# 1nc

**1nc 1**

**Text –**

Congress should propose and three fourths of the states should ratify an amendment to the United States Constitution that **individuals indefinitely detained under the War Powers authority of the President of the United States must be tried by an existing Article III court, a military court martial, or be released within a reasonable, specified time period.**

**Amending the constitution solves – it establishes clear and credible war powers authority**

**Goldstein 88** (Yonkel, J.D. – Stanford Law School and Has the Sweetest of Names, “The Failure of Constitutional Controls over War Powers in the Nuclear Age: The Argument for a Constitutional Amendment,” Stanford Law Review, July, 40 Stan. L. Rev. 1543, Lexis)

The scope of the **war-making powers** of the executive and legislative branches of the United States government, in the context of the nuclear age, is **unclear**. The tremendous destructive power of modern arsenals, especially that of atomic weapons, makes this issue one of paramount importance. As the dangers of war have increased exponentially since the time when the Constitution was ratified, the efficacy of the constitutional safeguards which were intended to limit the likelihood of war has **dwindled dramatically**. The lack of a major nuclear war, so far, may suggest to some that the legal system of controls over United States war powers is operating well. As Professor Spanier states, however, in discussing the principle of civilian control of the military, factors which are extrinsic to the legal system have been primarily responsible for the American military's subservience to civilians. n1 My argument is an analogous one, namely that the system of checks and balances, designed to ensure that entry into war either be in response to an emergency thrust upon the nation or the result of a thorough examination of policy alternatives and considerations, is no longer functioning. Consequently, credit for the lack of nuclear war since World War II belongs more to factors extrinsic to the legal system designed to control American war power than it does to [\*1544] any workable system intended to regulate that power. The constitutional war-making provisions have now been tested; under modern-day pressures they have been found wanting. As a result, it is time to **amend the Constitution** for both **practical** and **symbolic reasons**. A constitutional amendment would have a **consciousness-raising effect** on the American people. It would signal a **clear change from immediate past precedent** and, simultaneously, **legitimate that change** in the **most authoritative way possible** under our system. The proposed amendment would both (1) clearly establish congressional authority to set policy in all matters relating to the preparation and execution of war, hostilities, aggression, or defense of the United States, American citizens, and American interests, and (2) establish a private right of action against Congress for its failure to make diligent efforts to ascertain the relevant facts, to debate, and to set policy in this area. The first part of this amendment would help to settle any lingering debate over the proper congressional role in defense matters, yet allow the system to retain the flexibility necessary to execute a sound and responsive defense policy; Congress would be able to delegate responsibility and authority however it sees fit. The second part recognizes the appropriateness of a mechanism to allow United States citizens to stimulate congressional and judicial action in order to protect against the risks of nuclear war; courts would not be empowered to judge substantive legislative decisions, but would be able to ensure that Congress, in reaching those decisions, adhere to constitutional principles. Thus, the courts would function similarly to how they have operated in the due process area.

**1NC 2**

**McCutcheon will win in a slim 5-4 ruling – Justice Roberts is key**

**Reilly and Blumenthal 10-8** (Ryan J., D.C.-based reporter who covers the Justice Department and the Supreme Court for The Huffington Post, and Paul, reporter for the Huffington Post covering money and influence in politics, “McCutcheon v. FEC: Supreme Court Skeptical Of Campaign Contribution Limits,” Huffington Post, 2013, <http://www.huffingtonpost.com/2013/10/08/mccutcheon-v-fec_n_4059180.html2>)

A **slim majority** of Supreme Court justices seemed skeptical Tuesday that the federal government may cap the total amount of money that individual donors can give to political candidates running for federal office, in a case that could have a massive impact on the campaign finance system.

In McCutcheon v. Federal Election Commission, the high court is set to decide whether the limits on aggregate federal campaign contributions -- the overall cap currently stands at $123,200 per donor for the 2014 election cycle -- are unconstitutional because they place a burden on the free speech rights of donors.

Shaun McCutcheon, the man bringing the case, only seeks to give the maximum individual donation to more candidates. But Senate Minority Leader Mitch McConnell (R-Ky.) is trying to use the case as a vehicle to persuade the Supreme Court to dismantle contribution limits altogether.

Court observers were keeping a **close eye** on Chief Justice John Roberts, who most campaign finance reform advocates see as the only hope of upholding the aggregate contribution limits. Roberts joined the majority in a 2006 decision holding that contribution limits were constitutional.

Speaking of the aggregate limits on Tuesday, Roberts said, "It seems to me to be a very direct restriction" on donations that, individually, Congress has decided do not pose a corruption threat.

Solicitor General Donald Verrilli Jr., representing the FEC, based his argument to uphold the limits on the possibility that a candidate could solicit a check up to $3.5 million for a joint fundraising committee. This solicitation, Verrilli argued, would violate the ban on the solicitation of extremely large contributions that the court upheld in the 2003 McConnell v. FEC case.

Roberts responded, "I appreciate the argument about the $3.5 million check," but he wondered if there was a way to balance the corruption concern around this solicitation with what Roberts saw as the First Amendment burdens of the aggregate limits.

"I suppose you could calculate and set an aggregate limit that is higher," Verrilli answered.

Justice Anthony Kennedy is usually seen as the high court's swing vote between the conservative and liberal blocs, but he wrote the controversial 2010 Citizens United opinion that paved the way for so-called super PACs to dominate election spending. He was not seen as likely to unite with the liberal-leaning justices in the McCutcheon case.

**Ruling on war powers directly trades off and hurts the Court’s perceived legitimacy – that results in deference on individual rights**

**Devins and Fitts 97** (Neal, Ernest W. Goodrich Professor of Law and Lecturer in Government – College of William and Mary, and Michael A., Robert G. Fuller, Jr. Professor of Law – University of Pennsylvania, “The Triumph of Timing: Raines v. Byrd and the Modern Supreme Court's Attempt to Control Constitutional Confrontations,” Georgetown Law Journal, November, 86 Geo. L.J. 351, Lexis)

In contrast, the Supreme Court has good reason to **steer clear** of these cases. **Concerns of interbranch harmony** **matter more to a Court** whose influence and reputation do not hinge on the resolution of separation of powers and administrative law disputes. **For example, to maximize its power to speak the last word on individual rights disputes, the Court may find it advantageous to trade off to the elected branches the power to sort out** foreign affairs, **war powers**, and other structural matters. n67 Beyond the Court's particularized interest in individual [\*364] rights, the Supreme Court is far more likely than lower courts to take social and political forces into account. Acknowledging that it can neither appropriate funds nor command the military, the Court recognizes that its power lies "in its legitimacy, a product of substance and perception that shows itself in the people's acceptance of the Judiciary." n68 As psychologists Tom Tyler and Gregory Mitchell observed, the Court seems to believe that "public acceptance of the Court's role as interpreter of the Constitution -- that is, the public belief in the Court's institutional legitimacy -- enhances public acceptance of controversial Court decisions." n69 Throwing itself into the middle of disputes between disappointed lawmakers and either the Congress or the White House opens the Court up to **political retaliation** and, as such, is a gambit the Court is disinclined to take. n70 The Court in Raines was **well aware** of these high stakes, acknowledging the "risk[s]" to its "public esteem" by "improperly and unnecessarily" participating in political battles over the separation of powers. n71

**That flips Roberts’ decision**

**Stothers 10-21** (Patrick Stothers-Kwak, Blake, Cassels & Graydon LLP, “Citizens United Did Not Equate Money with Speech—But McCutcheon Will,” 2013, <http://www.thecourt.ca/2013/10/21/citizens-united-did-not-equate-money-with-speech-but-mccutcheon-will/>)

Most debates regarding freedom of expression ultimately boil down to a conflict between free speech utilitarianism—wherein speech is only valuable insofar as it can produce useful social outcomes—and free speech absolutism, which views with extreme skepticism any government attempt to differentiate between useful and non-useful types of speech. The recent line of First Amendment cases has very much skewed towards the latter, and should it continue along this trajectory, Mr. McCutcheon will most likely succeed in his claim. However, Citizens United precipitated a considerable political backlash, and the present case could paint the Court in an even more partisan light—it doesn’t help that the Republican Senate Minority Leader is an amicus curiae. By joining the four liberal justices to uphold key provisions of the Patient Protection and Affordable Care Act in National Federation of Independent Businesses v Sebelius, 567 US (2012), Roberts proved that he has **some regard for the institutional integrity of the Supreme Court and deference to the political process**. It will be interesting to see whether he reprises this role as institutional peacekeeper in McCutcheon.

**McCutcheon’s key to accountability to political parties – that checks ideological extremists like the Tea Party**

**Sides 10-16** (John, Associate Professor of Political Science – George Washington University, “Why striking down campaign contribution limits might make politics better,” Washington Post, <http://www.washingtonpost.com/blogs/monkey-cage/wp/2013/10/16/why-striking-down-campaign-contribution-limits-might-make-politics-better/>)

Finally, I want to say more about why striking down aggregate contribution limits might actually **attenuate ideological extremism** (assuming I’m mostly wrong on my first point that people will not try to circumvent contribution limits!). The current campaign finance system – with its emphasis on interest group spending — favors highly ideological factions that have the means and motive to run independent campaigns. Rules that channel more money through party organizations and candidates might **dampen the power of groups like the Tea Party**. Against this claim, Bob suggests that political parties ran ads in 2012 that were just as “aggressive” and negative as interest groups. Research by the Wesleyan Media Project indicates that this is not true. But this finding is not relevant to my argument.

My point about moderation is not about the tone or content of political ads, but is tied to the nomination process where party factions fight their ideological battles. A generation ago, such battles were waged internally in the proverbial smoke-filled rooms. Today they might be hashed out in the open through primary elections. The advantage goes to the interest group that can raise a lot of money and mobilize its partisan faction of voters. Ideological moderation seems more plausible when political resources are controlled primarily by party leaders whose chief incentive is to win elections rather than take positions.

Like Bob, I support reasonable contribution limits, but I do not think the retention of aggregate limits on party committees and candidates improves the current campaign finance system. I certainly do not think, as Bob suggests, that a favorable ruling for McCutcheon will encourage “more money from fewer sources to flow more freely.” That dynamic was partially spurred by Citizens United. If anything removing the aggregate limits could make the system **more accountable** by channeling funds to political committees that are **transparent**, particularly party and candidate committees, which must face the voters at the ballot box.

**Tea Party influence erodes liberal internationalism, causes protectionism**

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

Any increase in Jacksonian political strength makes a **military response** to the Iranian nuclear program more likely. Although the public’s reaction to the progress of North Korea’s nuclear program has been relatively mild, recent polls show that up to 64 percent of the U.S. public favors military strikes to end the Iranian nuclear program. Deep public concerns over oil and Israel, combined with memories of the 1979 Iranian hostage crisis among older Americans, put Iran’s nuclear program in Jacksonians’ **cross hairs**. Polls show that more than 50 percent of the public believes the United States should defend Israel against Iran—even if Israel sets off hostilities by launching the first strike. Many U.S. presidents have been dragged into war reluctantly by aroused public opinion; to the degree that Congress and the public are influenced by Jacksonian ideas, a president who allows Iran to get nuclear weapons without using military action to try to prevent it would face political trouble. (Future presidents should, however, take care. Military engagements undertakenwithout a clear strategy for victory can backfire disastrously. Lyndon Johnson committed himself to war in Southeast Asia because he believed, probably correctly, that Jacksonian fury at a communist victory in Vietnam would undermine his domestic goals. The story did not end well.)

On other issues, Paulites and Palinites are united in their dislike for liberal internationalism —the attempt to conduct international relations through multilateral institutions under an ever-tightening web of international laws and treaties. From climate change to the International Criminal Court to the treatment of enemy combatants captured in unconventional conflicts, both wings of the Tea Party **reject liberal internationalist ideas** and will continue to do so. The U.S. Senate, in which each state is allotted two senators regardless of the state’s population, heavily favors the less populated states, where Jacksonian sentiment is often strongest. The United States is unlikely to ratify many new treaties written in the spirit of liberal internationalism for some time to come.

The new era in U.S. politics could see foreign policy elites struggling to receive a hearing for their ideas from a skeptical public. “The Council on Foreign Relations,” the pundit Beck said in January 2010, “was a progressive idea of, let’s take media and eggheads and figure out what the idea is, what the solution is, then teach it to the media, and they’ll let the masses know what should be done.” Tea Partiers intend to be vigilant to insure that elites with what the movement calls their “one-world government” ideas and bureaucratic agendas of class privilege do not dominate foreign policy debates. The United States may return to a time when prominent political leaders found it helpful to avoid too public an association with institutions and ideas perceived as distant from, and even hostile to, the interests and values of Jacksonian America.

Concern about **China** has been growing for some time in American opinion, and the Jacksonian surge makes it more likely that the simmering anger and resentment will come to a boil. **Free trade is an issue** that has historically divided populists in the United States (agrarians have tended to like it; manufacturing workers have not); even though Jacksonians like to buy cheap goods at Walmart, common sense largely leads them to believe that the first job of trade negotiators ought to be to **preserve U.S. jobs rather than embrace visionary “win-win” global schemes**. Pg. 42-43

**Protectionism causes extinction**

**PANZNER 08** Faculty – New York Institute of Finance. Specializes in Global Capital Markets. MA Columbia [Michael J. Panzner, Financial Armageddon: Protect Your Future from Economic Collapse, Revised and Updated Edition [Paperback], p. 137-138]

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 fullscale 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 3**

**Iran sanctions is top of the docket and Obama is spending capital in persuading Democrats to sustain a veto**

**Lobe, 12/27**/13 - reporter for Inter Press Service(Jim, “Iran sanctions bill: Big test of Israel lobby power”

<http://www.arabamericannews.com/news/index.php?mod=article&cat=World&article=8046>)

WASHINGTON - This week’s introduction by a bipartisan group of 26 senators of a new sanctions bill against Iran could result in the biggest test of the **political clout of the Israel lobby** here in decades.

The White House, which says the bill could well derail ongoing negotiations between Iran and the U.S. and five other powers over Tehran’s nuclear program and destroy the international coalition behind the existing sanctions regime, has already warned that it will veto the bill if it passes Congress in its present form.

The new bill, co-sponsored by two of Congress’s biggest beneficiaries of campaign contributions by political action committees closely linked to the powerful American Israel Public Affairs Committee (AIPAC), would impose sweeping new sanctions against Tehran if it fails either to comply with the interim deal it struck last month in Geneva with the P5+1 (U.S., Britain, France, Russia, China plus Germany) or reach a comprehensive accord with the great powers within one year.

To be acceptable, however, such an accord, according to the bill, would require Iran to effectively dismantle virtually its entire nuclear program, including any enrichment of uranium on its own soil, as demanded by Israeli Prime Minister Benjamin Netanyahu.

The government of President Hassan Rouhani has warned repeatedly that such a demand is a deal-breaker, and even Secretary of State John Kerry has said that a zero-enrichment position is a non-starter.

The bill, the Nuclear Weapon Free Iran Act, also calls for Washington to provide military and other support to Israel if its government “is compelled to take military action in legitimate self-defense against Iran’s nuclear weapon program.”

The introduction of the bill last week by Republican Sen. Mark Kirk and Democratic Sen. Robert Menendez followed unsuccessful efforts by both men to get some sanctions legislation passed since the Geneva accord was signed Nov. 24.

Kirk at first tried to move legislation that would have imposed new sanctions immediately in direct contradiction to a pledge by the P5+1 in the Geneva accord to forgo any new sanctions for the six-month life of the agreement in exchange for, among other things, enhanced international inspections of Iran’s nuclear facilities and a freeze on most of its nuclear program.

Unable to make headway, Kirk then worked with Menendez to draw up the new bill which, because of its prospective application, would not, according to them, violate the agreement. They had initially planned to attach it to a defense bill before the holiday recess. But the Democratic leadership, which controls the calendar, refused to go along.

Their hope now is to pass it – either as a free-standing measure or as an amendment to another must-pass bill after Congress reconvenes Jan. 6.

To highlight its bipartisan support, the two sponsors gathered a dozen other senators from each party to co-sponsor it.

Republicans, many of whom reflexively oppose President Barack Obama’s positions on any issue and whose core constituencies include Christian Zionists, are almost certain to support the bill by an overwhelming margin. If the bill gets to the floor, the main battle will thus take place within the Democratic majority.

The latter find themselves torn between, on the one hand, their loyalty to Obama and their fear that new sanctions will indeed derail negotiations and thus make war more likely, and, on the other, their general antipathy for Iran and the influence exerted by AIPAC and associated groups as a result of the questionable perception that Israel’s security is uppermost in the minds of Jewish voters and campaign contributors (who, by some estimates, provide as much as 40 percent of political donations to Democrats in national campaigns).

The administration clearly hopes the Democratic leadership will prevent the bill from coming to a vote, but, if it does, persuading most of the Democrats who have already endorsed the bill to change their minds will be an uphill fight. If the bill passes, the administration will have to muster 34 senators of the 100 senators to sustain a veto – a difficult but not impossible task, according to Congressional sources.

**That battle has already been joined.** Against the 13 Democratic senators who signed onto the Kirk-Menendez bill, 10 Democratic Senate committee chairs urged Majority Leader Harry Reid, who controls the upper chamber’s calendar, to forestall any new sanctions legislation.

**It’s a war powers fight that Obama will win – but failure commits the U.S. to supporting Israeli strikes**

**Merry, 1/1/14** - Robert W. Merry, political editor of the National Interest, is the author of books on American history and foreign policy (Robert, “Obama may buck the Israel lobby on Iran” Washington Times, factiva)

Presidential press secretary Jay Carney uttered 10 words the other day that represent a major presidential challenge to the American Israel lobby and its friends on Capitol Hill. Referring to Senate legislation designed to force President Obama to expand economic sanctions on Iran under conditions the president opposes, Mr. Carney said: “If it were to pass, the president would veto it.”

For years, there has been an assumption in Washington that you can’t buck the powerful Israel lobby, particularly the American Israel Public Affairs Committee, or AIPAC, whose positions are nearly identical with the stated aims of Israeli Prime Minister Benjamin Netanyahu. Mr. Netanyahu doesn’t like Mr. Obama’s recent overture to Iran, and neither does AIPAC. The result is the Senate legislation, which is similar to a measure already passed by the House.

With the veto threat, Mr. Obama has announced that he is prepared to buck the Israel lobby — and may even welcome the opportunity. It isn’t fair to suggest that everyone who thinks Mr. Obama’s overtures to Iran are ill-conceived or counterproductive is simply following the Israeli lobby’s talking points, but Israel’s supporters in this country are a major reason for the viability of the sanctions legislation the president is threatening to veto.

It is nearly impossible to avoid the conclusion that the Senate legislation is designed to sabotage Mr. Obama’s delicate negotiations with Iran (with the involvement also of the five permanent members of the U.N. Security Council and Germany) over Iran’s nuclear program. The aim is to get Iran to forswear any acquisition of nuclear weapons in exchange for the reduction or elimination of current sanctions. Iran insists it has a right to enrich uranium at very small amounts, for peaceful purposes, and Mr. Obama seems willing to accept that Iranian position in the interest of a comprehensive agreement.

However, the Senate measure, sponsored by Sens. Robert Menendez, New Jersey Democrat; Charles E. Schumer, New York Democrat; and Mark Kirk, Illinois Republican, would impose potent new sanctions if the final agreement accords Iran the right of peaceful enrichment. That probably would destroy Mr. Obama’s ability to reach an agreement. Iranian President Hasan Rouhani already is under pressure from his country’s hard-liners to abandon his own willingness to seek a deal. The Menendez-Schumer-Kirk measure would undercut him and put the hard-liners back in control.

Further, the legislation contains language that would commit the United States to military action on behalf of Israel if Israel initiates action against Iran. This language is cleverly worded, suggesting U.S. action should be triggered only if Israel acted in its “legitimate self-defense” and acknowledging “the law of the United States and the constitutional responsibility of Congress to authorize the use of military force,” but the language is stunning in its brazenness and represents, in the view of Andrew Sullivan, the prominent blogger, “an appalling new low in the Israeli government’s grip on the U.S. Congress.”

While noting the language would seem to be nonbinding, Mr. Sullivan adds that “it’s basically endorsing the principle of handing over American foreign policy on a matter as grave as war and peace to a foreign government, acting against international law, thousands of miles away.”

That brings us back to Mr. Obama’s veto threat. The American people have made clear through polls and abundant expression (especially during Mr. Obama’s flirtation earlier this year with military action against Bashar Assad’s Syrian regime) that they are sick and weary of American military adventures in the Middle East. They don’t think the Iraq and Afghanistan wars have been worth the price, and they don’t want their country to engage in any other such wars.

That’s what the brewing confrontation between Mr. Obama and the Israel lobby comes down to — war and peace. Mr. Obama’s delicate negotiations with Iran, whatever their outcome, are designed to avert another U.S. war in the Middle East. The Menendez-Schumer-Kirk initiative is designed to kill that effort and **cedes to Israel America’s war-making decision** in matters involving Iran, which further increases the prospects for war. It’s not even an argument about whether the United States should come to Israel’s aid if our ally is under attack, but whether the decision to do so and when that might be necessary should be made in Jerusalem or Washington.

2014 will mark the 100th anniversary of beginning of World War I, a conflict triggered by entangling alliances that essentially gave the rulers of the Hapsburg Empire power that forced nation after nation into a war they didn’t want and cost the world as many as 20 million lives. Historians have warned since of the danger of nations delegating the power to take their people into war to other nations with very different interests.

AIPAC’s political power is substantial, but this is Washington power, the product of substantial campaign contributions and threats posed to re-election prospects. According to the Center for Responsive Politics’ Open Secrets website, Sens. Kirk, Menendez and Schumer each receives hundreds of thousands of dollars a year in pro-Israel PAC money and each of their states includes concentrations of pro-Israel voters who help elect and re-elect them.

Elsewhere in the country, AIPAC’s Washington power will collide with the country’s clear and powerful political sentiment against further U.S. adventurism in the Middle East, particularly one as fraught with as much danger and unintended consequence as a war with Iran. If the issue gets joined, as it appears that it will, Mr. Obama will see that it gets **joined as a matter of war and peace**. If the Menendez-Schumer-Kirk legislation clears Congress and faces a presidential veto, the war-and-peace issue could galvanize the American people as seldom before.

If that happens, the strongly held opinions of a democratic public are liable to overwhelm the mechanisms of Washington power, and the vaunted influence of the Israel lobby may be seen as being not quite what it has been cracked up to be.

Plan is a loss for Obama

**Scha**nze**r 5/8** David Schanzer (Associate Professor of the Practice, Sanford School of Public Policy at Duke University, Director, Triangle Center on Terrorism and Homeland Security) “Guantanamo's Collapse” Huffington Post. 5/08/2013. <http://www.huffingtonpost.com/david-schanzer/guantanamo-closing_b_3232362.html> //Chappell

First, the detainee issue became hyper-politicized when Attorney General Holder announced in November 2009 that Khalid Sheikh Mohammed and his co-defendants would be brought to New York for trial. When political support for this move collapsed, transfers of any kind from Guantanamo became a political hot-button issue. By the end of 2010, Congress had enacted tight restrictions prohibiting all transfers unless the president certified that a transfer was in the national security interests of the United States. This action is in stark contrast to Congress treated the Bush Administration, which transferred 532 detainees out of Guantanamo without any legislative restrictions or severe political blowback. Instead, Congress created a legislative framework that, in essence told the president: "You can make transfers if you want, but if anything goes wrong -- it is totally on your head." As the presidential election season began in 2011, the administration was unwilling to take any chances on this issue. A second factor was the emergence of al Qaeda in the Arabian Peninsula as a powerful force in 2009, with first the unsuccessful underwear bomb in late 2009 and then the attempt to down a cargo plane with bombs hidden in computer cartridges in 2010. Concerns about security in Yemen -- the home country of 92 of the remaining detainees -- made new transfers there untenable. So we are left with a situation where a large percentage of the detainees had their hopes raised by being cleared for transfer out of Guantanamo, only to have them dashed by the transfer shutdown. It is this grave disappointment that appears to be fueling many of the hunger strikers. Unless something is done, we will be in the untenable position of having individuals die while in our custody even though our own national security agencies have determined they do not require continued detention at Guantanamo. (It is worth noting that 9 detainees have already died in custody at Guantanamo in its over eleven years of existence). Even if the transfer process can be restarted and the hunger strike broken, the other two groups of detainees present even more intractable long-term problems. Court rulings have made it far more difficult to mount prosecutions against many of the detainees by casting grave doubt as to whether conspiracy and material support for terrorism charges may be adjudicated in military commissions. Detainees who have committed these crimes could be tried in a U.S. court, but Congress has prohibited any use of federal funds to bring them to the United States for trial. Moreover, even if convictions are obtained against some of the Guantanamo population, the question will then be: Where will these convicts serve their time? Some of them may receive death sentences, but others may not and require incarceration for many decades. Congress is adamantly opposed to moving any detainees into the United States. Prospects for any thawing of this position are slim to none. To close Guantanamo -- convicts will have to be placed in some other military detention facility abroad or the president will have to defy Congress on constitutional grounds and order a transfer to a U.S. based facility. Despite the Administration's continued public position that it wants to close Guantanamo, no one in the Administration has explained what it intends to do about this aspect of the Guantanamo quagmire. Complications are multiplied for the detainees who cannot be tried for crimes, but are too dangerous to transfer or release. The legality of their detention relies on a 2004 ruling by the Supreme Court stating that individuals captured on the battlefield could be designated enemy combatants and held under the law of war until the end of hostilities. These "hostilities" were defined by Congress in the post-9/11 use of force authorization as being against "those nations, organizations, or persons" who "planned, authorized, committed or aided" the 9/11 attacks. While the amorphous al Qaeda network is still potent in many parts of the world, at some point the Supreme Court may determine that al Qaeda central -- the Afghanistan-based organization that executed the 9/11 attack -- has been defeated. At this point, the legal framework for the indefinite detention of detainees yet to be convicted totally falls apart since the "hostilities" referenced by Congress will no longer exist. What is to be done? The easiest option is to do nothing. The hunger strike will persist. Some detainees will die; others will be kept alive against their will. Guantanamo will remain a flash point in our international relations and a rallying point for extremists around the globe. It will be impossible to quantify how much damage is being done to our national security, but we will absorb it because the other options are so difficult to do. Unfortunately, this is the most likely way forward. Fixing Guantanamo -- which is what Obama clearly wants --- will require him to take **risky unilateral action** and dedicate a great deal of **political capital**. First, Obama will need to stick his neck out by restarting the transfer process under the national security waiver provisions in current law. If he believes that the stain of Guantanamo is truly harming our national security, and the risk of sending some detainees abroad is not too severe, then duty requires him to approve some transfers. To do this, he will also need some help from allies in the Middle East or elsewhere that have facilities that can handle these individuals and programs that might make resettlement a legitimate option. If the Administration is unwilling to take the political heat for authorizing transfers, then it has to admit that it no longer intends to even attempt to close Guantanamo. Second, the Administration needs to clearly state where it intends to incarcerate those detainees who are either convicted in military commissions or will be held indefinitely under the law of war. Closing Guantanamo will be beneficial, because it would eliminate having a concentrated mass of detainees in one place, where they can take joint action and focus the attention of the world. Building a new detention facility for all of the same people in the United States will achieve nothing, as it will quickly be labeled Guantanamo North and cause all the same problems we have currently with Guantanamo Bay, Cuba. Instead, we could disburse the population to other detention facilities, including military jails and super-max prisons in the United States where the detainees will be isolated and quietly reach old age over the next decades . The so-called blind sheik - Omar Abdel-Rahman - who was convicted of conspiring to bomb multiple sites in New York City, is serving a life sentence in a medium security medical prison in anonymity less than 25 miles from my office. Who knew? Finally, we need to come to terms with creating a solid legal framework for the extremely rare cases when dangerous individuals are captured, but for a variety of reasons, cannot be tried in our criminal justice system or military commissions. There are many proposals for how this could be accomplished in a constitutional manner, but it will require hard bipartisan legislative work and a de-politicization of the detainee issue. It is hard to see how this might occur in our current political posture, but perhaps this would be a worthy project after the 2014 elections for a lame duck president and members of Congress who recognize that our current terrorist detention system is both unsustainable and damaging to our national security.

**That emboldens the opposition and collapses the deal**

**Muhammad, 12/31**/13 – cites David Bositis, Vice President and Senior Research Analyst at the Joint Center for Political and Economic Studies (Askia, The Final Call, “Obama's burden” <http://www.finalcall.com/artman/publish/National_News_2/article_101094.shtml>

In foreign affairs, the President’s burden is made even more awkward by dug-in opposition by leaders of both parties here in this country. Despite unprecedented breakthroughs on his watch with Syria concerning its stockpile of chemical weapons, and with Iran concerning its nuclear enrichment plans, the Israel-lobby would prefer more saber-rattling and possible military action than any peaceful resolution. Other challenges are complicated by some of Mr. Obama’s own decisions.

“On the international level,” Dr. Horne explained, “it’s clear that the Obama administration wants to pivot toward Asia, which mean’s China.

“But, you may recall, when he first came into office that was to be accompanied by a reset with Russia, because it’s apparent that the United States confronting Russia and China together is more than a notion. And yet, the Obama administration finds itself doing both.

“Look at its misguided policy towards Ukraine, for example, where it’s confronting Russia head-on, and its confrontation with China off the coast of eastern China. So, I guess in the longer term, it’s probably evident that the most severe challenge for the Obama administration comes from (the) international situation because as we begin to mark the 100th anniversary of the onset of World War I in 2014, it’s evident that unfortunately the international situation today, in an eerie way, resembles some ways the international situation at the end of 1913.

“In the end of 1913 there was a rising Germany, just like there is a rising China. There was a declining Britain, just like there is a declining United States of America, and we all know the rather morbid consequences of World War I, so it is for that reason that I say that I would say that Mr. Obama’s most severe challenge is in the international arena,” said Dr. Horne.

“In terms of foreign policy, his wanting to negotiate with Iran about their stopping their nuclear program, almost immediately there were people in the Congress speaking out in public who were totally against everything he wanted to do,” said Dr. Bositis.

“There are people who don’t want to put any pressure on Israel about coming to terms with the Palestinians. There are people who are unhappy with what he’s done in terms of Syria,” he said. These stumbling blocks also stand in the way of the President’s ability to deliver on his pre-election promise to close the Guantanamo prison camp where hundreds are being detained, although most have been cleared for release by all U.S. intelligence agencies because they pose no threat to this country. Yet the prisoners languish, some even resorting to hunger strikes because of the hopelessness of their plight, with the U.S. turning to painful force-feeding the inmates to keep them from starving themselves to death.

“Change is always hard,” Ms. Jarrett said Mr. Obama told a group of youth leaders recently. “The Civil Rights Movement was hard. People sacrificed their freedom. They went to prison. They got beat up. Look through our history and then look around the world. It’s always hard. You can’t lose faith because it’s hard. It just means you have to try harder. That’s really what drives him every day,” said Ms. Jarrett.

And at the end of the day, Mr. Obama remains in control and holding all the “trump cards.”

“Remember something,” Dr. Bositis said. “These people can say or make all these claims about Obama, but the fact of the matter is that Obama is president, and he’s going to be president for three more years, and he’s going to have a lot more influence than all of these clowns,” who disparage his leadership.

“**He’s not going to blink**. He learned that lesson. With these guys, they’re like rapists. If you give them an inch, **they will own you**,” Dr. Bositis concluded.

**An Israeli strike fails, but triggers World War 3, collapses heg and the global economy**

**Reuveny, 10** – professor in the School of Public and Environmental Affairs at Indiana University (Rafael, “Unilateral strike could trigger World War III, global depression” Gazette Xtra, 8/7, - See more at: <http://gazettextra.com/news/2010/aug/07/con-unilateral-strike-could-trigger-world-war-iii-/#sthash.ec4zqu8o.dpuf>)

A unilateral Israeli strike on Iran’s nuclear facilities would likely have dire consequences, including a regional war, global economic collapse and a major power clash.

For an Israeli campaign to succeed, it must be quick and decisive. This requires an attack that would be so overwhelming that Iran would not dare to respond in full force.

Such an outcome is extremely unlikely since the locations of some of Iran’s nuclear facilities are not fully known and known facilities are buried deep underground.

All of these widely spread facilities are shielded by elaborate air defense systems constructed not only by the Iranians but also the Chinese and, likely, the Russians as well.

By now, Iran has also built redundant command and control systems and nuclear facilities, developed early warning systems, acquired ballistic and cruise missiles and upgraded and enlarged its armed forces.

Because Iran is well-prepared, a single, conventional Israeli strike—or even numerous strikes—could not destroy all of its capabilities, giving Iran time to respond.

Unlike Iraq, whose nuclear program Israel destroyed in 1981, Iran has a second-strike capability comprised of a coalition of Iranian, Syrian, Lebanese, Hezbollah, Hamas, and, perhaps, Turkish forces. Internal pressure might compel Jordan, Egypt and the Palestinian Authority to join the assault, turning a bad situation into a regional war.

During the 1973 Arab-Israeli War, at the apex of its power, Israel was saved from defeat by President Nixon’s shipment of weapons and planes. Today, Israel’s numerical inferiority is greater, and it faces more determined and better-equipped opponents. After years of futilely fighting Palestinian irregular armies, Israel has lost some of its perceived superiority—bolstering its enemies’ resolve.

Despite Israel’s touted defense systems, Iranian coalition missiles, armed forces, and terrorist attacks would likely wreak havoc on its enemy, leading to a prolonged tit-for-tat.

In the absence of massive U.S. assistance, Israel’s military resources may quickly dwindle, forcing it to use its alleged nuclear weapons, as it had reportedly almost done in 1973.

An Israeli nuclear attack would likely destroy most of Iran’s capabilities, but a crippled Iran and its coalition could still attack neighboring oil facilities, unleash global terrorism, plant mines in the Persian Gulf and impair maritime trade in the Mediterranean, Red Sea and Indian Ocean.

Middle Eastern oil shipments would likely slow to a trickle as production declines due to the war and insurance companies decide to drop their risky Middle Eastern clients. Iran and Venezuela would likely stop selling oil to the United States and Europe.

From there, things could deteriorate as they did in the 1930s. The world economy would head into a tailspin; international acrimony would rise; and Iraqi and Afghani citizens might fully turn on the United States, immediately requiring the deployment of more American troops.

Russia, China, Venezuela, and maybe Brazil and Turkey—all of which essentially support Iran—could be tempted to form an alliance and openly challenge the U.S. hegemony.

Russia and China might rearm their injured Iranian protege overnight, just as Nixon rearmed Israel, and threaten to intervene, just as the U.S.S.R. threatened to join Egypt and Syria in 1973. President Obama’s response would likely put U.S. forces on nuclear alert, replaying Nixon’s nightmarish scenario.

Iran may well feel duty-bound to respond to a unilateral attack by its Israeli archenemy, but it knows that it could not take on the United States head-to-head. In contrast, if the United States leads the attack, Iran’s response would likely be muted.

If Iran chooses to absorb an American-led strike, its allies would likely protest and send weapons but would probably not risk using force.

While no one has a crystal ball, leaders should be risk-averse when choosing war as a foreign policy tool. If attacking Iran is deemed necessary, Israel must wait for an American green light. A unilateral Israeli strike could ultimately **spark World War III**.

**1nc 4**

**The plan cripples the military – causes global mission failure and terrorism**

**Ford, 10** – Fred K., U.S. Army Judge Advocate General Corps (“Keeping Boumediene off the Battlefield: Examining Potential Implications of the Boumediene v. Bush Decision to the Conduct of United States Military Operations,” Pace Law Review, vol 30, is 2, Winter 2010, http://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1037&context=plr //Red)

III. Boumediene in Bagram and on the Battlefield Boumediene, and the potential extension of its holding, impacts U.S. detention operations not only at Guantanamo Bay but also at Bagram and other current or future detention facilities. As a preliminary matter, the natural question in light of Boumediene is how necessary or beneficial is Guantanamo Bay? If the DoD initially established Guantanamo Bay for its foreign location—more convenient for U.S.-based intelligence and interrogation personnel—then, in light of Boumediene, the base is no longer “foreign.” The purported freedom from domestic legal requirements initially presumed at Guantanamo no longer exists. As the current administration seeks to close Guantanamo48—whether due to legal, political, or policy reasons—it is clear that Boumediene has done away with at least one benefit of housing detainees at Guantanamo. Could Boumediene impact current detention activities in Bagram? If Boumediene reaches that facility, the Eisentrager Court’s worst fears would be realized.49 Military interrogations might require court approval, or worse, the presence of a detainee’s counsel. Moving a detainee may likewise require approval from the court. Conditions of confinement might be reviewable by a court. Military prison guards may be liable to their enemy captives in constitutional tort. The implications, again, are vast. In addition to detention operations in a theater of war, Boumediene may directly impact actual day-to-day combat operations. Justice Scalia warned that Boumediene could “cause more Americans to be killed.”50 Practically speaking, he was referring to a situation where a court releases a terrorist who returns to fight against Americans. Additionally, battlefield impact and risk to service members for other reasons is not improbable. As a preliminary matter, the issue arises in determining when habeas rights attach. Habeas would attach on the battlefield only if the United States exercises functional control over a combatant—that is, if it exercises the functional equivalent of legal sovereignty over the detainee. In a country like Afghanistan, or even Iraq, there is no question that functioning governments active in inter- and intra-state affairs are operating, and the nations maintain their sovereignty. But does (or would) the United States operate in a pocket or umbrella of sovereignty in either nation for purposes of Boumediene? Liberal stationing agreements, UNSCRs, or other documents authorizing or defining the scope and breadth of authority for U.S. forces in a country could be read to grant Boumediene-like autonomy. During the heightened occupation of Iraq, and the initial invasion of Afghanistan, a stronger argument could have been made that habeas in fact attached to in-country detentions. And, in a certain area of occupation, such as post-war Germany, or immediately following invasive hostilities, the case is again much closer. If a U.S. soldier operates in a pocket of sovereignty, habeas rights may attach to any enemy he seizes or captures on the battlefield. Those rights would remain during temporary detention, transfer, and long-term detention. In this (hopefully unlikely) situation, U.S. combat troops would have to be trained in the latest version of habeas law for the battlefield. They would need to know not only the operational requirements and details of the military operation—for example, seizing terrain or raiding a compound—but also the legal niceties associated with capturing an enemy who has constitutional rights and seizing the evidence that might be necessary to keep that enemy in detention and off of future battlefields. At the very least, these new requirements would be a distraction to an undertaking where focus and attention to detail are vital, a **distraction that could be deadly.** Essentially, troops on patrol would be carrying the full panoply of rights and privileges afforded under the U.S. Constitution in their assault packs. Every enemy encountered would be entitled to rummage through the pack to choose the U.S. domestic law—the legal weapon51—to use against the soldier. In effect, the military operation would be converted into a pseudo-law enforcement search and seizure operation. U.S. combat troops would be no different than police officers on patrol in any town or city in the United States. **The military would cease to exist as we know it** and would become nothing more than a deployable F.B.I. As indicated above, evidence experts and/or law enforcement experts may be integrated into the operation. These individuals are likely not familiar with military operations and have not trained with the unit to which they would be assigned. The potential for confusion, hesitation, mistaken identity, and uncertainty is great. **Each creates a recipe for fratricide, enemy advantage, or worse**—**mission failure and defeat.**

**The perception of collapsing capability ensures deterrence failure and war**

**Spencer 2000** [Jack Spencer – Senior Research Fellow for The Heritage Foundation, September 15, 2000, “The Facts About Military Readiness”, <http://www.heritage.org/research/reports/2000/09/bg1394-the-facts-about-military-readiness>]

U.S. military readiness cannot be gauged by comparing America's armed forces with other nations' militaries. Instead, the capability of U.S. forces to support America's national security requirements should be the measure of U.S. military readiness. Such a standard is necessary because America may confront threats from many different nations at once.¶ America's national security requirements dictate that the armed forces must be prepared to defeat groups of adversaries in a given war. America, as the sole remaining superpower, has many enemies. Because attacking America or its interests alone would surely end in defeat for a single nation, these enemies are likely to form alliances. Therefore, basing readiness on American military superiority over any single nation has little saliency.¶ The evidence indicates that the U.S. armed forces are not ready to support America's national security requirements. Moreover, regarding the broader capability to defeat groups of enemies, military readiness has been declining. The National Security Strategy, the U.S. official statement of national security objectives,3 concludes that the United States "must have the capability to deter and, if deterrence fails, defeat large-scale, cross-border aggression in two distant theaters in overlapping time frames."4According to some of the military's highest-ranking officials, however, the United States cannot achieve this goal. Commandant of the Marine Corps General James Jones, former Chief of Naval Operations Admiral Jay Johnson, and Air Force Chief of Staff General Michael Ryan have all expressed serious concerns about their respective services' ability to carry out a two major theater war strategy.5 Recently retired Generals Anthony Zinni of the U.S. Marine Corps and George Joulwan of the U.S. Army have even questioned America's ability to conduct one major theater war the size of the 1991 Gulf War.6¶ Military readiness is vital because declines in America's military readiness signal to the rest of the world that the United States is not prepared to defend its interests. Therefore, potentially hostile nations will be more likely to lash out against American allies and interests, inevitably leading to U.S. involvement in combat. A high state of military readiness is more likely to deter potentially hostile nations from acting aggressively in regions of vital national interest, thereby preserving peace.

**These conflicts escalate and go nuclear without US military superiority to cap escalation**

**Bosco, 06** (David, senior editor at Foreign Policy magazine, Los Angeles Times, “Could This Be the Start of World War III?”, 7/23, [http://www.latimes.com/news/opinion/commentary/la-op-bosco23jul23,0,7807202.story?coll=la-opinion-center](http://www.latimes.com/news/opinion/commentary/la-op-bosco23jul23%2C0%2C7807202.story?coll=la-opinion-center))

IT WAS LATE JUNE in Sarajevo when Gavrilo Princip shot Archduke Franz Ferdinand and his wife. After emptying his revolver, the young Serb nationalist jumped into the shallow river that runs through the city and was quickly seized. But the events he set in motion could not be so easily restrained. Two months later, Europe was at war. The understanding that small but violent acts can spark global conflagration is etched into the world's consciousness. The reverberations from Princip's shots in the summer of 1914 ultimately took the lives of more than 10 million people, shattered four empires and dragged more than two dozen countries into war. This hot summer, as the world watches the violence in the Middle East, the awareness of peace's fragility is particularly acute. The bloodshed in Lebanon appears to be part of a broader upsurge in unrest. Iraq is suffering through one of its bloodiest months since the U.S.-led invasion in 2003. Taliban militants are burning schools and attacking villages in southern Afghanistan as the United States and NATO struggle to defend that country's fragile government. Nuclear-armed India is still cleaning up the wreckage from a large terrorist attack in which it suspects militants from rival Pakistan. The world is awash in weapons, North Korea and Iran are developing nuclear capabilities, and long-range missile technology is spreading like a virus. Some see the start of a global conflict. "We're in the early stages of what I would describe as the Third World War," former House Speaker Newt Gingrich said last week. Certain religious websites are abuzz with talk of Armageddon. There may be as much hyperbole as prophecy in the forecasts for world war. But it's not hard to conjure ways that today's hot spots could ignite. Consider the following scenarios: • Targeting Iran: As Israeli troops seek out and destroy Hezbollah forces in southern Lebanon, intelligence officials spot a shipment of longer-range Iranian missiles heading for Lebanon. The Israeli government decides to strike the convoy and Iranian nuclear facilities simultaneously. After Iran has recovered from the shock, Revolutionary Guards surging across the border into Iraq, bent on striking Israel's American allies. Governments in Syria, Jordan, Egypt and Saudi Arabia face violent street protests demanding retribution against Israel — and they eventually yield, triggering a major regional war. • Missiles away: With the world's eyes on the Middle East, North Korea's Kim Jong Il decides to continue the fireworks show he began earlier this month. But this time his brinksmanship pushes events over the brink. A missile designed to fall into the sea near Japan goes astray and hits Tokyo, killing a dozen civilians. Incensed, the United States, Japan's treaty ally, bombs North Korean missile and nuclear sites. North Korean artillery batteries fire on Seoul, and South Korean and U.S. troops respond. Meanwhile, Chinese troops cross the border from the north to stem the flow of desperate refugees just as U.S. troops advance from the south. Suddenly, the world's superpower and the newest great power are nose to nose. • Loose nukes: Al Qaeda has had Pakistani President Pervez Musharraf in its sights for years, and the organization finally gets its man. Pakistan descends into chaos as militants roam the streets and the army struggles to restore order. India decides to exploit the vacuum and punish the Kashmir-based militants it blames for the recent Mumbai railway bombings. Meanwhile, U.S. special operations forces sent to secure Pakistani nuclear facilities face off against an angry mob. • The empire strikes back: Pressure for democratic reform erupts in autocratic Belarus. As protesters mass outside the parliament in Minsk, president Alexander Lukashenko requests Russian support. After protesters are beaten and killed, they appeal for help, and neighboring Poland — a NATO member with bitter memories of Soviet repression — launches a humanitarian mission to shelter the regime's opponents. Polish and Russian troops clash, and a confrontation with NATO looms. As in the run-up to other wars, there is today more than enough tinder lying around to spark a great power conflict. The critical question is how effective the major powers have become at managing regional conflicts and **preventing** them from **escalating**. After two world wars and the decades-long Cold War, what has the world learned about managing conflict? The end of the Cold War had the salutary effect of dialing down many regional conflicts. In the 1960s and 1970s, every crisis in the Middle East had the potential to draw in the superpowers in defense of their respective client states. The rest of the world was also part of the Cold War chessboard. Compare the almost invisible U.N. peacekeeping mission in Congo today to the deeply controversial mission there in the early 1960s. (The Soviets were convinced that the U.N. mission was supporting a U.S. puppet, and Russian diplomats stormed out of several Security Council meetings in protest.) From Angola to Afghanistan, nearly every Cold War conflict was a proxy war. Now, many local crises can be handed off to the humanitarians or simply ignored. But the end of the bipolar world has a downside. In the old days, the two competing superpowers sometimes reined in bellicose client states out of fear that regional conflicts would escalate. Which of the major powers today can claim to have such influence over Tehran or Pyongyang? Today's world has one great advantage: None of the leading powers appears determined to reorder international affairs as Germany was before both world wars and as Japan was in the years before World War II. True, China is a rapidly rising power — an often destabilizing phenomenon in international relations — but it appears inclined to focus on economic growth rather than military conquest (with the possible exception of Taiwan). Russia is resentful about its fall from superpower status, but it also seems reconciled to U.S. military dominance and more interested in tapping its massive oil and gas reserves than in rebuilding its decrepit military. Indeed, U.S. military superiority seems to be a key to global stability. Some theories of international relations predict that other major powers will eventually band together to challenge American might, but it's hard to find much evidence of such behavior. The United States, after all, invaded Iraq without U.N. approval and yet there was not even a hint that France, Russia or China would respond militarily.

**1nc Solvency**

**Second – the plan is a LIMITED habeas ruling – it’s silent on immigration authority – takes out solvency**

**Hernández-López 12** (Ernesto, UC Irvine School of Law, “Kiyemba, Guantánamo, and Immigration Law: An Extraterritorial Constitution in a Plenary Power World,” UC Irvine Law Review, Vol. 2, http://www.law.uci.edu/lawreview/vol2/no1/hernandez-lopez.pdf)

While all of the Kiyemba cases raised constitutional issues regarding common law habeas,9 habeas remedies, and separation of powers, they demonstrate that immigration law doctrine provides **generous justification** for detention even in situations when noncombatants are detained indefinitely.10 In theory, if certiorari were granted in any of the Kiyemba cases, the Supreme Court may provide the next step in habeas doctrine since Boumediene v. Bush found constitutional habeas does protect base detainees.11 In Boumediene the Supreme Court held that habeas extends despite detainees’ noncitizen status and their presence outside domestic borders. Accordingly, before the Kiyemba disputes in 2009, alienage and extraterritorial location were not formal bars to constitutional rights or judicial remedies. This Article argues that by relying on immigration law to justify detentions, the Kiyemba triumvirate suggests immigration law provides courts a way to **minimize the effect of Boumediene**: extraterritorial habeas for aliens is **checked by** plenary powers reasoning regarding political questions, alien status, and their location. The Kiyemba cases suggest that the plenary powers doctrine, as applied to aliens detained overseas, **limits** extraterritorial constitutional protections implied in Boumediene.

The D.C. Circuit’s reasoning sanctioning detention reflects hallmark plenary powers doctrine norms. The Supreme Court effectively agreed with this reasoning, as evident in its denial of certiorari in Kiyemba III. These plenary powers doctrine norms include: deference for political questions, the denial of certain rights to aliens, and that an alien’s physical location precludes rights protection. Even if the Supreme Court did actually rule in a Kiyemba dispute, it would **most likely** **focus on habeas** and **not** **limit the immigration law** justifications in Court of Appeals’ opinions.12 Nevertheless, the doctrinal consistency of plenary powers effectively has shaped the legal identity of these five Uighurs. They are aliens in overseas detention.

**Drone strikes trigger the whole aff**

**Becker and Shane, 12** – Jo and Scott (“A MEASURE OF CHANGE,” NYT, 5/29/12, http://www.nytimes.com/2012/05/29/world/obamas-leadership-in-war-on-al-qaeda.html?pagewanted=all //Red)

His focus on strikes has made it impossible to forge, for now, the new relationship with the Muslim world that he had envisioned. Both **Pakistan and Yemen are** arguably **less stable and more hostile to the U**nited **S**tates than when Mr. Obama became president. Justly or not, drones have become a provocative symbol of American power, running roughshod over national sovereignty and killing innocents. With China and Russia watching, the United States has set an international precedent for sending drones over borders to kill enemies. Mr. Blair, the former director of national intelligence, said the strike campaign was dangerously seductive. “It is the **politically advantageous** thing to do — low cost, no U.S. casualties, gives the appearance of toughness,” he said. “It plays well domestically, and it is unpopular only in other countries. Any **damage it does to the national interest only shows up over the long term.**”

**They’re worse than Guantanamo**

**Reuters 13** [May 3, 2013, “US targeted drone killings used as alternative to Guantanamo Bay - Bush lawyer,” <http://rt.com/usa/obama-using-drones-avoid-gitmo-747>]

Earlier this week Obama promised to reignite efforts to close Guantanamo Bay, where prisoners have gone on a hunger strike to protest human rights violations and wrongful incarcerations. They were his first in-depth remarks on the subject since 2009, when Obama had just recently been elected to office after campaigning on a promise to close the facility. **But international law is equally suspect of drone strikes.** Almost 5,000 people are thought to have been killed by roughly 300 US attacks in four countries, according to The Guardian. Bellinger maintained that the government has justified strikes throughout Pakistan and Yemen by using the 'War on Terror' as an excuse. “We are about the only country in the world that thinks we are in an armed conflict with Al-Qaeda,” he said. “We really need to get on top of this and explain to our allies why it is legal and why it is permissible under international law." “**These drone strikes are causing us great damage in the world**, but on the other hand if you are the president and you do nothing to stop another 9/11 then you also have a problem,” he added. Of the 166 detainees at Guantanamo Bay, 86 have been cleared for release by a commission made up of officials from the Department of Homeland Security, Joint Chiefs of Staff and other influential government divisions. White House officials have justified the use of unmanned aircraft by saying the US is at war with Al-Qaeda and that those targeted in drone attacks were planning attacks on America. In the future, experts say, future countries could use the **same rationale to explain their own attacks.** “Countries under attack are the ones that get to decide whether or not they are at war,” said Philip Zelikow, a member of the White House Intelligence Advisory Board. While the conversation around drones is certainly a sign of things to come, Hina Shamsi of the American Civil Liberties Union encouraged Americans to think about the human rights issues posed by the new technology. It could be another long process, if the Guantanamo Bay handling is any indication. “The use of this technology is spreading and we have to think about what we would say if other countries used drones for targeted killing programs,” Shamsi said. “**Few things are more likely to undermine our legitimacy than the perception that we are not abiding by the rule of law or are indifferent to civilian casualties.**”

**1nc Blowback**

**No solvency – multiple other steps that would have to be taken to restore cred**

**Nossel, 08** – Suzanne, former Deputy Assistant Secretary of State for International Organization Affairs (“Closing Guantanamo Is Just the Beginning,” The Guardian, 11/20/08, http://www.truth-out.org/archive/item/81134-closing-guantanamo-is-just-the-beginning //Red)

Building US credibility on human rights **will be a long-term project** - and closing Guantánamo might just be the easy bit. During his first television interview after winning the White House, president-elect Barack Obama reiterated his long-standing promise to shut Guantánamo Bay. Since the historic vote, legal and policy circles, journalists and human rights activists have hummed about when and how the notorious prison's doors will slam shut once and for all, and what will happen to some 250 detainees still held there. While the incoming president and his team are right to put Guantánamo at the top of their priority list, when it comes to restoring American leadership on human rights, closing the prison is only a first step. Guantánamo has become an emblem of the erosion of US legitimacy on human rights issues over the last eight years. Because it is under direct US control, is near US shores and has been the site of abusive interrogations and years of indefinite detention without charge, the prison has been a focal point for public outrage both at home and abroad. While the incoming administration's commitment is unquestionable, closing Guantánamo may not be as simple as it looks. While human rights and legal groups have argued convincingly that US federal courts are well equipped to try the remaining detainees who have been implicated in criminal offences, some experts continue to argue for a new brand of preventative detention that could continue to deprive Guantánamo prisoners of basic due process rights, effectively moving the prison to the continental US. Realistically it could be months - many months - before the legal disposition of every last detainee is resolved, and the facility shuttered. In the meantime, it is essential that the new administration look **well beyond Guantánamo and begin to confront an array of other issues** that are essential to restoring a leadership role for the US on human rights. The most basic involve ensuring that the abuses with which Guantánamo has become synonymous do not outlast the prison itself. There have been wide calls for an executive order that would apply rules on interrogations set forth in the US army's field manual to all US personnel, including the CIA. The new president should also end renditions - forced transfers - of detainees to countries where they face risk of torture, and close permanently the shadowy network of secret prisons where detainees are effectively "disappeared". Bagram air base in Afghanistan holds some 600 detainees. While many were captured on battlefields in Afghanistan, others were picked up from their homes, far from the main areas of the insurgency, and at least a handful were apparently brought there from elsewhere to be held indefinitely without charge. The prisoners lack access to legal counsel, and because the facility is on Afghan territory, the US justice department has argued that US habeas rights do not apply. Devising a fair process to adjudicate the status of these detainees will be essential to ensuring that Bagram is not the next Guantánamo. While abuses carried out as part of the fight against terrorism cost the US its position of leadership on human rights issues globally, **regaining that status will require more than just bringing counter-terrorism tactics in line with international norms.** While the Bush administration hailed democracy and freedom as centrepieces of its foreign policy, in practice it tended to sideline human rights considerations within its important bilateral relationships. To cite just a few examples, disregard for human rights has contributed to a culture of lawlessness in Pakistan's tribal areas. Despite $10-12bn in mostly military US aid to Pakistan since 2001, civilians affected by the current conflict are left defenceless in squalid, disease-infested camps - some of which the UN refugee agency cannot reach - where their frustration with the US-led war effort only grows. As part of its effort to stabilise this strategically vital region, the US must invest in building institutions that support the rule of law and ensuring that approaches to security uphold human rights. In neighbouring Afghanistan, the US needs to take immediate steps to reduce civilian casualties in military operations, and to press for an end to corruption, which is both fuelling the conflict and undermining popular faith in democratic governance. In contemplating political agreements to end the conflict the US must avoid strengthening the hands of the region's most brutal warlords. While human rights will not be the sole consideration governing multi-faceted relationships with foreign governments, the new administration needs to affirm their place on the agenda and work with like-minded voices to press for progress. The US also has work to do in terms of strengthening the international human rights infrastructure.

The Bush administration distanced itself from the international human rights community by failing to ratify key treaties and **absenting itself from new institutions of human rights enforcement.** **The next administration must demonstrate in tangible ways that the US is prepared to cooperate with others in building and strengthening mechanisms to protect and advance human rights** in the 21st century. Its absence from key forums and debates has created space for spoilers who seek to vitiate existing human rights norms and prevent new ones from taking hold. In 2005 the UN adopted a new norm, the "responsibility to protect", affirming the duty of states to protect their own populations, and the obligation of the international community to step in when they won't do so. But the new norm has flunked its first test in Darfur, where the government has suborned rampant human rights abuses and the international community has failed to intervene effectively. Working with allies to build broad-based support for rigorous human rights enforcement is a long-term project that needs to start right away. Necessary steps also include **re-engaging with the international criminal court**, a body that has begun to prove itself as a vital instrument of international accountability for war crimes. Building US credibility on human rights will be a long-term project requiring a steady hand against the buffeting forces of foreign policy reality. Done right, **the wider human rights agenda could make closing Guantánamo look like the easy part.**

**No impact — allies won’t abandon us and adversaries can’t exploit it**

Stephen M. **Walt 11**, the Robert and Renée Belfer professor of international relations at Harvard University, December 5, 2011, “Does the U.S. still need to reassure its allies?,” online: <http://walt.foreignpolicy.com/posts/2011/12/05/us_credibility_is_not_our_problem>

A **perennial preoccupation** of U.S. diplomacy has been the **perceived** need to reassure allies of our reliability. Throughout the Cold War, U.S. leaders worried that **any loss of credibility** might cause dominoes to fall, lead key allies to "bandwagon" with the Soviet Union, or result in some form of "Finlandization." Such concerns justified fighting so-called "**credibility wars**" (including Vietnam), where the main concern was not the direct stakes of the contest but rather the need to retain a reputation for resolve and capability. Similar fears also led the United States to deploy thousands of nuclear weapons in Europe, as a supposed counter to Soviet missiles targeted against our NATO allies.

The possibility that key allies would abandon us was almost **always exaggerated**, but U.S. leaders remain overly sensitive to the possibility. So Vice President Joe Biden has been out on the road this past week, telling various U.S. allies that "the United States isn't going anywhere." (He wasn't suggesting we're stuck in a rut, of course, but saying that the imminent withdrawal from Iraq doesn't mean a retreat to isolationism or anything like that.)

There's nothing really wrong with offering up this sort of comforting rhetoric, but I've never really understood why U.S. leaders were so worried about the credibility of our commitments to others. For starters, given our **remarkably secure geopolitical position,** whether U.S. pledges are credible is first and foremost **a problem for those who are dependent on U.S. help**. We should therefore take our allies' occasional hints about realignment or neutrality with some **skepticism**; they have **every incentive** to **try to make us worry** about it, but in most cases **little incentive to** actually **do it**.

**Guantanamo not a prominent recruiting tool**

**Joscelyn, 10** – Thomas, senior fellow at the Foundation for Defense of Democracies (“Gitmo Is Not Al Qaeda's 'Number One Recruitment Tool',” The Weekly Standard, 12/27/10, http://www.weeklystandard.com/blogs/gitmo-not-al-qaedas-number-one-recruitment-tool\_524997.html //Red)

President Obama and his surrogates have made this argument before, but they have provided no real evidence that it is true. In fact, **al Qaeda’s top leaders rarely mention Guantanamo in their messages** to the West, Muslims and the world at large. No journalist in attendance had the opportunity to challenge President Obama’s assertion. The president should have been asked: If Guantanamo is such a valuable recruiting tool, then why do al Qaeda’s leaders rarely mention it? THE WEEKLY STANDARD has reviewed translations of 34 messages and interviews delivered by top al Qaeda leaders operating in Pakistan and Afghanistan (“Al Qaeda Central”), including Osama bin Laden and Ayman al Zawahiri, since January 2009. The translations were published online by the NEFA Foundation. **Guantanamo is mentioned in only 3** of the 34 messages. The other 31 messages contain no reference to Guantanamo. And even in the three messages in which al Qaeda mentions the detention facility it is not a prominent theme. Instead, al Qaeda’s leaders repeatedly focus on a narrative that has dominated their propaganda for the better part of two decades. According to bin Laden, Zawahiri, and other al Qaeda chieftains, there is a Zionist-Crusader conspiracy against Muslims. Relying on this deeply paranoid and conspiratorial worldview, al Qaeda routinely calls upon Muslims to take up arms against Jews and Christians, as well as any Muslims rulers who refuse to fight this imaginary coalition. **This theme forms the backbone of al Qaeda’s messaging – not Guantanamo.** To illustrate this point, consider the results of some basic keyword searches. Guantanamo is mentioned a mere 7 times in the 34 messages we reviewed. (Again, all 7 of those references appear in just 3 of the 34 messages.) By way of comparison, all of the following keywords are mentioned far more frequently: Israel/Israeli/Israelis (98 mentions), Jew/Jews (129), Zionist(s) (94), Palestine/Palestinian (200), Gaza (131), and Crusader(s) (322). (Note: Zionist is often paired with Crusader in al Qaeda’s rhetoric.) Naturally, al Qaeda’s leaders also focus on the wars in Afghanistan (333 mentions) and Iraq (157). Pakistan (331), which is home to the jihadist hydra, is featured prominently, too. Al Qaeda has designs on each of these three nations and implores willing recruits to fight America and her allies there. Keywords related to other jihadist hotspots also feature more prominently than Gitmo, including Somalia (67 mentions), Yemen (18) and Chechnya (15). **Simply put, there is no evidence** in the 34 messages we reviewed **that al Qaeda’s leaders are using Guantanamo as a recruiting tool.** Undoubtedly, “Al Qaeda Central” has released other messages during the past two years that are not included in our sample. Some of those messages may refer to Guantanamo. And some of the al Qaeda messages provided by NEFA, which does a remarkable job collecting and translating al Qaeda’s statements and interviews, may be only partial translations of longer texts. However, the messages we reviewed also surely include most of what al Qaeda’s honchos have said publicly since January 2009. These messages do not support the president’s claim.

**Their impact is hype – terrorists suck at what they do**

**Mueller and Stewart, 12** – John, Senior Research Scientist at the Mershon Center for International Security Studies and Adjunct Professor in the Department of Political Science, both at Ohio State University, and Senior Fellow at the Cato Institute and Mark G., Australian Research Council Professorial Fellow and Professor and Director at the Centre for Infrastructure Performance and Reliability at the University of Newcastle in Australia (“The Terrorism Delusion,” International Security, vol. 37, no. 1, Summer 2012, Muse //Red)

On September 11, 2001, a tiny group of deluded men—members of al-Qaida, a fringe group of a fringe group with grandiose visions of its own importance—managed, again largely because of luck, to pull off a risky, if clever and carefully planned, terrorist act that became by far the most destructive in history. As with the assassination of President Kennedy, there has been great reluctance to maintain that such a monumental event—however counterproductive to al-Qaida’s purpose—could have been carried out by a fundamentally trivial group, and there has been a consequent tendency to inflate al-Qaida’s importance and effectiveness. At the extreme, the remnants of this tiny group have even been held to present an “existential” threat to the very survival of the United States.1 In the wake of September 11, recalls Rudy Giuliani, mayor of New York at the time of the attacks, “[a]nybody, any one of these security experts, including myself, would have told you on September 11, 2001, we’re looking at dozens and dozens and multiyears of attacks like this.” Journalist Jane Mayer observes that “the only certainty shared by virtually the entire American intelligence community” in the months after September 11 “was that a second wave of even more devastating terrorist attacks on America was imminent.”2 Under the prevailing circumstances, this sort of alarm was understandable, but it does not excuse the experts from dismissing an alternative hypothesis—that the attacks that occurred on that day were an aberration.3 Finally, on May 1, 2012, nearly ten years after the September 2001 terrorist attacks, the most costly and determined manhunt in history culminated in Pakistan when a team of U.S. Navy Seals killed Osama bin Laden, a chief author of the attacks and one of history’s most storied and cartooned villains. Taken away with bin Laden’s bullet-shattered body were written documents and masses of information stored on five computers, ten hard drives, and one hundred or more thumb drives, DVDs, and CD-ROMs. This, it was promised, represented a “treasure trove” of information about al-Qaida—“the mother lode,” said one U.S. official eagerly—that might contain plans for pending attacks.4 Poring through the material with great dispatch, however, a task force soon discovered that al-Qaida’s members were primarily occupied with dodging drone missile attacks, complaining about the lack of funds, and watching a lot of pornography.5 Although bin Laden has been exposed mostly as a thing of smoke and mirrors, and although there has been no terrorist destruction that remotely rivals that inflicted on September 11, the terrorism/counterterrorism saga persists determinedly, doggedly, and anticlimactically onward, and **the initial alarmed perspective has been internalized.** In the process, suggests Glenn Carle, a twenty-three-year veteran of the Central Intelligence Agency where he was deputy national intelligence officer for transnational threats, Americans have become “victims of delusion,” displaying a quality defined as “a persistent false belief in the face of strong contradictory evidence.”6 This condition shows no sign of abating as trillions of dollars have been expended and tens of thousands of lives have been snuffed out in distant wars in a frantic, ill-conceived effort to react to an event that, however tragic and dramatic in the first instance, should have been seen, at least after a few years had passed, to be of limited significance. This article is a set of ruminations on the post–September 11 years of delusion. It reflects, first, on the exaggerations of the threat presented by terrorism and then on the distortions of perspective these exaggerations have inspired—distortions that have in turn inspired a determined and expensive quest to ferret out, and even to create, **the nearly nonexistent.** It also supplies a quantitative assessment of the costs of the terrorism delusion and concludes with a discussion of how anxieties about terrorism persist despite exceedingly limited evidence that much fear is justified. Delusions about the Terrorist “Adversary” People such as Giuliani and a whole raft of “security experts” have **massively exaggerated** the capacities and the dangers presented by what they have often called “the universal adversary” both in its domestic and in its international form. The Domestic Adversary To assess the danger presented by terrorists seeking to attack the United States, we examined the fifty cases of Islamist extremist terrorism that have come to light since the September 11 attacks, whether based in the United States or abroad, in which the United States was, or apparently was, targeted. These cases make up (or generate) the chief terrorism fear for Americans. Table 1 presents a capsule summary of each case, and the case numbers given throughout this article refer to this table and to the free web book from which it derives.7 In 2009, the U.S. Department of Homeland Security (DHS) issued a lengthy report on protecting the homeland. Key to achieving such an objective should be a careful assessment of the character, capacities, and desires of potential terrorists targeting that homeland. Although the report contains a section dealing with what its authors call “the nature of the terrorist adversary,” the section devotes only two sentences to assessing that nature: “The number and high profile of international and domestic terrorist attacks and disrupted plots during the last two decades underscore the determination and persistence of terrorist organizations. Terrorists have proven to be relentless, patient, opportunistic, and flexible, learning from experience and modifying tactics and targets to exploit perceived vulnerabilities and avoid observed strengths.”8 This description may apply to some terrorists somewhere, including at least a few of those involved in the September 11 attacks. Yet, it scarcely describes the vast majority of those individuals picked up on terrorism charges in the United States since those attacks. The inability of the DHS to consider this fact [End Page 87] even parenthetically in its fleeting discussion is not only amazing but perhaps delusional in its single-minded preoccupation with the extreme. In sharp contrast, the authors of the case studies, with remarkably few exceptions, describe their subjects with such words as **incompetent, ineffective, unintelligent**, idiotic, ignorant, inadequate, **unorganized**, misguided, muddled, **amateurish**, dopey, unrealistic, moronic, irrational, and foolish.9 And in nearly all of the cases where an operative from the police or from the Federal Bureau of Investigation was at work (almost half of the total), the most appropriate descriptor would be “gullible.” In all, as Shikha Dalmia has put it, would-be terrorists need to be “radicalized enough to die for their cause; Westernized enough to move around without raising red flags; ingenious enough to exploit loopholes in the security apparatus; meticulous enough to attend to the myriad logistical details that could torpedo the operation; self-sufficient enough to make all the preparations without enlisting outsiders who might give them away; disciplined enough to maintain complete secrecy; and—above all—psychologically tough enough to keep functioning at a high level without cracking in the face of their own impending death.”10 The case studies examined in this article certainly do not abound with people with such characteristics. In the eleven years since the September 11 attacks, no terrorist has been able to detonate even a primitive bomb in the United States, and except for the four explosions in the London transportation system in 2005, neither has any in the United Kingdom. Indeed, the only method by which Islamist terrorists have managed to kill anyone in the United States since September 11 has been with gunfire—inflicting a total of perhaps sixteen deaths over the period (cases 4, 26, 32).11 This limited capacity is impressive because, at one time, small-scale terrorists in the United States were quite successful in setting off bombs. Noting that the scale of the September 11 attacks has “tended to obliterate America’s memory of pre-9/11 terrorism,” Brian Jenkins reminds us (and we clearly do need reminding) that the 1970s witnessed sixty to seventy terrorist incidents, mostly bombings, on U.S. soil every year.12 The situation seems scarcely different in Europe and other Western locales. Michael Kenney, who has interviewed dozens of government officials and intelligence agents and analyzed court documents, has found that, in sharp contrast with the boilerplate characterizations favored by the DHS and with the imperatives listed by Dalmia, Islamist militants in those locations are **operationally unsophisticated, short on know-how, prone to making mistakes**, poor at planning, and limited in their capacity to learn.13 Another study documents the difficulties of network coordination that continually threaten the terrorists’ operational unity, trust, cohesion, and ability to act collectively.14 In addition, although some of the plotters in the cases targeting the United States harbored visions of toppling large buildings, destroying airports, setting off dirty bombs, or bringing down the Brooklyn Bridge (cases 2, 8, 12, 19, 23, 30, 42), all were nothing more than wild fantasies, **far beyond the plotters’ capacities** however much they may have been encouraged in some instances by FBI operatives. Indeed, in many of the cases, target selection is effectively a random process, lacking guile and careful planning. Often, it seems, targets have been chosen almost capriciously and simply for their convenience. For example, a would-be bomber targeted a mall in Rockford, Illinois, because it was nearby (case 21). Terrorist plotters in Los Angeles in 2005 drew up a list of targets that were all within a 20-mile radius of their shared apartment, some of which did not even exist (case 15). In Norway, a neo-Nazi terrorist on his way to bomb a synagogue took a tram going the wrong way and dynamited a mosque instead.15 Although the efforts of would-be terrorists have often seemed pathetic, even comical or absurd, the comedy remains a dark one. Left to their own devices, at least a few of these often inept and almost always self-deluded individuals could eventually have committed some serious, if small-scale, damage.16 The Foreign Adversary As noted, the September 11 terrorist attacks were by far the most destructive in history—no terrorist act before or since has killed more than a few hundred people—and the tragic event seems increasingly to **stand as an aberration, not as a harbinger.** Accordingly, it is surely time to consider that, as Russell Seitz put it in 2004, “9/11 could join the Trojan Horse and Pearl Harbor among stratagems so uniquely surprising that their very success precludes their repetition,” and, accordingly, that “al-Qaeda’s best shot may have been exactly that.”17 In fact, it is unclear whether al-Qaida central, now holed up in Pakistan and under sustained attack, has done much of anything since September 11 except issue videos filled with empty, self-infatuated, and essentially delusional threats. For example, it was in October 2002 that Osama bin Laden proclaimed, “Understand the lesson of New York and Washington raids, which came in response to some of your previous crimes. . . . God is my witness, the youth of Islam are preparing things that will fill your hearts with fear. They will target key sectors of your economy until you stop your injustice and aggression or until the more short-lived of us die.” And in January 2006, he insisted that the “delay” in carrying out operations in the United States “was not due to failure to breach your security measures,” and that “operations are under preparation, and you will see them on your own ground once they are finished, God willing.”18 Bin Laden’s tiny group of 100 or so followers does appear to have served as something of an inspiration to some Muslim extremists, may have done some training, has contributed a bit to the Taliban’s far larger insurgency in Afghanistan, and may have participated in a few terrorist acts in Pakistan.19 In his examination of the major terrorist plots against the West since September 11, Mitchell Silber finds only two (cases 1 and 20) that could be said to be under the “command and control” of al-Qaida central (as opposed to ones suggested, endorsed, or inspired by the organization), and there are questions about how full its control was even in these two instances.20 This highly limited record suggests that Carle was right in 2008 when he warned, “We must not take fright at the specter our leaders have exaggerated. In fact, we must see jihadists for the small, lethal, disjointed and miserable opponents that they are.” Al-Qaida “has only a handful of individuals capable of planning, organizing and leading a terrorist organization,” and although it has threatened attacks, “its capabilities are far inferior to its desires.”21 Impressively, bin Laden appears to have remained in a state of self-delusion even to his brutal and abrupt end. He continued to cling to the belief that another attack such as September 11 might force the United States out of the Middle East, and he was unfazed that the first such effort had proven to be spectacularly counterproductive in this respect by triggering a deadly invasion of his base in Afghanistan and an equally deadly pursuit of his operatives.22 Other terrorist groups around the world affiliated or aligned or otherwise connected to al-Qaida may be able to do intermittent damage to people and infrastructure, but **nothing that is very sustained or focused.** In all, extremist Islamist terrorism—whether associated with al-Qaida or not—has claimed 200 to 400 lives yearly worldwide outside war zones. That is 200 to 400 too many, of course, but it is **about the same number as bathtub drownings every year in the U**nited **S**tates.23

**Russia policy fails on multiple levels – even if the plan works, there’s no mechanism to leverage it to create support in Russia**

**Mendelson, their author, 07** – Sarah, Director, Human Rights and Security Initiative, Center for Strategic and International Studies (“A New Approach to a New Russia,” CSIS, October 2007, <http://csis.org/images/stories/hrs/071001_new_approach_russia_mendelson.pdf> //Red)

Analytic Overview Russia’s political trajectory has long been a U.S. national security concern, but the ability to affect this trajectory has **greatly diminished** over time as U.S. soft power has eroded. By 2007, inside Russia, those hostile to the United States take satisfaction at what one expert referred to as our “fallen giant” status. In contrast, Westernizers—those who want Russia to be part of the Atlantic community—view the decline as worrisome and find themselves increasingly isolated. Most distressing, experts report that anti-Americans and pro-Americans share today the same view about the current American role in the world: aggressive, counterproductive, destructive, and arrogant. The decline of U.S. smart power in Russia began **in the Clinton administration** after a series of missteps engaging both the government and the public, as well as specific foreign policy decisions. President Clinton’s over-personalized relationship with Boris Yeltsin, a president viewed by the Russian elite as submissive and subservient to American interests, had an especially **negative and lasting impact**. Official U.S. government praise for fledgling new Russian institutions, such as political parties and elections that barely functioned or failed to address local needs caused more damage to U.S. credibility. NATO expansion and the use of force in Kosovo turned the elite sharply away from the United States. As one observer commented, “the day you bombed Belgrade, that’s the day it all changed.” Current and former U.S. government officials claim Bush administration counterterrorism policies and abuses related to the war in Iraq cost the United States precious leverage concerning abuses by Russian authorities in Chechnya. One senior American diplomat lamented, “Abu Ghraib has had an effect. And certainly the Russians love to say we told you so …. They talk a lot about how Iraq is exactly what ‘we had in Chechnya.’” Meanwhile, Chechnya became a pretext for the Putin government to shrink public political space including for example, control of critical, independent television. Russian elites and the public view U.S. government condemnation of human rights abuse in Russia as **extremely cynical**; one observer commented, “**no one really believes that official Washington cares about human rights in Russia**

.” Indeed, human **rights activists in Russia have begun to state this publicly** for the first time. As U.S. smart power has precipitously declined, the Putin administration has embraced a hyper-sovereign conception of the state in which democratic norms acquire an alien and hostile association. Evidence suggests the Putin administration is trying to mainstream this view inside international organizations. The Russian government has launched an effort to change the rules and norms governing OSCE election observations. Perhaps more disturbing, in the UN Security Council, the Russian Federation, along with China, has attempted to block international responses to grave human rights violations in Darfur and in Burma. If U.S. smart power does not improve, there is a danger that Russia and China will “set the table” on international human rights issues over the next decade. At home, Russian administration officials and President Putin himself **regularly** attempt to **invoke anxiety** among the population concerning the “**dangers**” **of foreign influence**, suggesting that Russia is becoming encircled by enemies. Some experts predict the negative messages about the United States will proliferate and intensify the closer we come to March 2008, when leadership change in Russia is scheduled to take place. Not surprisingly, negative images of the United States are shared by elites and the larger public. Most experts consulted believed this image is the most negative it has been in 20 years. A spring 2007 CSIS survey of 1,800 Russian youth suggests just how widespread the views are: **Nearly 80 percent agreed that** “the United States **tries to impose its norms** and way of life on the rest of the world,” and only 20% agreed with the statement that the United States “does more good than bad.” Most damning for U.S. smart power, three quarters of respondents fully agree or partially agree that the “United States gives aid in order to influence the internal politics of countries.” **They view the U**nited **S**tates **as a** far greater **threat** to Russia than Iran or China.1 Recommendations Just as the current administration has been marginalized inside Russia because of efforts that both relate to and go beyond Russia, the next administration must understand its Russia policy as having both bilateral and multilateral aspects. Moreover, the new U.S. policy should reach beyond the narrow band of elites in Moscow. The New Bilateral Approach: Listen to Russians! **The next administration must adopt radically different approaches to engaging Russia** with a particular focus on how the U.S. government approaches **foreign assistance.** This new approach should be the equivalent of **rebooting the system**, or as one expert suggested, “a sort of American perestroika.” In terms of assistance strategies, instead of Beltway bandits, Congressional or Executive politics, the new approaches must be shaped by local needs and designed to encourage Russian civil society to engage local populations rather than foreign donors. At the same time, given Russia’s strategic importance, but in stark contrast to the current administration, such engagement must be adequately funded. At the moment, budgets have been slashed, and there is little oversight. A handful of individuals in Washington have control over funds that have on occaision gone to support work with political groups of marginal if no support in Russia. This approach leaves human rights defenders that do have the possibility of more genuine local support **vulnerable to the criticism** by President Putin and others that foreign assistance is designed to get civil society closer to foreigners than to the local population. There is no intrinsic reason why this should be the case. Smart assistance should as often as possible address what local populations want supported. With this as a guiding principle for assistance, local NGOs can orient toward the public. CSIS surveys from 2005 and 2007 suggest that despite the relentless Kremlin campaign against foreign assistance, young Russians are not hostile to U.S. government funded initiatives conceringing health, the environment, and even human rights. They do not, by large majorities, however, approve of funding for public protest of the government. Listening to and honoring the views of the Russian public will make U.S. tax payer dollars more effective. This approach does not mean abandoning the focus on human rights. It means potentially deepening the impact. The **instruments and organizations** through which assistance has been delivered **need overhaul** after 17 years. Some observers suggested that **the existing machinery, including USAID, should be scrapped** for “new foundations with new faces,” an endowment perhaps that views assistance in a fresh way. As part of this new strategy, and in contrast with the Bush administration relying mainly on high level emissaries such as Henry Kissinger, contacts between the United States and Russia need to be multiplied. A more engaged strategy will help avoid the over-personalization of presidential politics that marked both the Clinton and Bush administrations. The new approach should support concrete cooperation between **different parts of societies** (mayors, congressional ties, university presidents) on a range of issues of common concern, for example, public health, counterterrorism, youth alienation or even urban decay, where stakeholders may share best practices. One expert described these as “social projects with a human touch.” At government levels, the contact should be broadened beyond the White House. In recent years, Congressional contacts with the Russian Duma and Federation Council **have all but dropped off** and need to be restored—not because these are important centers of power in Russia but because there is a widespread misperception of Congress’s relationship with the White House and this is another ingredient feeding misperceptions. The next president should make a speech indicating that he or she recognizes the differences between our countries but recognizing that we are not in existential conflict. The next president should build a policy that is more than just about the White House-Kremlin relationship. The successor of President Putin should be encouraged to come to the United States to do the same, with the understanding that the Kremlin will not control contact with ordinary Americans. **A particular focus on youth exchange must be highlighted** to reverse the trend revealed in the current generation of 16 to 29 year old Russians. Additionally one could imagine a public private twinning program for schools in the United States and Russia over the internet. The New Multilateralism: Opt Back In To the International Community The next administration will be more effective engaging Russia **on a number of issues** if it opts back into the international community in a comprehensive manner. The fact that the United States has opted out of international legal frameworks has enabled, according to numerous experts, the Russian drift toward authoritarianism. The next administration should call on all branches of the United States government and members of civil society to do what we can to reclaim our role as generators of human rights norms, not as abusers. The next administration must show Russia and the world that we are reembracing international human rights and humanitarian law, not only because it is the right thing to do but also because it makes us safer. Radical shifts in policies concerning counterterrorism will help reestablish this credibility. Fundamental to this new multilateralism will be to work closely with European allies in order to speak with one voice on a number of issues relating to Russia. One Russian expert noted, “if Americans cannot agree with their natural allies (Europe), how do they think they are going to get agreement with Russia?” Within the first 100 days, the next president ought to appoint a senior U.S. envoy to the European Union, with one of his/her tasks to convey goals and strategies of the new U.S. policy on Russia. Message and Marketing Within the first 100 days, the next president should meet with the Russian president but also **engage the Russian public** at a town meeting in a city other than Moscow. The president should announce a series of **citizen to citizen initiatives concerning health, education and human rights challenges that confront both countries.** The message should be: we need you! to help solve vital problems confronting both our countries. Major challenges lie with the Russian authorities but by having the meeting occur early in the term, perhaps as a first foreign trip, this approach might send a favorable signal to the Kremlin and to ordinary Russians that Russia is being again taken seriously. The American public is likely to understand engagement and assistance strategies based on listening and responding to local needs, rather than only or mainly to Washington’s needs.

**1nc Deference**

**Plan doesn’t create a precedent – return to judicial deferral is inevitable**

**Pushaw, 09** – Robert J., James Wilson Endowed Professor, Pepperdine University School of Law (“CREATING LEGAL RIGHTS FOR SUSPECTED TERRORISTS: IS THE COURT BEING COURAGEOUS OR POLITICALLY PRAGMATIC?,” Notre Dame Law Review, vol. 84, no. 5, 2009, http://www3.nd.edu/~ndlrev/archive\_public/84ndlr5/Pushaw.pdf //Red)

History also suggests the **unlikelihood that** Hamdi, Rasul, Hamdan, and Boumediene are the **vanguard of an enduring switch** to aggressive judicial review to protect individual rights during wartime. Many scholars have approvingly cited Justice Kennedy’s majestic declaration that “[t]he laws and Constitution are designed to survive, and remain in force, in extraordinary times. Liberty and security can be reconciled; and in our system they are reconciled within the frame- work of the law.”373 This rhetoric echoes the words of Ex parte Milligan: “The Constitution . . . is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances.”374 But recall that the Court in Milligan confessed that it had not followed the Constitution during the Civil War,375 and that its promise to enforce constitutional law “at all times” **was broken within a year.**376 Cases like Ex parte Quirin similarly reveal that, contrary to Justice Kennedy’s wishful thinking, the Court during “extraordinary times” often does not deliberatively interpret the Constitution and laws in a way that best reconciles liberty and security.377 It is naïve to suppose that our current Justices are so uniquely brave and noble that they will be immune to similar pressures—especially if a crisis were to arise on a par with the Civil War or World War II.378 Indeed, history teaches that, during wartime, judicial discretion has been the better part of valor. The Court has always showed much greater deference to the government (sometimes **bordering on abdication**) when it has exercised military powers than when it has regulated domestic affairs. The precise degree of deference has reflected the factual, legal, and political circumstances of each case, although certain considerations have emerged as especially important—the severity of the crisis, the President’s political strength, approval of his actions by Congress, and the nature of the legal rights at stake.379 These factors have invariably persuaded the Court to yield to a powerful President like Lincoln or Roosevelt who, with the support of Congress, responded to a pressing threat to national security.380 Even in conflicts less serious than the Civil War and World War II, the Justices typically have respected the President’s judgment that a particular military measure had to be implemented.381 The Court has invalidated such laws only in relatively rare cases like Milligan382 and Youngstown, 383 when a wildly unpopular President like Johnson or Truman independently took actions that struck a majority of Justices as unnecessary and offensive to fundamental legal rights.384 I suspect that, in time, the “enemy combatant” decisions will be placed into this final category. A group of Justices pragmatically exploited a golden opportunity to announce new legal limits on the President when his approval ratings had hit Truman-like lows, the immediate post-September 11 crisis had long since faded and hence Bush’s initial get-tough approach seemed too severe, and individual liberty in its most basic form was at stake. The only sharp break from the past was the Court’s willingness to thwart executive action that enjoyed the approval of Congress, either expressly (Hamdi and Boumediene) or implicitly (Rasul and Hamdan). The most plausible reason for this newfound aggressiveness was Congress’s own historically abysmal approval ratings. Moreover, in Boumediene the Court had the added advantages that Bush was a lame duck, that the new President would likely alter detainee policy and perhaps shut down Guantanamo, and that economic woes had displaced terrorism as the voters’ chief concern.385 I anticipate, however, that **when the next military crisis rears its** ugly **head, the Court will uphold whatever policies the President deems prudent** to meet the danger. Fortunately, the Court could support such a deferential judgment by relying upon the precedent that it took such pains to distinguish rather than overrule, such as Eisentrager, Quirin, and The Prize Cases. 386 CONCLUSION The War on Terrorism has aroused such powerful emotions on both sides of the debate that **it becomes easy to ascribe to Supreme Court decisions a significance that they do not actually possess.** On the one hand, the liberal dream that Hamdi, Rasul, Hamdan, and Boumediene have ushered in a new age of heroic judicial defense of constitutional rights during wartime **will probably not come true.** On the other hand, the conservative nightmare voiced by Justice Scalia and his followers that the federal judiciary will forever be embroiled in overseeing military policy (for example, through millions of habeas corpus proceedings brought by captured soldiers) also seems overly dramatic. In the midst of such a heated controversy, history sheds cold but bright light. America has experienced cycles before in which the Court asserted broad authority to review the exercise of war powers. But that approach has never lasted. Rather, the Justices typically have exercised their discretion to yield to the political branches in military matters, **often because they had no other realistic choice.** This history suggests that the “**enemy combatant**” **cases will not have a profound lasting impact.**

**Political branch over-reach, not reluctance causes CMR collapse**

**Zenko, 13** – Micah, Douglas Dillon fellow with the Center for Preventive Action at the Council on Foreign Relations (“The Soldier and the State Go Public,” Foreign Policy, 9/25/13, <http://www.foreignpolicy.com/articles/2013/09/25/the_soldier_and_the_state_go_public?page=0,1> //Red)

Duke University scholar (and FP contributor) Peter Feaver has described this civil-military tension as a principal-agent problem, where theoretically only civilian principals have the authority and only military agents have the expertise. Since the September 11, 2001, attacks, however, many civilian officials have helped to develop and implement U.S. counterinsurgency and counterterrorism operations around the world. They now believe that they have a clearer and more realistic understanding of what military force can achieve. Subsequently, my impression is that **civilians increasingly think they possess the expertise to assess operational plans** and that professional military advice is merely another opinion to consider when evaluating use-of-force options. In effect, civilians have become both principal and agent. Meanwhile, military officials who might have once refrained from discussing sensitive issues are now more willing to share their opinions. After surviving multiple deployments to combat zones in Iraq and Afghanistan, where inadequate political guidance and flawed military strategies hindered U.S. policies, they feel obliged to speak their minds. They also track proposals for using force -- via op-eds and blogs -- at a much greater level of detail than they did a decade ago. One Marine colonel explained to me recently: "We [meaning the military] need to know what they [meaning civilians] are getting us into next time." Furthermore, throughout the professional military education system, officers are taught to think critically and divergently, and to candidly express their opinions through their chain of command. Inevitably, and unfortunately, a greater volume of private military opinions is anonymously spilling into the public sphere. While officers have a constitutional right to express their personal views, they also have a professional obligation to avoid weighing in on political matters. Many officers who are quoted in news articles and blogs likely have no access to current intelligence assessments or operational plans that are under discussion in National Security Council meetings. Yet these officers start from a default conviction that civilian officials have dangerous and unrealistic expectations of what military power can achieve. This civil-military split is further promoted by the **insatiable demand for news**

. An increasing number of journalists stalk the tunnels under Capitol Hill, where policymakers are happy to expound on sensitive foreign policy issues. Similarly, as a result of embedded reporting from the wars of the past dozen years, journalists have deeper relationships with now-senior military officials than they did in the past, and they can find a "senior Pentagon official" to condemn White House policy. **The split will likely be deepened by the worsening partisanship in Washington.** The impression one gets is that the party out of power no longer perceives the military as a neutral institution, but rather as the uniformed face of the White House it serves. Democrats demonized the military and its operations during the Bush administration -- remember the "General Betray Us" Moveon.org ads from 2007? Now, it is Democrats who embrace President Obama's drone strikes and interventions, while Republicans harshly question the expertise and motivations of uniformed officials. **The military is supposed to be above partisanship, but Washington might not allow it to be.** What is most dispiriting about the apparent deterioration of civil-military relations is that it is hard to see what would improve the situation. There has been a great deal of analysis of the need for the four armed services to operate more jointly ("getting purple") and for the military and civilian agencies to coordinate preventive and stability operations (through a "whole of government approach"). However, **there is little thinking about how senior civilian and military officials should cooperate in the iterative military planning process between the Pentagon and the White House.** It is possible disagreements are being left at the Situation Room door, but this is unlikely, since history shows that intense civil-military disputes emerge in public when they have not been resolved in private. And what is in the public domain should disturb any principled civilian or military official.

**Biodefense industry is key to prevent bioterror**

**Alton, 12** – Jennifer, Vice President of Government Affairs with Bavarian Nordic, Inc (“The Future of Biodefense: Will Public-Private Partnerships Continue?,” Biotech Now, [http://www.biotech-now.org/health/2012/12/the-future-of-biodefense-will-public-private-partnerships-continue#](http://www.biotech-now.org/health/2012/12/the-future-of-biodefense-will-public-private-partnerships-continue) //Red)

The Future of Biodefense: Will Public-Private Partnerships Continue? Ten years ago, in the wake of the 2001 anthrax attacks, the U.S. government set out on a bold path to improve the country’s preparedness for bioterrorism by developing and stockpiling new drugs and vaccines to protect Americans from health emergencies. Individuals from both political parties – many who had experienced bioterror first hand – worked together to harness the power of innovative science and tackle this national security threat. The ten year initiative was called Project BioShield. Since then, biotechnology companies have partnered with the government to help fulfill that mission. As a result of support from the Biomedical Advanced Research and Development Authority (BARDA), companies have moved more than 70 medical countermeasure products into advanced development and several more – including vaccines against smallpox and anthrax, and treatments for botulism and radiation exposure – into the government’s Strategic National Stockpile. A report issued in September 2012 by the Alliance for Biosecurity and MD Becker Partners reflects on the important advancements and progress made over the last decade in medical countermeasures development and identifies core challenges and key recommendations for the future. The report, titled “Medical Countermeasures: A Roundtable Discussion,” includes insights from 16 field experts from industry, government, and Wall Street. The **experts agree that tremendous progress has been made.** However, this public-private partnership is at a critical juncture where **further funding, research and development are necessary** to ensure that progress continues and the U.S. **population is protected.** Taking Stock of Success Congress worked in a bipartisan way to create a viable and diverse industry for medical countermeasures by passing ground breaking legislation that funded medical countermeasure development and procurement and created BARDA – a federal entity whose core mission is to promote the development of medical countermeasures. In addition to the number of new products in the national stockpile and in advanced development at BARDA, there has also been progress in the development of regulatory pathways to license medical countermeasures. The Food and Drug Administration has notably increased its transparency and interactions with developers of medical countermeasures. Importantly, some biodefense companies have been able to use the expertise and knowledge gained while developing medical countermeasures to advance other **commercial drug candidates.**

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## Readiness DA

### Link Wall

#### The plan kills the military – multiple reasons

#### A. Overstretch

**Ford, 10** – Fred K., U.S. Army Judge Advocate General Corps (“Keeping Boumediene off the Battlefield: Examining Potential Implications of the Boumediene v. Bush Decision to the Conduct of United States Military Operations,” Pace Law Review, vol 30, is 2, Winter 2010, http://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1037&context=plr //Red)

The scope of the problem the DoD may face is a bit daunting. What could happen—and, in the case of the Guantanamo detainees, what is happening—is that foreign detainees held by U.S. forces in locations deemed to be the functional equivalent of United States territory could be entitled not just to Geneva protections (for prisoners of war) or Detainee Treatment Act34 protections (in the case of enemy combatants at Guantanamo Bay not declared prisoners of war), but also to habeas review by a federal district court. If the functional analysis test of Boumediene is extended, or is interpreted by the DoD to extend to physical locations other than Guantanamo, then foreign fighters will be afforded additional protections under the U.S. Constitution and U.S. laws—protections normally reserved for U.S. citizens or other persons in the country.35 **These** new rights **could include** a right to counsel, Miranda warnings, heightened due process, and **countless** other **rights and privileges normally associated with citizenship or presence in the U**nited **S**tates. Imagine a military commander needing probable cause to detain—or worse, some higher level of proof to attack—an enemy!36 The implications are mind-boggling to a military professional. Our military force would essentially be converted into a de facto **law enforcement organization** or would have such an organization as its adjunct. Such extension would completely change the face of combat.37 Perhaps some of these examples are far-fetched; the issue, though, is how far toward this end will the courts go? They should go no further than Boumediene. If, however, courts continue the trend and extend this holding, how would the DoD meet these new requirements? Programmatically and institutionally, extension would require a re-evaluation of the DoD’s policies, regulations, training, and organization. Currently, all military personnel are trained to the Geneva standard under the DoD Law of War Program.38 This program ensures that service members are trained in and abide by the international legal norms of warfare. Would the DoD implement a similar program to ensure compliance with domestic laws during combat operations, including detention operations? And, if so, should it be separate from the Law of War Program or integrated into it? A progressive extension of Boumediene may require service members in combat to abide by constitutional provisions normally applicable to domestic law enforcement personnel. **Such an extension would require a massive training and education program to be implemented department-wide.** This training might include instruction on the court-directed domestic laws that might now be applicable, essentially a shifting body of criminal law for the battlefield. In implementing this new standard, both the DoD and the military might be required to implement several new procedures, including: training packages for new entrants at basic training installations, annual refresher training, formalized procedures for integration into major military training exercises and actual military operations, a reporting procedure for violations, and benchmarks for methods of effectiveness. The International Committee of the Red Cross (“ICRC”) might choose to monitor U.S. forces not only for compliance with international law but also for compliance with our applicable domestic laws. The DoD would be interested in the ICRC’s new focus area and would need to implement procedures to address these new areas of international scrutiny. As the DoD attempts to operationalize Boumediene, it must consider the new concept of how to support a federal case while concomitantly conducting military operations. Justice Scalia, in his dissent, noted that the Boumediene holding “sets our military commanders the impossible task of proving to a civilian court, under whatever standards this Court devises in the future, that evidence supports the confinement of each and every enemy prisoner.”39 Practically speaking, this is already happening in the U.S. District Court for the District of Columbia as the Guantanamo detainees’ habeas cases progress.40 The Supreme Court is not, as Justice Scalia noted, establishing the rules under which these cases will proceed. That task has fallen on the district court judges, specifically Senior Judge Thomas F. Hogan, who has been charged with establishing general rules for the administration and management of most of these cases.41 These rules and procedures will be vitally important not only for the process, but also for the DoD and combat soldiers whose actions they will dictate. Courts will create, and lawyers argue endlessly about, such important matters as the definition of “enemy combatant,” the standard of proof for this yet-to-be defined term, the admissibility of evidence, the scope and breadth of exclusionary rules, presumptions afforded to government evidence, whether the presence of the detainee is required, access to government witnesses, the extent of government disclosures of exculpatory evidence pursuant to Brady v. Maryland, 42 and a host of other procedural and substantive issues. Every issue that may arise in a federal criminal case will have to be addressed, interpreted, decided, and applied to the current and future unique enemy prisoner habeas actions. **These procedures create daunting tasks. Enter CSI: Kandahar.** Extending the Boumediene holding would require detailed procedures for the collection, preservation, and maintenance of “evidence.” Normally, the military treats information regarding enemy captives as battlefield information or intelligence. Military personnel process this information, important to the conduct of military operations, through intelligence channels. Intelligence analysts and commanders use the information to determine enemy strengths, weaknesses, vulnerabilities, and locations important to the commander on the ground. Treating captured enemy information as evidence in a federal case **would require an entirely new method of collecting and processing intelligence.** More likely, the DoD and the intelligence agencies would choose to establish an entirely separate but parallel system to process and sanitize battlefield intelligence information for transmittal to federal courts because of the significant risk to intelligence sources and methods. The DoD may be forced to address these federal evidence requirements. Standards may have to be established, beginning with procedures to determine what constitutes the equivalent of probable cause to detain, and including procedures for, inter alia, the seizure and collection of evidence, chain of custody, evidence storage and maintenance, evidence authentication, and witness availability.43 This may, in turn, require procedures to formalize investigations, including a requirement of a pseudo-criminal case file for every detained enemy. Certainly, service members do not have the training to make and prove a federal case. Service members on the ground are now familiar with basic evidence collection requirements, and great strides have been taken in Iraq and Afghanistan to formalize information collection resulting from raids.44 Site exploitation teams and specially trained personnel have assisted in gathering and maintaining site intelligence information, which may later be used as evidence, normally in an Iraqi or Afghani court. But imagine if every military operation required a police-like crime scene analysis, with the collection of evidence to be used in a federal court. **Soldiers simply cannot conduct such an undertaking**, nor should they be required to. Military law enforcement personnel are a limited asset on the battlefield, busily investigating alleged misconduct by military personnel, contract fraud, and the deaths of service members. **The DoD would be hard pressed to meet new stringent investigative and evidentiary requirements.** The DoD may have to adjust its force structure and dramatically increase the capacity of the services’ law enforcement investigative agencies, **a precarious undertaking** for a military **already stretched thin.** Or, perhaps the DoD would create a new habeas investigative agency, uniformed and/or civilian, to accompany forces on the battlefield. One solution is to use another federal law enforcement agency, such as the Federal Bureau of Investigation (“F.B.I.”), to augment military forces, similar to the manner in which the U.S. Coast Guard augments U.S. Navy operations during law enforcement actions at sea.45

#### That independently collapses UP peacekeeping – causes global instability

**CIC, 09** – Center on International Cooperation at NYU (“Peacekeeping Overstretch: Symptoms, Causes, and Consequences,” May 2009, http://cic.es.its.nyu.edu/sites/default/files/overstretchen.pdf //Red)

United Nations peace operations face an extended and dangerous period of strategic uncertainty. A series of setbacks have coincided with **military overstretch** and the financial crisis, **rais**ing **the risk** that UN **peacekeeping may contract**, despite high continuing needs. An excessive contraction in peacekeeping would have **serious consequences for international peace and stability.** UN peacekeeping has proved to be a versatile tool for deterring or reversing inter-state conflict, ending civil wars, mitigating humanitarian crises, and extending state authority in areas where state capacity is weak or contested. Not all operations succeed, or succeed in full. But collectively, according to rigorous research, international mediation and peacekeeping have contributed to an **80% decline in total armed conflict** since the early 1990s. Although this has not been the work of the UN alone – individual member states, regional organizations and non-governmental actors have played vital roles – the UN has been an indispensable contributor. Research also suggests that demand for peacekeeping – and specifically for UN peacekeeping – will rise, not fall, in the coming years. To overcome current strains and meet future challenges, both individual operations and the peacekeeping system as a whole require continued political, military and financial commitment by states and institutions. The good news is that although there are divergent perceptions of the nature and scale of current difficulties, a broad majority of UN member states share a sense of the importance of making peace-keeping work – and work better. This paper takes as its starting point the notion that a shared diagnosis of the problem is the prerequisite of shared solutions. To this end, it is necessary to distinguish between the observable symptoms of peacekeeping’s current malaise – various forms of overstretch – and its causes. This paper argues that the increasingly familiar symptoms of overstretch – strains on troop contributors, rising financial costs, headquarters strains – are consequences of two sets of underlying challenges, operational and political. Strains are also caused by incomplete (or reversed) reforms – again, both operational (the Secretariat) and political (UNSC).

#### B. Intelligence

**Ford, 10** – Fred K., U.S. Army Judge Advocate General Corps (“Keeping Boumediene off the Battlefield: Examining Potential Implications of the Boumediene v. Bush Decision to the Conduct of United States Military Operations,” Pace Law Review, vol 30, is 2, Winter 2010, http://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1037&context=plr //Red)

III. Boumediene in Bagram and on the Battlefield Boumediene, and the potential extension of its holding, impacts U.S. detention operations not only at Guantanamo Bay but also at Bagram and other current or future detention facilities. As a preliminary matter, the natural question in light of Boumediene is how necessary or beneficial is Guantanamo Bay? If the DoD initially established Guantanamo Bay for its foreign location—more convenient for U.S.-based intelligence and interrogation personnel—then, in light of Boumediene, the base is no longer “foreign.” The purported freedom from domestic legal requirements initially presumed at Guantanamo no longer exists. As the current administration seeks to close Guantanamo48—whether due to legal, political, or policy reasons—it is clear that Boumediene has done away with at least one benefit of housing detainees at Guantanamo. Could Boumediene impact current detention activities in Bagram? If Boumediene reaches that facility, the Eisentrager Court’s worst fears would be realized.49 Military interrogations might require court approval, or worse, the presence of a detainee’s counsel. Moving a detainee may likewise require approval from the court. Conditions of confinement might be reviewable by a court. Military prison guards may be liable to their enemy captives in constitutional tort. The implications, again, are vast. In addition to detention operations in a theater of war, Boumediene may directly impact actual day-to-day combat operations. Justice Scalia warned that Boumediene could “cause more Americans to be killed.”50 Practically speaking, he was referring to a situation where a court releases a terrorist who returns to fight against Americans. Additionally, battlefield impact and risk to service members for other reasons is not improbable. As a preliminary matter, the issue arises in determining when habeas rights attach. Habeas would attach on the battlefield only if the United States exercises functional control over a combatant—that is, if it exercises the functional equivalent of legal sovereignty over the detainee. In a country like Afghanistan, or even Iraq, there is no question that functioning governments active in inter- and intra-state affairs are operating, and the nations maintain their sovereignty. But does (or would) the United States operate in a pocket or umbrella of sovereignty in either nation for purposes of Boumediene? Liberal stationing agreements, UNSCRs, or other documents authorizing or defining the scope and breadth of authority for U.S. forces in a country could be read to grant Boumediene-like autonomy. During the heightened occupation of Iraq, and the initial invasion of Afghanistan, a stronger argument could have been made that habeas in fact attached to in-country detentions. And, in a certain area of occupation, such as post-war Germany, or immediately following invasive hostilities, the case is again much closer. If a U.S. soldier operates in a pocket of sovereignty, habeas rights may attach to any enemy he seizes or captures on the battlefield. Those rights would remain during temporary detention, transfer, and long-term detention. In this (hopefully unlikely) situation, U.S. combat troops would have to be trained in the latest version of habeas law for the battlefield. They would need to know not only the operational requirements and details of the military operation—for example, seizing terrain or raiding a compound—but also the legal niceties associated with capturing an enemy who has constitutional rights and seizing the evidence that might be necessary to keep that enemy in detention and off of future battlefields. At the very least, these new requirements would be a distraction to an undertaking where focus and attention to detail are vital, a distraction that could be deadly. Essentially, troops on patrol would be carrying the full panoply of rights and privileges afforded under the U.S. Constitution in their assault packs. Every enemy encountered would be entitled to rummage through the pack to choose the U.S. domestic law—the legal weapon51—to use against the soldier. In effect, the military operation would be converted into a pseudo-law enforcement search and seizure operation. U.S. combat troops would be no different than police officers on patrol in any town or city in the United States. The military would cease to exist as we know it and would become nothing more than a deployable F.B.I. As indicated above, evidence experts and/or law enforcement experts may be integrated into the operation. These individuals are likely not familiar with military operations and have not trained with the unit to which they would be assigned. The potential for confusion, hesitation, mistaken identity, and uncertainty is great. Each creates a recipe for fratricide, enemy advantage, or worse—mission failure and defeat. **Intelligence operations will be the most vulnerable.** If court-directed discovery occurs, a unit’s intelligence files would become the equivalent of a law enforcement investigative file. Information deemed relevant to the defense, including information that the United States expended significant resources, and potentially lives, to obtain, would become discoverable in some form. Valuable intelligence sources and methods, some irreplaceable, would be lost. **Sources would dry up or perhaps be revealed and killed.** Consider the sad and dangerous contradiction. Military planners and intelligence officers study and analyze an enemy, compiling tens of thousands of pieces of information into a precise operations plan, targeted at important leaders or facilities. Troops receive an order, conduct mission-specific training, and prepare to execute. Approvals are obtained from appropriate commanders. A joint and multi-national combined arms operation ensues to attain the military objective sought. Conventional troops, special operations forces, combat aircraft, artillery support, and overhead assets all converge on the target in a dangerous and complex culmination of modern military power. Enemy, friendly, and civilian lives are lost, and prisoners are taken. Specialized teams exploit the site and sweep through the complex, retrieving valuable enemy information that will assist in future operations and save American lives. Now the contradiction is revealed. All the information relevant to a federal court case—information gained in the planning, execution, and exploitation of the mission—is transmitted back to a U.S. court, to counsel, and, perhaps, back to the same enemy captives who required so much time, effort, resources, and lives to capture. This truly is a sad and dangerous contradiction. Soldiers will have risked their lives to regurgitate the fruits of their sweat, toil, and blood back to the enemy. This example illustrates why Boumediene must stop at Guantanamo Bay.

#### Intelligence dominance key to prevent WMD use

**USGPO, 00** – United States Government Printing Office (*JOINT WARFIGHTING SCIENCE AND TECHNOLOGY PLAN*, “Chapter IV INFORMATION SUPERIORITY,” http://www.wslfweb.org/docs/dstp2000/jwstppdf/06-IS.pdf )

Information Superiority (IS) is defined by the Chairman, Joint Chiefs of Staff (CJCS) in Joint Vision 2010, as “the capability to collect, process, and disseminate an uninterrupted flow of information while exploiting or denying an adversary's ability to do the same.” To ensure that our forces can acquire, verify, protect, and assimilate the information needed to effectively neutralize and dominate adversary forces, IS must combine the capabilities of command, control, communications, and computers (C4 ); intelligence, surveillance, and reconnaissance (ISR); and information operations (IO). Achieving IS increases the speed of command, preempts adversary options, creates new options, and improves the effectiveness of the selected options. The result is an ability to increase the tempo of operations and to preempt or blunt adversary initiatives and options (Reference 10). Command and control (C2 ) is described as the “exercise of authority and direction by a properly designated commander over assigned forces in the accomplishment of the mission. Command and controlfunctions are performed through an arrangement of personnel, equipment, communications, facilities, and procedures employed by a commander in planning, directing, coordinating, and controlling forces and operations in the accomplishment of the mission” (Re ference 11). The C2 process involves **gathering information, assessing the situation**, identifying objectives, developing alternative courses of action, deciding on a course of action, transmitting orders that can be understood by recipients, and monitoring execution (Reference 12). This requires maintaining a seamless, robust network linking all friendly and multinational forces and providing common awareness of the current situation (C4 ). The ISR component of IS provides near-real-time awareness of the location and activity of friendly, adversary, and neutral forces throughout the battlespace infosphere. For the purposes of this document, C4 and ISR are referred to collectively as C4 ISR. The term information operations (IO) encompasses a variety of defensive and offensive activities, including the use of digital weapons against digital targets anywhere in the battlespace (Reference 10). The term information system includes information, information-based processes, information hardware and software systems, and computer-based networks either individually or in combination. It should be noted that information superiority is a dynamic arena. **Doctrine, policy, and taxonomy must evolve** as **quickly** as the supporting technology. This chapter describes the relevant key technology initiatives to joint warfighter requirements, but is not representative of the entire spectrum of warfighter IS roles and missions. Other Joint Warfighting Capability Objectives (JWCOs) also contain key programs and technologies that support the IS needs of the warfighter. Although Information Superiority is an enabler to all the JWCOs, four of them are particularly closely aligned with IS: Combat Identification (Chapter VI), Joint Readiness and Logistics (Chapter IX), Electronic Warfare (Chapter XI), and Protection of Space Assets (Chapter XIV). The mission space relevant to U.S. national security is expanding and becoming more complex. The United States, as the only superpower, has a key role to play in the post–cold war era. Our roles and responsibilities are somewhat different from those we had during the cold war. Some important differences affecting military organizations and operations have already manifested themselves. The first is the increasing importance of operations other than war (OOTW), in which military organizations are being tasked to do a wide variety of nontraditional missions, from humanitarian relief to peace enforcement. Second, while these differences stem from geopolitical considerations, other changes in the mission space are driven by technology. Third, an entirely new form of warfare may emerge, known as information operations. Finally, asymmetrical forms of warfare have become significantly more potent with the **increased lethality and accessibility of** weapons of mass destruction (**WMD**). Information Superiority is **essential to achieving virtually all the other joint warfighting capabilities** in the 21st century battlespace. Information superiority also requires an ability to protect the information collection, processing, exploitation, and dissemination capabilities of the United States and its multinational partners. In addition, commercial advancements are being made available to friends and foes alike at lightning speed. It will be the U.S. DoD S&T policy to ensure that all military systems have sufficient open architectures to facilitate adding the latest and most effective technology as it becomes available with a plug-and-play capability. B. OPERATIONAL CAPABILITY ELEMENTS Warfighters of the future must be able to respond rapidly and effectively, with little or no tactical warning, to a wide range of uncertain threats. These threats include **conventional forces, WMD** of increasing technological sophistication, **and many other adversarial forces** of increasing capability. At the same time, there is a decreasing likelihood of the presence of large number of forward-based U.S. forces in a particular theater of action. An effective U.S. response is likely to require interoperation and sharing of resources with allied other coalition forces in the face of these threats. The Chairman of the Joint Chiefs of Staff’s Joint Vision 2010 (Reference 4) calls for the rapid deployment of forces capable of engaging an enemy on arrival and sustaining operations with a minimal logistics tail in the area of operations, as well as the immediate execution of noncombat missions. ll of this challenges our most basic assumptions about command and control and the doctrine developed for a different time and a different problem. One of the most enduring lessons derived from the history of warfare is the degree to which fog and friction permeate the battlespace. The fog of battle is about the uncertainty associated with what is going on, while the friction of war is about the difficulty in translating the commander’s intent into actions. Much of the fog of war, or what is referred to today as a lack of battlespace awareness, has resulted in our inability to tap into our collective knowledge or to assemble existing information, reconcile differences, and construct a common picture. Equal emphasis needs to be placed on developing a current awareness of both friendly and enemy dispositions and capabilities, and in many cases, emphasis on neutrals needs to be increased, as became evident in Bosnia. Traditionally, the responsibilities for each of these interrelated pieces of battlespace awareness have been parsed or allocated to different organizations, resulting in significant barriers to pulling together a common picture, The rest of the problem is a lack of coverage resulting from limited-range sensors and their ability to discriminate. Achieving this capability demands significant advances in our ability to deliver the right data and information at the right time in the desired format to commanders at all levels, to use that data and information to develop superior knowledge of the battlespace in real time, and **to employ that knowledge effectively** in planning and executing operations. To achieve and maintain force dominance in the 21st century, the emphasis on information technology development must shift from a platform-centric to a network-centric approach. Network-centric warfare (NCW) is defined as the information superiority–enabled concept of operations that generates increased combat power by networking sensors, decision makers, and shooters to achieve shared awareness, increased speed of command, higher tempo of operations, greater lethality, increased survivability, and a degree of self-synchronization. In essence, NCW translates information superiority into combat power by effectively linking knowledgeable entities in the battlespace. The shift to an open-architecture, network-centric focus will allow the joint warfighter to achieve greater agility in responding to changes in threat and exploiting continuing advances in technology (Reference 10).

#### C. Revitalizes the enemey

**Ford, 10** – Fred K., U.S. Army Judge Advocate General Corps (“Keeping Boumediene off the Battlefield: Examining Potential Implications of the Boumediene v. Bush Decision to the Conduct of United States Military Operations,” Pace Law Review, vol 30, is 2, Winter 2010, http://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1037&context=plr //Red)

In a Boumediene environment, military personnel would know that essentially every prisoner is a federal case. The federal court would, in a real sense, be there on the battlefield too, dictating the conduct of military operations. If Boumediene were applied to the battlefield, plans, procedures, and military tactics would undoubtedly change. In an environment where the United States exercises functional control, the Boumediene protections, and perhaps even more domestic legal protections, would apply to detained personnel. But in the traditional battlefield environment, where the United States does not exercise functional control, it would be business as usual for our military forces. The DoD (or a court) would conduct the functional analysis, and soldiers would know, in theory, during the planning stages and execution of a mission, whether habeas rights lie with the enemy they may detain. In the worst-case scenario, the military planners would make the wrong decision on whether functional sovereignty lies with the United States. The result is, essentially, Guantanamo all over again—a painful and untenable situation not only for the military but also for the executive branch and the court system that may have to hear the cases. Soldiers know the business of seizing and holding terrain, and it is difficult enough to fight a war against an enemy that ascribes to and follows the Geneva Conventions. Fighting against **terrorists who openly disregard the Conventions**, behead prisoners and kill civilians is even more daunting. **Extending Boumediene** to the battlefield **makes a difficult military situation even worse.** On a spectrum of negative repercussions, extending Boumediene is the practical equivalent of placing a pile of rocks into a soldier’s already full rucksack; tauntingly and spitefully laughing in the face of service members who have risked their lives on dangerous missions, not to mention the friends, family, and a Nation whose loved ones were lost on those missions; and giving the enemy, on a legal silver platter, former captives to return to the fight or valuable intelligence information with which to kill more Americans. The impact and effect would be felt from the highest levels of the DoD, to theater commanders, to commanders on the ground, to soldiers in the field executing a mission, and to a regretful Nation. **Boumediene should not and cannot be extended.**

### at: No Spillover

#### Afghanistan spills over – DoD concedes it stresses the whole military

**White and Tyson, 05** (Josh and Scott, “Wars Strain U.S. Military Capability, Pentagon Reports,” Washington Post, 5/3/05, http://www.washingtonpost.com/wp-dyn/content/article/2005/05/02/AR2005050201504.html //Red)

The Defense Department acknowledged yesterday that the wars in Iraq and Afghanistan have stressed the U.S. military to a point where it is at higher risk of less swiftly and easily defeating potential foes, though officials maintained that U.S. forces could handle any military threat that presents itself. An annual risk assessment by Gen. Richard B. Myers, chairman of the Joint Chiefs of Staff, concluded that commanders are having difficulty meeting the higher standards imposed on them by conflicts around the world, including the military effort against terrorism. Presented to members of Congress yesterday, the assessment found that the risk has increased but is trending lower, according to defense and military officials who briefed reporters at the Pentagon yesterday. Underscoring the stress facing the armed services, the Army reported separately yesterday that its recruiting efforts are continuing to slip, as recruiters nationwide obtained less than 60 percent of the April goal of 6,600 new recruits into the active-duty force. It was the third straight month in which the Army missed its recruiting goal, and it represents a significant downward trend. According to the Army, the recruiting effort is 16 percent behind where it should be at this point in the fiscal year, and current figures project a nearly 10 percent shortfall by the end of the fiscal year in September. Army recruiting officials believe enhanced recruiting efforts and incentives should increase their enlistments over the summer, but they would have to consistently beat monthly goals over the next five months to meet annual goals. While the Army should have had 42,585 new recruits for the year as of the end of April, it had 35,833. It hopes to have 80,000 new enlistments this fiscal year. "We are still cautiously optimistic," said Col. Joseph Curtin, an Army spokesman. Myers's risk assessment is a rare open acknowledgment that the stresses on the force and the wars in Iraq and Afghanistan **could have an impact on other military operations.** Although the assessment does not indicate a greater threat to the nation, or a greater threat to the military, it does indicate that additional conflicts could take longer, or eat up more resources, than expected.

### China Impact

#### Military readiness key to prevent war in the South China Sea

**Cronin and Kaplan 12** [Patrick M. Cronin, Senior Advisor and Senior Director of the Asia-Pacific Security Program at the Center for a New American Security, and Robert D. Kaplan, Senior Fellow at the Center for a New American Security, January 2012, “Cooperation from Strength The United States, China and the South China Sea”, Center for New American Security, http://www.cnas.org/files/documents/publications/CNAS\_CooperationFromStrength\_Cronin\_1.pdf, DMintz]

There is an ineluctable geostrategic contest at work in the South China Sea, and that contest can be boiled down to this question: Will the United States maintain a credible sea control capacity of the South China SLOCs or will China’s anti-access and area-denial capabilities fundamentally neutralize that threat and thereby alter the strategic assumptions throughout the Indo-Pacific region? Whereas the other countries of the region maintain specific territorial claims based on their coastlines, China claims the vast middle of the Sea itself. In the not-too-distant future, China’s reemergence and its concomitant ability not only to press these claims but back them with military capabilities may call into question the credibility of American military might and decades of U.S. regional predominance: predominance that has kept regional disputes from escalating into warfare. In this way, the South China Sea represents the wider global commons in microcosm – not only in its maritime and air dimensions but also in the crucial domains of cyberspace and outer space. In the South China Sea, all of these domains are potentially threatened by China’s attempt, through military purchases and deployments, to deny American naval access. This is one reason why 16 of 18 countries at the East Asia Summit in November 2011 underscored the importance of maritime security, with most backing the need for multilateral mechanisms for resolving differing claims in the South China Sea. 8 In the decades ahead, the challenge for the United States will be how to preserve historic norms – freedom of navigation above all else – while adapting to the growing power and activity of regional actors. Maintaining global public goods tied to the freedom of navigation will require continuing U.S. preeminence, especially naval primacy. At the same time, adaptation and increasing cooperation will be necessary. Thus, the United States must cooperate, but from a position of strength. Although it may seem oxymoronic, cooperation from a position of strength is a way to foster regional diplomatic and economic integration while collectively preserving the balance of power as China rises. This approach is not contrary to China’s interests: In fact, no Asian country has benefitted from this U.S.-led system as much as China. However, because the status quo is not sustainable indefinitely, the aim of cooperative primacy is to build a wider multilateral framework for stable change that preserves the rules of the road for good order at sea. The economic and military rise of China threatens to unleash a storm of change in the South China Sea region. It is therefore crucial to maintain the key elements of the status quo: free trade, safe and secure SLOCs, and full-bodied independence – free of intimidation – for all the littoral countries within a rules-based international order. As used here, primacy does not have to mean dominance: It means that the United States retains its role as a regional power in order to shepherd its allies and partners into doing more on their own behalf. In this way, the balance of power can be maintained, even as the burden on the United States decreases. The important thing, as President Obama stressed during a visit to the region in November 2011, is that all countries play by the same set of rules.

#### Goes nuclear

**Litai and Lewis, 12** \*Xue, research scholar at the Project on Peace and Cooperation in the Asian-Pacific Region at Stanford University’s Center for International Security and Cooperation and \*\*John W., William Haas professor of Chinese Politics, emeritus, and a senior fellow, by courtesy, at the Freeman Spogli Institute for International Studies at Stanford University (“Making China’s nuclear war plan,” Bulletin of the Atomic Scientists, vol. 68, no. 5, September/October 2012, http://bos.sagepub.com/content/68/5/45.full)**Red**

Because the CMC attaches great importance to the dynamic relationship between the nuclear shield and the conventional sword, it considers conventional missiles to be one of the multiple means to consolidate the nation’s strategic deterrent. The sequential and possibly combined employment of conventional and nuclear missile brigades is deemed a fundamental source of political and military strength. It is, however, also the troubling source of critical uncertainties. The basic dilemma for the war planners stems from the deployment of the two types of missiles on the same Second Artillery bases with fundamentally different capabilities and purposes. In the practice of double deterrence and double operations, the nuclear missiles’ essential mission is to deter a nuclear first strike on China, and they are only to be used in extremis. At the same time, the conventional weapons on the formerly all-nuclear bases must be ready to strike first and hard. This unique duality complicates three basic elements of China’s nuclear policy and strategy: A small, stable nuclear arsenal is housed with large and increasing quantities of mid-range conventional ballistic and cruise missiles. No-first-use of nuclear weapons is stated policy, but conventional missiles can be fired first from bases that also contain nuclear missiles, using the same command-and-control infrastructure as would be used for a nuclear launch. The CMC holds sole authority for the use of nuclear weapons, but the launch of conventional missiles is under the CMC’s command authority and the coordinated operational control of the theater joint command. Of the three doubles of Chinese nuclear strategy, double command is the most complex and unpredictable; it is also the concept about which we know the least. A missile base’s headquarters exercises command and control over both its nuclear and conventional missile brigades, but that double command is governed by the schizophrenic requirements just described. Furthermore, the missile forces themselves do not have self-defensive capabilities, even though their mission statement is defined as self-defense. After all, missiles are essentially offensive in nature and must be fired to assure their survival. The missile forces always face this use-it-or-lose-it predicament when confronting a stronger and more aggressive rival. And the air- and missile-defense systems assigned to protect them would also risk destruction on combat missions predicated on the strategic guideline of active defense, even though China by definition and tradition cannot be the aggressor. If the CMC authorizes a missile base to launch preemptive conventional attacks on an enemy, however, the enemy and its allies could not immediately distinguish whether the missiles fired were conventional or nuclear. From their perspective, the enemy forces could justifiably launch on warning and retaliate against all the command-and-control systems and missile assets of the Chinese missile launch base and even the overall command-and-control system of the central Second Artillery headquarters. In the worst case, a self-defensive first strike by Chinese conventional missiles could end in the retaliatory destruction of many Chinese nuclear missiles and their related command-and-control systems. That disastrous outcome would force the much smaller surviving and highly vulnerable Chinese nuclear missile units to fire their remaining missiles against the enemy’s homeland. In this quite foreseeable action-reaction cycle, **escalation to nuclear war could become accelerated and unavoidable.** This means that the double policies could unexpectedly **cause, rather than deter, a nuclear exchange.** Yet, the reasoning could go the other way, too, as appears to be the case today in Chinese military planning circles. Launching conventional weapons from nuclear bases might deter any direct response, because the victim of that attack would fear the consequences of retaliating against bases that have nuclear and not just conventional weapons. This fear—that a conventional response might trigger a Chinese nuclear counter-retaliation—could, in the eyes of Chinese experts, deter such a response, preventing escalation. Beijing’s strategic theorists argue, moreover, that the coordination of systems that the Chinese war plan requires connects Second Artillery bases to the theater military commands, thereby constraining and challenging enemy tactics and targeting policies in a high-tech local war. Thus, the dilemma for China and any potential enemy: Both sides, clinging to incongruous assessments, run the risk of **provoking unanticipated escalation to nuclear war** by seeking a quick victory or tactical advantages in a conventional conflict. This dilemma is not only real, but perilous.

### 2NC Circumvention – Immigration Authority

#### Framing issue – the executive wants to maintain detention authority – circumvention’s inevtable

Chow 11 (Samuel, J.D. – Benjamin N. Cardozo School of Law, “The Kiyemba Paradox: Creating a Judicial Framework to Eradicate Indefinite, Unlawful Executive Detentions,” Cardozo J. Of Int’l & Comp. Law, Vol. 19, http://www.cjicl.com/uploads/2/9/5/9/2959791/cjicl\_19.3\_chow\_note.pdf)

The government’s arguments are seemingly driven by its desire to maintain control over an area of law which it has traditionally regulated, that is, the determination of which individuals may or may not enter the United States. That goal is arguably justified. However, it must still be reconciled with the fact that the “Great Writ” is one of the most important checks the courts have on arbitrary executive detention.188 By using immigration to limit the writ’s functional application, the government is severely limiting the ability of courts to protect the liberty interests of detainees courts have on arbitrary executive detention.

#### Release is being blocked for TWO reasons – one is the plan, the other is immigration authority

Hernández-López 12 (Ernesto, UC Irvine School of Law, “Kiyemba, Guantánamo, and Immigration Law: An Extraterritorial Constitution in a Plenary Power World,” UC Irvine Law Review, Vol. 2, http://www.law.uci.edu/lawreview/vol2/no1/hernandez-lopez.pdf)

This Article makes two arguments. First, immigration law—that is, plenary powers and statutory law—provides a fallback justification for Guantánamo detentions. Even though the Kiyemba decisions are viewed as habeas cases, immigration law plays a central role in making detention legal. Second, a complex political quagmire in the United States and in foreign affairs explains why political, as opposed to judicial, solutions cannot free these men. The executive branch has not used its parole power to release these men into the United States, thus avoiding indefinite detention and separation of powers concerns. A transnational analysis of the relevant political considerations highlights the influence of law’s assumptions regarding alienage, culture, geopolitics, and the War on Terror.

Immigration law is playing a central role in justifying detentions on Guantánamo, nine years after detentions began and after detainees have secured three victories in the Supreme Court.1 In the Kiyemba v. Obama cases, immigration law doctrine provided the legal basis for keeping five noncombatant men in indefinite detention, even after a district court approved their writ of habeas in 2008. In these cases, immigration law appeared as a norm barring judicial review for political questions and a rights limitation based on alien status or their location outside domestic borders. These are hallmark norms of immigration law’s plenary power doctrine. Court opinions refer to immigration law in the form of the plenary power doctrine and statutory law. The Kiyemba cases concerned Uighurs who are still unable to secure release from Guantánamo after nine years of detention, though they have writs of habeas corpus and the executive has not classified them as unlawful enemy combatants since 2008.2 Consequently, in all three Kiyemba v. Obama cases, the Court of Appeals for the District of Columbia Circuit has rejected judicial remedies for these detainees. These remedies could secure their release or enjoin their resettlement in China. The Supreme Court has repeatedly denied certiorari review of Kiyemba appellate decisions, most recently in April of 2011. The five Uighur detainees remain unable to secure their release from Guantánamo—the appellate decisions bar their habeas release and use immigration law to justify detention. These detentions are particularly significant given Boumediene v. Bush, in which the Supreme Court found that detainees have the right of constitutional habeas corpus, even as aliens held in an extraterritorial location.

#### Immigration authority makes the plan’s habeas remedy MEANINGLESS – takes out the whole aff

Vaughns 13 (Katherine L., Professor of Law – University of Maryland Francis King Carey School of Law, “Of Civil Wrongs and Rights: Kiyemba v. Obama and the Meaning of Freedom, Separation of Powers, and the Rule of Law Ten Years after 9/11,” Asian American Law Journal, 20 Asian Am. L.J. 7, http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1002&context=aalj)

This Article considers the ramifications of the Kiyemba litigation, focusing particularly on what the case means to our understanding of the rule of law more than ten years after September 11. This Article makes three primary arguments: First, although the Supreme Court provided Guantanamo Bay detainees access to U.S. courts through the writ of habeas corpus, it has failed to provide a meaningful remedy for habeas petitioners, despite ample constitutional and doctrinal authority for doing so. This rights-remedy gap is problematic from a rule of law standpoint, and the gap is well illustrated by the Kiyemba litigation.8 Second, the Court’s failure to consider the merits of the case, thus allowing a problematic lower court opinion to stand, has perpetuated confusion in a doctrinal area of constitutional, political, and rhetorical significance. A dissent to the per curiam dismissal would, at the very least, have served the significant purpose of articulating core constitutional values. Finally, the D.C. Circuit’s application of immigration law to the habeas remedy question in its reinstated opinion in Kiyemba v. Obama9 effectively trumps the detainees’ constitutional right to obtain release by substituting immigration law’s doctrinally exceptional deference to the Executive for what long has been understood as the core function of habeas corpus: undoing illegal detention by the Executive.

The now-controlling D.C. Circuit opinion offers one viewpoint: habeas relief, when it involves release into the continental United States, is an immigration matter where, by virtue of the branch’s plenary power, the Executive’s decisions govern. The courts, in the D.C. Circuit’s view, have no part to play because immigration issues fall squarely within the Executive’s sovereign prerogative. This approach, I believe, sanctions whatever political remedy the Executive may select—here, diplomatically negotiated resettlement outside of the United States—as a substitute for the legal remedy of release. The D.C. Circuit’s view cannot be correct, I argue, because it would mean that, although a court may find that a detainee’s imprisonment is unlawful,10 that court might be powerless to remedy the unlawful imprisonment. Thus, I offer a view contrary to the D.C. Circuit: in order to accord complete habeas relief particularly where, as here, relocation efforts remain long-ongoing, a habeas court must have the authority to admit foreign nationals into the interior of the United States as a remedy for their unlawful detention. Historically, “the writ of habeas corpus was conceived and used as a control against the unlawful use of executive power.”11 And traditionally, custody of the body transfers to the court in habeas proceedings so that the court may order “the immediate and non-discretionary release of an illegally detained person.”12 Such authority ensures that the courts of this country are able to act in a way that restores the rule of law, so deeply damaged in the months and years following September 11.

#### The executive can use immigration authority to continue detention – outweighs the plan’s ruling

Hernández-López 12 (Ernesto, UC Irvine School of Law, “Kiyemba, Guantánamo, and Immigration Law: An Extraterritorial Constitution in a Plenary Power World,” UC Irvine Law Review, Vol. 2, http://www.law.uci.edu/lawreview/vol2/no1/hernandez-lopez.pdf)

II. Immigration Law: The Fallback Doctrinal Justification for Guantánamo Detentions

Since the Supreme Court in Boumediene found that detainees’ alien status and their physical location outside U.S. borders did not bar access to constitutional habeas, judicial review of base detentions has continued on an anomalous path. Suspending legal norms in a geographic area for reasons of political necessity, this anomaly is historic since the United States first occupied Cuba in 1898 and leased the base after 1903.47 Much of this anomaly has to do with practical hurdles or substantive determinations of overseas adjudication. But independent of these anomalies, immigration law provides stable doctrinal justificationsto continue detention, even in the prolonged and extreme cases of the Kiyemba detainees. For the alien detained overseas, plenary power reasoning creates a doctrinal wall between constitutional habeas and historic rights exclusions.

To explain how exclusionary assumptions in immigration law came to frame Guantánamo habeas litigation six years after detentions began, and persisted for years after that, this Section describes how judicial opinions refer to immigration law. Mentioned in varying levels of detail in Boumediene, Kiyemba I, Kiyemba II, and Kiyemba III, these issues include: political deference for noncitizen issues; territorial and/or border reasoning to justify rights exclusions (i.e. aliens do not enjoy constitutional rights, aliens do not have a right to enter the United States, or the base is outside sovereign jurisdiction); immigration law statutes do not apply to the base; and detainees need a nonimmigrant or immigrant basis to enter the United States. An examination of these judicial opinions suggests that prodetention opinions consistently refer to noncitizen exclusions with plenary reasoning, but the relevance of this doctrine increased after the Supreme Court and district court affirmed constitutional rights protections for aliens detained overseas. In short, plenary power assumptions operate as a “fallback” set of norms to exclude noncitizens, even when they enjoy constitutional habeas, are not combatants, and have been in detention for nearly nine years. In situations like the Kiyemba cases, when there are **potentially dueling doctrinal approaches** of extending habeas release or relying on deference to the political branches, the utility of the plenary power doctrine stands out. Here, the doctrine appears more applicable due to the location of the detainees at an overseas base and the diplomatic difficulty of their resettlement. The plenary power doctrine’s utility is triggered explicitly by political resistance concerning the War on Terror and national security, and implicitly by notions of the foreign national “Other,” feeding off fears of Muslims, Asians, Chinese, or something other than Western, Christian, and democratic.

#### Immigration authority is used as a fallback justification – even when Boumediene is enforced

Hernández-López 12 (Ernesto, UC Irvine School of Law, “Kiyemba, Guantánamo, and Immigration Law: An Extraterritorial Constitution in a Plenary Power World,” UC Irvine Law Review, Vol. 2, http://www.law.uci.edu/lawreview/vol2/no1/hernandez-lopez.pdf)

This Article analyzes the legal puzzle of ongoing Uighur detention in Guantánamo, which is characterized by indefinite detention for noncombatants. The legal puzzle is the result of a doctrinal clash between an extraterritorial Constitution, with the Supreme Court protecting habeas for alien detainees in Boumediene, and the plenary power doctrine which precludes most constitutional protections for aliens. The Article makes two central arguments. First, immigration law, mostly in the form of plenary power reasoning, provides a fallback or default set of legal justifications to detain individuals in Guantánamo. As the Kiyemba cases illustrate, after significant constitutional habeas protections are afforded to detainees and their detention is found to be unlawful, immigration law provides the political branches generous authority to continue detentions. While much scholarly and public attention highlights the Kiyemba cases as settling doctrinal habeas debates, these cases also clearly emphasize immigration law, in statutory law and in the plenary power doctrine, as justifications for detention. By repeatedly relying on immigration law, the Kiyemba cases stress how dependable and secure this doctrine is to exclude aliens from constitutional rights protections. For immigration and alienage issues, the doctrine precludes judicial remedies and only permits political solutions exclusively from the executive or Congress. A political remedy for the Uighur detainees appears extremely unlikely, given the impasse created by China, U.S. domestic politics, and the detainees’ own choices.

#### Here’s comparative evidence – immigration authority TRUMPS the plan’s precedent

Hernández-López 12 (Ernesto, UC Irvine School of Law, “Kiyemba, Guantánamo, and Immigration Law: An Extraterritorial Constitution in a Plenary Power World,” UC Irvine Law Review, Vol. 2, http://www.law.uci.edu/lawreview/vol2/no1/hernandez-lopez.pdf)

1. Kiyemba I: Immigration Law Trumps Habeas and Justifies Indefinite Detention

Despite this nonlegal context, the ease with which the plenary power is applied to Uighur detention illuminates a great deal about how U.S. law treats aliens. This begins with the Court of Appeals overturning a district court finding that the Uighur detainees were unlawfully held on the base.112 On February 18, 2009, in Kiyemba I the Court of Appeals decided in favor of the government’s appeal of a district court order to release the detainees into the United States. In an opinion written by Judge Randolph and joined by Judge Henderson, the court found that habeas does not require a detainee be released into the United States. In addition, the opinion held that the judiciary cannot second-guess or review political questions regarding diplomatic efforts to resettle them or their entry into the United States.113 To justify why these are political questions and why rights should be excluded, the opinion relied heavily on plenary power precedents. Its interpretation of the doctrine provided myriad justifications for why foreigners are treated differently by U.S. law and why judicial review of these decisions is prohibited. In this opinion, the doctrinal wall between an alien’s constitutional rights and plenary power exclusions appears as a necessary outgrowth from international law’s history since antiquity and Chinese Exclusion.

#### That turns the habeas advantage

Hernández-López 12 (Ernesto, UC Irvine School of Law, “Kiyemba, Guantánamo, and Immigration Law: An Extraterritorial Constitution in a Plenary Power World,” UC Irvine Law Review, Vol. 2, http://www.law.uci.edu/lawreview/vol2/no1/hernandez-lopez.pdf)

Immigration law doctrine provides a fallback in the form of an established set of legal tools to exclude foreign nationals, even after the Supreme Court found that significant constitutional and extraterritorial checks apply to these Guantánamo detentions.13 This fallback quality of immigration law now stands out, after three Supreme Court cases since 2004 have checked the Guantánamo detention program14 and detainees have won a majority of petitions for habeas release since Boumediene. The Kiyemba detainees,16 Yusef Abbas, Hajiakbar Abdulghupur, Saidullah Khalik, Ahmed Mohamed, and Abdul Razak,17 share similar identities with Chae Chan Ping,18 Ignatz Mezei,19 and Kestutis Zadvydas,20 the aliens in leading immigration cases. The detention or exclusion of these noncitizens is primarily justified by the plenary powers doctrine, while constitutional arguments in favor of release has proven ineffective. The plenary powers doctrine has kept the Uighurs detained for nine years. By framing legal issues, immigration law precludes habeas relief. The Uighurs’ detention is illegal, but release is not required by law, even after nine years and habeas approval.21

#### Here’s more ev that assumes the plan

Hernández-López 12 (Ernesto, UC Irvine School of Law, “Kiyemba, Guantánamo, and Immigration Law: An Extraterritorial Constitution in a Plenary Power World,” UC Irvine Law Review, Vol. 2, http://www.law.uci.edu/lawreview/vol2/no1/hernandez-lopez.pdf)

C. Kiyemba and Immigration Law: Limited Legal Solutions in the Face of Immovable Politics

Kiyemba I, II, and III show how immigration law doctrines, in particular but not limited to plenary powers, justify detention even after they have been found to be unlawful by a district court and long after the executive has ceased classifying detainees as enemy combatants. While certiorari petitions and appellate review of Kiyemba cases focus on habeas doctrine, immigration law operates as a fallback to keep detention legal, even if it is indefinite. This doctrinal quagmire is the product of factual complexities presented by the detention of these Uighurs. The executive and judiciary argue that the detainees are choosing not to accept the limited resettlement options provided and that this keeps them on the base. But it is the U.S. government that placed these men in this situation after so many years. Executive choices to detain Uighurs on Guantánamo, rather than choices made by the Uighurs, created these problems. In this regard, Kiyemba detainees differ greatly from many aliens in most immigration law cases, who chose to enter the United States. Given this factual and legal impasse, the executive, consistent with historical practice, employs immigration law as an instrument to detain aliens and deny rights protections in times of national security. Foreign policy objectives, in this case the War on Terror, set the stage for this treatment of aliens. Here the foreign nationals are Uighurs resisting China, caught in the Afghanistan conflict, and brought by the United States government to Cuba.

## Solvency

### Drones

#### Restrained drone policy being implemented now – solves the worst parts of drone over-reliance

**Bellinger, 13** – John B., Adjunct Senior Fellow for International and National Security Law at CFR (“Obama's Mixed Counterterror Message,” 5/28/13, CFR, http://www.cfr.org/counterterrorism/obamas-mixed-counterterror-message/p30786 //Red)

The part of the speech that broke the most new ground was the announcement that President Obama had signed new Presidential Policy Guidance for use of force against terrorists. The guidance is classified but has been shared with Congress. In conjunction with the speech, the White House released a Fact Sheet that provides more detail on targeting standards. And the day before the speech, Attorney General Eric Holder sent a letter to Congress acknowledging the killing of Anwar al-Awlaki and three other Americans and specifying new legal standards for targeted killings. Together, these documents reflect laudable efforts by administration national security lawyers and counterterrorism officials to **achieve more transparency and clearer standards** for the use of drones, although these efforts have been overshadowed by the more political statements of the speech. **Substantively, the new standards appear to set a higher bar for the use of drones**, especially "outside areas of active hostilities." For example, the same standard would be applied for strikes against Americans and non-Americans, i.e., that the individual must pose a "continuing and imminent threat" of violence to U.S. persons. And the threat must be to U.S. persons, not U.S. allies or other U.S. interests. Moreover, **drone strikes will not be used where it would be feasible to capture the target**, and there must be a near certainty that a drone strike must not cause death or injury to non-civilians. Together, these public and stricter standards should address some of the concerns of both domestic and international critics of drone strikes. Indeed, some Republican members of Congress have criticized the Obama administration for placing too many restrictions on drone strikes. The standards will also help to close the Pandora's Box the Obama administration has opened by its heavy reliance on drones; the new standards **set a high bar** for other countries to meet if they want to cite U.S. standards as a precedent.

**Reduced detention powers causes a shift to increased drone use**

**Waxman, 11** – Matthew C., Adjunct Senior Fellow for Law and Foreign Policy at CFR (“9/11 Lessons: Terrorist Detention Policy,” CFR, 8/26/11, http://www.cfr.org/911-impact/911-lessons-terrorist-detention-policy/p25665 //Red)

The best approach lies between those views, and despite many differences in implementation and rhetoric, both the Obama administration--and the Bush administration preceding it--have headed haltingly in that direction. Criminal prosecution of terrorism suspects is often appropriate and neither signals weakness to nor legitimates terrorists, as some critics charge. But limited use of detention powers **beyond** those of **criminal law**, **and including detention based on the law of war, is also legally and strategically appropriate** for some leaders or operatives fighting for al-Qaeda abroad, especially when Congress provides a strong legislative basis and detentions are regulated with robust procedural protections and opportunities to rebut the government's allegations. An important lesson since the 9/11 attacks is that detention decisions and practices have legal, political, diplomatic, operational, and other **ripple effects across many aspects of counterterrorism policy**, and across U.S. foreign policy more broadly. Those concerned that the United States is too aggressive in its detention policy should beware that **constraining this tool adds pressure to rely on other tools**, **including lethal drone strikes** or proxy detention by other governments. Those concerned that the United States is not aggressive enough should beware that dogged resistance to criminal prosecution and failure to seriously address opponents' domestic and international legal concerns threatens the long-term stability of terrorist detention programs. It also undermines critically important counterterrorism partnerships with allies abroad, with whom legal disagreements can inhibit exchanges of information, prisoner transfers, and other cooperation.

#### Response to terrorists inevitable – without detention we’ll just use drones

**Posner, 13** – Eric, professor at the University of Chicago Law School (“The U.S. Needs Guantanamo, NYT, 6/7/13, http://www.nytimes.com/roomfordebate/2012/01/09/guantanamo-10-years-later/the-us-needs-guantanamo //Red)

There is nothing wrong with Guantánamo. The United States is almost continuously at war with other countries and groups like Al Qaeda, and it needs some place to house prisoners picked up on the battlefield. If Guantánamo were closed, the U.S. military would need to hold those prisoners someplace else. To be sure, **there are other options.** Detainees could be placed in prison camps on foreign territory controlled by the U.S. military, where they lack access to U.S. courts and security is less certain. More than a thousand detainees are currently held at Bagram, in Afghanistan. Detainees could be turned over to foreign governments, where they are likely to be tortured. The Clinton administration took this approach. Or **suspected terrorists could be killed with drone strikes rather than captured** — which seems to be the de facto tactic of the Obama administration. For those who care about human rights, these options are hardly preferable to Guantánamo Bay.

## Case

### 2nc Alt Causes

#### Framing issue – Guantanamo permanently altered the playing field – plan’s too little too late

**Hilde, 09** – Thomas, professor at the University of Maryland School of Public Policy where he teaches seminars in ethics and policy and international environmental and development law and politics (“Beyond Guantánamo,” http://www.lb.boell.org/downloads/Beyond\_Guantanamo.pdf //Red)

Concluding Remarks on Post-Guantánamo Human Rights human rights are meaningful if they entail a genuine commitment by each state to refrain from or extensively modify some actions even when those actions may be otherwise perceived to be in a state’s own interests. As Kant said, “all politics must bend its knee before human rights.”48 A human rights culture declares that there are some things that states cannot do to individual human beings, no matter whom the individual, especially within their own boundaries. unless we wish to shelve the idea of a “right” altogether, metaphysical or ethical justifications for civil rights apply also to human rights. the main difference is a practical one: the existence or absence of an effective enforcement mechanism. Within states, penal and regulatory systems function as means of coercive enforcement and the protection of certain sets of rights. in the international sphere, of course, **there is no** analogous **enforcement mechanism for human rights**, as is also ultimately the case with international treaties and other agreements among states. in this situation, **it will remain a temptation for powerful states to violate international human rights standards** when those states have compelling reasons to believe that doing so is, on the whole, in their interests. One might object by raising the example of the international criminal court. but some notable powerful countries and rogues have not yet signed onto the rome statute. Moreover, the underlying incentive structure of the icc may lead it to investigate and prosecute weaker, less politically risky cases.49 the icc system may be important, but it needs to mature before it can lay claim to being a fair and effective enforcement mechanism for human rights. the german philosopher Jürgen habermas writes that, “human rights are not pregiven moral truths to be discovered but rather are constructions… .”50 in the absence of an effective enforcement mechanism, the normative force of human rights is vital in this construction project. in the international sphere, genuine agreements are built upon shared norms, mutual interests, and good faith efforts to cooperate. Peremptory norms and customary law can be powerful influences, but because their normative bases are widely accepted by definition (similar to Jefferson’s claim in the Declaration that “all men are created equal” and “endowed with certain unalienable rights” are “self-evident” truths). if we understand human rights to involve an ongoing struggle to articulate their normative and practical meaning, constantly fitting and refitting local concerns and issues with the universal claims of human rights, then guantánamo leaves us with very difficult work to do in securing their future in international society. enforcement, in the end, comes through international participation in the ongoing formulation and construction of human rights values, and requires ever-growing empathy with those who suffer. it is a reasonable expectation in the international sphere that a liberal democracy, by definition, does not torture. guantánamo has **lifted the veil on that illusion.** restoring credibility, post-guantánamo, requires resolving the issue of detention policy and effecting accountability. it is no longer enough simply to resort to the faulty assumption that liberal democracies do not intentionally violate human rights. Outlined above are some of the proposed detention policies as well as a discussion of their inherent difficulties. the above discussion of accountability comprises several different aspects, legal, moral, public, and pragmatic. it is vital to restore the rule of law through clear legal policies. Justice Department investigations are thus critical. **but it is also vital to cultivate empathy in the public and international sphere.** there should thus be a more expansive congressional investigation providing the public with the information necessary to understand what is at stake and to make intelligent democratic decisions. grave errors have occurred. the ability to understand and express one’s own fallibility, however, is one of the great secrets of democratic leadership, whether by individuals or by nations. Public deliberation, in all its imperfections and in its full diversity of views, is essential to restoring credibility on human rights. it is also the democratic means by which to articulate a further empathetic understanding of human rights. Accountability can thus simultaneously serve both the goal of reconstructing credibility and the goal of extending a human rights culture.

**---xt: Intel Link**

#### Any reforms to detention policy kill intel coop

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Intelligence agencies seek to control the dissemination of information that they have collected through classification and use procedures. When an intelligence agency shares information with an allied power it often does so by placing requirements on how the recipient will protect and use that information. n102 The most appropriate method that exists for sharing information is the concept of originator controlled information. This method ensures that intelligence labeled as such "cannot be used or disseminated without the consent of the originator." n103¶ This approach requires time consuming negotiations in order to gain the information. n104 For national security courts a problem arises when restricted [\*48] foreign evidence shared by an allied power for use in detention of suspected terrorists or intelligence that was shared for use in military commissions was shared conditionally. Allied nations may refuse to allow U.S. officials to use such evidence in any other forum such as courts-martial, federal courts, or a national security court. This phenomenon of originator controlled information presents a significant yet unaddressed obstacle which may prevent a transition to a system other than military commissions. Unless a reform system has protections at least as robust as military commissions that convinces allies their information is secure, some defendants may be beyond prosecution.

### 1nc Blowback – Russia Mod

#### Russia policy fails on multiple levels – even if the plan works, there’s no mechanism to leverage it to create support in Russia

**Mendelson, their author, 07** – Sarah, Director, Human Rights and Security Initiative, Center for Strategic and International Studies (“A New Approach to a New Russia,” CSIS, October 2007, <http://csis.org/images/stories/hrs/071001_new_approach_russia_mendelson.pdf> //Red)

Analytic Overview Russia’s political trajectory has long been a U.S. national security concern, but the ability to affect this trajectory has **greatly diminished** over time as U.S. soft power has eroded. By 2007, inside Russia, those hostile to the United States take satisfaction at what one expert referred to as our “fallen giant” status. In contrast, Westernizers—those who want Russia to be part of the Atlantic community—view the decline as worrisome and find themselves increasingly isolated. Most distressing, experts report that anti-Americans and pro-Americans share today the same view about the current American role in the world: aggressive, counterproductive, destructive, and arrogant. The decline of U.S. smart power in Russia began **in the Clinton administration** after a series of missteps engaging both the government and the public, as well as specific foreign policy decisions. President Clinton’s over-personalized relationship with Boris Yeltsin, a president viewed by the Russian elite as submissive and subservient to American interests, had an especially **negative and lasting impact**. Official U.S. government praise for fledgling new Russian institutions, such as political parties and elections that barely functioned or failed to address local needs caused more damage to U.S. credibility. NATO expansion and the use of force in Kosovo turned the elite sharply away from the United States. As one observer commented, “the day you bombed Belgrade, that’s the day it all changed.” Current and former U.S. government officials claim Bush administration counterterrorism policies and abuses related to the war in Iraq cost the United States precious leverage concerning abuses by Russian authorities in Chechnya. One senior American diplomat lamented, “Abu Ghraib has had an effect. And certainly the Russians love to say we told you so …. They talk a lot about how Iraq is exactly what ‘we had in Chechnya.’” Meanwhile, Chechnya became a pretext for the Putin government to shrink public political space including for example, control of critical, independent television. Russian elites and the public view U.S. government condemnation of human rights abuse in Russia as **extremely cynical**; one observer commented, “**no one really believes that official Washington cares about human rights in Russia**

.” Indeed, human **rights activists in Russia have begun to state this publicly** for the first time. As U.S. smart power has precipitously declined, the Putin administration has embraced a hyper-sovereign conception of the state in which democratic norms acquire an alien and hostile association. Evidence suggests the Putin administration is trying to mainstream this view inside international organizations. The Russian government has launched an effort to change the rules and norms governing OSCE election observations. Perhaps more disturbing, in the UN Security Council, the Russian Federation, along with China, has attempted to block international responses to grave human rights violations in Darfur and in Burma. If U.S. smart power does not improve, there is a danger that Russia and China will “set the table” on international human rights issues over the next decade. At home, Russian administration officials and President Putin himself **regularly** attempt to **invoke anxiety** among the population concerning the “**dangers**” **of foreign influence**, suggesting that Russia is becoming encircled by enemies. Some experts predict the negative messages about the United States will proliferate and intensify the closer we come to March 2008, when leadership change in Russia is scheduled to take place. Not surprisingly, negative images of the United States are shared by elites and the larger public. Most experts consulted believed this image is the most negative it has been in 20 years. A spring 2007 CSIS survey of 1,800 Russian youth suggests just how widespread the views are: **Nearly 80 percent agreed that** “the United States **tries to impose its norms** and way of life on the rest of the world,” and only 20% agreed with the statement that the United States “does more good than bad.” Most damning for U.S. smart power, three quarters of respondents fully agree or partially agree that the “United States gives aid in order to influence the internal politics of countries.” **They view the U**nited **S**tates **as a** far greater **threat** to Russia than Iran or China.1 Recommendations Just as the current administration has been marginalized inside Russia because of efforts that both relate to and go beyond Russia, the next administration must understand its Russia policy as having both bilateral and multilateral aspects. Moreover, the new U.S. policy should reach beyond the narrow band of elites in Moscow. The New Bilateral Approach: Listen to Russians! **The next administration must adopt radically different approaches to engaging Russia** with a particular focus on how the U.S. government approaches **foreign assistance.** This new approach should be the equivalent of **rebooting the system**, or as one expert suggested, “a sort of American perestroika.” In terms of assistance strategies, instead of Beltway bandits, Congressional or Executive politics, the new approaches must be shaped by local needs and designed to encourage Russian civil society to engage local populations rather than foreign donors. At the same time, given Russia’s strategic importance, but in stark contrast to the current administration, such engagement must be adequately funded. At the moment, budgets have been slashed, and there is little oversight. A handful of individuals in Washington have control over funds that have on occaision gone to support work with political groups of marginal if no support in Russia. This approach leaves human rights defenders that do have the possibility of more genuine local support **vulnerable to the criticism** by President Putin and others that foreign assistance is designed to get civil society closer to foreigners than to the local population. There is no intrinsic reason why this should be the case. Smart assistance should as often as possible address what local populations want supported. With this as a guiding principle for assistance, local NGOs can orient toward the public. CSIS surveys from 2005 and 2007 suggest that despite the relentless Kremlin campaign against foreign assistance, young Russians are not hostile to U.S. government funded initiatives conceringing health, the environment, and even human rights. They do not, by large majorities, however, approve of funding for public protest of the government. Listening to and honoring the views of the Russian public will make U.S. tax payer dollars more effective. This approach does not mean abandoning the focus on human rights. It means potentially deepening the impact. The **instruments and organizations** through which assistance has been delivered **need overhaul** after 17 years. Some observers suggested that **the existing machinery, including USAID, should be scrapped** for “new foundations with new faces,” an endowment perhaps that views assistance in a fresh way. As part of this new strategy, and in contrast with the Bush administration relying mainly on high level emissaries such as Henry Kissinger, contacts between the United States and Russia need to be multiplied. A more engaged strategy will help avoid the over-personalization of presidential politics that marked both the Clinton and Bush administrations. The new approach should support concrete cooperation between **different parts of societies** (mayors, congressional ties, university presidents) on a range of issues of common concern, for example, public health, counterterrorism, youth alienation or even urban decay, where stakeholders may share best practices. One expert described these as “social projects with a human touch.” At government levels, the contact should be broadened beyond the White House. In recent years, Congressional contacts with the Russian Duma and Federation Council **have all but dropped off** and need to be restored—not because these are important centers of power in Russia but because there is a widespread misperception of Congress’s relationship with the White House and this is another ingredient feeding misperceptions. The next president should make a speech indicating that he or she recognizes the differences between our countries but recognizing that we are not in existential conflict. The next president should build a policy that is more than just about the White House-Kremlin relationship. The successor of President Putin should be encouraged to come to the United States to do the same, with the understanding that the Kremlin will not control contact with ordinary Americans. **A particular focus on youth exchange must be highlighted** to reverse the trend revealed in the current generation of 16 to 29 year old Russians. Additionally one could imagine a public private twinning program for schools in the United States and Russia over the internet. The New Multilateralism: Opt Back In To the International Community The next administration will be more effective engaging Russia **on a number of issues** if it opts back into the international community in a comprehensive manner. The fact that the United States has opted out of international legal frameworks has enabled, according to numerous experts, the Russian drift toward authoritarianism. The next administration should call on all branches of the United States government and members of civil society to do what we can to reclaim our role as generators of human rights norms, not as abusers. The next administration must show Russia and the world that we are reembracing international human rights and humanitarian law, not only because it is the right thing to do but also because it makes us safer. Radical shifts in policies concerning counterterrorism will help reestablish this credibility. Fundamental to this new multilateralism will be to work closely with European allies in order to speak with one voice on a number of issues relating to Russia. One Russian expert noted, “if Americans cannot agree with their natural allies (Europe), how do they think they are going to get agreement with Russia?” Within the first 100 days, the next president ought to appoint a senior U.S. envoy to the European Union, with one of his/her tasks to convey goals and strategies of the new U.S. policy on Russia. Message and Marketing Within the first 100 days, the next president should meet with the Russian president but also **engage the Russian public** at a town meeting in a city other than Moscow. The president should announce a series of **citizen to citizen initiatives concerning health, education and human rights challenges that confront both countries.** The message should be: we need you! to help solve vital problems confronting both our countries. Major challenges lie with the Russian authorities but by having the meeting occur early in the term, perhaps as a first foreign trip, this approach might send a favorable signal to the Kremlin and to ordinary Russians that Russia is being again taken seriously. The American public is likely to understand engagement and assistance strategies based on listening and responding to local needs, rather than only or mainly to Washington’s needs.

### 2nc No Spillover

#### No enforcement of the plan – the court will include distinctions that make future deference easy

**Pushaw, 09** – Robert J., James Wilson Endowed Professor, Pepperdine University School of Law (“CREATING LEGAL RIGHTS FOR SUSPECTED TERRORISTS: IS THE COURT BEING COURAGEOUS OR POLITICALLY PRAGMATIC?,” Notre Dame Law Review, vol. 84, no. 5, 2009, http://www3.nd.edu/~ndlrev/archive\_public/84ndlr5/Pushaw.pdf //Red)

Legal scholars and pundits, who almost uniformly loathe George Bush and thus applauded the Hamdi, Rasul, and Hamdan decisions, praised the Boumediene Court for its “courage” in upholding individual liberties and the “rule of law”15 against the assertedly unparalleled misconduct of the Bush administration, which had suffered another stunning “rebuke” that would force it to make significant policy changes.16 **Such claims seem implausible**, for several reasons. For one thing, the current Justices in general are not particularly bold or hell-bent on expansively protecting individual rights, especially as compared to their predecessors on the Warren and early Burger Courts. The Rehnquist and Roberts Courts have shown far greater restraint by: (1) cutting their annual docket in half; (2) frequently deciding cases on the narrowest possible grounds, thereby leaving many legal questions open and amenable to further democratic deliberation; and (3) refraining from creating far-reaching constitutional rights.17 The “enemy combatant” cases depart from this cautious approach. Moreover, the Court hardly promotes the rule of law by disingenuously “interpreting” statutes to mean the opposite of what they plainly say (as in Rasul and Hamdan), inventing new constitutional doctrines (as in Boumediene), and ignoring or distorting its precedent (as in all three cases). On the contrary, the rule of law presupposes that judges will impartially apply the written legal rules contained in the Constitution, statutes, and cases.18 Finally, **the Court’s repeated stern reprimands of President Bush and Congress had little real-world impact on their antiterrorism policies**, which were not nearly as offensive as measures taken during previous wars.19 Although the President and Congress always expressed respect for the Court, they did not implement the radical changes it likely hoped to spur. In short, I am skeptical of the conventional wisdom that a uniquely brave Supreme Court, motivated by its steadfast commitment to the rule of law, successfully foiled the military policies of a singularly evil President and his legislative henchmen. Rather, I believe that five pragmatic Justices, animated by their personal and political disagreements with the Bush administration, capitalized on the relatively rare opportunity to give a legal lecture to a politically unpopular (but not especially bellicose) President and Congress at a time when a national security crisis had safely passed. I predict that when the next emergency arises (such as another terrorist attack), **the Court will accede to whatever military retaliation the President deems appropriate**—and will cite as support the **precedent that it was careful to distinguish rather than overrule.** I base the foregoing conclusions on recurrent historical patterns, which reveal a flexible and politically sensitive approach to reviewing cases involving military affairs.20 The Court has never entertained general claims that the formulation or implementation of military policy exceeded the powers of Congress under Article I or the President under Article II. More specific complaints that the exercise of war powers violated someone’s individual legal rights have been judicially reviewed, but with far more deference to the government than in the domestic sphere.

### ILaw

#### International law violations inevitable

**Greenan, 13** – Matthew, independent journalist, political commentator and foreign policy analyst with a degree in international relations (“A Flagrant Disregard for the Rule of Law,” Greenan Report, 8/3/12, http://greenanreport.wordpress.com/2013/08/03/a-flagrant-disregard-for-the-rule-of-law/ //Red)

As the last remaining superpower, in a unipolar world, the US will do anything to maintain its hegemony and feels any action it conducts is legitimate, legal and moral due to its superpower status. This **flagrant disregard for the rule of law** and unparalleled hypocrisy has never been more present. After violating their own domestic and international standard for the protection of whistleblowers, by tirelessly hunting down Edward Snowden, the US has now turned to threatening diplomatic relations with Russia for giving him his due process of asylum, under international law. This comes only weeks after the international community was threatened into following US demands, when the US clearly breached the Vienna Convention, one of the most important international laws, by forcing down the Bolivian President Evo Morales jet. On the other hand, despite the US claiming Edward Snowden is a wanted criminal, who violated US law and must immediately be returned to face the US justice system, former US CIA agent Robert Seldon Lady convicted of kidnapping in 2009 by an Italian court walks free. Lady along with twenty-two other CIA agents, are wanted by Italian authorities for torturing and kidnapping Islamic cleric Hassan Mustafa Osama Nasr, back in 2003 during the CIA extraordinary rendition program. Arrested in Panama, it only took one day for Panama’s authorities to back down to US hegemony, allowing for Lady to escape the Italian justice system and return safely to US soil. For all those that follow US international relation from an unbiased perspective, **US actions are nothing new.** The US has always had one rule for itself, and another rule for any other state. However, what makes thing’s different is the US hypocrisy and global hegemony is now laid bare for all to see. The question now is will the international community and the general public alike pressure the US government to uphold to the rule of law it so often preaches? Or will we continue to allow the US to set its own international standards, dependent on its own foreign and domestic objectives?

# 1nr

Was politics