# 1NC

## Off

### 1NC

#### 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

Heinze-Senior Lecturer Law, University of London-3

(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

TPA will pass-strong bipartisan support

The White House Bulletin 1/15/14

HEADLINE: Business Roundtable Leaders See Strong Support For Trade Promotion Authority

Randall Stephenson, chairman and CEO of AT&T and chairman of the Business Roundtable, said that there is "general, broad, bipartisan support" for giving President Obama Trade Promotion Authority. "I've been surprised over the last couple of days at how much support there is for TPA on both sides of the aisle. So of the issues that I will walk away from being here this week concerned about, support for TPA is not really high on my concern list," he said. Business Roundtable President John Engler added that while Obama may be encountering some opposition from his own party, "I think he will get support. ... I think there's little risk in giving their president the authority, or his negotiator, [US Trade Representative Michael] Froman who's a splendid trade ambassador, giving him the authority to go into these negotiations and trying to get the best deal for America." Stephenson identified trade as one of the Roundtable's keys for economic growth. "As it relates to concerns about trade and the implication of investment moving from the US to other countries and employment moving I think the evidence is against it," he said. "We're 20 years into NAFTA, I think empirically virtually any metrics you look at" show that that agreement helped both employment and investment. He said similar deals with Europe and Asia would have similar effects. - Bulletin exclusive from US News

#### Fast Track fight is on the top of the agenda-Strong push from Obama is key-Failure collapses global trade momentum

Good-Farm Policy-12/31/13

The FarmPolicy.com News Summary

HEADLINE: Farm Bill; Ag Economy; and, Biofuels- Tuesday

And with respect to trade, the Chicago Tribune editorial board[18] noted yesterday that, 'President Barack Obama wants the power to negotiate free-trade treaties on a fast track. With Trade Promotion Authority, he would have a good chance of clinching huge trade pacts now being hammered out with Europe and Asia. Yet Congress may not give him that authority — for all the wrong reasons.' The Tribune opinion item stated that, 'Within months the White House hopes to finish talks on a proposed Trans-Pacific Partnership with a group of Asia-Pacific nations. Talks with the European Union on the planned Transatlantic Trade and Investment Partnership are progressing too. Those deals would eliminate barriers and promote economic activity between the U.S. and key allies. The upside is huge: Billions of dollars in new business would be generated if these pacts come to pass. 'Yet given the special interests that oppose free trade, neither deal stands much of a chance in Congress without TPA. Consider farm tariffs, one of the most frustrating roadblocks to any free-trade pact with Europe or Asia. The agriculture lobby here and abroad has long succeeded in imposing some of the least competitive public policies of any industry. Although farm protectionism hurts the vast majority of the world's citizens, standing up to clout-heavy constituencies such as U.S. sugar magnates requires extraordinary political courage. TPA is essential for overcoming the inevitable fight against vested interests that are determined to advance themselves at the expense of the nation's good. 'Federal lawmakers and the president have to make their case with much more gusto than we have seen so far. Congress could OK a Trade Promotion Authority bill in the first few months of 2014. But that won't happen without leadership on Capitol Hill and, especially, from the White House. Now's the time.'

#### Congressional debate over the plan tanks agenda

Kriner, 10

(Douglas, Assistant professor of poly sci at Boston University, “After the

Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec

1, 2010)

While congressional support leaves the president’s reserve of political capital intact,¶ congressional criticism saps energy from other initiatives on the home front by forcing the¶ president to expend energy and effort defending his international agenda. Political capital¶ spent shoring up support for a president’s foreign policies is capital that is unavailable for his¶ future policy initiatives . Moreover, any weakening in the president’s political clout may have¶ immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races.59¶ Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid¶ immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest¶ casualty rates in the Iraq War. 60 In addition to boding ill for the president’s perceived political capital¶ and reputation, such partisan losses in Congress only further imperil his programmatic¶ agenda, both international and domestic. Scholars have long noted that President Lyndon¶ Johnson’s dream of a Great Society also perished in the rice paddies of Vietnam. Lacking the requisite¶ funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson¶ gradually let his domestic goals slip away as he hunkered down in an effort first to win and¶ then to end the Vietnam War. In the same way, many of President Bush’s highest second-term¶ domestic proprieties, such as Social Security and immigration reform, failed perhaps in large part because¶ the administration had to expend so much energy and effort waging a rear-guard action¶ against congressional critics of the war in Iraq.61 When making their cost-benefit calculations,¶ presidents surely consider these wider political costs of congressional opposition to their¶ military policies. If congressional opposition in the military arena stands to derail other¶ elements of his agenda, all else being equal, the president will be more likely to judge the benefits¶ of military action insufficient to its costs than if Congress stood behind him in the¶ international arena.

#### Free trade prevents multiple scenarios for world war and WMD Terrorism

Panzner 2008

Michael, faculty at the New York Institute of Finance, 25-year veteran of the global stock, bond, and currency markets who has worked in New York and London for HSBC, Soros Funds, ABN Amro, Dresdner Bank, and JPMorgan Chase “Financial Armageddon: Protect Your Future from Economic Collapse,” pg. 136-138

Continuing calls for curbs on the flow of finance and trade will inspire the United States and other nations to spew forth protectionist legislation like the notorious Smoot-Hawley bill. Introduced at the start of the Great Depression, it triggered a series of tit-for-tat economic responses, which many commentators believe helped turn a serious economic downturn into a prolonged and devastating global disaster. But if history is any guide, those lessons will have been long forgotten during the next collapse. Eventually, fed by a mood of desperation and growing public anger, restrictions on trade, finance, investment, and immigration will almost certainly intensify. Authorities and ordinary citizens will likely scrutinize the cross-border movement of Americans and outsiders alike, and lawmakers may even call for a general crackdown on nonessential travel. Meanwhile, many nations will make transporting or sending funds to other countries exceedingly difficult. As desperate officials try to limit the fallout from decades of ill-conceived, corrupt, and reckless policies, they will introduce controls on foreign exchange. Foreign individuals and companies seeking to acquire certain American infrastructure assets, or trying to buy property and other assets on the cheap thanks to a rapidly depreciating dollar, will be stymied by limits on investment by noncitizens. Those efforts will cause spasms to ripple across economies and markets, disrupting global payment, settlement, and clearing mechanisms. All of this will, of course, continue to undermine business confidence and consumer spending. In a world of lockouts and lockdowns, any link that transmits systemic financial pressures across markets through arbitrage or portfolio-based risk management, or that allows diseases to be easily spread from one country to the next by tourists and wildlife, or that otherwise facilitates unwelcome exchanges of any kind will be viewed with suspicion and dealt with accordingly. The rise in isolationism and protectionism will bring about ever more heated arguments and dangerous confrontations over shared sources of oil, gas, and other key commodities as well as factors of production that must, out of necessity, be acquired from less-than-friendly nations. Whether involving raw materials used in strategic industries or basic necessities such as food, water, and energy, efforts to secure adequate supplies will take increasing precedence in a world where demand seems constantly out of kilter with supply. Disputes over the misuse, overuse, and pollution of the environment and natural resources will become more commonplace. Around the world, such tensions will give rise to full-scale military encounters, often with minimal provocation. In some instances, economic conditions will serve as a convenient pretext for conflicts that stem from cultural and religious differences. Alternatively, nations may look to divert attention away from domestic problems by channeling frustration and populist sentiment toward other countries and cultures. Enabled by cheap technology and the waning threat of American retribution, terrorist groups will likely boost the frequency and scale of their horrifying attacks, bringing the threat of random violence to a whole new level. Turbulent conditions will encourage aggressive saber rattling and interdictions by rogue nations running amok. Age-old clashes will also take on a new, more heated sense of urgency. China will likely assume an increasingly belligerent posture toward Taiwan, while Iran may embark on overt colonization of its neighbors in the Mideast. Israel, for its part, may look to draw a dwindling list of allies from around the world into a growing number of conflicts. Some observers, like John Mearsheimer, a political scientist at the University of Chicago, have even speculated that an “intense confrontation” between the United States and China is “inevitable” at some point. More than a few disputes will turn out to be almost wholly ideological. Growing cultural and religious differences will be transformed from wars of words to battles soaked in blood. Long-simmering resentments could also degenerate quickly, spurring the basest of human instincts and triggering genocidal acts. Terrorists employing biological or nuclear weapons will vie with conventional forces using jets, cruise missiles, and bunker-busting bombs to cause widespread destruction. Many will interpret stepped-up conflicts between Muslims and Western societies as the beginnings of a new world war.

### 1NC

#### Text

#### The Executive branch of the United States should issue an executive order mandating that the war powers authority of the president should be restricted for self-defense targeted killings to outside an armed conflict and issue an accompanying Fact Sheet explaining that the administration’s rationale includes abiding by international law and the law of armed conflict.

#### The Executive branch should make enforcement of the order subject to judicial review.

#### Executive orders avoid politics, have the force of law, and are rarely overturned

Cooper-prof public administration Portland State- 2 [Phillip, By Order of the President: The Use and Abuse of Executive Direct Action” p.59

Executive orders are often used because they are quick, convenient, and relatively easy mechanisms for moving significant policy initiatives. Though itis certainly true that executive orders are employed for symbolic purposes, enough has been said by now to demonstrate that they are also used for serious policymaking or to lay the basis for important actions to be taken by executive branch agencies under the authority of the orders. Unfortunately, as is true of legislation, it is not always possible to know from the title of orders which are significant and which are not, particularly since presidents will often use an existing order as a base for action and then change it in ways that make it far more significant than its predecessors.¶ The relative ease of the use of an order does not merely arise from the fact that presidents may employ one to avoid the cumbersome and time consuming legislative process. They may also use this device to avoid some times equally time-consuming administrative procedures, particularly the rulemaking processes required by the Administrative Procedure Act.84 Because those procedural requirements do not apply to the president, it is tempting for executive branch agencies to seek assistance from the White House to enact by executive order that which might be difficult for the agency itself to move through the process. Moreover, there is the added plus from the agency's perspective that it can be considerably more difficult for potential adversaries to obtain standing to launch a legal challenge to the president's order than it is to move an agency rule to judicial review. There is nothing new about the practice of generating executive orders outside the White House. President Kennedy's executive order on that process specifically pro­vides for orders generated elsewhere.

### 1NC

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

Willson 13 (Brain, is a Ph.D New College San Fransisco, Humanities, JD, American University, “Developing Nonviolent Bioregional Revolutionary Strategies,” http://www.brianwillson.com/developing-nonviolent-bioregional-revolutionary-strategies/)

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.

## Legal Regimes

### Defense

#### No South China conflict-engagement will check miscalc and mistrust

**Thayer, New South Wales emeritus professor, 2013**

(Carlyle, “Why China and the US won’t go to war over the South China Sea”, 5-13, <http://www.eastasiaforum.org/2013/05/13/why-china-and-the-us-wont-go-to-war-over-the-south-china-sea/>, ldg)

China’s increasing assertiveness in the South China Sea is challenging US primacy in the Asia Pacific. Even before Washington announced its official policy of rebalancing its force posture to the Asia Pacific, the United States had undertaken steps to strengthen its military posture by deploying more nuclear attack submarines to the region and negotiating arrangements with Australia to rotate Marines through Darwin.Since then, the United States has deployed Combat Littoral Ships to Singapore and is negotiating new arrangements for greater military access to the Philippines. But these developments do not presage armed conflict between China and the United States. The People’s Liberation Army Navy has been circumspect in its involvement in South China Sea territorial disputes, and the United States has been careful to avoid being entrapped by regional allies in their territorial disputes with China. Armed conflict between China and the United States in the South China Sea appears unlikely. Another, more probable, scenario is that both countries will find a modus vivendi enabling them to collaborate to maintain security in the South China Sea. The Obama administration has repeatedly emphasised that its policy of rebalancing to Asia is not directed at containing China. For example, Admiral Samuel J. Locklear III, Commander of the US Pacific Command, recently stated, ‘there has also been criticism that the Rebalance is a strategy of containment. This is not the case … it is a strategy of collaboration and cooperation’. However, a review of past US–China military-to-military interaction indicates that an agreement to jointly manage security in the South China Sea is unlikely because of continuing strategic mistrust between the two countries. This is also because the currents of regionalism are growing stronger. As such, a third scenario is more likely than the previous two: that China and the United States will maintain a relationship of cooperation and friction. In this scenario, both countries work separately to secure their interests through multilateral institutions such as the East Asia Summit, the ASEAN Defence Ministers’ Meeting Plus and the Enlarged ASEAN Maritime Forum. But they also continue to engage each other on points of mutual interest. The Pentagon has consistently sought to keep channels of communication open with China through three established bilateral mechanisms: Defense Consultative Talks, the Military Maritime Consultative Agreement (MMCA), and the Defense Policy Coordination Talks. On the one hand, these multilateral mechanisms reveal very little about US–China military relations. Military-to-military contacts between the two countries have gone through repeated cycles of cooperation and suspension, meaning that it has not been possible to isolate purely military-to-military contacts from their political and strategic settings. On the other hand, the channels have accomplished the following: continuing exchange visits by high-level defence officials; regular Defense Consultation Talks; continuing working-level discussions under the MMCA; agreement on the ‘7-point consensus’; and no serious naval incidents since the 2009 USNS Impeccable affair. They have also helped to ensure continuing exchange visits by senior military officers; the initiation of a Strategic Security Dialogue as part of the ministerial-level Strategic & Economic Dialogue process; agreement to hold meetings between coast guards; and agreement on a new working group to draft principles to establish a framework for military-to-military cooperation. So the bottom line is that, despite ongoing frictions in their relationship, the United States and China will continue engaging with each other. Both sides understand that military-to-military contacts are a critical component of bilateral engagement. Without such interaction there is a risk that mistrust between the two militaries could spill over and have a major negative impact on bilateral relations in general. But strategic mistrust will probably persist in the absence of greater transparency in military-to-military relations. In sum, Sino-American relations in the South China Sea are more likely to be characterised by cooperation and friction than a modus vivendi of collaboration or, a worst-case scenario, armed conflict.

#### US and China will never go to war-overwhelming mutual interest and history of conflict resolution prove.

**Wu, China Foundation for International Studies Center for American Studies executive director, 2013**

(Zurong, “China and America’s Innate Goal: Avoiding War Forever”, 7-30, <http://watchingamerica.com/News/217271/china-and-americas-innate-goal-avoiding-war-forever/>, ldg)

China and the U.S. are currently constructing a new kind of relationship between major powers, with several aims. One intrinsic aim is especially worthy of attention, namely that China and the U.S. will not go to war today, nor in the future, and will forever maintain a peaceful association. The Chinese and American governments and people are striving toward this goal unceasingly because it is in the best interests of the people of China, America and the whole world. To avoid conflict, to keep from fighting, to be mutually respectful and to embark upon a path of mutual cooperation — acting in these ways would benefit everyone. First of all, the globalization of the economy, information and other essential factors have created a global village, and the U.S. and China live and work together within this community; their interests are intertwined and neither can break the inseparable bond each has with the other. The global financial crisis of 2007 once again made clear the great extent to which the Chinese and American economies are linked and mixed, for when one sinks into a recession or depression, it is almost impossible for the other to recover and flourish alone. When it comes to international security, climate change, energy, counterterrorism, oceans and all sorts of other unprecedented areas, China and the U.S. share more common interests every day, and cooperative negotiations are unceasingly strengthened. Within this sort of atmosphere, discussing whether the U.S. and China want to go to war seems a little bit untimely and excessive. Second, the current period is fundamentally different than the era of the Cold War, for the development of peace is the theme of the present. People from countries around the world are all concentrating their energy on revitalizing the economy and improving quality of life. After the end of the Cold War, America launched several localized wars in smaller countries under the banner of the fight against terrorism, in the process bringing upon itself a heavy financial and economic burden. Perhaps it was upon consideration of the fact that large-scale conflicts could yield a level of suffering and destruction that would be difficult to endure that America has not launched any wars against the great powers that are in possession of nuclear arms. Even in the Cold War, during the Cuban missile crisis of 1962, America and the Soviet Union did not go to war. The experience of history tells us that the inherent goal of this new form of Sino-U.S. relations will have the support of the strength of the entire ranks of the world’s great powers; thus as long as both China and the U.S. have unflagging perseverance, it can be achieved. Third, for over 40 years, China and the U.S. have promoted a strategy of mutual trust, of the expansion of cooperation, of controlling differences of opinion. These lessons from experience are the U.S. and China’s most valuable treasure. Since Nixon visited the Chinese, Sino-American relations have gone through wind and rain but have always developed onward; moreover, the speed, breadth and depth of the development have far exceeded everyone’s expectations. Indeed, Sino-U.S. relations enjoy a great vitality. And since the foundations were laid fairly recently, Sino-U.S. relations continually make significant progress. The highest leaders communicate freely and military leaders exchange visits often. The two militaries are in the process of issuing plans for Chinese troops to participate in the 2014 Pacific Rim joint military exercises. Both sides have decided to actively investigate significant military activities, report mechanisms to each other and continue to research matters of security and issues regarding standards of conduct, which are relevant to the Chinese and American navies and air forces. These collaborations will give rise to a significant and far-reaching influence on world peace and international security and will vigorously promote the actualization of the inherent goal of the new form of Sino-U.S. great power relations.

### Alt Causes – 1NC

#### The plan doesn’t change the fact that the US thinks it is in a global armed conflict with al qaeda-that’s the only thing that can satisfy Europe-courts will force their hand

**Parker, former British Security Service officer, 2012**

(Tom, “U.S. Tactics Threaten NATO”, 9-17, <http://nationalinterest.org/commentary/us-tactics-threaten-nato-7461?page=1>, ldg)

A growing chasm in operational practice is opening up between the United States and its allies in NATO. This rift is putting the Atlantic alliance at risk. Yet no one in Washington seems to be paying attention. The escalating use of unmanned aerial vehicles to strike terrorist suspects in an increasing number of operational environments from the Arabian Peninsula to Southeast Asia, coupled with the continued use of military commissions and indefinite detention, is driving a wedge between the United States and its allies. Attitudes across the Atlantic are hardening fast. This isn’t knee-jerk, man-on-the-street anti-Americanism. European governments that have tried to turn a blind eye to U.S. counterterrorism practices over the past decade are now forced to pay attention by their own courts, which will restrict cooperation in the future. As recently as last month, the German federal prosecutor’s office opened a probe into the October 2010 killing of a German national identified only as “Buenyamin E.” in a U.S. drone strike in Pakistan. There are at least four other similar cases involving German nationals and several reported strikes involving legal residents of the United Kingdom. In March, Polish prosecutors charged the former head of Polish intelligence, Zbigniew Siemiatkowski, with “unlawfully depriving prisoners of the their liberty” because of the alleged role he played in helping to establish a CIA secret prison in northeastern Poland in 2002–2003. Last December, British Special Forces ran afoul of the UK courts for informally transferring two Al Qaeda suspects detained in Iraq, Yunus Rahmatullah and Amanatullah Ali, to U.S. forces. The British government has been instructed to recover the men from U.S. custody or face legal sanctions that could result in two senior ministers being sent to prison. Perhaps the most dramatic example illustrating the gap that has opened up between the United States and its European allies concerns the 2009 in absentia conviction of twenty-three U.S. agents in an Italian court for the role they played in the extraordinary rendition of radical Imam Hassan Mustafa Osama Nasr from Milan to Cairo. Britain, Poland, Italy and Germany are among America’s closest military partners. Troops from all four countries are currently serving alongside U.S. forces in Afghanistan, but they are now operating within a very different set of constraints than their U.S. counterparts. The European Court of Human Rights established its jurisdiction over stabilization operations in Iraq, and by implication its writ extends to Afghanistan as well. The British government has lost a series of cases before the court relating to its operations in southern Iraq. This means that concepts such as the right to life, protection from arbitrary punishment, remedy and due process apply in areas under the effective control of European forces. Furthermore, the possibility that intelligence provided by any of America’s European allies could be used to target a terrorism suspect in Somalia or the Philippines for a lethal drone strike now raises serious criminal liability issues for the Europeans. The United States conducts such operations under the legal theory that it is in an international armed conflict with Al Qaeda and its affiliates that can be pursued anywhere on the globe where armed force may be required. But not one other member of NATO shares this legal analysis, which flies in the face of established international legal norms. The United States may have taken issue with the traditional idea that wars are fought between states and not between states and criminal gangs, but its allies have not. The heads of Britain’s foreign and domestic intelligence services have been surprisingly open about the “inhibitions” that this growing divergence has caused the transatlantic special relationship, telling Parliament that it has become an obstacle to intelligence sharing. European attitudes are not going to change—the European Court of Human Rights is now deeply embedded in European life, and individual European governments cannot escape its oversight no matter how well disposed they are to assist the United States. The United States has bet heavily on the efficacy of a new array of counterterrorism powers as the answer to Al Qaeda. In doing so it has evolved a concept of operations that has much more in common with the approach to terrorist threats taken by Israel and Russia than by its European partners. There has been little consideration of the wider strategic cost of these tactics, even as the Obama administration doubles down and extends their use. Meanwhile, some of America’s oldest and closest allies are beginning to place more and more constraints on working with U.S. forces. NATO cannot conduct military operations under two competing legal regimes for long. Something has to give—and it may just be the Atlantic alliance.

### Circumvention – 1NC

#### Plan incentivizes the US to create hostilities so they can blow people up-takes out solvency.

**Daskal, Georgetown Center on National Security and the Law adjunct professor, 2013**

(Jennifer, “The Geography of the Battlefield: A Framework for Detention and Targeting Outside the 'Hot' Conflict Zone”, <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1252&context=facsch_lawrev>, ldg)

Consistent with treaty and case law, overt and sustained fighting are key factors in identifying a zone of active hostilities. Specifically, the fighting must be of sufficient duration and intensity to create the exigent circumstances that justify application of extraordinary war authorities, to put civilians on notice, and to justify permissive evidentiary presumptions regarding the identification of the enemy.133 The presence of troops on the ground is a significant factor, although neither necessary nor sufficient to constitute a zone of active hostilities. Action by the Security Council or regional security bodies such as NATO, as well as the belligerent parties’ express recognition of the existence of a hot conflict zone, are also relevant. Linking the zone of active hostilities primarily to the duration and intensity of the fighting and to states’ own proclamations suffers, however, from an inherent circularity. A state can itself create a zone of active hostilities by ratcheting up violence or issuing a declaration of intent, thereby making previously unlawful actions lawful.134 It is impossible to fully address this concern. The problem can, however, be significantly reduced by insisting on strict compliance with the law-ofwar principles of distinction and proportionality and by vigorously punishing states for acts of aggression.135 There will, of course, be disagreement as to whether a state’s escalation of a certain conflict constitutes aggression, particularly given underlying disagreements about who qualifies as a lawful target. The zone approach is helpful in this regard as well: it narrows the range of disagreement by demanding heightened substantive standards as to who qualifies as a legitimate target outside the zones of active hostilities. Under the zone approach, the escalation of force must be aimed at a narrower set of possible military targets until the increased use of force is sufficiently intense and pervasive enough to create a new zone of active hostilities.

#### The United States won’t be modeled – plan can’t create norms

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

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

#### Norms fail---countries will follow our bad examples

Lerner 13 (Ben, is Vice President for Government Relations at the Center for Security Policy in Washington, D.C. “Judging ‘Drones’ From Afar,” http://spectator.org/archives/2013/03/25/judging-drones-from-afar/1

Whatever the potential motivations for trying to codify international rules for using UAVs, such a move would be ill advised. While in theory, every nation that signs onto a treaty governing UAVs will be bound by its requirements, it is unlikely to play out this way in practice. It strains credulity to assume that China, Russia, Iran, and other non-democratic actors will not selectively apply (at best) such rules to themselves while using them as a cudgel with which to bash their rivals and score political points. The United States and its democratic allies, meanwhile, are more likely to adhere to the commitments for which they signed up. The net result: we are boxed in as far as our own self-defense, while other nations with less regard for the rule of law go use their UAVs to take out whomever, whenever, contorting said “rules” as they see fit. One need only look at China’s manipulation of the Law of the Sea Treaty to justify its vast territorial claims at the expense of its neighbors to see how this often plays out. And who would enforce the treaty’s rules — a third party tribunal? Would it be an apparatus of the United Nations, the same U.N. that assures us that it is not coming after the United States or its allies specifically, even as its investigation takes on as its “immediate focus” UAV operations recently conducted by those countries? The United States already conducts warfare under the norms of centuries of practice of customary international law in areas such as military necessity and proportionality, as well as the norms to which we committed ourselves when we became party to the 1949 Geneva Conventions and the United Nations Charter. These same rules can adequately cover the use of UAVs in the international context. But if the United States were to create or agree to a separate international regime for UAVs, we would subject ourselves to new, politicized “rules” that would needlessly hold back countries that already use UAVs responsibly, while empowering those that do not.

##  Drones

###  Defense

#### No internal link to drones – 1AC Corn does not say conflation will collapse the drone program, doesn’t even say we’ll discard AUMF authority which is what their next piece of evidence says

#### 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.

#### No impact- bioweapons are ineffective- even if they weren’t their record of failure deters their use

**Stratfor, 2007**

(“Bioterrorism: Sudden Death Overtime?" 12-22-2007, [www.lebanonwire.com/0712MLN/07122212STR.asp](http://www.lebanonwire.com/0712MLN/07122212STR.asp), ldg)

First, it must be recognized that during the past several decades of the modern terrorist era, biological weapons have been used very infrequently — and there are some very good reasons for this. Contrary to their portrayal in movies and television shows, biological agents are difficult to manufacture and deploy effectively in the real world. In spite of the fear such substances engender, even in cases in which they have been somewhat effective they have proven to be less effective and more costly than more conventional attacks using firearms and explosives. In fact, **nobody even noticed** what was perhaps the largest malevolent deployment of biological agents in history, in which thousands of gallons of liquid anthrax and botulinum toxin were released during several attacks in a major metropolitan area over a three-year period. This use of biological agents was perpetrated by the Japanese apocalyptic cult Aum Shinrikyo. An examination of the group’s chemical and biological weapons (CBW) program provides some important insight into biological weapons, their costs — and their limitations. In the late 1980s, Aum’s team of trained scientists spent millions of dollars to develop a series of state-of-the-art biological weapons research and production laboratories. The group experimented with botulinum toxin, anthrax, cholera and Q fever and even tried to acquire the Ebola virus. The group hoped to produce enough biological agent to trigger a global Armageddon. Between April of 1990 and August of 1993, Aum conducted seven large-scale attacks involving the use of thousands of gallons of biological agents — four with anthrax and three with botulinum toxin. The group’s first attempts at unleashing mega-death on the world involved the use of botulinum toxin. In April of 1990, Aum used a fleet of three trucks equipped with aerosol sprayers to release liquid botulinum toxin on targets that included the Imperial Palace, the Diet and the U.S. Embassy in Tokyo, two U.S. naval bases and the airport in Narita. In spite of the massive quantities of agent released, there were no mass casualties and, in fact, nobody outside of the cult was even aware the attacks had taken place. When the botulinum operations failed to produce results, Aum’s scientists went back to the drawing board and retooled their biological weapons facilities to produce anthrax. By mid-1993, they were ready to launch attacks involving anthrax, and between June and August of 1993 the group sprayed thousands of gallons of aerosolized liquid anthrax in Tokyo. This time Aum not only employed its fleet of sprayer trucks, but also use sprayers mounted on the roof of their headquarters to disperse a cloud of aerosolized anthrax over the city. Again, the attacks produced no results and were not even noticed. It was only after the group’s successful 1995 subway attacks using sarin nerve agent that a Japanese government investigation discovered that the 1990 and 1993 biological attacks had occurred. Aum Shinrikyo’s team of highly trained scientists worked under ideal conditions in a first-world country with a virtually unlimited budget. The team worked in large, modern facilities to produce substantial quantities of biological weapons. Despite the millions of dollars the group spent on its bioweapons program, it still faced problems in creating virulent biological agents, and it also found it difficult to dispense those agents effectively. Even when the group switched to employing a nerve agent, it only succeeded in killing a handful of people. A comparison between the Aum Shinrikyo Tokyo subway attack and the jihadist attack against the Madrid trains in 2004 shows that chemical/biological attacks are more expensive to produce and yield fewer results than attacks using conventional explosives. In the March 1995 Tokyo subway attack — Aum’s most successful — the group placed 11 sarin-filled plastic bags on five different subway trains and killed 12 people. In the 2004 Madrid attack, jihadists detonated 10 improvised explosive devices (IEDs) and killed 191 people. Aum’s CBW program cost millions and took years of research and effort; the Madrid bombings only cost a few thousand dollars, and the IEDs were assembled in a few days. The most deadly biological terrorism attack to date was the case involving a series of letters containing anthrax in the weeks following the Sept. 11 attacks — a case the FBI calls Amerithrax. While the Amerithrax letters did cause panic and result in companies all across the country temporarily shutting down if a panicked employee spotted a bit of drywall dust or powdered sugar from doughnuts eaten by someone on the last shift, in practical terms, the attacks were very ineffective. The Amerithrax letters resulted in five deaths; another 22 victims were infected but recovered after receiving medical treatment. The letters did not succeed in infecting senior officials at the media companies targeted by the first wave of letters, or Sens. Tom Daschle and Patrick Leahy, who were targeted by a second wave of letters. By way of comparison, John Mohammed, the so-called “D.C. Sniper,” was able to cause mass panic and kill twice as many people (10) by simply purchasing and using one assault rifle. This required far less time, effort and expense than producing the anthrax spores used in the Amerithrax case. It **is this** cost-benefit ratio t**hat, from a militant’s perspective, makes** firearms and **explosives more attractive weapons** for an attack. **This** then **is the primary reason** that **more attacks using bio**logical **weapons have not been executed:** The cost is higher than the benefit.

#### 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.

#### The worst case scenario for bioterror happened – no extinction

**Dove, Microbiology PhD, 2012**

(Alan, “Who’s Afraid of the Big, Bad Bioterrorist?”, 1-24, <http://alandove.com/content/2012/01/whos-afraid-of-the-big-bad-bioterrorist/>, ldg)

The second problem is much more serious. Eliminating the toxins, we’re left with a list of infectious bacteria and viruses. With a single exception, these organisms are probably near-useless as weapons, and history proves it. There have been at least three well-documented military-style deployments of infectious agents from the list, plus one deployment of an agent that’s not on the list. I’m focusing entirely on the modern era, by the way. There are historical reports of armies catapulting plague-ridden corpses over city walls and conquistadors trying to inoculate blankets with Variola (smallpox), but it’s not clear those “attacks” were effective. Those diseases tended to spread like, well, plagues, so there’s no telling whether the targets really caught the diseases from the bodies and blankets, or simply picked them up through casual contact with their enemies. Of the four modern biowarfare incidents, two have been fatal. The first was the 1979 Sverdlovsk anthrax incident, which killed an estimated 100 people. In that case, a Soviet-built biological weapons lab accidentally released a large plume of weaponized Bacillus anthracis (anthrax) over a major city. Soviet authorities tried to blame the resulting fatalities on “bad meat,” but in the 1990s Western investigators were finally able to piece together the real story. The second fatal incident also involved anthrax from a government-run lab: the 2001 “Amerithrax” attacks. That time, a rogue employee (or perhaps employees) of the government’s main bioweapons lab sent weaponized, powdered anthrax through the US postal service. Five people died. That gives us a grand total of around 105 deaths, entirely from agents that were grown and weaponized in officially-sanctioned and funded bioweapons research labs. Remember that. Terrorist groups have also deployed biological weapons twice, and these cases are very instructive. The first was the 1984 Rajneeshee bioterror attack, in which members of a cult in Oregon inoculated restaurant salad bars with Salmonella bacteria (an agent that’s not on the “select” list). 751 people got sick, but nobody died. Public health authorities handled it as a conventional foodborne Salmonella outbreak, identified the sources and contained them. Nobody even would have known it was a deliberate attack if a member of the cult hadn’t come forward afterward with a confession. Lesson: our existing public health infrastructure was entirely adequate to respond to a major bioterrorist attack. The second genuine bioterrorist attack took place in 1993. Members of the Aum Shinrikyo cult successfully isolated and grew a large stock of anthrax bacteria, then sprayed it as an aerosol from the roof of a building in downtown Tokyo. The cult was well-financed, and had many highly educated members, so this release over the world’s largest city really represented a worst-case scenario. Nobody got sick or died. From the cult’s perspective, it was a complete and utter failure. Again, the only reason we even found out about it was a post-hoc confession. Aum members later demonstrated their lab skills by producing Sarin nerve gas, with far deadlier results. Lesson: one of the top “select agents” is extremely hard to grow and deploy even for relatively skilled non-state groups. It’s a really crappy bioterrorist weapon. Taken together, these events point to an uncomfortable but inevitable conclusion: our biodefense industry is a far greater threat to us than any actual bioterrorists.

# 2NC

### Counterplan

#### 1 – visibility

LeRoy, Prof law, Illinois-95, “Presidential Regulation of Private Employment: Constitutionality of Executive Order 12954 Debarment of Contractors who Hire Permanent Striker Replacements” <http://ideas.repec.org/p/wop/ilucwp/_005.html>

 Third, some orders diffused political responsibility for controversial policy innovations. New laws and Supreme Court decisions are widely reported, sometimes with detailed analysis and commentary. In contrast, an executive order tends to be less visible unless a president decides to make it newsworthy. This low visibility may have checked otherwise hostile public opinion on race discrimination orders.

#### 2 – persuasion

Sovacool-Research Fellow Public Policy, University of Singapore-9

Dr. Benjamin K. Sovacool 2009 is a Research Fellow in the Energy Governance Program at the Centre on Asia and Globalization., Kelly E. Sovacool is a Senior Research Associate at the Lee Kuan Yew School of Public Policy at the National University of SingaporeArticle: Preventing National Electricity-Water Crisis Areas in the United States, Columbia Journal of Environmental Law 2009 34 Colum. J. Envtl. L. 333,

¶ Executive Orders also save time in a second sense. The President does not have to expend scarce political capital trying to persuade Congress to adopt his or her proposal. Executive Orders thus save ¶ ¶ presidential attention for other topics. Executive Orders bypass congressional debate and opposition, along with all of the horsetrading and compromise such legislative activity entails.¶ ¶ 292¶ ¶ Speediness of implementation can be especially important when challenges require rapid and decisive action. After the September ¶ ¶ 11, 2001 attacks on the Pentagon and World Trade Center, for ¶ ¶ instance, the Bush Administration almost immediately passed ¶ ¶ Executive Orders forcing airlines to reinforce cockpit doors and ¶ ¶ freezing the U.S. based assets of individuals and organizations ¶ ¶ involved with terrorist groups.¶ ¶ 293¶ ¶ These actions took Congress ¶ ¶ nearly four months to debate and subsequently endorse with ¶ ¶ legislation. Executive Orders therefore enable presidents to ¶ ¶ rapidly change law without having to wait for congressional action ¶ ¶ or agency regulatory rulemaking.

#### 3 – empirically true for war powers

Kassop-prof political science, SUNY-2

The Presidency and the Law: The Clinton Legacy, ed. Alder, p. 6

As a president facing an opposition party in Congress, it is not surprising that President Clinton made bold use of executive orders as a means of circumventing the uncertainties of a legislature that was unlikely to be friendly to his initiatives. Here, too, as in war powers, Clinton followed in the paths of his Republican predecessors, who also operated under conditions of divided government. Thus, Clinton may not have blazed new trails for his successors by his use of executive orders to accomplish indirectly what he was unwilling to spend political capital on to accomplish directly.

#### Executive orders can give momentum to legislation, while avoiding spending capital fighting over policy – civil rights orders prove

NYT 7/5/2K Marc Lacey Blocked by Congress, Clinton Wields a Pen

Congress appears intent on denying President Clinton major legislative victories in his final months of office, but White House officials say they will continue drafting and carrying out policies, Congress or no Congress, until Mr. Clinton's final day. Through executive orders, memorandums, proclamations, regulations and other flexing of presidential power, Mr. Clinton has already put in effect a host of measures concerning the environment, health care and civil rights. And with the presidential campaign in high gear, and the Republican-controlled Congress not inclined to give Democrats any boost, Mr. Clinton's aides intend to continue making policy by decree -- putting federal land off limits to development, reorganizing government agencies, tightening pollution control rules and pushing other measures that would otherwise stand little chance of congressional passage. Mr. Clinton has been especially frustrated that many of his nominees for judgeships, ambassadorships and other posts have failed to be confirmed by the Senate. But he is not surrendering in that area either. If Congress fails to act on some of the nominations later this month, White House aides say they expect the president to make recess appointments in August that would require no Congressional approval. "This president will be signing executive orders right up until the morning of Jan. 20, 2001," said Bruce N. Reed, the president's domestic policy adviser. "In our experience, when the administration takes executive action, it not only leads to results while the political process is stuck in neutral, but it often spurs Congress to follow suit."

#### Executive orders can give momentum to legislation, while avoiding spending capital fighting over policy – civil rights orders prove

NYT 7/5/2K Marc Lacey Blocked by Congress, Clinton Wields a Pen

Congress appears intent on denying President Clinton major legislative victories in his final months of office, but White House officials say they will continue drafting and carrying out policies, Congress or no Congress, until Mr. Clinton's final day. Through executive orders, memorandums, proclamations, regulations and other flexing of presidential power, Mr. Clinton has already put in effect a host of measures concerning the environment, health care and civil rights. And with the presidential campaign in high gear, and the Republican-controlled Congress not inclined to give Democrats any boost, Mr. Clinton's aides intend to continue making policy by decree -- putting federal land off limits to development, reorganizing government agencies, tightening pollution control rules and pushing other measures that would otherwise stand little chance of congressional passage. Mr. Clinton has been especially frustrated that many of his nominees for judgeships, ambassadorships and other posts have failed to be confirmed by the Senate. But he is not surrendering in that area either. If Congress fails to act on some of the nominations later this month, White House aides say they expect the president to make recess appointments in August that would require no Congressional approval. "This president will be signing executive orders right up until the morning of Jan. 20, 2001," said Bruce N. Reed, the president's domestic policy adviser. "In our experience, when the administration takes executive action, it not only leads to results while the political process is stuck in neutral, but it often spurs Congress to follow suit."

#### Obama would just commit forces then Congress would give up-best academic position

**Kriner, Boston political science professor, 2010**

(Douglas, After the Rubicon: Congress, Presidents, and the Politics of Waging War, pg 6-8, ldg)

The role that Congress plays in deciding whether a war is continued or concluded is of intrinsic interest to academics, policymakers, and casual observers of contemporary American politics alike. Yet the belief that Congress retains some capacity to shape the conduct of military affairs after a venture is launched is also a critically important and untested proposition underlying most theories **asserting** congressional influence over the initiation of military action. Why, according to this emerging literature, do presidents facing a strong opposition party in Congress use force less frequently than do their peers with strong partisan majorities in Congress? The most commonly offered answer is that presidents anticipate Congress's likely reaction to a prospective use of force and respond accordingly.14 Presidents who confront an opposition-led Congress anticipate that it is more willing and able to challenge the administration's conduct of military action than a Congress controlled by their partisan allies. Therefore, the frequency with which presidents use force abroad covaries with the strength of their party in Congress. However, this anticipatory logic requires that Congress has the ability to raise the costs of military action for the president, once that action has begun. If Congress lacks this capacity, presidents have little reason to adjust their willingness to initiate the use of force in anticipation of an adverse congressional response." As a result, determining whether and how Congress can influence the scope and duration of ongoing military operations is critically important even to evaluating prior research that asserts congressional influence over the initiation of military actions. Without it, such analyses rest on shaky ground. Unfortunately, because the dynamics change dramatically once American troops are deployed abroad, simply drawing lessons from existing studies of interbranch dynamics in military policymaking at the conflict initiation phase and applying them to the conflict conduct phase is unlikely to offer much insight." The decision-making environment at the conflict conduct phase differs from that at the conflict initiation phase along at least three key dimensions: the incentives and constraints governing congressional willingness to challenge presidential discretion; the relative institutional capacities of the executive and legislative branches to affect military policymaking; and finally, the ability of unfolding conflict events to change further the political and strategic environment in which the two branches vie for power. With regard to the political constraints that limit would-be adversaries in Congress, the president may **be in an even stronger position** after American troops are deployed in the field. Ordering troops abroad is akin to other unilateral presidential actions; by seizing his office's capacity for independent action, a president can dramatically **change the status quo** and fundamentally alter the political playing field on which Congress and other actors must act to challenge his policies.17 Once the troops are overseas, the political stakes for any congressional challenge to the president's policies are inexorably raised; any such effort is subject to potentially ruinous charges of failing to support the troops. Georgia Senator Richard Russell's conversion from opposition to U.S. intervention in Vietnam in the early 196os to stalwart support for staying the course after Lyndon Johnson's escalation of the American commitment there illustrates this change: "We are there now, and the time for debate has passed. Our flag is committed, and—more importantly—American boys are under fire."" Russell's sentiment was loudly echoed forty years later in the allegations by the Bush administration and its partisan allies in Congress that any legislative efforts to curtail the war in Iraq undermined the troops. As a result of these potentially **intense political costs**, there are reasons to question whether Congress can mount an effective challenge to the policies of the commander in chief. If it cannot, this would compel a reassessment of prior theories asserting congressional influence over the initiation of military actions through the logic of anticipated response. Certainly, more empirical analysis is needed to answer this question.

#### Presidents have lots of expansive legal theories-this means no one follows up with enforcement

**Mitchell, GMU law professor, 2009**

(Jonathan, “Legislating Clear-Statement Regimes in National-Security Law”, January, <http://works.bepress.com/cgi/viewcontent.cgi?article=1000&context=jonathan_mitchell>, ldg)

The executive branch’s interpretive theories were far-reaching, and its approach to constitutional avoidance and implied repeal were irreconcilable with the Supreme Court’s precedents. But they provided some political cover for the President by giving his actions a veneer of legality, and may even have protected executive-branch employees from the fear of criminal liability or political reprisals.22 To prevent the executive from continuing to evade Congress’s codified clear-statement requirements in this manner, many proposals have sought to provide more narrow and explicit clear statement requirements in Congress’s framework legislation as well as provisions that withhold funding from activities that Congress has not specifically authorized. For example, Senator Arlen Specter proposed new provisions to FISA stating that no provision of law may repeal or modify FISA unless it “expressly amends or otherwise specifically cites this title,” and that “no funds appropriated or 23 otherwise made available by any Act” may be expended for electronic surveillance conducted outside of FISA. Congress failed 24 to enact Senator Specter’s proposal, but it did enact an amendment to FISA that made the clear-statement regime more explicit, specifying that “[o]nly an express statutory authorization for electronic surveillance” may authorize electronic surveillance outside of FISA’s procedures. And numerous commentators have 25 argued for new provisions in the War Powers Resolution that would withhold funds from military ventures that Congress has not specifically authorized. Yet such proposals are unable to counter 26 the executive branch’s aggressive interpretive doctrines. Executive branch lawyers will remain able to concoct congressional “authorization” from vague statutory language by repeating their assertions that codified clear-statement requirements “bind future Congresses” or that ambiguous language in later-enacted statutes implicitly repeals restrictions in Congress’s framework legislation. Future legislators will continue to acquiesce to the President’s unilateralism when it is politically convenient to do so. And the 27 federal courts’ willingness to enforce clear-statement regimes against the President in national-security law bears no relationship to the codified clear-statement requirements in framework legislation or treaties.28 Congress could produce more effective clear-statement regimes if it precommitted itself against enacting vague or ambiguous legislation from which executive-branch lawyers might claim implicit congressional “authorization” for certain actions. Rather than merely enacting statutes that instruct the executive not to construe ambiguous statutory language as authorizing military hostilities or warrantless electronic surveillance, Congress could establish point-of-order mechanisms that impose roadblocks to enacting such vague legislation in the first place. A point-of-order 29 mechanism would empower a single legislator to object to legislation that authorizes military force, or that funds the military or intelligence agencies. But the point of order would be valid only if the legislation fails to explicitly prohibit or withhold funding for military hostilities beyond sixty days, or warrantless electronic surveillance, unless the bill includes the specific authorizing language that Congress’s framework legislation requires. This device would reduce the likelihood of Congress ever enacting vague or ambiguous legislation that the executive might use to claim “authorization” for extended military hostilities or warrantless electronic surveillance. It would also induce legislators to confront presidents who act without specific congressional authorization by empowering a single legislator to object to legislation necessary to fund the President’s unauthorized endeavors. Yet the political branches have never established such an enforcement mechanism for the clear-statement requirements in national-security legislation, even though they have established such point-of-order devices to enforce precommitments in framework legislation governing the federal budget process. The result is a regime of 30 faint-hearted clear-statement regimes in national-security law—framework legislation that codifies strongly worded clearstatement rules but that lacks any mechanism to induce compliance by future political actors. This may be a calculated choice of members of Congress, or it may reflect the President’s influence in the legislative process. But no one should think that simply legislating more narrow or explicit clear-statement requirements, or adding funding restrictions to Congress’s framework legislation, will prevent the executive from continuing to infer congressional authorization from vague or ambiguous statutory language.

#### Executive support and compliance with international norms solves international credibility

Nachbar-prof law Virginia-11

<http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1967217>

Executive Order 13567: Executive Branch Policy Meets International Law in the Evolution of the Domestic Law of Detention

Conclusion Neither the Order nor the accompanying Fact Sheet will have a major impact on U.S. detention operations. The Order applies only to a small group of detainees, all of whom have been subjected to similar procedures in the recent past. The Fact Sheet’s signaling of compliance with Article 75 is not technically applicable to the current conflict, and ratification of AP II is still beyond the horizon. Moreover, the procedures contained in the Order (which do not differ dramatically from the procedures they replace) arguably conform with Article 75 and APII, neither of which contain robust procedures with regard to detention, except perhaps with regard to the use of classified information (an area in which states are likely to receive considerable leeway given the vague requirements of Article 75) and the continued detention of detainees identified for release but for whom the U.S. is unable to locate an acceptable non-U.S. destination. The procedures and substantive standards contained in the Order do not dramatically change the landscape of U.S. detention policy and practice, but that does not mean that the Order and the Fact Sheet are of no moment. The U.S. has previously been careful to maintain a strong approach to the lex specialis conception of LOAC, but Article 75 and AP II represent an approach to LOAC that more closely tracks human rights protections than earlier instruments, like the GCs themselves. It is often the executive branch that argues most strongly for the U.S.- exceptionalist view of international law; if the Fact Sheet signals a shift by the executive branch, it is likely to be followed by a shift by courts as well. In many times, the content of the international law of armed conflict has been mostly a matter of academic interest in the U.S., but today, many cases applying domestic law turn directly on the content of the law of armed conflict, which means that the content of international human rights law as implicated by a shifting approach to LOAC may soon find itself in domestic law, binding by U.S. federal courts on the conduct of the current armed conflict. Even those changes are, for the moment, hypothetical. The policy announced by the Fact Sheet – the administration’s willingness to embrace aspects of the law of armed conflict closely tied with international human rights law – has the potential for substantially altering the evolution of U.S. detention law and policy by providing even more space to incorporate international legal norms into U.S. domestic law. Of course, the most important implication of the Fact Sheet’s embrace of Article 75 and AP II is one for diplomats, not lawyers—at least not yet. By finally saying in a public forum that the U.S. will apply Article 75 in IAC out of a sense of legal obligation and that the administration will pursue ratification of AP II, the Obama administration is signaling future engagement with the international community on matters relating to armed conflict. Doing so likely changes the diplomatic landscape more than it does the legal landscape in the near term, although the impact over the long term may be more profound than the recognition of any particular rule or the ratification of any particular treaty. I leave it to the diplomats to debate whether that change should be welcomed.198

#### ---Political barriers check – new, stronger constituencies

Branum-Associate Fulbright and Jaworski- 2

Tara L, Associate, Fulbright & Jaworski L.L.P, “President or King? The Use and Abuse of Executive Orders in Modern Day America” Journal of Legislation 28 J. Legis. 1

Congressmen and private citizens besiege the President with demands  [\*58]  that action be taken on various issues. [n273](http://www.lexisnexis.com/us/lnacademic/frame.do?tokenKey=rsh-20.689002.875983458&target=results_DocumentContent&reloadEntirePage=true&rand=1220903297496&returnToKey=20_T4511783216&parent=docview" \l "n273) To make matters worse, once a president has signed an executive order, he often makes it impossible for a subsequent administration to undo his action without enduring the political fallout of such a reversal. For instance, President Clinton issued a slew of executive orders on environmental issues in the weeks before he left office. [n274](http://www.lexisnexis.com/us/lnacademic/frame.do?tokenKey=rsh-20.689002.875983458&target=results_DocumentContent&reloadEntirePage=true&rand=1220903297496&returnToKey=20_T4511783216&parent=docview" \l "n274) Many were controversial and the need for the policies he instituted was debatable. [n275](http://www.lexisnexis.com/us/lnacademic/frame.do?tokenKey=rsh-20.689002.875983458&target=results_DocumentContent&reloadEntirePage=true&rand=1220903297496&returnToKey=20_T4511783216&parent=docview" \l "n275) Nevertheless, President Bush found himself unable to reverse the orders without invoking the ire of environmentalists across the country. [n276](http://www.lexisnexis.com/us/lnacademic/frame.do?tokenKey=rsh-20.689002.875983458&target=results_DocumentContent&reloadEntirePage=true&rand=1220903297496&returnToKey=20_T4511783216&parent=docview" \l "n276) A policy became law by the action of one man without the healthy debate and discussion in Congress intended by the Framers. Subsequent presidents undo this policy and send the matter to Congress for such debate only at their own peril. This is not the way it is supposed to be.

### Case

#### No deliver mechanism can ensure their spread.

**Hurlbert, USC Bacteriology PhD, 2000**

(Ronald e., “Microbiology 101 internet text Chapter xv, addendum: biological weapons; malignant biology,” <http://www.slic2.wsu.edu:82/hurlbert/micro101/pages/101biologicalweapons.html#BWdelivery>, ldg)

Currently, because of the recent confrontations with Iraq with their suspected missile capability, the world is concerned about rockets being used to deliver BWs. However, considering the crude nature of the SCUD missiles, they are probably more useful in a publicity capacity than as a credible military threat. The SCUD missiles have a range of between 400 and 500 miles. They lack a sophisticated guidance system, so their chances of hitting a target are limited. Further, the warhead must explode at the proper height to create an aerosol capable of dispersing effective quantities of BW agent over a wide area, but it appears they lack this capacity as they apparently only explode on contact. The explosion would likely destroy much of the BW. Any BW material that survives the explosion would be dependant on low level air currents to disperse it. If the wind was not blowing, most of the MW material would settle near the site of impact, severely limiting its efficacy. Finally, it is clearly understood that if the Israelis are the target of such a SCUD attack, Iraq would suffer nuclear retaliation almost certainly designed to forever eliminate an Iraqi threat.

#### Odds are one in three billion

**Mueller, OSU political science professor, 2010**

(John, “Calming Our Nuclear Jitter”, Issues in Science and Technology <http://www.issues.org/26.2/mueller.html>, ldg)

In contrast to these predictions, terrorist groups seem to have exhibited only limited desire and even less progress in going atomic. This may be because, after brief exploration of the possible routes, they, unlike generations of alarmists, have discovered that the tremendous effort required is scarcely likely to be successful. The most plausible route for terrorists, according to most experts, would be to manufacture an atomic device themselves from purloined fissile material (plutonium or, more likely, highly enriched uranium). This task, however, remains a daunting one, requiring that a considerable series of difficult hurdles be conquered and in sequence. Outright armed theft of fissile material is exceedingly unlikely not only because of the resistance of guards, but because chase would be immediate. A more promising approach would be to corrupt insiders to smuggle out the required substances. However, this requires the terrorists to pay off a host of greedy confederates, including brokers and money-transmitters, any one of whom could turn on them or, either out of guile or incompetence, furnish them with stuff that is useless. Insiders might also consider the possibility that once the heist was accomplished, the terrorists would, as analyst Brian Jenkins none too delicately puts it, “have every incentive to cover their trail, beginning with eliminating their confederates.” If terrorists were somehow successful at obtaining a sufficient mass of relevant material, they would then probably have to transport it a long distance over unfamiliar terrain and probably while being pursued by security forces. Crossing international borders would be facilitated by following established smuggling routes, but these are not as chaotic as they appear and are often under the watch of suspicious and careful criminal regulators. If border personnel became suspicious of the commodity being smuggled, some of them might find it in their interest to disrupt passage, perhaps to collect the bounteous reward money that would probably be offered by alarmed governments once the uranium theft had been discovered. Once outside the country with their precious booty, terrorists would need to set up a large and well-equipped machine shop to manufacture a bomb and then to populate it with a very select team of highly skilled scientists, technicians, machinists, and administrators. The group would have to be assembled and retained for the monumental task while no consequential suspicions were generated among friends, family, and police about their curious and sudden absence from normal pursuits back home. Members of the bomb-building team would also have to be utterly devoted to the cause, of course, and they would have to be willing to put their lives and certainly their careers at high risk, because after their bomb was discovered or exploded they would probably become the targets of an intense worldwide dragnet operation. Some observers have insisted that it would be easy for terrorists to assemble a crude bomb if they could get enough fissile material. But Christoph Wirz and Emmanuel Egger, two senior physicists in charge of nuclear issues at Switzerland‘s Spiez Laboratory, bluntly conclude that the task “could hardly be accomplished by a subnational group.” They point out that precise blueprints are required, not just sketches and general ideas, and that even with a good blueprint the terrorist group would most certainly be forced to redesign. They also stress that the work is difficult, dangerous, and extremely exacting, and that the technical requirements in several fields verge on the unfeasible

. Stephen Younger, former director of nuclear weapons research at Los Alamos Laboratories, has made a similar argument, pointing out that uranium is “exceptionally difficult to machine” whereas “plutonium is one of the most complex metals ever discovered, a material whose basic properties are sensitive to exactly how it is processed.“ Stressing the “daunting problems associated with material purity, machining, and a host of other issues,” Younger concludes, “to think that a terrorist group, working in isolation with an unreliable supply of electricity and little access to tools and supplies” could fabricate a bomb “is farfetched at best.” Under the best circumstances, the process of making a bomb could take months or even a year or more, which would, of course, have to be carried out in utter secrecy. In addition, people in the area, including criminals, may observe with increasing curiosity and puzzlement the constant coming and going of technicians unlikely to be locals. If the effort to build a bomb was successful, the finished product, weighing a ton or more, would then have to be transported to and smuggled into the relevant target country where it would have to be received by collaborators who are at once totally dedicated and technically proficient at handling, maintaining, detonating, and perhaps assembling the weapon after it arrives. The financial costs of this extensive and extended operation could easily become monumental. There would be expensive equipment to buy, smuggle, and set up and people to pay or pay off. Some operatives might work for free out of utter dedication to the cause, but the vast conspiracy also requires the subversion of a considerable array of criminals and opportunists, each of whom has every incentive to push the price for cooperation as high as possible. Any criminals competent and capable enough to be effective allies are also likely to be both smart enough to see boundless opportunities for extortion and psychologically equipped by their profession to be willing to exploit them. Those who warn about the likelihood of a terrorist bomb contend that a terrorist group could, if with great difficulty, overcome each obstacle and that doing so in each case is “not impossible.” But although it may not be impossible to surmount each individual step, the likelihood that a group could surmount a series of them quickly becomes vanishingly small. Table 1 attempts to catalogue the barriers that must be overcome under the scenario considered most likely to be successful. In contemplating the task before them, would-be atomic terrorists would effectively be required to go though an exercise that looks much like this. If and when they do, they will undoubtedly conclude that their prospects are daunting and accordingly uninspiring or even terminally dispiriting. It is possible to calculate the chances for success. Adopting probability estimates that purposely and heavily bias the case in the terrorists’ favor—for example, assuming the terrorists have a 50% chance of overcoming each of the 20 obstacles—the chances that a concerted effort would be successful comes out to be less than one in a million. If one assumes, somewhat more realistically, that their chances at each barrier are one in three, the cumulative odds that they will be able to pull off the deed drop to one in well over three billion.

#### Norms fail

**Barma et al., Naval Postgraduate School national security affairs professor, 2013**

(Naazneen, “The Mythical Liberal Order”, National Interest, March/April, <http://nationalinterest.org/print/article/the-mythical-liberal-order-8146>, ldg)

Assessed against its ability to solve global problems, the current system is falling progressively further behind on the most important challenges, including financial stability, the “responsibility to protect,” and coordinated action on climate change, nuclear proliferation, cyberwarfare and maritime security. The authority, legitimacy and capacity of multilateral institutions dissolve when the going gets tough—when member countries have meaningfully different interests (as in currency manipulations), when the distribution of costs is large enough to matter (as in humanitarian crises in sub-Saharan Africa) or when the shadow of future uncertainties looms large (as in carbon reduction). Like a sports team that perfects exquisite plays during practice but fails to execute against an actual opponent, global-governance institutions have sputtered precisely when their supposed skills and multilateral capital are needed most. WHY HAS this happened? The hopeful liberal notion that these failures of global governance are merely reflections of organizational dysfunction that can be fixed by reforming or “reengineering” the institutions themselves, as if this were a job for management consultants fiddling with organization charts, is a costly distraction from the real challenge. A decade-long effort to revive the dead-on-arrival Doha Development Round in international trade is the sharpest example of the cost of such a tinkering-around-the-edges approach and its ultimate futility. Equally distracting and wrong is the notion held by neoconservatives and others that global governance is inherently a bad idea and that its institutions are ineffective and undesirable simply by virtue of being supranational. The root cause of stalled global governance is simpler and more straightforward. “Multipolarization” has come faster and more forcefully than expected. Relatively authoritarian and postcolonial emerging powers have become leading voices that undermine anything approaching international consensus and, with that, multilateral institutions. It’s not just the reasonable demand for more seats at the table. That might have caused something of a decline in effectiveness but also an increase in legitimacy that on balance could have rendered it a net positive. Instead, global governance has gotten the worst of both worlds: a decline in both effectiveness and legitimacy. The problem is not one of a few rogue states acting badly in an otherwise coherent system. There has been no real breakdown per se. There just wasn’t all that much liberal world order to break down in the first place. The new voices are more than just numerous and powerful. They are truly distinct from the voices of an old era, and they approach the global system in a meaningfully different way.

#### Plan forces circumvention to even worse forms of authority-obviously worse for norms and allied coop

**Corn, South Texas presidential research professor, 2013**

(Geoffrey, “Geography of Armed Conflict: Why it is a Mistake to Fish for the Red Herring”, 11-22, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2179720>, ldg)

The law of conflict regulation is arguably at a critical crossroads. If threat drives strategy, and strategy drives the existence of armed conflict, the concept of TAC seems an unavoidable reality in the modern strategic environment. Opponents of TAC will continue to argue for limiting armed conflict to the well–accepted inter–State or intra–State hostilities frame-works, but this would only drive States to adopt sub rosa uses of the same type of power under the guise of legal fictions.

Concepts such as self–defense targeting, or internationalized law enforcement, might avoid the armed conflict characterization, but they would do little to resolve the un-derlying uncertainties associated with TAC. Even worse, they would inject regulatory uncertainty into the planning and execution of military counter-terror operations, and expose those called upon to put themselves in harm’s way to protect the State to legal liabilities based on inapposite legal norms.

# 1NR

### Overview

#### Turns the case –

#### A. Drones – economic decline erodes the United States ability to cooperate with other countries and our influence internationally – makes drones inoperable – allies are key

McGill and Gray 12 (Anna-Katherine Staser McGill, David H. Gray, “Challenges to International Counterterrorism Intelligence Sharing,” Global Security Studies, Summer 2012, Volume 3, Issue 3, http://globalsecuritystudies.com/McGill%20Intel%20Share.pdf)

In his article “Old Allies and New Friends: Intelligence-Sharing in the War on Terror”, Derek Reveron states “the war on terror requires high levels of intelligence to identify a threat relative to the amount of force required to neutralize it” as opposed to the Cold War where the opposite was true (455). As a result, intelligence is the cornerstone of effective counterterrorism operations in the post 9/11 world. Though the United States has the most robust intelligence community in the world with immense capability, skills, and technology, its efficiency in counterterrorism issues depends on coalitions of both traditional allies and new allies. Traditional allies offer a certain degree of dependability through a tried and tested relationship based on similar values; however, newly cultivated allies in the war on terrorism offer invaluable insight into groups operating in their own back yard. The US can not act unilaterally in the global fight against terrorism. It doesn’t have the resources to monitor every potential terrorist hide-out nor does it have the time or capability to cultivate the cultural, linguistic, and CT knowledge that its new allies have readily available. The Department of Defense’s 2005 Quadrennial Review clearly states that the United States "cannot meet today's complex challenges alone. Success requires unified statecraft: the ability of the U.S. government to bring to, bear all elements of national power at home and to work in close cooperation with allies and partners abroad" (qtd in Reveron, 467). The importance of coalition building for the war on terrorism is not lost on US decision-makers as seen by efforts made in the post 9/11 climate to strengthen old relationships and build new ones; however, as seen in the following sections, the possible hindrances to effective, long term CT alliances must also be addressed in order to sustain current operations.

#### And turns terrorism – undermines recruiting prospects

O’Driscoll, Former Director at the Center for International Trade and Economics at the Heritage Foundation, ‘2 (Gerald, December 18, “Trade Promotes Prosperity and Security” Backgrounder, www.heritage.org/Research/TradeandForeignAid/BG1617.cfm)

The document represents new thinking in the government that U.S. security depends on economic success in other countries, that economic and political repression breed poverty, frustration and resentment, and that open markets -- as well as open governments and open societies -- can alleviate the causes of the terrorist threat against the West. It is not that poverty causes terrorism. The 19 hijackers of Sept. 11 were chiefly middle class in origin, with 15 coming from oil-rich Saudi Arabia. But the conditions that produce poverty -- lack of economic freedom -- also produce the sense of hopelessness and despair that breeds resentment. Terrorist organizations exploit the situation to recruit new members. Meanwhile, the leaders of these countries blame the United States rather than accept responsibility for the policies impoverishing their own people.

#### B. Conflation – lack of trade collapses US influence – means we won’t be modeled abroad

#### Turns the China impact – interdependence prevents conflict and escalation

Weede 2010

Erich, Professor of Sociology University of Bonn, The Capitalist Peace and the Rise of China: Establishing Global Harmony by Economic Interdependence International Interactions. Apr-Jun2010, Vol. 36 Issue 2, p206-213

Historically, the rise and fall of great powers has been related to great wars. Both world wars of the twentieth century would not have been possible without the previous industrialization and rise of Germany. World War II, which in Asia was a war between the Japanese on the one hand and the Western powers and China on the other hand, would not have been conceivable without the previous rise of Japan. The early phase of the Vietnam War has to be understood against the background of a declining France. If the rise and fall of great powers indicate great dangers, then one should question whether the world can peacefully accommodate a rising China. Here it is argued that the capitalist peace offers the best way to manage the coming power transition between China and the West. 1 China is rising. In the thirty years after Deng Xiaoping began economic reforms the Chinese economy grew nearly by a factor of ten. Recently, the West suffered from negative growth rates whereas China grows by about 8 percent a year. The difference in growth rates between China and the West has been about 10 percent. A power transition of such speed is without historical precedent. Given its size China is a “natural” great power— unlike Britain, France, or Germany. Even the combined population of the United States and the European Union does not approach the population size of China. If China outgrows poverty, then it must become a world power. Although war in the nuclear age threatens to be much worse than any previous world war, fear of nuclear war itself might exert some pacifying impact. Such fear, however, need not be our only protection against future wars. Economic interdependence itself makes war less likely. One finding of quantitative research is that military conflict becomes less likely if a pair of nations—say China and the United States, or China and India, or China and Japan—trade a lot with each other (Hegre 2009; Oneal and Russett 2005; Russett and Oneal 2001). Fortunately, all of them do. One may label this effect “peace by free trade”. Foreign investment has some beneficial impact, too (Souva and Prins 2006). Moreover, economic freedom reduces nvolvement in military conflict, and financial market openness reduces the risk of war, too (Gartzke 2005, 2007, 2009). Quantitative research has demonstrated that there is something like a capitalist peace. Until a few years ago it looked as if the democratic peace were solid and robust whereas the capitalist peace between free traders was less so. Now, however, the democratic peace looks more conditional: It is not only restricted to relations between democracies, but might also be restricted to developed or market democracies (Mousseau 2005, 2009). It has been doubted whether it applies to the poorest democracies. Moreover, the less mature or perfect the democracies are, the weaker the democratic peace is. By contrast, peace by free trade or economic freedom looks more robust. Pacifying effects are not restricted to relationships between free traders on both sides of a dispute (Russett 2009:19). Moreover, the trade to GDP ratio is no longer the only or even the best way to document the pacifying effects of economic freedom or the invisible hand. By applying innovative measures of free markets, such as avoidance of too much public property ownership and protectionism, one may argue in favor of much more robustly pacifying effects of economic freedom than of political freedom (McDonald 2009). The occurrence of World War I is the standard argument against peace by trade or economic interdependence because there was substantial economic interdependence between the Western powers and the Central European powers. Certainly, World War I serves as a useful reminder that commerce makes war less likely without making it impossible. But World War I is not as much of a problem for capitalist peace theory as frequently assumed. Moreover, there was no democratic contribution to pacification because the Central European powers were, at best, imperfect democracies. By contemporary standards, even the democratic character of the United Kingdom was not beyond suspicion because of franchise limitations. As far as trade linkages were concerned they were strongest where least needed— between Britain and France, between Britain and the United States, between Germany and Austria-Hungary. These pairs ended up on the same side in the war. Whereas strong trade links between Germany on the one hand and Britain or Russia on the other hand did not prevent them from fighting each other, Germany and France exemplify weak trade ties where strong ties were needed most in order to avoid hostilities (Russett and Oneal 2001:175). Skeptics rightly observe that increasing trade did not prevent World War I, but they overlook that trade volumes rose not because of free trade policies, but in spite of mounting protectionism. Trade increased because of falling transportation costs, but in spite of protectionist policies. Finally, capitalist or commercial peace theory is an admittedly incomplete theory. It says only how risks of war may be reduced but it says nothing about what generates them in the first place. But commercial peace theory is certainly compatible with World War II, which was even bloodier than the previous world war as well as with the later reconciliation between the former Axis powers and the West. There was little trade between the Western powers and the Axis powers. Since the Axis powers were not democracies, the democratic peace could also not apply between the Axis and the West. The different long-term effects of the settlements of both world wars may be explained by differences in application of a capitalist peace strategy toward the losers of the wars. After World War I France influenced the settlement more than anyone else. It did not even think of a commercial peace strategy. Misery and desperation within Germany contributed to Hitler’s empowerment and indirectly to World War II. After World War II, the United States, however, pursued a capitalist peace strategy toward the vanquished. It promoted global free trade and subsidized even the recovery of the losers of the war. Germany and Japan became prosperous and allies of the United States.

### Outweighs

#### T-TIP key to US-EU relations and EU soft power

Brattberg, 13 – Swedish Institute of International Affairs analyst

[Erik, currently Visiting Fellow at the Atlantic Council of the United States and a Non-Resident Fellow at the Paul H. Nitze School of Advanced International Studies (SAIS) at Johns Hopkins University, "The Geopolitical Importance of TTIP," 11-8-13, www.euglobalstrategy.eu/nyheter/opinions/reinventing-the-west-the-geopolitical-importance-of-ttip, accessed 1-3-14]

Although the obstacles remain several, European and American leaders have very good reasons to keep pushing for a TTIP deal. Besides the immediate positive economic effects for both sides, the agreement could also give spark to a more strategic transatlantic relationship – something that is desperately needed. As former Secretary of State Hillary Clinton has observed, TTIP could potentially serve as a second anchor, in addition to NATO, binding together the US and the EU. Along similar lines, the European Global Strategy report correctly notes that TTIP, if successful, could ‘spill over into more robust political and security cooperation’ between the US and Europe. There is a great sense of urgency to this task. 2015 will mark the ten-year anniversary of the New Transatlantic Agenda (NTA). Originally established by the Clinton White House, this framework was designed to bring the US and EU together. While some progress has been made over the past decade, the US-EU relationship remains far from strategic in nature. Washington still prefers to deal with European countries on a strictly bilateral level, rather than with Brussels. Clearly, a New Transatlantic Compact requires a new set of leadership structures. Moreover, the disappointments as of late with creating a robust EU security and defense policy has reinforced the notion that NATO is the only Euro-Atlantic security organization that really matters. While the US wants a strong EU as its core partner, it is uncertain about Brussels’ level of ambition. In fact, Washington currently thinks the EU has no ambition whatsoever. If Europe and the US can agree on TTIP it would send a signal to Washington that Brussels is indeed a serious strategic partner. If so, this could be the start of a recreated and re-invented transatlantic relationship. The development of a more strategic EU-US relationship could also help allay fears regarding the US ‘abandonment’ of Europe. While US strategic thinking is changing – and fast (the so-called ‘Asian pivot’ is only the beginning) – a more strategic transatlantic relationship would still serve a critical function for Washington, and not just on the security side of things. The drawdown of the military mission in Afghanistan means that the US will have less need for Europe in coming years. Focusing more on global economic and trade issues could constitute a new strategic imperative for closer EU-US ties. At the same time, for the EU, which still views itself predominantly as a global soft power, TTIP could help the union utilize its role as the world’s single largest trading bloc in a more strategic way. The EGS report correctly notes that the EU must seek to ‘maximize the opportunities that trade and development provide as a means of pursuing its strategic objectives’. TTIP is accordingly an opportunity for Europe to reinforce its role as a global trading superpower. In summary, Europe must strive for an ambitious and comprehensive TTIP. Such an agreement would not only generate economic growth on both sides of the Atlantic, it would also pave the way for a more strategic transatlantic partnership. As US strategic attention is quickly fading away from Europe toward the global East and South, an agreement could send a message to Washington that Europe remains America’s core partner in the world. In doing so, Europe could also draw on its unique strengths as a global trading superpower, but apply these strengths more strategically.

#### US-EU relations key to global war

O'Sullivan, 4 -- National Interest editor

(John, Nixon Center for Peace and Freedom Distinguished Fellow in International Relations, "Europe and the Establishment," The National Interest, 7-31-2004, nationalinterest.org/article/europe-and-the-establishment-2608]

The report's starting point -- that U.S.-European relations are extremely important -- is undeniable. A united Western alliance would shape world institutions in line with values and practices rooted in liberty and democracy and coax rising powers such as India and China into going along with this international status quo for the foreseeable future. Indeed, this is already happening as China accepts liberal economic rules at home in order to enter institutions such as the G7 and the World Trade Organization. By contrast, a disunited West would tempt such powers to play off Europe and America against each other and foster a global jockeying for power not unlike the maneuvering between a half-dozen great powers that led to 1914.

### AT: No Vote – Reid

#### Reid will bring it up for a vote and it’ll pass – this evidence postdates yours and assumes new changes in congress

Inside U.S. Trade 1/17/14

HEADLINE: Reid Says No Commitment To TPA Floor Time, Citing Controversy Among Dems

But National Foreign Trade Council President Bill Reinsch on Jan. 8 downplayed the notion that Reid may hold off on TPA because he is worried it could hurt Democrats in the polls. Senators are unlikely to ask Reid to "save them" from a TPA vote so they can perform better in the midterms since very few of the major races are in states where trade is a campaign issue, he told reporters at a press briefing on this year's trade agenda. Reinsch said that he was not persuaded that TPA was a decisive issue among the broader electorate. "TPA is inside baseball. It's how the Congress organizes itself to deal with trade policy," he said. He added that he believes Congress will pass a TPA bill but that he is worried it could end up being a partisan fight within Congress. He argued that it would be much better to get a "critical mass" of support from both parties.

#### Reid and Boehner are both on board – best sources prove it’ll pass now

Corsi 1/14 (Jerome R., “GOP SET TO FAST-TRACK 'NEW WORLD ORDER' PACT”, http://www.wnd.com/2014/01/gop-set-to-fast-track-new-world-order-pact/)

NEW YORK – Republicans in the House are preparing to follow the lead of the White House and Senate Majority Leader Harry Reid to rubber-stamp the Trans-Pacific Partnership, or TPP, the most sweeping free-trade agreement since NAFTA. The White House seeks to pass it with a simple majority vote, without so much as introducing a single amendment to modify the language of the agreement it has negotiated behind closed doors. On Jan. 9, 2013, in a little-noticed press release, Senate Finance Committee Chairman Max Baucus, D-Mont., together with ranking member Orrin Hatch, R-Utah, and House Ways and Means Committee Chairman Dave Camp, R-Mich, announced they were introducing “fast track” trade promotion authority legislation as a prelude to bringing up the TPP for expected passage in the near future. Jerome Corsi’s “Late Great USA” uncovers government deceptions that threaten U.S. sovereignty With House Speaker John Boehner, R-Ohio, already deciding to vote with Senate Democrats to grant fast track authority for congressional consideration of the TPP, the only remaining opposition to the bill seems to be coming from House Democrats. Pressured by labor union constituents, the House Democrats have concluded the massive Trans-Pacific trade deal capitulates to corporate interest groups, including the U.S. Chamber of Commerce, placing under international control important U.S. environmental, public-health and labor standards. The House Democrats are concerned that more U.S. union jobs will be lost in the free-trade “fast track” steamroller Republicans under Boehner and Democrats aligning with Reid plan to run through Congress. Last year, 151 House Democrats opposed to TPP, led by Reps. Rosa DeLauro, D-Conn., and George Miller, D-Calif., wrote a letter to President Obama stating their opposition to using “outdated ‘Fast Track’ procedures that usurp Congress’ authority over trade matters.” A statement issued Jan. 9 by DeLauro and Miller, joined by Rep. Louise Slaughter, D-N.Y., referenced last year’s letter and advanced the argument by stating: “For too long, bad trade deals have allowed corporations to ship good American jobs overseas, and wages, benefits, workplace protections and quality of life have all declined as a result,” DeLauro, Miller and Slaughter said in a joint statement. “That is why there is strong bipartisan opposition to enabling the Executive Branch to ram through far-reaching, secretly negotiated trade deals like the TPP that extend well beyond traditional trade matters. At the core of the Baucus-Camp bill is the same Fast Track mechanism that failed us from 2002-2007.” The lawmakers said their constituents “did not send us to Washington to ship their jobs overseas, and Congress will not be a rubber stamp for another flawed trade deal that will hang the middle class out to dry.” “Instead of pursuing the same failed trade policies, we should support American workers by making the necessary investments to compete in today’s global economy,” they wrote. With Boehner’s decision to support Obama on TPP, the Republican Party appears ready to ignore concerns raised by GOP conservatives and various tea-party groups that the 12-nation deal further undermines U.S. sovereignty. The opponents argue it places major sectors of the U.S. economy under a new dispute-regulation mechanism that takes precedence over U.S. judges and courts. Most seasoned congressional watchers expect Obama, Reid and Boehner will ultimately succeed in ramming TPP through to passage. But they believe it won’t happen without labor-supporting House Democrats and conservative House Republicans concerned about sovereignty wrangling to obtain last-minute concessions.

### AT: Won’t Pass – Dems

### \*\*Uniqueness

Obama focused on TPA-political capital key to passing it this year

Inside U.S. Trade 1/17/14

HEADLINE: Carney Defends White House Push For TAA; Boehner Urges Larger Effort

White House Press Secretary Jay Carney yesterday (Jan. 16) said that President Obama is personally engaged with members of Congress on the issue the need to renew Trade Promotion Authority (TPA), even as House and Senate lawmakers called on the administration to do more to secure congressional passage of the bill. "I don't have a schedule of [Obama's] engagement in it. He is engaged in it. He speaks with members about it. He has a team that is engaged in this effort," Carney told reporters, defending the administration's efforts to move forward a TPA bill. "And we're going to continue to push for as broad a bipartisan support as we can get." Carney's remarks were made in response to a question that related the comments by Senate Finance Committee Ranking Member Orrin Hatch (R-UT) at a Finance Committee on TPA earlier that day. Hatch warned that TPA will fail to pass unless the administration promotes it more actively (see related story). The press secretary was asked about the absence of U.S. Trade Representative Michael Froman from the hearing, but Carney deferred the question to USTR. Froman's absence was criticized by Republican senators at the hearing. Another reporter asked if Obama had pressed the importance of TPA when he met with Senate Democrats on Jan. 15. A readout of the meeting said the president and the senators present discussed their priorities for the year, and that Obama will use his executive authority formally and informally to "get things done," but did not mention TPA. Carney declined to comment, saying that he skipped the meeting. The Jan. 16 press briefing marks the latest volley between the administration and congressional Republicans over the executive branch's role in pushing for the renewal of TPA. House Speaker John Boehner (R-OH) urged Obama twice this week to make the case for renewing TPA, urging the president to "pull out all the stops" for the bill's passage. "Now after five years in office, we know how the president can be when he's serious about something," Boehner said at his weekly press briefing yesterday. "He hits the road, uses his bully pulpit, and he takes his case to the American people." Boehner said that Obama will do the same if he's serious about TPA, adding that he hopes to pass the bill this year. His remarks came one day after Boehner called on Obama to actively push for Congress to approve a bill to renew TPA as part of a larger plea for the president to take the lead on a slew of initiatives that Republicans argue would create jobs for Americans.

#### TPA will be a tough fight but will pass

Inside U.S. Trade 1/10/14

HEADLINE: Donohue Confident TPA Will Pass, Signals Major Business Lobbying Effort

U.S. Chamber of Commerce President Thomas Donohue this week expressed confidence that a bill to renew fast-track negotiating authority introduced in Congress yesterday (Jan. 9) would garner enough votes to win congressional approval, and signaled that the Chamber would carry out a massive lobbying effort to make that happen. The

fast-track bill "will pass," Donohue said at a press conference following his annual State of Business address. "It'll take a while to do it. It'll have a little debate," he added. Similarly, John Murphy, Chamber vice president of international affairs, acknowledged at the event that getting Congress to approve the fast-track bill is "going to be a tough campaign," as it has been in the past. But he stressed that the Chamber is "convinced the coalition will come together" to get the bill passed.

### \*\*Dems

#### Momentum in the house solves

Hinz-Chicago Business-1/2/14

http://www.chicagobusiness.com/article/20140102/BLOGS02/140109985#

Fight builds to give Obama fast-track trade authority

January 02, 2014

Big Illinois exporters could get a vote very early this new year on something they've wanted for a long time: fast-track authority for President Barack Obama to negotiate new international trade deals. But the issue in the House now is "very close." So says North Side congressman Mike Quigley, who unlike many Democratic House members says action is needed despite concerns from labor and some other groups. Like it or not, "this is a global economy," said Mr. Quigley in an interview earlier this week. "If you're not at the bargaining table, if you don't get an agreement, someone else does," he said, referring specifically to China, which has been building ties rapidly with some of America's traditionally strong trading partners in Asia. "You'll be left in the dust." Many top Illinois businesses already are lobbying to extend Trade Promotion Authority, as fast-track formally is known. "From the 1930s until 2007, Congress has authorized every president to pursue trade agreements that open markets for U.S. goods and services," Caterpillar Inc. Chairman and CEO Doug Oberhelman wrote in a recent guest editorial. "Today, trade supports more than one in five American jobs. U.S. exports have grown more than twice as fast as GDP since 2002, accounting for 14 percent of GDP in 2012. And workers in U.S. companies that export goods earn on average up to 18 percent more than those in similar jobs in non-exporting companies," he added. "Updated TPA legislation would provide clear guidance on Congress' requirements for trade agreements. It would also provide our trade negotiating partners with a degree of comfort that the United States is committed to the international trade negotiating process and the trade agreements we negotiate." But Democrats in particular have been leery to renew the authority because of concerns that workers elsewhere are underpaid, putting Americans at a disadvantage. Many environmental groups express similar concerns stemming from low standards abroad. Even some Republicans are withholding support in highly partisan Washington. But given international realities, the solution is not to ignore what competing countries are doing but "get the best deal possible" at the table for both labor and the environment. "It's tough being in the middle in this Congress . . . (But) this is important for Chicago and Illinois. We can't live in isolation." Though the Obama White House has not signaled action, Mr. Quigley says he expects fast-track legislation to hit the House floor in January. And another Chicagoan, former U.S. Commerce Secretary Bill Daley, says some momentum indeed has begun to build on behalf of the measure. "I think they have a compromise," Mr. Daley said. "Until the bill is on the floor, you never know for sure. But right now, they're talking as if they have a deal." If so, a long-pending proposed Asian trade deal could follow shortly thereafter. Look for Penny Pritzker, commerce secretary from Chicago, to play a role too.

#### Obama is sending the USTR and stepping up efforts now

Inside U.S. Trade 1/17/14

HEADLINE: House Dems Meet On Fast Track; GOP Leadership Calls For 50 Dem Votes

U.S. Trade Representative Michael Froman met with some House Democrats on Jan. 9 and stressed that the administration is prepared to work with both Republicans and Democrats on trade issues, according to Ways and Means Committee Member Xavier Becerra (D-CA), who attended the meeting. A USTR spokeswoman said Froman met on Jan. 9 with a number of key House Democrats, including Ways and Means members. White House Chief of Staff Denis McDonough also met this week on Capitol Hill with members of the New Democrat Coalition to discuss fast track, according to a Democratic congressional aide. "Short of sending the president himself, that's about as hard as they could go to back up this bill," the aide said.

#### Key to get House Republicans on

Inside U.S. Trade 13

HEADLINE: Froman Engaging With New Democrats To Explore Strategy For Fast Track

U.S. Trade Representative Michael Froman has been working with House Democrats who plan to support a new fast-track bill on a strategy to avoid a partisan fight, according to informed sources. For example, he met last week with members of the New Democrat Coalition to discuss complaints from labor representatives that Trans-Pacific Partnership (TPP) negotiations are not transparent, according to a Democratic aide. House critics of the fast track have argued that the administration has not provided meaningful information about the TPP negotiations, and should therefore not get fast-track authority, which bans amendments and limits Congress to an up or down vote. In addition, several New Democrats, including coalition Chairman Ron Kind (D-WI), have scheduled meetings with labor representatives over the next few weeks to discuss trade, this aide said. The aide made the point that union leaders in the Labor Advisory Committee have the same amount of access to the TPP text as members of Congress. But a labor source dismissed that argument by saying that seeing the U.S. negotiating proposals provides little information since cleared advisers cannot see revisions, side-by-side comparisons or counterproposals by trading partners. As a result, they know little more than the opening U.S. position and have little information about the actual negotiations. In meeting with labor representatives this week, administration officials conveyed the message that they are seeking to cooperate and engage them on trade issues, sources said. One pro-TPA lobbyist speculated that the number of Democrats that would support an eventual fast-track bill will fall between the number of Democratic votes for the U.S.-Colombia free trade agreement, which was 31, and the U.S.-Korea FTA, which attracted 59 Democrats. He and others said that more Democrats than otherwise will likely vote for fast track because it is for a Democratic president, and fewer Republicans than otherwise would will vote for it because it is for the same reason. Nevertheless, fast-track supporters expect a strong majority of the Republican caucus to vote for the bill. However, the Republican leadership will demand a certain number of votes from Democrats to pass the bill in order to create the "maximum discomfort" to the Democratic caucus, a fast-track opponent said.

### AT: No Impact

Trade expansion makes all war and escalation less likely---defer negative because the DA structurally controls the case impacts

Griswold, 7 (Daniel, director of the Center for Trade Policy Studies, 4/20/2007, Trade, Democracy and Peace, HYPERLINK "<http://www.freetrade.org/node/681>" <http://www.freetrade.org/node/681>)
A little-noticed headline on an Associated Press story a while back reported, "War declining worldwide, studies say." In 2006, a survey by the Stockholm International Peace Research Institute found that the number of armed conflicts around the world has been in decline for the past half-century. Since the early 1990s, ongoing conflicts have dropped from 33 to 17, with all of them now civil conflicts within countries. The Institute's latest report found that 2005 marked the second year in a row that no two nations were at war with one another. What a remarkable and wonderful fact. The death toll from war has also been falling. According to the Associated Press report, "The number killed in battle has fallen to its lowest point in the post-World War II period, dipping below 20,000 a year by one measure. Peacemaking missions, meanwhile, are growing in number." Current estimates of people killed by war are down sharply from annual tolls ranging from 40,000 to 100,000 in the 1990s, and from a peak of 700,000 in 1951 during the Korean War. Many causes lie behind the good news--the end of the Cold War and the spread of democracy, among them--but expanding trade and globalization appear to be playing a major role in promoting world peace. Far from stoking a "World on Fire," as one misguided American author argued in a forgettable book, growing commercial ties between nations have had a dampening effect on armed conflict and war. I would argue that free trade and globalization have promoted peace in three main ways. First, as I argued a moment ago, trade and globalization have reinforced the trend toward democracy, and democracies tend not to pick fights with each other. Thanks in part to globalization, almost two thirds of the world's countries today are democracies--a record high. Some studies have cast doubt on the idea that democracies are less likely to fight wars. While it's true that democracies rarely if ever war with each other, it is not such a rare occurrence for democracies to engage in wars with non-democracies. We can still hope that as more countries turn to democracy, there will be fewer provocations for war by non-democracies. A second and even more potent way that trade has promoted peace is by promoting more economic integration. As national economies become more intertwined with each other, those nations have more to lose should war break out. War in a globalized world not only means human casualties and bigger government, but also ruptured trade and investment ties that impose lasting damage on the economy. In short, globalization has dramatically raised the economic cost of war.