# \*\*\*Ptix\*\*\*

#### Syria deal saved Obama’s capital- foreign policy issues trade off with Obama’s negotiating clout and push the debt ceiling out of priority position- undermines market confidence

Bohan 9-11 [Caren, Writer for Reuters, “Delay in Syria vote frees Obama to shift to hefty domestic agenda” http://www.reuters.com/article/2013/09/11/us-usa-obama-agenda-idUSBRE98A0Z920130911]

Putting off a decision on military strikes on Syria allows President Barack Obama to shift his attention back to a weighty domestic agenda for the fall that includes budget fights, immigration and selecting a new chairman of the Federal Reserve. Obama and his aides have immersed themselves for a week and a half in an intensive effort to win support in Congress for U.S. military action in Syria after a suspected chemical weapons attack last month killed more than 1,400 people. But the effort, which included meetings by Obama on Capitol Hill on Tuesday followed by his televised speech to Americans, seemed headed for an embarrassing defeat, with large numbers of both Democrats and Republicans expressing opposition. The push for a vote on Syria - which has now been delayed - had threatened to crowd out the busy legislative agenda for the final three months of 2013 and drain Obama's political clout, making it harder for him to press his priorities. But analysts said a proposal floated by Russia, which the Obama administration is now exploring, to place Syria's weapons under international control may allow Obama to emerge from a difficult dilemma with minimal political damage. "He dodges a tough political situation this way," said John Pitney, professor of politics at Claremont McKenna College in California. Pitney said the delay in the Syria vote removes a big burden for Obama, given that Americans, who overwhelmingly opposed military intervention in Syria, will now be able to shift their attention to other matters. He said Obama could suffer some weakening of his leverage with Congress. The administration's "full court press" to try to persuade lawmakers to approve military force on Syria was heavily criticized and did not yield much success. "He probably has suffered some damage in Congress because there are probably many people on (Capitol Hill) who have increasing doubts about the basic competence of the administration and that's a disadvantage in any kind of negotiation," Pitney said. BUDGET BATTLES Among Obama's most immediate challenges are two looming budget fights. By September 30, Congress and the president must agree on legislation to keep federal agencies funded or face a government shutdown. Two weeks later, Congress must raise the limit on the country's ability to borrow or risk a possible debt default that could cause chaos in financial markets. On the first budget showdown, Obama may be at a strategic advantage because of divisions among opposition Republicans about whether to use the spending bill to provoke a fight over Obama's signature health care law, known as Obamacare. House Republican leaders are trying to rally the party around a temporary spending measure that would keep the government funded until December 15 but are facing resistance within their own caucus from some conservatives who want to cut off funding for Obamacare, even if it means a government shutdown. The debt limit fight could end up going down to the wire and unnerving financial markets. Republicans want to use that standoff to extract concessions from the Democratic president, such as spending cuts and a delay in the health law. But Obama has said he has no intention of negotiating over the borrowing limit.

#### Reducing Obama’s war powers causes a crippling loss of credibility- causes republicans to put up a more concerted fight on the debt ceiling which would wreck the markets

Seeking Alpha 9-10

[“Syria Could Upend Debt Ceiling Fight” http://seekingalpha.com/article/1684082-syria-could-upend-debt-ceiling-fight]

Unless President Obama can totally change a reluctant public's perception of another Middle-Eastern conflict, it seems unlikely that he can get 218 votes in the House, though he can probably still squeak out 60 votes in the Senate. This defeat would be totally unprecedented as a President has never lost a military authorization vote in American history. To forbid the Commander-in-Chief of ~~his~~ primary power renders him all but impotent. At this point, a rebuff from the House is a 67%-75% probability. I reach this probability by looking within the whip count. I assume the 164 declared "no" votes will stay in the "no" column. To get to 218, Obama needs to win over 193 of the 244 undecided, a gargantuan task. Within the "no" column, there are 137 Republicans. Under a best case scenario, Boehner could corral 50 "yes" votes, which would require Obama to pick up 168 of the 200 Democrats, 84%. Many of these Democrats rode to power because of their opposition to Iraq, which makes it difficult for them to support military conflict. The only way to generate near unanimity among the undecided Democrats is if they choose to support the President (recognizing the political ramifications of a defeat) despite personal misgivings. The idea that all undecided Democrats can be convinced of this argument is relatively slim, especially as there are few votes to lose. In the best case scenario, the House could reach 223-225 votes, barely enough to get it through. Under the worst case, there are only 150 votes. Given the lopsided nature of the breakdown, the chance of House passage is about one in four. While a failure in the House would put action against Syria in limbo, I have felt that the market has overstated the impact of a strike there, which would be limited in nature. Rather, investors should focus on the profound ripple through the power structure in Washington, which would greatly impact impending battles over spending and the debt ceiling. Currently, the government loses spending authority on September 30 while it hits the debt ceiling by the middle of October. Markets have generally felt that Washington will once again strike a last-minute deal and avert total catastrophe. Failure in the Syrian vote could change this. For the Republicans to beat Obama on a President's strength (foreign military action), they will likely be emboldened that they can beat him on domestic spending issues. Until now, consensus has been that the two sides would compromise to fund the government at sequester levels while passing a $1 trillion stand-alone debt ceiling increase. However, the right wing of Boehner's caucus has been pushing for more, including another $1 trillion in spending cuts, defunding of Obamacare, and a one year delay of the individual mandate. Already, Conservative PACs have begun airing advertisements, urging a debt ceiling fight over Obamacare. With the President rendered hapless on Syria, they will become even more vocal about their hardline resolution, setting us up for a showdown that will rival 2011's debt ceiling fight. I currently believe the two sides will pass a short-term continuing resolution to keep the government open, and then the GOP will wage a massive fight over the debt ceiling. While Obama will be weakened, he will be unwilling to undermine his major achievement, his healthcare law. In all likelihood, both sides will dig in their respective trenches, unwilling to strike a deal, essentially in a game of chicken. If the House blocks Syrian action, it will take America as close to a default as it did in 2011. Based on the market action then, we can expect massive volatility in the final days of the showdown with the Dow falling 500 points in one session in 2011. As markets panicked over the potential for a U.S. default, we saw a massive risk-off trade, moving from equities into Treasuries. I think there is a significant chance we see something similar this late September into October. The Syrian vote has major implications on the power of Obama and the far-right when it comes to their willingness to fight over the debt ceiling. If the Syrian resolution fails, the debt ceiling fight will be even worse, which will send equities lower by upwards of 10%. Investors must be prepared for this "black swan" event. Looking back to August 2011, stocks that performed the best were dividend paying, less-cyclical companies like Verizon (VZ), Wal-Mart (WMT), Coca-Cola (KO) and McDonald's (MCD) while high beta names like Netflix (NFLX) and Boeing (BA) were crushed. Investors also flocked into treasuries despite default risk while dumping lower quality bonds as spreads widened. The flight to safety helped treasuries despite U.S. government issues. I think we are likely to see a similar move this time. Assuming there is a Syrian "no" vote, I would begin to roll back my long exposure in the stock market and reallocate funds into treasuries as I believe yields could drop back towards 2.50%. Within the stock market, I think the less-cyclical names should outperform, making utilities and consumer staples more attractive. For more tactical traders, I would consider buying puts against the S&P 500 and look toward shorting higher-beta and defense stocks like Boeing and Lockheed Martin (LMT). I also think lower quality bonds would suffer as spreads widen, making funds like JNK vulnerable. Conversely, gold (GLD) should benefit from the fear trade. I would also like to address the potential that Congress does not vote down the Syrian resolution. First, news has broken that Russia has proposed Syria turn over its chemical stockpile. If Syria were to agree (Syria said it was willing to consider), the U.S. would not have to strike, canceling the congressional vote. The proposal can be found here. I strongly believe this is a delaying tactic rather than a serious effort. In 2005, Libya began to turn over chemical weapons; it has yet to complete the hand-off. Removing and destroying chemical weapons is an exceptionally challenging and dangerous task that would take years, not weeks, making this deal seem unrealistic, especially because a cease-fire would be required around all chemical facilities. The idea that a cease-fire could be maintained for months, essentially allowing Assad to stay in office, is hard to take seriously. I believe this is a delaying tactic, and Congress will have to vote within the next two weeks. The final possibility is that Democrats back their President and barely ram the Syria resolution through. I think the extreme risk of a full-blown debt stand-off to dissipate. However, Boehner has promised a strong fight over the debt limit that the market has largely ignored. I do believe the fight would still be worse than the market anticipates but not outright disastrous. As such, I would not initiate short positions, but I would trim some longs and move into less cyclical stocks as the risk would still be the debt ceiling fight leading to some drama not no drama. Remember, in politics everything is connected. Syria is not a stand-alone issue. Its resolution will impact the power structure in Washington. A failed vote in Congress is likely to make the debt ceiling fight even worse, spooking markets, and threatening default on U.S. obligations unless another last minute deal can be struck.

#### Destroys the global economy.

Milstead 9-12 [David, Writer for the Globe and Mail, “The under-the-radar threat to U.S. stocks” Factiva]

Conventional wisdom holds that the chief risk to the high-flying U.S. stock market is “tapering,” the potential cutback of the Federal Reserve's bond-buying program. It's an understandable view, given how the Fed's monetary policy has propped up the country's economy for years by helping to keep long-term interest rates at ultra-low levels. But it's also wrong. The greatest immediate hazard to stocks isn't the direction the six governors of the Federal Reserve will take. It's what the 535 members of Congress will do in the coming weeks when faced with two budgetary issues that ought to be routine – but will likely be anything but. The first issue is approving a federal budget for the fiscal year that begins Oct. 1, or at least a resolution that will keep the government open in its absence. The second is authorizing a new, higher number for the U.S. government's borrowing before Washington hits its debt ceiling, once again, possibly by mid-October. In the absence of such a vote, the U.S. must simply stop spending – and, in essence, default on its debt. If this sounds familiar, it's because we went through a similar showdown two years ago, in the summer of 2011. Yet it's easy to forget now how that fiscal gridlock roiled the markets. In the first day of trading after Standard & Poor's downgraded U.S. debt in early August, the S&P 500 fell nearly 7 per cent. The day after, the index was nearly 19 per cent below the level of early July. The rhetoric suggests this fiscal showdown could inflict similar damage. Eighty House Republicans recently signed a letter urging their leadership to use any new government-funding bill to cut all necessary money for President Barack Obama's signature accomplishment, the Affordable Care Act, more popularly known as Obamacare. The Republican House leadership, it is said, does not support such a move. That's apparently because they prefer to make it part of the showdown over the debt ceiling. (The National Review, one of the U.S.'s leading conservative publications, reported Tuesday that Eric Cantor, the House Majority Leader, told Republicans they will be demanding a one-year delay of Obamacare in exchange for an increase in the debt ceiling.) Failing to raise the debt ceiling doesn't mean default, its opponents argue. The Treasury can just do a better job of “prioritizing,” paying the creditors while axing other expenses. In the absence of a higher debt ceiling, the U.S. could pay the interest on Treasury securities, and keep on footing the tab for Medicare and Medicaid, Social Security, national defence and a handful of aid programs, according to the Bipartisan Policy Centre. But, starting Oct. 15, it won't be able to afford the salaries of other federal workers, or perform functions like road construction and air traffic control, or run the federal court system. Ted Yoho, the improbably named Republican representative from Florida, said this about a failure to raise the debt ceiling, according to a recording of one of his summertime town hall meetings leaked to the Huffington Post: “So they say that would rock the market, capital would leave, the stock market would crash … I think our credit rating would do better.” Better, I think, to take the U.S. Treasury's position that the markets will view the U.S. picking and choosing which bills to pay as an admission it simply can't pay them all. Deputy secretary Neil Wolin said during the last debt-ceiling showdown, in 2011, that it “would merely be default by another name.” That, however, is the view from the reality-based community, rather than the deeply irrational, anti-intellectual element that has hijacked the Republican Party and turned ordinary budgetary procedure into a partisan brawl. The liberal economic writer Jonathan Chait recently wrote “the chaos and dysfunction have set in so deeply that Washington now lurches from crisis to crisis, and once-dull, keep-the-lights-on rituals of government procedure are transformed into white-knuckle dramas that threaten national or even global catastrophe.” And yet stocks seem to be priced as if Democrats, Republicans and President Obama will come together to work something out. There is great faith that the United States will overcome its challenges and take the right path in the end. Investors could suffer double-digit losses in the coming weeks if that faith is misplaced.

#### Nuclear war.

Cesare Merlini 11, nonresident senior fellow at the Center on the United States and Europe and chairman of the Board of Trustees of the Italian Institute for International Affairs (IAI) in Rome. He served as IAI president from 1979 to 2001. Until 2009, he also occupied the position of executive vice chairman of the Council for the United States and Italy, which he co-founded in 1983. His areas of expertise include transatlantic relations, European integration and nuclear non-proliferation, with particular focus on nuclear science and technology. A Post-Secular World? Survival, 53:2, 117 – 130

Two neatly opposed scenarios for the future of the world order illustrate the range of possibilities, albeit at the risk of oversimplification. The first scenario entails the premature crumbling of the post-Westphalian system. One or more of the acute tensions apparent today evolves into an open and traditional conflict between states, perhaps even involving *the use of nuclear weapons*. The crisis might be triggered by a collapse of the global economic and financial system, the vulnerability of which we have just experienced, and the prospect of a second Great Depression, with consequences for peace and democracy similar to those of the first. Whatever the trigger, the unlimited exercise of national sovereignty, exclusive self-interest and rejection of outside interference would self-interest and rejection of outside interference would likely be amplified, emptying, perhaps entirely, the half-full glass of multilateralism, including the UN and the European Union. Many of the more likely conflicts, such as between Israel and Iran or India and Pakistan, have potential religious dimensions. Short of war, tensions such as those related to immigration might become unbearable. Familiar issues of creed and identity could be exacerbated. One way or another, the secular rational approach would be sidestepped by a return to theocratic absolutes, competing or converging with secular absolutes such as unbridled nationalism.

# \*\*\*CP\*\*\*

#### The President of the United States should issue an executive order that mandates the creation of a bipartisan, independent commission tasked with recommending Congressional solutions to indefinite detention. The Commission will have a maximum of one year to reach consensus and issue a recommendation. If any federal actors are asked to report to the Commission they will recommend that Congress should grant Article III courts sole jurisdiction over the United States’ detention policy as described in the 2001 Authorization for the Use of Military Force.

#### Solves the case and avoids politics.

Bruce Ackerman 9, Professor of law at Yale, March 25, http://prospect.org/article/why-we-need-commission-presidential-power

President Barack Obama started strong by announcing the end of torture and the closing of Guantánamo, but he has recently taken a more equivocal attitude toward the Bush constitutional legacy. While rejecting his predecessor's extreme claims, he continues to assert the presidential power to hold terrorists without trial and to keep state secrets from the courts. And he has already issued his first signing statement denouncing a few provisions of the stimulus package as unconstitutionally limiting his executive prerogatives. These decisions have unleashed a flood of anxious commentary about Obama's ultimate intentions. But the discussion has only served to divert public attention from the real question confronting the new administration. Barack Obama is no George W. Bush -- he will indeed cut back substantially on unilateral assertions of power. The big question is whether he will take effective steps to prevent the next president from reversing course yet again and using the precedents of the Bush years as a springboard for even more extreme assertions of executive authority. Anything Obama does through executive order can be reversed by the next president through a countervailing executive order. The president's real challenge is to design a thoughtful process through which he could lead Congress to pass landmark legislation that would decisively repudiate the unilateralism of the Bush years. The first step is to create a presidential commission on presidential power. Like great commissions of the past, it should include leading members of Congress and engage in a year-long process of deliberation. It should propose a series of landmark statutes that reinvigorate the founding principles of checks and balances. This would prepare the way for a serious collaborative effort between the president and Congress to enact realistic limitations into law before the next presidential election. We have been here before. During the 1970s, Congress responded to the abuses of the Nixon years by passing the War Powers Resolution and the Emergency Powers Act. But these statutes were gravely weakened by the intense struggle for power between congressional Democrats and Presidents Richard Nixon and Gerald Ford. This time around, the same party is in charge of all the branches -- providing a precious opportunity to move beyond partisanship and confront the serious problem left to us by history. We should not look upon presidential lawlessness as if it were an odd aberration of the Bush years. The abuses of the war on terrorism represents the third wave of illegality in a generation, coming after Watergate and the Iran-Contra fiasco. It is not enough for President Obama to resist the temptations of power. He should take the lead in a collective effort to diagnose the causes of and potential cures for the systematic tendency of the modern presidency to abuse its powers. I am not calling for a truth commission that is primarily concerned with establishing the sordid facts about past abuses of power. The commission should be resolutely forward-looking, mining the past only to understand why existing statutes failed to effectively restrain presidential power. The challenge is to learn from experience and design better systems of checks and balances for the future. This can only be accomplished by creating a special commission in which members of Congress and the administration don't try to score political points but work together to come up with serious proposals. This exercise might fail, of course, but it might also catalyze a serious collective effort to control the presidency's recurrent tendencies to break free of the rule of law. And if it did succeed, the resulting landmark legislation would serve as one of Obama's great legacies to future generations.

## \*\*Detention DA\*\*

#### Plan’s restriction of the President’s authority to detain causes attacks on the homeland.

John Yoo 2012 (Law Professor @ Cal Liebert, Hugh (Editor); McDowell, Gary L. (Editor); Price, Terry L. (Editor). Jepson Studies in Leadership : Executive Power in Theory and Practice. p 224-8.

<http://site.ebrary.com/lib/uiowa/Doc?id=10538928&ppg=224>

We can see these dynamics at work in Obama’s initial policies on the war on terrorism, issues on which I worked during my service in the Bush administration. Obama set his own course on controversial issues such as the detention, interrogation, and trial of terrorists, at first pleasing the base of the Democratic Party, but then tacking back toward Bush policies as he became aware, I believe, of the security challenges abroad. During his first week as commander in chief, for example, President Obama ordered the closure of detention facilities at Guantánamo Bay 43 and terminated the CIA’s special authority to question terrorists using tough interrogation methods that critics have claimed amount to torture. 44 He suspended the military commissions that were in the middle of the trials of al-Qaeda leaders for war crimes. 45 His Department of Justice, led by Attorney General Eric Holder, decided it would no longer use the phrase “enemy combatant” to describe terrorists nor describe the struggle with al-Qaeda as a “war.” 46 Obama released several secret Bush legal memos, some of which I worked on, regarding detention and interrogation policy, and went head-to-head on May 21, 2009, with former Vice President Dick Cheney in dueling speeches over whether the Bush administration policies on interrogation had proven effective. 47 While these actions certainly pleased the left wing of the Democratic Party, they also threatened to handicap our intelligence agencies in preventing future terrorist attacks. In issuing these executive orders, Obama favored the law enforcement approach to fighting terrorism that prevailed before September 11, 2001. He also dried up the most valuable sources of intelligence on al-Qaeda that, according to former CIA Director Michael Hayden, largely came out of the tough interrogation of high-level operatives. 48 The question President Obama should have asked immediately after the inaugural parade was: “What will happen after we capture the next Khalid Sheikh Mohammed or Abu Zubaydah?” More careful review of terrorism policy would have made clear that the civilian law enforcement system cannot prevent terrorist attacks. What is needed are the tools to gain vital intelligence, which is why, under President Bush, the CIA could hold and interrogate high-value al-Qaeda leaders. On the advice of his intelligence advisers, the president could authorize coercive interrogation methods like those used by Israel and Great Britain in their anti-terrorism campaigns. He could even authorize waterboarding, which Bush did three times in the years after 9/11. 49 President Obama’s stay of all military commission trials, and the transfer to the criminal justice system of the only al-Qaeda operative held by the military on U.S. soil, might have led to the shuttering of commissions entirely. 50 Military commission trials, however, have been used in most American wars, and their rules and procedures are designed to protect intelligence sources and methods from revelation in open court. Obama ordered that al-Qaeda leaders be protected from “outrages on personal dignity” and “humiliating and degrading treatment” in accordance with the Geneva Conventions. 51 Obama might even declare terrorists to be equal to prisoners of war under the Geneva Conventions. The Bush administration, by contrast, was well supported by legal and historical precedent in its decision to classify terrorists like pirates: illegal combatants who do not fight on behalf of a nation and refuse to obey the laws of war. 52 The CIA must now conduct interrogations according to the rules of the Army Field Manual, which prohibits coercive techniques, threats and promises, and the good-cop, bad-cop routines used in police stations throughout America. 53 President Bush had already banned torture or physical abuse in 2002 (the Bush administration concluded that waterboarding was neither), 54 but President Obama’s new order amounts to requiring— on penalty of prosecution— that CIA interrogators be polite. 55 Coercive measures are unwisely banned with no exceptions, regardless of the danger confronting the country. Eliminating the Bush system entirely risks losing timely information from captured al-Qaeda terrorists. Every prisoner will have the right to a lawyer (which they will surely demand), the right to remain silent, and the right to a speedy trial. 56 The first thing any lawyer will do is tell his client to shut up. The Khalid Sheikh Mohammeds or Abu Zubaydahs of the future will not respond to verbal questioning or trickery— which is precisely why the Bush administration felt compelled to use more coercive measures in the first place. Our soldiers and agents in the field will have to run more risks to secure physical evidence at the point of capture and maintain a chain of custody that will stand up to the standards of a civilian court. Relying on the civilian justice system not only robs us of the most effective intelligence tool to avert future attacks, it also provides an opportunity for our enemies to obtain intelligence on us. If terrorists are now to be treated as ordinary criminals, their defense lawyers will insist that the government produce in open court all U.S. intelligence on their clients along with the methods used by the CIA and NSA to get it. A defendant’s constitutional right to demand the government’s files often forces prosecutors to offer plea bargains to spies rather than risk disclosure of intelligence secrets. Zacarias Moussaoui, the only member of the 9/11 cell arrested before the attack, turned his trial into a circus with such demands. He was convicted after four years of pretrial wrangling only because he chose to plead guilty. 57 Efforts to use the criminal justice system to try al-Qaeda leaders will only lead to more of the same, but with far more valuable intelligence at stake. It is naïve to say, as Obama did in his inaugural speech, that we can “reject as false the choice between our safety and our ideals.” 58 That highflying rhetoric means that we must give al-Qaeda— a hardened enemy committed to our destruction— the same rights as garden-variety criminals at the cost of losing critical intelligence about real, future threats. All government policies involve tradeoffs between competing values, and the Obama administration cannot wish them away by claiming they don’t exist. As Obama has matured in office and learned more about the nation’s security environment, however, he has adopted policies that suggest more continuity with the past. As of mid-2010, Obama had decided against ending the NSA’s electronic surveillance program, which allows the warrantless interception of suspected terrorist communications entering or leaving the country. 59 The new administration not only kept in place, but even expanded, the use of un~~man~~ned aircraft to kill suspected al-Qaeda leaders in civilian areas— a far greater deprivation of civil liberties than detention, interrogation, and trial by the military. 60 In May 2009, Obama reversed his decision to suspend military commissions, and even though he has proposed the transfer of enemy combatants from Guantánamo Bay to the United States, he also conceded that many will not be tried in civilian courts but will instead be detained as prisoners of war. 61 In 2011, the administration finally accepted that al-Qaeda leaders would not be tried in New York City, Guantánamo Bay would remain open, and military commissions would restart— thanks in part to congressional funding bans on relocating any terrorists to the United States. None of these policies would be legal unless the United States were at war. Continuing a war that he inherited, Obama bears similarity not to FDR or even to Lincoln, to whom the president compares himself, but to Eisenhower. Ike was another president whose personal popularity outstripped the public support for his policies. The Eisenhower administration continued the basic strategy developed by his immediate predecessor, Harry Truman, to address the dire security challenge posed by the Cold War. Eisenhower initially campaigned on the grounds that the strategy of containment resigned millions to communist dictatorship, and his future secretary of state, John Foster Dulles, promised “rollback” of Soviet control of Eastern Europe. 62 Once in office, however, Eisenhower retained the fundamental strategy of containment, though with a lower defense budget and without triggering an all-out war. As John Lewis Gaddis has shown, he changed the means from symmetric to asymmetric force, but he remained true to Truman’s fundamental choice of containing the Soviet Union around its periphery. 63 Similarly, President Obama has come to recognize the wisdom of the goals of the Bush administration’s terrorism policies. Further, it should be clear that these policies are rooted in a broad view of presidential power. Obama has continued the American occupation of Iraq and even increased deployment to Afghanistan, based on the view of his national security team— not of Congress— that the battle against terrorism must be won there. 64 Continuing the NSA’s warrantless wiretapping power is primarily the result of the president’s decision to carry out signals intelligence against an enemy. Extensive use of Predator drones is a tactic carried out by the military pursuant to the president’s commander in chief authority. Suspending military commissions at Guantánamo, which had received congressional authorization in 2006, could only be done pursuant to the president’s Article II powers under the Constitution. 65 Even ordering the CIA to follow military rules in interrogating enemy combatants depends wholly on the president’s authority to command the military and determine operational tactics and strategy. Congress itself refused to place the CIA under the rules of the Army Field Manual on interrogation. In making and implementing these terrorism policies, Obama has done nothing less than exercise many of the executive’s broader powers in times of emergency or war. Counterterrorism policy also shows the effectiveness of Congress’s powers. A signal element of Obama’s plan was closing Guantánamo Bay and transferring the remaining detainees to the U.S. prison system. Congress responded by banning the use of any funds to allow any Guantánamo Bay detainee to enter the United States. 66 Obama’s buildup in Afghanistan would be impossible without congressional funding for the new deployments, and his policies on targeted killings with Predator drones or NSA surveillance could not continue without Congress’s financial support. Any effort to recharacterize the status of enemy combatants or to try them in civilian courts would be tested in the federal courts and could reach the U.S. Supreme Court. Both branches have the ability to impede, if not totally obstruct, President Obama’s policies against the leading external security threat of our day. Obama may have made his decisions on terrorism too swiftly after his inauguration. He may have opened the door to further terrorist acts on U.S. soil by shattering some of the nation’s most critical defenses. Or he may be right in reversing some of the Bush-era measures, if current classified threat assessments report that the chances of a terrorist attack have sharply declined. What remains important is that Obama, like Bush, has relied on his constitutional authority to make policy on everything from the number of troops in Afghanistan, to warrantless wiretapping, to use of Predator drones. If Obama wishes to guide the nation successfully through its period of economic crash and foreign threat, he must draw on the mainspring of presidential power as deeply as did his greatest predecessors. The early part of his presidency shows signs that he has learned this lesson reluctantly.

#### Extinction

Yonah Alexander 10, Director of the International Center for Terrorism Studies at the Potomac Institute for Policy Sciences, “Maghreb & Sahel Terrorism: Addressing the Rising Threat from al-Qaeda & other Terrorists in North & West/Central Africa,” January, <http://www.potomacinstitute.org/attachments/524_Maghreb%20Terrorism%20report.pdf>

Current and future perpetrators include the following: “freelance” and sub-state terrorist groups; individual terrorists; mentally deranged “crusaders” or “martyrs”; single-issue political extremists; ideological-based groups; ethnic, racial, and religious movements; nationalist and separatist actors; criminal and political mercenaries; and international networks, particularly al-Qaeda and its affiliates in Africa, Asia, and the Middle East. Terrorists’ impulses cover a broad range of motivations. These consist of political discontent— ideological (anarchism, ambitions, radicalism) and nationalistic (resistance, separatism, irredentism)— economic discontent (low living standards, lack of opportunity, unfulfilled expectations, loss or squandered resources); and cultural discontent (class constraints, ethnic discrimination, religious intolerance, technological and environmental irritants). There is also a long record of governments that provide terror groups both direct and indirect support (e.g., financing, training, intelligence, operations, and weaponry). A rogue nation utilizes terrorist proxies to further its own country’s interests. As formal, open, and direct malevolent actions undertaken by a government would call immediate attention to state sponsors, using terrorist groups to carry out operations such as assassinations and bombings enables the government sponsor to deny any claim. The roles played by Iran, Sudan, Cuba, previously Libya, and North Korea in such events come to mind. Currently, Iran and North Korea are of particular concern to the international community because of their nuclear ambitions. In addition, the latest focus of concern is so-called “failed states” wherein there are no effective government institutions to intercede and prevent the spread of terrorist facilities within a country. These lawless zones are increasingly becoming target-rich opportunities for the consolidation of terrorist assets and ventures. Current Trends Modern terrorism is characterized by an ideological and theological fanaticism, an education in hatred toward one’s enemy, which has coupled with rapid technological advancements in communications (e.g., the internet), transportation (e.g., modern international air travel), as well as conventional and unconventional weaponry to create a truly lethal threat. Indeed, this threat has become much more decentralized as it now emanates not only from established terrorist organizations but also from freelance individuals with the motives, means, and opportunity to visit harm upon civil society. Because of these developments, contemporary terrorism presents a multitude of threats to all nations, large and small. One measurement of evaluating the terrorist threat is to calculate the enormous cost to all societies in terms of the number of incidents, the human toll, and the economic damage. Indeed, since the 1960s, modern society has suffered dearly from the global disease of terrorism, a reality that grows in scope and brutality with every passing year. For example, in the 1970s, a total of 300 domestic and international terrorist attacks were recorded worldwide. Today, almost 40 years later, the count totals more than 80,000 incidents. Clearly, no community, country, or region is immune from the impact of terrorism. In the 9/11 attacks in New York City, citizens from 78 countries were killed. That year alone, 3,537 people died. During the period between 2002-2008, more than 113,000 persons perished and hundreds of thousands were wounded in terrorist attacks throughout the world. The economic, political, psychological, and strategic costs must also be considered in this assessment. Criminal-Terrorist Nexus Globalization and the information revolution have enabled criminals and organized crime to do business and engage in a broad range of criminal activities. For instance, “white collar” crimes are expanding. These crimes target sectors such as antitrust law, securities, commodities futures, environmental activities, maritime business, gaming, the internet, intellectual property, and tax customs. Trafficking in human beings (e.g., buying and selling of women and children, usually for sexual exploitation) represents another “new,” substantive, and transnational offense. In addition, serious organized criminal threats facing the international community (e.g., the Maghreb and Sahel regions) consist of current and emerging challenges to law enforcement, including drug trafficking (particularly in heroin, both powder and crack cocaine, and ecstasy), organized immigration crime, fraud (particularly in revenue fraud), money laundering, counterfeiting, illicit weapons possession and sales, and high-tech criminal activity (e.g., the Abdul Qadeer Khan nuclear smuggling network). Legitimate companies support terrorists and criminals—directly and unwittingly—to initiate their illicit activities. Numerous identifiable forums of these relationships include the following interfaces: funding and money laundering; employment and accessibility of personnel and equipment; generic tools (e.g., trucks); instruments of terror (e.g., dynamite or explosives); information about local landmarks and prospective targets (e.g., highlighting vulnerabilities and access to targets); communications, resources, and contacts; work permits (particularly for immigration-related criminal activity); and sponsorship (e.g., employment and resources). Terrorist groups and criminals also use front companies, which combine both legitimate and illicit sources of revenue, and shell companies, opaque firms used to hide a legitimate owner’s interests, to finance unlawful operations. In addition to the foregoing, terrorists and criminals feed off each other in a wide variety of criminal activities, including counterfeiting currency, credit card theft, misappropriating and using credit card information, forging documents, identity theft, money laundering, drug trafficking, corruption, and commercial espionage. Terrorist groups use a variety of means—from the simple to the complex—to secure funding for their activities. The initial sources of terrorist funding include both legal (e.g., personal savings and legitimate business revenue) and illicit avenues (e.g., criminal activity such as drug trafficking, kidnapping, and financial fraud). Once the funds are raised, they are distributed to various factions of terrorist groups through a variety of means. These include the use of traditional and alternative financial services entities (e.g., banks and hawalas—informal money-transfers systems firmly established in Asia and the Middle East), nonprofit organizations trading in commodities (e.g., “conflict diamonds” and gold), bogus financial instruments, smuggling of currency and products, wire transfers, drug trafficking, extortion, money laundering, securities fraud, and other scams. Future Outlook: Super Terrorism What is of particular concern is that unconventional weapons—biological, chemical, radiological, and nuclear—are slowly emerging upon the contemporary terrorist scene. That is, as technological developments offer new capabilities for terrorist groups, the modus operandi of these groups may subsequently alter most drastically. Reportedly, at least a dozen terrorist groups, in addition to al-Qaeda’s network, have shown an interest in acquiring or actively attempting to obtain nuclear weapons, which is a significant threat throughout the world. Thus, while the probability of nuclear terrorism remains low in comparison to the use of other weapons of mass destruction, the consequences of “super” terrorism could be enormous. If a nuclear bomb is stolen (or built by a terrorist group with reasonable resources and talent), it could result in massive devastation. For example, an explosion of about one kiloton (one-twentieth the power of the Hiroshima attack) in any major city has the potential to cause more than 100,000 fatalities and result in damage totaling billions of dollars. Another dangerous emerging trend of contemporary international life is the growing threat of cyberterrorism. The expanding concern is that not only criminal hackers but also terrorists will intensify the utilization of this form of electronic warfare as an equalizer weapon. It is evident that the threat of “non-explosive” terrorist assaults is growing with every passing day. Three contributing factors account for the reality. First, the “globalization” of the internet makes government and industry efforts to control cyber attacks much more challenging than ever before. Second, there are now tens of thousands of hacker-oriented sites on the internet resulting in “democratization” of the tools used for disruption and destruction. With their systematic cyber “cookbooks,” the exploitation of Trojan horses, logic bombs, and other electric modus operandi alternatives are becoming a permanent fixture of international life. Third, terrorist organizations have broken away from their place within the formerly bipolar world and have become multidirectional, causing further complications to our technologically vulnerable societies. These new developments have enhanced the threats and capabilities of terrorist groups to the degree in which they could forever alter our planet’s existence.

# \*\*\*Policy Making CP\*\*\*

**The United States federal government should grant Article III courts sole jursidiction over individuals detained by the United States under its detention policy as described in the 2001 Authorization for Use of Military Force.**

**Judicial formulation of public policy destroys legitimacy**

**Pacelle '2** Richard Pacelle, Professor of Political Science at the University of Missouri- St. Louis, The Role of the Supreme Court in American Politics: The Least Dangerous Branch?, 2002, p. 60

**Overuse of judicial review and aggressive policymaking by the Court raise pub­lic disapproval or invite rebuke from the other branches. For its own institutional protection, the Court must take account of public opinion. When the Court op­poses the position of the elected branches or the boundaries imposed by public opinion, it puts its legitimacy at risk** (Fisher 1988, 13). Ultimately, **legitimacy is the Court's most precious and finite resource.** While such concerns can be catego­rized as part of the democratic dilemma, they are tied to the institutional and ca­pacity concerns, which are examined in the next two chapters.

**Loss of legitimacy turns rule of law -- flips internal link to aff**

**Peretti '99** Terri Peretti, Professor of Political Science at Santa Clara University, In Defense of a Political Court, 1999,

p. 162

**Should the Court lose its legitimacy and, consequently, its power, we in turn lose the benefits that only the Court can provide. Vitally important con­stitutional rights and liberties, as well as minority groups, would be unpro­tected and would likely suffer at the hands of an indifferent or hostile major­ity**. **An additional loss of paramount importance is the ideal and the reality of the rule of law. All government action would be reduced to arbitrary will and force**, rather than being justified according to reasoning and, thus, ren­dered legitimate. **The consequences of the Court losing its legitimacy and the ability to play its specialized role**, if we are to believe Philip Kurland, **are horrible indeed.**

[The Supreme Court's] function is to help maintain a society dedicated to the notion that law must be the choice over force as the means of resolving the conflicts that burden society. It must epitomize reason rather than emotion in helping seek justice. Above all it must emphasize individual interests against the stamp of governmental paternalism and conformity. At the same time it must retain the confidence of the American peo­ple. . . . The Court can survive without performing these functions. Courts have survived in other societies that have rejected the concept of law based on reason. They survived in Hitler's Germany, in Stalin's Russia, and in the Union of South Africa. It is not the survival of the Court that is at stake, but the survival of the primacy of individual liberty that is in question. And these values will remain viable only so long as the Court makes its appro­priate contributions toward their maintenance.

**Constitutionally only the Congress can make policy**

**Endelman and Mehta, 9** – \*in-house immigration attorney at BP America AND \*\* founder and managing attorney of Cyrus D. Mehta & Associates (Gary and Cyrus, “The Path Less Taken: Is There An Alternative To Waiting For Comprehensive Immigration Reform?,” Immigration Daily, http://www.ilw.com/articles/2009,0225-endelman.shtm) **EAD = employment authorization document**

There are those who argue that only Congress can make immigration policy in this fundamental way and this reservation is both serious and worthy of deep respect. Yet, we have a dysfunctional Congress that is or appears to be incapable or unwilling to reach consensus on immigration. Do we as a society simply throw up our hands and do nothing, allowing a bad situation to become worse or do we use this challenge as an opportunity to create something better through temporary and targeted executive action that Congress can either overturn or accept at a later date? There are several examples of administrative action to create new immigration policy in the face of Congressional inaction in recent years. In the STEM OPT regulation, the USCIS openly admitted that granting an additional 17 months of employment authorization was a regulatory response to an inadequate H1B quota. When they limited the validity of a labor certification of 180 days, the US Department of Labor did so on their own without the fig leaf of legislative authorization.17 Remember when the AAO handed down the decision in New York State Department of Transportation,18 thus effectively repealing the national interest waiver statute for several years until the relaxation came?19 Finally, under the Cuban Adjustment Act of 1996, even if the Cuban national entered without inspection, the former INS Commissioner Doris Meissner clarified that the Service could use its authority under the humanitarian and significant public benefit criteria in Section 212(d)(5) to parole Cubans who had entered without inspection under the fiction that the individual would surrender to the government, which in turn would release or parole him or her, and thus render them eligible for adjustment of status under the CAA.20 Did Congress tell them they could do that? All of these actions, and many others not singled out, had profound effect but depended solely upon the imaginative exercise of executive authority yet consonant with a proper respect for separation of powers. So we can do so here.

Those who do not think so ignore at their own peril and ours the fundamental distinction between making policy, which only Congress can do, and implementing tactical adjustments, which the Executive is uniquely suited to do. This is why only Congress can create a legal status while the Attorney General can authorize a period of stay. This is why only Congress can enlarge the EB quota but the Executive can allow adjustment applications without a quota expansion so long as final approval is not forthcoming. This is why only Congress sets visa limits while the Executive can grant parole. This is why only Congress sets work visa law but the Executive can issue EADs. To suggest that Congress must act in both a long and short term context is to ignore the historic and legitimate differences between the two branches of government. If Congress wants to overturn such executive action, it can do so. Likewise, if it supports the President, it can stay its hand. Either way, Congress is expressing its will, whether through positive action in the form of legislation or negative action in the form of silent acquiescence. Both action and its absence are authentic manifestations of congressional intent and expressions of congressional authority. In reality, we all know that there are 40 votes in the Senate to uphold such regulatory initiative. Congress will be more than content to allow the President to take the lead and solve what it has manifestly been powerless to solve- how to regulate both past and future migration flows; how to solve the growing unskilled worker backlog; how to ameliorate the gratuitous cruelty of the 3/10 year bars; how to reduce the size of the undocumented population who may already working here and contributing to the exchequer and how to satisfy the hungry manpower needs of employers once the dark cloud of recession lifts without creating a single new immigrant visa.

**Firm separation of powers key to check executive nuclear miscalc**

**Forrester ‘89**

Forrester, Professor at Hastings College of the Law at University of California, 1989

[Ray, *George Washington Law Review*, August]

On the basis of this report, the startling fact is that **one man alone has the ability to start a nuclear war**. A basic theory--if not the basic theory of our Constitution--is that concentration of power in any one person, or one group, is dangerous to mankind. **The Constitution, therefore, contains a strong system of checks and balances, starting with the separation of powers between the President, Congress, and the Supreme Court. The message is that no one of them is safe with unchecked power. Yet, in what is probably the most dangerous governmental power ever possessed, we find the potential for world destruction lodged in the discretion of one person.**

**And independently, key to prevent escalating conventional war**

**Redish and Cisar ‘91**

Redish, Louis and Harriet Ancel Professor of Law and Public Policy at Northwestern University, and Cisar, Law Clerk to Chief Judge William Bauer, United States Court of Appeals, 1991

[Martin and Elizabeth, *Duke Law Journal*, December]

To underscore the point, one need imagine only a limited modification of the actual scenario surrounding the recent Persian Gulf War. In actuality, the war was an extremely popular endeavor, thought by many to be a politically and morally justified exercise. But **imagine a situation in which a President, concerned about his failure to resolve significant social and economic problems at home, has callously decided to engage [\*474] the nation in war, simply to defer public attention from his domestic failures.** To be sure, the President was presumably elected by a majority of the electorate, and may have to stand for reelection in the future. However, at this particular point in time, **but for the system established by separation of powers, his authority as Commander in Chief 130 to engage the nation in war would be effectively dictatorial. Because the Constitution reserves to the arguably even more representative and accountable Congress the authority to declare war, 131 the Constitution has attempted to prevent such misuses of power by the executive.** 132 It remains unproven whether any governmental structure other than one based on a system of separation of powers could avoid such harmful results.

# \*\*\*Case\*\*\*

# \*\*\*Democracy\*\*\*

#### Independence backfires – ensures further executive restrictions.

Chodosh, 03 (Law Prof -- Case Western, 38 Tex. Int'l L.J. 587)

Finally, reforms may completely backfire. According to a former Chief Justice of the Indian Supreme Court, the Court's refusal to allow the executive branch to play any role in judicial promotions **has led to more interference, not les**s. 112 Severely repressive anti-corruption measures, such as in the People's Republic of China, may drive illicit behavior further underground and allow those with power and discretion in those systems **to extract rents from those vulnerable to attack**. 113 Additionally, efficiency measures may have a paradoxical effect: by making the courts and appended processes more attractive to [\*608] disputing parties, reformers may unintentionally attract larger numbers of litigants who would otherwise have settled or lumped their disputes. Thus, anti-backlog measures may unintentionally **create new filings and fewer settlements**. 114

#### Independence of Court systems during transition prevents political expedience that is necessary to prevent backsliding and atrocities

Snyder and Vinjamuri 04 [Jack, Prof. Int’l Rltns. at Columbia University, and Leslie, Asst. Prof. Of Gov’t at Georgetown, International Security 28.3 (2003/04) 5-44]

Advocacy groups such as Human Rights Watch and Amnesty International have made a historic contribution to the cause of international human rights by publicizing the need to prevent mass atrocities such as war crimes, genocide, and widespread political killings and torture. 1 However, a strategy that many such groups favor for achieving this goal—the prosecution of perpetrators of atrocities according to universal standards—risks causing more atrocities than it would prevent, because it pays insufficient attention to political realities. 2 Recent international criminal tribunals have utterly failed to deter subsequent abuses in the former Yugoslavia and Central Africa. Because tribunals, including the International Criminal Court (ICC), have often been unable to gain the active cooperation of powerful actors in the United States and in countries where abuses occur, it is questionable whether this strategy will succeed in the long run unless it is implemented in a more pragmatic way. [End Page 5] Amnesties, in contrast, have been highly effective in curbing abuses when implemented in a credible way, even in such hard cases as El Salvador and Mozambique. Truth commissions, another strategy favored by some advocacy groups, have been useful mainly when linked to amnesties, as in South Africa. Simply ignoring the question of punishing perpetrators—in effect, a de facto amnesty—has also succeeded in ending atrocities when combined with astute political strategies to advance political reforms, as in Namibia. The shortcomings of strategies preferred by most advocacy groups stem from their fundamentally flawed understanding of the role of norms and law in establishing a just and stable political order. Like some scholars who write about the transformative impact of such groups, these advocates believe that rules of appropriate behavior constitute political order and consequently that the first step in establishing a peaceful political order is to lobby for the universal adoption of just rules. 3 We argue that this reverses the sequence necessary for the strengthening of norms and laws that will help prevent atrocities. Justice does not lead; it follows. We argue that a norm-governed political order must be based on a political bargain among contending groups and on the creation of robust administrative institutions that can predictably enforce thelaw. Preventing atrocities and enhancing respect for the law will frequently depend on striking politically expedient bargains that create effective political coalitions to contain the power of potential perpetrators of abuses (or so-called spoilers). 4 Amnesty—or simply ignoring past abuses—may be a necessary tool in this bargaining. Once such deals are struck, institutions based on the rule of law become more feasible. 5 Attempting to implement universal standards of [End Page 6] criminal justice in the absence of these political and institutional preconditions risks weakening norms of justice by revealing their ineffectiveness and hindering necessary political bargaining. Although we agree that the ultimate goal is to prevent atrocities by effectively institutionalizing appropriate standards of criminal justice, the initial steps toward that goal must usually travel down the path of political expediency.

#### Judicial independence guarantees corruption which collapses the rule of law.

Cross, 03 (Business Law Prof – Texas, 64 Ohio St. L.J. 195)

One potential problem with judicial independence is that judges may have their own self-interests and ideological fervor. An independent, unchecked judiciary may simply decide cases according to its own whims and predilections, **rather than according to the rule of law**. 10 For example, because of the great independence of the federal life-tenured judiciary, many political scientists believe that they are more ideological in their decisions than elected legislators or executives. 11 Judges may allow corruption and bribery to influence their decisions. 12 They may even be lazy and decide poorly, given the lack of oversight. In these circumstances, the means (independent judiciary) **does not advance the end** (rule of law). We cannot rely entirely upon judicial self-discipline and restraint to avoid these circumstances. There is nothing intrinsic in judges that causes them to favor, say, rule-of-law impartiality and the freedoms recognized in the Bill of Rights. Saintliness is not a historic precondition to becoming a judge, nor does the process of doffing judicial robes magically make one saintly. There are surely temptations not to apply the neutral rule of law. Given the absence of any threat of removal, "we should expect to see the decisions of judges heavily influenced by the intellectual orientation and political inclinations that they brought with them to the bench in the first place." 13 In addition to internal political desires, there may even be external pressures to this effect. Paul Carrington observed that those calling for judicial self-restraint "would have Justices eschew fame, the adoration of the media and the academy, and even 'greatness' to settle for the modest facelessness of drones." 14 There is little reason to **expect that a wholly independent**, [\*199] unaccountable judiciary would appropriately restrain itself and sincerely seek to apply neutral legal principles to the cases they decide.

#### An independent judiciary is antithetical to a parliamentary model of democratization.

Sheive, Associate – Dewey Ballantine, June 22 ’95 Law and Policy in International Business, Lexis

Beyond the issues of court structure and judicial competency, another reason for the European rejection of diffuse judicial review in favor of the concentrated model is the historical notion of parliamentary supremacy, which may be traced, in part, to popular rejection of judicial abuses during the ancien regime in France.(28) One central principle of the French Revolution proclaimed the supremacy of statutory law and demoted the judiciary to the mechanical task of statutory application.(290 The "law" in continental Europe has since been identified with legislation, unlike in the United States, where judge-made common law is abundant.(30) U.S. judges play a prominent role in developing common law and reviewing legislation; in Europe, parliamentary supremacy **negated the concept of judicial lawmaking** from an early date. Only parliament could create law and determine its constitutionality. Ordinary court judges served no legitimate function in either creating or reviewing binding law. Although Europe ultimately warmed to the concept of judicial review after World War II, it continued to reject its exercise by ordinary court judges. Europeans, in general, did not view their judiciary as a coequal branch with authentic power to review executive and legislative acts. Therefore, instead of adopting the U.S. model of diffuse review, Europe created a new institution, independent of the judicial branch, to review the constitutionality of public acts.(31)

#### A parliamentary model is key to stable democratic transitions.

Zimmermann, Brazilian Law Professor, July 15 ’6 http://www.brazzil.com/content/view/9653/78/

In most other countries, however, **presidentialism has led to political instability and institutional disruptions**. In a paper published in 1988, political science professor Fred W. Riggs commented that most of the developing countries that adopted this system have "endured disruptive catastrophes usually in the form of one or more coups d'état, whereby conspiratorial groups... seize power, suspend the constitution, displace elected officials, impose martial law and **promote authoritarian rule**". In contrast, Riggs asserts, those which adopted the parliamentary system have generally "**maintained their regimes and avoided the disruptions typical of all American-type systems".**

#### China doesn’t model norms

John O. McGinnis and Ilya Somin 7, Professor of Law, Northwestern University School of Law. 59 Stan. L. Rev. 1175

The second benefit to foreigners of distinctive U.S. legal norms is information. The costs and benefits of our norms will be visible for all to see. n268 Particularly in an era of increased empirical social science testing, over time we will be able to analyze and identify the effects of differences in norms between the United States and other nations. n269 Such diversity benefits foreigners as foreign nations can decide to adopt our good norms and avoid our bad ones. The only noteworthy counterargument is the claim that U.S. norms will have more harmful effects than those of raw international law, yet other will nations still copy them. But both parts of this proposition seem doubtful. First, U.S. law emerges from a democratic process that creates a likelihood that it will cause less harm than rules that emerge from the nondemocratic processes [\*1235] that create international law. Second, other democratic nations can use their own political processes to screen out American norms that might cause harm if copied. Of course, many nations remain authoritarian. n270 But our norms are not likely to have much influence on their choice of norms. Authoritarian states are likely to select norms that serve the interests of those in power, regardless of the norms we adopt. It is true that sometimes they might cite our norms as cover for their decisions. But the crucial word here is "cover." They would have adopted the same rules, anyway. The cover may bamboozle some and thus be counted a cost. But this would seem marginal compared to the harm of allowing raw international law to trump domestic law.

#### No Asian War—Diplomacy solves

Bitzinger & Desker, ‘8 (Senior fellow and dean of S. Rajaratnam School of International Studies respectively, “Why East Asian War is Unlikely,” Survival, December)

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

# \*\*\*Legitimacy\*\*\*

#### Aff’s necessary but not sufficient – whole topic is key to solvency.

Glen Greenwald 12, 1/25, http://www.salon.com/2012/06/25/collapsing\_u\_s\_credibility/

Two Op-Eds in The New York Times this morning both warn of the precipitous decline of American credibility on matters of human rights and peace ushered in by the Obama presidency. Taken together, they explain much of why I’ve been writing what I’ve been writing over the last three years. The first is from Columbia Professor and cyber expert Misha Glenny, who explains the significance of the first ever deployment of cyberwarfare — by the U.S. (first under Bush and accelerated under Obama), along with Israel, against Iran: THE decision by the United States and Israel to develop and then deploy the Stuxnet computer worm against an Iranian nuclear facility late in George W. Bush’s presidency marked a significant and dangerous turning point in the gradual militarization of the Internet. Washington has begun to cross the Rubicon. If it continues, contemporary warfare will change fundamentally as we move into hazardous and uncharted territory. It is one thing to write viruses and lock them away safely for future use should circumstances dictate it. It is quite another to deploy them in peacetime. Stuxnet has effectively fired the starting gun in a new arms race that is very likely to lead to the spread of similar and still more powerful offensive cyberweaponry across the Internet. Unlike nuclear or chemical weapons, however, countries are developing cyberweapons outside any regulatory framework. . . . Stuxnet was originally deployed with the specific aim of infecting the Natanz uranium enrichment facility in Iran. This required sneaking a memory stick into the plant to introduce the virus to its private and secure “offline” network. But despite Natanz’s isolation, Stuxnet somehow escaped into the cyberwild, eventually affecting hundreds of thousands of systems worldwide. This is one of the frightening dangers of an uncontrolled arms race in cyberspace; once released, virus developers generally lose control of their inventions, which will inevitably seek out and attack the networks of innocent parties. Moreover, all countries that possess an offensive cyber capability will be tempted to use it now that the first shot has been fired. . . . The United States has long been a commendable leader in combating the spread of malicious computer code, known as malware, that pranksters, criminals, intelligence services and terrorist organizations have been using to further their own ends. But by introducing such pernicious viruses as Stuxnet and Flame, America has severely undermined its moral and political credibility. He also explains that the Obama administration opposes any treaties to regulate all of this in part because it “might undermine its presumed superiority in the field of cyberweaponry and robotics,” and because it claims Russia and China (but not, of course, the U.S.) would attempt to exploit such treaties to control the Internet. In case anyone thinks he’s being melodramatic in his warnings, the original New York Times article by David Sanger that confirmed U.S. responsibility for the cyber attack included this passage: “Mr. Obama, according to participants in the many Situation Room meetings on Olympic Games, was acutely aware that with every attack he was pushing the United States into new territory, much as his predecessors had with the first use of atomic weapons in the 1940s, of intercontinental missiles in the 1950s and of drones in the past decade.” It also explained that America’s maiden use of this new form of warfare “could enable other countries, terrorists or hackers to justify their own attacks.” The second is from former U.S. President Jimmy Carter, an actually meritorious Nobel Peace Prize winner, who describes the record of his fellow Nobel laureate, the current President, in an Op-Ed entitled “A Cruel and Unusual Record“: Revelations that top officials are targeting people to be assassinated abroad, including American citizens, are only the most recent, disturbing proof of how far our nation’s violation of human rights has extended. This development began after the terrorist attacks of Sept. 11, 2001, and has been sanctioned and escalated by bipartisan executive and legislative actions, without dissent from the general public. As a result, our country can no longer speak with moral authority on these critical issues. . . . . It is disturbing that, instead of strengthening these principles, our government’s counterterrorism policies are now clearly violating at least 10 of the [Declaration on Human Rights'] 30 articles, including the prohibition against “cruel, inhuman or degrading treatment or punishment.” Recent legislation has made legal the president’s right to detain a person indefinitely on suspicion of affiliation with terrorist organizations or “associated forces,” a broad, vague power that can be abused without meaningful oversight from the courts or Congress (the law is currently being blocked by a federal judge). This law violates the right to freedom of expression and to be presumed innocent until proved guilty, two other rights enshrined in the declaration. In addition to American citizens’ being targeted for assassination or indefinite detention, recent laws have canceled the restraints in the Foreign Intelligence Surveillance Act of 1978 to allow unprecedented violations of our rights to privacy through warrantless wiretapping and government mining of our electronic communications. . . . Despite an arbitrary rule that any man killed by drones is declared an enemy terrorist, the death of nearby innocent women and children is accepted as inevitable. After more than 30 airstrikes on civilian homes this year in Afghanistan, President Hamid Karzai has demanded that such attacks end, but the practice continues in areas of Pakistan, Somalia and Yemen that are not in any war zone. We don’t know how many hundreds of innocent civilians have been killed in these attacks, each one approved by the highest authorities in Washington. This would have been unthinkable in previous times. These policies clearly affect American foreign policy. Top intelligence and military officials, as well as rights defenders in targeted areas, affirm that the great escalation in drone attacks has turned aggrieved families toward terrorist organizations, aroused civilian populations against us and permitted repressive governments to cite such actions to justify their own despotic behavior. . . . At a time when popular revolutions are sweeping the globe, the United States should be strengthening, not weakening, basic rules of law and principles of justice enumerated in the Universal Declaration of Human Rights. But instead of making the world safer, America’s violation of international human rights abets our enemies and alienates our friends. One can reasonably object to Carter’s Op-Ed on the ground that it romanticizes a non-existent American past (systematic human rights abuses are hardly a new development in the post-9/11 world), but what cannot be reasonably disputed is the trend he denounces. Note that the most egregious examples he cites — assassinating U.S. citizens without due process, civilian-killing drone attacks, the indefinite detention provisions of the NDAA — had some genesis under Bush but are hallmarks of Obama policy (his other example, the rapid erosion of constraints on government domestic surveillance, took place under both, with the full support of Obama). It’s a remarkably scathing denunciation of the record of his own political party and its current leader. Many American pundits and foreign policy experts love to depict themselves as crusaders for human rights, but it almost always takes the form of condemning other governments, never their own. There’s no end to self-styled U.S. human rights moralizers who will oh-so-bravely (and inconsequentially) write one screed after the next about the oppressive acts of Syria, or Russia, or China, or Iran (the targets of their wrath are not just foreign governments, but usually ones serving the role as Current Enemy of the U.S. Government). But when it comes to the human rights violations they can actually do something about — the ones committed (or enabled) by their own government: the government for which they vote and to which they pay taxes and over which they are supposed to act as adversarial watchdogs — they are largely silent. They prefer the cheap, easy, self-satisfying and pointless sermons (look over there at how terrible that foreign country is) to the much harder and more purposeful opposition to their own government’s abuses (American commentators who devote substantial attention to the human rights abuses of other nations but the bulk of their time on their own government’s are commendable rarities). As Noam Chomsky perfectly explained when asked why he focuses more of his time and energy on the human rights abuses of the U.S. and its allies than other countries: My own concern is primarily the terror and violence carried out by my own state, for two reasons. For one thing, because it happens to be the larger component of international violence. But also for a much more important reason than that; namely, I can do something about it. So even if the U.S. was responsible for 2 percent of the violence in the world instead of the majority of it, it would be that 2 percent I would be primarily responsible for. And that is a simple ethical judgment. That is, the ethical value of one’s actions depends on their anticipated and predictable consequences. It is very easy to denounce the atrocities of someone else. That has about as much ethical value as denouncing atrocities that took place in the 18th century. Condemning the abusive acts of other countries while ignoring or sanctioning those of one’s own government is indeed easy. It’s cost-free. It’s inconsequential. It’s career-advancing (using purported human rights concerns to bash America’s Enemies converts one into an eager, useful instrument of U.S. policy and a perpetuator of D.C. orthodoxy). And, most of all, it’s self-affirming (those people over there are really bad, but not us, and by railing against them I show what a good and concerned person I am). That’s precisely why the prime dogma in U.S. political and media discourse on foreign policy is that serious human rights violations (along with Terrorism) are something that non-Westerners do, not the West (and certainly not the U.S.). What these two Op-Eds today demonstrate is that not only is this false, but the U.S. continues to be a key pioneer in these abuses. It’s easy to distinguish American pundits and experts with a genuine commitment to human rights from those who feign concern by the extent to which they work against their own government’s conduct.

#### Obama will exploit legal loopholes – Plan causes overseas detention, rendition, foreign detention, and targeted killings.

Jack Goldsmith 9, Henry L. Shattuck Professor at Harvard Law School. 5/31, http://articles.washingtonpost.com/2009-05-31/opinions/36819324\_1\_habeas-rights-detention-guantanamo-bay

But closing Guantanamo or bringing American justice there does not end the problem of terrorist detention. It simply causes the government to address the problem in different ways. A little-noticed consequence of elevating standards at Guantanamo is that the government has sent very few terrorist suspects there in recent years. Instead, it holds more terrorists -- without charge or trial, without habeas rights, and with less public scrutiny -- at Bagram Air Base in Afghanistan. Or it renders them to countries where interrogation and incarceration standards are often even lower. The cat-and-mouse game does not end there. As detentions at Bagram and traditional renditions have come under increasing legal and political scrutiny, the Bush and Obama administrations have relied more on other tactics. They have secured foreign intelligence services to do all the work -- capture, incarceration and interrogation -- for all but the highest-level detainees. And they have increasingly employed targeted killings, a tactic that eliminates the need to interrogate or incarcerate terrorists but at the cost of killing or maiming suspected terrorists and innocent civilians alike without notice or due process. There are at least two problems with this general approach to incapacitating terrorists. First, it is not ideal for security. Sometimes it would be more useful for the United States to capture and interrogate a terrorist (if possible) than to kill him with a Predator drone. Often the United States could get better information if it, rather than another country, detained and interrogated a terrorist suspect. Detentions at Guantanamo are more secure than detentions in Bagram or in third countries. The second problem is that terrorist suspects often end up in less favorable places. Detainees in Bagram have fewer rights than prisoners at Guantanamo, and many in Middle East and South Asian prisons have fewer yet. Likewise, most detainees would rather be in one of these detention facilities than be killed by a Predator drone. We congratulate ourselves when we raise legal standards for detainees, but in many respects all we are really doing is driving the terrorist incapacitation problem out of sight, to a place where terrorist suspects are treated worse. It is tempting to say that we should end this pattern and raise standards everywhere. Perhaps we should extend habeas corpus globally, eliminate targeted killing and cease cooperating with intelligence services from countries that have poor human rights records. This sentiment, however, is unrealistic. The imperative to stop the terrorists is not going away. The government will find and exploit legal loopholes to ensure it can keep up our defenses.

#### Data proves there’s no impact to credibility.

Christopher Fettweis, professor of political science at Tulane, Credibility and the War on Terror, Winter 2008, Political Science Quarterly, Ingenta.

There is actually scant evidence that other states ever learn the right lessons. ColdWar history contains little reason to believe that the credibility of the superpowers had very much effect on their ability to influence others. Over the last decade, a series of major scholarly studies have cast further doubt upon the fundamental assumption of interdependence across foreign policy actions. Employing methods borrowed from social psychology rather than the economics-based models commonly employed by deterrence theorists, Jonathan Mercer argued that threats are far more independent than is commonly believed and, therefore, that reputations are not likely to be formed on the basis of individual actions. While policymakers may feel that their decisions send messages about their basic dispositions to others, most of the evidence from social psychology suggests otherwise. Groups tend to interpret the actions of their rivals as situational, dependent upon the constraints of place and time. Therefore, they are not likely to form lasting impressions of irresolution from single, independent events. Mercer argued that the interdependence assumption had been accepted on faith, and rarely put to a coherent test; when it was, it almost inevitably failed.

#### No spillover — lack of credibility in one commitment doesn’t affect others at all

Paul K. MacDonald 11, Assistant Professor of Political Science at Williams College, and Joseph M. Parent, Assistant Professor of Political Science at the University of Miami, Spring 2011, “Graceful Decline?: The Surprising Success of Great Power Retrenchment,” International Security, Vol. 35, No. 4, p. 7-44

Second, pessimists overstate the extent to which a policy of retrenchment can damage a great power's capabilities or prestige. Gilpin, in particular, assumes that a great power's commitments are on equal footing and interdependent. In practice, however, great powers make commitments of varying degrees that are functionally independent of one another. Concession in one area need not be seen as influencing a commitment in another area.25 Far from being perceived as interdependent, great power commitments are often seen as being rivalrous, so that abandoning commitments in one area may actually bolster the strength of a commitment in another area. During the Korean War, for instance, President Harry Truman's administration explicitly backed away from total victory on the peninsula to strengthen deterrence in Europe.26 Retreat in an area of lesser importance freed up resources and signaled a strong commitment to an area of greater significance.

#### Data disproves heg impacts

Christopher J. Fettweis 11, Department of Political Science, Tulane University, 9/26/11, Free Riding or Restraint? Examining European Grand Strategy, Comparative Strategy, 30:316–332

It is perhaps worth noting that there is no evidence to support a direct relationship between the relative level of U.S. activism and international stability. In fact, the limited data we do have suggest the opposite may be true. During the 1990s, the United States cut back on its defense spending fairly substantially. By 1998, the United States was spending $100 billion less on defense in real terms than it had in 1990.51 To internationalists, defense hawks and believers in hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities,” argued Kristol and Kagan, “doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace.”52 On the other hand, if the pacific trends were not based upon U.S. hegemony but a strengthening norm against interstate war, one would not have expected an increase in global instability and violence. The verdict from the past two decades is fairly plain: The world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable United States military, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums, no security dilemmas drove insecurity or arms races, and no regional balancing occurred once the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in U.S. capabilities. Most of all, the United States and its allies were no less safe. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and kept declining as the Bush Administration ramped the spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated. Military spending figures by themselves are insufficient to disprove a connection between overall U.S. actions and international stability. Once again, one could presumably argue that spending is not the only or even the best indication of hegemony, and that it is instead U.S. foreign political and security commitments that maintain stability. Since neither was significantly altered during this period, instability should not have been expected. Alternately, advocates of hegemonic stability could believe that relative rather than absolute spending is decisive in bringing peace. Although the United States cut back on its spending during the 1990s, its relative advantage never wavered. However, even if it is true that either U.S. commitments or relative spending account for global pacific trends, then at the very least stability can evidently be maintained at drastically lower levels of both. In other words, even if one can be allowed to argue in the alternative for a moment and suppose that there is in fact a level of engagement below which the United States cannot drop without increasing international disorder, a rational grand strategist would still recommend cutting back on engagement and spending until that level is determined. Grand strategic decisions are never final; continual adjustments can and must be made as time goes on. Basic logic suggests that the United States ought to spend the minimum amount of its blood and treasure while seeking the maximum return on its investment. And if the current era of stability is as stable as many believe it to be, no increase in conflict would ever occur irrespective of U.S. spending, which would save untold trillions for an increasingly debt-ridden nation. It is also perhaps worth noting that if opposite trends had unfolded, if other states had reacted to news of cuts in U.S. defense spending with more aggressive or insecure behavior, then internationalists would surely argue that their expectations had been fulfilled. If increases in conflict would have been interpreted as proof of the wisdom of internationalist strategies, then logical consistency demands that the lack thereof should at least pose a problem. As it stands, the only evidence we have regarding the likely systemic reaction to a more restrained United States suggests that the current peaceful trends are unrelated to U.S. military spending. Evidently the rest of the world can operate quite effectively without the presence of a global police~~man~~. Those who think otherwise base their view on faith alone.

#### Their laundry list of vague impacts is academic junk – conflicts can’t just emerge

Fettweis, 11 Christopher J. Fettweis, Department of Political Science, Tulane University, 9/26/11, Free Riding or Restraint? Examining European Grand Strategy, Comparative Strategy, 30:316–332, EBSCO

Assertions that without the combination of U.S. capabilities, presence and commitments instability would return to Europe and the Pacific Rim are usually rendered in rather vague language. If the United States were to decrease its commitments abroad, argued Robert Art, “the world will become a more dangerous place and, sooner or later, that will redound to America’s detriment.”53 From where would this danger arise? Who precisely would do the fighting, and over what issues? Without the United States, would Europe really descend into Hobbesian anarchy? Would the Japanese attack mainland China again, to see if they could fare better this time around? Would the Germans and French have another go at it? In other words, where exactly is hegemony is keeping the peace? With one exception, these questions are rarely addressed. That exception is in the Pacific Rim. Some analysts fear that a de facto surrender of U.S. hegemony would lead to a rise of Chinese influence. Bradley Thayer worries that Chinese would become “the language of diplomacy, trade and commerce, transportation and navigation, the internet, world sport, and global culture,” and that Beijing would come to “dominate science and technology, in all its forms” to the extent that soon the world would witness a Chinese astronaut who not only travels to the Moon, but “plants the communist flag on Mars, and perhaps other planets in the future.”54 Indeed China is the only other major power that has increased its military spending since the end of the Cold War, even if it still is only about 2 percent of its GDP. Such levels of effort do not suggest a desire to compete with, much less supplant, the United States. The much-ballyhooed, decade-long military buildup has brought Chinese spending up to somewhere between one-tenth and one-fifth of the U.S. level. It is hardly clear that a restrained United States would invite Chinese regional, must less global, political expansion. Fortunately one need not ponder for too long the horrible specter of a red flag on Venus, since on the planet Earth, where war is no longer the dominant form of conflict resolution, the threats posed by even a rising China would not be terribly dire. The dangers contained in the terrestrial security environment are less severe than ever before. Believers in the pacifying power of hegemony ought to keep in mind a rather basic tenet: When it comes to policymaking, specific threats are more significant than vague, unnamed dangers. Without specific risks, it is just as plausible to interpret U.S. presence as redundant, as overseeing a peace that has already arrived. Strategy should not be based upon vague images emerging from the dark reaches of the neoconservative imagination. Overestimating Our Importance One of the most basic insights of cognitive psychology provides the final reason to doubt the power of hegemonic stability: Rarely are our actions as consequential upon their behavior as we perceive them to be. A great deal of experimental evidence exists to support the notion that people (and therefore states) tend to overrate the degree to which their behavior is responsible for the actions of others. Robert Jervis has argued that two processes account for this overestimation, both of which would seem to be especially relevant in the U.S. case.55 First, believing that we are responsible for their actions gratifies our national ego (which is not small to begin with; the United States is exceptional in its exceptionalism). The hubris of the United States, long appreciated and noted, has only grown with the collapse of the Soviet Union.56 U.S. policymakers famously have comparatively little knowledge of—or interest in—events that occur outside of their own borders. If there is any state vulnerable to the overestimation of its importance due to the fundamental misunderstanding of the motivation of others, it would have to be the United States. Second, policymakers in the United States are far more familiar with our actions than they are with the decision-making processes of our allies. Try as we might, it is not possible to fully understand the threats, challenges, and opportunities that our allies see from their perspective. The European great powers have domestic politics as complex as ours, and they also have competent, capable strategists to chart their way forward. They react to many international forces, of which U.S. behavior is only one. Therefore, for any actor trying to make sense of the action of others, Jervis notes, “in the absence of strong evidence to the contrary, the most obvious and parsimonious explanation is that he was responsible.”57 It is natural, therefore, for U.S. policymakers and strategists to believe that the behavior of our allies (and rivals) is shaped largely by what Washington does. Presumably Americans are at least as susceptible to the overestimation of their ability as any other people, and perhaps more so. At the very least, political psychologists tell us, we are probably not as important to them as we think. The importance of U.S. hegemony in contributing to international stability is therefore almost certainly overrated. In the end, one can never be sure why our major allies have not gone to, and do not even plan for, war. Like deterrence, the hegemonic stability theory rests on faith; it can only be falsified, never proven. It does not seem likely, however, that hegemony could fully account for twenty years of strategic decisions made in allied capitals if the international system were not already a remarkably peaceful place. Perhaps these states have no intention of fighting one another to begin with, and our commitments are redundant. European great powers may well have chosen strategic restraint because they feel that their security is all but assured, with or without the United States.

### Warming

#### Obama is allergic to multilat – won’t use it even if he has it

Mark Lagon, staff writer, 10-18-2011, “Soft Power Under Obama,” ISN, http://www.isn.ethz.ch/isn/Current-Affairs/ISN-Insights/Detail?lng=en&id=133416&contextid734=133416&contextid735=133415&tabid=133415&dynrel=4888caa0-b3db-1461-98b9-e20e7b9c13d4,0c54e3b3-1e9c-be1e-2c24-a6a8c7060233

One irony of the Obama presidency is how much it relies on hard power. The president came into office proposing a dramatic shift from George W. Bush’s perceived unilateralism, and most of his predecessor’s hard-edged counterterrorism tactics and massive deployments in wars abroad. Yet after three years, Obama has escalated forces in Afghanistan, embraced the widespread use of unmanned drones to kill terrorists at the risk of civilian casualties, kept Guantánamo open, and killed Osama bin Laden in Pakistan in a thoroughly unilateral fashion. What he hasn’t accomplished to any great degree is what most observers assumed would be the hallmark of his approach to foreign affairs—a full assertion of the soft power that makes hard power more effective. His 2008 campaign centered on a critique of President Bush’s overreliance on hard power. Obama suggested he would rehabilitate the damaged image of America created by these excesses and show that the United States was not a cowboy nation. Upon taking office, he made fresh-start statements, such as his June 2009 remarks in Cairo, and embraced political means like dialogue, respectful multilateralism, and the use of new media, suggesting that he felt the soft power to change minds, build legitimacy, and advance interests was the key element missing from the recent US approach to the world—and that he would quickly remedy that defect. Yet President Obama’s conception of soft power has curiously lacked the very quality that has made it most efficacious in the past—the values dimension . This may seem odd for a leader who is seen worldwide as an icon of morality, known for the motto “the audacity of hope” and his deployment of soaring rhetoric. Yet his governance has virtually ignored the values dimension of soft power, which goes beyond the tradecraft of diplomacy and multilateral consultation to aggressively assert the ideals of freedom in practical initiatives. The excision of this values dimension renders soft power a hollow concept. The Obama presidency has regularly avoided asserting meaningful soft power, particularly in its relations with three countries—Iran, Russia, and Egypt—where it might have made a difference not only for those countries but for American interests as well. His reaction to the challenges these countries have posed to the US suggest that it is not soft power itself that Obama doubts, but America’s moral standing to project it. Perhaps the most striking example of a lost opportunity to use moral soft power was in Iran. In March 2009, President Obama made an appeal in a video to Iran for a “new beginning” of diplomatic engagement. In April 2009, he said in an address in Prague that in trying to stem Iran’s nuclear arms efforts, his administration would “seek engagement with Iran based on mutual interests and mutual respect.” Two months later questions arose about President Ahmadinejad claiming victory over Mir Hussein Moussavi in the presidential election on June 12th. Within three days, there were large demonstrations in Tehran, Rasht, Orumiyeh, Zahedan, and Tabriz. As Iranians took to the streets, Obama had to choose whether to associate the US with the protestors or preserve what he appeared to believe was a possible channel of dialogue with Ahmadinejad on Iran’s nuclear program. For several days, the American president deliberately refused to embrace the Green Movement swelling in Iran’s streets to protest a stolen election—reaching up to three million in Tehran alone. Temporizing, he said, “It is up to Iranians to make decisions about who Iran’s leaders will be. We respect Iranian sovereignty and want to avoid the United States being the issue inside of Iran.” But it was inevitable that the US would be scapegoated by Iranian leaders for meddling, even if it chose moral inaction. As Council on Foreign Relations President Richard Haass wrote in Newsweek seven months later: “I am a card-carrying realist on the grounds that ousting regimes and replacing them with something better is easier said than done. . . . Critics will say promoting regime change will encourage Iranian authorities to tar the opposition as pawns of the West. But the regime is already doing so. Outsiders should act to strengthen the opposition and to deepen rifts among the rulers. This process is underway . . . . Even a realist should recognize that it’s an opportunity not to be missed.” Eventually, probably as a result of the influence of Secretary of State Hillary Clinton, whose opposition to Iran’s leadership she established as a senator, administration policy became more forthright. A year after the protests began, the president signed into law targeted sanctions on the Revolutionary Guard. Yet failing to clearly side with Ahmadinejad’s opponents in 2009 represented a serious loss of US credibility. It also failed to encourage the moral “change” that Obama had appeared to invoke during his campaign. Soft power and its ability to strengthen the protest movement was squandered. Early and active US backing for a more unified opposition might have buoyed and strengthened the Green opposition and helped it to better take advantage of subsequent divisions in the regime: parliamentarians petitioning to investigate payoffs to millions of people to vote for Ahmadinejad, friction between Ahmadinejad and supreme leader Ayatollah Ali Khamenei, and efforts by the Revolutionary Guard to assert prevalence over politics. By supporting the opposition in Iran through soft power, the administration would not only have associated the US with the aspirations of the people in the streets of Tehran but also advanced the objective of dislodging a potentially nuclear rogue state. It is particularly ironic that Obama policy toward Russia should have eschewed the projection of soft power given that the NSC’s senior director for Russia and Eurasia, Michael McFaul, is the administration official most closely identified in his career with the cause of democracy promotion. In Advancing Democracy Abroad , published just last year, he writes, “The American president must continue to speak out in support of democracy and human rights. Shying away from the ‘d’ word . . . would send a terrible signal to the activists around the world fighting for human rights and democratic change. . . . American diplomats must not check their values at the door.” In the book, McFaul offers an ambitious vision linking values to stability for Russia and Eurasia: “In Eurasia, a democratic Russia could become a force for regional stability . . . not unlike the role that Russia played in the beginning of the 1990s. A democratic Russia seeking once again to integrate into Western institutions also would cooperate more closely with the United States and Europe on international security issues.” But in its haste to “hit the reset button” on bilateral relations, the Obama White House ignored McFaul’s counsel. Instead of approaching the Russians with a set of firm moral expectations, the administration has courted President Medvedev as a counterweight to Putinism (missing the fact that rather than a countervailing force, Medvedev was, as noted in a US diplomatic cable released by WikiLeaks, Robin to Putin’s Batman). As events would show, Medvedev offered no real obstacle to Putin’s resumption of the presidency after a hiatus as prime minister to satisfy term limit laws. Nor, for that matter, is there any significant difference in policy between the Medvedev era and that which preceded it in terms of issues such as the occupation of Georgian territory, internal corruption, or silencing remaining independent media or business figures. Instead of establishing a foundation of clear principles in his reset of relations with the Putin regime, President Obama has seen relations with Russia in terms of a larger picture of strategic arms control. He believes proliferators like Iran and North Korea can be restrained if the major nuclear powers reduce their stockpiles, in fealty to the premises of the 1968 Nuclear Non-Proliferation Treaty. Hence, the New START Treaty was his singular focus with Russia and the grounds for his appeasement of Putinism. He seems never to have considered asserting a soft power that would have signaled to Russian opposition figures like Boris Nemtsov—badly beaten in December 2010 after flying home from speaking in the US—that the US places little trust in bargains with leaders shredding the rule of law in their daily governance. The Russian security state has chosen to cooperate with the US in a few areas it has concluded are in its own interest. It allowed passage of a watered-down UN Security Council resolution 1929, imposing sanctions on Iran for its nuclear program, and cancelled plans to sell the S-300 air defense system to the Ahmadinejad regime. It has also cooperated on counterterrorism and US military access to Afghanistan. Yet would the United States have been unable to secure this discrete cooperation without “checking our values at the door,” in Michael McFaul’s phrase? The United States has achieved no cooperation from Russian leaders on issues such as the rule of law and an end to systematic intimidation and the arrests of opposition, press, and business figures, and indeed threats to American businesses’ private property rights and safety. Leaders of the Solidarity opposition movement continue to be detained, environmental nonprofits continue to be raided for trumped-up tax and software piracy irregularities, lawyer Sergei Magnitsky died in detention, and journalist Oleg Kashin was, like Boris Nemtsov, beaten. There is no evidence of concerted bilateral pressure by the Obama administration to protest Russian unwillingness to protect freedoms for its citizens. The lack of linkage between “realist” hard-power issues (such as nonproliferation) and domestic values (such as the rule of law) has limited rather than increased US influence with Russia. The Carnegie Endowment’s Matthew Rojansky and James Collins rightly conclude: “If the United States erects an impenetrable wall between bilateral cooperation and Russia’s domestic politics, the Kremlin will simply conclude Washington is willing to give ground on transparency, democracy, and rule of law in order to gain Russian cooperation on nonproliferation, Afghanistan, and other challenges.” Indeed, in June 2011, the undeterred Russian regime barred Nemtsov’s People’s Freedom Party from running in the December 2011 parliamentary elections. President Obama has selected Michael McFaul to be his ambassador to Russia. Sadly, dispatching the first non-diplomat in that role in three decades, not to mention a man whose vision of a just Russian policy for the US is at odds with the administration’s own practice, is unlikely to dislodge this values-free approach. The underwriting of Hosni Mubarak long predates the Obama administration. The unconditional gift of massive annual aid for the 1979 Camp David Accords lasted thirty-one years, spanning the administrations of six US presidents. It left Mubarak to squash democracy initiatives at home and force a binary choice on American policymakers between the Egyptian ruler and Muslim Brotherhood Islamists. Yet both before and after Egyptians took to the streets early this year to call for Mubarak’s ouster, President Obama lost chances to exercise soft power in a way that might have conditioned the eventual outcome in Egypt. The United States would have been much better poised to shape a transition and assist non-Islamist democrats in 2011 if the Obama administration had not cut democracy and governance aid in Egypt from $50 million in 2008 to $20 million in 2009 (to which Congress later restored $5 million). The outgoing Bush administration had cut economic aid for Egypt in the 2009 budget, but sustained democracy and governance programs. Urged by US ambassador to Egypt Margaret Scobey, the Obama administration cut those programs too. Cuts for civil society and NGOs were sharpest, from $32 million to $7 million in 2009. These steps made a mockery of Obama’s June 2009 Cairo speech offering to “turn a page” in US-Muslim engagement. When the Egyptian people took to the streets to reject their leader as Tunisians just had, President Obama picked former ambassador to Egypt Frank Wisner as special crisis envoy. Reflecting what was actually the president’s position at the outset, Wisner said to an annual conference in Munich, “We need to get a national consensus around the pre-conditions for the next step forward. The president [Mubarak] must stay in office to steer those changes.” He also opined, “I believe President Mubarak’s continued leadership is critical—it’s his chance to write his own legacy.” This legacy was not a pretty thing as the Mubarak regime tried to resist the will of the Egyptian public with lethal force. Echoing his response nineteen months earlier in Iran, President Obama asserted only that the United States was determined not to be central to the Egyptian story, however it evolved. When he saw which way the truth was blowing on the streets of Cairo, the president recalibrated. Watching these developments, which had far more to do with image than policy, Financial Times correspondent Daniel Dombey surmised: “So when the demonstrations began, the White House struggled to catch up, changing its message day by day until it eventually sided with the protesters against the government of Hosni Mubarak . . . Now, US officials suggest, the president has finally embraced his ‘inner Obama’ . . . The White House has also indulged in a little spinning, depicting the president as a decisive leader who broke with the status quo view of state department Arabists.” In the March 2011 referendum on amendments to the Egyptian Constitution, forty-one percent of the Egyptian public turned out and backed the amendments by a seventy-seven percent tally. The leaders of the anti-Mubarak protests and leading presidential candidates Mohamed ElBaradei and Amr Moussa had urged Egyptians to turn out and reject the amendments, drafted by lawyers and judges picked by Egypt’s military rulers, in favor of a whole new constitution limiting expansive presidential powers. The Muslim Brotherhood backed the amendments, perhaps hoping to benefit from winning strong executive power. The “inner Obama” failed to place America squarely behind the relatively weak non-Islamist forces in Egyptian civil society when it would have counted. Despite large economic challenges, two protracted military expeditions, and the rise of China, India, Brazil, and other new players on the international scene, the United States still has an unrivaled ability to confront terrorism, nuclear proliferation, financial instability, pandemic disease, mass atrocity, or tyranny. Although far from omnipotent, the United States is still, as former Secretary of State Madeleine Albright called it, “the indispensible nation.” Soft power is crucial to sustaining and best leveraging this role as catalyst. That President Obama should have excluded it from his vision of America’s foreign policy assets—particularly in the key cases of Iran, Russia, and Egypt—suggests that he feels the country has so declined, not only in real power but in the power of example, that it lacks the moral authority to project soft power. In the 1970s, many also considered the US in decline as it grappled with counterinsurgency in faraway lands, a crisis due to economic stagnation, and reliance on foreign oil. Like Obama, Henry Kissinger tried to manage decline in what he saw as a multipolar world, dressing up prescriptions for policy as descriptions of immutable reality. In the 1980s, however, soft power played a crucial part in a turnaround for US foreign policy. Applying it, President Reagan sought to transcend a nuclear balance of terror with defensive technologies, pushed allies in the Cold War (e.g., El Salvador, Chile, Taiwan, South Korea, and the Philippines) to liberalize for their own good, backed labor movements opposed to Communists in Poland and Central America, and called for the Berlin Wall to be torn down—over Foggy Bottom objections. This symbolism not only boosted the perception and the reality of US influence, but also hastened the demise of the USSR and the Warsaw Pact. For Barack Obama, this was the path not taken. Even the Arab Spring has not cured his acute allergy to soft power. His May 20, 2011, speech on the Middle East and Northern Africa came four months after the Jasmine Revolution emerged. His emphasis on 1967 borders as the basis for Israeli-Palestinian peace managed to eclipse even his broad words (vice deeds) on democracy in the Middle East. Further, those words failed to explain his deeds in continuing to support some Arab autocracies (e.g., Bahrain’s, backed by Saudi forces) even as he gives tardy rhetorical support for popular forces casting aside other ones.

#### Multilateralism not solve war of international problems – multiple examples belie any proof of solvency.

Naazneen Barma et al 3/1/13, Naazneen Barma is an assistant professor of national-security affairs at the Naval Postgraduate School. Ely Ratner is a fellow at the Center for a New American Security. Steven Weber is a professor of political science and at the School of Information at the University of California, Berkeley, http://nationalinterest.org/print/article/the-mythical-liberal-order-8146

On matters of war and peace, the international community is fighting similar battles and for the most part experiencing similar failures to provide a system of collective security. In Africa’s Great Lakes region, more than five million people have died directly and indirectly from fifteen years of civil war and conflict. Just to the north, the international community stood by and watched a genocide in Sudan. In places more strategically important to leading nations, the outcome—as showcased in Syria—is geopolitical gridlock. The last time the Security Council managed to agree on what seemed like serious collective action was over Libya, but both China and Russia now believe they were intentionally misled and that what was sold as a limited humanitarian mission was really a regime-change operation illegitimately authorized by the UN. This burst of multilateralism has actually made global-security governance down the road less likely. Meanwhile, international cooperation on security matters has been relegated to things like second-tier peacekeeping operations and efforts to ward off pirates equipped with machine guns and speedboats. These are worthy causes but will not move the needle on the issues that dominate the international-security agenda. And on the emerging issues most in need of forward-looking global governance—cybersecurity and unmanned aerial vehicles, for example—there are no rules and institutions in place at all, nor legitimate and credible mechanisms to devise them. Assessed against its ability to solve global problems, the current system is falling progressively further behind on the most important challenges, including financial stability, the “responsibility to protect,” and coordinated action on climate change, nuclear proliferation, cyberwarfare and maritime security. The authority, legitimacy and capacity of multilateral institutions dissolve when the going gets tough—when member countries have meaningfully different interests (as in currency manipulations), when the distribution of costs is large enough to matter (as in humanitarian crises in sub-Saharan Africa) or when the shadow of future uncertainties looms large (as in carbon reduction). Like a sports team that perfects exquisite plays during practice but fails to execute against an actual opponent, global-governance institutions have sputtered precisely when their supposed skills and multilateral capital are needed most.

#### Can’t solve climate – too fast, stays in the air, and cuts won’t happen.

David G. Victor et al 12, Professor at the School of International Relations and Pacific Studies at the University of California, San Diego, May/Jun (with Charles F. Kennel and Veerabhadran Ramanathan, Foreign Affairs, Vol. 91 Issue 3)

FOR MORE than two decades, diplomats have struggled to slow global warming. They have negotiated two major treaties to achieve that goal, the 1992 UN Framework Convention on Climate Change and the 1997 Kyoto Protocol. And last year, at the UN Climate Change Conference in Durban, South Africa, they agreed to start talking about yet another treaty. A small group of countries, including Japan and the members of the European Union, now regulate their emissions in accord with the existing agreements. But most states, including the largest emitters of greenhouse gases, China and the United States, have failed to make much progress. As a result, total emissions of carbon dioxide, the leading long-term cause of global warming, have risen by more than 50 percent since the 1980s and are poised to rise by more than 30 percent in the next two to three decades.¶ The ever-increasing quantity of emissions could render moot the aim that has guided international climate diplomacy for nearly a decade: preventing the global temperature from rising by more than two degrees Celsius above its preindustrial level. In fact, in the absence of significant international action, the planet is now on track to warm by at least 2.5 degrees during the current century -- and maybe even more. The known effects of this continued warming are deeply troubling: rising sea levels, a thinning Arctic icecap, extreme weather events, ocean acidification, loss of natural habitats, and many others. Perhaps even more fearsome, however, are the effects whose odds and consequences are unknown, such as the danger that melting permafrost in the Arctic could release still more gases, leading to a vicious cycle of still more warming.¶ All these risks are rising sharply because the traditional approach to international climate diplomacy has failed. For too long, climate science and policymaking have focused almost exclusively on emissions of carbon dioxide, most of which come from burning fossil fuels. Weaning the planet off fossil fuels has proved difficult, partly because expensive and rapid shifts to new energy systems could have negative effects on the competitiveness of modern economies. What is more, carbon dioxide inconveniently remains in the atmosphere for centuries, and so even keeping carbon dioxide at current levels would require deep cuts sustained over many decades -- with economic consequences that states are unlikely to be willing to bear unless they are confident that their competitors will do the same. No permanent solution to the climate problem is feasible without tackling carbon dioxide, but the economic and geophysical realities of carbon dioxide emissions almost guarantee political gridlock.

#### Warming won’t cause extinction

Scott Barrett 7, professor of natural resource economics – Columbia University

(Why Cooperate? The Incentive to Supply Global Public Goods, introduction)

First, climate change does not threaten the survival of the human species.5 If unchecked, it will cause other species to become extinction (though biodiversity is being depleted now due to other reasons). It will alter critical ecosystems (though this is also happening now, and for reasons unrelated to climate change). It will reduce land area as the seas rise, and in the process displace human populations. “Catastrophic” climate change is possible, but not certain. Moreover, and unlike an asteroid collision, large changes (such as sea level rise of, say, ten meters) will likely take centuries to unfold, giving societies time to adjust. “Abrupt” climate change is also possible, and will occur more rapidly, perhaps over a decade or two. However, abrupt climate change (such as a weakening in the North Atlantic circulation), though potentially very serious, is unlikely to be ruinous. Human-induced climate change is an experiment of planetary proportions, and we cannot be sur of its consequences. Even in a worse case scenario, however, global climate change is not the equivalent of the Earth being hit by mega-asteroid. Indeed, if it were as damaging as this, and if we were sure that it would be this harmful, then our incentive to address this threat would be overwhelming. The challenge would still be more difficult than asteroid defense, but we would have done much more about it by now.

## Disease

#### No extinction—biological checks

Posner ‘4 (Richard, Senior Lecturer in Law University of Chicago, Catastrophe: Risk and Response, p. 23-4)

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

#### No escalation—prevention and treatment check

Britt ‘1 (Rober, Sr Science Writer for space.com, “Survival of the Elitist: Bioterrorism May Spur Space Colonies,” 10-30, <http://www.rezoweb.com/forum/technologie/aaaroskoforum/319.shtml>)

Many scientists argue that there is no need to worry about the mortality of civilization right now. Eric Croddy is an expert on chemical and biological weapons at the Monterey Institute of International Studies. Croddy said the threat of a virus wiping out the entire human species is simply not real. Even the most horrific virus outbreak in history, the 1918 Spanish Flu epidemic that killed between 20 million and 40 million people, including hundreds of thousands in the United States, eventually stopped. Experts say new strains of the influenza virus emerge every few decades and catch the human immune system unprepared, but prevention measures and ever-evolving medical treatments overcome the outbreaks.