# 1NC

## Off

### 1NC Restriction = Prohibition

#### A. Restrictions are prohibitions on action --- excludes conditions

Jean Schiedler-Brown 12, Attorney, Jean Schiedler-Brown & Associates, Appellant Brief of Randall Kinchloe v. States Dept of Health, Washington, The Court of Appeals of the State of Washington, Division 1, http://www.courts.wa.gov/content/Briefs/A01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation.

Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as;

A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment.

Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

#### B. Voting Issue---Precision—restrictions must be a distinct term for debate to occur

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(Senior Lecturer in Law, University of London, Queen Mary. He has held fellowships from the Fulbright Foundation and the French and German governments. He teaches Legal Theory, Constitutional Law, Human Rights and Public International Law. JD Harvard) 2003 “The Logic of Liberal Rights A study in the formal analysis of legal discourse” http://mey.homelinux.org/companions/Eric%20Heinze/The%20Logic%20of%20Liberal%20Rights\_%20A%20Study%20in%20%20%28839%29/The%20Logic%20of%20Liberal%20Rights\_%20A%20Study%20in%20%20-%20Eric%20Heinze.pdf

Variety of ‘restrictions’

The term ‘restriction’, defined so broadly, embraces any number of familiar concepts: ‘deprivation’, ‘denial’, ‘encroachment’, ‘incursion’, ‘infringement’, ‘interference’, ‘limitation’, ‘regulation’. Those terms commonly comport differences in meaning or nuance, and are not all interchangeable in standard legal usage. For example, a ‘deprivation’ may be distinguished from a ‘limitation’ or ‘regulation’ in order to denote a full denial of a right (e.g. where private property is wholly appropriated by the state 16 Agents without compensation) as opposed to a partial constraint (e.g. where discrete restrictions are imposed on the use of property which nonetheless remains profitably usable). Similarly, distinctions between acts and omissions can leave the blanket term ‘restriction’ sounding inapposite when applied to an omission: if a state is accused of not doing enough to give effect to a right, we would not colloquially refer to such inaction as a ‘restriction’. Moreover, in a case of extreme abuse, such as extrajudicial killing or torture, it might sound banal to speak merely of a ‘restriction’ on the corresponding right. However, the term ‘restriction’ will be used to include all of those circumstances, in so far as they all comport a purpose or effect of extinguishing or diminishing the right-seeker’s enjoyment of an asserted right. (The only significant distinction which will be drawn will be between that concept of ‘restriction’ and the concept of ‘breach’ or ‘violation’. The terms ‘breach’ or ‘violation’ will be used to denote a judicial determination about the legality of the restriction.6) Such an axiom may seem unwelcome, in so far as it obliterates subtleties which one would have thought to be useful in law. It must be stressed that we are seeking to eliminate that variety of terms not for all purposes, but only for the very narrow purposes of a formal model, for which any distinctions among them are irrelevant.

### 1NC – Bond DA (Treaties)

#### There will be a narrow ruling on Bond now but conservative advocates are pushing.

Donnelly 11-5-13

Tom, Constitutional Accountability Center’s Message Director and Counsel and former Climenko Fellow and Lecturer on Law at Harvard Law School, Constitutional law as soap opera: Bond v. United States http://blog.constitutioncenter.org/2013/11/constitutional-law-as-soap-opera-bond-v-united-states/

Colorful facts aside, in the conservatives’ rendering of Bond, the very fabric of the Republic is at stake. George Will has called it the Term’s “most momentous case,” arguing that the Roberts Court must step in to check a “government run amok.” The Heritage Foundation warns that the case challenges a key lesson that “Americans are taught from a young age” – that “our government is a government of limited powers.” And Ted Cruz frames the legal issue as follows: whether the “Treaty Clause is a trump card that defeats all of the remaining structural limitations on the federal government.” A scary proposition, indeed . . . But will the Court even get this far? Ms. Bond’s primary argument is that the chemical weapons treaty and its implementing statute should be read to exclude her conduct – a question of statutory interpretation and hardly the stuff of Tenthers’ dreams. If the Court decides the case on those grounds, Ms. Bond could very well prevail, while the ruling itself could be rather minor. The main reason that this case may prove “momentous” is that leading conservative academics, advocates, and legal groups are pushing the Roberts Court to turn this case from an interesting-but-far-from-historic statutory case into a monumental constitutional one. While the Court denied a request from Professor Nicholas Rosenkranz and the Cato Institute – the main proponents of the treaty-power-as-dangerous-trump-card theory – for time to press their argument during tomorrow’s hearing, the Court generally rejects such requests from amicus curiae, so we can’t read too much into that. And, following other recent cases addressing the scope of federal power – including, most prominently, the Affordable Care Act case – there is every reason to believe that the Court may wade into the important constitutional issues lurking just beneath the surface in Bond. The primary constitutional issue in the case involves the scope of the federal government’s treaty power – a power that was of central interest to George Washington and his Founding-era colleagues – and, in turn, Congress’s power under the Necessary and Proper Clause to pass laws to implement validly enacted treaties. However, in Bond, conservative legal groups have proceeded to turn the Constitution’s text and history on their head, arguing that the Constitution itself requires a ruling that sharply limits federal power and overturns nearly a century’s worth of precedent – dating back to a 1920 ruling by Justice Oliver Wendell Holmes. Indeed, Bond is just one of several cases this Term featuring an aggressive call by conservatives to overturn well-established precedent. Furthermore, a broad ruling by the Court’s conservatives could significantly limit Congress’s power to enact laws under the Necessary and Proper Clause, generally, opening up new challenges to various government programs and regulations. In the past, the right’s constitutional arguments may have gone unanswered. However, increasingly, leading progressive academics and practitioners have begun to stake their own claim to the Constitution’s text and history – the tired battle between the progressive community’s “living Constitution” and Justice Scalia’s “dead Constitution” replaced by new battles between the left and the right over the Constitution’s meaning. Bond is a clear example of this new dynamic. Rather than ceding the Constitution’s text and history to conservative legal groups, progressives have fought back in Bond with originalist arguments of their own in briefs authored by some of the progressive community’s leading lights, including Walter Dellinger, Marty Lederman, and Oona Hathaway. These briefs – as well as one filed by my organization, Constitutional Accountability Center – remind the Court that, in ditching the dysfunctional Articles of Confederation, the Founders sought to create a strong national government with the power to negotiate treaties with foreign nations, pass laws to fulfill those treaty obligations, and, in turn, enhance the young nation’s international reputation. With progressives fully engaged in the battle over the Constitution’s meaning, the question facing the Court in important constitutional cases is now less about whether the Constitution’s text and history should prevail and more about which side’s version rings truer.

#### Aff is a massive change – kills court capital and will be ignored by the President.

Devins 2010

Neal, Professor of Law at William and Mary, Talk Loudly and Carry a Small Stick: The Supreme Court and Enemy Combatants, http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1024&context=facpubs

Without question, there are very real differences between the factual contexts of Kiyemba and Bush-era cases. These differences, however, do not account for the striking gap between accounts of Kiyemba as likely inconsequential and Bush-era cases as "the most important decisions" on presidential power "ever., 20 In the pages that follow, I will argue that Kiyemba is cut from the same cloth as Bush-era enemy combatant decision making. Just as Kiyemba will be of limited reach (at most signaling the Court's willingness to impose further limits on the government without forcing the government to meaningfully adjust its policymaking), Bush-era enemy combatant cases were modest incremental rulings. Notwithstanding claims by academics, opinion leaders, and the media, Supreme Court enemy combatant decision making did not impose significant rule of law limits on the President and Congress. Bush-era cases were certainly consequential, but they never occupied the blockbuster status that so many (on both the left and the right) attributed to them. Throughout the course of the enemy combatant dispute, the Court has never risked its institutional capital either by issuing a decision that the political branches would ignore, or by compelling the executive branch to pursue policies that created meaningful risks to national security. The Court, instead, took limited risks to protect its turf and assert its power to "say what the law is." That was the Court's practice during the Bush years, and it is the Court's practice today.

#### Upholding Missouri v Holland is key to treaties but capital is key.

Spiro 2008

Peter J., Professor of Law, Temple University, Resurrecting Missouri v. Holland, Missouri Law Review http://law.missouri.edu/lawreview/files/2012/11/Spiro.pdf

Even with respect to the Children’s Rights Convention, the balance may change. At both levels, the game is dynamic. On the international plane, as more attention is focused on human rights regimes, the costs of nonparticipation rise. Other countries and other international actors (human rights NGOs, for example) will train a more focused spotlight on U.S. nonparticipation.28 From a human rights perspective, it’s low-hanging fruit; the mere fact that the United States finds itself alone with Somalia outside the regime suffices to demonstrate the error of the American stance as a leading example of deplored American exceptionalism. For progressive advocacy groups focusing on children’s rights, the Convention is emerging as an agenda item.29 More powerful actors, including states and such major human rights groups as Amnesty International and Human Rights Watch, may be unlikely to put significant political resources into the effort, but there is the prospect of a drumbeat effect and accompanying stress to U.S. decisionmakers. 30 In the wake of international opprobrium associated with post-9/11 antiterror strategies, U.S. conformity with human rights has come under intensive international scrutiny. That scrutiny is spilling over into other human rights-related issues; there will be no more free passes for the United States when it comes to rights.31 Human rights may present the most obvious flash point along the Holland front, but it will not be the only one. As Antonia Chayes notes, “resentment runs deep” against U.S. treaty behavior.32 International pressure on the United States to fully participate in widely-subscribed international treaty regimes, some of which could constitutionally ride on the Treaty Power alone, will grow more intense. At the same time that the international price of non-participation rises, a subtle socialization may be working to lower the domestic cost of exercising Holland-like powers. Globalization is massaging international law into the sinews of American political culture. The United States may not have ratified the Convention on the Rights of the Child, for example, but it has acceded to Hague Conventions on abduction33 and adoption,34 as well as optional protocols to the Children’s Rights Convention itself,35 and has enthusiastically pursued an agreement on the transboundary recovery of child support.36 As international law becomes familiar as a tool of family law, the Children’s Convention will inevitably look less threatening even against America’s robust sentiments regarding federalism. Regimes in other areas should be to similar effect and will span the political divide. It is highly significant, for instance, that conservative Americans have become vocal advocates of international regimes against religious persecution, a key factor in the aggressive U.S. stance on Darfur.37 To the extent that conservatives see utility in one regime they will lose traction with respect to principled category arguments against others. Which is not at all to say that Holland will be activated with consensus support. A clear assertion of the Treaty Power against state prerogatives would surely provoke stiff opposition in the Senate and among anti-internationalist conservatives, setting the scene for a constitutional showdown.38 The adoption of a treaty regime invading protected state powers would require the expenditure of substantial political capital. Any president taking the Treaty Power plunge would be well advised to choose a battle to minimize policy controversy on top of the constitutional one. A substantively controversial regime depending on Holland’s authority (say, relating to the death penalty) would increase the risk of senatorial rebuke. Perhaps the best strategy would be to plant the seeds of constitutional precedent in the context of substantively obscure treaties, ones unlikely to attract sovereigntist flak. If a higher profile treaty implicating Holland were then put on the table, earlier deployments would undermine opposition framed in constitutional terms. Such was the case with the innovation of congressional-executive agreements, which, before their use in adopting major institutional regimes in the wake of World War II, had been used with respect to minor agreements in the interwar years.39 In contrast to the story of congressional-executive agreements, advocates of an expansive Treaty Power will have the advantage of Holland itself, that is, a Supreme Court decision on point and not superseded by a subsequent ruling. That would lend constitutional credibility to the proposed adoption of any agreement requiring the Treaty Power by way of constitutional support. But it wouldn’t settle the question in the face of the consistent practice described above. Holland is an old, orphaned decision, creating ample space for contemporary rejection. An anti-Holland posture, the decision’s status as good law notwithstanding, would also be bolstered by the highly credentialed revisionist critique.40 That of course begs the question of what the Supreme Court would do with the question were it presented. The Court could reaffirm Holland, in which case its resurrection would be official and the constitutional question settled, this time (one suspects) for good. That result would comfortably fit within the tradition of the foreign affairs differential (in which Holland itself is featured).41 One can imagine the riffs on Holmes, playing heavily to the imperatives of foreign relations and the increasing need to manage global challenges effectively. The opinion might not write itself, but it would require minimal creativity. Recent decisions, Garamendi notably among them,42 would supply an updated doctrinal pedigree. And since the question would come to the Court only after a treaty had garnered the requisite two-thirds’ support in the Senate, the decision would not likely require much in the way of political fortitude on the Court’s part. It would also likely draw favorable international attention, reaffirming the justices’ membership in the global community of courts.43 IV. CONCLUSION:CONSTITUTIONAL LIFE WITHOUT MISSOURI V. HOLLAND Holland’s judicial validation would hardly be a foregone conclusion. The Supreme Court has grown bolder in the realm of foreign relations. Much of this boldness has been applied to advance the application of international norms to U.S. lawmaking, the post-9/11 terror cases most notably among them.44 The VCCR decisions, on the other hand, have demonstrated the Court’s continued resistance to the application of treaty obligations on the states. In Medellín, where the Court found the President powerless to enforce the ICJ’s Avena decision on state courts, that resistance exhibited itself over executive branch objections. The Court rebuffed the President with the result of retarding the imposition of international law on the states and at the risk of offending powerful international actors.

#### Treaties are key to cooperation on every issue – solve extinction

Koh and Smith 2003

Harold Hongju Koh, Professor of International Law, and Bernice Latrobe Smith, Yale Law School; Assistant Secretary of State for Democracy, Human Rights and Labor, “FOREWORD: On American Exceptionalism,” May 2003, 55 Stan. L. Rev. 1479

Similarly, the oxymoronic concept of "imposed democracy" authorizes top-down regime change in the name of democracy. Yet the United States has always argued that genuine democracy must flow from the will of the people, not from military occupation. 67 Finally, a policy of strategic unilateralism seems unsustainable in an interdependent world. For over the past two centuries, the United States has become party not just to a few treaties, but to a global network of closely interconnected treaties enmeshed in multiple frameworks of international institutions. Unilateral administration decisions to break or bend one treaty commitment thus rarely end the matter, but more usually trigger vicious cycles of treaty violation. In an interdependent world, [\*1501] the United States simply cannot afford to ignore its treaty obligations while at the same time expecting its treaty partners to help it solve the myriad global problems that extend far beyond any one nation's control: the global AIDS and SARS crises, climate change, international debt, drug smuggling, trade imbalances, currency coordination, and trafficking in human beings, to name just a few. Repeated incidents of American treaty-breaking create the damaging impression of a United States contemptuous of both its treaty obligations and treaty partners. That impression undermines American soft power at the exact moment that the United States is trying to use that soft power to mobilize those same partners to help it solve problems it simply cannot solve alone: most obviously, the war against global terrorism, but also the postwar construction of Iraq, the Middle East crisis, or the renewed nuclear militarization of North Korea.

### Court Disad

Judicial restrictions on war power trigger court stripping-guts solvency

Lederman-DOJ Office of Legal Counsel-6

http://balkin.blogspot.com/2006/10/john-yoo-on-court-stripping.html

In today's Wall Street Journal [thanks to Howard Bashman for the link], John Yoo correctly emphasizes that the primary impact of the Military Commissions Act is, as Jack has explained, to attempt to eliminate any judicial checks on the Executive's conduct of the conflict against Al Qaeda: Congress and the president did not take the court's power grab lying down. They told the courts, in effect, to get out of the war on terror, stripped them of habeas jurisdiction over alien enemy combatants, and said there was nothing wrong with the military commissions. It is the first time since the New Deal that Congress had so completely divested the courts of power over a category of cases. It is also the first time since the Civil War that Congress saw fit to narrow the court's habeas powers in wartime because it disagreed with its decisions. The law goes farther. It restores to the president command over the management of the war on terror. . . . Except for some clearly defined war crimes, whose prosecution would also be up to executive discretion, it leaves interpretation and enforcement of the treaties up to the president. It even forbids courts from relying on foreign or international legal decisions in any decisions involving military commissions.

#### National security claims become frivolous and clog the courts

Turley, Human Resource Executive reporter, 7 (Melissa, reported from South Africa as the 2012 Pulitzer Center Campus Consortium International Reporting Student Fellow, “Whistleblower Case Highlights National Security Debate”, http://www.hreonline.com/HRE/print.jhtml?id=26501205)

After a nine-year battle, a former Federal Bureau of Intelligence agent has prevailed in her retaliation suit against the agency. Jane Turner was delivered a victory when the Department of Justice, representing the FBI, recently declined to continue appealing her case to the 8th U.S. Circuit Court of Appeals. Turner will receive the maximum allowable compensatory damage award under Title VII plus reimbursement for attorney's and court fees, a total in excess of $1 million. Even though Turner's suit was brought under Title VII of the Rehabilitation Act, advocates and lawmakers are making the connection with the need for increased whistleblower protections for workers in the national security arena who are being encouraged to speak up when they see fraud, abuse and mismanagement. Many are afraid to do so, they argue, for fear they will lose their jobs or security clearances. The other side of that coin is that more frivolous claims could clog up the courts and top secret information could spill out into the open. Several bills that address the issue are making their way through Congress. "Strengthening whistleblower protections is not simply an employee protection issue, it is good government," says Sen. Daniel Akaka, D-Hawaii, who introduced the Federal Employee Protection of Disclosures Act in January. "When federal employees fear reprisal for reporting fraud and abuse, taxpayers and national security suffer." However, the Senate bill, S. 274, doesn't go as far as the version that passed the House, 331-94. The Senate version would make revoking a security clearance after a disclosure illegal, while H.R. 985, the Whistleblower Protection Enhancement Act, would afford the same whistleblower protections to federal security employees that the rest of the civil service enjoys. The House bill covers employees of the FBI, Central Intelligence Agency, Defense Intelligence Agency, National Security Agency, and National Imagery and Mapping Agency. But Rep. Peter Hoekstra, R-Mich., says he has several reservations with the House bill, primarily that it would allow district courts to hear cases if the Merit Systems Protection Board doesn't rule on them within 180 days. "This bill would make every claim of a self-described whistleblower, whether meritorious or not, subject to extended and protracted litigation," he said during debate in March. "It would also substantially alter the application of the judicially established state secrets privilege in those cases, forcing the government to choose between revealing sensitive national security information to defend itself or losing in court." He said current protections "screen frivolous whistleblower claims and recognize that our national security interest should not be managed by lawsuit. Those considerations must continue to be protected." President Bush also has threatened to veto the House bill because it will not "promote and protect genuine disclosures of matters of real public concern" but instead "likely increase the number of frivolous complaints and waste resources."

#### Clog kills our ability to prosecute criminal cases

Bluestein, political reporter, 11 (Greg, political reporter for the Atlanta Journal-Constitution, seven years at the Associated Press, “State Budget Cuts Clog Criminal Justice System”, http://www.huffingtonpost.com/2011/10/26/state-budget-cuts-clog-cr\_n\_1032963.html)

ATLANTA -- Prosecutors are forced to ignore misdemeanor violations to pursue more serious set free because caseloads are too heavy to ensure they receive a speedy trial. Deep budget cuts to courts, public defenders, district attorney's and attorney general offices are testing the criminal justice system across the country. In the most extreme cases, public defenders are questioning whether their clients are getting a fair shake. Exact figures on the extent of the cuts are hard to come by, but an American Bar Association report in August found that most states cut court funding 10 percent to 15 percent within the past three years. At least 26 states delayed filling open judgeships, while courts in 14 states were forced to lay off staff, said the report. The National District Attorneys Association estimates that hundreds of millions of dollars in criminal justice funding and scores of positions have been cut amid the economic downturn, hampering the ability of authorities to investigate and prosecute cases. "It's extremely frustrating. Frankly, the people that do these jobs have a lot of passion. They don't do these jobs for the money. They are in America's courtrooms every day to protect victims and do justice," said Scott Burns of the National District Attorneys Association. "And they're rewarded with terminations, furloughs and cuts in pay." The ripple effects have spread far beyond criminal cases to even the most mundane court tasks, such as traffic violations and child custody petitions. The wait to process an uncontested divorce in San Francisco, for example, is expected to double to six months as the system struggles to absorb state budget cuts that have led to layoffs of 40 percent of the court's work force and the closing of 25 of 63 courtrooms. Some wealthier residents are turning to private arbitrators to hear their cases, said Yasmine Mehmet, a family law attorney in San Francisco who advises some of her clients to settle disputes outside the public court system. "We're seeing huge delays in getting trial dates and just getting standard documents processed," she said. "The courts are just so overwhelmed. They just don't have the people-power to handle these cases." The cuts come as civil and criminal caseloads for many state and county systems have swelled. Maine had a 50 percent increase in civil cases during the last five years, in part because of foreclosures related to the nation's housing crisis, records show. Iowa's court system is struggling to recover from cuts in 2009 that forced officials to lay off 120 workers and eliminate 100 vacant positions. Staffing levels there are now lower than in 1987, while district court filings since then have increased 66 percent. Public defenders, whose offices also are absorbing cuts, are taking more clients. "If you don't have enough lawyers to handle the cases, it leaves them open to speedy-trial challenges and ineffective assistance of counsel," said Ed Burnette, a vice president of the National Legal Aid & Defender Association. Some of the lapses are testing speedy-trial rules, in some cases resulting in dismissals that otherwise are hard to win. In Georgia, trial and appellate courts have dismissed a handful of indictments against suspects accused of violent crimes because they could not be brought to trial fast enough. In one case, a judge tossed out murder charges against two Atlanta men because it took Fulton County prosecutors four years to indict them after they were arrested and charged with a 2005 shooting. Local prosecutors say strained resources were partly to blame for the delay. Legal agencies that represent the poor and depend on government grants also have been hit hard. State funding for the Georgia Resource Center, which represents indigent death penalty defendants in post-conviction proceedings, has fallen by about $250,000 over three years. This year, the center fell short on a $300,000 grant from a foundation, forcing layoffs of a paralegal and an assistant administrator and the reduction to part-time status of a staff attorney. "We've been running on a shoestring for years and we are minimally available to take care of all the guys on death row," said Brian Kammer, the center's executive director, who said he is writing grant applications at the same time he is representing death row inmates. "But with this kind of funding loss, we're getting crippled." New York and California are among the states that have been hit hardest by budget cuts. California's attorney general's office has considered eliminating units that work with local law enforcement agencies on gang and drug crimes as a way to address a projected $70 million in budget cut over two years. After the San Francisco Superior Court laid off 67 staffers and shuttered courtrooms because of budget cuts, judges warned it could take residents hours just to pay a traffic fine in person. The court would have been forced to make deeper cuts had it not received an emergency $2.5 million loan from the state. New York lawmakers slashed $170 million from the Office of Court Administration's $2.7 billion budget, forcing layoffs and a hiring freeze. Judges were ordered to halt proceedings at 4:30 p.m. sharp to control overtime pay, and courts also were told to call fewer potential jurors, who cost $40 a day. Defendants in New York are generally supposed to see a judge within 24 hours of their arrest. But staff cuts left them waiting an average of about 50 hours over the summer, said Julie Fry, vice president of the Brooklyn division of the union representing Legal Aid lawyers. "People were waiting for two, three and four days at a time. Some are waiting for administrative code violations, like riding bicycles on the sidewalk or sleeping on a subway train," she said. "This really disrupts people's lives. Some of these people are on the cusp of being employed, and they can't afford missing a few days of work." In Alabama, the state's top judge rescinded an order issued by his predecessor that would have dramatically reduced the schedules for civil and criminal trials, telling a local newspaper th0at the cost of additional jury trials was "not that significant." The move was aimed at coping with a budget that had dropped nearly $30 million in the last year. "Victims should not become victims of our system," Judge Chuck Malone said in August. The trial for one high-profile case there was delayed almost a year. An Alabama man accused of killing his wife while on a honeymoon scuba diving trip in Australia was supposed to be in court in May, but his trial is now scheduled for February because of a shortage of bailiffs and other court personnel. Statewide, more than 250 people have been laid off from Alabama's trial courts. In California, attorneys with the Sacramento County district attorney's office are taking on heavier caseloads while the office scales back popular services such as its community prosecution program, which dispatched staffers to meet with neighborhood associations to address quality-of-life issues such as public drunkenness. Attorneys also refer misdemeanor cases to pretrial diversion programs, while marijuana possession, trespassing and other such crimes are often treated as mere infractions. "We're doing it as best we can," said Jan Scully, the top prosecutor in the county where the state capital is located. "But doing it as best we can doesn't mean we're doing it as best we should be doing."

#### Organized crime networks enable terrorist groups – causes WMD terrorism and proliferation

Lal, professor of security studies, 5 (Rollie, Associate Professor in the College of Security Studies at the Asia Pacific Center for Security Studies, worked as an international security specialist for RAND and as a professor for the US Department of Defense, “Terrorists and organized crime join forces”, http://www.nytimes.com/2005/05/23/opinion/23iht-edlal.html)

Terrorist groups and organized crime networks are increasingly working together, strengthening their ability to inflict harm on law-abiding societies with conventional weapons today, and possibly with nuclear weapons and other weapons of mass destruction in the future. Terrorists and criminals have long been considered separate and distinct threats, with terrorists motivated by ideology and criminals by greed. But recent attacks suggest that criminal networks and terrorist groups are teaming up with growing regularity for their mutual benefit. In fact, in some cases terrorists and criminals appear to be deeply intertwined in ways that go well beyond fleeting alliances of convenience. The Dubai-based Indian criminal Aftab Ansari is believed to have used ransom money he earned from kidnappings to help fund the Sept. 11, 2001, terrorist attacks. And some people, like the Pakistan-based Indian crime boss Dawood Ibrahim, even go on to pursue dual careers as both criminal and terrorist leaders. The connections between the two networks exist on a variety of levels - from purely tactical to strategic - including logistical support in weapons procurement, shared routes, training and some ideological overlap. As a result, in some areas it may be impossible to destroy the logistical network supporting terrorist groups without striking major blows at supporting criminal networks. In South Asia and the Middle East in particular, a variety of criminal and terrorist organizations have been known to collaborate in international operations. The recent disclosure of the role of criminal syndicates in the nuclear smuggling network of the Pakistani scientist Abdul Qadeer Khan is a prime example of this troubling trend. Nuclear transfers from Pakistan to North Korea, Libya, and Iran could not have occurred without the assistance of criminal networks. Khan used false papers and front companies in several countries to transfer the nuclear technology to other nations, and used government cargo planes to assist in deliveries to North Korea. These channels raise concerns that the inability of authorities to interrupt cooperation between organized crime and terrorist groups could lead to more dangerous nuclear transfers in the future. Khan's middleman was a Dubai-based Sri Lankan businessman, Buhary Ayed Abu Tahir. He arranged for a Malaysian company to manufacture nuclear components for shipping to Libya, and for Libyan technicians to be trained in the use of machines that were part of the nuclear program. Tahir also assisted Khan in the transfer of centrifuge units from Pakistan to Iran. Even if states agree to international nonproliferation treaties, the existence of criminal networks engaged in nuclear trade could allow proliferation to continue. Without knowledge of where these networks operate and who is involved, interdiction becomes extremely difficult. At the tactical level, terrorist groups rely on organized crime networks to provide them with the necessary weaponry and munitions to undertake massive attacks and insurgencies. The routes that have been carefully constructed by criminal networks can also be extremely useful for transporting goods on behalf of terrorist groups. For their part, criminal gangs can turn to terrorist groups to provide needed training in the use of guns and explosives, and also to provide safe passage through terrorist-controlled territory for a price. Criminal syndicates in the Middle East and South Asia are also closely connected to terrorist groups via the illegal drug trade. Money earned from drug trafficking supports both criminal and terrorist activity. Criminal organizations can become ideological over time, following the paths of terrorist groups. In South Asia, for example, some criminal organizations have come to acquire ideological or religious predispositions that motivate their actions, not merely cover them. Terrorist groups will be able to continue operations as long as they can acquire the needed weaponry, financing and personnel. Closing this access is difficult, but crucial. In addition to military cooperation to interdict terrorists, much more attention needs to be paid to promoting the rule of law, combating corruption and improving judicial proceedings in areas where terrorists have taken refuge. Police capabilities in urban areas need to be much improved if they are to locate and disrupt criminal networks. International cooperation on extradition laws must also be strengthened, so that criminals cannot easily elude arrest by fleeing the country. The linkages between the criminal and terror groups allow terror networks to expand and undertake large attacks internationally by leveraging criminal sources, money and transit routes. Identifying the cooperative activities between the two networks - both tactical and more enduring - is critical to ending the financial and supply lines that support both sets of groups. Underestimating their bonds could prove disastrous.

### CP

#### Text: The appropriate number of the fifty states will invoke their power under Article V of the Constitution to call a limited constitutional convention for the purpose of restricting the authority of the President of the United States to indefinitely detain without the Third Geneva Conventions Article Five rights. A sufficient number of the fifty states will ratify the amendment.

#### The Counterplan solves the case without violating stare decisis

Vermeule-prof law Chicago-2004 (Adrian, Professor of Law at the University of Chicago, “Constitutional Amendments and the Constitutional Common Law”, September, http://www.law.uchicago.edu/academics/publiclaw/index.html)

These points, however, capture only one side of the ledger. Precedent, and the constraint that new decisions be related analogically to old decisions, effect a partial transfer of authority from today’s judges to yesterday’s judges. As against claims of ancestral wisdom, Bentham emphasized that prior generations necessarily possess less information than current generations. If the problem is that changing circumstances make constitutional updating necessary, it is not obvious why it is good that current judges should be bound either by the specific holdings or by the intellectual premises and assumptions of the past. Weak theories of precedent may build in an escape hatch for changed circumstances, but the escape hatch in turn weakens the whole structure, diluting the decisionmaking benefits said to flow from precedent. Another cost of precedent is path dependence. Path dependence is an ambiguous term, but a simple interpretation in the judicial setting is that the order in which decisions arise is an important constraint on the decisions that may be made. Judges who would, acting on a blank slate, choose the constitutional rule that is best for the polity in the changed circumstances, may be barred from reaching the rule, even though they would have reached it had the cases arisen in a different order. Precedent has the effect of making some optimal rules inaccessible to current decisionmakers. When technological change threatened to render the rigid trimester framework of Roe v. Wade obsolete, the Supreme Court faced the prospect, in Pennsylvania v. Casey, that precedent would block a decision revising constitutional abortion law in appropriate ways, even though a decisive fraction of the Justices would have chosen the revised rule in a case of first impression.78 The joint opinion in Casey resorted to intellectual dishonesty, proclaiming adherence to precedent while discarding the trimester framework that previous cases has taken to be the core of Roe’s holding.79 The lesson of Casey is sometimes taken to be that precedent imposes no real constraint, but absent precedent the Justices would have had no need to write a mendacious, and widely ridiculed, opinion. The institutions that participate in the process of formal amendment, principally federal and state legislatures, are not subject to these pathologies. The drafters of constitutional amendments may write on a blank slate, drawing upon society’s best current information and deliberation about values, while ignoring precedent constraints that prevent courts from implementing current learning even if they possess it. The contrast is overdrawn, because legislatures deliberating about constitutional amendments use precedent in an informal way. But precisely because the practice of legislative precedent is relatively less formalized than the practice of judicial precedent, legislative practice may capture most of the decisional benefits of formal precedent while minimizing its costs. Legislatures may draw upon their past decisions purely to conserve on decisionmaking costs, while shrugging off precedential constraints whenever legislators’ best current information clearly suggests that the constitutional rules should be changed.

### K

Questioning the affirmatives ontology is a prior question to the advantages; the form of social relations their advocacy embodies rests on faulty epistemology and makes extinction inevitable

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I. Industrial civilization is on a collision course with life itself. Facilitating its collapse is a deserved and welcomed correction, long overdue. Collapse is inevitable whether we seek to facilitate it or not. Nonetheless, whatever we do, industrial civilization, based as it is on mining and burning finite and polluting fossil fuels, cannot last because it is destroying the ecosystem and the basis of local, cooperative life itself. It knows no limits in a physically finite world and thus is unsustainable. And the numbers of our human species on earth, which have proliferated from 1.6 billion in 1900 to 7 billion today, is the consequence of mindlessly eating oil – tractors, fertilizers, pesticides, herbicides – while destroying human culture in the process. Our food system itself is not sustainable. Dramatic die-off is part of the inevitable correction in the very near future, whether we like it or not. Human and political culture has become totally subservient to a near religion of economics and market forces. Technologies are never neutral, with some being seriously detrimental. Technologies come with an intrinsic character representing the purposes and values of the prevailing political economy that births it. The Industrialism process itself is traumatic. It is likely that only when we experience an apprenticeship in nature can we be trusted with machines, especially when they capital intensive & complicated. The nation-state, intertwined more than ever with corporate industrialism, will always come to its aid and rescue. Withdrawal of popular support enables new imagination and energy for re-creating local human food sufficient communities conforming with bioregional limits. II. The United States of America is irredeemable and unreformable, a Pretend Society. The USA as a nation state, as a recent culture, is irredeemable, unreformable, an anti-democratic, vertical, over-sized imperial unmanageable monster, sustained by the obedience and cooperation, even if reluctant, of the vast majority of its non-autonomous population. Virtually all of us are complicit in this imperial plunder even as many of us are increasingly repulsed by it and speak out against it. Lofty rhetoric has conditioned us to believe in our national exceptionalism, despite it being dramatically at odds with the empirically revealed pattern of our plundering cultural behavior totally dependent upon outsourcing the pain and suffering elsewhere. We cling to living a life based on the social myth of US America being committed to justice for all, even as we increasingly know this has always served as a cover for the social secret that the US is committed to prosperity for a minority thru expansion at ANY cost. Our Eurocentric origins have been built on an extraordinary and forceful but rationalized dispossession of hundreds of Indigenous nations (a genocide) assuring acquisition of free land, murdering millions with total impunity. This still unaddressed crime against humanity assured that our eyes themselves are the wool. Our addiction to the comfort and convenience brought to us by centuries of forceful theft of land, labor, and resources is very difficult to break, as with any addiction. However, our survival, and healing, requires a commitment to recovery of our humanity, ceasing our obedience to the national state. This is the (r)evolution begging us. Original wool is in our eyes: Eurocentric values were established with the invasion by Columbus: Cruelty never before seen, nor heard of, nor read of – Bartolome de las Casas describing the behavior of the Spaniards inflicted on the Indigenous of the West Indies in the 1500s. In fact the Indigenous had no vocabulary words to describe the behavior inflicted on them (A Short Account of the Destruction of the Indies, 1552). Eurocentric racism (hatred driven by fear) and arrogant religious ethnocentrism (self-righteous superiority) have never been honestly addressed or overcome. Thus, our foundational values and behaviors, if not radically transformed from arrogance to caring, will prove fatal to our modern species. Wool has remained uncleansed from our eyes: I personally discovered the continued vigorous U.S. application of the “Columbus Enterprise” in Viet Nam, discovering that Viet Nam was no aberration after learning of more than 500 previous US military interventions beginning in the late 1790s. Our business is killing, and business is good was a slogan painted on the front of a 9th Infantry Division helicopter in Viet Nam’s Mekong Delta in 1969. We, not the Indigenous, were and remain the savages. The US has been built on three genocides: violent and arrogant dispossession of hundreds of Indigenous nations in North America (Genocide #1), and in Africa (Genocide #2), stealing land and labor, respectively, with total impunity, murdering and maiming millions, amounting to genocide. It is morally unsustainable, now ecologically, politically, economically, and socially unsustainable as well. Further, in the 20th Century, the Republic of the US intervened several hundred times in well over a hundred nations stealing resources and labor, while imposing US-friendly markets, killing millions, impoverishing perhaps billions (Genocide #3). Since 1798, the US military forces have militarily intervened over 560 times in dozens of nations, nearly 400 of which have occurred since World War II. And since WWII, the US has bombed 28 countries, while covertly intervening thousands of times in the majority of nations on the earth. It is not helpful to continue believing in the social myth that the USA is a society committed to justice for all , in fact a convenient mask (since our origins) of our social secret being a society committed to prosperity for a few through expansion at ANY cost. (See William Appleman Williams). Always possessing oligarchic tendencies, it is now an outright corrupt corporatocracy owned lock stock and barrel by big money made obscenely rich from war making with our consent, even if reluctant. The Cold War and its nuclear and conventional arms race with the exaggerated “red menace”, was an insidious cover for a war preserving the Haves from the Have-Nots, in effect, ironically preserving a western, consumptive way of life that itself is killing us. Pretty amazing! Our way of life has produced so much carbon in the water, soil, and atmosphere, that it may in the end be equivalent to having caused nuclear winter. The war OF wholesale terror on retail terror has replaced the “red menace” as the rhetorical justification for the continued imperial plunder of the earth and the riches it brings to the military-industrial-intelligence-congressional-executive-information complex. Our cooperation with and addiction to the American Way Of Life provides the political energy that guarantees continuation of U.S. polices of imperial plunder. III. The American Way Of Life (AWOL), and the Western Way of Life in general, is the most dangerous force that exists on the earth. Our insatiable consumption patterns on a finite earth, enabled by but a one-century blip in burning energy efficient liquid fossil fuels, have made virtually all of us addicted to our way of life as we have been conditioned to be in denial about the egregious consequences outsourced outside our view or feeling fields. Of course, this trend began 2 centuries earlier with the advent of the industrial revolution. With 4.6% of the world’s population, we consume anywhere from 25% to nearly half the world’s resources. This kind of theft can only occur by force or its threat, justifying it with noble sounding rhetoric, over and over and over. Our insatiable individual and collective human demands for energy inputs originating from outside our bioregions, furnish the political-economic profit motives for the energy extractors, which in turn own the political process obsessed with preserving “national (in)security”, e.g., maintaining a very class-based life of affluence and comfort for a minority of the world’s people. This, in turn, requires a huge military to assure control of resources for our use, protecting corporate plunder, and to eliminate perceived threats from competing political agendas. The U.S. War department’s policy of “full spectrum dominance” is intended to control the world’s seas, airspaces, land bases, outer spaces, our “inner” mental spaces, and cyberspaces. Resources everywhere are constantly needed to supply our delusional modern life demands on a finite planet as the system seeks to dumb us down ever more. Thus, we are terribly complicit in the current severe dilemmas coming to a head due to (1) climate instability largely caused by mindless human activities; (2) from our dependence upon national currencies; and (3) dependence upon rapidly depleting finite resources. We have become addicts in a classical sense. Recovery requires a deep psychological, spiritual, and physical commitment to break our addiction to materialism, as we embark on a radical healing journey, individually and collectively, where less and local becomes a mantra, as does sharing and caring, I call it the Neolithic or Indigenous model. Sharing and caring replace individualism and competition. Therefore, A Radical Prescription Understanding these facts requires a radical paradigmatic shift in our thinking and behavior, equivalent to an evolutionary shift in our epistemology where our knowledge/thinking framework shifts: arrogant separateness from and domination over nature (ending a post-Ice Age 10,000 year cycle of thought structure among moderns) morphs to integration with nature, i.e., an eco-consciousness felt deeply in the viscera, more powerful than a cognitive idea. Thus, we re-discover ancient, archetypal Indigenous thought patterns. It requires creative disobedience to and strategic noncooperation with the prevailing political economy, while re-constructing locally reliant communities patterned on instructive models of historic Indigenous and Neolithic villages.

Vote negative; daring to imagine a political alternative to fear is key to change the technical legalistic frame that creates the conditions for violence

Ben-Asher 10 (NOA BEN-ASHER is a Assistant Professor of Law, Pace Law School, “Legalism and Decisionism in Crisis ,” http://moritzlaw.osu.edu/lawjournal/issues/volume71/number4/ben-asher.pdf)

“I am grateful for your hospitality and the hospitality of the people of Egypt”—thus begins President Obama’s address to the Muslim world in Cairo in June of 2009.300 Throughout this speech the President reaches out to Islam with rhetoric of gratitude, hospitality, and peace. He urges Muslims and non-Muslims to “have the courage to make a new beginning, keeping in mind what has been written.”301 And what has been written? Obama then quotes the Talmud—“The whole of the Torah is for the purpose of promoting peace”—302 and the New Testament—“Blessed are the peacemakers, for they shall be called sons of God.”303 Interestingly, though, he first quotes a passage from the Koran that, by contrast, does not mention peace: “O mankind! We have created you male and female and we have made you into nations and tribes so that you may know one another.” 304 Here, mankind has been divided into nations not for war or peace or prosperity or progress, but for one purpose: “so that you may know one another.” Knowledge of the other person and nation is the sole purpose of the separation of mankind into nations—says the Koran text that closes Obama’s speech. This was our definition of hospitality: conscious listening to the other, welcoming the face of the other, and occupying a relation of deference to the other. Perhaps Obama’s concluding words may help us understand what deference to the other might mean in this context—“It’s a faith in other people, and it’s what brought me here today.”305 This rhetoric of friendship, hospitality, and responsibility towards Islam is different from the strictly legalistic rhetoric of religious liberty pursued elsewhere by the President and by others. Such rhetoric is important, especially in times of hostilities, because it dares to imagine a political and legal alternative to fear, vulnerability, and enmity. Vice President Dick Cheney declared shortly after September 11, 2001, that we should consider the current period not an emergency at all, but “the new normalcy.”306 Necessity, enmity, and catastrophe have indeed become the normal politics shared by many Legalists and Decisionists in emergency powers debates. Legalist and Decisionist disagreements often turn on the balance of powers and the proper role of law in the “war on terror.” Should the primary tools for fighting terror be norms or decisions? Legalists have argued for the former and Decisionists for the latter. Legalists have argued that the rule of law must survive at all times. Decisionists have insisted that the key to the nation’s survival is a strong, decisive executive branch that is sometimes unbound by legal norms. But despite these disagreements, many versions of Decisionism and Legalism have conceded that the state of emergency has indeed become “the new normalcy.” This Article argues that we should develop an alternative vision of the human and the state as they exist in times of crisis.

## EU

### 1NC – Terror

#### No nuclear terrorism-even attempts under optimal conditions have failed.

**Bergen, New York University’s Center on Law and Security fellow, 2010**

(Peter, “Reevaluating Al-Qa`ida’s Weapons of Mass Destruction Capabilities,” CTC Sentinel, September, http://www.isn.ethz.ch/isn/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=122242, ldg)

Bin Ladin’s and al-Zawahiri’s portrayal of al-Qa`ida’s nuclear and chemical weapons capabilities in their post-9/11 statements to Hamid Mir was not based in any reality, and it was instead meant to serve as psychological warfare against the West. There is no evidence that al-Qa`ida’s quest for nuclear weapons ever went beyond the talking stage. Moreover, al-Zawahiri’s comment about “missing” Russian nuclear suitcase bombs floating around for sale on the black market is a Hollywood construct that is greeted with great skepticism by nuclear proliferation experts. This article reviews al-Qa`ida’s WMD efforts, and then explains why it is unlikely the group will ever acquire a nuclear weapon. Al-Qa`ida’s WMD Efforts In 2002, former UN weapons inspector David Albright examined all the available evidence about al-Qa`ida’s nuclear weapons research program and concluded that it was virtually impossible for al-Qa`ida to have acquired any type of nuclear weapon.8 U.S. government analysts reached the same conclusion in 2002.9 There is evidence, however, that al-Qa`ida experimented with crude chemical weapons, explored the use of biological weapons such as botulinum, salmonella and anthrax, and also made multiple attempts to acquire radioactive materials suitable for a dirty bomb.10 After the group moved from Sudan to Afghanistan in 1996, al-Qa`ida members escalated their chemical and biological weapons program, innocuously code-naming it the “Yogurt Project,” but only earmarking a meager $2,000-4,000 for its budget.11 An al-Qa`ida videotape from this period, for example, shows a small white dog tied up inside a glass cage as a milky gas slowly filters in. An Arabic-speaking man with an Egyptian accent says: “Start counting the time.” Nervous, the dog barks and then moans. After struggling and flailing for a few minutes, it succumbs to the poisonous gas and stops moving. This experiment almost certainly occurred at the Darunta training camp near the eastern Afghan city of Jalalabad, conducted by the Egyptian Abu Khabab.12 Not only has al-Qa`ida’s research into WMD been strictly an amateur affair, but plots to use these types of weapons have been ineffective. One example is the 2003 “ricin” case in the United Kingdom. It was widely advertised as a serious WMD plot, yet the subsequent investigation showed otherwise. The case appeared in the months before the U.S.-led invasion of Iraq, when media in the United States and the United Kingdom were awash in stories about a group of men arrested in London who possessed highly toxic ricin to be used in future terrorist attacks. Two years later, however, at the trial of the men accused of the ricin plot, a government scientist testified that the men never had ricin in their possession, a charge that had been first triggered by a false positive on a test. The men were cleared of the poison conspiracy except for an Algerian named Kamal Bourgass, who was convicted of conspiring to commit a public nuisance by using poisons or explosives.13 It is still not clear whether al-Qa`ida had any connection to the plot.14 In fact, the only post-9/11 cases where al-Qa`ida or any of its affiliates actually used a type of WMD was in Iraq, where al-Qa`ida’s Iraqi affiliate, al-Qa`ida in Iraq (AQI), laced more than a dozen of its bombs with the chemical chlorine in 2007. Those attacks sickened hundreds of Iraqis, but the victims who died in these assaults did so largely from the blast of the bombs, not because of inhaling chlorine. AQI stopped using chlorine in its bombs in Iraq in mid-2007, partly because the insurgents never understood how to make the chlorine attacks especially deadly and also because the Central Intelligence Agency and U.S. military hunted down the bomb makers responsible for the campaign, while simultaneously clamping down on the availability of chlorine.15 Indeed, a survey of the 172 individuals indicted or convicted in Islamist terrorism cases in the United States since 9/11 compiled by the Maxwell School at Syracuse University and the New America Foundation found that none of the cases involved the use of WMD of any kind. In the one case where a radiological plot was initially alleged—that of the Hispanic-American al-Qa`ida recruit Jose Padilla—that allegation was dropped when the case went to trial.16 Unlikely Al-Qa`ida Will Acquire a Nuclear Weapon Despite the difficulties associated with terrorist groups acquiring or deploying WMD and al-Qa`ida’s poor record in the matter, there was a great deal of hysterical discussion about this issue after 9/11. Clouding the discussion was the semantic problem of the ominous term “weapons of mass destruction,” which is really a misnomer as it suggests that chemical, biological, and nuclear devices are all equally lethal. In fact, there is only one realistic weapon of mass destruction that can kill tens or hundreds of thousands of people in a single attack: a nuclear bomb.17 The congressionally authorized Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism issued a report in 2008 that typified the muddled thinking about WMD when it concluded: “It is more likely than not that a weapon of mass destruction will be used in a terrorist attack somewhere in the world by the end of 2013.”18 The report’s conclusion that WMD terrorism was likely to happen somewhere in the world in the next five years was simultaneously true but also somewhat trivial because terrorist groups and cults have already engaged in crude chemical and biological weapons attacks.19 Yet **the prospects of** al-Qa`ida or indeed **any** other **group having access to** a true WMD—**a nuclear device**—**is near zero** for the foreseeable future. If any organization should have developed a serious WMD capability it was the bizarre Japanese terrorist cult Aum Shinrikyo, which not only recruited 300 scientists—including chemists and molecular biologists—but also had hundreds of millions of dollars at its disposal.20 Aum embarked on a large-scale WMD research program in the early 1990s because members of the cult believed that Armageddon was fast-approaching and that they would need powerful weapons to survive. Aum acolytes experimented with anthrax and botulinum toxin and even hoped to mine uranium in Australia. Aum researchers also hacked into classified networks to find information about nuclear facilities in Russia, South Korea and Taiwan.21 Sensing an opportunity following the collapse of the Soviet Union, Aum recruited thousands of followers in Russia and sent multiple delegations to meet with leading Russian politicians and scientists in the early 1990s. The cult even tried to recruit staff from inside the Kurchatov Institute, a leading nuclear research center in Moscow. One of Aum’s leaders, Hayakawa Kiyohide, made eight trips to Russia in 1994, and in his diary he made a notation that Aum was willing to pay up to $15 million for a nuclear device.22 Despite its open checkbook, Aum was never able to acquire nuclear material or technology from Russia even in the chaotic circumstances following the implosion of the communist regime.23 In the end, Aum abandoned its investigations of nuclear and biological weapons after finding them too difficult to acquire and settled instead on a chemical weapons operation, which climaxed in the group releasing sarin gas in the Tokyo subway in 1995. It is hard to imagine an environment better suited to killing large numbers of people than the Tokyo subway, yet only a dozen died in the attack.24 Although Aum’s WMD program was much further advanced than anything al-Qa`ida developed, even they could not acquire a true WMD. It is also worth recalling that Iran, which has had an **aggressive and well-funded nuclear program for almost two decades**, is still some way from developing a functioning nuclear bomb. Terrorist groups simply do not have the resources of states. Even with access to nuclear technology, it is next to impossible for terrorist groups to acquire sufficient amounts of highly enriched uranium (HEU) to make a nuclear bomb. The total of all the known thefts of HEU around the world tracked by the International Atomic Energy Agency between 1993 and 2006 was just less than eight kilograms, well short of the 25 kilograms needed for the simplest bomb;25 moreover, none of the HEU thieves during this period were linked to al-Qa`ida. Therefore, even building, let alone detonating, the simple, gun-type nuclear device of the kind that was dropped on Hiroshima during World War II would be extraordinarily difficult for a terrorist group because of the problem of accumulating sufficient quantities of HEU. Building a radiological device, or “dirty bomb,” is far more plausible for a terrorist group because acquiring radioactive materials suitable for such a weapon is not as difficult, while the construction of such a device is orders of magnitude less complex than building a nuclear bomb. Detonating a radiological device, however, would likely result in a relatively small number of casualties and should not be considered a true WMD.

#### Terrorists will use conventional weapons-overwhelming empirics.

**Mauroni, Air Force senior policy analyst, 2012**

(Al, “Nuclear Terrorism: Are We Prepared?”, Homeland Security Affairs, <http://www.hsaj.org/?fullarticle=8.1.9>, ldg)

The popular assumption is that terrorists are actively working with “rogue nations” to exploit WMD materials and technology, or bidding for materials and technology on some nebulous global black market. They might be buying access to scientists and engineers who used to work on state WMD programs. The historical record doesn’t demonstrate that. An examination of any of the past annual reports of the National Counterterrorism Center reveals that the basic modus operandi of terrorists and insurgents is to use conventional military weapons, easily acquired commercial (or improvised) explosives, and knives and machetes.8 It is relatively easy to train laypersons to use military firearms, such as the AK-47 automatic rifle and the RPG-7 rocket launcher. These groups have technical experts who develop improvised explosive devices using available and accessible materials from the local economy. Conventional weapons have known weapon effects and minimal challenges in handling and storing. Terrorists get their material and technology where they can. They don’t have the time, funds, or interests to get exotic. It’s what we see, over and over again.

### 1NC – EU-US

#### Data privacy wrecks the whole relationship

**Barker, Bertelsmann Foundation trans-Atlantic relations director, 2013**

(Tyson, “BLOWN COVER: THE NSA AND THE UNRAVELING US-EU INTELLIGENCE RELATIONSHIP”, 7-3, [http://www.bfna.org/sites/default/files/BBrief%20Blown%20Cover%20-%20The%20NSA%20and%20the%20Unraveling%20US-EU%20Intelligence%20Relationship%20(3%20July%202013).pdf](http://www.bfna.org/sites/default/files/BBrief%20Blown%20Cover%20-%20The%20NSA%20and%20the%20Unraveling%20US-EU%20Intelligence%20Relationship%20%283%20July%202013%29.pdf), ldg)

The EU has long pined for greater respect from Washington. Negotiations over data sharing were more than discrete talks on limited framework agreements. They were a vehicle by which to develop a broader strategic relationship based on equal partnership and mutual respect with a post-Lisbon Treaty EU. US officials often found the negotiations tedious and exasperating. Since 2010, the administration and members of Congress have held extensive consultations with the European Commission and waves of EP delegations to ensure them that the systems used for data collection and analysis are limited, carefully monitored, and operating under judiciously crafted and transparent guidelines. Such assurances went a long way toward repairing the US’s damaged image in Europe. The recent disclosures have obliterated much of this effort. Even while negotiating an intricate framework for the usage of narrowly defined classifications of personal data, the NSA was voraciously aggregating Europeans’ personal and institutional data across wide swaths of territory. It will be difficult to justify this action as vital to US national security. The public debate on both sides of the Atlantic has returned to the hubristic bravado characteristic of the George W. Bush era. Former NSA chief and CIA head Michael Hayden has stated that fourth-amendment privacy protections are not part of an “international treaty” and that Europeans should “look first and find out what their own governments are doing”.20 For their part, Europeans brandish images from the 2007 German film “The Lives of Others”, which explored the deep human impact of pervasive surveillance in authoritarian East Germany. In their eyes, USA stands for “United Stasi of America.”21 Secretary of State John Kerry’s comment that the NSA’s alleged activities were “not unusual” reflects the indifference with which the US has treated the EU’s governing pathos.22 This apathy could now lead to a crisis of confidence. The Obama administration has touted the reparation of US’s global soft power as one of its greatest foreign-policy achievements. How it handles relations with Europe in its wake could demonstrate whether that achievement is enduring.

### You do nothing

#### The plan extends article 5 rights-that means upon capture you are presumed to be a POW until a tribunal classifies you---those tribunals would just classify you as an enemy combatant and indefinitely detain you, this view is backed up by Congress and the Supreme Court-this means the AFF does nothing

**Corn, South Texas law professor, 2010**

(Geoffrey, “Thinking The Unthinkable: Has The Time Come To Offer Combatant Immunity To Non-State Actors?”, 8-16, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1659824>, ldg

If there is one designation that has come to symbolize the complexity of characterizing the struggle against international terrorism as an armed conflict, it is “unlawful enemy combatant.” That designation, adopted by the Bush Administration to label Taliban and al-Qaeda fighters captured in Afghanistan beginning in 2001, has come to symbolize a variety of propositions. For the Bush Administration, it was a designation of illegitimacy, providing the foundation for a series of legal and policy decisions allowing a level of treatment inconsistent with the traditional standards applicable to prisoners of war. For critics of the United States, it was the symbolic lightning rod that reflected the ultimate illegitimacy of both designating the struggle against terrorism as a “global war” and the legal exceptionalism that appeared to define the U.S. approach to the treatment of opponents captured in the course of this struggle.1 For the U.S. military and the al-Qaeda and Taliban operatives it detained following September 11, the characterization represented something much more palpable. From a detention standpoint, it defined a group of subdued enemy personnel who would be detained to prevent their return to hostilities, but who would also be denied the legal status of prisoner of war and the accordant protections of the Third Geneva Convention.2 This characterization was also central to the U.S. theory of criminal responsibility for these captives. Based on a theory of war crimes liability first enunciated by the U.S. Supreme Court in Ex parte Quirin (a theory considered dubious by many international law experts), operating as an unlawful enemy combatant was alleged by the United States as a crime in and of itself—a crime falling within the subjectmatter jurisdiction of military tribunals.3 Accordingly, the designation also resulted in the creation of military commissions to try these captives for, inter alia, their participation in hostilities.4 These issues of detention and criminal culpability are, however, best understood as consequences of the core significance of the unlawful combatant characterization. The concept of the unlawful enemy combatant is more than just a legal status; it is a moral condemnation. That condemnation is based on a simple premise: only properly authorized and qualified individuals may legitimately engage in armed hostilities. All other individuals lack the “privilege” to do so.5 Indeed, the “unlawful combatant” is a synonym for the “unprivileged belligerent,” the substitute characterization adopted by the Obama administration for these detainees.6 Operating as a “combatant” without privilege deprives the individual of legal and moral equivalency with his privileged opponent: state actors. As a result, the rules established by international law to protect these “privileged” combatants must be denied to the unprivileged counterpart.7 This theory of “status” and “privilege” among combatants is a genuine article of faith. It is derived from an unassailable interpretation of the Third Geneva Convention’s prisoner of war qualification equation. Prisoner of war status, which is international law’s manifestation of the “privileged” or “lawful” combatant, is reserved exclusively for combatants who fight on behalf of a state during inter-state armed conflict and who satisfy the widely known conditions of carrying arms openly: wearing a fixed distinctive emblem recognizable at a distance, operating under responsible command, and complying with the laws and customs of war. What is equally important in this equation, however, is that these factors apply only to combatants engaged in inter-state armed conflicts, effectively excluding from the lawful combatant status an individual fighting on behalf of an entity not affiliated with state authority.8 During the past several decades the law of armed conflict applicable to armed conflicts between states (international armed conflicts) and armed conflicts between states and non-state groups (non-international armed conflicts) has undergone a major transformation. Customary norms originally developed to apply exclusively to international armed conflict have migrated to the realm of non-international armed conflict. As a result, the regulatory distinction between these two categories of armed conflict is increasingly imperceptible. However, entitlement to prisoner of war status remains perhaps the most significant exception to this trend. States have been absolutely unwilling to extend this privilege with its accordant lawful combatant immunity to non-state operatives. The determination to preserve the line between the authority to participate in armed conflict with state sanction and the illegitimacy of doing so without such sanction is almost certainly motivated by a desire to preserve the prerogative to sanction such unprivileged belligerents for participating in hostilities. Thus, for states, tribunals charged with interpreting and applying this law, and most commentators, extending combatant immunity to non-state belligerents has and remains unthinkable. For United States military lawyers, this equation is often referred to as the “right type of conflict” and “right type of person” test.9 When applied to the “war on terror,” this qualification equation produced an inevitable outcome: individuals fighting on behalf of non-state entities could never qualify as prisoners of war.10 Nonetheless, by designating the struggle as an “armed conflict” they were thrust into a twilight zone of status. Because they were belligerents in an alleged armed conflict, they could be targeted and detained like any other “lawful” combatant. However, because they fought for a non-state entity, they could not qualify as prisoners of war and would be condemned as international criminals for this participation.11 This theory of detention without status first adopted by President Bush was ultimately endorsed by both Congress12 and the Supreme Court.13 Accordingly, there is little question that if such individuals are detained in the context of an armed conflict by the United States and are properly found to be enemy combatants or belligerents,14 the detention without prisoner of war status theory that continues to this day to be the legal basis for preventive detention, is legally sound. Of course, many dispute both of these predicate assumptions, arguing that the struggle against terrorism is not an armed conflict and that terrorist operatives are not properly designated as enemy belligerents.15 But assuming arguendo that the United States and other states will persist in this view of the struggle against terrorism, the rationale that formed the basis for this qualification equation will continue to result in a practical anomaly: individuals will be preventively detained based on an invocation of the customary law of armed conflict but will be denied prisoner of war status and the protections resulting from that status. At the center of this protection is the concept of combatant immunity—the protection of the enemy captive from criminal sanction for his or her lawful, pre-capture belligerent acts (acts that comply with the regulatory norms of the law of armed conflict). This immunity, and the other humanitarian protections afforded to prisoners of war, developed in large measure to incentivize compliance with humanitarian law. Accordingly, belligerents fighting on behalf of a non-state entity, even when conducting their belligerent activities in accordance with the rules of war, are denied both the benefits of international humanitarian law and, by implication, the incentive to comply with this law based, not on their conduct, but instead on the cause for which they fight. The unlawful combatant characterization has spawned a proverbial avalanche of legal scholarship, commentary, and analysis. This discourse has even been punctuated by several Supreme Court decisions, such as Hamdi v. Rums- feld16 and Hamdan v. Rumsfeld.17 What has been relatively absent, however, is a critical assessment of whether the underlying rationale for the legal dichotomy between the lawful and unlawful combatant is logically applicable to nonstate transnational actors. Such an assessment must focus on not only the origins of this dichotomy, but also—and perhaps more importantly—on the ostensible effect intended by denial of lawful combatant status for non-state actors. Considering the issue through this “effects based” analytical lens raises a genuine question as to whether the denial is the most effective way to achieve these desired effects.

## Geneva

### 1NC – Balkans

#### No risk of war- civil society- our evidence is comparative

**Vejvoda, (US) German Marshall Fund Balkan Trust for Democracy executive director, 2010**

(Ivan, “Situation in the Western Balkans”, 4-14, CQ Congressional Testimony, lexis, ldg)

Equally important, civil society organizations and journalists have been doing their part in contributing to these efforts at confronting the past and helping heal wounds that the conflicts created. One important effort is a region-wide project with civil society organizations from Croatia, Bosnia-Herzegovina, Serbia, and Montenegro called RECOM which intends to establish a regional process of truth commission work. Several meetings have already been held, the most recent one in Novi Sad last month. This initiative is directly supported by the European Union, among others. The renewed dynamic of overall cooperation heralds a new dawn in the Western Balkans. Remaining Challenges The region, **as compared to other parts of the world** that have unresolved issues, fares relatively well**.** **Peace has been achieved, stability is being reinforced, and a common awareness is arising about the need to champion each on the way forward**.

### 1NC – Environment

#### No impact to the environment

**Brook, Adelaide professor, 2013**

(Barry, “Worrying about global tipping points distracts from real planetary threats”, 3-4, <http://bravenewclimate.com/2013/03/04/ecological-tipping-points/>, ldg)

We argue that at the global-scale, ecological “tipping points” and threshold-like “planetary boundaries” are improbable. Instead, shifts in the Earth’s biosphere follow a gradual, smooth pattern. This means that it might be impossible to define scientifically specific, critical levels of biodiversity loss or land-use change. This has important consequences for both science and policy. Humans are causing changes in ecosystems across Earth to such a degree that there is now broad agreement that we live in an epoch of our own making: the Anthropocene. But the question of just how these changes will play out — and especially whether we might be approaching a planetary tipping point with abrupt, global-scale consequences — has remained unsettled. A tipping point occurs when an ecosystem attribute, such as species abundance or carbon sequestration, responds abruptly and possibly irreversibly to a human pressure, such as land-use or climate change. Many local- and regional-level ecosystems, such as lakes,forests and grasslands, behave this way. Recently however, there have been several efforts to define ecological tipping points at the global scale. At a local scale, there are definitely warning signs that an ecosystem is about to “tip”. For the terrestrial biosphere, tipping points might be expected if ecosystems across Earth respond in similar ways to human pressures and these pressures are uniform, or if there are strong connections between continents that allow for rapid diffusion of impacts across the planet. These criteria are, however, unlikely to be met in the real world. First, ecosystems on different continents are not strongly connected. Organisms are limited in their movement by oceans and mountain ranges, as well as by climatic factors, and while ecosystem change in one region can affect the global circulation of, for example, greenhouse gases, this signal is likely to be weak in comparison with inputs from fossil fuel combustion and deforestation. Second, the responses of ecosystems to human pressures like climate change or land-use change depend on local circumstances and will therefore differ between locations. From a planetary perspective, this diversity in ecosystem responses creates an essentially gradual pattern of change, without any identifiable tipping points. This puts into question attempts to define critical levels of land-use change or biodiversity loss scientifically. Why does this matter? Well, one concern we have is that an undue focus on planetary tipping points may distract from the vast ecological transformations that have already occurred. After all, as much as four-fifths of the biosphere is today characterised by ecosystems that locally, over the span of centuries and millennia, have undergone human-driven regime shifts of one or more kinds. Recognising this reality and seeking appropriate conservation efforts at local and regional levels might be a more fruitful way forward for ecology and global change science. Corey Bradshaw (see also notes published here on ConservationBytes.com) Let’s not get too distracted by the title of the this article – Does the terrestrial biosphere have planetary tipping points? – or the potential for a false controversy. It’s important to be clear that the planet is indeed ill, and it’s largely due to us. Species are going extinct faster than they would have otherwise. The planet’s climate system is being severely disrupted; so is the carbon cycle. Ecosystem services are on the decline. But – and it’s a big “but” – we have to be wary of claiming the end of the world as we know it, or people will shut down and continue blindly with their growth and consumption obsession. We as scientists also have to be extremely careful not to pull concepts and numbers out of thin air without empirical support. Specifically, I’m referring to the latest “craze” in environmental science writing – the idea of “planetary tipping points” and the related “planetary boundaries”. It’s really the stuff of Hollywood disaster blockbusters – the world suddenly shifts into a new “state” where some major aspect of how the world functions does an immediate about-face. Don’t get me wrong: there are plenty of localised examples of such tipping points, often characterised by something we call “hysteresis”. Brook defines hysterisis as: a situation where the current state of an ecosystem is dependent not only on its environment but also on its history, with the return path to the original state being very different from the original development that led to the altered state. Also, at some range of the driver, there can exist two or more alternative states and “tipping point” as: the critical point at which strong nonlinearities appear in the relationship between ecosystem attributes and drivers; once a tipping point threshold is crossed, the change to a new state is typically rapid and might be irreversible or exhibit hysteresis. Some of these examples include state shifts that have happened (or mostly likely will) to the cryosphere, ocean thermohaline circulation, atmospheric circulation, and marine ecosystems, and there are many other fine-scale examples of ecological systems shifting to new (apparently) stable states. However, claiming that we are approaching a major planetary boundary for our ecosystems (including human society), where we witness such transitions simultaneously across the globe, is simply not upheld by evidence. Regional tipping points are unlikely to translate into planet-wide state shifts. The main reason is that our ecosystems aren’t that connected at global scales.

### 1NC – Human Rights Law

#### No incentive to obey and no spillover in Human Rights credibility.

Hill 2010

Daniel W., PhD Candidate at Florida State University, Estimating the Effects of Human Rights Treaties on State Behavior The Journal of Politics, Vol. 72, No. 4, October 2010 http://myweb.fsu.edu/dwh06c/pages/documents/Hill10\_jop.pdf

Some scholars may not worry that formal enforcement mechanisms within the human rights regime are weak; after all, the majority of the work on state behavior vis-a´ -vis international institutions has focused primarily on how informal enforcement mechanisms can alter the behavior of recalcitrant states. Unfortunately, the usual set of tenable self-enforcement mechanisms are simply not suitable in the context of the human rights regime (See Simmons (2009) for a thorough discussion). The shadow of the future and fear of reciprocal violation cannot induce compliance in the area of human rights, since it is not clear that states have anything to gain by jointly observing human rights or anything to lose should each (or any) party fail to do so. States should hardly be expected to behave strategically in the realm of human rights, which is to say that their human rights behavior is not the result of expectations that other states are, or are not, going to commit human rights violations (Koremenos 2007). Incentives to violate human rights do not arise from the nature of interactions in the international arena but rather from circumstances at the domestic level. Another informal enforcement mechanism thought to operate in international regimes is fear of damage to one’s reputation (Keohane 1984; Lipson 1991; Simmons 2000). In theory, once states have made formal, public commitments to obey the rules of the regime noncompliance may result in a loss of credibility that is costly enough to deter violations. This mechanism is similar to fear of reciprocal violation in that it depends on the violating state expecting to be deprived of something in the future, namely any number of international agreements it could make with other states had it only proven itself to be trustworthy. In practice, however, it is unlikely that states will be shunned by potential partners because of a bad human rights record. Noncompliance in one area of international law does not necessarily signal an inability or unwillingness to comply in other areas, and this may be especially true of noncompliance with human rights regimes (Downes and Jones 2002).

# 2NC

### 2NC – Treaties I/L

#### Limiting the scope of Missouri v Holland kills US ability to participate in treaties.

Bettauer 2013

Ronald J, visiting scholar at George Washington University Law School and a former Deputy Legal Adviser at the U.S. Department of State, Supreme Court May Consider How Broadly the “Necessary and Proper” Clause of the Constitution Authorizes Legislation to Implement Treaties, ASIL Insights Volume 17, Issue 9, March 11 2013 http://www.asil.org/insights130311.cfm

Despite the fact that the courts have consistently followed Missouri v. Holland, the unwillingness of successive administrations and of some members of Congress to proceed with implementing legislation under that approach has dampened the ability of the United States to proceed with treaties of significant benefit to U.S. citizens and threatens to undermine U.S. leadership in important international areas. An example in the field of private international law is the Convention Providing a Uniform Law on the Form of an International Will, a convention adopted in Washington in 1973 and signed by the United States the same year, but which has only a dozen parties.[24] This convention would simplify inheritance by establishing formal requirements for an international will and providing that all parties would recognize such a will as valid. This would mean that a U.S. citizen could make a will in the United States or in another state party meeting the requirements of the convention that covered property located in multiple countries, and the will would be recognized as valid in each state party. While recognizing that federal implementation pursuant to the rule in Missouri v. Holland was an option, the Uniform Law Commission adopted an International Wills Act in 1977; however, only 13 U.S. states, the District of Columbia and the Virgin Islands have enacted it.[25] Given the utility of the Convention, the U.S. legal community has convinced the Uniform Law Commission to make a new push for adoption of its uniform act, but federal legislation could be a quicker path to uniform implementation of the convention and allow the United States to proceed with ratification sooner. An example in the field of human rights can be found in the proposed implementation of the Convention on Rights of Persons with Disabilities.[26] This convention was adopted in 2006, has 128 parties at present, and was signed by the United States in 2009.[27] The treaty was sent to the Senate for advice and consent to ratification in 2012,[28] reported out of the Senate Committee on Foreign Relations by a vote of 13-6,[29] but failed to achieve advice and consent when put to a vote in the full Senate.[30] While the Senate Foreign Relations Committee report indicated that the treaty was not self-executing, both it and the executive branch transmittal documents described at length how existing federal legislation implements the obligations in the treaty. Yet the executive branch transmittal documents indicated that certain of the treaty provisions cover matters traditionally governed by state law and proposed a vague “federalism reservation”[31]that goes beyond preventing conflicts with explicit constitutional prohibitions (which are dealt with in other proposed reservations and understandings). New proposed federal legislation to implement the treaty based on the necessary and proper clause, under the Missouri v. Holland rule, could have afforded the possibility of implementing the obligations in the convention to the full extent permitted by the Constitution (assuming that that would be desirable as a matter of policy). It can only be supposed that the current ideological debate on federalism resulted in a decision to take a more reticent approach to implementation. Conclusion The Bond case will be vigorously argued before the Supreme Court and many amici briefs will be filed. The outcome could have a deep and lasting impact on the ability of the United States to negotiate and adhere to treaties of importance to its citizens in the modern world. It should be a matter of concern to U.S. lawyers that overturning or limiting the rule in Missouri v. Holland based on ideological disagreement concerning federalism will limit the flexibility of the United States in implementing treaties and could prevent the United States from timely adherence to treaties even in cases where there is consensus that the treaty in question is beneficial and that the United States should join it and implement it. The Supreme Court’s second question raises the possibility of construing 18 U.S.C. §229 not to cover Bond’s actions and thus avoiding the Missouri v. Holland question. Bond argued for such a construction. While the Third Circuit convincingly held that the statutory provision is clear and that this position has no merit, one cannot of course predict what the outcome will be.

### 2NC – AIDS

#### ---Extinction.

Muchiri 2000

Michael Kibaara, Staff Member at Ministry of Education in Nairobi, “Will Annan finally put out Africa’s fires?” Jakarta Post, March 6, https://www.thejakartapost.com/news/2000/03/06/will-annan-finally-put-out-africa039s-fires.html

Statistics show that AIDS is the leading killer in sub-Saharan Africa, surpassing people killed in warfare. In 1998, 200,000 people died from armed conflicts compared to 2.2 million from AIDS. Some 33.6 million people have HIV around the world, 70 percent of them in Africa, thereby robbing countries of their most productive members and decimating entire villages. About 13 million of the 16 million people who have died of AIDS are in Africa, according to the UN. What barometer is used to proclaim a holocaustif this number is not a sure measure? There is no doubt that AIDS is the most serious threat to humankind, moreserious than hurricanes, earthquakes, economic crises, capital crashes or floods. It has no cure yet. We are watching a whole continent degenerate into ghostly skeletons that finally succumb to a most excruciating, dehumanizing death. Gore said that his new initiative, if approved by the U.S. Congress, would bring U.S. contributions to fighting AIDS and other infectious diseases to $325 million. Does this mean that the UN Security Council and the U.S. in particular have at last decided to remember Africa? Suddenly, AIDS was seen as threat to world peace, and Gore would ask the congress to set up millions of dollars on this case. The hope is that Gore does not intend to make political capital out of this by painting the usually disagreeable Republican-controlled Congress as the bad guy and hope the buck stops on the whole of current and future U.S. governments' conscience. Maybe there is nothing left to salvage in Africa after all and this talk is about the African-American vote in November's U.S. presidential vote. Although the UN and the Security Council cannot solve all African problems, the AIDS challenge is a fundamental one in that it threatens to wipe out man. The challenge is not one of a single continent alone because Africa cannot be quarantined. The trouble is that AIDS has no cure -- and thus even the West has stakes in the AIDS challenge. Once sub-Saharan Africa is wiped out, it shall not be long before another continent is on the brink of extinction. Sure as death, Africa's time has run out, signaling the beginning of the end of theblack race and maybe the human race.

### 2NC – Ilaw Impact

#### Treaties are key to international law.

Kraus 2011

Don, chief executive officer of Citizens for Global Solutions and a contributor to Foreign Policy In Focus, A New Start on Treaties http://fpif.org/a\_new\_start\_on\_treaties/

It’s about national security and global leadership: Nations do not sign treaties for altruistic reasons. They must enhance U.S. national security, the U.S. ability to establish global policy that supports our values, or both. New START messaging addressed both. It identified nuclear warhead reduction and verification as a national security interest. It also portrayed New START as improving U.S credibility to lead future disarmament and nonproliferation efforts. The Treaty Queue Treaties are the bedrock of international law. U.S. accession to a convention increases its credibility while bolstering U.S. global leadership. It’s long past time for the Senate to take up incredibly important agreements that have languished for decades, such as the Convention on the Law of the Sea, the Comprehensive Nuclear Test Ban Treaty and The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). New treaties, like the Convention on the Rights of Persons with Disabilities that the administration signed this summer, will soon be added to the list. Challenges to the U.S. vision of a world based on democracy and human rights are coming from emerging economies and fundamentalist regimes. Renewed U.S. reinforcement of the web of international laws and norms is our best means of parrying such attacks. This is not a Democratic or a Republican priority –it’s a national priority. New START ratification proves that the U.S. Senate still can get the “advise and consent” job done. A concrete next step is ratification of at least one more treaty during the next six months, so that the lessons sink in.

### 1NC – Pakistan Impact

#### Ruling for Bond makes counterterrorism in Pakistan impossible

Taft et al 2013

William Howard Taft IV, Legal Adviser for the U.S. Department of State from 2001 to 2005, writing with five other former legal advisers, BRIEF OF FORMER STATE DEPARTMENT LEGAL ADVISERS AS AMICI CURIAE IN SUPPORT OF RESPONDENT http://sblog.s3.amazonaws.com/wp-content/uploads/2013/08/12-158bsacFormerStateDepartmentLegalAdvisers1.pdf

3. Many U.S. treaty obligations require not only federal implementing legislation but also federal enforcement. The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (“Chemical Weapons Convention”), Jan. 13, 1992, 1974 U.N.T.S. 45, 32 I.L.M. 800, is one such example. Where states decline to prosecute the use of chemical weapons, the federal government may need to enforce the Chemical Weapons Convention Implementation Act, 18 U.S.C. § 229, in order to protect national interests. Just as drug sales may pose national or international concerns, so may the use of chemical weapons. And the greater the opportunity for individuals to use chemical weapons with impunity, the greater the opportunity for terrorists to learn about and use chemical weapons themselves. Moreover, treaty compliance is a two-way street. If the use of chemical weapons goes unenforced here in the U.S., then the nation loses critical leverage should Pakistan, for example, decline to fulfill its obligations under the Chemical Weapons Convention to investigate and prosecute arguably “local” conduct in its autonomous tribal regions. The same is true for numerous other important national security treaty implementing regimes. See, e.g., 18 U.S.C. § 175(A) (implementing the Biological Weapons Convention). Conduct that may appear to be purely “local” when viewed in isolation can actually have a much broader impact. The federal government is better positioned than the states to appreciate the national and international consequences of certain law enforcement actions. And it is the political branches—not the courts—that have the competence to set national and foreign policy.

#### Causes Pakistani state collapse

Jaspal 2008

Zafar Nawaz Jaspal is Assistant Professor at the Department of International Relation, Quaid-I-Azam University, WMD Terrorism and Pakistan: Counterterrorism Defence Against Terrorism Review Vol. 1, No. 2, Fall 2008 http://www.coedat.nato.int/publications/datr2/06\_ZafarJaspal.pdf

Pakistan’s geographical position on the southern and eastern borders of landlocked Afghanistan is the best location for supporting the United States and the coalition air campaign against al-Qaeda and Taliban strongholds when operating from aircraft carriers in the Arabian Sea or bases in the Persian Gulf. Islamabad’s consent to provide political, logistical, and vital intelligence about alQaeda and the Taliban in addition to three crucial air bases to Washington in its Operation Enduring Freedom has made it the primary target of the terrorist organization and its sympathizers.44 Consequently, Pakistan has been suffering from international and domestic terrorism. The objective of terrorists is political and hence secular; to coerce the Pakistani leadership to change its policies regarding the war on terrorism. However, these terrorist organizations in Pakistan are effective in recruiting perpetrators and raising operational funds through the use of religion. Presently, more than two hundred thousand Pakistani military and paramilitary troops are fighting foreign terrorists in the Tribal Areas, where al-Qaeda and the Taliban have established sanctuaries. These terrorists encompass different nationalities. The terrorists in Pakistan seek to undermine and destroy the rule of law and even a way of life that is desirable or good. Their attacks are frequently directed against leaders, security agencies and innocent civilians and they are designed to cause indiscriminate causalities. Al-Qaeda backers in Pakistan are responsible for attacks on high-profile targets that have included the ex-President of Pakistan and former Prime Ministers, Shaukat Aziz and Benazir Bhutto.45 There is every reason to believe that the core of al-Qaeda or its affiliated operatives in Pakistan could use WMD in their terrorist activities in Pakistan. Concern that terrorist organizations may use WMD in Pakistan has been further intensified by a series of suicidal attacks in that country.46 Suicide attacks are defined as attacks whose success is contingent upon the death of the perpetrator. The perpetrator’s death is a precondition for the success of his mission. The attacker is fully aware that if he does not accept to kill himself, the planned attack will not be implemented. Suicide attackers can direct their attacks more clearly on the target than competing means; even armies or paramilitary forces with the most advanced military technology find it difficult to deter an indoctrinated fanatical attacker with the purpose of getting into a crowd and blowing himself up. WMD terrorism is a perfect choice for a terrorist campaign not only in terms of the damage WDMs can inflict, but also in terms of the sheer terror these weapons create in society.47 Pakistan is a non-signatory NPT nuclear weapon state. Pakistani scantiest A. Q Khan involvement in the nuclear trafficking negatively impacts perceptions about its efforts to improve its nuclear command and control and security of nuclear management. Washington and likeminded states, however, are more concerned about proliferation prospects and Pakistan’s nuclear management and security. Though Pakistan is not manufacturing chemical and biological weapons, it has a nuclear infrastructure for making nuclear weapons and for power generation. Therefore, the possibility, even though remote, of nuclear terrorism in Pakistan cannot be ruled out. Many analysts believe that nuclear facilities—power stations, research reactors and laboratories—are vulnerable to acts of sabotage and blatant terrorist attacks that could cause the release of dangerous amounts of radioactive materials. Trends and Hypothetical Scenarios Despite the ongoing War on Terrorism and Pakistan’s wholehearted participation in it, terrorist activities have been increasing in Pakistan. Terrorism trends are not static. Consequently, people in Pakistan have been experiencing an alarming change in these trends. New adversaries, new motivations and new rationales, which have emerged in recent years, can couple with today’s increased opportunities and capabilities to launch terrorism on a trajectory towards higher levels of lethality, mass destruction and mass killing, and to challenge conventional knowledge about it.48 More precisely, a lethal transnational terrorist organization, whose main goal is the disintegration of the political, economic and social structures of the state, poses a serious challenge to Pakistan’s security. The terrorist activities may not only begin and end in a single country, but may also cross national borders. At the start of the 21st century, most terrorists targeted citizens and property in external countries. Terrorist acts are spread throughout the globe, thereby the risks are widespread. Some of the important trends that have direct or indirect impact on Pakistan’s security are that terrorist groups are operating globally as part of a worldwide network. They are integrated by transnational non-state organizations through global networks of terrorist cells located in many countries, including Afghanistan, involving unprecedented levels of communication and coordination. These criminal groups’ activities have perilous effects on Pakistan’s politics, economics and security. Modern terrorism is very lethal. Terrorists have shifted their tactics from theatrical acts of violence seeking to alarm for the sake of publicity to the purposeful destruction of a target populated entirely by civilian non-combatants, with the intent of killing as many people as possible for the purpose of instilling fear in the public. In a few countries, they have used chemical and biological agents for their nefarious acts. There is also a fear that terrorists might one-day use nuclear weapons. Many Western security analysts opine that Pakistan is very much exposed to such danger.49 The average number of casualties per terrorist incident is increasing. Nearly 3000 people were killed as a result of the September 11, 2001 attack. In Pakistan, 150 people were killed in an October 18, 2007 terrorists attack in Karachi. In the words of Bruce Hoffman, terrorism's lethality is increasing because the terrorists desire to obtain more and serious attention. Therefore, they consider bloody action as a viable strategy to attract the media and decisionmakers.50 A strategy of attracting the media could encourage terrorists to adopt tactics that cause more violence and destruction. There are basically only two ways nuclear and radiological materials could be used by terrorists within Pakistan. The material could be purchased or stolen outside Pakistan and smuggled in, or it could be stolen within Pakistan and there used for malevolent purposes. The adversaries of Islamabad could use terrorist groups as proxies in their own fights against Pakistan. Significantly, the active role played by states in supporting and sponsoring terrorism has enhanced the striking power and capabilities of ordinary terrorist organizations, transforming some groups into entities more akin to elite commando units than the stereotypical Molotov-cocktail wielding or crude pipe-bomb manufacturing anarchist or radical leftist. In short, state-sponsored terrorist organizations could acquire WMD easily, which is very perilous for the target state. In addition, the terrorists might target nuclear facilities in Pakistan.

#### World war III – turns central asia

Walayat 2010

Nadeem, 20 years of experience trading derivatives, Pakistan Collapse Could Trigger Global Great Depression and World War III, 1-16-2012, http://www.marketoracle.co.uk/Article16543.html

The world appears to be sleep walking towards a mega-crisis during 2010 and beyond resulting from that of continuing and escalating terrorist insurgency fed by U.S. policy, that is spreading like a cancer across Pakistan resulting in the disintegration of the Pakistani economy and by consequence the disintegration of many areas of the state into lawless areas despite the size of the Pakistani Army, this would result in fallout across the whole region and the wider world on a scale of several magnitudes greater than that which followed the collapse of Iraq following the 2003 invasion. Pakistan populated by more than 170 million people could turn into a black hole that could swallow many more trillions of dollars in an escalating but ultimately unwinnable war on terror that would disrupt not only the economies of the west with hundreds of thousands more boots on the ground, but also the economies of the neighbouring states, especially India, Iran and China much as the war in Afghanistan had increasingly impacted on the Pakistani state and economy over the past few years. Not only is Pakistan's vast military industrial complex and arms stock piles at risk, but far more deadly than the IED's or klashnikovs are Pakistan's nuclear and chemical weapons that could greatly increase the risks of a series of dirty bombs emerging from within a failed state even if the nuclear weapons themselves remained secure.

### Treaties il

#### Limiting the scope of Missouri v Holland kills US ability to participate in treaties.

Bettauer 2013

Ronald J, visiting scholar at George Washington University Law School and a former Deputy Legal Adviser at the U.S. Department of State, Supreme Court May Consider How Broadly the “Necessary and Proper” Clause of the Constitution Authorizes Legislation to Implement Treaties, ASIL Insights Volume 17, Issue 9, March 11 2013 http://www.asil.org/insights130311.cfm

Despite the fact that the courts have consistently followed Missouri v. Holland, the unwillingness of successive administrations and of some members of Congress to proceed with implementing legislation under that approach has dampened the ability of the United States to proceed with treaties of significant benefit to U.S. citizens and threatens to undermine U.S. leadership in important international areas. An example in the field of private international law is the Convention Providing a Uniform Law on the Form of an International Will, a convention adopted in Washington in 1973 and signed by the United States the same year, but which has only a dozen parties.[24] This convention would simplify inheritance by establishing formal requirements for an international will and providing that all parties would recognize such a will as valid. This would mean that a U.S. citizen could make a will in the United States or in another state party meeting the requirements of the convention that covered property located in multiple countries, and the will would be recognized as valid in each state party. While recognizing that federal implementation pursuant to the rule in Missouri v. Holland was an option, the Uniform Law Commission adopted an International Wills Act in 1977; however, only 13 U.S. states, the District of Columbia and the Virgin Islands have enacted it.[25] Given the utility of the Convention, the U.S. legal community has convinced the Uniform Law Commission to make a new push for adoption of its uniform act, but federal legislation could be a quicker path to uniform implementation of the convention and allow the United States to proceed with ratification sooner. An example in the field of human rights can be found in the proposed implementation of the Convention on Rights of Persons with Disabilities.[26] This convention was adopted in 2006, has 128 parties at present, and was signed by the United States in 2009.[27] The treaty was sent to the Senate for advice and consent to ratification in 2012,[28] reported out of the Senate Committee on Foreign Relations by a vote of 13-6,[29] but failed to achieve advice and consent when put to a vote in the full Senate.[30] While the Senate Foreign Relations Committee report indicated that the treaty was not self-executing, both it and the executive branch transmittal documents described at length how existing federal legislation implements the obligations in the treaty. Yet the executive branch transmittal documents indicated that certain of the treaty provisions cover matters traditionally governed by state law and proposed a vague “federalism reservation”[31]that goes beyond preventing conflicts with explicit constitutional prohibitions (which are dealt with in other proposed reservations and understandings). New proposed federal legislation to implement the treaty based on the necessary and proper clause, under the Missouri v. Holland rule, could have afforded the possibility of implementing the obligations in the convention to the full extent permitted by the Constitution (assuming that that would be desirable as a matter of policy). It can only be supposed that the current ideological debate on federalism resulted in a decision to take a more reticent approach to implementation. Conclusion The Bond case will be vigorously argued before the Supreme Court and many amici briefs will be filed. The outcome could have a deep and lasting impact on the ability of the United States to negotiate and adhere to treaties of importance to its citizens in the modern world. It should be a matter of concern to U.S. lawyers that overturning or limiting the rule in Missouri v. Holland based on ideological disagreement concerning federalism will limit the flexibility of the United States in implementing treaties and could prevent the United States from timely adherence to treaties even in cases where there is consensus that the treaty in question is beneficial and that the United States should join it and implement it. The Supreme Court’s second question raises the possibility of construing 18 U.S.C. §229 not to cover Bond’s actions and thus avoiding the Missouri v. Holland question. Bond argued for such a construction. While the Third Circuit convincingly held that the statutory provision is clear and that this position has no merit, one cannot of course predict what the outcome will be.

#### Treaties are key to international law.

Kraus 2011

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It’s about national security and global leadership: Nations do not sign treaties for altruistic reasons. They must enhance U.S. national security, the U.S. ability to establish global policy that supports our values, or both. New START messaging addressed both. It identified nuclear warhead reduction and verification as a national security interest. It also portrayed New START as improving U.S credibility to lead future disarmament and nonproliferation efforts. The Treaty Queue Treaties are the bedrock of international law. U.S. accession to a convention increases its credibility while bolstering U.S. global leadership. It’s long past time for the Senate to take up incredibly important agreements that have languished for decades, such as the Convention on the Law of the Sea, the Comprehensive Nuclear Test Ban Treaty and The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). New treaties, like the Convention on the Rights of Persons with Disabilities that the administration signed this summer, will soon be added to the list. Challenges to the U.S. vision of a world based on democracy and human rights are coming from emerging economies and fundamentalist regimes. Renewed U.S. reinforcement of the web of international laws and norms is our best means of parrying such attacks. This is not a Democratic or a Republican priority –it’s a national priority. New START ratification proves that the U.S. Senate still can get the “advise and consent” job done. A concrete next step is ratification of at least one more treaty during the next six months, so that the lessons sink in.

### 2NC – A/T Campaign Finance L/U

#### Won’t spend capital on a broad ruling and small rulings don’t matter.

Hasen 2011

Richard, Distinguished Professor of Law, Loyola Law School–Los Angeles, CITIZENS UNITED AND THE ILLUSION OF COHERENCE, Michigan Law Review Volume 109 http://occupysanluisobispo.org/DATA/resources/Citizens\_United\_and\_the\_Illusion\_of\_coherence-hasen.pdf

If 80% of the public “oppose[s] the recent ruling by the Supreme Court that says corporations and unions can spend as much money as they want to help political candidates win elections,”258 how many people would welcome a ruling allowing direct corporate contributions to candidates? A Gallup poll conducted right after the Court decided Citizens United found that although a majority of Americans believed that giving campaign contributions is a form of free speech and that the corporations, labor unions, and others should be subject to the same campaign finance rules as individuals, 76% of respondents supported corporate and labor union contribution limits, and 61% supported individual contribution limits.259 In the same poll, a majority of Americans thought it was more important to limit campaign donations than to protect free speech rights.260 Although these findings would likely give the Justices considerable pause before overturning core campaign contribution limitations, it does not mean that the Court’s campaign finance jurisprudence is likely to remain stagnant. Campaign finance issues are barely understood by the public and generally not a national priority.261 Only extreme opinions like Citizens United are likely to get the public’s attention. Assuming this same fiveJustice majority stays on the Court, the Justices will be presented with many less-salient ways to loosen the campaign finance rules.262 However, complete deregulation, along the lines proposed by Justice Thomas, would take political courage to issue additional politically unpopular decisions. It is not clear that there are five Justices willing to spend considerable goodwill and political capital on such a strategy.

### 2NC – Elites Link

#### Elite pressure will force median justices to engage in impression management – conservative backlash from the aff will force the court’s hand in Bond.

Baum and Devins 2010

Lawrence and Neal, Law Profs at Ohio St and William & Mary, Why the Supreme Court Cares About Elites, Not the American People http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=2149&context=facpubs

As we have suggested already, legal academics may be an especially salient audience within the legal profession. The news media may also be a salient audience, and the impact of these two groups is parallel in some important respects. The potential salience of academics and the news media has three different sources. First, the news media and academia play an important role in deﬁning the Justices’ status and reputation within their own inner circles. Supreme Court Justices read the newspapers, as do their family and friends. Their clerks and the advocates who appear before them typically served as the editors of the nation’s leading law reviews, and many of their clerks will become academics—writing journal articles and books about their handiwork. Supreme Court Justices, moreover, are part of the larger law school culture. They frequently travel to law schools and have strong ties to the elite schools that they and their clerks attended.143 Second, the news media and academia also deﬁne the Justices’ status and reputation to society at large.144 Political elites in general and the news media in particular play a signiﬁcant role in opinion formation among the mass public. Indeed, on issues “that are not ideologized in the mass public,” there is a convergence between elite opinion (typically reinforced by Supreme Court decision making) and public opinion—as “media discussion [of a Court decision] and elite behavior” change public norms in ways that “reduce the differences between the pattern of elite and mass opinion on an issue.”145 Third, whereas the mass public knows very little about the speciﬁc decisions of the Court,146 elites are far more likely to pay attention to reports on Court decision making. In other words, elites are the principal consumers of media reports about the Court, especially in specialized media such as legal newspapers and blogs. The media’s inﬂuence in shaping the Justices’ decision making is something that we will take up in Part III, when we discuss whether there is empirical evidence backing the so-called Greenhouse effect, whereby Justices shift their views to reﬂect the left-leaning values of media and academic elites.147 At this point, two observations are in order: First, there is little question that Justices pay attention to reports about the Court and about themselves personally in the news media. Although the Justices interact with reporters far less than their counterparts in the other branches, such interactions are not rare148 and they are becoming more common. Justices may engage in those interactions for several reasons, but it is likely that an interest in shaping news coverage is one of those reasons.149 Second, there is good reason to think that the Court’s swing Justices are especially sensitive to their reputations among academic and media elites. Swing Justices typically have comparatively weak legal policy preferences, and as such, are more likely to engage in externally focused impression management.150 In particular, rather than seeking to win the esteem of some ideologie cally identiﬁable group, swing Justices are often drawn to the norm of judicial independence and the idea that a neutral, impartial arbiter would not join one or another faction that regularly favors liberal or conservative outcomes.151 For example, Justice Anthony Kennedy—the super median on today’s Roberts Court—seems particularly concerned with his public persona. According to one of his law clerks, Justice Kennedy “‘would constantly refer to how it’s going to be perceived, how the papers are going to do it, [and] how it’s going to look.’”152 On the very day that the Court reafﬁrmed Roe in Planned Parenthood v. Casey, Justice Kennedy told a reporter that “‘[s]ometimes you don’t know if you’re Caesar about to cross the Rubicon or Captain Queeg cutting your own tow line.’”153 No doubt, Justice Kennedy may be an extreme case. Nevertheless, there is good reason to think that swing Justices are more apt to be externally focused and, as such, more interested in press and academic commentary about the Court. D. SUMMARY Social psychology provides important insights into Supreme Court decision making. Unlike political science models which emphasize the pursuit of legal policy preferences, social psychology highlights how issues of self presentation also contribute to the choices Justices make. In so doing, social psychology takes into account both the legal policy preferences of Justices (by recognizing that a Justice will only back up legal or policy positions that are roughly in sync with their personal preferences) and a Justice’s interest in power and reputation (by recognizing that a Justice’s preferences and votes—consciously or unconsciously—are inﬂuenced by audiences they care about). By highlighting how Justices take audiences into account, this Part has called attention to divergences between the social psychology and political science models. At the same time, it is important to recognize that both models anticipate that Justices will diverge from favored policy positions to pursue other objectives. Political science models that argue that the Court accommodates itself to public opinion, for example, anticipate that Justices will calibrate their decision making to stave off public disapproval. The social psychology model, on the other hand, highlights the pivotal role that personal motivation plays in judicial decision making. There is reason to think that political science models that view public opinion as a signiﬁcant inﬂuence on the Justices anticipate greater divergence by the Justices from positions that reﬂect their policy preferences than does the social psychology model. Social psychology anticipates that the formation of legal policy preferences is driven by both ideological and personal motivations, so there is likely to be considerable agreement between Justices’ preferences and the preferences of the audiences that are most important to them. In contrast, any mechanisms that lead to agreement in preferences between the Justices and the general public are likely to be weaker. Social psychology is important for three other related reasons. First, even though the Supreme Court Justices are members of a single Court, it is wrong to describe the Court as a unitary body. Not only do the Justices have different legal policy preferences, they also place different values on power and reputation—including their willingness to be associated with ideologically identiﬁable groups. Second, in looking at the Supreme Court as a conglomeration of individual preferences, social psychology—consistent with the political science models— calls attention to the often pivotal role that median Justices play in Court decision making.154Unlike the political science models, however, social psychology calls attention to the important role that audiences play in the decision making of median Justices. Third, and ﬁnally, social psychology is instructive in understanding which audiences matter most to Justices. Supreme Court Justices are elites whose reference groups are also elites. And although there are both liberal and conservative elite audiences—so that highly ideological Justices are likely to garner praise from the interest groups they identify with so long as they generally support the positions of those groups—the Court’s swing Justices are especially likely to look to the media, law professors, and lawyers’ groups like the American Bar Association. These are the very audiences that will dissect and write about the Justices’ opinions, both in specialty journals for the legal profession and in books and articles that reach across elite audiences (and ultimately ﬁlter to the mass public).155 As it turns out, these audiences are left-leaning, at least on civil liberties issues, in the current era.156 For that reason, it is to be expected that Supreme Court decision making will sometimes favor these elite preferences over the preferences of the American people.157

### 2NC – WW

#### Even if legitimacy is inevitable in the long term the link is enough to stop short term decisions.

Bazelon 2009

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That observation captures Friedman’s thesis about the influence of public opinion on the Supreme Court. He sees the justices and the people as partners in a “marriage” that bypasses the elected legislature and the president. “It frequently is the case that when judges rely on the Constitution to invalidate the actions of the other branches of government, they are enforcing the will of the American people,” he says. The marriage between the court and the people, like many enduring ones, has gradually mellowed. At first, there were occasions when the two sides clashed mightily, but over the years they’ve learned to come into equilibrium. These days, when the court gets into trouble with the public, it’s often on an issue it’s confronting for the first time. (The eminent domain case Kelo v. City of New London, for instance, provoked a populist outcry in 2005.) “What history shows,” Friedman argues, “is assuredly not that Supreme Court decisions always are in line with popular opinion, but rather that they come into line with one another over time.” How well does this claim hold up against the historical record? Friedman’s best evidence is that the people and the court are still married. To be sure, a divorce in the form of diminished authority for the justices would be hard to bring off, given the legal obstacles. And particularly early on, a few marital spats led to serious rifts and estrangement. McCulloch v. Maryland, the 1819 decision upholding the power of Congress to charter a national bank, infuriated states’ rights advocates and brought that century’s fight over federalism to a head. A decade later, when the court ruled in favor of Cherokee sovereignty over Georgia’s assertion of authority to remove the tribe, the state refused to comply, or to appear before the court at all. In the reaction to Dred Scott, the divisive 1857 decision to deny citizenship rights to black people, Friedman sees an “evolution in the nation’s commitment to judicial review,” because the ruling was not met with defiance. But since the country cracked apart four years later in a civil war that the Dred Scott ruling hastened, the fact that the court emerged tarnished but otherwise unharmed seems a bit beside the point. Friedman’s case strengthens in the 20th century. The Warren Court expanded the rights of criminal defendants — and then stopped after the decisions provoked support for Nixon’s law and order campaign, along with disapproving poll numbers. In 1972, the court came close to abolishing the death penalty. In response, the polls registered a spike in support for capital punishment, and the justices backed down. The road to compromise on abortion has been longer and rougher. Sometimes, when its footing with the public has been shaky, the court has weathered sharp opposition by tolerating concerted resistance (school desegregation) or low-grade noncompliance (the ban on school prayer). But Friedman is certainly right that over time, the court has proved itself the Teflon branch of government. In a 1994 Gallup poll, more than 80 percent of people expressed “some” support for the court. The level was about the same six months after Bush v. Gore, the court’s biggest modern-era misstep. Current Gallup numbers show the court with a 59 percent approval rating compared with President Obama’s rating of 51 percent, and Congress way behind at 31 percent.

#### Doesn’t matter – the link turn is long term but the link is rapid.

Ura 2013

Joseph Daniel, Assistant Professor, Department of Political Science, Texas A&M University, Backlash and Legitimation: Macro Political Responses to Supreme Court Decisions, American Journal of Political Science July 19 2013

This paper offers a first attempt to develop and assess the competing predictions of the thermostatic model of public opinion and legitimation theory for the likely responses of public mood to Supreme Court decision-making. While thermostatic theory predicts a negative relationship between the ideological direction of Supreme Court decisions and changes in public mood, legitimation theory predicts that changes in public mood should be positively associated with the ideological content of the Court’s actions. To assess these rival expectations, I estimated a model of the dynamic relationship between changes in public mood and Supreme Court decisions controlling for policy choices made by Congress and the president as well as the state of the macro economy. The results show that both thermostatic and legitimizing forces bear on the response of public mood to the Supreme Court. The model predicts that the public’s initial response to changes in aggregate Supreme Court liberalism is negative. When the Supreme Court hands down salient decisions in one ideological direction, public mood shifts in the opposite direction in the short run, which is consistent with thermostatic accounts of public mood. However, the model predicts that this negative response ultimately decays and is replaced by a positive response to Supreme Court decisions. Aggregate Supreme Court liberalism is significantly and positively associated with liberalism in public mood over the long run. Though the model shows mood to be a reasonably slowly adjusting time series, there is significant evidence that public mood shifts towards the ideological position of the Supreme Court.

### Public

#### Unpopular decisions constrain future court decision making.

Clark 2009

Tom, Assistant Professor of Political Science at Emory, The Separation of Powers, Court Curbing, and Judicial Legitimacy, American Journal of Political Science, Vol. 53, No. 4, October 2009 http://userwww.service.emory.edu/~tclark7/constitutional.pdf

This theoretical model and empirical analyses presented in this article provide a new interpretation of the separation of-powers model that has been the focus of much scholarship in the area of judicial-congressional relations. The evidence from interviews with Supreme Court justices and former law clerks suggests students of Court-Congress relations must account for the role of judicial legitimacy in the Court’s decision calculus. Judicial legitimacy is an important mechanism that drives judicial sensitivity to congressional preferences. Moreover, it can be a condition that gives rise to constrained judicial decision making. Indeed, scholars have long recognized the importance of institutional legitimacy for the Supreme Court (Baum 2006; Caldeira 1987; Caldeira and Gibson 1992; Lasser 1988; see also Staton 2006; Vanberg 2005); however, this study unites this literature with scholarship on congressional constraints on judicial behavior in a previously unappreciated way. By recasting the separation-of-powers model as a strategic interaction in which responses to Supreme Court decisions are not limited to congressional overrides but also include consequences for the Court’s institutional integrity, this model of judicial independence presents a fuller, more nuanced and dynamic interpretation of the judicial decision-making environment. The analysis of judicial-congressional relations as an interaction in which concerns for institutional legitimacy are integral to the Court’s decision-calculus unites two important bodies of judicial politics scholarship, and may reorient empirical scholarship that has focused largely on the relative explanatory power of the two dominant models of judicial decision making (the attitudinal model and the SOP model). As a first step in this empirical direction, the analysis of Court curbing and its relationship to the use of judicial review to invalidate federal legislation provides promising evidence. As the analysis above demonstrates, the relationship between the frequency of judicial review and congressional hostility provides strong, direct support for the theoretical model. When the Court fears it will lose public support, it will adjust its behavior in light of congressional signals about the Court’s level of public support. However, the magnitude of that effect is mediated by the political context in which those signals are sent. Instead of responding to Court curbing more strongly when it is facing its ideological opponents, the Court responds most strongly when the Court curbing comes from its ideological allies. Moreover, the constraining effect of Court curbing increases as the Court becomes more pessimistic about its public support. Notably, these interactive relationships run against the intuition following from the conventional wisdom that Court curbing’s effect on the Court is due to its threat of enactment. They are, however, predicted by the public-Congress-Court interaction analyzed here.

#### Massive Congressional and public opposition – polls prove.

McLaughlin 2013

Seth, No getting out of Gitmo: U.S. can’t release detainees to state sponsors of terrorism, Washington Times http://www.washingtontimes.com/news/2013/may/27/us-laws-keep-detainees-locked-up-at-guantanamo/?page=all

Legal hurdles Under the defense policy law, Mr. Obama cannot transfer any of the detainees to the U.S. and can transfer them to other countries only if his administration certifies that they are not likely to return to the battlefield. Republicans who have helped block all efforts to shutter Guantanamo said they don’t see how Mr. Obama can certify Yemen as stable enough to take the detainees. “Well, guess what, between December 2009 and today, has Yemen shown any indication that they’re more capable of looking after those individuals? Absolutely not,” said Sen. Saxby Chambliss of Georgia, the ranking Republican on the Senate Select Committee on Intelligence. “If we were to transfer those individuals to Yemen, we’d be just like turning them loose.” The opposition in Congress creates a political problem for Mr. Obama as well as a security issue, Ms. Prasow said. “The biggest hurdle Obama faces is whether he has the political will to follow through with his promises,” she said. “If he’s truly going to move forward, he should continue to make clear to Congress and the public that closing Guantanamo is in the U.S. national security interest. I think if Obama takes concrete steps — such as transferring detainees to their home countries and starting up the administrative review process he designed — members of Congress will support his efforts. But first they, and the general public, need to see that he is serious.” As of now, the public is not supportive. A Fox News poll last week found that 63 percent of Americans wanted the prison to be kept open and 28 percent said it should be closed. John Hutson, retired Navy rear admiral, lawyer and judge advocate of the Navy, said the American public is “woefully misinformed” about the prisoners, the options for moving them and the damage Guantanamo has done to the nation’s image on the global stage. “If people had a better understanding of those factors, they would be clamoring for it to be closed rather than trying to keep it open,” Adm. Hutson said. “And, of course, [the president’s] critics in Congress will stop at nothing to thwart whatever he is trying to do. I just hope he doesn’t come out in favor of Father’s Day.” It may not help Mr. Obama’s cause domestically, but the top U.N. human rights official criticizes the U.S. government for keeping Guantanamo open, saying the prison and the U.S. armed drone program that Mr. Obama also wrestled with last week are counterproductive in the battle against terrorist groups. “The injustice embodied in this detention center has become an ideal recruitment tool for terrorists,” U.N. High Commissioner for Human Rights Navi Pillay said Monday at the opening of a session of the U.N. Human Rights Council in Geneva. Hardening opposition Despite Mr. Obama’s renewed plea, opposition in Congress appears to be stiffening. Last summer, the U.S. transferred prisoner Ibrahim al-Qosi home to Sudan after he served out the sentence he received as part of a plea deal. At the time, U.S. law allowed transfers of those who had finished sentences under plea bargain, even if the home country was on the “state sponsors of terrorism” list.

#### Individual rights cases don’t garner capital.

Huq 2010

Aziz, Assistant Law Prof @ UChicago, AGAINST NATIONAL SECURITY EXCEPTIONALISM, CHICAGO PUBLIC LAW AND LEGAL THEORY WORKING PAPER NO. 299 http://www.law.uchicago.edu/files/file/299-ah-security.pdf

One way of explaining the Court’s willingness to grant sweeping structural remedies may be as a response to public and elite expectations of judges fostered by a heroic countermajoritarian narrative of the judicial role born in the second half of the twentieth century. On this account, Justices inherit and apply a heroic model of the federal courts exemplified best by Brown v Board of Education. 175 If Justices’ role-conception and sense of prestige entails a commitment to a heroic model, they may prefer to channel interventions into high-profile cases in which their stance will be observed and celebrated, further enhancing their prestige.176 Individual remediation, notwithstanding periodic judicial verbiage about the value of individual rights,177 secures the courts little political or reputational capital. It is thus slighted. More cynically, this account might be supplemented by the suggestion that the Justices’ reputational motivations are constrained by the possibility, however remote, of the public backlash that would ensue if an individual who gains individual relief later goes on to participate in a terrorist conspiracy. Here, the Justices’ beliefs about the public reception of decisions play a large role. A less cynical account would posit that the Justices are allocating scarce judicial time and public support to maximize their constitutional goals. On this account, the emphasis on structural interventions is simply a way to secure maximal policy change with limited tools under conditions of constraining political opposition

### Afg

#### Instability empirically triggers great power cooperation

**Collins et al., Notre Dame political science professor, 2004**

(Kathleen, “Defying ‘Great Game’ Expectations”, Strategic Asia 2003-2004, <http://www.dartmouth.edu/~govt/docs/15-Central%20Asia-press.pdf>, ldg)

While cautious realism must remain the watchword concerning an impoverished and potentially unstable region comprised of fragile and authoritarian states, our analysis yields at least conditional and relative optimism. Given the confluence of their chief strategic interests, the major powers are in a better position to serve as a stabilizing force than analogies to the Great Game or the Cold War would suggest. It is important to stress that the region’s response to the profoundly destabilizing shock of coordinated terror attacks was increased cooperation between local governments and China and Russia, and—multipolar rhetoric notwithstanding—between both of them and the United States. If this trend is nurtured and if the initial signals about potential SCO-CSTO-NATO cooperation are pursued, another destabilizing shock might generate more rather than less cooperation among the major powers. Uzbekistan, Kyrgyzstan, Tajikistan, and Kazakhstan are clearly on a trajectory that portends longer-term cooperation with each of the great powers. As military and economic security interests become more entwined, there are sound reasons to conclude that “great game” politics will not shape Central Asia’s future in the same competitive and destabilizing way as they have controlled its past. To the contrary, mutual interests in Central Asia may reinforce the broader positive developments in the great powers’ relations that have taken place since September 11, as well as reinforce regional and domestic stability in Central Asia.

#### NATO doesn’t solve global problems

**Kapila, Allahabad University strategic studies PhD, 2012**

(Subhash, “Strategic Relevance Of NATO In The 21st Century – Analysis”, 3-5, <http://www.eurasiareview.com/05032012-strategic-relevance-of-nato-in-the-21st-century-analysis/>, DOA: 2-13-13, ldg)

The 21st Century strategic landscape and global security environment when surveyed from the angle of threats to European security does not suggest any potent threat justifying continued existence of NATO as a military alliance or forging partnerships across the globe. Here two perspectives come into play when its strategic relevance is to be assessed. These pertain to NATO’s relevance to European security and relevance of NATO to United States security. The persistent conclusion that is emerging in the course of this Paper is that in terms of European security no credible threats exist justifying the exorbitant expenditures in the sheer maintenance of the bloated bureaucracy of NATO Headquarters in Brussels, leaving aside the costs of its expeditionary missions outside NATO peripheries. As for catering for any asymmetric threats arising within Europe the European Union offers an alternative organization in which security capabilities can be woven into at a fraction of current NATO expenditures. The United States as the major partner of NATO does find NATO as an asset and a strategic and political tool in the furtherance of its global strategies and global power-play to sustain its global predominance and global military superiority. A military alliance like NATO provides significant ballast to United States global strategic stature and image. Some excerpts which reflect the current realities of questioning the strategic relevance of NATO are appended below: “Trying to keep NATO relevant by artificially forcing all these issues’ (referring to NATOs new agenda of energy security, cyber warfare etc. other than defence of Europe) into its agenda is counter-productive, for the Alliance will not be able to solve them, it only risks being discredited without hope of achieving success.”………. Danish Institute of International Studies DISS Paper. “The new NATO is a ‘transactional alliance’. And frequently some allies sit out a particular mission. Both Afghanistan and Libya have been fought on transactional terms”…… Yale Global Online 12 May 2011 “But NATOs repeated demonstration of resilience should not blind us to the fact that it no longer provides a healthy basis for trans-Atlantic security partnership. As long as NATOs ‘raison d’etre’was to keep the Russians out and the United States in NATO’s internal dynamics of American leadership and European obeisance was both inevitable and appropriate”……Nick Witney, The Guardian, 8 December 2011. NATO itself is conscious that its new approaches for the 21st Century may be beyond its capabilities. One document reads: “In Afghanistan, in Bosnia and Kosovo, Allies have found that military power is no longer enough to secure any tangible victory. During the Cold War years, Allied security had entailed the defence of the North Atlantic Allies; now the definition of “security “ has radically expanded to include the individual’s freedom from violent extremism bred by instability and nation-state failure. Successful peacekeeping has come to entail not merely providing a baseline of security but assisting in the construction of modernity itself. This task is beyond NATO and the Allies know it.” The biggest challenge confronting NATO today is more financial than divergences in strategic perspectives. This finds reflection in the frustrations in American strategic discourse where questions are being raised as to why the United Sates should continue to bear nearly 75% of NATO expenditure when European members of NATO are not inclined to increase their defence budgets. The former US Defense Secretary, Robert Gates in many of his statements and observations had been cautioning and advising NATO members on this controversial issue. One such observation merits citing as it looks into the future and even hints at the possible demise of NATO, and he said: “ Future United States leaders –those for whom the Cold War was not the formative experience that it was for me—may not consider the return on American investment in NATO worth the cost”

### 2nc geneva

#### No incentive to obey and no spillover in Human Rights credibility.

Hill 2010

Daniel W., PhD Candidate at Florida State University, Estimating the Effects of Human Rights Treaties on State Behavior The Journal of Politics, Vol. 72, No. 4, October 2010 http://myweb.fsu.edu/dwh06c/pages/documents/Hill10\_jop.pdf

Some scholars may not worry that formal enforcement mechanisms within the human rights regime are weak; after all, the majority of the work on state behavior vis-a´ -vis international institutions has focused primarily on how informal enforcement mechanisms can alter the behavior of recalcitrant states. Unfortunately, the usual set of tenable self-enforcement mechanisms are simply not suitable in the context of the human rights regime (See Simmons (2009) for a thorough discussion). The shadow of the future and fear of reciprocal violation cannot induce compliance in the area of human rights, since it is not clear that states have anything to gain by jointly observing human rights or anything to lose should each (or any) party fail to do so. States should hardly be expected to behave strategically in the realm of human rights, which is to say that their human rights behavior is not the result of expectations that other states are, or are not, going to commit human rights violations (Koremenos 2007). Incentives to violate human rights do not arise from the nature of interactions in the international arena but rather from circumstances at the domestic level

 Another informal enforcement mechanism thought to operate in international regimes is fear of damage to one’s reputation (Keohane 1984; Lipson 1991; Simmons 2000). In theory, once states have made formal, public commitments to obey the rules of the regime noncompliance may result in a loss of credibility that is costly enough to deter violations. This mechanism is similar to fear of reciprocal violation in that it depends on the violating state expecting to be deprived of something in the future, namely any number of international agreements it could make with other states had it only proven itself to be trustworthy. In practice, however, it is unlikely that states will be shunned by potential partners because of a bad human rights record. Noncompliance in one area of international law does not necessarily signal an inability or unwillingness to comply in other areas, and this may be especially true of noncompliance with human rights regimes (Downes and Jones 2002).

#### Human rights violations don’t spillover specifically.

Downs and Jones 2002

Downs is Professor, Department of Politics, New York University. Jones is Assistant Professor, Department of Mathematics, Montclair State University, and Visiting Scholar, Department of Politics, New York University, Reputation, Compliance, and International Law, Journal of Legal Studies 31 S1

The connection between the value of a relationship and the perceived opportunity costs associated with a contemplated defection has two effects on the extent to which reputation sustains international law. The first is perverse, if unremarkable. The fact that the reputational consequences of defecting from an important relationship are larger than those of defecting from a less important relationship means that reputation protects strong states more than weak states. This is really not so surprising. The reputational implications of a firm’s violating a contract with its most important client are greater than they would be if the client were unimportant. However, the fact that reputation protects most those who require the least protection is still disconcerting. The tendency of the magnitude of the reputational implications of a defection to be directly proportionate to the value of a relationship also implies that the contribution that reputation makes to sustain international law cooperation is greatest in connection with agreements that states think are the most beneficial.37 Conversely, it has the least effect in connection with agreements that produce the smallest amount of benefits. This predicts that the average compliance rate will be somewhat higher in connection with relatively important agreements. It also may help account for why the quality of the compliance data that are available is so frequently related to the importance of the agreement. From a reputational standpoint, the utility of the cooperation that an agreement represents or the opportunity cost of defecting from it is only half the story. Its reputational consequences are also a function of the extent to which the stochastic cost function that leads to defection from it is correlated with those connected with other regimes. While little is known about this, it seems likely that trade agreements are quite “central” in this respect, since many of the shocks that affect trade agreements such as recessions also affect compliance with agreements in other areas. Security agreements also have a claim to centrality. Major shocks in that area are likely to affect trade agreements as well as human rights agreements.38 Defections from environmental agreements, at least at the present time, seem to have more narrow implications for treaties in other areas, as have human rights treaties. Hence, their reputational consequences, at least in the rational choice sense, should be more restricted.39 It follows, ceteris paribus, that reputation promotes compliance with international law most in trade and security and least in environmental regulation and human rights. The most important reputational consequences are those connected with the most important agreements in these areas.

# 1NR

### Dworkin

#### Targeted killing biggest internal link to US-EU relations in the status quo – swamps the aff

Dworkin 7/17/13 (Anthony, Senior Policy Fellow at the European Council on Foreign Relations, “Actually, drones worry Europe more than spying” <http://globalpublicsquare.blogs.cnn.com/2013/07/17/actually-drones-worry-europe-more-than-spying/>)

Relations between the United States and Europe hit a low point following revelations that Washington was spying on European Union buildings and harvesting foreign email messages. Behind the scenes, though, it is not data protection and surveillance that produces the most complications for the transatlantic intelligence relationship, but rather America's use of armed drones to kill terrorist suspects away from the battlefield. Incidents such as the recent killing of at least 17 people in Pakistan are therefore only likely to heighten European unease. In public, European governments have displayed a curiously passive approach to American drone strikes, even as their number has escalated under Barack Obama’s presidency. Many Europeans believe that the majority of these strikes are unlawful, but their governments have maintained an uneasy silence on the issue. This is partly because of the uncomfortable fact that information provided by European intelligence services may have been used to identify some targets. It is also because of a reluctance to accuse a close ally of having violated international law. And it is partly because European countries have not worked out exactly what they think about the use of drones and how far they agree within the European Union on the question. Now, however, Europe’s muted stance on drone strikes looks likely to change. Why? For one thing, many European countries are now trying to acquire armed drones themselves, and this gives them an incentive to spell out clearer rules for their use. More importantly, perhaps, Europeans have noticed that drones are proliferating rapidly, and that countries like China, Russia and Saudi Arabia are soon likely to possess them. There is a clear European interest in trying to establish some restrictive standards on drone use before it is too late. For all these reasons, many European countries are now conducting internal reviews of their policy on drones, and discussions are also likely to start at a pan-European level. But as Europeans begin to articulate their policy on the use of drones, a bigger question looms. Can Europe and the United States come together to agree on when drone strikes are permissible? Until now, that would have seemed impossible. Since the September 11 attacks, the United States has based its counterterrorism operations on the claim that it is engaged in a worldwide armed conflict with al Qaeda and associated forces — an idea that President Obama inherited from President George W. Bush and has been kept as the basis for an expanded drone strike campaign. European countries have generally rejected this claim. However, the changes to American policy that President Obama announced in May could open the way to at least the possibility of a dialogue. Obama suggested that he anticipated a time in the not-too-distant future when the armed conflict against al Qaeda might come to an end. More substantially, he made clear that his administration was in the process of switching its policy so that, outside zones of hostilities, it would only use drone strikes against individuals who posed a continuing and imminent threat to the U.S. That is a more restrictive standard than the claim that any member of al Qaeda or an associated force could lawfully be killed with a drone strike at any time. European countries might be more willing to accept an approach based on this kind of “self-defense” idea. However, there remain some big stumbling blocks. First, a good deal about Obama’s new standards is still unclear. How does he define a “zone of hostilities,” where the new rules will not apply? And what is his understanding of an “imminent” threat? European countries are likely to interpret these key terms in a much narrower way than the United States. Second, Obama’s new approach only applies as a policy choice. His more expansive legal claims remain in the background so that he is free to return to them if he wishes. But if the United States is serious about working toward international standards on drone strikes, as Obama and his officials have sometimes suggested, then Europe is the obvious place to start. And there are a number of steps the administration could take to make an agreement with European countries more likely. For a start, it should cut back the number of drone strikes and be much more open about the reasons for the attacks it conducts and the process for reviewing them after the fact. It should also elaborate its criteria for determining who poses an imminent threat in a way that keeps attacks within tight limits. And, as U.S. forces prepare to withdraw from Afghanistan in 2014, it should keep in mind the possibility of declaring the war against al Qaeda to be over. All this said, Europe also has some tough decisions to make, and it is unclear whether European countries are ready to take a hard look at their views about drone strikes, addressing any weaknesses or inconsistencies in their own position. If they are, the next few years could offer a breakthrough in developing international standards for the use of this new kind of weapon, before the regular use of drones spreads across the globe.

#### Relations resilient-issues don’t spillover.

**Laux, Streit Council intern, 2013**

(Jillian, “The State of the Transatlantic Relationship: Are We Really Drifting Apart”, 2-20, <http://blog.streitcouncil.org/?p=1293>, ldg)

Since the post-WWII years, it has become increasingly common, if not expected, for the U.S. and Europe to act in concert on a range of issues. They have even gone so far as to solidify their partnership through the creation of a host of international organizations, most notably NATO. The historical roots of the relationship, and its functional depth, have convinced many on both sides of the Atlantic that it is a fixture of the international order. Yet others have noted how often the partners disagree, and how the past decade has been especially wrought with disagreement and frustration as the U.S. and Europe have strategically and ideologically bumped heads over a wide-range of complex issues. The relationship has fluctuated so wildly that the idea of a deteriorating relationship among the allies is increasingly entering discussions. Many attribute the events of 2001 onwards as the beginning of crisis for the relationship. In particular, the U.S.-led invasion of Iraq sparked bitter controversy. Discontent ran rampant as both American and European publics took to the streets to protest each other’s positions, and discourse from policymakers grew increasingly cold, if not hostile, at times. Many hoped that the election of a new U.S. president and the withdrawal of troops from the Middle East would repair the fracturing relationship. However, the election of President Barack Obama, twice over, and the steady removal of troops from Iraq and Afghanistan have yet to solve the problems of the past decade; instead, they have served to highlight new and complex challenges facing the partners. Indeed, it seems as if for every issue the allies agree on these days, there are three that polarize them, spanning every realm of international affairs; from the Israeli-Palestinian conflict, to the International Criminal Court and international law in general, to global environmental issues. While arguments are never fun, they are not necessarily indicative of a failing relationship, particularly if the relationship in question is one that has known its fair share of dispute. Historically speaking, the transatlantic relationship developed in the aftermath of WWII due to the necessity of managing Soviet and German power, and to create a framework within which European nations could rebuild. Although formed out of necessity, the relationship blossomed and produced an alliance in which the partners benefitted from standing together. The ease of the relationship is often seen as resulting, not just from global circumstances, but also a common vision shared by the U.S. and Europe of how the world works, and should work. Despite their alignment of interests, the relationship was never as harmonious as some believe. Indeed, almost immediately, the vitality of the partnership was tested by challenges such as the Suez Crisis in 1956 and the Vietnam War. Similarly, while the immediate post-Cold War years ushered in a period of prosperity and stability for the partners, even these relatively uneventful years tested the bonds of friendship as the allies disagreed over how to properly handle matters such as the violent break-up of the former Yugoslavia. Given this history, the events of 2001 onwards seem little out of the ordinary for the transatlantic partners. Indeed, there are still many successes to boast about. Despite crippling recessions on both sides of the Atlantic, the transatlantic economy remains the largest and wealthiest in the world. Furthermore, the U.S. and Europe are still one another’s most important market and economic relations are only expected to deepen over the course of the next few years with the commencement of negotiations on a long-awaited free-trade agreement. And despite disagreements in the face of global challenges, the U.S. and Europe have proven that they are still capable of speaking with one voice. From the revolutions in the Middle East and North Africa, to the civil war in Syria and Iran’s nuclear program, these challenges have shown that there are still issues on which the allies present a united front. Similarly, their military alliance, NATO, has long outlived its initial purpose and proven its relevance in the post-Cold War era. It is unreasonable to presume that the U.S. and Europe will always agree on every issue. They never have, and most likely never will. While it is clear that the relationship needs work on forging a common vision on issues such as climate change and NATO’s future, the fact that they still work together on a wide range of challenges and are in the process of deepening transatlantic economic ties is worth noting. In this light, the past decade and current disagreements are less worrisome than many think.

#### And extend Corn – you haven’t answered this correctly – all article 5 requires is hat we classify what are detainees are – we wouldn’t say they’re prisoners of war – US domestic law prevents us from ruling that people who aren’t engaged in an armed, inter-state conflict with a recognized state – terrorists, who we’re caputruing now – are not affiliated with a state actor – means that they will be classified as unlawful combatants and will not get access any protections in international law

You cannot solve if you don’t allow those

### AT: No solvency advocate

---Solvency advocate isn’t an argument. First, all of our solvency evidence for the counterplan is a solvency advocate. Their interpretation is arbitrary. Second, At best this is a solvency argument. Their predictability argument is insane in the context of the damn states counterplan.

And we have a specific enough solvency advocate –

#### Amendments solve over-expansion of presidential war powers

Miksha 2003(Andre, J.D., Chief Deputy Prosecuting Attorney for the Government of Hamilton County, "Declaring War on the War Powers Resolution", Valparaiso University Law Review, Vol. 37, Number 2)

A third major problem with the Resolution is that the world is a very different place than it was in 1973. The war powers construct needs to be reconfigured for the post-Cold War era. 1 8 7 The proliferation and increased power of intergovernmental organizations and supra-national groups is only a small aspect of the change. 1 88 Warfare continues to change; low-intensity conflicts and small-scale conventional wars have become the norm of modem warfare. 1 8 9 Speed in decision-making is at a premium because of advancements in communications, intelligence, and warfare technology. 1 9 0 Not only have we benefited from two hundred years of presidential-congressional controversies, but the United States is also fighting wars in a much different manner. 1 9 1 Nevertheless, the Constitution vests the sole and exclusive authority to initiate military hostilities in Congress, regardless of the scope, size, or nature of the conflict. 1 9 2 The immediacy of contemporary warfare causes a heightened scrutiny of the war powers too. Failed war powers discussions may, in the end, cost lives and not just waste taxpayers' money as in other realms of governmental debate.' 9 3 Contrary to some commentators, the power of the purse is not a sufficient check on the President, nor does the funding of the military act as an implicit consent by Congress. 1 9 4 One must account for the military realities involved in refusing to fund on-going military operations. War, at the time of the Framers, was much slower; wars lasted years and involved troop movements and communications that were only as fast as a horse or boat. 9 5 During that period, Congress' deliberative and ensuing check of de-funding a military operation would not be militarily frustrating because armies took so long to coordinate and move. 1 9 6 Thus, such a check could be sufficient and historically based, but time is of the essence in today's world. 1 9 7 A constitutional amendment allows the government to realign the powers through a process that respects the Constitution's timelessness because the change would be sought and affected through proper constitutional means. 198

### Add-On

**Extrajudicial decisions are more stable than judicial decisions because they require input by the general public**

Whittington, 02

(Keith E. Whittington, Assoc. Professor of Politics, Princeton. “Extrajudicial Constitutional Interpretation: Three Objections and Responses.” March 2002. Lexis)

If critics of extrajudicial constitutional interpretation overstate the stability of judicial interpretation, they also underestimate the stability of nonjudicial interpretation. Judicial supremacy is not necessary to settle constitutional understandings. Examples of extrajudicial settlement of constitutional disputes are commonplace. Britain has long relied on constitutional convention rather than constitutional law to provide such settlements, and analogous practices exist in the United States. n133 Policymakers were faced with constitutional indeterminacies early on in the nation's history and had little expectation that the judiciary either would or could clarify and stabilize the constitutional rules. Elected officials reached constitutional settlements of their own. Congress determined, for example, that the President could unilaterally remove executive officials. n134 The President successfully vetoed legislation on policy grounds n135 and excluded the Senate from the negotiation of treaties. n136 Congress and the President agreed on procedures for acquiring new territory and admitting new states into the union. n137 The House and Senate established an understanding of impeachable offenses, and insisted that partisanship was inconsistent with judicial office. n138 George Washington set an enduring precedent of the two-term presidency, and Abraham Lincoln marshaled support for the view that states did not have a right to secede from the Union. The Senate understands that Presidents will generally nominate only members of [\*805] their own party to serve in government offices, while the President understands the requirements of "senatorial courtesy." These settlements and others have endured through most of the nation's history with little assistance from the judiciary. Other political interpretations of the Constitution have structured government behavior for decades at a time. The Federalists established a broad interpretation of federal powers that embraced the incorporation of a national bank, and the Jacksonian Democrats replaced it with a narrow interpretation - John Marshall's formal endorsement of the broad interpretation notwithstanding. n139 The Federalists successfully claimed that the federal tariff power could be used to protect domestic manufacturers, and the Jacksonian Democrats forcefully abandoned that claim. n140 Presidents through most of American history claimed a power to impound appropriated funds, and in the 1970s Congress successfully established a framework for regulating the presidential spending power and clarifying the congressional power of the purse. n141 Congress regularly passes "framework legislation" and "statutes revolving in constitutional law orbits." n142 For much of the nineteenth century, legislatures were the primary institution for determining the scope of individual rights and were able to settle such disputes at least as effectively as the judiciary. n143 Extrajudicial constitutional settlements gain their stability from a variety of sources, despite the absence of a formal commitment to the authority of precedent. Not least among these supports for settlement is popular opinion. As Edward Corwin noted in outlining departmentalist theory, "finality of interpretation is hence the outcome - when indeed it exists - not of judicial application of the Constitution ... but of a continued harmony of views among the three [\*806] departments. It rests, in other words, in the last analysis, on the voting power of public opinion." n144

### 2NC Conditionality

---Real World-Policy makers do consider multiple options at once. Their argument guts one of the core elements of policy discussion.

---Best policy justifies-Multiple options make it more likeley that the best policy will be found. The role of the judge is to endorse the best policy at the end of the round. If a conditional counterplan has been proven to be the best policy, it’s perverse not to allow it to be endorsed.

---Education-Argument breadth has benefits. If depth were the only value, teams wouldn’t be allowed to debate more than one advantage or disadvanatge per round. Exploring the range of issues on a subject is also intellectualy important.

#### ---Time limits aren’t an answer

A. Time is finite in debate. Running one argument inherently trades off with another.

B. Other arguments make this non-unique. Multipe topicality arguments, two card disads, or kritiks equally distort time.

C. Creating time pressure and making time based decisions is an inherent part of debate strategy. It’s an acceptable part of all other debate arguments.

---Counterplans don’t introduce unique complexity into the round. The counterplan may just be a minor alteration of the plan. Disadvantage s also raise multiple issues.

---Permutations justify-Retaining the status quo as an option is reciprocal to the affirmative’s ability to advocate the plan or permutation.

---Conditionality is reciprocal to the affirmative’s ability to select a case. Since the affirmative selects the ground for the debate they enjoy a huge preparation advantage. Allowing hypothetical negative arguments helps to defeat this edge.

---Advocacy concerns aren’t decisive.

A. In the real world, policies are attacked from avariety of perspectives. In debate there is only one negative team, so to encompass the true range of potential counter-affirmative advocacy, multiple positions must be allowed.

B. Most debate practice isn’t consistent with the advocacy paradigm. Strategic concessions by the affirmative and permutations allow the affirmative to advocate multiple positions.

---Not a voting issue. Emphasis on punishment incentivizes a race to bottom discouraging substsantive debates.

### Perm do CP