties more power to compete with super PACs, which can accept unlimited corporate contributions. Without an overall spending cap, in theory any donor could give the maximum permissible $32,400 to a number of parties or even max out to every congressional or presidential candidate.¶ That could be why the Republican National Committee joined Alabama GOP donor Shaun McCutcheon as a plaintiff in the case. Not only could donors give more overall to a number of committees, national party committees would also not be as limited in how much they can give to candidates. ¶ If the Supreme Court sides with McCutcheon and the RNC (a decision is expected by June), McCutcheon and other big donors like him will be able to contribute to the maximum amount in each category and wouldn't be held back by the overall biennial limits -- currently $123,200, of which a total of $48,600 can go to candidates and $74,600 to PACs and parties.

#### That checks Republican extremism

Weisbrot ’12 (David, Professor of Legal Policy at the United States Studies Centre and Professor of Law and Governance at Macquarie University, “SuperPACs and bags of cash fail to halt Obama's ground game,” http://uselectionwatch12.com/news-room/SuperPACs-and-bags-of-cash-fail-to-halt-Obamas-ground-game)

Obviously, the most worrying aspect of the SuperPAC phenomenon is the disproportionately large voice — and presumably outsized influence — afforded to a small number of extremely wealthy donors. Half of all SuperPAC funding this year was provided by only 22 individuals and corporations. The top 100 donors represented less than four percent of all contributors, but accounted for over 80% of the total funds raised.¶ For the Republican camp, the major contributors included casino mogul Sheldon Adelson (over $60 million); billionaire oil and gas tycoons David and Charles Koch, the principal funders of the Tea Party movement; and Wall Street financiers — 16 of Romney’s top 20, despite the industry having been controversially bailed out by President Obama post-GFC. Left-leaning SuperPACs were best supported by Hollywood and large trade unions — such as the United Auto Workers, the National Education Association and the Service Employees International Union, although Obama has famously raised enormous amounts by accumulating large numbers of small donations, driven by effective use of social media.¶ But was it money well spent? The jury is still out on whether these riches ultimately provided some electoral advantage for candidates and a “return” for donors in the form of added influence, or whether all or most of this money was squandered in screening the relentless negative attack ads that bombarded voters in key swing states. What we know for certain is that after burning through $6billion, the election more or less restored the status quo, with President Obama re-elected, Democrats continuing to control the Senate and Republicans continuing to control the House of Representatives.¶ This masks some churn below the surface, however. The fact that a significant part of the conservative spend was controlled by SuperPACs and true believers, rather than by more pragmatic GOP operatives, helped contribute to the selection of some extreme and unattractive candidates and for the Republican message to skew even more sharply to the right.¶ Party discipline is difficult to maintain when it is divorced from the allocation of precious resources. For example, the GOP tried to distance itself from Missouri Senate candidate Todd Aikin after his infamous “legitimate rape” remarks, but outside money allowed him to remain in the race, and to be defeated in an otherwise very winnable Senate seat for the Republicans.

#### That jacks US/Russian relations – domestic politics key

Sokov 13 (Nicholas – Senior Fellow at the Vienna Center for Disarmament and Non-Proliferation (VCDNP), “US-Russian Relations: Beyond the Reset”, 1/29, http://www.europeanleadershipnetwork.org/us-russian-relations-beyond-the-reset\_459.html)

Looking into the future, most observers of US-Russian relations tend to concentrate on arms control and disarmament – a new treaty to replace New START, missile defense, tactical nuclear weapons and other similar issues. Others pay attention to the human and political rights issues, including first of all the conservative wave that is sweeping through Russia. It is quite sad that nuclear disarmament and political rights dominate the agenda. This only shows that the relationship lacks depth. More than twenty years after the end of the Cold War, trade and investment remain at an extremely low level. They cannot serve as a stabilizer of the relationship (in sharp contrast to Russia’s relations with Europe) and their absence allows other, more volatile and more adversarial issues to top the agenda. Two features are likely to dominate the future of the US-Russian relationship and both will have a negative effect: domestic politics and the political transition in the Middle East and Northern Africa which is commonly known as the “Arab Spring.” Contrary to common opinion, there are very few truly difficult issues on the bilateral agenda that cannot be resolved through negotiation. The increasingly conflictual nature of the relationship results from domestic politics in both countries rather than from strategic, economic, or political differences. A good illustration is the well-known controversy over missile defense. Any decent diplomat could find a solution in a matter of months. Russian concerns concentrate on the fourth – and the last – phase of the American plan (known as the Phased Adaptive Approach), which foresees deployment of systems theoretically capable of intercepting strategic missiles. The solution proposed by Russian military leaders is to limit the capability of the fourth-phase system (for example, through limits on the number of interceptors and the areas of their deployment) so that it does not undermine the existing US-Russian strategic balance while preserving the ability of the American system to intercept a small number of long-range missiles, i.e., to limit the system to its officially proclaimed purpose. In the end, this is about the predictability of the American missile defense capability. The prospect of reaching agreement, however, is barred by the Republican Party, especially its Tea Party wing, which regards any limits whatsoever as anathema. Missile defense is an article of faith. This is not about plans or capabilities: this is about a deeply ideological commitment to unrestricted unilateralism. The increasingly tough and vocal (even shrill) Russian rhetoric also stems from domestic politics. Implementation of phase four of PAA is supposed to begin in the end of this decade and it may be another five to seven years, if not longer, until it begins to affect Russian strategic capability. There is plenty of time to negotiate. However, the rhetoric of the Russian government suggests that the threat is imminent. It is safe to assume that is simply the familiar “rally-around-the-flag” tactic of consolidating the public around the government.

#### Russia relations solve global nuclear war

Allison 11 (Graham, Director – Belfer Center for Science and International Affairs at Harvard’s Kennedy School, and Former Assistant Secretary of Defense, and Robert D. Blackwill, Senior Fellow – Council on Foreign Relations, “10 Reasons Why Russia Still Matters”, Politico, 2011, http://dyn.politico.com/printstory.cfm?uuid=161EF282-72F9-4D48-8B9C-C5B3396CA0E6)

That central point is that Russia matters a great deal to a U.S. government seeking to defend and advance its national interests. Prime Minister Vladimir Putin’s decision to return next year as president makes it all the more critical for Washington to manage its relationship with Russia through coherent, realistic policies. No one denies that Russia is a dangerous, difficult, often disappointing state to do business with. We should not overlook its many human rights and legal failures. Nonetheless, Russia is a player whose choices affect our vital interests in nuclear security and energy. It is key to supplying 100,000 U.S. troops fighting in Afghanistan and preventing Iran from acquiring nuclear weapons. Ten realities require U.S. policymakers to advance our nation’s interests by engaging and working with Moscow. First, Russia remains the only nation that can erase the United States from the map in 30 minutes. As every president since John F. Kennedy has recognized, Russia’s cooperation is critical to averting nuclear war. Second, Russia is our most consequential partner in preventing nuclear terrorism. Through a combination of more than $11 billion in U.S. aid, provided through the Nunn-Lugar Cooperative Threat Reduction program, and impressive Russian professionalism, two decades after the collapse of the “evil empire,” not one nuclear weapon has been found loose. Third, Russia plays an essential role in preventing the proliferation of nuclear weapons and missile-delivery systems. As Washington seeks to stop Iran’s drive toward nuclear weapons, Russian choices to sell or withhold sensitive technologies are the difference between failure and the possibility of success. Fourth, Russian support in sharing intelligence and cooperating in operations remains essential to the U.S. war to destroy Al Qaeda and combat other transnational terrorist groups. Fifth, Russia provides a vital supply line to 100,000 U.S. troops fighting in Afghanistan. As U.S. relations with Pakistan have deteriorated, the Russian lifeline has grown ever more important and now accounts for half all daily deliveries. Sixth, Russia is the world’s largest oil producer and second largest gas producer. Over the past decade, Russia has added more oil and gas exports to world energy markets than any other nation. Most major energy transport routes from Eurasia start in Russia or cross its nine time zones. As citizens of a country that imports two of every three of the 20 million barrels of oil that fuel U.S. cars daily, Americans feel Russia’s impact at our gas pumps. Seventh, Moscow is an important player in today’s international system. It is no accident that Russia is one of the five veto-wielding, permanent members of the U.N. Security Council, as well as a member of the G-8 and G-20. A Moscow more closely aligned with U.S. goals would be significant in the balance of power to shape an environment in which China can emerge as a global power without overturning the existing order. Eighth, Russia is the largest country on Earth by land area, abutting China on the East, Poland in the West and the United States across the Arctic. This territory provides transit corridors for supplies to global markets whose stability is vital to the U.S. economy. Ninth, Russia’s brainpower is reflected in the fact that it has won more Nobel Prizes for science than all of Asia, places first in most math competitions and dominates the world chess masters list. The only way U.S. astronauts can now travel to and from the International Space Station is to hitch a ride on Russian rockets. The co-founder of the most advanced digital company in the world, Google, is Russian-born Sergei Brin. Tenth, Russia’s potential as a spoiler is difficult to exaggerate. Consider what a Russian president intent on frustrating U.S. international objectives could do — from stopping the supply flow to Afghanistan to selling S-300 air defense missiles to Tehran to joining China in preventing U.N. Security Council resolutions.

### 1NC

#### Text: The United States Federal Judiciary should subject United States’ drone strike operations to judicial ex post review by allowing a cause of action against the government for damages arising directly out of the constitutional provision allegedly offended

#### Competes – Targeted killing includes drones and special force raids – only the plan restricts special forces

Alston 11 (Phillip – John Norton Pomeroy Professor of Law, New York University School of Law, “ARTICLE: The CIA and Targeted Killings Beyond Borders”, 2011, 2 Harv. Nat'l Sec. J. 283, lexis)

The two principal targeted killing techniques are kill-or-capture raids and air strikes from unmanned aerial vehicles commonly known as drones. The individuals targeted are alleged terrorists or others deemed dangerous, and their inclusion on what are known as kill/capture lists is based on undisclosed intelligence applied against secret criteria. In Afghanistan alone it appears that there are at least six different kill/capture lists, with a total of thousands of names on them. While the CIA has been actively engaged in kill/capture missions since its arrival in Afghanistan in the days immediately after 9/11, it sometimes operates in conjunction with DOD Special Operations Forces under the command of JSOC, a body that also leads a determinedly twilight existence. Because the targeting operations and the kill/capture lists on which they are based are secret, the CIA will neither confirm nor deny their existence. [\*286] The CIA's drone-based killing programs have so far killed well in excess of 2,000 persons in Pakistan, and it has been involved in such drone programs in at least four other countries. This number is likely to expand significantly in the years ahead as a result of a combination of factors, including the perceived effectiveness of drone killings, the relatively low costs involved, shrinking overall defense budgets, a diminishing appetite for traditional warfare, the very low risk to United States personnel, the rapidly growing sophistication of tracking, targeting, and delivery technologies, and major investments aimed at further accelerating technological breakthroughs. Seen against this background, the targeted killing of Osama bin Laden in May 2011 was not a dramatic departure from the United States' established practice, but rather just another example of its increasingly frequent use of extraterritorial targeted killings as an integral part of its overall national security strategy. As the CIA Director observed at the time, the Special Forces that carried out the bin Laden raid--the United States Navy SEALS--"conduct these kinds of operations two and three times a night in Afghanistan." n5

#### Solves – 1AC evidence lists drone strikes as being the reason for their impacts – counterplan sufficiently resolves that

#### Plan would collapse the effectiveness of Special Forces missions-

Larry Maher 10, Quartermaster General, Veterans of Foreign Wars, et al, 9/30/10, BRIEF OF THE VETERANS OF FOREIGN WARS OF THE UNITED STATES AS AMICUS CURIAE IN SUPPORT OF DEFENDANTS AND DISMISSAL, Nasser al-Aulaqi, Plaintiff, vs. Barack H. Obama, et al., Defendants, <http://www.lawfareblog.com/wp-content/uploads/2010/10/VFW_Brief_PACER.pdf>

Finally, the VFW’s membership includes many current and former members of the U.S. armed forces’ elite special operations forces—Army Rangers and Special Forces, Navy SEALs, Air Force parajumpers and combat controllers, and Marine Corps Force Reconnaissance personnel, among others. These elite warriors conduct highly dangerous missions today in Iraq, Afghanistan, and other countries around the world. By definition, special operations “are operations conducted in hostile, denied, or politically sensitive environments to achieve military, diplomatic, informational, and/or economic objectives employing military capabilities for which there is no broad conventional force requirement. These operations often require covert, clandestine, or low-visibility capabilities.” U.S. Joint Chiefs of Staff, Joint Pub. 3-05, Doctrine for Joint Special Operations, at I-1 (2003), available at http://www.dtic.mil/doctrine/new\_pubs/jp3\_05.pdf.

Special operations are differentiated from conventional operations in many ways, but foremost among these are their “degree of physical and political risk, operational techniques, mode of employment, independence from friendly support, and dependence on detailed operational intelligence and indigenous assets.” Id. “Surprise is often the most important principle in the conduct of successful [special operations] and the survivability of employed [special operations forces],” and the very nature of special operations requires “high levels of security . . . to protect the clandestine/covert nature of missions.” Id. at I-6. More than mission accomplishment is at stake—“[g]iven their operating size, [special operations teams] are more vulnerable to potential hostile reaction to their presence than larger conventional units,” and therefore the protection of sources and methods is essential for the survival of special operations forces. Id. To preserve this element of surprise, special operations forces must broadly conceal their tactics, techniques and procedures, including information about unit locations and movements, targeting decisions, and operational plans for future missions. Disclosure of this information would allow this nation’s adversaries to defend themselves more effectively, potentially inflicting more casualties upon U.S. special operations forces. Such disclosure would also provide information about how the U.S. military gathers information about its adversaries, enabling terrorist groups like Al Qaeda to alter its communications and activities in order to evade future detection and action by the U.S. Government. Such harm would not be limited to just this instance or terrorist group group; these disclosures would also provide future terrorist adversaries and military adversaries with insight into U.S. special operations capabilities which would enable them to counter such capabilities in future conflicts. Cf. Public Declaration of Robert M. Gates, Secretary of Defense, Govt. Exhibit 4, September 23, 2010, at ¶¶ 6-7.

In this matter, the Plaintiff asks the Court to pull back the veil on the U.S. special operations community, exposing special operations sources and methods to the public, including this nation’s enemies. This would do tremendous harm to current special operations personnel, including VFW members, who are operating abroad in Iraq, Afghanistan, and elsewhere, and who depend on stealth, security and surprise for their survival and mission accomplishment. Further, in his prayer for relief, Plaintiff asks the Court to order the disclosure of “the criteria that are used in determining whether the government will carry out the targeted killing of a U.S. citizen.” As Secretary Gates states in his public declaration filed by the Government, without confirming or denying any allegation made by Plaintiff, this type of information “constitutes highly sensitive and classified military information that cannot be disclosed without causing serious harm to the national security of the United States." Id. at ¶5. These criteria necessarily reflect the sources, methods and analytic processes used to produce them, and would tend to reveal other information about military' sources and methods which are essential to the success and survival of special operations personnel.

#### Special ops key to solve prolif

Thomas and Dougherty 13 (Jim – Vice President and Director of Studies at the Center for

Strategic and Budgetary Assessments, and Chris – Research Fellow at the Center for Strategic and

Budgetary Assessments, “Beyond the Ramparts: The Future of U.S. Special Operations Forces”, 5/10, http://www.csbaonline.org/publications/2013/05/beyond-the-ramparts-the-future-of-u-s-special-operations-forces/)

Emerging Strategic Context Predicting exactly which threats will confront the United States, or precisely where SOF will deploy over the next ten to twenty years, is an impossible task. It is feasible, however, to project forward some of the key trends that will shape planning requirements and the impact they will have on SOF. While the future security environment will present the U.S. Joint Force, including SOF, with a panoply of challenges, there are four in particular that will have arguably the most significant long-term implications for SOF: defeating Islamist VENs; countering weapons of mass destruction (WMD); confronting anti-access and area-denial networks (A2/ AD); and waging influence campaigns and proxy wars. The United States will confront these challenges against a backdrop of persistent global economic weakness and its own 􀂿scal predicament. Islamist VENs pose challenges in the present that will likely persist well into the future. Although surgical strikes have inflicted a heavy toll on the leadership of al Qaeda since 9/11, violent extremism has metastasized and new nodes have spawned in an ever-adapting terrorist network. Consistent with the founding vision of al Qaeda as a 􀂳base􀂴 from which violent Islamist extremists would develop a global terrorism network, al Qaeda franchises and ideologically associated groups have sprung up throughout the Muslim world, exploiting weak states and endemic instability. This metastasis of extremist franchises is pushing the locus of CT efforts beyond Iraq and Afghanistan. Conducting CT outside of theaters of war will require U.S. SOF to place greater emphasis on finding and fixing enemy forces, while partner forces􀂲be they foreign security forces, intelligence services, or law enforcement agencies – conduct the finishes. More proactive global CT and FID operations will also require pushing smaller SOF units forward for long-duration operations in remote, austere areas. Moreover, it will necessitate a lighter footprint, and the shift away from theaters of armed con􀃀ict with a large U.S. presence will limit SOF’s ability to rely on General Purpose Forces (GPF) units for logistics and sustainment 􀂳enablers.􀂴 WMD do not represent new threats to U.S. security interests, but as nascent nuclear powers grow their arsenals and aspirants like Iran continue to pursue nuclear capabilities, the threat of nuclear proliferation, as well as the potential for the actual use of nuclear weapons, will increase. Upheaval in failing or outlaw states like Libya and Syria, which possess chemical weapons and a range of missiles, highlights the possibility that in future instances of state collapse or civil war, such weapons could be used by failing regimes in an act of desperation, fall into the hands of rebel forces, or be seized by parties hostile to the United States or its interests. SOF can contribute across the spectrum of counter-WMD efforts, from stopping the acquisition of WMD by hostile states or terrorist groups to preventing their use. The global CT network SOF have built over the last decade could be repurposed over the ne􀁛t decade to become a global counter-WMD network, applying the same logic that it takes a network to defeat a network. Increasing the reach and density of a global counter-WMD network will require expanding security cooperation activities focused on counter-proliferation. Finally, SOF may offer the most viable strategic option for deposing WMD-armed regimes through UW campaigns should the need arise. The spread of advanced military technologies, such as precision-guided munitions, is enabling a number of countries to construct A2/AD networks that could erode the United States’ ability to project military power into key regions. Nations such as China and Iran are actively seeking to acquire and held A2/AD capabilities, including precision-guided ballistic and cruise missiles, attack submarines, fast-attack craft, anti-satellite (ASAT) weapons, computer-network attack capabilities, advanced 􀂿ghter aircraft, and integrated air defenses, that may challenge the U.S. military’s ability to project power. The cumulative effect of spreading A2/ AD systems is that the land, air, sea, space, and cyberspace domains will be far less permissive for U.S. military operations. In the face of growing A2/AD threats, the value of low-signature forces capable of operating independently and far forward in denied areas is likely to increase substantially. SOF may oer the most viable ground-force option in future A2/AD environments, either executing direct action against key targets or working by, with, and through partner forces to conduct peripheral campaigns (i.e., operations designed to impose costs and conducted beyond the territory or reach of the enemy). Prior to hostilities, SOF could carry out preparation of the environment (PE) and special reconnaissance (SR) missions. At the outset of hostilities, SOF might serve as an early-entry force to blind or disrupt enemy command, control, communications, computers, intelligence, surveillance, and reconnaissance (C􀀗ISR) networks, thereby enabling higher-signature conventional forces to penetrate A2/AD networks. Inserting or e􀁛tracting SOF from denied environments, and supporting them once there, will challenge SOF aviation and undersea capabilities. Accordingly, SOF will need stealthy means of Beyond the Ramparts: The Future of U.S. Special Operations Forces xiii insertion from the air and sea. SOF may also need to conduct foreign external defense (FED) missions in states to build their capacity to repel foreign military aggression. This could entail helping key partners to create their own versions of A2/AD networks. The proliferation of WMD and A2/AD capabilities will erode the conventional power-projection capability of not only the United States, but of other countries as well. In the future, states may therefore avoid direct confrontations and be more inclined to use unconventional methods and measures short of war to gain influence and achieve their foreign policy goals. States may also turn to third-party proxies to maintain plausible deniability for their actions. States could engage in influence campaigns and proxy competitions to achieve objectives such as: imposing costs on ma􀁍or competitors, foreclosing opportunities for other countries or non-state actors to gain a foothold in a region, “peeling away” allies or partners from competitors, diverting the attention and resources of competitors (misdirection), conducting cross-border operations against a ma􀁍or power with less risk of confrontation, or controlling (or denying) critical resources and trade routes. SOF will be critical to success in persistent influence campaigns and proxy competitions. They will need e􀁛quisite, local-area e􀁛pertise and language skills, along with deep, longstanding relationships with key local actors built over time by embedding and living with foreign partner forces. Though SOF already operate in smaller units than GPF, the breadth, speci􀂿city, and need to minimize the visibility of these operations will place an emphasis on even smaller SOF teams and single operators working in close collaboration with other government agencies. These four security challenges􀂲coming to the fore during a time of 􀂿scal austerity in the United States and global economic uncertainty􀂲are likely to dominate the national security agenda for decades to come. These challenges are not mutually e􀁛clusive and, in almost every case, the challenges are intertwined with opportunities for SOF to impose costs on U.S. adversaries. Given their global nature, and recognizing the interrelationship between the various challenges and opportunities, SOF are uniquely suited to address them asymmetrically.

#### Prolif causes extinction

**Krieger 9**  (David, Pres. Nuclear Age Peace Foundation and Councilor – World Future Council, “Still Loving the Bomb After All These Years”, 9-4, <https://www.wagingpeace.org/articles/2009/09/04_krieger_newsweek_response.php?krieger>)

Jonathan Tepperman’s article in the September 7, 2009 issue of Newsweek, “Why Obama Should Learn to Love the Bomb,” provides a novel but frivolous argument that nuclear weapons “may not, in fact, make the world more dangerous….” Rather, in Tepperman’s world, “The bomb may actually make us safer.” Tepperman shares this world with Kenneth Waltz, a University of California professor emeritus of political science, who Tepperman describes as “the leading ‘nuclear optimist.’” Waltz expresses his optimism in this way: “We’ve now had 64 years of experience since Hiroshima. It’s striking and against all historical precedent that for that substantial period, there has not been any war among nuclear states.” Actually, there were a number of proxy wars between nuclear weapons states, such as those in Korea, Vietnam and Afghanistan, and some near disasters, the most notable being the 1962 Cuban Missile Crisis. Waltz’s logic is akin to observing a man falling from a high rise building, and noting that he had already fallen for 64 floors without anything bad happening to him, and concluding that so far it looked so good that others should try it. Dangerous logic! Tepperman builds upon Waltz’s logic, and concludes “that all states are rational,” even though their leaders may have a lot of bad qualities, including being “stupid, petty, venal, even evil….” He asks us to trust that rationality will always prevail when there is a risk of nuclear retaliation, because these weapons make “the costs of war obvious, inevitable, and unacceptable.” Actually, he is asking us to do more than trust in the rationality of leaders; he is asking us to gamble the future on this proposition. “The iron logic of deterrence and mutually assured destruction is so compelling,” Tepperman argues, “it’s led to what’s known as the nuclear peace….” But if this is a peace worthy of the name, which it isn’t, it certainly is not one on which to risk the future of civilization. One irrational leader with control over a nuclear arsenal could start a nuclear conflagration, resulting in a global Hiroshima. Tepperman celebrates “the iron logic of deterrence,” but deterrence is a theory that is far from rooted in “iron logic.” It is a theory based upon threats that must be effectively communicated and believed. Leaders of Country A with nuclear weapons must communicate to other countries (B, C, etc.) the conditions under which A will retaliate with nuclear weapons. The leaders of the other countries must understand and believe the threat from Country A will, in fact, be carried out. The longer that nuclear weapons are not used, the more other countries may come to believe that they can challenge Country A with impunity from nuclear retaliation. The more that Country A bullies other countries, the greater the incentive for these countries to develop their own nuclear arsenals. Deterrence is unstable and therefore precarious. Most of the countries in the world reject the argument, made most prominently by Kenneth Waltz, that the spread of nuclear weapons makes the world safer. These countries joined together in the Nuclear Non-Proliferation Treaty (NPT) to prevent the spread of nuclear weapons, but they never agreed to maintain indefinitely a system of nuclear apartheid in which some states possess nuclear weapons and others are prohibited from doing so. The principal bargain of the NPT requires the five NPT nuclear weapons states (US, Russia, UK, France and China) to engage in good faith negotiations for nuclear disarmament, and the International Court of Justice interpreted this to mean complete nuclear disarmament in all its aspects. Tepperman seems to be arguing that seeking to prevent the proliferation of nuclear weapons is bad policy, and that nuclear weapons, because of their threat, make efforts at non-proliferation unnecessary and even unwise. If some additional states, including Iran, developed nuclear arsenals, he concludes that wouldn’t be so bad “given the way that bombs tend to mellow behavior.” Those who oppose Tepperman’s favorable disposition toward the bomb, he refers to as “nuclear pessimists.” These would be the people, and I would certainly be one of them, who see nuclear weapons as presenting an urgent danger to our security, our species and our future. Tepperman finds that when viewed from his “nuclear optimist” perspective, “nuclear weapons start to seem a lot less frightening.” “Nuclear peace,” he tells us, “rests on a scary bargain: you accept a small chance that something extremely bad will happen in exchange for a much bigger chance that something very bad – conventional war – won’t happen.” But the “extremely bad” thing he asks us to accept is the end of the human species. Yes, that would be serious. He also doesn’t make the case that in a world without nuclear weapons, the prospects of conventional war would increase dramatically. After all, it is only an unproven supposition that nuclear weapons have prevented wars, or would do so in the future. We have certainly come far too close to the precipice of catastrophic nuclear war. As an ultimate celebration of the faulty logic of deterrence, Tepperman calls for providing any nuclear weapons state with a “survivable second strike option.” Thus, he not only favors nuclear weapons, but finds the security of these weapons to trump human security. Presumably he would have President Obama providing new and secure nuclear weapons to North Korea, Pakistan and any other nuclear weapons states that come along so that they will feel secure enough not to use their weapons in a first-strike attack. Do we really want to bet the human future that Kim Jong-Il and his successors are more rational than Mr. Tepperman?

### 1NC

#### Judicial review of war powers erodes the State Secrets Privilege

Kadidal 7 (Shayana – Center for Constitutional Rights, New York City; J.D., Yale 1994, “DOES CONGRESS HAVE THE POWER TO LIMIT THE PRESIDENT'S CONDUCT OF DETENTIONS, INTERROGATIONS AND SURVEILLANCE IN THE CONTEXT OF WAR?”, 2007, 11 N.Y. City L. Rev. 23, lexis)

As to the AUMF, this meta-defense runs as follows: In both our case and the ACLU's similar case, the government claims that it could explain how the program fits into what Congress authorized in the AUMF--namely, the "use [of] all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist [\*58] attacks that occurred on September 11, 2001" n127 and those who harbored them--but to do so it would have to explain to the court how the Program works, particularly who it was targeting and what kinds of communications it was intercepting. The sensitivity of that information about how the Program works in practice means that it cannot do that, even ex parte in camera. Thus, the government argues, the State Secrets Privilege forecloses the ability to litigate these questions. n128 As to the FISA-is-unconstitutional defense, the meta-defense argues that for the government to explain to the court how the Program fits into the core of the President's inherent power to defend the nation--that (limited) core aspect of the war power that is so fundamentally executive as to be immune to regulation from Congress--would require disclosing state secrets to the court. Since FISA might be unconstitutional to the extent that it restricts such a hypothetical core, unregulable part of the executive war power, the court cannot rely on FISA in enjoining the President from carrying out such surveillance:

#### State Secrets Privilege protects private and government patent secrets – key to the military superiority

Donohue 10 (Laura – Associate Professor of Law, Georgetown University Law Center, “The Shadow of State Secrets”, 2010, 159 U. Pa. L. Rev. 77, lexis)

In contrast, docket searches demonstrate that, from January 2001 to January 2009, the privilege played a significant role in the executive branch's national security litigation strategy. In one case, the Administration asserted the state secrets privilege some 245 times. n31 More to the point, the government has invoked the state secrets privilege in more than 100 cases, which is more than five times the number of cases previously considered. And it is not just the executive branch that benefitted from the privilege: in scores of additional cases, private industry claimed that the state secrets doctrine applied, with the expectation that the federal government would later intervene to prevent certain documents from being subject to discovery or to stop the suit from moving forward. Beyond these, there are hundreds of cases on which the shadow of the privilege fell. This Article thus focuses on cases working their way through the courts between 2001 and 2009. It begins with disputes related to government contractors, where the threatened and actual invocation of the privilege appears in a broad range of grievances. Breach of contract, patent disputes, trade secrets, fraud, and employment termination cases prove remarkable in their frequency, length, and range of technologies involved. Wrongful death, personal injury, and negligence [\*88] cases extend beyond product liability to include infrastructure and services, as well as an emerging area perhaps best understood as the conduct of war. These corporate cases are distinguished by the tendency of companies to claim that state secrets are at stake early in the dispute and the subsequent role of the United States, if it chooses to become involved and to invoke the privilege, as an intervenor. Close inspection suggests a conservative executive branch that is more likely to step forward when breach of contract, trade secrets, or patent disputes present themselves, and unlikely - once it invokes the privilege - to back down. Where the executive initially decides not to intervene and invoke the privilege, the rapid expansion of the use of contractors appears to be giving birth to a new form of "graymail": should the government initially refuse to support the corporation's state secrets claim, companies deeply embedded in the state may threaten to air legally or politically damaging information. n32 Even when no overt threat is made, the government may worry that certain information will emerge during the course of the trial that would politically compromise the agency or individuals involved. In other cases, the government may be dependent upon a corporation for a key aspect of national defense, thus creating an incentive for the state to protect the company from financial penalties associated with bad behavior. n33

#### Great power war

Baru 9 – Sanjaya Baru is a Professor at the Lee Kuan Yew School in Singapore Geopolitical Implications of the Current Global Financial Crisis, Strategic Analysis, Volume 33, Issue 2 March 2009 , pages 163 - 168

Hence, economic policies and performance do have strategic consequences.2 In the modern era, the idea that strong economic performance is the foundation of power was argued most persuasively by historian Paul Kennedy. 'Victory (in war)', Kennedy claimed, 'has repeatedly gone to the side with more flourishing productive base'.3 Drawing attention to the interrelationships between economic wealth, technological innovation, and the ability of states to efficiently mobilize economic and technological resources for power projection and national defence, Kennedy argued that nations that were able to better combine military and economic strength scored over others. 'The fact remains', Kennedy argued, 'that all of the major shifts in the world's military-power balance have followed alterations in the productive balances; and further, that the rising and falling of the various empires and states in the international system has been confirmed by the outcomes of the major Great Power wars, where victory has always gone to the side with the greatest material resources'.4 In Kennedy's view, the geopolitical consequences of an economic crisis, or even decline, would be transmitted through a nation's inability to find adequate financial resources to simultaneously sustain economic growth and military power, the classic 'guns versus butter' dilemma.

#### Goes nuclear

Kagan 7 (Robert, Senior Associate – Carnegie Endowment for International Peace, “End of Dreams, Return of History: International Rivalry and American Leadership”, Policy Review, August/September, http://www.hoover.org/publications/policyreview/8552512.html#n10)

The jostling for status and influence among these ambitious nations and would-be nations is a second defining feature of the new post-Cold War international system. Nationalism in all its forms is back, if it ever went away, and so is international competition for power, influence, honor, and status. American predominance prevents these rivalries from intensifying —  its regional as well as its global predominance. Were the United States to diminish its influence in the regions where it is currently the strongest power, the other nations would settle disputes as great and lesser powers have done in the past: sometimes through diplomacy and accommodation but often through confrontation and wars of varying scope, intensity, and destructiveness. One novel aspect of such a multipolar world is that most of these powers would possess nuclear weapons. That could make wars between them less likely, or it could simply make them more catastrophic. It is easy but also dangerous to underestimate the role the United States plays in providing a measure of stability in the world even as it also disrupts stability. For instance, the United States is the dominant naval power everywhere, such that other nations cannot compete with it even in their home waters. They either happily or grudgingly allow the United States Navy to be the guarantor of international waterways and trade routes, of international access to markets and raw materials such as oil. Even when the United States engages in a war, it is able to play its role as guardian of the waterways. In a more genuinely multipolar world, however, it would not. Nations would compete for naval dominance at least in their own regions and possibly beyond. Conflict between nations would involve struggles on the oceans as well as on land. Armed embargos, of the kind used in World War i and other major conflicts, would disrupt trade flows in a way that is now impossible. Such order as exists in the world rests not only on the goodwill of peoples but also on American power. Such order as exists in the world rests not merely on the goodwill of peoples but on a foundation provided by American power. Even the European Union, that great geopolitical miracle, owes its founding to American power, for without it the European nations after World War II would never have felt secure enough to reintegrate Germany. Most Europeans recoil at the thought, but even today Europe ’s stability depends on the guarantee, however distant and one hopes unnecessary, that the United States could step in to check any dangerous development on the continent. In a genuinely multipolar world, that would not be possible without renewing the danger of world war. People who believe greater equality among nations would be preferable to the present American predominance often succumb to a basic logical fallacy. They believe the order the world enjoys today exists independently of American power. They imagine that in a world where American power was diminished, the aspects of international order that they like would remain in place. But that ’s not the way it works. International order does not rest on ideas and institutions. It is shaped by configurations of power. The international order we know today reflects the distribution of power in the world since World War ii, and especially since the end of the Cold War. A different configuration of power, a multipolar world in which the poles were Russia, China, the United States, India, and Europe, would produce its own kind of order, with different rules and norms reflecting the interests of the powerful states that would have a hand in shaping it. Would that international order be an improvement? Perhaps for Beijing and Moscow it would. But it is doubtful that it would suit the tastes of enlightenment liberals in the United States and Europe. The current order, of course, is not only far from perfect but also offers no guarantee against major conflict among the world ’s great powers. Even under the umbrella of unipolarity, regional conflicts involving the large powers may erupt. War could erupt between China and Taiwan and draw in both the United States and Japan. War could erupt between Russia and Georgia, forcing the United States and its European allies to decide whether to intervene or suffer the consequences of a Russian victory. Conflict between India and Pakistan remains possible, as does conflict between Iran and Israel or other Middle Eastern states. These, too, could draw in other great powers, including the United States. Such conflicts may be unavoidable no matter what policies the United States pursues. But they are more likely to erupt if the United States weakens or withdraws from its positions of regional dominance. This is especially true in East Asia, where most nations agree that a reliable American power has a stabilizing and pacific effect on the region. That is certainly the view of most of China ’s neighbors. But even China, which seeks gradually to supplant the United States as the dominant power in the region, faces the dilemma that an American withdrawal could unleash an ambitious, independent, nationalist Japan. Conflicts are more likely to erupt if the United States withdraws from its positions of regional dominance. In Europe, too, the departure of the United States from the scene — even if it remained the world’s most powerful nation — could be destabilizing. It could tempt Russia to an even more overbearing and potentially forceful approach to unruly nations on its periphery. Although some realist theorists seem to imagine that the disappearance of the Soviet Union put an end to the possibility of confrontation between Russia and the West, and therefore  to the need for a permanent American role in Europe, history suggests that conflicts in Europe involving Russia are possible even without Soviet communism. If the United States withdrew from Europe — if it adopted what some call a strategy of “offshore balancing” — this could in time increase the likelihood of conflict involving Russia and its near neighbors, which could in turn draw the United States back in under unfavorable circumstances.

### 1NC

#### Plan breaks the political question doctrine---triggers a slippery slope

Ehrfurth 11 (Christopher Ehrfurth, 10/10/11, “The Extrajudicial Killing of Anwar al-Awlaki,” http://law.marquette.edu/facultyblog/2011/10/10/the-extrajudicial-killing-of-anwar-al-awlaki/)

The legality of the extrajudicial assassination of al-Awlaki was the subject of a civil suit in 2010. After learning that his son had been placed on a CIA/Joint Special Operations Command “kill list”, al-Awlaki’s father brought suit in the U.S. District Court for the District of Columbia against President Obama, Secretary of Defense Robert Gates, and CIA Director Leon Panetta. In an attempt to enjoin the executive branch from killing his son, al-Awlaki introduced several claims based in both constitutional and tort law. The court’s lengthy opinion begins with a compelling recitation of the questions presented: How is it that judicial approval is required when the United States decides to target a U.S. citizen overseas for electronic surveillance, but that, according to defendants, judicial scrutiny is prohibited when the United States decides to target a U.S. citizen overseas for death? Can a U.S. citizen –himself or through another — use the U.S. judicial system to vindicate his constitutional rights while simultaneously evading U.S. law enforcement authorities, calling for “jihad against the West,” and engaging in operational planning for an organization that has already carried out numerous terrorist attacks against the United States? Can the Executive order the assassination of a U.S. citizen without first affording him any form of judicial process whatsoever, based on the mere assertion that he is a dangerous member of a terrorist organization? How can the courts, as plaintiff proposes, make real-time assessments of the nature and severity of alleged threats to national security, determine the imminence of those threats, weigh the benefits and costs of possible diplomatic and military responses, and ultimately decide whether, and under what circumstances, the use of military force against such threats is justified? When would it ever make sense for the United States to disclose in advance to the “target” of contemplated military action the precise standards under which it will take that military action? And how does the evolving AQAP relate to core al Qaeda for purposes of assessing the legality of targeting AQAP (or its principals) under the September 18, 2001 Authorization for the Use of Military Force? Al-Aulaqi v. Obama, 727 F.Supp.2d 1, 8-9 (D.D.C. 2010). Before contemplating the more compelling issues, the court first decided the issue of standing. Al-Awlaki’s father lacked “next-friend” standing because he failed to provide an adequate reason justifying why Anwar could not appear in court on his own behalf. His father claimed that if Anwar presented himself to authorities he would be exposed to attack. The court disagreed, citing public government statements indicating that if al-Awlaki surrendered peacefully he could not be executed without due process. The court also denied third party standing, holding that Anwar’s father could not show that a parent suffers an injury in fact if his adult child is threatened with a future extrajudicial killing. Anwar’s status as an adult was of particular importance because a parent does not have a constitutionally (or common law) protected liberty interest in maintaining a relationship with his adult child free from government influence. Prudential standing was denied because, among other reasons, the court refused to “unnecessarily adjudicate rights” that it believed al-Awlaki did not wish to assert himself. The court noted that al-Awlaki made numerous public statements professing his contempt for the U.S. legal system. Al-Awlaki did not believe that he was bound by U.S. laws because, in his view, they are contrary to the teachings of Allah. I personally find it difficult to believe that a person would not want to contest his own assassination, but it also seems unlikely that al-Awlaki would wish to assert legal rights in a court system that he did not recognize as authoritative, especially in a country that he openly despised. Ultimately, the most compelling issues were not addressed because the court found that judicial review was inappropriate. The court held that separation of powers and the political question doctrine prohibited interfering with the executive branch’s orders with respect to military action abroad. Meaningful review was deemed impossible, because it would require an unmanageable assessment of the quality of the President’s interpretation of military intelligence and his resulting decision (based upon that intelligence) to use military force against terrorist targets overseas: [T]his Court does not hold that the Executive possesses “unreviewable authority to order the assassination of any American whom he labels an enemy of the state.” (citation omitted), the Court only concludes that it lacks the capacity to determine whether a specific individual in hiding overseas, whom the Director of National Intelligence has stated is an “operational” member of AQAP, (citation omitted), presents such a threat to national security that the United States may authorize the use of lethal force against him. This Court readily acknowledges that it is a “drastic measure” for the United States to employ lethal force against one of its own citizens abroad, even if that citizen is currently playing an operational role in a “terrorist group that has claimed responsibility for numerous attacks against Saudi, Korean, Yemeni, and U.S. targets since January 2009,”(citation omitted) But as the D.C. Circuit explained in Schneider, a determination as to whether “drastic measures should be taken in matters of foreign policy and national security is not the stuff of adjudication, but of policymaking.” (citation omitted) Because decision-making in the realm of military and foreign affairs is textually committed to the political branches, and because courts are functionally ill-equipped to make the types of complex policy judgments that would be required to adjudicate the merits of plaintiff’s claims, the Court finds that the political question doctrine bars judicial resolution of this case. Al-Aulaqi, 727 F.Supp.2d at 52-53. It is unfortunate that the Aulaqi case never made it beyond the issue of standing, but perhaps that was the proper outcome. Although Awlaki was a U.S. citizen (and a citizen of Yemen), he was also clearly a member of al-Qaeda. Shortly after 9/11, Congress passed the Authorization for Use of Military Force (“AUMF”). The AUMF provides that: [T]he President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001…in order to prevent any future acts of international terrorism against the United States… Everyone (except for the guy who leaves “9/11 was inside job” comments beneath every news article on the internet) knows that al-Qaeda is the organization that planned and committed the terrorist attacks that occurred on 9/11. Al-Awlaki was indisputably a member of al-Qaeda. The Executive’s killing of al-Awlaki was certainly aimed at preventing future acts of international terrorism against the United States. If the AUMF can be read as authorizing al-Awlaki’s killing, then it would appear that the President assassinated him with congressional approval. In that scenario, Justice Jackson’s concurrence in Youngstown would indicate that the President was acting at the highest ebb of his authority. Still, many columnists and politicians like Ron Paul believe that Obama’s decision was illegal on due process grounds. Might Ron Paul be engaging in political grandstanding? I do seem to remember hearing something about an upcoming election. On the other hand, the AUMF only authorizes necessary and appropriate force. In his suit against the Executive, al-Aulaqi suggested that imminence is the key factor in determining whether lethal force is justified. It would have been interesting to find out what legal standard the court would apply to the use of lethal force on foreign soil against a member of al-Qaeda holding U.S. citizenship, but that issue was never addressed. Was the force used against al-Awlaki necessary and appropriate? It seems difficult to determine without a meaningful presentation of evidence against al-Awlaki. Personally, I don’t think I’ll hold my breath waiting for the day that the general public is offered an explanation as to why al-Awlaki couldn’t be captured and tried in a U.S. courtroom. It is troubling to know that the President can order the extrajudicial execution of a U.S. citizen based upon secret evidence. On the other hand, it has been said that the Constitution is not a suicide pact, and it’s comforting to know that the President is tracking and killing those who are actively trying to kill Americans. After reading the al-Aulaqi opinion, I was left feeling unsatisfied with the court’s decision to defer to the other branches of government, but I understood why it did so. In many ways, the moral issue of al-Awlaki’s murder leaves me feeling the same way. I think it’s unfortunate that al-Awlaki was not indicted, captured, and tried in Federal court. I also understand that applying traditional due process to a terrorist abroad might create a logistical nightmare and place many innocent lives in danger. Is this a slippery slope? If so, wouldn’t requiring the judicial approval of military strategy abroad be just as slippery? Either way, I respect those who speak out in favor of due process. I also wonder how many of those people, if faced with the same choice as the President, would choose differently.

#### That spills over to climate change cases

Tribe 10 (Laurence H. Tribe 10, the Carl M. Loeb University Professor, Harvard Law School; Joshua D. Branson, J.D., Harvard Law School and NDT Champion, Northwestern University; and Tristan L. Duncan, Partner, Shook, Hardy & Bacon L.L.P., January 2010, “TOOHOTFORCOURTSTO HANDLE: FUEL TEMPERATURES, GLOBAL WARMING, AND THE POLITICAL QUESTION DOCTRINE,” <http://www.wlf.org/Upload/legalstudies/workingpaper/012910Tribe_WP.pdf>)

Two sets of problems, one manifested at a microcosmic level and the other about as macrocosmic as imaginable, powerfully illustrate these propositions. Not coincidentally, both stem from concerns about temperature and its chemical and climactic effects, concerns playing an increasingly central role in the American policy process. As those concerns have come to the fore, courts have correspondingly warmed to the idea of judicial intervention, drawn by the siren song of making the world a better place and fueled by the incentives for lawyers to convert public concern into private profit. In both the fuel temperature and global warming cases, litigants, at times justifying their circumvention of representative democracy by pointing to the slow pace of policy reform, have turned to the courts. By donning the cloak of adjudication, they have found judges for whom the common law doctrines of unjust enrichment, consumer fraud, and nuisance appear to furnish constitutionally acceptable and pragmatically useful tools with which to manage temperature’s effects. Like the proverbial carpenter armed with a hammer to whom everything looks like a nail, those judges are wrong. For both retail gasoline and global climate, the judicial application of common law principles provides a constitutionally deficient—and structurally unsound—mechanism for remedying temperature’s unwanted effects.

It has been axiomatic throughout our constitutional history that there exist some questions beyond the proper reach of the judiciary. In fact, the political question doctrine originates in no less august a case than Marbury v. Madison, where Chief Justice Marshall stated that “[q]uestions in their nature political, or which are, by the constitution and laws, submitted to the executive, can never be made in this court.”1 Well over a century after that landmark ruling, the Supreme Court, in Baker v. Carr, famously announced six identifying characteristics of such nonjusticiable political questions, which, primarily as a “function of the separation of powers,” courts may not adjudicate.2 Of these six characteristics, the Court recently made clear that two are particularly important: (1) the presence of “a textually demonstrable constitutional commitment of the issue to a coordinate political department;” and (2) “a lack of judicially discoverable and manageable standards for resolving it.”3

The spectrum of nonjusticiable political questions in a sense spans the poles formed by these two principles. At one pole, the Constitution’s specific textual commitments shield issues expressly reserved to the political branches from judicial interference. At the other pole lie matters not necessarily reserved in so many words to one of the political branches but nonetheless institutionally incapable of coherent and principled resolution by courts acting in a truly judicial capacity; such matters are protected from judicial meddling by the requirement that “judicial action must be governed by standard, by rule” and by the correlative axiom that “law pronounced by the courts must be principled, rational, and based upon reasoned distinctions.”4

At a deeper level, however, the two poles collapse into one. The reason emerges if one considers issues that courts are asked to address involving novel problems the Constitution’s framers, farsighted though they were, could not have anticipated with sufficient specificity to entrust their resolution to Congress or to the Executive in haec verba. A perfect exemplar of such problems is the nest of puzzles posed by humaninduced climate change. When matters of that character are taken to court for resolution by judges, what marks them as “political” for purposes of the “political question doctrine” is not some problem-specific language but, rather, the demonstrable intractability of those matters to principled resolution through lawsuits. And one way to understand that intractability is to view it as itself marking the Constitution’s textual, albeit broadly couched, commitment of the questions presented to the processes we denominate “legislative” or “executive”—that is, to the pluralistic processes of legislation and treaty-making rather than to the principle-bound process of judicially resolving what Article III denominates “cases” and “controversies.” In other words, the judicial unmanageability of an issue serves as powerful evidence that the Constitution’s text reserves that issue, even if broadly and implicitly, to the political branches.5

It has become commonplace that confusion and controversy have long distinguished the doctrine that determines, as a basic matter of the Constitution’s separation of powers, which questions are “political” in the specific sense of falling outside the constitutional competence of courts and which are properly justiciable despite the “political” issues they may touch. But that the principles in play have yet to be reduced to any generally accepted and readily applied formula cannot mean that courts are simply free to toss the separation of powers to the winds and plunge ahead in blissful disregard of the profoundly important principles that the political question doctrine embodies. Unfortunately, that appears to be just what some courts have done in the two temperature-related cases—one involving hot fuels, the other a hot earth— that inspired this publication. In the first, a court allowed a claim about measuring fuels to proceed despite a constitutional provision specifically reserving the issue to Congress. In the second—a case in which the specific issue could not have been anticipated, much less expressly reserved, but in which the only imaginable solutions clearly lie beyond judicial competence—a court, rather than dismissing the case as it ought to have done, instead summarily dismissed the intractable obstacles to judicial management presented by climate change merely because it was familiar with the underlying cause of action. As this pair of bookend cases demonstrates, the political question doctrine is feeling heat from both directions.

#### That wrecks coordination necessary to solve warming

Tribe 10 (Laurence H. Tribe 10, the Carl M. Loeb University Professor, Harvard Law School; Joshua D. Branson, J.D., Harvard Law School and NDT Champion, Northwestern University; and Tristan L. Duncan, Partner, Shook, Hardy & Bacon L.L.P., January 2010, “TOOHOTFORCOURTSTO HANDLE: FUEL TEMPERATURES, GLOBAL WARMING, AND THE POLITICAL QUESTION DOCTRINE,” <http://www.wlf.org/Upload/legalstudies/workingpaper/012910Tribe_WP.pdf>)

But that being said, if the Second Circuit was implying that such claims are justiciable in part because they are relatively costless, it was wrong again. In the wake of the recent Copenhagen climate negotiations, America is at a crossroads regarding its energy policy. At Copenhagen, the world—for the first time including both the United States and China—took a tremulous first step towards a comprehensive and truly global solution to climate change.44 By securing a modicum of international consensus—albeit not yet with binding commitments—President Obama laid the foundation for what could eventually be a groundbreaking congressional overhaul of American energy policy, an effort that will undoubtedly be shaped by considerations as obviously political as our energy independence from hostile and unreliable foreign regimes and that will both influence and be influenced by the delicate state of international climate negotiations.45 Against this backdrop, courts would be wise to heed the conclusion of one report that what “makes climate change such a difficult policy problem is that decisions made today can have significant, uncertain, and difficult to reverse consequences extending many years into the future."46 This observation is even more salient given that America—and the world—stand at the precipice of major systemic climate reform, if not in the coming year then in the coming decade. It would be disastrous for climate policy if, as at least one commentator has predicted,47 courts were to “beat Congress to the punch” and begin to concoct common law “solutions” to climate change problems before the emergence of a legislative resolution. Not only does judicial action in this field require costly and irreversible technological change on the part of defendants, but the prior existence of an ad hoc mishmash of common law regimes will frustrate legislators’ attempts to design coherent and systematic marketbased solutions.48 Indeed, both emissions trading regimes and carbon taxes seek to harness the fungibility of GHG emissions by creating incentives for reductions to take place where they are most efficient. But if courts were to require reductions of randomly chosen defendants—with no regard for whether they are efficient reducers— they would inhibit the effective operation of legislatively-created, market-based regimes by prematurely and artificially constricting the size of the market. And as one analyst succinctly put it before Congress, “[a]n insufficient number of participants will doom an emissions trading market.”49 There is no doubt that the “Copenhagen Accord only begins the battle” against climate change, as diplomats, bureaucrats, and legislators all now begin the lengthy struggle to turn that Accord’s audacious vision into concrete reality.50 But whatever one’s position in the debate between emissions trading and carbon taxes, or even in the debate over the extent or indeed the reality of anthropogenic climate change, one thing is clear: legislators, armed with the best economic and scientific analysis, and with the capability of binding, or at least strongly incentivizing, all involved parties, are the only ones constitutionally entitled to fight that battle. CONCLUSION Some prognosticators opine that the political question doctrine has fallen into disrepute and that it no longer constitutes a viable basis upon which to combat unconstitutional judicial overreaching.51 No doubt the standing doctrine could theoretically suffice to prevent some of the most audacious judicial sallies into the political thicket, as it might in the climate change case, where plaintiffs assert only undifferentiated and generalized causal chains from their chosen defendants to their alleged injuries. But when courts lose sight of the important limitations that the political question doctrine independently imposes upon judicial power–even where standing problems are at low ebb, as with the Motor Fuel case–then constitutional governance, and in turn the protection of individual rights and preservation of legal boundaries, suffer. The specter of two leading circuit courts manifestly losing their way in the equally real thicket of political question doctrine underscores the urgency, perhaps through the intervention of the Supreme Court, of restoring the checks and balances of our constitutional system by reinforcing rather than eroding the doctrine’s bulwark against judicial meddling in disputes either expressly entrusted by the Constitution to the political branches or so plainly immune to coherent judicial management as to be implicitly entrusted to political processes. It is not only the climate of the globe that carries profound implications for our future; it is also the climate of the times and its implications for how we govern ourselves.

#### Extinction

Flournoy 12 (Citing Dr. Feng Hsu, a NASA scientist at the Goddard Space Flight Center, in 2012, Don Flournoy, PhD and MA from the University of Texas, Former Dean of the University College @ Ohio University, Former Associate Dean @ State University of New York and Case Institute of Technology, Project Manager for University/Industry Experiments for the NASA ACTS Satellite, Currently Professor of Telecommunications @ Scripps College of Communications @ Ohio University, Citing Dr. "Solar Power Satellites," Chapter 2: What Are the Principal Sunsat Services and Markets?, January, Springer Briefs in Space Development, Book)

In the Online Journal of Space Communication, Dr. Feng Hsu, a NASA scientist at Goddard Space Flight Center, a research center in the forefront of science of space and Earth, writes, “The evidence of global warming is alarming,” noting the potential for a catastrophic planetary climate change is real and troubling (Hsu 2010). Hsu and his NASA colleagues were engaged in monitoring and analyzing cli- mate changes on a global scale, through which they received first-hand scientific information and data relating to global warming issues, including the dynamics of polar ice cap melting. After discussing this research with colleagues who were world experts on the subject, he wrote: I now have no doubt global temperatures are rising, and that global warming is a serious problem confronting all of humanity. No matter whether these trends are due to human interference or to the cosmic cycling of our solar system, there are two basic facts that are crystal clear: (a) there is overwhelming scientific evidence showing positive correlations between the level of CO2 concentrations in Earth’s atmosphere with respect to the historical fluctuations of global temperature changes; and (b) the overwhelming majority of the world’s scientific community is in agreement about the risks of a potential catastrophic global climate change. That is, if we humans continue to ignore this problem and do noth- ing, if we continue dumping huge quantities of greenhouse gases into Earth’s biosphere, humanity will be at dire risk (Hsu 2010). As a technology risk assessment expert, Hsu says he can show with some confi- dence that the planet will face more risk doing nothing to curb its fossil-based energy addictions than it will in making a fundamental shift in its energy supply. “This,” he writes, “is because the risks of a catastrophic anthropogenic climate change can be potentially the extinction of human species, a risk that is simply too high for us to take any chances” (Hsu 2010). It was this NASA scientist’s conclusion that humankind must now embark on the next era of “sustainable energy consumption and re-supply, the most obvious source of which is the mighty energy resource of our Sun” (Hsu 2010) (Fig. 2.1).

## Imminence

### 1NC No Econ War

#### Their internal link is silly – Pirates don’t collapse the economy – resilient

#### Economic decline doesn’t cause war

Tir 10 [Jaroslav Tir - Ph.D. in Political Science, University of Illinois at Urbana-Champaign and is an Associate Professor in the Department of International Affairs at the University of Georgia, “Territorial Diversion: Diversionary Theory of War and Territorial Conflict”, The Journal of Politics, 2010, Volume 72: 413-425)]

Empirical support for the economic growth rate is much weaker. The finding that poor economic performance is associated with a higher likelihood of territorial conflict initiation is significant only in Models 3–4.14 The weak results are not altogether surprising given the findings from prior literature. In accordance with the insignificant relationships of Models 1–2 and 5–6, Ostrom and Job (1986), for example, note that the likelihood that a U.S. President will use force is uncertain, as the bad economy might create incentives both to divert the public’s attention with a foreign adventure and to focus on solving the economic problem, thus reducing the inclination to act abroad. Similarly, Fordham (1998a, 1998b), DeRouen (1995), and Gowa (1998) find no relation between a poor economy and U.S. use of force. Furthermore, Leeds and Davis (1997) conclude that the conflict-initiating behavior of 18 industrialized democracies is unrelated to economic conditions as do Pickering and Kisangani (2005) and Russett and Oneal (2001) in global studies. In contrast and more in line with my findings of a significant relationship (in Models 3–4), Hess and Orphanides (1995), for example, argue that economic recessions are linked with forceful action by an incumbent U.S. president. Furthermore, Fordham’s (2002) revision of Gowa’s (1998) analysis shows some effect of a bad economy and DeRouen and Peake (2002) report that U.S. use of force diverts the public’s attention from a poor economy. Among cross-national studies, Oneal and Russett (1997) report that slow growth increases the incidence of militarized disputes, as does Russett (1990)—but only for the United States; slow growth does not affect the behavior of other countries. Kisangani and Pickering (2007) report some significant associations, but they are sensitive to model specification, while Tir and Jasinski (2008) find a clearer link between economic underperformance and increased attacks on domestic ethnic minorities. While none of these works has focused on territorial diversions, my own inconsistent findings for economic growth fit well with the mixed results reported in the literature.15 Hypothesis 1 thus receives strong support via the unpopularity variable but only weak support via the economic growth variable. These results suggest that embattled leaders are much more likely to respond with territorial diversions to direct signs of their unpopularity (e.g., strikes, protests, riots) than to general background conditions such as economic malaise. Presumably, protesters can be distracted via territorial diversions while fixing the economy would take a more concerted and prolonged policy effort. Bad economic conditions seem to motivate only the most serious, fatal territorial confrontations. This implies that leaders may be reserving the most high-profile and risky diversions for the times when they are the most desperate, that is when their power is threatened both by signs of discontent with their rule and by more systemic problems plaguing the country (i.e., an underperforming economy).

#### The only impact in their Kemp ev is Indo-Pak – that’ll be in a sec

#### No escalation

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

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

### 1NC Pakistan Instability / Coup

#### Drones being going on for a while – should’ve triggered their impact

#### No Pakistan coup – it’s media hype, democracy is high, and military won’t intervene

Brulliard 12 (Karin, Editor, “In Pakistan, coup looms but does not strike,” Washington Post, 1-23, http://articles.washingtonpost.com/2012-01-23/world/35440253\_1\_ashfaq-kayani-president-asif-ali-zardari-nawaz-sharif)

Just days ago, the rumblings of a familiar process seemed underway in Pakistan: The squeezed civilian government berated the looming military. The army darkly warned of consequences. A new general assumed control of a brigade known for helping to oust past governments. The president flew overseas. A coup d’etat was coming, the Pakistani media screamed. Except that it did not. Instead, Pakistan again defaulted to what is also becoming a familiar ritual. Having survived the forecast collapse, the government lurched closer to becoming the first-ever elected regime to finish its term. And public debate ensued about whether Pakistan is witnessing a veiled military power grab — or whether this coup-prone nation’s nascent democracy might be growing real roots. “There is an enlarged democratic space,” said Raza Rumi, a newspaper columnist who counts himself among the optimists. “So this is an interesting moment. The government may or may not survive . . . but the assertion of the civilians is inspiring.” The current political crises, involving a memo scandal and graft allegations, feature elements that have helped bring down previous civilian governments: avaricious politicians, baying opposition parties, pliant judges and a failing economy that is said to worry the generals. But many analysts say the tools of past coups, such as tanks and state media blackouts, could not work in today’s Pakistan, where the news media and the judiciary have emerged as new power centers. That has given Prime Minister Yousuf Raza Gilani and President Asif Ali Zardari surprising confidence to publicly challenge the army in what feels like a heavily watched bluffing game. One senior official in the ruling Pakistan People’s Party, speaking on the condition of anonymity because of the sensitivity of the matter, confidently said the party does not “see the chances of direct army intervention.” The military, for starters, has its own problems. Gen. Ashfaq Kayani, chief of the Army, has strived to restore the armed forces’ public image since a decade of military rule ended in 2008, but it has faced unprecedented domestic criticism after the U.S. raid to kill Osama bin Laden. A resilient Islamist insurgency leaves generals little down time to manage the economy, said one military official, who spoke on the condition of anonymity because the official was not authorized to discuss the matter publicly. “The military is so overstretched and preoccupied fighting the militants,” said retired Lt. Gen. Talat Masood, a prominent defense analyst. “It’s a full-time occupation.” Influence today is spread more widely than in past eras, analysts say. In recent years, Pakistan has sprouted a slew of sensationalist and scrappy news outlets that, while generally rabidly anti-government, would be reluctant to endorse a uniformed regime that could corral their reach and profits. Parliament has become less deferential to the military, and the main opposition party, led by Nawaz Sharif, is no friend of the army, which overthrew him in 1999. The main coup deterrent, some argue, is an emboldened Supreme Court, which has assumed an activist, almost messianic public role. Like the media and the army, it has displayed clear antipathy toward the government by keenly pursuing alleged corruption cases. Those include dated money laundering allegations against Zardari, over which the court has threatened to dismiss Gilani. But the court was also restored after a struggle against Gen. Pervez Musharraf, the former dictator, and appears unlikely to give legal blessing to a military takeover. “This was not the case before. The courts were very happy and eager to play along with dictators,” Rumi said.

### 1NC Indo-Pak War

#### No indopak war

Gidvani 12 -- 2008 graduate of The University of Iowa College of Law and currently practices law in Las Vegas, Nevada (ND, 2/22, "The Peaceful Resolution of Kashmir: A United Nations Led Effort for Successful International Mediation and a Permanent Resolution to the India-Pakistan Conflict," TRANSNATIONAL LAW & CONTEMPORARY PROBLEMS, Vol. 18:721, http://www.muntr.org/v4/wp-content/uploads/2012/02/The\_Peaceful.pdf)

However, the removal of President Musharraf from power in a landslide election on September 6, 2008 marks the beginning of Asif Ali Zardari’s second rise to power and a new era of Pakistani leadership. 166 At the time of this Note’s writing, Zardari has yet to state his official policy toward India and resolving the Kashmir conflict, but Haider Mullick, War on Terror political analyst, is optimistic.167 Mullick argues that the interdependence of the two nations will be enough to continue the march toward a peaceful resolution, replacing Pakistan’s old policy of “flexing military muscle.”168 The current trend and commitment toward a peaceful resolution reasonably indicates that a successful resolution can be reached sooner rather than later.

### Yemen Good

#### TK in yemen key to stability

Alan W. Dowd 13, writes on national defense, foreign policy, and international security in multiple publications including Parameters, Policy Review, The Journal of Diplomacy and International Relations, World Politics Review, American Outlook, The Baltimore Sun, The Washington Times, The National Post, The Wall Street Journal Europe, The Jerusalem Post, and The Financial Times Deutschland, Winter-Spring 2013, “Drone Wars: Risks and Warnings,” Parameters, Vol. 42.4/43.1

At the beginning of President Hadi’s May offensive he, therefore, had a fractured army and a dysfunctional air force. Army leaders from competing factions were often disinclined to support one another in any way including facilitating the movement of needed supplies. Conversely, the air force labor strike had been a major setback to the efficiency of the organization, which was only beginning to operate as normal in May 2012. Even before the mutiny, the Yemen Air Force had only limited capabilities to conduct ongoing combat operations, and it did not have much experience providing close air support to advancing troops. Hadi attempted to make up for the deficiencies of his attacking force by obtaining aid from Saudi Arabia to hire a number of tribal militia fighters to support the regular military. These types of fighters have been effective in previous examples of Yemeni combat, but they could also melt away in the face of military setbacks.

Adding to his problems, President Hadi had only recently taken office after a long and painful set of international and domestic negotiations to end the 33-year rule of President Saleh. If the Yemeni military was allowed to be defeated in the confrontation with AQAP, that outcome could have led to the collapse of the Yemeni reform government and the emergence of anarchy throughout the country. Under these circumstances, Hadi needed every military edge that he could obtain, and drones would have been a valuable asset to aid his forces as they moved into combat. As planning for the campaign moved forward, it was clear that AQAP was not going to be driven from its southern strongholds easily. The fighting against AQAP forces was expected to be intense, and Yemeni officers indicated that they respected the fighting ability of their enemies.16

Shortly before the ground offensive, drones were widely reported in the US and international media as helping to enable the Yemeni government victory which eventually resulted from this campaign.17 Such support would have included providing intelligence to combatant forces and eliminating key leaders and groups of individuals prior to and then during the battles for southern towns and cities. In one particularly important incident, Fahd al Qusa, who may have been functioning as an AQAP field commander, was killed by a missile when he stepped out of his vehicle to consult with another AQAP leader in southern Shabwa province.18 It is also likely that drones were used against AQAP fighters preparing to ambush or attack government forces in the offensive.19 Consequently, drone warfare appears to have played a significant role in winning the campaign, which ended when the last AQAP-controlled towns were recaptured in June, revealing a shocking story of the abuse of the population while it was under occupation.20 Later, on October 11, 2012, US Secretary of Defense Leon Panetta noted that drones played a “vital role” in government victories over AQAP in Yemen, although he did not offer specifics.21 AQAP, for its part, remained a serious threat and conducted a number of deadly actions against the government, although it no longer ruled any urban centers in the south.

## Warfighting

### 1NC Terror

#### No impact to terror

Mueller and Stewart 12 [John Mueller is Senior Research Scientist at the Mershon Center for International Security Studies and Adjunct Professor in the Department of Political Science, both at Ohio State University, and Senior Fellow at the Cato Institute in Washington, D.C. Mark G. Stewart is Australian Research Council Professorial Fellow and Professor and Director at the Centre for Infrastructure Performance and Reliability at the University of Newcastle in Australia, “The Terrorism Delusion”, International Security, Vol. 37, No. 1 (Summer 2012), pp. 81–110, Chetan]

It seems increasingly likely that the official and popular reaction to the terrorist attacks of September 11, 2001, has been substantially deluded—massively disproportionate to the threat that al-Qaida has ever actually presented either as an international menace or as an inspiration or model to homegrown amateurs. Applying the extensive datasets on terrorism that have been generated over the last decades, we conclude that the chances of an American perishing at the hands of a terrorist at present rates is one in 3.5 million per year—well within the range of what risk analysts hold to be “acceptable risk.”40 Yet, despite the importance of responsibly communicating risk and despite the costs of irresponsible fearmongering, just about the only official who has ever openly put the threat presented by terrorism in some sort of context is New York’s Mayor Michael Bloomberg, who in 2007 pointed out that people should “get a life” and that they have a greater chance of being hit by lightning than of being a victim of terrorism—an observation that may be a bit off the mark but is roughly accurate.41 (It might be noted that, despite this unorthodox outburst, Bloomberg still managed to be re-elected two years later.) Indeed, much of the reaction to the September 11 attacks calls to mind Hans Christian Andersen’s fable of delusion, “The Emperor’s New Clothes,” in which con artists convince the emperor’s court that they can weave stuffs of the most beautiful colors and elaborate patterns from the delicate silk and purest gold thread they are given. These stuffs, they further convincingly explain, have the property of remaining invisible to anyone who is unusually stupid or unfit for office. The emperor finds this quite appealing because not only will he have splendid new clothes, but he will be able to discover which of his officials are unfit for their posts—or in today’s terms, have lost their effectiveness. His courtiers, then, have great professional incentive to proclaim the stuffs on the loom to be absolutely magnificent even while mentally justifying this conclusion with the equivalent of “absence of evidence is not evidence of absence.” Unlike the emperor’s new clothes, terrorism does of course exist. Much of the reaction to the threat, however, has a distinctly delusionary quality. In Carle’s view, for example, the CIA has been “spinning in self-referential circles” in which “our premises were flawed, our facts used to fit our premises, our premises determined, and our fears justified our operational actions, in a self-contained process that arrived at a conclusion dramatically at odds with the facts.” The process “projected evil actions where there was, more often, muddled indirect and unavoidable complicity, or not much at all.” These “delusional ratiocinations,” he further observes, “were all sincerely, ardently held to have constituted a rigorous, rational process to identify terrorist threats” in which “the avalanche of reporting confirms its validity by its quantity,” in which there is a tendency to “reject incongruous or contradictory facts as erroneous, because they do not conform to accepted reality,” and in which potential dissenters are not-so-subtly reminded of career dangers: “Say what you want at meetings. It’s your decision. But you are doing yourself no favors.”42 Consider in this context the alarming and profoundly imaginary estimates of U.S. intelligence agencies in the year after the September 11 attacks that the number of trained al-Qaida operatives in the United States was between 2,000 and 5,000.43 Terrorist cells, they told reporters, were “embedded in most U.S. cities with sizable Islamic communities,” usually in the “run-down sections,” and were “up and active” because electronic intercepts had found some of them to be “talking to each other.”44 Another account relayed the view of “experts” that Osama bin Laden was ready to unleash an “11,000 strong terrorist army” operating in more than sixty countries “controlled by a Mr. Big who is based in Europe,” but that intelligence had “no idea where thousands of these men are.”45 Similarly, FBI Director Robert Mueller assured the Senate Intelligence Committee on February 11, 2003, that, although his agency had yet to identify even one al-Qaida cell in the United States, “I remain very concerned about what we are not seeing,” a sentence rendered in bold lettering in his prepared text. Moreover, he claimed that such unidentified entities presented “the greatest threat,” had “developed a support infrastructure” in the country, and had achieved both the “ability” and the “intent” to inflict “signi ficant casualties in the US with little warning.”46 Over the course of time, such essentially delusionary thinking has been internalized and institutionalized in a great many ways. For example, an extrapolation of delusionary proportions is evident in the common observation that, because terrorists were able, mostly by thuggish means, to crash airplanes into buildings, they might therefore be able to construct a nuclear bomb. Brian Jenkins has run an internet search to discover how often variants of the term “al-Qaida” appeared within ten words of “nuclear.” There were only seven hits in 1999 and eleven in 2000, but the number soared to 1,742 in 2001 and to 2,931 in 2002.47 By 2008, Defense Secretary Robert Gates was assuring a congressional committee that what keeps every senior government leader awake at night is “the thought of a terrorist ending up with a weapon of mass destruction, especially nuclear.”48 Few of the sleepless, it seems, found much solace in the fact that an al-Qaida computer seized in Afghanistan in 2001 indicated that the group’s budget for research on weapons of mass destruction (almost all of it focused on primitive chemical weapons work) was $2,000 to $4,000.49 In the wake of the killing of Osama bin Laden, officials now have many more al-Qaida computers, and nothing in their content appears to suggest that the group had the time or inclination, let alone the money, to set up and staff a uranium-seizing operation, as well as a fancy, super-high-technology facility to fabricate a bomb. This is a process that requires trusting corrupted foreign collaborators and other criminals, obtaining and transporting highly guarded material, setting up a machine shop staffed with top scientists and technicians, and rolling the heavy, cumbersome, and untested finished product into position to be detonated by a skilled crew—all while attracting no attention from outsiders.50 If the miscreants in the American cases have been unable to create and set off even the simplest conventional bombs, it stands to reason that none of them were very close to creating, or having anything to do with, nuclear weapons—or for that matter biological, radiological, or chemical ones. In fact, with perhaps one exception, none seems to have even dreamed of the prospect; and the exception is José Padilla (case 2), who apparently mused at one point about creating a dirty bomb—a device that would disperse radiation—or even possibly an atomic one. His idea about isotope separation was to put uranium into a pail and then to make himself into a human centrifuge by swinging the pail around in great arcs.51 Even if a weapon were made abroad and then brought into the United States, its detonation would require individuals in-country with the capacity to receive and handle the complicated weapons and then to set them off. Thus far, the talent pool appears, to put mildly, very thin.

### 1NC Allied Co-Op

#### They can’t solve their advantage- Europe still won’t know the intel is used for TK, or they inevitably cooperate

#### Allied terror coop is high now, despite frictions

Kristin Archick, European affairs specialist @ CRS, 9-4-2013, “U.S.-EU Cooperation Against Terrorism,” Congressional Research Service, <http://www.fas.org/sgp/crs/row/RS22030.pdf>

As part of the EU’s efforts to combat terrorism since September 11, 2001, the EU made improving law enforcement and intelligence cooperation with the United States a top priority. The previous George W. Bush Administration and many Members of Congress largely welcomed this EU initiative in the hopes that it would help root out terrorist cells in Europe and beyond that could be planning other attacks against the United States or its interests. Such growing U.S.-EU cooperation was in line with the 9/11 Commission’s recommendations that the United States should develop a “comprehensive coalition strategy” against Islamist terrorism, “exchange terrorist information with trusted allies,” and improve border security through better international cooperation. Some measures in the resulting Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458) and in the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53) mirrored these sentiments and were consistent with U.S.-EU counterterrorism efforts, especially those aimed at improving border controls and transport security. U.S.-EU cooperation against terrorism has led to a new dynamic in U.S.-EU relations by fostering dialogue on law enforcement and homeland security issues previously reserved for bilateral discussions. Despite some frictions, most U.S. policymakers and analysts view the developing partnership in these areas as positive. Like its predecessor, the Obama Administration has supported U.S. cooperation with the EU in the areas of counterterrorism, border controls, and transport security. At the November 2009 U.S.-EU Summit in Washington, DC, the two sides reaffirmed their commitment to work together to combat terrorism and enhance cooperation in the broader JHA field. In June 2010, the United States and the EU adopted a new “Declaration on Counterterrorism” aimed at deepening the already close U.S.-EU counterterrorism relationship and highlighting the commitment of both sides to combat terrorism within the rule of law. In June 2011, President Obama’s National Strategy for Counterterrorism asserted that in addition to working with European allies bilaterally, “the United States will continue to partner with the European Parliament and European Union to maintain and advance CT efforts that provide mutual security and protection to citizens of all nations while also upholding individual rights.”

### 1NC No Program Collapse

#### Drone program sustainable

Robert Chesney 12, professor at the University of Texas School of Law, nonresident senior fellow of the Brookings Institution, distinguished scholar at the Robert S. Strauss Center for International Security and Law, 8/29/12, “Beyond the Battlefield, Beyond Al Qaeda: The Destabilizing Legal Architecture of Counterterrorism,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2138623>

This multi-year pattern of cross-branch and cross-party consensus gives the impression that the legal architecture of detention has stabilized at last. But the settlement phenomenon is not limited to detention policy. The same thing has happened, albeit to a lesser extent, in other areas.

The military commission prosecution system provides a good example. When the Obama administration came into office, it seemed quite possible, indeed likely, that it would shut down the commissions system. Indeed, the new president promptly ordered all commission proceedings suspended pending a policy review.48 In the end, however, the administration worked with the then Democratic-controlled Congress to pursue a mend-it-don’t-end-it approach culminating in passage of the Military Commissions Act of 2009, which addressed a number of key objections to the statutory framework Congress and the Bush administration had crafted in 2006. In his National Archives address in spring 2009, moreover, President Obama also made clear that he would make use of this system in appropriate cases.49 He has duly done so, notwithstanding his administration’s doomed attempt to prosecute the so-called “9/11 defendants” (especially Khalid Sheikh Mohamed) in civilian courts. Difficult questions continue to surround the commissions system as to particular issues—such as the propriety of charging “material support” offenses for pre-2006 conduct50—but the system as a whole is far more stable today than at any point in the past decade.51

There have been strong elements of cross-party continuity between the Bush and Obama administration on an array of other counterterrorism policy questions, including the propriety of using rendition in at least some circumstances and, perhaps most notably, the legality of using lethal force not just in contexts of overt combat deployments but also in areas physically remote from the “hot battlefield.” Indeed, the Obama administration quickly outstripped the Bush administration in terms of the quantity and location of its airstrikes outside of Afghanistan,52 and it also greatly surpassed the Bush administration in its efforts to marshal public defenses of the legality of these actions.53 What’s more, the Obama administration also succeeded in fending off a lawsuit challenging the legality of the drone strike program (in the specific context of Anwar al-Awlaki, an American citizen and member of AQAP known to be on a list of approved targets for the use of deadly force in Yemen who was in fact killed in a drone strike some months later).54

The point of all this is not to claim that legal disputes surrounding these counterterrorism policies have effectively ended. Far from it; a steady drumbeat of criticism persists, especially in relation to the use of lethal force via drones. But by the end of the first post-9/11 decade, this criticism no longer seemed likely to spill over in the form of disruptive judicial rulings, newly-restrictive legislation, or significant spikes in diplomatic or domestic political pressure, as had repeatedly occurred in earlier years. Years of law-conscious policy refinement—and quite possibly some degree of public fatigue or inurement when it comes to legal criticisms—had made possible an extended period of cross-branch and cross-party consensus, and this in turn left the impression that the underlying legal architecture had reached a stage of stability that was good enough for the time being.

### No Base Kickout – 1NC

#### No basing kickout – obama building a constellation of anonymous bases with minimal footprint – means no pressured rollback

**Turse, 2011, [**Nick, award-winning journalist, historian, essayist, and the associate editor of the Nation Institute’s Tomdispatch.com, October 16th, 2011, “America’s Secret Empire of Drone Bases,” http://www.michaelmoore.com/words/mike-friends-blog/americas-secret-empire-drone-bases]

They increasingly dot the planet. There’s a facility outside Las Vegas where “pilots” work in climate-controlled trailers, another at a dusty camp in Africa formerly used by the French Foreign Legion, a third at a big air base in Afghanistan where Air Force personnel sit in front of multiple computer screens, and a fourth at an air base in the United Arab Emirates that almost no one talks about.

And that leaves at least 56 more such facilities to mention in an expanding American empire of unmanned drone bases being set up worldwide. Despite frequent news reports on the drone assassination campaign launched in support of America’s ever-widening undeclared wars and a spate of stories on drone bases in Africa and the Middle East, most of these facilities have remained unnoted, uncounted, and remarkably anonymous -- until now.

Run by the military, the Central Intelligence Agency, and their proxies, these bases -- some little more than desolate airstrips, others sophisticated command and control centers filled with computer screens and high-tech electronic equipment -- are the backbone of a new American robotic way of war. They are also the latest development in a long-evolving saga of American power projection abroad -- in this case, remote-controlled strikes anywhere on the planet with a minimal foreign “footprint” and little accountability.

Using military documents, press accounts, and other open source information, an in-depth analysis by TomDispatch has identified at least 60 bases integral to U.S. military and CIA drone operations. There may, however, be more, since a cloak of secrecy about drone warfare leaves the full size and scope of these bases distinctly in the shadows.

A Galaxy of Bases

Over the last decade, the American use of unmanned aerial vehicles (UAVs) and unmanned aerial systems (UAS) has expanded exponentially, as has media coverage of their use. On September 21st, the Wall Street Journal reported that the military has deployed missile-armed MQ-9 Reaper drones on the “island nation of Seychelles to intensify attacks on al Qaeda affiliates, particularly in Somalia.” A day earlier, a Washington Post piece also mentioned the same base on the tiny Indian Ocean archipelago, as well as one in the African nation of Djibouti, another under construction in Ethiopia, and a secret CIA airstrip being built for drones in an unnamed Middle Eastern country. (Some suspect it's Saudi Arabia.)

Post journalists Greg Miller and Craig Whitlock reported that the “Obama administration is assembling a constellation of secret drone bases for counterterrorism operations in the Horn of Africa and the Arabian Peninsula as part of a newly aggressive campaign to attack al-Qaeda affiliates in Somalia and Yemen.” Within days, the Post also reported that a drone from the new CIA base in that unidentified Middle Eastern country had carried out the assassination of radical al-Qaeda preacher and American citizen Anwar al-Awlaki in Yemen.

With the killing of al-Awlaki, the Obama Administration has expanded its armed drone campaign to no fewer than six countries, though the CIA, which killed al-Awlaki, refuses to officially acknowledge its drone assassination program. The Air Force is less coy about its drone operations, yet there are many aspects of those, too, that remain in the shadows. Air Force spokesman Lieutenant Colonel John Haynes recently told TomDispatch that, “for operational security reasons, we do not discuss worldwide operating locations of Remotely Piloted Aircraft, to include numbers of locations around the world.”

Still, those 60 military and CIA bases worldwide, directly connected to the drone program, tell us much about America’s war-making future. From command and control and piloting to maintenance and arming, these facilities perform key functions that allow drone campaigns to continue expanding, as they have for more than a decade. Other bases are already under construction or in the planning stages. When presented with our list of Air Force sites within America’s galaxy of drone bases, Lieutenant Colonel Haynes responded, “I have nothing further to add to what I’ve already said.”

Even in the face of government secrecy, however, much can be discovered. Here, then, for the record is a TomDispatch accounting of America’s drone bases in the United States and around the world.

### Turns

#### Judicial review of TKs compromises unity of command---that’s fundamental to warfighting and successful operations---the plan injects devastating legal uncertainty into battlefield decisionmaking

Maher 10 (Larry Maher 10, Quartermaster General, Veterans of Foreign Wars, et al, 9/30/10, BRIEF OF THE VETERANS OF FOREIGN WARS OF THE UNITED STATES AS AMICUS CURIAE IN SUPPORT OF DEFENDANTS AND DISMISSAL, Nasser al-Aulaqi, Plaintiff, vs. Barack H. Obama, et al., Defendants, <http://www.lawfareblog.com/wp-content/uploads/2010/10/VFW_Brief_PACER.pdf> )

A. Adjudication Of This Case Would Compromise The Military Principle Of “Unity Of Command,” And Undermine The Chain Of Command “Unity of command,” and its corollary, “unity of effort,” are fundamental principles of warfare which are central to the effectiveness of Western militaries. See Carl von Clausewitz, On War 200-210 (Michael Howard & Peter Paret, ed. and trans., Princeton University Press 1976) (1832) (hereinafter “Clausewitz”). There “is no higher and simpler law of strategy” than to apply this principle in order to concentrate a nation’s military power its adversaries’ “center of gravity.” Id. at 204. This principle was first embraced by the American military during the 19th Century, and has subsequently shaped the organizational structure of American warfighting through two world wars and countless other conflicts. See James F. Schnabel, History of the Joints Chiefs of Staff, Vol. 1 at 80-87 (1996); Russell F. Weigley, History of the United States Army at 422-423 (Bloomington: Indiana University Press, 1984). Unity of command requires the integration of all combat functions into a single organizational element, with command authority vested in a single individual. See U.S. Joint Chiefs of Staff, Joint Pub. 3-0, Joint Operations at Appx. A, p. A-2 (2010), available at http://www.dtic.mil/doctrine/new\_pubs/jp3\_0.pdf. The U.S. military implements “unity of command” through its chain of command—a hierarchical organizational structure which transmits command authority from the President through the Secretary of Defense, through subordinate military officers, down to the lowest ranking soldier, sailor, airman or Marine on the frontlines of America’s armed conflicts. This chain of command serves important organizational purposes, by vesting command authority in individual officers who are responsible for specific missions, and are empowered to command their personnel to achieve those missions. The chain of command also supports important normative and legal policy purposes, such as the doctrine of “command responsibility,” which renders battlefield commanders responsible for all their units do or fail to do, whether they knew about such conduct, or should have known about it. See Application of Yamashita, 327 U.S. 1, 14-16 (1946); see also Army Field Manual 27-10, The Law of Land Warfare at ¶ 501 (1956) (stating U.S. Army doctrine on “command responsibility”). “Everything in war is very simple,” Clausewitz noted, “but the simplest thing is difficult.” Clausewitz at 119. The dangers of war, the fatigue of close combat, and the uncertainty which lurks within the fog of war, all combine to create a kind of “friction” which impedes the progress of armies. Id. A more contemporary author and veteran describes this fog: For the common soldier, at least, war has the feel, the spiritual texture, of a great ghostly fog, thick and permanent. There is no clarity. Everything swirls. The old rules are no longer binding, the old truths no longer true. Right spills over into wrong. Order blends into chaos, love into hate, ugliness into beauty, law into anarchy, civility into savagery. The vapor sucks you in. You can’t tell where you are, or why you’re there, and the only certainty is overwhelming ambiguity . . . . You lose your sense of the definite, hence your sense of truth itself. Tim O’Brien, The Things They Carried 88 (1990). The military chain of command is designed to counteract this fog and friction of war, by providing clarity of orders and purpose to individual soldiers and their units. Similarly, this organizational structure exists to impose some order on the behavior and actions of soldiers and units, aligning their conduct with national goals, framing their actions in the context of strategic and operational campaigns, and focusing their efforts on the missions which support these broader endeavors. It is this structure which differentiates the armed forces of a nation from an armed group of thugs, and which ensures that national armed forces conduct themselves in accordance with the laws of armed conflict. Cf. Annex to the Convention, Hague Convention No. IV Respecting the Laws and Customs of War on Land, art. 1, Oct. 18, 1907, 36 Stat. 2277, 205 Consol. T.S. 277; Geneva Convention (III) Relative to the Treatment of Prisoners of War, art. 4, Aug. 12, 1949, 6 U.S.T. 3316, T.I.A.S. No. 3364. Our nation’s military personnel depend on their chain of command to provide them with certainty, clarity and authority in the heat of battle. Into this ordered system, Plaintiff wishes to inject the uncertainty of the American adversarial litigation process, by seeking, inter alia, that this Court declare there is no armed conflict in Yemen, and that orders issued by the President in response to that conflict should be enjoined. Not only would this force the court to go far beyond the “limited institutional competence of the judiciary” by involving it in sensitive matters of national security, cf. Arar v. Ashcroft, 585 F.3d 559, 576 (2d Cir. 2009) (citations omitted), but this also would undermine the chain of command by literally interposing this Court between the President and his subordinate officers, thereby contravening the core doctrinal principle of “unity of command,” which has served American military forces in good stead since the Civil War. In asking the Court to hear this case, and to entertain the extraordinary remedy of injunctive relief against the President and his cabinet, the Plaintiff is asking the court to overturn the political judgment of the President and Congress that the nation is at war; that this war is an armed conflict against Al Qaeda; and that it is appropriate to use a blend of military, intelligence and diplomatic force to wage this war. All three branches of Government have decided that “[w]e are [] at war with al Qaeda and its affiliates.” Remarks of the President on National Security, May 21, 2009; see also Authorization for Use of Military Force (“AUMF”), Pub. L. No. 107-40, 115 Stat. 224 (2001); Hamdan v. Rumsfeld, 548 U.S. 557, 628-31 (2006). Political leaders from both political parties, over the course of two presidencies and five elected Congresses, have agreed upon, authorized, and appropriated funds for this war against Al Qaeda. It is a fundamental axiom among American strategists that, “[a]s a nation, the United States wages war employing all instruments of national power – diplomatic, informational, military, and economic.” U.S. Joint Chiefs of Staff, Joint Pub. 1, Doctrine for the Armed Forces of the United States at I-1 (2009), available at http://www.dtic.mil/doctrine/new\_pubs/jp1.pdf. Plaintiff would seek to overturn the considered judgment of this nation’s political leaders in choosing the national strategy for this war, including the Attorney General of the United States, who has written that, in this war against Al Qaeda, “we must use every weapon at our disposal . . . [including] direct military action, military justice, intelligence, diplomacy, and civilian law enforcement.” See Letter from Attorney General Eric H. Holder, Jr. to Sen. Mitch McConnell, February 3, 2010 (emphasis added). The relief requested by plaintiff is both extraordinary and inappropriate, and completely inconsistent with the strategic imperative for “unified action [which] ensures unity of effort focused on [national] objectives and leading to the conclusion of operations on terms favorable to the United States.” See Joint Pub. 1 at I-1.

#### Judicial review decks unit cohesion---undermines authority of orders and makes units turn against themselves in litigation

Maher 10 (Larry Maher 10, Quartermaster General, Veterans of Foreign Wars, et al, 9/30/10, BRIEF OF THE VETERANS OF FOREIGN WARS OF THE UNITED STATES AS AMICUS CURIAE IN SUPPORT OF DEFENDANTS AND DISMISSAL, Nasser al-Aulaqi, Plaintiff, vs. Barack H. Obama, et al., Defendants, <http://www.lawfareblog.com/wp-content/uploads/2010/10/VFW_Brief_PACER.pdf> )

B. Adjudication Also Would Adversely Affect Unit Cohesion Throughout military history, from the Spartan warriors at Thermopylae to today’s American infantrymen in Afghanistan, soldiers have been motivated by comradeship and unit cohesion to sacrifice, persevere, and fight. See generally Richard Holmes, Acts of War (1986) (describing role of unit cohesion in mitigating fear and combat stress in World Wars I and II); James MacPherson, For Cause and Comrades (1997) (chronicling the motivations of American soldiers during the Civil War); Nancy Sherman, The Untold War (2010) (describing the emotional landscape of soldiering in Iraq and Afghanistan) Although war brings many emotions to the surface, unit cohesion matters more than any other motivating factor in the heat of battle. “[Unit] cohesion exists in a unit when the primary day-to-day goals of the individual soldier, of the small group with which he identifies, and of unit leaders, are congruent--with each giving his primary loyalty to the group so that it trains and fights as a unit with all members willing to risk death and achieve a common objective.” William Darryl Henderson, Cohesion: The Human Element in Combat, (1985), available at http://www.au.af.mil/au/awc/awcgate/ndu/cohesion/. Studies of wars throughout the 20th Century have shown unit cohesion to be the critical ingredient for the success or failure of small units. See Edward A. Shils and Morris Janowitz, “Cohesion and Disintegration in the Wehrmacht in World War II,” Public Opinion Quarterly 12 (Summer 1948) 280-315 (finding that unit cohesion translated into higher battlefield effectiveness, survivability and hardiness); Charles C. Moskos, Jr., The American Enlisted Man: The Rank and File in Today’s Military 144-46 (1970) (finding that close bonds between soldiers played a key role in determining unit effectiveness and survival in the Vietnam War); Samuel Rolbant, The Israeli Soldier: Profile of an Army 200-210 (1970) (finding that Israeli soldiers had “a very strong sense of mutual affection and attraction among unit members,” and that this cohesion contributed significantly to their exemplary combat performance); William Darryl Henderson, Why the Vietcong Fought: A Study of Motivation and Control in a Modern Army in Combat 107-118 (1979) (finding that a combination of “very strong cohesion” and simple logistics enabled the North Vietnamese Army to persevere against overwhelming firepower); Leonard Wong, “Combat Motivation in Today’s Soldiers,” 32 Armed Forces & Soc. No. 4, 659- 663 (2006) (concluding that, in Iraq and Afghanistan, American soldiers are primarily motivated by unit cohesion and comradeship, among other factors); Army Field Manual 6-22.5, Combat and Operational Stress Control Manual for Leaders and Soldiers, at ¶ 2-3 (2009) (“Unit cohesion and morale is the best predictor of combat resiliency within a unit or organization. Units with high cohesion tend to experience a lower rate of [combat stress] casualties than units with low cohesion and morale.). “I hold it to be one of the simplest truths of war that the thing which enables an infantry soldier to keep going with his weapons is the near presence or the presumed presence of a comrade.” S.L.A. Marshall, Men Against Fire 42 (1947). In this lawsuit, Plaintiff asks this Court to declare that the U.S. Government is not engaged in an armed conflict in Yemen, and that U.S. personnel may not therefore use lethal force against individuals in Yemen absent “circumstances in which they present concrete, specific, and imminent threats to life or physical safety, and there are no means other than lethal force that could reasonably be employed to neutralize the threats.” Further, plaintiff seeks disclosure of the allegedly classified criteria used to designate U.S. citizens for targeting. And, in this suit’s most extraordinary request, Plaintiff asks this Court to enjoin the President, his advisers, and his generals, from conducting certain parts of the nation’s war against Al Qaeda. As described above, judicial action of the sort requested by Plaintiff would have a deleterious effect on the chain of command. Judicial action also would, necessarily, affect unit cohesion by undermining both the vertical bonds among leaders and followers, and the horizontal bonds among comrades. These bonds depend on the clarity of orders and authorities which are the sine qua non of the military organizational structure. A judicial order on the lawfulness of the armed conflict in Yemen, or the appropriateness of U.S. military actions there, would cast doubt upon the orders of the President and his subordinate military officers, and introduce uncertainty into the military structure. Further, should this suit be allowed to proceed, it may eventually result in litigation relating to actions taken by military forces in Yemen. Such litigation may require units and soldiers to participate in the production of documents, interrogation of witnesses, and presentation of evidence at trial in an adversarial proceeding. Such litigation would rip apart the military units it touched, by pitting comrades against each other as potential witnesses, and creating the risk that every uttered or written word could eventually be used in a future courtroom, making every battlefield act susceptible to secondguessing and criticism. At its core, unit cohesion reflects a core trust among comrades so powerful that it would motivate a soldier to sacrifice his or her life for another, such that “[c]ombat soldiers describe the bond, hesitantly or openly, as love.” See Army Field Manual 22- 51, Leaders’ Manual for Combat Stress Control, at ¶ 3-7 (1994). Judicial intervention in this matter would erode that bond for the units touched by this process, undermining their effectiveness and our national security.

# 2NC

## CP/DA

### Solves – Terrorism/Drone Advantages

#### Counterplan solves terror – special ops are effective and substantially reduce violence relative to drones

McDonnell 12 (Thomas – Professor of Law, Pace University School of Law, “SOW WHAT YOU REAP? USING PREDATOR AND REAPER DRONES TO CARRY OUT ASSASSINATIONS OR TARGETED KILLINGS OF SUSPECTED ISLAMIC TERRORISTS”, 2012, 44 Geo. Wash. Int'l L. Rev. 243, lexis)

Given the exceptional character of an attack on a state that has neither attacked nor threatened to attack the United States, the targeted killing operation must observe a higher standard than the collateral damage (proportionality) rule and aim to prevent all non-combatant casualties. n218 This is analogous to the exceptional proportionality requirement and the sole purpose requirement of humanitarian intervention. As a humanitarian intervention, the state is obligated to go beyond the normal rules of armed conflict. Given the exceptional situation of operating in a state that is either unable or unwilling to arrest or capture terrorists on its soil, but which has neither carried out an armed attack nor used terrorists to do so, states like the United States should comply with exceptional standards here as well. This would require operations more closely resembling the Navy Seals' operation against Osama bin Laden than the routine use of weaponized drones with explosive force of a Hellfire missile. n219 Admittedly, this would put members [\*295] of the armed forces at risk, but it is submitted that a more limited use of armed force will ultimately reduce the cycle of violence carried out by systematic employment of drone attacks.

### Solves – A2: Special Ops Kill Hearts and Minds

#### SOF don’t hurt hearts and minds – CP sufficiently solves this internal link

Thomas and Dougherty 13 (Jim – Vice President and Director of Studies at the Center for

Strategic and Budgetary Assessments, and Chris – Research Fellow at the Center for Strategic and

Budgetary Assessments, “Beyond the Ramparts: The Future of U.S. Special Operations Forces”, 5/10, http://www.csbaonline.org/publications/2013/05/beyond-the-ramparts-the-future-of-u-s-special-operations-forces/)

SOF’s newfound status as a “crown jewel” within the Department of Defense’s (DoD’s) portfolio of capabilities is grounded in the attributes of the operators comprising the United States Special Operations Command (USSOCOM).􀀙 More than any other capability in America’s arsenal, it is the human dimension􀂲both the people who serve and the domain for which they are optimized􀂲that differentiates SOF from both conventional and nuclear forces. SOF’s 􀂳􀂿rst Truth,􀂴 is that 􀂳Humans are more important than hardware.􀂴7 The characteristics that make SOF operators 􀂳special􀂴 go far beyond the rigorous assessment, selection, and qualification processes of SOF units, which only a small fraction of candidates complete. Though SOF have e􀁛ceptional physical and psychological stamina, those selected to serve in SOF are 􀂿rst and foremost problem solvers distinguished by their critical thinking skills and ingenuity. Most SOF operators are well-educated and hold college degrees.􀀛 Although highly trained in the discriminate use of lethal force, SOF are also known for their political acumen and engagement skills, 􀂳winning hearts and minds􀂴 by leveraging their cultural expertise and linguistic proficiency. Because they operate in the human domain, SOF must also be adept at building relationships by understanding the needs of others, showing empathy, and earn-ing trust. SOF are generally more e􀁛perienced than their conventional counterparts, with SOF personnel typically spending eight years in the conventional forces prior to their SOF quali􀂿cation and ranging in average age from twenty-nine (enlisted) to thirty-four (o􀌇cer).9 This combination of problem solving, education, and experience gives SOF the judgment, adaptability, and maturity to execute missions involving high degrees of risk and political sensitivity. These attributes also enable SOF to operate in very small teams (a dozen or fewer operators) with greater independence than their conventional force counterparts, whether they are conducting direct-action missions in denied areas or patiently applying their more indirect and less kinetic engagement skills to enable foreign security partners. It is SOF’s ability to combine direct and indirect actions, surgical strike and special warfare that allow them to achieve strategic e􀌆ects far beyond their small numbers.10

### Perm Do CP – 2NC

#### Severs – Targeted killing

Masters 13 (John – Council on Foreign Relations, “What Are Targeted Killings? Their Present and Future, Explained”, 1/9, http://www.nationaljournal.com/nationalsecurity/what-are-targeted-killings-their-present-and-future-explained-20130109)

What Are Targeted Killings? According to a UN special report on the subject, targeted killings are premeditated acts of lethal force employed by states in times of peace or during armed conflict to eliminate specific individuals outside their custody. "Targeted killing" is not a term distinctly defined under international law, but gained currency in 2000 after Israel made public a policy of targeting alleged terrorists in the Palestinian territories. The particular act of lethal force, usually undertaken by a nation's intelligence or armed services, can vary widely--from cruise missiles to drone strikes to special operations raids. The primary focus of U.S. targeted killings, particularly through drone strikes, has been on the al-Qaeda and Taliban leadership networks in Afghanistan and the remote tribal regions of Pakistan. However, U.S. operations are continuing to expand in countries such as Somalia and Yemen.

#### Special forces conduct important targeted killings

Bachmann 13 (Sascha-Dominik Bachmann 13, Reader in International Law (University of Lincoln), 2013, “Targeted Killings: Contemporary Challenges, Risks and Opportunities,” Journal of Conflict and Security Law, doi: 10.1093/jcsl/krt007)

Targeted killing has also been used by the USA in theatres of actual combat operations, such as Afghanistan and Iraq, as well as outside these theatres of war and as part of CIA and US military run covert operations in Pakistan. The USA is using drone strikes and Special Forces there to conduct pre-emptive as well as defensive targeted killing operations against Al-Qaeda and the Taliban. The argument is brought forward that such operations are necessary to protect US forces and its allies in Afghanistan and to disrupt the existent terrorist infrastructure. The focus of such operations is on the so-called ‘Tribal Areas’ of Pakistan, Waziristan, where the Taliban have effectively established an autonomous sphere of influence to the exclusion of the central government in Peshawar.32 Other such covert operations have seen CIA operated drone strikes in Yemen, Somalia as well Sudan, where a lack of cooperation and/or relative capabilities of the respective governments have created areas which are outside effective state control.33

#### Counterplan tests “restriction” -

**It means “prohibition” – affs have to restrict the whole category of targeted killing**

**Northglenn 11** (City of Northglenn Zoning Ordinance, “Rules of Construction – Definitions”, http://www.northglenn.org/municode/ch11/content\_11-5.html)

Section 11-5-3. Restrictions. As used in this Chapter 11 of the Municipal Code, the **term "restriction**" shall mean a prohibitive regulation. Any use, activity, operation, building, structure or thing which is the subject of a restriction is prohibited, and **no** such use, **activity**, operation, building, structure or thing shall be **authorized by any permit or license**.

## Imminence

### Pakistan Collapse

#### No impact to Pakistan instability- their ev is hype

**Hundley ’12** (Before joining the Pulitzer Center, Tom Hundley was a newspaper journalist for 36 years, including nearly two decades as a foreign correspondent for the Chicago Tribune. During that time he served as the Tribune’s bureau chief in Jerusalem, Warsaw, Rome and London, reporting from more than 60 countries. He has covered three wars in the Persian Gulf, the Arab-Israeli conflict and the rise of Iran’s post-revolutionary theocracy. His work has won numerous journalism awards. He has taught at the American University in Dubai and at Dominican University in River Forest, Illinois. He has also been a Middle East correspondent for GlobalPost and a contributing writer for the Chicago News Cooperative. Tom graduated from Georgetown University and holds a master’s degree in international relations from the University of Pennsylvania. He was also National Endowment for the Humanities journalism fellow at the University of Michigan. Published September 5, 2012

With both sides armed to the teeth, **it is easy to exaggerate the fears** and much harder to pinpoint where the real dangers lie. For the United States, the nightmare scenario is that some of Pakistan's warheads or its fissile material falls into the hands of the Taliban or al Qaeda -- or, worse, that the whole country falls into the hands of the Taliban. For example, Rolf Mowatt-Larssen, a former CIA officer now at Harvard University's Belfer Center for Science and International Affairs, has warned of the "lethal proximity between terrorists, extremists, and nuclear weapons insiders" in Pakistan. This is a reality, but on the whole, Pakistan's nuclear arsenal appears to be reasonably secure against internal threats, according to those who know the country best. To **outsiders**, Pakistan **appears** to be permanently teetering on the **brink** of collapse. The fact that large swaths of the country are literally beyond the control of the central government is not reassuring. But a weak state **does not mean** a **weak society**, and **powerful internal dynamics based** largely on kinship and tribe **make it highly unlikely** that Pakistan would **ever fall** under the control of an outfit like the Taliban. During the country's intermittent bouts of democracy, its civilian leaders have been consistently incompetent and corrupt, but **even in the worst of times,** the military has maintained a high standard of professionalism. And there is **nothing** that **matters more** to the Pakistani military than keeping the nuclear arsenal -- **its crown jewels** -- out of the hands of India, the United States, and homegrown extremists. "Pakistan struggled to acquire these weapons against the wishes of the world. Our nuclear capability comes as a result of great sacrifice. It is our most precious and powerful weapon -- for our defense, our security, and our political prestige," Talat Masood, a retired Pakistani lieutenant general, told me. "We keep them safe." Pakistan's nuclear security is in the responsibility of the Strategic Plans Division**,** which appears to function pretty much as **a separate branch** of the military. It has its **own training facility and an elaborate set of controls** and screening proceduresto keep track of **all warheads and fissile material** and to monitor **any blips** in the behavior patterns of its personnel. The 15 or so sites where weapons are stored **are the mostly heavily guarded** in the country. **Even if** some group managed to steal or commandeer a weapon, **it is highly unlikely the group would be able to use it**. The greater danger is the theft of fissile material, which could be used to make a crude bomb. "With 70 to 80 kilos of highly enriched uranium, it would be fairly easy to make one in the basement of a building in the city of your choice," said Pervez Hoodbhoy, a distinguished nuclear physicist at Islamabad's Quaid-i-Azam University. At the moment, Pakistan has a stockpile of about 2.75 tons -- or some 30 bombs' worth -- of highly enriched uranium. It does not tell Americans where it is stored. "All nuclear countries are conscious of the risks, nuclear weapons states especially so," said Gen. Ehsan ul-Haq, who speaks with the been-there-done-that authority of a man who has served as both chairman of Pakistan's Joint Chiefs of Staff Committee and head of the ISI, its controversial spy agency. "Of course there are concerns. Some are genuine, butmuch of what you read in the U.S. media is **irrational and reflective of paranoia**. Rising radicalism in Pakistan? Yes, this is true, and the military is very conscious of this." Perhaps **the most credible endorsement** of Pakistan's nuclear security regime comes from its **most steadfast enemy.** The **consensus among India's top generals and defense experts** is that Pakistan's nukes are pretty secure. "No one can be 100 percent secure, but I think they are **more than 99 percent secure**," said Shashindra Tyagi, a former chief of staff of the Indian Air Force. "They keep a very close watch on personnel. All of the steps that could be taken have been taken. This business of the Taliban taking over -- it can't be ruled out, but I think **it's unlikely**. **The** Pakistani **military understands the threats** they face better than anyone, **and** they **are smart enough to take care it."** Yogesh Joshi, an analyst at the Institute for Defense Studies and Analyses in New Delhi, agrees: "Different states have different perceptions of risk. The U.S. has contingency plans [to secure Pakistan's nukes] because its nightmare scenario is that Pakistan's weapons fall into terrorist hands. The view from India over the years is that **Pakistan,** probably **more than any other nuclear** weapons **state, has taken measures to secure its weapons.** At the political level here, there's a lot of confidence that Pakistan's nuclear weapons are secure."

### 2NC No Econ War

#### Tir – countries don’t lash out because they don’t have resources, cites empirical statistics

#### No more wars from economic collapse – we’re in a state of turboparalysis

Lind 12 -- co-founder of the New America Foundation, policy director of the Economic Growth Program, graduate of the University of Texas and Yale, taught at Harvard and Johns Hopkins, been an editor or staff writer for The New Yorker, Harper’s, The New Republic and The National Interest (Michael, 12/15, "The age of turboparalysis," <http://www.spectator.co.uk/features/8789631/the-age-of-turboparalysis/>)

More than half a decade has passed since the recession that triggered the financial panic and the Great Recession, but the condition of the world continues to be summed up by what I’ve called ‘turboparalysis’ — a prolonged condition of furious motion without movement in any particular direction, a situation in which the engine roars and the wheels spin but the vehicle refuses to move.¶ The greatest economic crisis since the Great Depression might have been expected to produce revolutions in politics and the world of ideas alike. Outside of the Arab world, however, revolutions are hard to find. Mass unemployment and austerity policies have caused riots in Greece and Spain, but most developed nations are remarkably sedate. Scandal and sputtering economic growth appear unlikely to prevent another peaceful transition of power within the Communist party of China. And in the US, the re-election of President Obama and the strengthening of his Democratic party in the US Senate reflect long-term demographic changes in an increasingly non-white and secular American electorate, not the endorsement of a bold agenda for the future by the Democrats. They don’t have one.¶ In the realm of ideas, turboparalysis is even more striking. On both sides of the Atlantic, political and economic debate proceed as though the bursting of the global bubble economy did not discredit any school of thought. Right, left and centre, the players are the same and so are their familiar moves. Public debate is dominated by the same three groups — market fundamentalists, centrist neoliberals, and mildly reformist social democrats — who have been debating one another since the 1980s. Someone who went to sleep like Rip Van Winkle in the 1980s when Reagan and Thatcher were in power and awoke today would find nothing new in the way of economic theories or political doctrines.¶ By now one might have expected the emergence of innovative and taboo-breaking schools of thought seeking to account for and respond to the global crisis. But to date there is no insurgent political and intellectual left, nor a new right, for that matter. In the US, the militant Tea Party right, many of whose candidates went down to defeat in this year’s elections, represents the last gasp of the Goldwater-Reagan coalition, not something fresh. The American centre-left under Obama is intellectually exhausted and politically feeble, reduced to rebranding as ‘progressive’ policies like the individual mandate system (‘Obamacare’) and tax cuts for the middle class which originated on the moderate right a generation ago. In Britain, the manifestos of various ‘colour revolutions’ — Blue Labour, Red Tory and so on — have the feel of PR brochures promoting rival cliques of ambitious apparatchiks rather than the epochal thinking the times require.¶ Why has a global calamity produced so little political change and, at the same time, so little rethinking? Part of the answer, I think, has to do with the collapse of the two-way transmission belt that linked the public to the political elite. Institutions such as mass political parties, trade unions, and local civic associations, which once connected elected leaders to constituents, have withered away in more individualistic and anonymous societies. One result is a perpetual crisis of legitimacy on the part of political elites, who owe their electoral successes increasingly to rich donors and skilful advertising consultants. New political movements are hard to found. At the same time, anachronistic movements can continue to raise funds or entertain audiences, even if, like America’s conservative movement, they lose election after election.¶ But there is a deeper, structural reason for the persistence of turboparalysis. And that has to do with the power and wealth that incumbent elites accumulated during the decades of the global bubble economy.¶ In essence, the bubble economy was a dysfunctional marriage of export-driven economies like China, Japan and Germany and debt-addicted nations like the US and many of Germany’s European neighbours. As international trade imbalances built up, from the 1980s to the 2000s, so did the wealth and power of elites who profited from the system, from Chinese Communist princelings with a stake in overbuilt export industries to the financiers of Wall Street and the City of London.¶ A global economic system that relied on excessive borrowing by consumers, particularly in the US, was bound to grind to a halt when fearful consumers switched from borrowing to saving. But the crash was only the first stage of the adjustment. The second stage is rebalancing. Countries like China and Germany must rely more on domestic consumption; countries like the US and UK must rely less on private consumer debt and shift resources from finance and housing to productive, traded industries.¶ But these reform agendas, from the downsizing of the overbuilt industrial sectors of mercantilist Asian nations to the pruning of finance in the Anglo-American world, threaten the very interests that profited from the preceding bubble and now glare defensively at a changing world, like Fafnir crouched upon his hoard. In the US, the wealth of the bubble-swollen financial sector has been transmuted into political power via campaign contributions. While Mitt Romney, the candidate of Wall Street, lost his bid for the presidency, the American financial industry overall has been successful in blocking reforms like the nationalising of failed banks (rather than government bailouts with few conditions) and the restructuring of private household mortgage debt. These reforms, along with a dose of moderate inflation and much more aggressive fiscal policies like massive investment in infrastructure, would have helped the economy recover more rapidly. But they would have imposed significant costs on economic elites who have wielded their power to thwart them.¶ For their part, the masses seldom unite against the classes in democracies because they are divided among themselves. When nations realise that they will be collectively poorer in the future than they had expected, the usual result is not solidarity but rather civil war, by means of ballots and sometimes bullets. Confronted by a crisis like the Great Recession, each section of society uses its political influence to try to maintain its share of the national wealth, while forcing the cost of economic adjustment to others. The rich try to shift adjustment costs to the middle class, who in turn try to pay for their own subsidies and entitlements by cutting the programmes of the poor.History is sobering, in this regard. The Great Recession, which continues despite a technical ‘recovery’, can be viewed as the third great economic collapse of the industrial era, following the ‘Long Depression’ of the 1870s-1890s and the Great Depression of the 1930s. The earlier two episodes of global economic crisis witnessed setbacks for liberalism, democracy and free trade and the flourishing of illiberal nationalism, racism, imperialism and beggar-thy-neighbour economics. While slow growth combined with national rivalries have not yet engendered anything like the autarkic economics of the earlier two crises, it would be premature to predict the survival of present levels of financial and economic integration in a world that wobbles between feeble recoveries and renewed recessions.¶ Nowhere is there greater potential for conflict than in the relationship between the two poles of the now-collapsed bubble economy — the US, which specialised in exporting debt to China, and China, which specialised in exporting manufactured goods to the US. Since the Great Recession began, American attitudes toward China have grown strikingly more negative. The much-discussed ‘pivot’ in American strategy away from fighting jihadists in the Middle East and Central Asia towards unnamed great power rivals in East Asia is manifestly a shift toward greater military containment of China.¶ And in the recently concluded US elections, both candidates competed in promising to protect American producers from unfair Chinese competition. The Trans-Pacific Partnership, from which China is excluded, combines military and trade concerns in a single set of America-centred Asian alliances. Gone is the Clinton-era vision of China as a liberalising and democratising partner of the US in a world of great-power harmony.¶ The last global depression was brought to an end by the second world war. This time a ‘hot’ war is extremely unlikely and a cold war merely possible. Nevertheless, geopolitics may do what domestic politics has failed so far to do and free the world’s leading countries from ongoing turboparalysis.

#### AND - even if wars occur, they won’t escalate.

Bennett & Nordstrom 2k [Department of Political Science Professors @ Penn state U, D. Scott and Timothy, “Foreign Policy Substitutability and Internal Economic problems in Enduring Rivalries” Journal of Conflict Resolution, Feb., p33-61]

When engaging in diversionary actions in response to economic problems, leaders will be most interested in a cheap, quick victory that gives them the benefit of a rally effect without suffering the long-term costs (in both economic and popularity terms) of an extended confrontation or war. This makes weak states particularly inviting targets for diversionary action since they may be less likely to respond than strong states and because any response they make will be less costly to the initiator. Following Blainey (1973), a state facing poor economic conditions may in fact be the target of an attack rather than the initiator. This may be even more likely in the context of a rivalry because rival states are likely to be looking for any advantage over their rivals. Leaders may hope to catch an economically challenged rival looking inward in response to a slowing economy. Following the strategic application of diversionary conflict theory and states’ desire to engage in only cheap conflicts for diversionary purposes, states should avoid conflict initiation against target states experiencing economic problems.

#### 93 examples are on our side

Miller 2k [Morris Miller, Winter 2K. economist and adjunct professor in the University of Ottawa’s Faculty of Administration and former Executive Director and Senior Economist at the World Bank. Interdisciplinary Science Reviews, 25.4]

The question may be reformulated. Do wars spring from a popular reaction to a sudden economic crisis that exacerbates poverty and growing disparities in wealth and incomes? Perhaps one could argue, as some scholars do, that it is some dramatic event or sequence of such events leading to the exacerbation of poverty that, in turn, leads to this deplorable denouement. This exogenous factor might act as a catalyst for a violent reaction on the part of the people or on the part of the political leadership who would then possibly be tempted to seek a diversion by finding or, if need be, fabricating an enemy and setting in train the process leading to war. According to a study undertaken by Minxin Pei and Ariel Adesnik of the Carnegie Endowment for International Peace, there would not appear to be any merit in this hypothesis. After studying ninety-three episodes of economic crisis in twenty-two countries in Latin America and Asia in the years since the Second World War they concluded that:19 Much of the conventional wisdom about the political impact of economic crises may be wrong ... The severity of economic crisis - as measured in terms of inflation and negative growth - bore no relationship to the collapse of regimes ... (or, in democratic states, rarely) to an outbreak of violence ... In the cases of dictatorships and semidemocracies, the ruling elites responded to crises by increasing repression (thereby using one form of violence to abort another).

### A2: Global Blowback

#### No global blowback

Kenneth Anderson 13, Professor of International Law at American University, June 2013, “The Case for Drones,” Commentary, Vol. 135, No. 6

That leaves the broader claim of global blow-back -- the idea that drone campaigns are effectively creating transnational terrorists as well as sympathy for their actions. That could always be true and could conceivably outweigh all other concerns. But the evidence is so diffuse as to be pointless. Do Gallup polls of the general Pakistani population indicate overwhelming resentment about drone strikes -- or do they really suggest that more than half the country is unaware of a drone campaign at all? Recent polls found the latter to be the case. Any causal connections that lead from supposed resentments to actual terrorist recruitment are contingent and uncertain. Discussing global blowback is also an easy stance for journalists writing about U.S. counterterrorism -- Mark Mazzetti's new book, The Way of the Knife, is a good example -- because it automatically frames an oppositional narrative, one with dark undertones and intimations of unattractive, unintended consequence. The blowback argument is also peculiarly susceptible to raising the behavioral bar the United States must meet in order to keep the local population happy enough not to embrace suicide bombing and terrorism. It defines terrorist deviancy down, while U.S. and Western security behaviors are always defined up.

From a strategic standpoint, however, the trouble with the blowback theory is simple: It will always counsel doing nothing rather than doing something. It's the kibitzer's lazy objection. Whether one knows a lot or a little about the action and its possible blowback consequences, whether one has an axe to grind or is reasonably objective, one can always offer the blow-back scenario.

There might be situations in which to give it priority; Gregory Johnsen, a Yemen expert, for example, says that a particular form of strike in Yemen causes blowback because it hits low-level fighters whose families cannot understand the American justification. (The response is, usually, that we are effectively fighting as the air arm of the Yemen government against its insurgents, including its low-level fighters.) That bears attention; whether it outweighs the strategic concern of supporting the Yemeni government, which does have to fight even low-level insurgents who in effect offer protection to the transnational terrorist wing, is another question. But we should consider it carefully.

Blowback is a form of the precautionary principle. But it's awfully difficult to conduct war, after all, on the basis of "first do no harm." As it happens, the United States once had a commander driven largely by considerations of blowback from a restive local population. His name was George McClellan. If he had not been replaced by Abraham Lincoln, the Union would have lost the Civil War.

## Warfighting

### AT Retaliation (General)

#### 2. Public anxiety prevents retaliation

Huddy et al. 05 – Professor of political science @ Stony Brook University, Stony Brook, NY [Leonie Huddy, Stanley Feldman (Professor of political science @ Stony Brook University, Stony Brook, NY), Charles Taber (Professor of political science @ Stony Brook University, Stony Brook, NY) & Gallya Lahav (Professor of political science @ Stony Brook University, Stony Brook, NY), “Threat, Anxiety, and Support of Antiterrorism Policies,” American Journal of Political Science, Vol. 49, No. 3, July 2005, Pp. 593–608]

The findings from this study lend further insight into the future trajectory of support for antiterrorism measures in the United States when we consider the potential effects of anxiety. Security threats in this and other studies increase support for military action (Jentleson 1992; Jentleson and Britton 1998;Herrmann,Tetlock, and Visser 1999). But anxious respondents were less supportive of belligerent military action against terrorists, suggesting an important source of opposition to military intervention. In the aftermath of 9/11, several factors were consistently related to heightened levels of anxiety and related psychological reactions, including living close to the attack sites (Galea et al. 2002; Piotrkowski and Brannen 2002; Silver et al. 2002), and knowing someone who was hurt or killed in the attacks (in this study). It is difficult to say what might happen if the United States were attacked again in the near future. Based on our results, it is plausible that a future threat or actual attack directed at a different geographic region would broaden the number of individuals directly affected by terrorism and concomitantly raise levels of anxiety. This could, in turn, lower support for overseas military action. In contrast, in the absence of any additional attacks levels of anxiety are likely to decline slowly over time (we observed a slow decline in this study), weakening opposition to future overseas military action. Since our conclusions are based on analysis of reactions to a single event in a country that has rarely felt the effects of foreign terrorism, we should consider whether they can be generalized to reactions to other terrorist incidents or to reactions under conditions of sustained terrorist action. Our answer is a tentative yes, although there is no conclusive evidence on this point as yet. Some of our findings corroborate evidence from Israel, a country that has prolonged experience with terrorism. For example, Israeli researchers find that perceived risk leads to increased vilification of a threatening group and support for belligerent action (Arian 1989; Bar-Tal and Labin 2001). There is also evidence that Israelis experienced fear during the Gulf War, especially in Tel Aviv where scud missiles were aimed (Arian and Gordon 1993). What is missing, however, is any evidence that anxiety tends to undercut support for belligerent antiterrorism measures under conditions of sustained threat. For the most part, Israeli research has not examined the distinct political effects of anxiety. In conclusion, the findings from this study provide significant new evidence on the political effects of terrorism and psychological reactions to external threat more generally. Many terrorism researchers have speculated that acts of terrorist violence can arouse fear and anxiety in a targeted population, which lead to alienation and social and political dislocation.8 We have clear evidence that the September 11 attacks did induce anxiety in a sizeable minority of Americans. And these emotions were strongly associated with symptoms of depression, appeared to inhibit learning about world events, and weakened support foroverseas military action. This contrasted, however, with Americans’ dominant reaction, which was a heightened concern about future terrorist attacks in the United States that galvanized support for government antiterrorist policy. In this sense, the 9/11 terrorists failed to arouse sufficient levels of anxiety to counteract Americans’ basic desire to strike back in order to increase future national security, even if such action increased the shortterm risk of terrorism at home. Possible future acts of terrorism, or a different enemy, however, could change the fine balance between a public attuned to future risks and one dominated by anxiety.

#### -- No retaliation

Davis and Jenkins 2 (Paul K., Professor – RAND Corporation and Research Leader – Naval Studies Board, and Brian M., Special Advisor – RAND Corporation and International Chamber of Commerce, RAND Research Paper,

http://www.rand.org/publications/MR/MR1619/MR1619.pdf)

Deterring acquisition and use of WMD is profoundly important and difficult. Terrorists appear to have grandiose intentions, and some have intense interest in such weapons. Moreover, they may believe that they have what a Cold War theorist would call “escalation dominance.” That is, al Qaeda could use WMD against the United States, but retaliation—and certainly escalation— would be difficult because (1) the United States will not use chemical, biological, or radiological weapons; (2) its nuclear weapons will seldom be suitable for use; and (3) there are no good targets (the terrorists themselves fade into the woodwork). And, of course, the United States has constraints. Although this gap in the deterrent framework is dismissed by some, we regard it as very dangerous.

### 2NC Allied Co-Op

#### There’s cooperation now – EU has laws to help with intel and actively seek to foster cooperation with the US – declaration on counter-terror proves – That’s Archick.

#### Self-interest overwhelms legal disputes

Kristin Archick, Congressional Research Service Specialist in European Affairs, 9/4/13, U.S.-EU Cooperation Against Terrorism, http://www.fas.org/sgp/crs/row/RS22030.pdf

The September 11, 2001, terrorist attacks on the United States and the subsequent revelation of Al Qaeda cells in Europe gave new momentum to European Union (EU) initiatives to combat terrorism and improve police, judicial, and intelligence cooperation among its member states. Other deadly incidents in Europe, such as the Madrid and London bombings in 2004 and 2005 respectively, injected further urgency into strengthening EU counterterrorism capabilities and reducing barriers among national law enforcement authorities so that information could be meaningfully shared and suspects apprehended expeditiously. Among other steps, the EU has established a common definition of terrorism and a common list of terrorist groups, an EU arrest warrant, enhanced tools to stem terrorist financing, and new measures to strengthen external EU border controls and improve aviation security. As part of its drive to bolster its counterterrorism capabilities, the EU has also made promoting law enforcement and intelligence cooperation with the United States a top priority. Washington has largely welcomed these efforts, recognizing that they may help root out terrorist cells both in Europe and elsewhere, and prevent future attacks against the United States or its interests abroad. U.S.-EU cooperation against terrorism has led to a new dynamic in U.S.-EU relations by fostering dialogue on law enforcement and homeland security issues previously reserved for bilateral discussions. Contacts between U.S. and EU officials on police, judicial, and border control policy matters have increased substantially since 2001. A number of new U.S.-EU agreements have also been reached; these include information-sharing arrangements between the United States and EU police and judicial bodies, two new U.S.-EU treaties on extradition and mutual legal assistance, and accords on container security and airline passenger data. In addition, the United States and the EU have been working together to curb terrorist financing and to strengthen transport security.

#### Even if they leave intel is still fine.

Barton Gellman and Greg Miller, 8-29-2013, “Top secret ‘black budget’ reveals US spy agencies’ spending,” LA Daily News, http://www.dailynews.com/government-and-politics/20130829/top-secret-black-budget-reveals-us-spy-agencies-spending

“The United States has made a considerable investment in the Intelligence Community since the terror attacks of 9/11, a time which includes wars in Iraq and Afghanistan, the Arab Spring, the proliferation of weapons of mass destruction technology, and asymmetric threats in such areas as cyber-warfare,” Director of National Intelligence James Clapper said in response to inquiries from The Post. “Our budgets are classified as they could provide insight for foreign intelligence services to discern our top national priorities, capabilities and sources and methods that allow us to obtain information to counter threats,” he said. Among the notable revelations in the budget summary: Spending by the CIA has surged past that of every other spy agency, with $14.7 billion in requested funding for 2013. The figure vastly exceeds outside estimates and is nearly 50 percent above that of the National Security Agency, which conducts eavesdropping operations and has long been considered the behemoth of the community. The CIA and NSA have launched aggressive new efforts to hack into foreign computer networks to steal information or sabotage enemy systems, embracing what the budget refers to as “offensive cyber operations.” The NSA planned to investigate at least 4,000 possible insider threats in 2013, cases in which the agency suspected sensitive information may have been compromised by one of its own. The budget documents show that the U.S. intelligence community has sought to strengthen its ability to detect what it calls “anomalous behavior” by personnel with access to highly classified material. U.S. intelligence officials take an active interest in foes as well as friends. Pakistan is described in detail as an “intractable target,” and counterintelligence operations “are strategically focused against [the] priority targets of China, Russia, Iran, Cuba and Israel.” In words, deeds and dollars, intelligence agencies remain fixed on terrorism as the gravest threat to national security, which is listed first among five “mission objectives.” Counterterrorism programs employ one in four members of the intelligence workforce and account for one-third of all spending. The governments of Iran, China and Russia are difficult to penetrate, but North Korea’s may be the most opaque. There are five “critical” gaps in U.S. intelligence about Pyongyang’s nuclear and missile programs, and analysts know virtually nothing about the intentions of North Korean leader Kim Jong Un. Formally known as the Congressional Budget Justification for the National Intelligence Program, the “Top Secret” blueprint represents spending levels proposed to the House and Senate intelligence committees in February 2012. Congress may have made changes before the fiscal year began on Oct 1. Clapper is expected to release the actual total spending figure after the fiscal year ends on Sept. 30. The document describes a constellation of spy agencies that track millions of individual surveillance targets and carry out operations that include hundreds of lethal strikes. They are organized around five priorities: combating terrorism, stopping the spread of nuclear and other unconventional weapons, warning U.S. leaders about critical events overseas, defending against foreign espionage and conducting cyber operations. In an introduction to the summary, Clapper said the threats now facing the United States “virtually defy rank-ordering.” He warned of “hard choices” as the intelligence community — sometimes referred to as the “IC” — seeks to rein in spending after a decade of often double-digit budget increases. This year’s budget proposal envisions that spending will remain roughly level through 2017 and amounts to a case against substantial cuts. “Never before has the IC been called upon to master such complexity and so many issues in such a resource-constrained environment,” Clapper wrote. The summary provides a detailed look at how the U.S. intelligence community has been reconfigured by the massive infusion of resources that followed the Sept. 11 attacks. The United States has spent more than $500 billion on intelligence during that period, an outlay that U.S. officials say has succeeded in its main objective: preventing another catastrophic terrorist attack in the United States. The result is an espionage empire with resources and reach beyond those of any adversary, sustained even now by spending that rivals or exceeds the levels reached at the height of the Cold War.

#### Allies will inevitably come around on US drone doctrine questions---they know they’re the future of war and won’t want to be left out

Ulrike Esther Franke 13, Ph.D. Candidate, International Relations, University of Oxford, April 2013, “Just the new hot thing? The diffusion of UAV technology worldwide and its popularity among democratic states,” <http://files.isanet.org/ConferenceArchive/4269932e782d47248d5269ad381ca6c7.pdf>

As shown in the first part of this paper, democracies seem to be particularly interested in drone technology. Niklas Schoerning argues that especially western democracies are fuelling a global UAV arms race.56 I argue that in addition to the aforementioned arguments, there are three main reasons why democracies and especially western democracies are particularly interested in the unmanned technology.

Prestige (among partners): Not only autocracies have an interest in depicting their armed forces as modern and powerful. Democracies use UAVs to show off as well – however, their aim is rather to portray themselves as capable and reliable coalition partners for other western democracies and especially with an eye on the United States. French General Patrick Charaix points out: “If [France] wants to remain powerful within a coalition, we need to bring an unmanned capability to the table. Indeed, those countries that count have this military means which contributes on the one hand to the success of a mission and on the other hand increases the power and influence of the country.57 German defence minister Thomas de Maizière voiced a similar opinion in a recent speech on UAVs in the Bundestag: “We cannot say ‘we’ll keep the stagecoach’ while all others are developing the railway”.58 UAVs, according to this interpretation, are the irresistible future – those who are not part of it will lose out. An important aspect of this desire not to lose out is interoperability.59 Western states rarely go to war alone anymore. Today’s western wars are fought by coalitions, namely within NATO. This has important consequences for the equipment that is needed: the members of the coalition need to use the same kind of material in order to be effective and powerful.60 As NATO is dominated by the US and since the US is the most capable user of UAVs, this has important repercussions on the other NATO members. For Frans Osinga, NATO is “an obvious and important avenue of infusion of US military […] technology”.61

# 1NR

### Impact – 2NC – Russia

#### DA outweighs –

#### Failure to stop the tea party means that relations collapse – Only barrier to solving Russia nuclear war-

**this is the biggest extinction threat**

**Bostrom 2** (Nick, Professor of Philosophy and Global Studies at Yale, "Existential Risks: Analyzing Human Extinction Scenarios and Related Hazards," 38, www.transhumanist.com/volume9/risks.html)

A much greater existential risk emerged with the build-up of nuclear arsenals in the US and the USSR. An all-out nuclear war was a possibility with both a substantial probability and with consequences that might have been persistent enough to qualify as global and terminal. There was a real worry among those best acquainted with the information available at the time that a nuclear Armageddon would occur and that it might annihilate our species or permanently destroy human civilization. Russia and the US retain large nuclear arsenals that could be used in a future confrontation, either accidentally or deliberately. There is also a risk that other states may one day build up large nuclear arsenals. Note however that a smaller nuclear exchange, between India and Pakistan for instance, is not an existential risk, since it would not destroy or thwart humankind’s potential permanently.

#### Independently – also says arms control collapses

#### Extinction

**Collins and Rojansky**, 8/18/**2010** (James – director of the Russia and Eurasia Program at the Carnegie Endowment for International Peace, ex-US ambassador to the Russian Federation, and Matthew – deputy director of the Russia and Eurasia Program, Why Russia Matters, Foreign Policy, p. http://www.foreignpolicy.com/articles/2010/08/18/why\_Russia\_matters)

Russia's nukes are still an existential threat. Twenty years after the fall of the Berlin Wall, Russia has thousands of nuclear weapons in stockpile and hundreds still on hair-trigger alert aimed at U.S. cities. This threat will not go away on its own; cutting down the arsenal will require direct, bilateral arms control talks between Russia and the United States. New START, the strategic nuclear weapons treaty now up for debate in the Senate, is the latest in a long line of bilateral arms control agreements between the countries dating back to the height of the Cold War. To this day, it remains the only mechanism granting U.S. inspectors access to secret Russian nuclear sites. The original START agreement was essential for reining in the runaway Cold War nuclear buildup, and New START promises to cut deployed strategic arsenals by a further 30 percent from a current limit of 2,200 to 1,550 on each side. Even more, President Obama and his Russian counterpart, Dmitry Medvedev, have agreed to a long-term goal of eliminating nuclear weapons entirely. But they can only do that by working together.

#### That erodes liberal internationalism and causes war

Mead 11 (Walter Russell Mead – Professor of Foreign Affairs and the Humanities @ Bard College , “The Tea Party and American Foreign Policy: What Populism Means for Globalism,” Foreign Affairs, March/April 2011Volume 9o • Number 2)

Any increase in Jacksonian political strength makes a military response to the Iranian nuclear program more likely. Although the public’s reaction to the progress of North Korea’s nuclear program has been relatively mild, recent polls show that up to 64 percent of the U.S. public favors military strikes to end the Iranian nuclear program. Deep public concerns over oil and Israel, combined with memories of the 1979 Iranian hostage crisis among older Americans, put Iran’s nuclear program in Jacksonians’ cross hairs. Polls show that more than 50 percent of the public believes the United States should defend Israel against Iran—even if Israel sets off hostilities by launching the first strike. Many U.S. presidents have been dragged into war reluctantly by aroused public opinion; to the degree that Congress and the public are influenced by Jacksonian ideas, a president who allows Iran to get nuclear weapons without using military action to try to prevent it would face political trouble. (Future presidents should, however, take care. Military engagements undertakenwithout a clear strategy for victory can backfire disastrously. Lyndon Johnson committed himself to war in Southeast Asia because he believed, probably correctly, that Jacksonian fury at a communist victory in Vietnam would undermine his domestic goals. The story did not end well.) On other issues, Paulites and Palinites are united in their dislike for liberal internationalism —the attempt to conduct international relations through multilateral institutions under an ever-tightening web of international laws and treaties. From climate change to the International Criminal Court to the treatment of enemy combatants captured in unconventional conflicts, both wings of the Tea Party reject liberal internationalist ideas and will continue to do so. The U.S. Senate, in which each state is allotted two senators regardless of the state’s population, heavily favors the less populated states, where Jacksonian sentiment is often strongest. The United States is unlikely to ratify many new treaties written in the spirit of liberal internationalism for some time to come. The new era in U.S. politics could see foreign policy elites struggling to receive a hearing for their ideas from a skeptical public. “The Council on Foreign Relations,” the pundit Beck said in January 2010, “was a progressive idea of, let’s take media and eggheads and figure out what the idea is, what the solution is, then teach it to the media, and they’ll let the masses know what should be done.” Tea Partiers intend to be vigilant to insure that elites with what the movement calls their “one-world government” ideas and bureaucratic agendas of class privilege do not dominate foreign policy debates. The United States may return to a time when prominent political leaders found it helpful to avoid too public an association with institutions and ideas perceived as distant from, and even hostile to, the interests and values of Jacksonian America. Concern about China has been growing for some time in American opinion, and the Jacksonian surge makes it more likely that the simmering anger and resentment will come to a boil. Free trade is an issue that has historically divided populists in the United States (agrarians have tended to like it; manufacturing workers have not); even though Jacksonians like to buy cheap goods at Walmart, common sense largely leads them to believe that the first job of trade negotiators ought to be to preserve U.S. jobs rather than embrace visionary “win-win” global schemes. Pg. 42-43

#### Liberal internationalism defuses a range of transnational crises

Ikenberry 11 (G. John Ikenberry – Professor of Politics and International Affairs at Princeton University , Liberal Leviathan: The Origins, Crisis, and Transformation of the American World Order, 2011)

Rather than a single overriding threat, the United States and other countries face a host of diffuse and evolving threats. Global warming, nuclear proliferation, jihadist terrorism, energy security, health pandemics— these and other dangers loom on the horizon. **Any of these** threats **could** endanger Americans' lives and way of life either directly or indirectly by **destabiliz**ing **the global system** upon which American security and prosperity depends. Pandemics and global warming are not threats wielded by human hands, but their consequences could be equally devastating. Highly infectious disease has the potential to kill millions of people. Global warming threatens to trigger waves of environmental migration and food shortages and may further destabilize weak and poor states around the world. The world is also on the cusp of a new round of nuclear proliferation, putting mankinds deadliest weapons in the hands of unstable and hostile states. Terrorist networks offer a new specter of nonstate transnational violence. Yet none of these threats is, in itself, so singularly preeminent that it deserves to be the centerpiece of American grand strategy in the way that antifascism and anticommunism did in an earlier era.15 What is more, these various threats are interconnected—and it is their interactive effects that represent the most acute danger. This point is stressed by Thomas Homer-Dixon: "Its the convergence of stresses that's especially treacherous and makes synchronous failure a possibility as never before. In coming years, our societies won't face one or two major challenges at once, as usually happened in the past. Instead, they will face an alarming variety of problems—likely including oil shortages**, climate change,** economic instability**, and** mega-terrorism—all at the same time." The danger is that several of these threats will materialize at the same time and interact to generate greater violence and instability "What happens, for example, if together or in quick succession the world has to deal with a sudden shift in climate that sharply cuts food production in Europe and Asia, a severe oil price increase that sends economies tumbling around the world, and a string of major terrorist attacks on several Western capital cities?"16 The global order itself would be put at risk, as well as the foundations of American national security. What unites these threats and challenges, as I noted in chapter 7, is that they are all manifestations of rising security interdependence. More and more of what goes on in other countries matters for the health and safety of the United States and the rest of the world. Many of the new dangers—such as health pandemics and transnational terrorist violence— stem from the weakness of states rather than their strength. At the same time, technologies of violence are evolving, providing opportunities for weak states or nonstate groups to threaten others at a greater distance. When states are in a situation of security interdependence, they cannot go it alone. They must negotiate and cooperate with other states and seek mutual restraints and protections. The United States cannot hide or protect itself from threats under conditions of rising security interdependence. It must get out in the world and work with other states to build frameworks of cooperation and leverage capacities for action. If the world of the twenty-first century were a town, the security threats faced by its leading citizens would not be organized crime or a violent assault by a radical mob on city hall. It would be a breakdown of law enforcement and social services in the face of constantly changing and ultimately uncertain vagaries of criminality, nature, and circumstance. The neighborhoods where the leading citizens live can only be made safe if the security and well-being of the beaten-down and troubled neighborhoods were also improved. No neighborhood can be left: behind. At the same time, the town will need to build new capacities for social and economic protection. People and groups will need to cooperate in new and far-reaching ways. But the larger point is that today the United States confronts an unusually diverse and diffuse array of threats and challenges. When we try to imagine what the premier threat to the United States will be in 2020 or 2025, it is impossible to say with any confidence that it will be X, Y, or Z. Moreover, even if we could identify X, Y, or Z as the premier threat around which all others turn, it is likely to be complex and interlinked with lots of other international moving parts. Global pandemics are connected to failed states, homeland security, international public health capacities, et cetera. Terrorism is related to the Middle East peace process, economic and political development, nonproliferation, intelligence cooperation, European social and immigration policy, et cetera. The rise of China is related to alliance cooperation, energy security, democracy promotion, the WTO, management of the world economy, et cetera. So again, we are back to renewing and rebuilding the architecture of global governance and frameworks of cooperation to allow the United States to marshal resources and tackle problems along a wide and shifting spectrum of possibilities. Pg. 350-353

### SC = Normal Means – 2NC

#### Supreme Court rulings are normal means – they decide controversy

Hartnett 00 (Edward A. – Professor, Seton Hall University School of Law; Visiting Professor, University of Pennsylvania Law School, “ARTICLE: QUESTIONING CERTIORARI: SOME REFLECTIONS SEVENTY-FIVE YEARS AFTER THE JUDGES' BILL”, 2000, 100 Colum. L. Rev. 1643, lexis)

More generally, the Court's unbridled discretion to control its own docket, choosing not only which cases to decide, but also which "questions presented" to decide, appears to have contributed to a mindset that thinks of the Supreme Court more as sitting to resolve controversial questions than to decide cases. Cases tend to be thought of as "vehicles" for [\*1734] deciding controversial questions, n501 and some distinguished commentators suggest that the role of the Supreme Court is to authoritatively pronounce the law, with the limitation of the judicial power to "cases and controversies" simply a way to limit the occasions for those pronouncements. n502

#### True for war powers – the Supreme Court makes all the controversial decisions

Bejesky 12 (Robert – M.A. Political Science (Michigan), M.A. Applied Economics (Michigan), LL.M. International Law (Georgetown), “WAR POWERS PURSUANT TO FALSE PERCEPTIONS AND ASYMMETRIC INFORMATION IN THE "ZONE OF TWILIGHT"”, 2012, 44 St. Mary's L. J. 1, lexis)

3. Power of the Judiciary The Supreme Court is the official interpreter of the Constitution, and it frequently decides cases by assessing the Framers' intent. n503 Yoo wrote [\*86] that federal courts "were to have no role at all" in war powers cases. n504 He noted "[n]o [constitutional] provision explicitly authorizes the federal courts to intervene directly in war powers questions." n505 The Constitution states the Supreme Court's jurisdiction extends to all cases or controversies arising out of the Constitution, which means its jurisdiction covers every clause in the Constitution. n506 Alexander Hamilton spoke of the role of the Judiciary as the check for "declar[ing] all acts contrary to the manifest tenor of the Constitution void." n507 War power authorities are located in the text of the Constitution and United States courts may adjudicate foreign affairs and war powers issues without interfering with the President's powers. n508 Some cases involving the allocation of war power between Congress and the President, many of which decidedly affirmed Congress's superior authority over the use of military force, include Talbot, n509 Bas, n510 Charming Betsy, n511 Little, n512 Smith, n513 Brown, n514 Fleming, n515 Miller, n516 Ex parte Milligan, n517 Swaim, n518 Sweeney, n519 and Youngstown. n520 Yoo cited Bas, Talbot, and Little and wrote: "To be sure, these decisions contain dicta that could [\*87] support arguments for exclusive congressional power over war." n521 There would probably be more cases, but, as Professors Barron and Lederman emphasize, Presidents have understood and respected congressional authority and did not transgress legislative restrictions on the use of force. n522 Likewise, after a President takes a questionable unilateral action, will the case become moot, capable of repetition yet evading review, or otherwise not be remediable? The precipice for separation of powers is that an aggregation of unresolved and controversial presidential conduct may appear as if the Executive is usurping legislative power n523 and effectively appraising and justifying its own authority. n524 Troubles compound on current initiatives with the President's capability to use informational dominance to enfeeble legislative checks, which was a pivotal concern with the information-sharing provisions in the War Powers Resolution. n525 A similar problem with the potential to aggrandize presidential authority occurs if legal advisors diminish the value of international law by suggesting the President has a right to violate it. In a surreptitious manner, this contention can negate domestic critics and distract attention by emphasizing national pride and implying that the President is championing the interests of the domestic citizenry when violating international law. However, the text of the Constitution binds the President to adhere to international law, n526 and the domestic citizenry may prefer compliance [\*88] and ultimately oppose a breach on the particular action. n527 The Marshall Court provided appropriate precedent when it affirmed three principles: 1) the President must adhere to congressional boundaries when acting, 2) the President is bound to adhere to international law as long as is feasible, and 3) Congress's grant of authority does not give difference to the President's interpretation. n528 War powers and international law controversies were annexed in the detention and interrogation methods that garnered much attention during the Bush Administration. Yoo and other appointed attorneys advised that an unreviewable Commander in Chief authority was the basis of detention and interrogation orders that purportedly violated human rights agreements and the Geneva Conventions. n529 The Court not only decided war power cases such as Hamdi, n530 Rasul v. Bush, n531 Hamdan v. Rumsfeld, n532 and Boumediene v. Bush, n533 but also contradicted the reproachable substantive advice on detention and interrogation from Bush Administration attorneys. n534 In Hamdan, the Court held that the Judiciary has the final authority to interpret treaties relating to the conduct of war, which indicates the Court holds authority to curtail the President's use of discretion as Commander in Chief as it relates to treaty interpretation. n535 The decision was unsurprising because the authority is spelled out in the Constitution: "The judicial Power of the United States . . . extend[s] to . . . [\*89] Treaties." n536 The Restatement (Third) of the Foreign Relations Law of the United States also affirmed that "[c]ourts in the United States have final authority to interpret an international agreement[,] . . . but will give great weight to an interpretation made by the Executive Branch." n537

### Ext – Neg Cards

#### Supreme Court intervenes – they perceive they have authority

Yoo 96 (John C. – Acting Professor of Law, University of California at Berkeley, “The Continuation of Politics by Other Means: The Original Understanding of War Powers”, 1996, 84 Calif. L. Rev. 167, lexis)

The Quasi-War also supports this study's argument that the Framers did not intend the judiciary to play a role in the decisions on war. Unlike the Indian War, the Quasi-War generated disputes that reached the Supreme Court in a trilogy of cases:Bas v. Tingy, n573 Talbot v. Seeman, n574 and Little v. Barreme. n575 Commentators have placed great store in these opinions, particularly Little, as contemporaneous evidence showing that courts can exercise jurisdiction over war power cases. n576 However, none of these cases called upon the Supreme Court to decide that the President was waging war in violation of the Constitution, or that Congress had failed to declare that a state of war existed, or that courts could step in to adjudicate inter-branch disputes over war. In fact, the precedent set by the trilogy remains quite modest. All three revolved around the question of how much of the value of a ship and its cargo, seized by an American commander during the naval operations against France, flowed to the commander instead of to the ship's owner. Such issues did not involve the power of going to war, but rather the domestic and legal effects of war once it had begun. Further, these cases clearly fell within Congress' power to "make Rules concerning Captures on...Water" n577 and Article III's grant of the jurisdiction over "all [\*294] Cases of admiralty and maritime Jurisdiction," n578 which from its earliest days, the Supreme Court has read to authorize federal common lawmaking power. n579

#### Assertions prompt supreme court rulings

Fisher 5 (Louis – Specialist with the Law Library, The Library of Congress. Ph.D., New School for Social Research, “Lost Constitutional Moorings: Recovering the War Power”, 2005, 81 Ind. L.J. 1199, lexis)

The sweeping assertions of presidential power after 9/11 led to challenges in federal courts and eventually prompted the Supreme Court's decisions on June 28, 2004. Writing for the plurality in Hamdi v. Rumsfeld, Justice O'Connor rejected the government's position that separation of powers principles "mandate a heavily circumscribed role for the courts." n149 A state of war, she said, "is not a blank check for the President when it comes to the rights of the Nation's citizens." n150 This decision, with Justices scattering in different directions, provided few clear standards for the lower courts, but at least eight members of the Court rejected the notion that the judiciary lacks institutional competence to participate in constitutional questions of war. n151

### U – 2NC – Yes Make Up Call

#### There will be a make up call – Gora says it is uniquely controversial and will result in a battering in public opinion – that means the court will only be able to make the decision if it preserves capital – prefer our evidence – its from a professor of law

#### McCutcheon will be the make-up call --- its uniquely politicized and judges frequently switch sides on the issues

Corn-Revere, 8-13 (Robert, partner in the Washington, D.C. office of Davis Wright Tremaine where he specializes in media and First Amendment law, “Burning the house to roast the pig: Can elections be saved by banning political speech?,” http://www.scotusblog.com/2013/08/burning-the-house-to-roast-the-pig-can-elections-be-saved-by-banning-political-speech/)

Citizens United has been a lightning rod for criticism because it answered the second of those questions in the affirmative. Well, actually, the answer was in the negative, because the real question before the Supreme Court was whether the First Amendment permits the federal government to criminalize core political expression shortly before primaries or general elections when the speaker takes a corporate form.¶ Somehow, it suggests a different answer when the question is framed as whether the federal government may make political speech a felony notwithstanding the First Amendment, rather than asking whether corporations, like Soylent Green, are people. Nevertheless, the reaction to Citizens United was a predictable political Rorschach test: Supporters of restricting corporate (and union) political expenditures denounced the decision as a distortion of the First Amendment and called on various measures to rein in such an expansive reading of constitutional rights, including by amending the Constitution itself.¶ One proposed constitutional amendment would limit constitutional protections to “natural persons,” specifying that the words “people, person, or citizen as used in this Constitution do not include corporations, limited liability companies or other corporate entities established by the laws of any State, the United States, or any foreign state.” Another would empower Congress to “advance the fundamental principle of political equality for all” by regulating “the raising and spending of money and in-kind equivalents” with respect to federal and state elections. Specifically, it would authorize regulation of campaign contributions, as well as “expenditures that may be made by, in support of, or in opposition to such candidates.”¶ The reaction mirrors the vociferous (and nearly successful campaign) to limit the scope of the First Amendment following the Supreme Court’s decisions in Texas v. Johnson (1989) and United States v. Eichman (1990), which invalidated state and federal laws prohibiting desecration of the U.S. flag. Multiple bi-partisan proposals were advanced in successive congressional sessions, including this proposed amendment in the 109th Congress: “The Congress shall have power to prohibit the physical desecration of the flag of the United States.” As in the current dispute over the extent to which political contributions count as “speech,” supporters of the flag amendments echoed then-Chief Justice William Rehnquist’s dissenting sentiment in Johnson that “the public burning of the American flag by Johnson was no essential part of any exposition of ideas, and at the same time it had a tendency to incite a breach of the peace.”¶ The next Citizens United?¶ Are we about to witness a similar constitutional confrontation when the Supreme Court takes up campaign finance regulations once again in McCutcheon?¶ In McCutcheon, the Supreme Court will consider the extent to which campaign contributions may be protected as speech as one of the questions raised when it hears arguments on October 8. The principal questions are whether aggregate limits for campaign contributions imposed by federal law violate the First Amendment. Petitioners do not challenge restrictions on base contributions (e.g., the ceiling on individual contributions to a candidate, a political action committee, or a party committee), but argue that the aggregate limit on total contributions unconstitutionally restricts the number of candidates a contributor may support. Petitioners also ask the Court to reopen the distinction between direct expenditures and contributions, first articulated in Buckley, with the latter protected only secondarily as an aspect of the First Amendment right of association.¶ So, is a political contribution speech? Just as a gas-soaked American flag and a match are not speech if not used for an expressive purpose, neither is money unless it is used to promote a message, such as a contribution to a political campaign. As First Amendment scholar Geoffrey Stone has written, “[e]ven though an object may not itself be speech, if the government regulates it because it is being used to enable free speech it necessarily raises a First Amendment issue.” If that were not true, Stone reasons, “then the government could make it a crime for any person to use money to buy a book.” It is no different here. The mystery is why First Amendment associational rights – if, indeed, that is all that is involved here – would receive less rigorous constitutional protection than First Amendment rights of expression. After all, the right to association, and constitutional limits on the government’s ability to restrict it, has been critical in the evolution of the First Amendment.¶ Is money speech? Consider Holder¶ Another mystery is how the competing ideological factions on the Court appear largely to switch sides on whether a contribution may have a constitutionally cognizable expressive component depending on the nature of the regulation at issue. For example, in Holder v. Humanitarian Law Project (2010) the Court split six to three, upholding a federal prohibition against providing “material support or resources” to groups deemed by the U.S. government to be terrorist organizations. The law defines the term “material support” broadly to encompass “any property, tangible or intangible, or service, including currency or monetary instruments or financial securities,” but also such things as “training, expert advice or assistance.” The prohibition reaches support even for peaceful activities, and the government conceded in the Ninth Circuit that it would even bar filing an amicus brief in support of a group designated as a foreign terrorist organization.¶ In Holder, the conservatives, led by the Chief Justice (but including Justice John Paul Stevens) were concerned that material support, even if limited to peaceful pursuits, could be diverted to aid terrorism because “money is fungible.” At the same time, the liberal dissenters, in an opinion by Justice Stephen Breyer, wrote that the majority’s reasoning “stretch[ed] the concept of ‘fungibility’ beyond constitutional limits” because, among other problems, “there is no natural stopping place” for the rationale. To be fair, Justice Breyer’s dissent focused on those applications of the law where “material support” took the form of speech, but the law expressly encompassed all forms of support, and the dissent highlighted the ambiguity of trying to draw a firm line between money and speech.¶ Assessments of the Roberts Court’s First Amendment record have rightfully identified Holder as a low point in its protection of freedom of expression. For example, Dean Erwin Chemerinsky described Holder as “[p]erhaps the most troubling First Amendment decision of the Roberts Court.” The central problem, as identified both by Justice Breyer and Dean Chemerinsky, was that the majority in Holder approved restrictions on speech without the slightest proof it was likely to cause harm. If such is a legitimate concern with respect to limiting support for foreign organizations – and it is – then the Court should be wary about approving broad limits on “material support” for political speech in the United States.¶ The Holder majority may well be criticized for inconsistency if some of the same Justices that approved the restrictions of the Antiterrorism and Effective Death Penalty Act of 1996 are now more skeptical of the aggregate contribution limits of the Federal Election Campaign Act and the Bipartisan Campaign Reform Act. Likewise, those who criticize the Court for decisions like Holder should check their premises before urging the Court to uphold the lower court in McCutcheon.

#### Its High Profile

Baker ’13 (Sam, Court Reporter for The Hill, “RNC urges Supreme Court to strike campaign-finance limits,” 5-7, http://thehill.com/blogs/ballot-box/fundraising/298307-rnc-urges-supreme-court-to-strike-campaign-finance-limits)

The Republican National Committee [RNC] urged the Supreme Court on Tuesday to strike down certain limits on campaign contributions, saying they're a violation of the First Amendment.¶ The RNC filed its opening brief in a case challenging limits on the total amount one person can donate in a single election cycle. The RNC says the limits are unconstitutional.¶ If the court agrees, donors who now max out at around $120,000 per year could be able to donate more than $3 million per cycle.¶ The campaign-finance suit is already one of the highest-profile cases of the Supreme Court's next term, which begins in October.

#### Top of the docket

Gans 7-29 (David, Director of the Human Rights, Civil Rights & Citizenship Program at the Constitutional Accountability Center, “CAC, Lawrence Lessig File Brief in McCutcheon v. FEC Urging New Look at Framers’ Understanding of Corruption,” http://balkin.blogspot.com/2013/07/cac-larry-lessig-file-brief-in.html)

Three years ago, in Citizens United v. FEC, the Supreme Court shocked the nation by ruling that the Constitution gives corporations the right to spend unlimited sums of money on electoral advocacy. The five-Justice conservative majority in Citizens United treated spending money as speech and corporations as a part of “We the People,” while sharply limiting the government’s interest in preventing corruption to cases of quid pro quo corruption. On October 8 – the second day of the upcoming Term – the Supreme Court will hear McCutcheon v. FEC, a hugely important sequel to Citizens United that concerns the constitutionality of federal aggregate limits on campaign contributions. Contribution regulations of exactly this sort were upheld by the Court in Buckley v. Valeo. Nevertheless, seizing on Citizens United’s narrow definition of corruption, McCutcheon argues that current federal aggregate contribution laws, which limit an individual to a total of $123,200 in campaign contributions to candidates and parties per election cycle, cannot be justified by the government’s anti-corruption interest.

#### Strike down requires bucking tons of public opposition

American Prospect ’13 (“Is McCutcheon v. FEC the Next Citizens United?,” 7-31, ln)

Are we ready for the next Citizens United[1]? Can our democracy, and Americans' faith in government, take another body blow from the Supreme Court?¶ An unprecedented group of organizations with nearly 10 million members and supporters—representing small businesses, working families, young people, communities of color, environmentalists, and more—have joined Demos[2] to urge the Roberts Court not to call up this question just three years after the most infamous case of the 21st century[3] thus far.¶ This October the Supreme Court is set to hear a challenge to caps on the total amount that a wealthy donor can give to all candidates, parties, and political action committees (PACs) combined—known as 'aggregate contribution limits.'

### No Bond Controversy

#### Doesn’t take out the link – limited ruling – doesn’t affect foreign policy

Rutherford 11/6/13 (Emelie, Global Security Newswire, "Supreme Court Not Expected to Strike Down Chemical-Weapons Law," http://www.nationaljournal.com/global-security-newswire/supreme-court-not-expected-to-strike-down-chemical-weapons-law-20131106)

WASHINGTON -- The Supreme Court appears unlikely to invalidate the U.S. law backing an arms-control treaty when it rules on a case it heard on Tuesday regarding a Pennsylvania woman's controversial prosecution under the Chemical Weapons Convention Implementation Act, issue experts said.¶ The high court is expected to decide next spring on Carol Ann Bond's challenge to her conviction and six-year prison sentence for violating the 1998 law implementing the international Chemical Weapons Convention in the United States.¶ Bond pled guilty in 2008 to trying to poison her husband's pregnant lover with a chemical compound. However, she argues that federal prosecutors infringed on state authority by filing charges against her under a law supporting a treaty intended to deter rogue nations or terrorists from using chemical arms.¶ The majority of the Supreme Court justices -- in particular, the conservatives on the bench -- during oral arguments voiced strong skepticism of the government's argument that Bond was rightfully prosecuted under the federal law.¶ Still, lawyers who wrote amicus "friend-of-the-court" briefs advocating opposing sides of the Bond vs. United States, case told Global Security Newswire they do not expect the Supreme Court to go as far as to invalidate the 1998 Chemical Weapons Convention Implementation Act.¶ "It is unlikely that the court will strike down the statute entirely," said Nicholas Rosenkranz, who wrote an amicus brief that the libertarian Cato Institute filed in support of Bond.¶ "A more plausible and less dramatic thing that the court might say is that the statute is unconstitutional, in part -- only as applied to purely local crimes like Mrs. Bond's," Rosenkranz, a Georgetown University law professor, said in an interview.¶ The court also could decide the case without addressing the constitutional dimension. Bond's attorney, former U.S. solicitor general Paul Clement, suggested that the justices could construe the Chemical Weapons Convention Implementation Act narrowly, and interpret it so that it does not cover Bond's actions.¶ Elizabeth Wydra, author of an amicus brief in support of the government's position, in an interview with GSN offered a prediction in line with Rosenkranz's.¶ "I think that the court is probably more likely to accept the argument that Paul Clement closed with in his rebuttal time that would basically interpret the statute to exclude conduct like Ms. Bond's, and that would allow the court to avoid getting into some of these thornier constitutional questions," said Wydra, chief counsel at the Constitutional Accountability Center.

### Executive Authority Links (Kennedy)

#### Kennedy is a swing voter and hates the plan

Toobin ’05 (Jeffrey, “SWING SHIFT,” September 12, http://www.newyorker.com/archive/2005/09/12/050912fa\_fact?currentPage=all)

In fact, Kennedy has a passion for foreign cultures and ideas, and, as a Justice, he has turned it into a principle of jurisprudence. Over the past two years, he has become a leading proponent of one of the most cosmopolitan, and controversial, trends in constitutional law: using foreign and international law as an aid to interpreting the United States Constitution. Kennedy’s embrace of foreign law may be among the most significant developments on the Court in recent years—the single biggest factor behind his evolution from a reliable conservative into the likely successor to Sandra Day O’Connor as the Court’s swing vote. Kennedy continues to oppose racial preferences and to argue for expansive Presidential powers. He was a principal author of the unsigned majority opinion in Bush v. Gore. But he also wrote the two most important pro-gay-rights decisions in the Court’s history and has at least tentatively affirmed his support for Roe v. Wade. Conservatives regard these decisions as a betrayal. In 2003, James Dobson, the founder and director of the influential evangelical group Focus on the Family, called Kennedy “the most dangerous man in America.”

### Yes Make-Up/Spillover – 2NC

#### Controversial decisions spend political capital

Grosskopf and Mondak ‘98 (Anke Grosskopf, Assistant Prof of Political Science @ Long Island University, & Jeffrey Mondak, Professor of Political Science @ U of Illinois, 1998, “Do attitudes toward specific supreme court decisions matter? The impact of Webster and Texas v Johnson on Public Confidence in the Supreme Court” Political Research Quarterly, vol. 51 no 3 633-54 September 1998)

Our empirical focus in this article may be specific, but, on a theoretical level, we see several components in the relationship between public opinion and the Supreme Court. Discussion of this broad relationship thus provides context necessary to understand the empirical contribution we hope to offer. We begin by noting that we presume there to be a bidirectional link between opinion about Supreme Court decisions and support for the Court as an institution. Support for the Supreme Court acts as a form of political capital (e.g., Choper 1980; Grosskopf 1996; Mondak 1992). From this perspective, the Supreme Court "spends" a portion of its institutional support when it affixes its imprimatur to controversial policy questions. In short, a popular Court can increase public support for unpopular policy actions, but, by doing so, the Court exposes itself to the risk of diminished public esteem. The Supreme Court's legitimating function has been demonstrated in several experimental and quasi-experimental studies (Hoekstra 1995; Hoekstra and Segal 1996; Mondak 1990, 1992, 1994). This body of research, which draws heavily on social-psychological theories of information processing, establishes that the Supreme Court can in at least some circumstances elevate public support for a policy simply by issuing a decision. However, this effect does not operate uniformly for all decisions or for all people. Instead, knowledge that the Supreme Court has ruled a particular way increases the perceived legitimacy of a policy the most for those people for whom the issue is of the lowest salience or personal relevance.

#### That forces a tradeoff – judges act strategically – they perceive a need to make-up call

Grosskopf and Mondak ‘98 (Anke Grosskopf, Assistant Prof of Political Science @ Long Island University, & Jeffrey Mondak, Professor of Political Science @ U of Illinois, 1998, “Do attitudes toward specific supreme court decisions matter? The impact of Webster and Texas v Johnson on Public Confidence in the Supreme Court” Political Research Quarterly, vol. 51 no 3 633-54 September1998)

The existence of a strong link between basic values and diffuse support does not necessarily preclude a role for specific decisions, particularly when we seek to understand how support comes to change over time (e.g., Caldeira and Gibson 1992: 658-61). We believe that any claim that the Supreme Court is fully immune to backlash against controversial decisions can be rejected on a prima facie level. First, consider the extreme case. Were the Supreme Court to make its occasional blockbusters-Brown v. Board of Education, Roe v. Wade, Texas v. Johnson, etc.-the norm by routinely ruling on the thorniest social questions, we see it as implausible that such actions would bring no cumulative impact on how people view the Court. Second, the Supreme Court's typical mode of operation suggests that justices themselves view institutional support as an expendable political capital (Choper 1980). That is, the Court recognizes its own political limitations, and thus justices pick their spots carefully when approaching potentially controversial cases. From this perspective, the apparent dominance of democratic values as a determinant of institutional support (e.g., Caldeira and Gibson 1992) means not that the Court is insulated from backlash, but that strategic justices tread cautiously so as to keep backlash to a minimum. Consequently, how and where we examine whether public response to Supreme Court decisions affects institutional support may shape what answer we find.

#### Capital is finite – the court strategically picks its battles

Young, ’04 (Ernest A. Young, Prof of Law at UT Austin, November 2004, “The Rehnquist Court's Two Federalisms” 83 Tex. L. Rev. 1)

Whether or not Alexander Hamilton was right to call the judiciary the "least dangerous branch," n451 both contemporary theory and historical experience suggest that courts' ability to defy the national political branches is not unlimited. Those limits bear on federalism doctrine in at least three respects. First, they support, at least to some extent, the notion that the judiciary has limited institutional capital. If that is true, then courts may not be able to pursue all possible doctrinal avenues at once and may, in consequence, have to choose among them. Second, these limits suggest that courts should pursue certain kinds of doctrine. In particular, they support doctrine that advances the goal of state autonomy without forcing direct confrontations by invalidating political branch actions. Finally, the limits on the judiciary's ability to confront the political branches ought to temper our expectations (or fears) of what judicial federalism doctrine can accomplish.

### Yes Spillover – Kennedy Swings – 2NC

#### Kennedy will change his opinion in order to preserve the perception of legitimacy

Smith, ’92 (Christopher E. Smith, Pol. Sci. @ Akron, Fall 1992, “SUPREME COURT SURPRISE: JUSTICE ANTHONY KENNEDY'S MOVE TOWARD MODERATION,” 45 Okla. L. Rev. 459)

There is, of course, no way to know with certainty why Justice Kennedy made his dramatic move toward moderation in highly publicized cases during the 1991 Term. Because it is highly unlikely that Justice Kennedy will ever forthrightly discuss his changing views, scholars must rely on the available evidence to analyze the motivations for and consequences of his move away from the Court's conservative bloc. It is clear that Justice Kennedy, more than any other Justice, altered his decisions and contradicted his previously stated positions in order to preserve precedents in cases concerning abortion and the Establishment Clause. Although there might be various explanations for this switch, the emphasis in his opinions on preserving doctrinal stability and the Court's legitimacy in the eyes of the public provides the strongest plausible explanation for the change in his judicial behavior. It is difficult to predict how Justice Kennedy will vote in future cases or if his move toward moderation will have lasting impact, particularly because new ap- pointments in the next few years may further alter the ideological balance of power on the Court. In any event, Justice Kennedy's decisions during the 1991 Term seem to confirm two important observations. First, Justices' decisions are obviously affected by a set of factors more complex than the mere sum of their judicial philosophies and policy preferences. As Justice Kennedy's actions demonstrate, the factors motivating a Justice's decisions can change from Term to Term. Justice Kennedy's obvious concern for the Court's legitimacy with respect to the abortion issue did not emerge until Roe was actually threatened with reversal during the tumult of a presidential election year. Second, this relatively quiet and unassuming Justice, who'is nearly always overshadowed by his more controversial and outspoken col- leagues, deserves additional scrutiny from scholars as an emerging "power broker" in the middle of the Supreme Court who can determine the out- comes of cases when the Court is deeply divided.