# \*\*2AC\*\*

**Heg: A2 “Alt Cause—Surveillance”**

**Surveillance reforms now**

**Washington Post 13** (8-9-13, "Obama announces proposals to reform NSA surveillance") articles.washingtonpost.com/2013-08-09/politics/41225487\_1\_president-obama-news-conference-edward-snowden

President **Obama announced plans** Friday **to pursue reforms that would open** the **legal proceedings surrounding the N**ational **S**ecurity **A**gency’s **surveillance programs to greater scrutiny, the** administration’s **most concerted response yet** to a series of national security disclosures that have raised concerns from Republicans and Democrats on Capitol Hill. At his first full news conference in more than three months, Obama said he intends to work with Congress on proposals that would add an adversarial voice — effectively one advocating privacy rights — to the secret proceedings before the Foreign Intelligence Surveillance Court. Several Democratic senators have proposed such a measure. In addition, Obama said that he intends to work on ways to tighten one provision of the Patriot Act - known as Section 215 - that gives the government broader authority to obtain business phone data records. **He announced the creation of a panel of outsiders** -- former intelligence officials, civil liberty and privacy advocates, and others — **to assess the programs and suggest changes by the end of the year.**

**Russia: Solv—ID Key**

**Plan solves Russian human rights—multiple reasons, it’s reverse causal**

Sarah E. **Mendelson**, Director, Human Rights and Security Initiative, Center for Strategic and International Studies, “U.S.-Russian Relations and the Democracy and Rule of Law Deficit,” CENTURY FOUNDATION REPORT, 20**09**, p. 12-13.

The unprecedented economic crisis and wars in Iraq and Afghanistan dominate the initial agenda of the Obama administration. Worries over another Israeli Palestinian war, relations with Iran, nuclear proliferation, and the status of al Qaeda are somewhere next on the list of serious security challenges. Russia is, of course, on the list, as was made clear by Vice President Joseph Biden’s speech in Munich, Secretary of State Hillary Clinton’s meeting with Foreign Minister Sergei Lavrov in Geneva, the April London meeting and the July Moscow summit with President Obama and President Medvedev. The Obama administration appears keen not to let U.S.-Russia policy drift as it did in the Bush administration, and the Obama team is moving quickly to establish the organizing principles that would drive policy and guide how it copes with the political realities of Russia today, and seeking opportunities to change the relationship.

As a guide to coping with creeping authoritarianism, and for planning purposes, **the Obama administration** reasonably **can** (1) assume that Russia will continue, in the near term, on an authoritarian trajectory while at the same time, try to **encourage** President **Medvedev toward more openness and engagement**; (2) consider that Russia’s political regime may grow more brittle and thus potentially more fragile, rather than more robust and invulnerable; (3) propose and prepare for joint cooperation with Moscow on a number of issues, but anticipate that these plans could be overwhelmed by internal dynamics in Russia; and (4) understand and prepare for that which is difficult to anticipate, such as the depth and length of the economic crisis, and the potential divisions within Russian leadership that might emerge over a range of issues such as whether and how to cooperate with the United States and how to address the effects of the crisis, including the use of force against civilians to stop public protest.40

The ability of any U.S. administration to shape what happens inside Russia has long been exaggerated and misunderstood. The impact of foreign assistance clearly matters to those individuals who receive funds and technical training, but recent evidence suggests that **how the U**nited **S**tates **conducts itself in the world has far more weight in terms of its ability to bolster or undermine democracy, human rights and the rule of law in other countries.**41 For example, **U.S. noncompliance with human rights norms and laws has enabled**, although not caused, **Russia’s authoritarian drift. Therefore, a robust and comprehensive effort to opt back in to international legal frameworks will have important knock-on effects for our relations with Russia, in addition to bolstering our ability to work with allies. The United States needs to shape the larger policy context in a positive, rather than a negative, way. 42 An array of** **new U.S. policies unrelated to Russia (such as** **closing Guantánamo, ending detention without charge**, and halting unlawful interrogation of terror suspects) **can help restore U.S. soft power, as well as repair the international architecture that Russia** (correctly) **views as weak and that it** (regrettably) **seeks to replace. If the United States once again is associated with justice** instead of injustice, **it will do much to shore up human rights activists inside Russia. It will also challenge core assumptions that have taken hold within the Russian elite about the hypocrisy and weakness of democracy and human rights norms within the international system.**

**Bagram Addon: 2AC**

**Detentions at Bagram will prevent post-2014 Afghanistan troop presence**

**Sisk 13** (Richard, 1-4-13, "Afghan Jail a 'Tougher Problem Than Guantanamo'" Military.com) www.military.com/daily-news/2013/01/04/afghan-jail-a-tougher-problem-than-guantanamo.html

**With more than five times the** number of **prisoners than** the detention facility on **Guantanamo** Bay, **the U.S. jail next to Bagram Airfield is** just one of many factors **affecting the degree to which U.S. forces remain in Afghanistan after 2014.** President Obama and Afghan President Hamid Karzai will meet next week in the White House to discuss the fate of the prison, the pace of America’s withdrawal, and the size of the U.S. presence in Afghanistan after 2014. “The first thing is to establish how many will stay in Afghanistan” after 2014, said George Little, the chief Pentagon spokesman. Karzai has warned that he will not approve a troop agreement unless all Afghans in U.S. custody are turned over to his jurisdiction. A complicating factor is the U.S. custody of suspects who allegedly committed insider attacks against allied troops. These attackers, who often posed as Afghan police officers and soldiers, killed U.S. and allied troops at a record rate in 2012. The number of prisoners detained at the high-security, $60 million detention facility is a tightly protected figure. Afghan officials, prison administrators, International Security Assistance Force spokesmen, and senior Pentagon officials all have repeatedly declined comment in recent weeks on how many are held at the facility located next to Bagram Airfield. U.S. Combined Joint Interagency Task Force 435 is the unit assigned to run the detention facility. “As a matter of operational security, we do not discuss numbers of detainees transferred or currently held by CJIATF 435 or U.S. Forces,” said Col. Thomas Collins, an ISAF spokesman in Kabul. However, President Obama discussed the numbers in December. In one of his required periodic reports to Congress under the War Powers Act , Obama wrote on Dec. 14 that “United States Armed Forces are detaining in Afghanistan approximately 946 individuals under the Authorization for the Use of Military Force (Public Law 107-40) as informed by the law of war.” The vast majority of the 946 are detained by CJIATF 435. A small number of recently captured prisoners are kept at local commands until they can be transferred to the detention facility next to Bagram I n the Parawan province. Obama’s report did not state whether the prisoners were captured on the battlefield or were taken into custody for other reasons. “We do not talk about individual detainees and we do not discuss the provenance” of the prisoners’ presence in custody, said Lt. Col. Todd Brasseale, a Pentagon spokesman. Since 2005, Karzai has demanded that prisoners held by the U.S. and the NATO coalition be turned over to Afghan jurisdiction -- with the exception of foreign nationals who were captured in military operations. About one-third of the 946 in Parwan are thought to be foreign nationals, mostly Pakistani but also Yemenis and Saudis, Brasseale said. Karzai has said that he does not want custody of the foreign nationals. In November, Karzai called for "urgent actions” by the U.S. to release the prisoners in Parawan to his control. He said in a statement that the U.S. did not "have the right to run prisons and detain Afghan nationals in Afghanistan." **Karzai threatened to cancel the already difficult negotiations on a post-2014 presence for U.S. forces. A main sticking point to those negotiations involves “status of forces” -- whether U.S. troops in the residual force would be immune from Afghan law.** Iraq’s refusal to provide immunity forced the U.S. to remove military forces from Iraq. Karzai’s spokesman, Aimal Faizi, has said that **more than 70 detainees held by the U.S. under “administrative detention” have already been cleared of wrongdoing by Afghan courts. He said the U.S. had no justification for continuing to hold them since administrative detention was not recognized under Afghan law. "There are some prisoners found innocent by the court who are still in custody,” Faizi said.** “This act is a serious breach of a memorandum of understanding." The U.S. has not faced the same issue at Guantanamo, where the host nation of Cuba has not claimed jurisdiction of the alleged terrorists held on the naval base. Under U.S. court rulings and acts of Congress, many of the 166 prisoners at Naval Station Guantanamo Bay have been cleared to return to their own countries or to a third-party nation willing to take them pending agreements on their continued monitoring and detention. The rest of the prisoners at Gitmo, where the first 20 captives in the war on terror arrived in January 2002, can be tried before a military commission. There is no such prospect for the prisoners next to Bagram. “We have never held a military commission in Afghanistan and we don’t expect there will be one,” Brasseale said. A senior Pentagon official, speaking on background, said “our goal, eventually, is to turn all of the prisoners over” to the Afghans, but the official added that “there is not a mechanism currently in place” for achieving the goal. The Parwan prisoner impasse has left the U.S. in a legal and political bind under international law, the Geneva Conventions and the law of armed conflict, said Gary Solis, a former Marine Corps Judge Advocate General. “We are simply disregarding agreements with the Afghans,” said Solis, an adjunct professor at Georgetown University who also teaches the law of war at West Point. “There is no guidebook for this, no precedent for this situation.” For years, Parwan was a key factor in U.S. worldwide intelligence gathering operations, as interrogators grilled insurgents captured on the battlefield for information on Al Qaeda and the war on terror. In August 2009, Army Gen. Stanley McChrystal, then the coalition commander as head of the International Security Assistance Force, said Parwan was at risk of becoming a “strategic liability” for the U.S. McChrystal said the extrajudicial detentions at Bagram were eroding Afghan support for the allies. Under a Memorandum of Understanding between the U.S. and the Afghan governments reached last March, the U.S. was to have turned over all of the prisoners in September. This led to an awkward change of command ceremony at Parwan on Sept. 9, which Army Lt. Gen. Keith Huber, commander of CJIATF 435, declined to attend. The U.S. transferred about 3,000 prisoners to the Afghans. The U.S. held back more than 50 who were captured before March along with hundreds of others captured by U.S. forces between March and September. The Memorandum of Understanding called for the U.S. to turn over the entire Parwan jail to the Afghans, but the U.S. retained a section closed off to the Afghans. In the dispute over control of the Parwan facility, the U.S. stance has been that the Afghans might not be ready to manage the jail and that the corrupt Afghan justice system might hold trials that would result in the release of dangerous prisoners. In its latest “Report on Progress and Security and Stability in Afghanistan” to Congress last month, the Defense Department said “the Afghan judicial system continues to face numerous challenges.” The system is riddled with “systemic corruption at all levels resulting in a lack of political will to pursue prosecutions against many politically connected individuals,” the Defense Department report said. U.S. and Afghan officials declined comment on whether suspects in insider attacks by Afghan soldiers and police on coalition forces that have killed at least 62 allied troops last year were being held back for fear they would be turned loose. Several field commands said perpetrators in the attacks had been sent to Parwan. One such suspect was a 15-year-old boy allegedly working for the Taliban. A Marine spokesman said the boy had been sent to Parwan after he killed three Marines in southwestern Helmand province in August. According to the Long War Journal, at least 22 suspects in insider attacks have been captured, but U.S. and Afghan officials declined comment on their status. “No one is ever charged with anything so it’s difficult to know what they’re being held for” at Parwan, where prisoners “are not afforded even the minimal protections that the people at Guantanamo have,” said Heather Barr, a researcher in Kabul for Human Rights Watch, an independent advocacy group. Barr said she had attended sessions of the Detention Review Boards set up by the U.S. to determine the status of the prisoners, but the boards have never led to specific charges against prisoners. “We know of only one case that has gone to trial,” Barr said, and that case involved a prisoner, Abdul Sabor, who was captured by the French and handed over to the Afghans. Sabor, who allegedly killed five French troops in an insider attack last January, has been sentenced to death and his case is now under appeals in the Afghan courts, Barr said. Barr said the U.S. was “trying to bully the Afghans into setting up an administrative detention system” for high value prisoners that would allow them to be held indefinitely without the risk of a trial that might set them free. “The Afghan government has said it’s not going to do administrative detention, it’s unconstitutional under Afghan law,” Barr said. British officials have argued against transferring prisoners to the Afghans. In a November letter to Parliament, British Defense Secretary Phillip Hammond wrote that he was canceling future transfer of insurgents captured by British forces to the Afghans on grounds that they might be tortured. “There are currently reasonable grounds for believing that UK-captured detainees who are transferred to Lashkar Gah would be at real risk of serious mistreatment," Hammond said in a reference to the Afghan-run jail in the southwestern Helmand province capital of Lashkar Gah. U.S. Congressional leaders have expressed concerns that Afghan prisoners who still pose a threat might be released. In an August statement, Rep. Howard McKeon (R-Calif.), chairman of the House Armed Services Committee, cited the release of a “high-value terrorist” by Iraq over U.S. objections. “We call upon the President and Secretary of Defense (Leon) Panetta to extend all efforts to ensure that this tragic mistake is not repeated with terrorists currently in U.S. custody in Afghanistan,” McKeon said. **The central question on the Afghan prisoner issue was whether “the U.S. courts are going to take notice of what’s going on in Afghanistan” as they did in setting minimal habeas corpus rights on the charges against prisoners in Guantanamo, said** Donald **Huber**, a former Navy judge advocate general and now dean of the South Texas College of Law.

**Withdrawal causes Afghan instability and terror**

**Curtis 13** (Lisa, senior research fellow, 7-10-13, "Afghanistan: Zero Troops Should Not Be an Option" Heritage Foundation) www.heritage.org/research/reports/2013/07/afghanistan-zero-troops-should-not-be-an-option

The Obama Administration is considering **leaving no U.S. troops behind in Afghanistan after it ends its combat mission** there **in 2014**. This **would undermine U.S. security interests**, as it would **pave the way for the Taliban to regain influence in Afghanistan and ~~cripple~~ [badly hurt]** the U.S. ability to conduct **counterterrorism missions** in the region. President **Obama instead should commit the U.S. to maintaining a robust troop presence** (at least 15,000–20,000) in Afghanistan after 2014 in order to train and advise the Afghan troops and conduct counterterrorism missions as necessary. **The U.S. should** also **remain** diplomatically, politically, and financially **engaged** in Afghanistan in order to sustain the gains made over the past decade **and ensure that the country does not again serve as a sanctuary for international terrorists intent on attacking the U.S.** Flaring Tensions Fuel Poor Policy Decisions Tensions between the Obama and Karzai administrations have escalated in recent months. The U.S. Administration blundered in its handling of the opening of a Taliban political office in Doha in mid-June. In sending a U.S. delegation to Doha to meet with the Taliban leadership without the presence of the Afghan government, the Taliban appeared to be achieving its long-sought objective of cutting the Karzai administration out of the talks. The Taliban also scored a public relations coup by raising the flag associated with its five-year oppressive rule in front of the office. The episode angered Afghan President Hamid Karzai to the point that he pulled out of the Bilateral Security Agreement (BSA) talks with the U.S., thus fulfilling another Taliban goal of driving a wedge between the U.S. and Afghan governments. Karzai’s opposition to the U.S. talking unilaterally with the Taliban is understandable, but his decision to pull out of the BSA talks is misguided, since maintaining an international troop presence post-2014 is essential to the stability of the Afghan state and the ability of Afghan forces to protect against the use of its territory for international terrorism. The BSA talks are necessary to forge an agreement on a post-2014 U.S. troop presence. If the White House is publicizing its consideration of the zero-troop option to try to pressure the Karzai administration, it also is misguided in its negotiating tactics. The Afghans already believe the U.S. is likely to cut and run, similar to the way Washington turned its back on the Afghans over two decades ago when the Soviets conceded defeat and pulled out of the country. The Obama Administration’s failure to reach agreement with the Iraqi government on the terms for a residual U.S. force presence there highlights the White House’s poor track record in managing these kinds of negotiations. Taliban Talks a Masquerade The Taliban leadership has shown no sign that it is ready to compromise for peace in Afghanistan. The Taliban has refused to talk directly with the Karzai government, calling it a puppet of the U.S., and has shown little interest in participating in a normal political process. The Taliban appears to believe that it is winning the war in Afghanistan and simply needs to wait out U.S. and NATO forces. The insurgent leaders’ only motivation for engaging with U.S. officials appears to be to obtain prisoner releases and to encourage the U.S. to speed up its troop withdrawals. The Taliban has already scored tactical points through the dialogue process by playing the U.S. and Afghans off one another and establishing international legitimacy with other governments. Moreover, the Taliban has not tamped down violence in order to prepare an environment conducive to talks. In fact, in recent weeks Taliban insurgents have stepped up attacks. In early June, for instance, insurgents conducted a suicide attack near the international airport in Kabul, and two weeks later they attacked the Afghan presidential palace. Perseverance Required to Achieve U.S. Objectives As difficult as the job may be, it is essential that the U.S. remain engaged in Afghanistan. It would be shortsighted to ignore the likely perilous consequences of the U.S. turning its back on this pivotal country from where the 9/11 attacks originated. Moving forward, the U.S. should: Lay its cards down on the number of troops it plans to leave in Afghanistan post-2014. The White House should commit to keeping a fairly robust number of U.S. forces in Afghanistan over the next several years. Former U.S. Central Command chief General James Mattis made clear in recent remarks to Congress that he hoped the U.S. would leave behind around 13,500 troops and that other NATO nations would leave an additional 6,500 troops.[1] This would bring a total of around 20,000 international forces stationed in Afghanistan beyond 2014 to help with training and advising the Afghan forces. Encourage continued strengthening of the democratic process in the country rather than rely on the false hope of political reconciliation with the Taliban. The Taliban believe they will win the war in Afghanistan without compromising politically and through violent intimidation of the Afghan population, especially when U.S. and coalition troops are departing. Taliban leaders appear unmotivated to compromise for peace and indeed are stepping up attacks on the Afghan security forces and civilians. The White House should focus on promoting democratic processes and institutions that will directly counter extremist ideologies and practices. Integral to this strategy is supporting a free and fair electoral process next spring both through technical assistance and regular and consistent messaging on the importance of holding the elections on time. Further condition U.S. military aid to Pakistan on its willingness to crack down on Taliban and Haqqani network sanctuaries on its territory. There continues to be close ties between the Pakistani military and the Taliban leadership and its ally, the Haqqani network, which is responsible for some of the fiercest attacks against coalition and Afghan forces. In early June, the U.S. House of Representatives approved language in the fiscal year 2014 National Defense Authorization Act that conditions reimbursement of Coalition Support Funds (CSF) pending Pakistani actions against the Haqqani network. Hopefully, the language will be retained in the final bill. The U.S. provides CSF funds to reimburse Pakistan for the costs associated with stationing some 100,000 Pakistani troops along the border with Afghanistan. Pakistan has received over $10 billion in CSF funding over the past decade. Avoid Repeating History **The U.S. should not repeat the same mistake it made 20 years ago by disengaging abruptly from Afghanistan, especially when so much blood and treasure has been expended in the country over the past decade. There is a genuine risk of the Taliban reestablishing its power base and facilitating the revival of al-Qaeda in the region if the U.S. gives up the mission in Afghanistan.** While frustration with Karzai is high, U.S. officials should not allow a troop drawdown to turn into **a rush for the exits** that **would lead to greater instability in Afghanistan and** thus **leave the U.S. more vulnerable to the global terrorist threat.**

**Global nuclear war**

**Morgan 07** (Stephen J., Political Writer and Former Member of the British Labour Party Executive Committee, “Better another Taliban Afghanistan, than a Taliban NUCLEAR Pakistan!?”, 9-23, http://www.freearticlesarchive .com/article/\_Better\_another\_Taliban\_Afghanistan\_\_than\_a\_Taliban\_NUCLEAR\_Pakistan\_\_\_/99961/0/)

However events may prove him sorely wrong. Indeed, his policy could completely backfire upon him. **As the war intensifies,** he has no guarantees that **the current autonomy may** yet **burgeon into a separatist movement**. Appetite comes with eating, as they say. Moreover, should the Taliban fail to re-conquer al of Afghanistan, as looks likely, but captures at least half of the country, then **a Taliban Pashtun caliphate** could be established which **would act as a magnet to separatist Pashtuns in Pakistan**. Then, **the** likely **break up of Afghanistan** along ethnic lines, **could**, indeed, **lead** the way **to the break up of Pakistan, as well**. Strong centrifugal forces have always bedevilled the stability and unity of **Pakistan**, and, in the context of the new world situation, the country **could be faced with civil wars and** popular **fundamentalist uprisings**, probably **including a** military-fundamentalist **coup** d’état. Fundamentalism is deeply rooted in Pakistan society. The fact that in the year following 9/11, the most popular name given to male children born that year was “Osama” (not a Pakistani name) is a small indication of the mood. Given the weakening base of the traditional, secular opposition parties, conditions would be ripe for a coup d’état by the fundamentalist wing of the Army and ISI, leaning on the radicalised masses to take power. Some form of radical, military Islamic regime, where legal powers would shift to Islamic courts and forms of shira law would be likely. Although, even then, this might not take place outside of a protracted crisis of upheaval and civil war conditions, mixing fundamentalist movements with nationalist uprisings and sectarian violence between the Sunni and minority Shia populations. The nightmare that is now Iraq would take on gothic proportions across the continent. The prophesy of **an arc of civil war** over Lebanon, Palestine and Iraq **would spread to south Asia, stretching from Pakistan to Palestine, through Afghanistan into Iraq and up to the Mediterranean** coast. **Undoubtedly, this would** also **spill over into India** both with regards to the Muslim community and Kashmir. **Border clashes**, terrorist attacks, sectarian pogroms and insurgency **would break out. A** new war, and possibly **nuclear war**, between Pakistan and India **could no be ruled out**. Atomic Al Qaeda Should Pakistan break down completely, a Taliban-style government with strong Al Qaeda influence is a real possibility. **Such deep chaos would**, of course, **open a “Pandora's box” for** the region and **the world**. With the possibility of unstable clerical and military fundamentalist elements being in control of the Pakistan nuclear arsenal, not only their use against India, but Israel becomes a possibility, as well as the acquisition of nuclear and other deadly weapons secrets by Al Qaeda. Invading Pakistan would not be an option for America. Therefore **a nuclear war** would now again become a real strategic possibility. This would bring a shift in the tectonic plates of global relations. It **could usher in a new Cold War with China and Russia pitted against the US**.

**Court Stripping DA: 2AC**

**Congress won’t retaliate**

**Baum 04** (Lawrence, professor of political science at the Ohio State University and holds a doctorate from the University of Wisconsin. A widely recognized authority on the court system, Baum is the author of *Judges and Their Audiences: A Perspective on Judicial Behavior* (2006), *American Courts: Process and Policy,* 5th Edition (2001) and *The Puzzle of Judicial Behavior* (1997), as well as numerous articles on topics such as the implementation of court decisions, change in Supreme Court policies, and interaction between the Supreme Court and Congress., The Supreme Court, Eight Edition, CQ Press, 2004, page 215-216 cabal//wej)

Despite such moves, **it is striking how little use Congress has made of its enormous powers over the Court** over the past century. Of the many actions that members of Congress threatened against the conservative Court in the early part of the twentieth century, culminating in Franklin Roosevelt's Court-packing plan, none was carried out.61 All the attacks on the liberal Court in the second half of the century resulted in nothing more serious than the salary "punishment" of 1964 and 1965. Why has Congress been so hesitant to use its powers, even at times when most members are unhappy about the Court's direction? Several factors help to explain this hesitancy. First, **there are always some members of Congress who agree with the Court's policies and lead its defense**. Second, **serious forms of attack against the Court**, such as impeachment and reducing its jurisdiction, **seem illegitimate to many people**. Finally, **when threatened with serious attack, the Court sometimes retreats** to reduce the impetus for congressional action. For these reasons, **the congressional bark at the Supreme Court has been a good deal worse than its bite.**

**Congress uses activism as a political shield, no risk of backlash**

**Calabresi 04**

(Steven G., “Article: The Congressional Roots of Judicial Activism”, The Journal of Law and Politics, Fall 2004, pg. L/N)

My topic is the congressional roots of judicial activism, and I think it might be useful to begin by briefly explaining my thesis. I have come to the conclusion that much of the activity that conservatives like myself have criticized as **judicial activism has its roots in the policy preferences of the Congress and ultimately the people** of the United States. I think **Congress allows the Supreme Court** and the lower federal courts **to engage in judicial activism because Congress, following popular opinion, actually likes** or is at least ambivalent about **the policy results being arrived at.** Congress prefers that the courts legislate these popular results to legislating them itself because individual congressmen do not want to go on record as voting for activist policies because those policies are controversial. I believe Congress could stop judicial activism dead in its tracks if it wanted to, and the reason Congress does not stop judicial activism is because a majority of both houses are not really, in fact, opposed to it or are at least not willing to take a stand against it. Far from being counter-majoritarian, therefore, **judicial activism is in fact the device Congress relies on to make social policy for the nation**, which Congress either approves of or is at least unwilling to stop.

**Legitimacy DA: 2AC**

**Legitimacy isn’t tied to individual decisions**

**Ura 13** (Joseph Daniel, Ph.D. Political Science, University of North Carolina at Chapel Hill (2006). Assistant Professor Department of Political Science Texas A&M, 6-20-13, "Supreme Court Decisions in Favor of Gay Marriage Would Not Go ‘Too Far, Too Fast’" Pacific Standard) www.psmag.com/politics/supreme-court-tk-60537/

**AN ARRAY OF RESEARCH in political science**—due substantially to James Gibson of Washington University, Gregory Caldeira of Ohio State University, and their collaborators—**shows that the Supreme Court’s legitimacy is not dependent on agreement on individual questions of policy between the Court and the public.** **Instead, judicial legitimacy rests on the public’s perception that the Court uses fair procedures to make principled decisions**—as compared to the strategic behavior of elected legislators. **These perceptions are supported by a variety of powerful symbols** representing the close association between the Supreme Court and the law and its impartiality, **such as black robes, the image of blind justice, and the practice of calling the members “justices.” The public’s response to** the Supreme Court’s decision in **Bush v. Gore**, which resolved the contested presidential election in 2000, **is** perhaps **the classic example of the nature and influence of the Court’s legitimacy. Despite the bitter partisan conflict that precipitated the case, the enormous political implications of the decision, the blatant partisan divisions on the Court, and the harsh tone of the dissenting justices, the best evidence available indicates that the public’s loyalty to the Supreme Court did not diminish as a result of the case.** In particular, neither Democrats nor African-Americans significantly turned against the Court after the decision.

**Legitimacy is resilient**

**Gibson 06** (James L. Professor of Government & Professor of African, June, 15, “The Legitimacy of the United States Supreme Court in a Polarized Polity,” Pa24, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=909162)

Conventional political science wisdom holds that contemporary American politics is characterized by deep and profound partisan and ideological divisions. Unanswered is the question of whether those divisions have spilled over into threats to the legitimacy of the United States Supreme Court. **Since the Court is often intimately involved in making policy in many policy areas that divide American**s, including the contested 2000 presidential election, **it is reasonable to hypothesize that loyalty toward the institution depends upon policy and/or ideological agreement and partisanship. Using data stretching from 1987 through 2005, the analysis reveals that Court support has not declined. Nor is it connected to partisan and ideological identifications.** Instead, **support is embedded within a larger set of relatively stable democratic values. Institutional legitimacy** may not be obdurate, but it **does not seem to be caught up in the divisiveness that characterizes** so much of **American politics** - at least not at present.

**K Top: Liberalism Good**

**Liberalism is true and promotes peace**

**Recchia and Doyle 11**

[Stefano (Assistant Professor in International Relations at the University of Cambridge) and Michael (Harold Brown Professor of International Affairs, Law and Political Science at Columbia University), “Liberalism in International Relations”, In: Bertrand Badie, Dirk Berg-Schlosser, and Leonardo Morlino, eds., International Encyclopedia of Political Science (Sage, 2011), pp. 1434-1439, RSR]

**Relying on new insights from game theory**, ¶ **scholars during the 1980s and 1990s emphasized** ¶ **that so-called international regimes, consisting of** ¶ **agreed-on international norms, rules, and decision-making procedures, can help states effectively coordinate their policies and collaborate in** ¶ **the production of international public goods, such** ¶ **as free trade, arms control, and environmental** ¶ **protection**. Especially, if embedded in formal multilateral institutions, such as the World Trade ¶ Organization (WTO) or North American Free ¶ Trade Agreement (NAFT A), regimes crucially ¶ improve the availability of information among ¶ states in a given issue area, thereby promoting ¶ reciprocity and enhancing the reputational costs ¶ of noncompliance. **As noted by** Robert **Keohane,** ¶ **institutionalized multilateralism also reduces strategic competition over relative gains and thus** ¶ **further advances international cooperation**. ¶ Most international regime theorists accepted ¶ Kenneth Waltz's (1979) neorealist assurription of ¶ states as black boxes-that is, unitary and rational ¶ actors with given interests. **Little or no attention** ¶ **was paid to the impact on international cooperation of domestic political processes and dynamics.** ¶ **Likewise, regime scholarship largely disregarded** ¶ **the arguably crucial question of whether prolonged interaction in an institutionalized international setting can fundamentally change states'** ¶ **interests or preferences over outcomes** (as opposed ¶ to preferences over strategies), **thus engendering** ¶ **positive feedback loops of increased overall cooperation**. § Marked 15:37 § For these reasons, international regime ¶ theory is not, properly speaking, liberal, and the ¶ term neoliberal institutionalism frequently used to ¶ identify it is somewhat misleading. ¶ It is only over the past decade or so that liberal ¶ international relations theorists have begun to systematically study the relationship between domestic politics and institutionalized international cooperation or global governance. This new scholarship ¶ seeks to explain in particular the close interna tional ¶ cooperation among liberal democracies as well as ¶ higher-than-average levels of delegation b)' democracies to complex multilateral bodies, such as the ¶ \ ¶ Liberalism in International Relations 1437 ¶ European Union (EU), North Atlantic Treaty ¶ Organization (NATO), NAFTA, and the WTO ¶ (see, e.g., John Ikenberry, 2001; Helen Milner & ¶ Andrew Moravcsik, 2009). **The reasons that make** ¶ **liberal democracies particularly enthusiastic about** ¶ **international cooperation are manifold: First,** ¶ **transnational actors such as nongovernmental** ¶ **organizations and private corporations thrive in** ¶ **liberal democracies, and they frequently advocate** ¶ **increased international cooperation; second,** ¶ **elected democratic officials rely on delegation to** ¶ **multilateral bodies such as the WTO or the EU to** ¶ **commit to a stable policy line and to internationally lock in fragile domestic policies and constitutional arrangements; and finally, powerful liberal** ¶ **democracies, such as the United States and its** ¶ **allies, voluntarily bind themselves into complex** ¶ **global governance arrangements to demonstrate** ¶ **strategic restraint and create incentives for other** ¶ **states to cooperate, thereby reducing the costs for** ¶ **maintaining international order**. ¶ Recent scholarship, such as that of Charles ¶ Boehmer and colleagues, has also confirmed the ¶ classical liberal intuition that formal international ¶ institutions, such as the United Nations (UN) or ¶ NATO, independently contribute to peace, especially when they are endowed with sophisticated ¶ administrative structures and information-gathering ¶ capacities. In short, **research on global governance** ¶ **and especially on the relationship between democracy and international cooperation is thriving, and** ¶ **it usefully complements liberal scholarship on the democratic peace.**

**Defer Add-On: Chemical Soldiers 2AC**

**Military is developing chemical soldiers**

**Parasidis 12** (Efthimios, Assistant Professor of Law, Center for Health Law Studies, Saint Louis University School of Law, 2012, "Justice and Beneficence in Military Medicine and Research" Ohio State Law School, Lexis)

**The U**nited **S**tates **military has a long** and checkered **history of experimental research involving human subjects. It has sponsored** clandestine **projects that examined if race influences** one's **susceptibility to mustard gas**, n1 **the extent to which radiation affects combat effectiveness**, n2 a**nd whether psychotropic drugs could be used to** facilitate interrogations or **develop chemical weapons**. n3 In each of these experiments, the government deliberately violated legal requirements and ethical norms that govern human-subjects research and failed to provide adequate follow-up medical care or compensation for those who suffered adverse health effects. In defending its decisions, **the government argued that the studies** and research methods **were necessary to further the strategic advantage of the U**nited **S**tates. n4 **The military's contemporary research program is motivated by the same rationale. As** the U.S. Defense Advanced Research Projects Agency (**DARPA**) **explains, its goal is to "create strategic surprise for U.S. adversaries by maintaining the technological superiority of the U.S. military.**" n5 **Current research sponsored by** DARPA and **the** U.S. Department of Defense (**DoD**) [\*725] **aims to ensure that soldiers have "no physical, physiological, or cognitive limitations**." n6 The research includes drugs that keep soldiers awake for seventy-two hours or more, a nutraceutical that fulfills a soldier's dietary needs for up to five days, a vaccine that eliminates intense pain within seconds, and sophisticated brain-to-computer interfaces. n7 **The military's emphasis on neuroscience is particularly noteworthy**, with recent annual appropriations of over $ 350 million for cognitive science research. n8 **Projects include novel methods of scanning a soldier's brain to ascertain physical, intellectual, and emotional states, as well as the creation of electrodes that can be implanted into a soldier's brain for purposes of neuroanalysis and neurostimulation**. n9 One of the goals of the research is to create a means by which a soldier's subjective experience can be relayed to a central command center, and, in turn, the command center can respond to the soldier's experience by stimulating brain function for both therapeutic and enhancement purposes. n10 For example, the electrodes can be used to activate brain function that can help heal an injury or keep a soldier alert during difficult moments. n11 Another goal is to create a "connected consciousness" whereby a soldier can interact with machines, access information from the Internet, or communicate with other humans via thought alone. n12

**Chemical soldiers cause extinction and destroy value to life**

**Deubel 13** (Paula, Professor Gabriel has held positions at the Brookings Institution, the Army Intelligence School, the Center for the Study of Intelligence at the CIA, and at the Walter Reed Army Institute of Research, Department of Combat Psychiatry, in Washington. 3-25-13, "The Psychopath Wars: Soldiers of the Future?" Suite 101) suite101.com/article/the-psychopath-wars-soldiers-of-the-future-a366977 \*\*evidence is gender modified\*\*

**According to Dr.** Richard A. **Gabriel** in his fascinating book, No More Heroes, **the sociopathic personality can keep his or her psyche intact even under extremely pathological conditions**, while the sane will eventually break down under guilt, fear, or normal human repulsion. Chemical Soldiers Richard A. **Gabriel** (military historian, retired U.S. army officer and former professor at the U.S. Army War College) **describes socio/psychopaths as people without conscience, intellectually aware of what harm they might do to another living being, but unable to experience corresponding emotions. This realization, Gabriel claims, has led the military** establishments of the world **to discover a drug banishing fear and § Marked 15:43 § emotion in the soldier by controlling ~~his~~ [their] brain chemistry. In order for soldiers to** ideally **function in modern war ~~he~~ [they] should first be reconstructed to become what could be defined as mentally ill. “We may be rushing headlong into a long, dark chemical night from which there will be no return,”** warns Gabriel. **If these efforts succeed** (as it appears they can) **a chemically induced zombie would be born, a psychopathic-type being who would function** (at least temporarily) **without any human compassion and whose moral conscience would not exist to take responsibility for his actions.** “Man’s **[Humankind’s] nature would be altered forever,” he adds, “and it would cost** him his **[us our] soul.”** As incredible and futuristic as that sounds, the creation of such a drug is apparently already well underway in the world’s military research labs; Gabriel reports such research centers already exist in the United States, Russia, and Israel. Since all emotions are based in anxiety, it appears the eradication of it (perhaps through a variant of the anti-anxiety medication Busbirone) may create soldiers who become more efficient killing machines. Futuristic Warfare **Gabriel writes further about the possible nightmarish future of modern warfare:** “The standards of normal sane men will be eroded, and **soldiers will no longer die for anything understandable or meaningfu**l in human terms. **They will simply die, and even their own comrades will be incapable of mourning their deaths** […] **The battlefields of the future will witness a clash of truly ignorant armies, armies ignorant of their own emotions and even of the reasons for which they fight.”** (Operation Enduring Valor, Richard A. Gabriel) **This would strip a person of** his **core identity and all** of his **humanity.** Whether or not the soldier would knowingly take part in this experience is unknown, but during the 1991 Persian Gulf War, one could almost easily imagine that this conscience-killing pill had already been swallowed. Psychopathic Behavior During War During the 1991 Iraq war a pilot interviewed on European television callously remarked ambushing Iraqis was “like waiting for the cockroaches to come out so we could kill them." Other U.S. pilots compared killing human beings to “shooting turkey” or like “attacking a farm after someone had opened a sheep stall.” This same lack of empathy can be seen in Iraq’s Abu Graib prison scandal (2004) where U.S. soldiers were shown seemingly to enjoy torture, as well as more recent photos of military men posing with dead Afghans (first published in Germany's Der Spiegel magazine); more gruesome photos were later published in Rolling Stone before the U.S. Army censored all the remaining damning material from public view. No More Heroes warns that modern warfare will become increasingly difficult for sane men to endure. The combat punch of man’s weapons has increased over 600% since World War II. These weapons are highly technical. High Explosive Plastic Tracers (HEP-T) send fragments of metal through enemy tanks and into humans at speeds faster than the speed of sound. The Starlight Scope is able to differentiate between males and females by computing differences in body heat given off by pelvic areas. The Beehive artillery ammunition (filled with three-inch long nail-like steel needles) is capable of pinning victims to trees. **The world has a nightmare arsenal of terrible weapons advanced beyond the evolution of our morality.**

**T-Restrict = Prohibit: 2AC**

**Restrict is to check free activity — they confuse it with restraint**

**Oklahoma Attorney General**Opinions - 3/19/200**4**, Question Submitted by: The Honorable Mark Campbell, District Attorney, 19th District; The Honorable Jay Paul Gumm, State Senator, District 6, 2004 OK AG 7, [http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=43849](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=438494)

Accordingly, we must look to the plain and ordinary meaning of the term.*Webster's New International Dictionary*defines restrictions as follows: "something that restricts" and "a regulation that restricts or restrains." *Id.* at 1937 (3d ed. 1993). Restrict is defined as follows: "to set bounds or limits to: hold within bounds: as a : to check free activity, motion, progress, or departure." Id. Restrain is defined as to "prevent from doing something." *Id.* at 1936. Therefore, as used in Section 1125, "restrictions" is meant to describe those conditions of parole or probation which are intended to restrain or prevent certain conduct of the person subject thereto.

**. Counter-Interpretation: Executive authority must come from Congress or the Constitution**

**Gaziano,** 20**01**  (Todd, senior fellow in Legal Studies and Director of the Center for Legal Judicial Studies at the Heritage Foundation, 5 Texas Review of Law & Politics 267, Spring, lexis)

Although President Washington's Thanksgiving Proclamation was hortatory, other proclamations or orders that communicate presidential decisions may be legally binding. n31 **Ultimately the authority for all presidential orders or directives must come from either the Constitution or from statutory delegations.** n32 **The source of authority (constitutional versus statutory) carries important implications for the extent to which that authority may be legitimately exercised or circumscribed.** Regardless of the source of substantive power, however, the authority to use written directives in the exercise of that power need not be set forth in express terms in the Constitution or federal statutes. As is explained further below, the authority to issue directives may be express, implied, or inherent in the substantive power granted to the President. n33 The Constitution expressly mentions certain functions that are to be performed by the President. Congress has augmented the President's power by delegating additional authority within these areas of responsibility. The following are among the more important grants of authority under which the President may issue at least some directives in the exercise of his constitutional and statutorily delegated powers: Commander in Chief, Head of State, Chief Law Enforcement Officer, and Head of the Executive Branch.

**Restriction means a limit and includes conditions on action**

**CAA 8**,COURT OF APPEALS OF ARIZONA, DIVISION ONE, DEPARTMENT A, STATE OF ARIZONA, Appellee, v. JEREMY RAY WAGNER, Appellant., 2008 Ariz. App. Unpub. LEXIS 613

P10 The term "restriction" is not defined by the Legislature for the purposes of the DUI statutes. See generally A.R.S. § 28-1301 (2004) (providing the "[d]efinitions" section of the DUI statutes). In the absence of a statutory definition of a term, we look to ordinary dictionary definitions and do not construe the word as being a term of art. Lee v. State, 215 Ariz. 540, 544, ¶ 15, 161 P.3d 583, 587 (App. 2007) ("**When a statutory term is not explicitly defined, we assume**, unless otherwise stated, **that the Legislature intended to accord the word its natural and obvious meaning**, which may be discerned from its dictionary definition.").

P11 **The dictionary definition of "restriction" is "[a] limitation or qualification**." Black's Law Dictionary 1341 (8th ed. 1999). In fact, "**limited" and "restricted" are considered synonyms.** See Webster's II New Collegiate Dictionary 946 (2001). **Under these** **commonly accepted definitions**, **Wagner's driving privileges were "restrict[ed]" when they were "limited" by the ignition interlock requirement.** **Wagner was not only** [\*7] **statutorily required** **to install an ignition** **interlock device on all of the vehicles he operated,** A.R.S. § 28-1461(A)(1)(b), **but he** was also **prohibited from driving any vehicle that was not equipped with such a device**, regardless whether he owned the vehicle or was under the influence of intoxicants, A.R.S. § 28-1464(H). **These limitations constituted a restriction** on Wagner's privilege to drive, **for he was unable to drive in circumstances which were otherwise available** to the general driving population. Thus, the rules of statutory construction dictate that the term "restriction" includes the ignition interlock device limitation.

**Exclusion CP Ans: Word PIC—2AC (General)**

**Reality shapes language – focus on discourse distracts from solving the real cause of the problem**

Matthew **Roskoski** and Joe **Peabody**, Florida State University, “A Linguistic and Philosophical Critique of Language Arguments”, 1991, http://debate.uvm.edu/Library/DebateTheoryLibrary/Roskoski&Peabody-LangCritiques.

Previously, we have argued that the language advocates have erroneously reversed the causal relationship between language and reality. We have defended the thesis that reality shapes language, rather than the obverse. Now we will also contend that to attempt to solve a problem by editing the language which is symptomatic of that problem will generally trade off with solving the reality which is the source of the problem. There are several reasons why this is true. The first, and most obvious, is that we may often be fooled into thinking that language "arguments" have generated real change. As Graddol and Swan observe, "**when compared with larger social and ideological struggles, linguistic reform may seem quite a trivial concern,"** further noting **"there is also the danger that effective change at this level is mistaken for real social change"** (Graddol & Swan 195). The second reason is that the **language we find objectionable can serve as a signal** or an indicator **of the corresponding objectionable reality.**  The third reason is that **restricting language only limits the overt expressions of any objectionable reality, while leaving subtle and** hence **more dangerous expressions unregulated.** Once we drive the objectionable idea underground it will be more difficult to identify, more difficult to root out, more difficult to counteract, and more likely to have its undesirable effect. The fourth reason is that **objectionable speech can create a "backlash" effect that raises the consciousness of people exposed to the speech.**  Strossen observes that "ugly and abominable as these expressions are, they undoubtably have had the beneficial result of raising social consciousness about the underlying societal problem..." (560).

**Attempts to control speech acts trade off with efforts to provide political solutions**

Wendy **Brown**, Professor of Political Theory, UC Berkeley, POLITICS OUT OF HISTORY, 20**01**, p. 35.

**“speech codes kill critique**,” Henry Louis Gates remarked in a 1993 essay on hate speech. Although Gate was referring to what happens when hate **speech regulations**, and the debates about them ,**usurp the discursive space in which one might have offered a substantative political response** to bigoted epithets, his point also applies to prohibitions against questioning from within selected political practices or institutions. But **turning political questions into moralistic ones** – as speech codes of any sort do – not only prohibits certain questions and mandates certain genuflections, it also **expresses a profound hostility toward political life** insofar as it seeks to preempt argument with legislated and enforced truth. And the realization of that patently undemocratic desire can only and always convet emancipatory aspirations into reactionary ones. Indeed, it insulates those aspirations from questioning at the very moment that Wegberian forces of rati9onalization and bureaucratication are quite likely to be demesticationg them for another direction. Here we greet a persistent political paradox: the moralistic ddefense of critical practices, or of any besieged identity, weakens what it strives to fortify precisely by sequestering those practices from the kind of critical inquiry out of which they were born. Thuse gates might have said, “speech codes, born of social critique, kill critique.” And, we might add, contemporary identity-based institutions, born of social critique, invariably become conservative as they are forced to essentialize the identity and naturalize the boundaries of what they once grasped as a contingent effect of historically specific social powers.

**Causes authoritarian backlash**

**Boggs ‘97** (Carl, National University, Los Angeles, Theory and Society, “The great retreat: Decline of the public sphere in late twentieth-century America”, December, Volume 26, Number 6, http://www.springerlink.com.proxy.library.emory.edu/content/m7254768m63h16r0/fulltext.pdf)

In the meantime, **the fate of the world hangs in the balance**.  The unyielding truth is that, even as the ethos of anti-politics becomes more compelling and even fashionable in the United States, it is the vagaries of political power that will continue to decide the fate of human societies.   This last point demands further elaboration.  The **shrinkage of politics hardly means that corporate colonization will be less of a reality, that social hierarchies will somehow disappear, or that gigantic state and military structures will lose their hold over people’s lives.  Far from it: the space abdicated by a broad citizenry, well-informed and ready to participate at many levels, can in fact be filled by authoritarian and reactionary elites** – an already familiar dynamic in many lesser-developed countries.  The fragmentation and chaos of a Hobbesian world, not very far removed from the rampant individualism, social Darwinism, and civic violence that have been so much a part of the American landscape, could be the prelude to a powerful Leviathan designed to impose order in the face of disunity and atomized retreat.  In this way the eclipse of politics might set the stage for a *reassertion* of politics in more virulent guise – or it might help further rationalize the existing power structure.  In either case, the state would likely become what Hobbes anticipated: the embodiment of those universal, collective interests that had vanished from civil society. 75

**Turn: forcing silence locks the power of the speech into place**

**Butler 1997.** (Judith, Excitable Speech: A Politics of the Performative, Routledge February, page 38]

This story underscores the limits and risks of resignification as a strategy of opposition. **I will not propose that the pedagogical recirculation of examples of hate speech always defeats the project of opposing and defusing such speech, but** I want to underscore the fact that **such terms carry connotations that exceed the purposes for which they may be intended and can thus work to afflict and defeat discursive efforts to oppose such speech. Keeping such terms unsaid and unsayable can also work to lock them in place, preserving their power to injure, and arresting the possibility of a reworking that might shift their context and purpose. That such language carries trauma is not a reason to forbid its use. There is no purifying language of its traumatic residue, and no way to work through trauma except through the arduous effort it takes to direct the course of its repetition**. It may be that trauma constitutes a strange kind of resource, and repetition, its vexed but promising instrument After all, to be named by another is traumatic: it is an act that precedes my will, an act that brings me into a linguistic world in which I might then begin to exercise agency at all. A founding subordination, and yet the scene of agency, is repeated in the ongoing interpellations of social life. This is what I have been called. Because I have been called something, 1 have been entered into linguistic life, refer to myself through the language given by the Other, but perhaps never quite in the same terms that my language mimes. The terms by which we are hailed are rarely the ones we choose [and even when we try to impose protocols on how we are to be named, they usually fail); but these terms we never really choose are the occasion for something we might still call agency, the repetition of an originary subordination for another purpose, one whose future is partially open.

**Turn: Quibbling over undecidable language choices diverts use from real issues and blocks social change.**

**Churchill – 96** [Ward Churchill, Keetoowah Cherokee, 25+ year member of the American Indian Movement and Professor, Indigenous Studies, University of Colorado Boulder. FROM A NATIVE SON, 1996 p. 460.]

There can be little doubt that **matters of linguistic appropriateness** and precision **are of** serious and legitimate **concern**. By the same token, however, it must be conceded that **such preoccupations arrive at a point of diminishing return**. After that, they **degenerate rapidly into liabilities rather than benefits to comprehension**. By now, it should be evident that much of what is mentioned in this article falls under the latter category; it is, by and large, inept, esoteric, and semantically silly, bearing no more relevance in the real world than the question of how many angels can dance on the head of a pin. Ultimately, it **is a means to stultify and divide people rather than stimulate and unite them**. Nonetheless, such “issues” of word choice have come to dominate dialogue in a significant and apparently growing segment of the Left. Speakers, writers, and organizers or persuasions are drawn, with increasing vociferousness and persistence, into heated confrontations, not about what they’ve said, but about how they’ve said it. Decisions on whether to enter into alliances, or even to work with other parties, seem more and more contingent not upon the prospect of a common agenda, but upon mutual adherence to certain elements of a prescribed vernacular. Mounting quantities of a progressive time, energy, and attention are squandered in perversions of Mao’s principle of criticism/self-criticism – now variously called “process,” “line sharpening,” or even ‘struggle” – in which **there occurs a virtually endless stream of talk about how to talk about “the issues.” All of this happens at the direct expense of actually understanding the issues themselves, much less doing something about them**. It is impossible to escape the conclusion that the dynamic at hand adds up to a pronounced avoidance syndrome, a masturbatory ritual through which an opposition nearly paralyzed by its own deeply felt sense of impotence pretends to be engaged in something “meaningful.” In the end, it reduces to a tragic delusion at best, cynical game playing or intentional disruption at worst. With this said, it is only fair to observe that it’s high time to get off this nonsense, and on with the real work of effecting positive social change.

**Court Politics DA: 2AC**

**Multiple controversies thump—the Court is taking an activist stance**

**Blum 9-5** (Bill, 9-5-13, "Supreme Court Preview: A Storm Is on the Horizon" Truth Dig) www.truthdig.com/report/page2/supreme\_court\_preview\_a\_storm\_is\_on\_the\_horizon\_20130905/

They’re b-a-c-k! As the war clouds gather over Washington in preparation for airstrikes against Syria, **the** nine **justices** who sit **on the Supreme Court** have returned from summer break and **are preparing to kick up a legal storm** of their own **as they resume their quest to radically transform federal law and the Constitution.** To be sure, there are four moderate to liberal voices on the high court, led by the frail but courageous Ruth Bader Ginsburg, who at the tender age of 80 has become the conscience of the tribunal. But with precious few detours, **the court has become**, in Ginsburg’s words, “**one of the most activist courts in history.”** So, as the court readies for the commencement of oral arguments next month in a brand new term, **what can we expect from the gang of nine? Here are three cases** slated for decisions on the merits **with the potential to cause lasting social and political harm**, and three more with sufficient weight to be added to the docket as the current term unfolds: **Affirmative Action** (Schuette v. Coalition to Defend Affirmative Action) From the great state of Michigan, set for oral argument on Oct. 15, comes this new challenge to the consideration of race in public higher-education admissions programs. Last term, the court dealt a mild setback to colleges that have chosen to adopt race-conscious programs when it remanded a case involving the University of Texas’ admissions plan back to a federal appellate panel for reconsideration under a more stringent and hard-to-meet constitutional test (Fisher v. Texas). This time, **the question before the court is** far more **extensive: whether a state**, by a legislative act or popular initiative, **can prohibit affirmative action** even if a university system chooses on its own to implement or maintain a race-based program. In 2006, Michigan voters ratified Proposition 2, which outlawed such programs. The U.S. Court of Appeals for the 6th Circuit, however, subsequently declared the proposition unconstitutional. Advertisement Currently, **the country is sharply divided on the issue**, as California and five other states besides Michigan, accounting for 28 percent of college admissions nationwide, have also outlawed the consideration of race. The 9th Circuit Court of Appeals, unlike the 6th, has upheld California’s ban. The Schuette case will resolve the split. Since liberal Justice Elena Kagan has recused herself from deliberations due to conflicts arising from her tenure as solicitor general, **the court’s five conservatives appear to have the perfect vehicle to drive another nail into the heart of race-conscious plans**. The conservative majority may not be ready to adopt the ever-vitriolic Justice Clarence Thomas’ characterization of **affirmative action** as a latter-day form of Jim Crow, but in the end, it is likely to vote alongside Thomas, who in the cruelest of ironies was a beneficiary of affirmative action at Yale Law School. **Environmental Protection** (Environmental Protection Agency v. EME Homer City Generation) At the request of the Obama administration, the American Lung Association and environmental groups, **the court has agreed to take up a federal appellate ruling that had invalidated the Environmental Protection Agency’s Cross-State Air Pollution rule**, which sought to enforce the Clean Air Act by setting much-needed limits on nitrogen oxides and sulfur dioxide emissions from coal-fired power plants in 28 eastern states. **Although some observers see the court’s decision to hear the EME case as a sign of support for the EPA, the Roberts court has a dismal record on environmental protection**, aligning itself time and again on the side of corporate interests and polluters. In 2008, in Exxon v. Baker, the court voted 5-3 to reduce the punitive damages awarded to the victims of the Valdez oil spill from $2.5 billion to $500 million, a mere pittance of the oil giant’s annual profits, leaving more than 30,000 people whose livelihoods and community were destroyed by the disaster with a sum completely inadequate to make up for their losses. **Last term, the court continued its beneficence toward big business**, ruling unanimously that farmers could not use Monsanto’s patented genetically altered soybeans to create new seeds without paying the company a hefty fee. **Expect more of the same going forward**, this time on behalf of coal companies. **Federal Election Law** (McCutcheon v. Federal Election Commission) **Dubbed by some** commentators **as Citizens United 2.0, this mean-spirited piece of litigation was generated by the Republican National Committee** and Alabama businessman Scott McCutcheon. Together, they seek to overturn current federal law that limits the aggregate amount of money any single person can contribute directly to candidates for federal office, political parties and political committees to $123,000 in any two-year election cycle. As the New York-based Brennan Center for Justice has argued in an amicus (friend of the court) brief filed in the case, the aggregate contribution limits are designed to inhibit political corruption. But as the Roberts court demonstrated with the original Citizens United ruling in 2010, it views campaign contributions as a form of individual expression protected under the First Amendment. In 2012, the court signaled its intention to elevate this perverse interpretation of the First Amendment to a new level of rigidity as it overturned a 100-year-old Montana law that prohibited corporations from spending funds to influence the outcome of state elections (American Tradition Partnership v. Bullock). **In the United States of Corporate America, under the judicial stewardship of Chief Justice John Roberts, money talks, as loudly as possible.** Three Cases Vying to Make the A-List **Abortion Rights** (Cline v. Oklahoma Coalition for Reproductive Justice) In 2011, **Oklahoma enacted a law that would impose severe restrictions on** the use of **RU-486** (also known as mifepristone or Mifeprex) **and any other “abortion-inducing drugs”** as alternatives to pregnancy-terminating surgery. Although the Roberts court had agreed in June to resolve the law’s validity, it later sent the case back to the Oklahoma Supreme Court to clarify the meaning of the statute. If the clarifications are delivered by January, **the Roberts court may schedule the case for oral argument before the current term ends.** Although the case lacks the potential to overturn Roe v. Wade, a **resolution in favor of Oklahoma could** have major implications for the 16 states that have passed similar laws, **sending yet another signal that Roe’s days may be numbered. Voting Rights** (League of Women Voters of North Carolina et al. v. North Carolina, United States v. Texas) **Within days of the court’s decision last term** in Shelby County v. Alabama**, gutting the historic Voting Rights Act, several states**, including Texas and North Carolina, **reinstated various voting suppression schemes**—including gerrymandered redistricting plans, harsh voter ID requirements and new curbs on same-day voting—that never would have passed muster under the act’s now eviscerated “preclearance” provisions. Those provisions required states and localities with a legacy of electoral discrimination to obtain advance approval from the Justice Department or the courts before implementing new voting laws and procedures. Despite the broad sweep of Shelby’s holding, the Justice Department quickly brought suit to declare the Texas maneuvers unconstitutional while the ACLU initiated an action to block the North Carolina measures. Both suits rely on Section 2 of the Voting Rights Act, which prohibits discrimination generally in elections, as well as the rarely invoked Section 3 of the act, which permits a court to order continuous monitoring of a jurisdiction found to have engaged in intentional discrimination in much the same fashion as the old preclearance procedures. **Given** the novelty of the Section 3 claims and in view of **the Supreme Court’s skepticism about the continued need for federal election oversight and the high political stakes involved in the struggle over voter suppression, one or both cases stand a strong chance of being added to the docket.**

**Campaign finance, affirmative action, treaty powers, and prayer thump**

**Klukowski 8-22** (Ken, 8-22-13, "SUPREME COURT SCHEDULES BIG CASES FOR FIRST PART OF 2013 TERM" Breitbart) www.breitbart.com/Big-Government/2013/08/22/Supreme-Court-Schedules-Big-Cases-for-First-Part-of-2013-Term

On Thursday, **the Supreme Court announced its calendar of cases for the first two months** of its annual term, **including four major cases that are sure to gather headlines.** By federal law, the Supreme Court’s term each year begins on the first Monday in October, and continues until the justices finish their business on the year’s cases, which typically happens in the last week of June of the following calendar year. The Court hears close to 80 cases each year. Earlier this year the justices accepted 45 cases thus far for their upcoming term, which begins Oct. 7. Almost half of the remaining slots will be filled during the pre-term conference on Sept. 30. The final slots are then filled during closed-door weekly conferences on each Friday during the early months of the Court’s Term. Of the 45 cases already granted review, four exceptionally-important ones have now been assigned an argument date. On Oct. 8, **the Court will hear arguments in McCutcheon v. FEC, the first major follow-up case to the 2010 landmark decision in Citizens United v. FEC.** In McCutcheon, the Court will consider whether the federal law provisions limiting how much money American citizens can donate every two years to national political parties and non-candidate committees violate the First Amendment. Congress began imposing these limits in 1971. **The following week**, on Oct. 15, **the Court will hear a major race-issues case. In Schuette v. Coalition to Defend Affirmative Action, the justices will consider whether the Fourteenth Amendment Equal Protection Clause forbids a state from amending its state constitution to say that government shall not consider a person’s race when making decisions.** Otherwise put, the Court will consider whether there is a constitutional right to require states to consider race. **On Nov. 5, the justices will hear Bond v. U.S., the second time Carol Anne Bond has been before the Court,** represented by Supreme Court superstar Paul Clement. (The previous case, also argued by Clement, dealt solely with a jurisdictional issue.) **The question presented this time in Bond II is whether the Treaty Clause of the Constitution expands Congress’ power when it is implementing a treaty to make laws or apply them in a manner that would otherwise be beyond Congress’ authority** under Article I of the Constitution. And the following day, Nov. 6, **the Supreme Court will hear the biggest religious-liberty case in years. In Town of Greece v. Galloway, the justices will consider the constitutionality of prayers offered at legislative sessions**, and specifically whether the Court’s precedent on this issue requires that the prayers not include language specific to one faith. **This case is especially important because the Court may revisit a quarter-century of problematic precedent,** reconsidering whether the First Amendment's Establishment Clause is violated when government actions give the impression that the government is endorsing religion, and instead is only violated when people are being coerced to support religion or participate in a religious exercise. In September the Court will release additional argument dates for cases.

**Empirics prove the Court doesn’t consider capital**

**Schauer 04** [Frederick, Law prof at Hravard, “Judicial Supremacy and the Modest Constitution”, California Law Review, July, 92 Cal. L. Rev. 1045, ln //uwyo-kn]

Examples of the effects of judicial supremacy hardly occupy the entirety of constitutional law. As the proponents of popular constitutionalism properly claim, it is simply not plausible to argue that all of the Supreme Court's decisions are counter-majoritarian, nor that the Court is unaware of the potential repercussions if a high percentage of its decisions diverges too dramatically from the popular or legislative will. Nevertheless, **there is no indication that the Court uses its vast repository of political capital only to accumulate more political capital**, and in many areas judicial supremacy has made not just a short-term difference, but a long-term difference as well. Perhaps most obvious is school prayer. For over forty years the Court has persisted in its view that organized prayer in public schools is impermissible under the Establishment Clause 59 despite the fact that public opinion is little more receptive to that view now than it was in 1962. 60 So too with flag burning, where the Court's decisions from the late 1960s 61 to the present have remained dramatically divergent from public and legislative opinion. 62 Or consider child pornography, where the Court's decision in Ashcroft v. Free Speech Coalition 63 flew in the face of an overwhelming congressional majority approving the extension of existing child pornography laws to virtual child pornography. Similarly, in the regulation of "indecency," **the Court has spent well over a decade repeatedly striking down acts of Congress that enjoyed overwhelming public and** [\*1059] **congressional support**. 64 Most dramatic of all, however, is criminal procedure, where the Supreme Court's decision in Dickerson v. United States, 65 invalidating a congressional attempt to overrule Miranda v. Arizona, 66 underscores the persistent gap in concern for defendants' rights between Congress and the public, on the one hand, and the Supreme Court, on the other.

**Winners win**

**Law 09** (David, Professor of Law and Professor of Political Science, Washington University in St. Louis, Georgetown Law Journal, March 2009, 97 Geo. L.J. 723; “A Theory of Judicial Power and Judicial Review,” Lexis, rwg)

Part IV of this Article discusses a counterintuitive implication of a coordination-based account of judicial power. **Conventional wisdom suggests that courts secure compliance with their decisions by drawing upon their store of legitimacy, which is undermined by decisions that are unpopular, controversial, or lack intellectual integrity. n25 Part IV argues that precisely the opposite is true: an unpopular or unpersuasive decision can, in fact, enhance a court's power in future cases, as long as it is obeyed. Widespread compliance with a decision that is controversial,** unpopular, or unpersuasive **serves only to strengthen the widely held expectation that others comply with judicial decisions. This expectation, in turn, is self-fulfilling**: those who expect others to comply with a court's decisions will find it strategically prudent to comply themselves, and the aggregate result will, in fact, be widespread compliance. Part IV illustrates these strategic insights--and the Supreme Court's apparent grasp of them--by contrasting [\*734] Bush v. Gore n26 with Brown v. Board of Education n27 and Cooper v. Aaron. n28

**Issues are compartmentalized**

**Redish and Cisar 91** prof law @ Northwestern and Law clerk to US Court of Appeals, 1991

(MARTIN H. REDISH, prof law and public policy @ Northwestern; ELIZABETH J. CISAR, Law Clerk to Chief Judge William Bauer, United States Court of Appeals, Seventh Circuit, Dec 1991, “CONSTITUTIONAL PERSPECTIVES: ARTICLE: "IF ANGELS WERE TO GOVERN" \*: THE NEED FOR PRAGMATIC FORMALISM IN SEPARATION OF POWERS THEORY.”41 Duke L.J. 449)

**Choper's assumption that the judiciary's institutional capital is transferable from structural cases to individual rights cases is no more credible**. Common sense should tell us that **the public's reaction to con- troversial individual rights cases**-for example, cases **concerning abor- tion**,240 school prayer,241 busing,242 **or criminal defendants' rights**243- **will be based largely, if not exclusively, on the basis of its feelings con- cerning those particular issues. It is unreasonable to assume that the public's acceptance or rejection of these individual rights rulings would somehow be affected by anything the Court says about wholly unrelated structural issues.**

**Decision is announced in May, after the DA**

**SCOTUS 12** (Supreme Court of the United States, 7/25/2012 “The Court and Its Procedures,”

http://www.supremecourt.gov/about/procedures.aspx, Accessed 7/25/2012, rwg)

**The Court maintains this schedule each Term until all cases ready for submission have been heard and decided. In May and June the Court sits only to announce orders and opinions.** The Court recesses at the end of June, but the work of the Justices is unceasing. During the summer they continue to analyze new petitions for review, consider motions and applications, and must make preparations for cases scheduled for fall argument.

**Public supports the plan**

**Reuters 13** (Quoting John McCain, Republican Senator, 6-9-13, "Support growing to close Guantanamo prison: senator" Reuters) www.reuters.com/article/2013/06/09/us-usa-obama-guantanamo-idUSBRE9580BL20130609

Republican Senator John **McCain said** on Sunday **there is increasing public support for closing the military prison at Guantanamo** Bay, Cuba, and moving detainees to a facility on the U.S. mainland. **"There's renewed impetus. And I think that most Americans are more ready," McCain**, who went to Guantanamo last week with White House chief of staff Denis McDonough and California Democratic Senator Dianne Feinstein, **told CNN's "State of the Union" program. McCain**, a senior member of the Senate Armed Services Committee, **said he and fellow Republican Senator** Lindsey **Graham,** of South Carolina, **are working with** the **Obama** administration **on plans that could relocate detainees** to a maximum-security prison in Illinois. "We're going to have to look at the whole issue, including giving them more periodic review of their cases," McCain, of Arizona, said. President Barack **Obama has pushed to close Guantanamo**, saying in a speech in May it "has become a symbol around the world for an America that flouts the rule of law."

**That boosts capital**

**Durr et al 2K** (Robert, “Ideological Divergence and Public Support for the Supreme Court,”, American Journal of Political Science, Volume 44, No. 4, October, p. 775)

We expect our improve measure of aggregate Supreme Court support will be useful to other students of the Court. Unlike support for other institutions, interest in Supreme Court support is driven not by a hypothesized electoral linkage, but by the expectation that **the Court** necessarily **depends on public support as a source of** institutional legitimacy and **political capital. The level of support the Court enjoys has long been viewed as a crucial resource**, both by helping engender a positive response to the Court’s decisions and by encouraging the successful execution of its proclamations, necessarily carried out by other actors and institutions (Caldeira 1986).

**Defer Add-On: WIC—2AC**

**Judicial deference allows the military to arbitrarily exclude women from positions**

**Mazur 02** (Diane, Professor of Law, University of Florida Levin College of Law, Fall 2002, "Rehnquist's Vietnam: Constitutional Separatism and the Stealth Advance of Martial Law" Indiana Law Journal, Lexis)

Although "Don't Ask, Don't Tell" is a product of judicial deference to the military's preferred social order, it is not the most significant consequence of Rehnquist's judicial response to the Vietnam War. The constitutional standard of equal protection that would apply to the military's exclusion of gay citizens absent special deference may not be a heightened standard and, in any event, the standard is [\*776] still unclear. n415 **The most clearly identifiable** and clearly pernicious **consequence of Rehnquist's elevation of the military's constitutional and moral standing has been its effect on the status of women as citizens of the U**nited **S**tates. In that context, **judicial deference to the military represents the only available majoritarian means of resisting constitutional precedent concerning equal protection on the basis of sex.** B. Submarines and the Perpetuation of Caste **Facial classifications on the basis of sex**, now almost extinct in civilian law, **are** still a **routine** matter **within the military. Military** duty **positions are defined in terms of the sex of the individual who can be assigned to them, with the majority open to either men or women and the remainder open only to men.** n416 **Congress periodically has meted out additional duty assignments to women as it deems appropriate, with appropriateness measured by consistency with traditional notions of sexual role and sexual morality** as much by the interests of military efficiency. It is quite simple to blur the two concerns if necessary to achieve a particular result. For example, if **allowing women to depart from traditional gender restrictions could make male servicemembers** (or their wives) **uncomfortable** or resistant, then **Congress can translate that uncomfortableness** or resistance, **real or imagined, into a disruption of military efficiency.** One of the best illustrations of the way in which Congress employs its military powers to perpetuate traditional notions of sexual morality and of gender stereotype can be found in its passion for preventing Navy women from serving on submarines. The Defense Advisory Committee on Women in the Services ("DACOWITS"), n417 a civilian advisory board to the Secretary of Defense, recently recommended that the Navy revise its current policy of categorically excluding women from submarines, regardless of job description. n418 With the single exception of submarines, women are eligible to serve on all Navy ships. n419 More specifically, DACOWITS recommended [\*777] that initial assignments of women begin with female officers on larger Trident ballistic missile submarines. n420 The integration of officers would be much less difficult logistically because of the more private berthing arrangements given to officers in general. Additionally, DACOWITS recommended that the Navy make design modifications to smaller attack submarines now under construction to accommodate mixed-sex crews in the future. n421 Any future retrofitting would be much more expensive, and DACOWITS believed it was unlikely that the Navy would continue to exclude women for the 40-year life of these new submarines. n422 Assignment of women to submarines is a controversial issue within the Navy, but there have been small indications of movement in that direction. In the summer of 2000, female future officers in the Reserve Officer Training Corps ("ROTC") received short training assignments aboard submarines. n423 Also, two summers ago, then-Secretary of the Navy Richard Danzig, broached the subject of integrating the submarine service-de jure segregated by sex and de facto segregated by race-in a much-publicized speech to the submarine community. Speaking in reference to those who serve aboard submarines, Danzig said, "The most Narcissus-like thing about creating something in your own image, about being in love with your own image, is the continued and continuous existence of this segment of the Navy as a white male preserve." n424 The day the Navy would open the last closed door to its female personnel seemed to be approaching. Submarine service required higher intellectual and psychological standards for its personnel, and the Navy would continue to have difficulty filling duty assignments unless those slots were opened to the fourteen percent of Navy personnel who were women. n425 Congress, however, was determined not to allow women aboard submarines, even if the Navy were to conclude that integration would benefit military efficiency. It enacted a statute that prohibited the Navy from exercising its discretion to assign women to submarines unless Congress first had the opportunity to bar them by law: No change in the Department of the Navy policy limiting service on submarines to males . . . may take effect until (1) the Secretary of Defense submits to Congress written notice of the proposed change; and 2) a period of 30 days of continuous session of Congress (excluding any day on which either House of Congress is not in session) expires following the date on which notice is received. n426 The same restrictions would apply to any expenditure of funds by the Navy for the [\*778] purpose of reconfiguring any existing submarine or designing any new submarine to accommodate the service of women. n427 **The magic of** the Rehnquist principle of **judicial deference to the military**, in Congress's view**, is that facial classifications on the basis of sex can be justified by any reason or by no reason**. They can be justified openly on the basis of congressional desire to preserve stereotypical gender roles or to enforce traditional notions of sexual morality for women. One can mine potential congressional justifications simply by reading the Washington Times, a major Washington, D.C. newspaper known for its advocacy of a military that is socially conservative, morality driven, and limited in its roles for women. n428 Unlike other nonmilitary contexts for equal protection litigation, it makes no difference that the military interests proffered to justify the exclusion of women may be without factual basis or irrelevant, arising from sources that are uninformed, biased, or lacking in credibility. **If the military is willing to assert a belief in its truth, any assertion is sufficient to uphold a particular military judgment under** Rehnquist's principle of **deference, regardless of its degree of reliance on traditional gender stereotypes**. In order to justify the exclusion of Navy women from submarines, therefore, Congress could potentially proffer any of the following government interests: 1) women require separate, private berthing and bathrooms, which would be prohibitively expensive to provide and would displace operational equipment; 2) women would become pregnant and require airlift to shore, and their fetuses might be harmed by a submarine's toxic gases; 3) submarines are too confined for women, who need fresh air, sunshine, and views; 4) it is inappropriate for men and women to share berthing or bathrooms in rotating shifts; 5) the presence of women will create sexual tension and jealousy among the crew and degrade unit cohesion; 6) submarine service is too psychologically stressful for women; 7) the wives of male submariners would object; and 8) any decision to utilize women would only be made "as a final sop" to "radical feminist supporters." n429 [\*779] Each of the foregoing "justifications" for excluding women from submarines in fact has been offered by congressmen, by military officials, or by those advocating greater restrictions on military service by women. Not one of them is related to the merits of performance of military duty; n430 all of them are related in some way to traditional expectations of sexual morality for women or to "archaic and overbroad generalizations" n431 concerning the capabilities of women. Under Rehnquist's transformation of constitutional control of the military, however, they are sufficient to justify facial classifications on the basis of sex. The fact that these assertions may be "absurd or unsupported" n432 or completely implausible n433 has been rendered irrelevant to the question of equal protection under law. It is impossible to define any limit to the judicial deference given to a congressional belief that facial sex classifications are necessary for military effectiveness. The line clearly extends beyond absurdity: two summers ago Army special forces personnel argued that women should not be permitted to serve as combat medics because, among other reasons, their duties would require them to see men naked. n434 Rehnquist, and the Justices who have joined him, n435 have never considered the damage they inflict upon women as a class by allowing our constitutional past to be [\*780] resurrected in a military context. Rehnquist's crippling form of judicial deference to the military permits Congress to perpetuate notions of gender caste in ways that are otherwise considered untouchable. For example, the lack of separate, private berthing and bathroom arrangements in military facilities is assumed to constitute a sufficient justification for the exclusion of women. n436 The assumption, however, is grounded in nothing more than traditional expectations of what is "appropriate" behavior for women or an "appropriate" level of mixing between the sexes. It has no necessary relation to a purpose of military effectiveness, and the military's desire to perpetuate a traditional sense of physical modesty and sexual interaction cannot substitute as an important, or even legitimate, government purpose sufficient to justify the exclusion of women. n437 The military can, of course, enforce standards of discipline related to physical modesty and sexual interaction, applicable to both men and women, but it cannot draw facial classifications on the basis of sex that are grounded in generalizations about how men and women do, or should, behave. The judicial latitude that Congress and the military now have to govern on the basis of classifications that would otherwise violate the Equal Protection Clause also expresses itself in ways that are less direct. **Military culture has become more polarized in its conception of gender over the last generation**, a trend that is counterintuitive in a military that has generally expanded the opportunities available to women during that time. **Ostentatious masculinity and ostentatious femininity are not inherent components of military culture, but instead have developed in parallel fashion to Rehnquist's separation of the military from constitutional restraint.** That the two trends would operate in tandem should not be surprising; a military-and a Congress-permitted to ignore constitutional expectation with respect to the equal protection of women will naturally develop a more polarized assumption of gender roles.

# \*\*1AR\*\*

### Terror: A2 “Can’t Get Nukes”

**Multiple other sources:**

**Pakistan**

**Shams 13** (Shamil, staff writer, 4-9-13, “Why Pakistan's nuclear bombs are a threat” DW, International German Broadcasting) http://www.dw.de/why-pakistans-nuclear-bombs-are-a-threat/a-16730597

Although the nuclear controversy involving Pakistan and Khan has subsided, the Islamic Republic's nuclear arsenal is a constant source of worry for the international community. Though Pakistan's civilian and military establishments claim that their nuclear weapons are under strict state control, many defense experts fear that they can fall into the hands of terrorists **in the event of an Islamist takeover of Islamabad or if things get out of control for the government and the military. Pakistan**, which conducted its nuclear tests in 1998, **is battling with a** protracted **Islamist insurgency which threatens to paralyze the state.** In the past decade, Islamists not only attacked civilians but targeted military installations and bases as well. Some **international experts say that the** Taliban and **al Qaeda have their eyes on Pakistan's nuclear warheads. "Nuclear programs are never safe**. On the one hand there is perhaps a hype about Pakistani bombs in the Western media, on the other **there is genuine concern,**" Pakistani journalist and researcher Farooq Sulehria told DW. "The **Talibanization of the Pakistan military is something we can't overlook**. What if there is an internal Taliban take over of the nuclear assets?" Sulehria speculated.

**North Korea**

**Allison 13** (Graham, 2-12-13, “North Korea’s Lesson: Nukes for Sale” New York Times) http://www.nytimes.com/2013/02/12/opinion/north-koreas-lesson-nukes-for-sale.html

**THE** most dangerous **message North Korea sent** Tuesday **with its** third **nuclear weapon test is: nukes are for sale.** The significance of this test is not the defiance by the North Korean leader, Kim Jong-un, of demands from the international community. In the circles of power in Pyongyang, red lines drawn by others make the provocation of violating them only more attractive. The real significance is that this test was, in the estimation of American officials, most likely fueled by highly enriched uranium, not the plutonium that served as the core of North Korea’s earlier tests. **Testing a uranium-based bomb would announce to the world — including potential buyers — that North Korea is now operating a new, undiscovered production line for weapons-usable material.** North Korea’s latest provocation should also remind us of the limits of Western policies, led by the United States, that focus on “isolating” the hermit kingdom. Such policies do isolate us from the consequences of North Korea’s actions. For a decade, American policy makers’ attention has been consumed by Iran’s attempt to build its first nuclear weapon. During those years, American officials believe, North Korea has acquired enough plutonium to make an arsenal of 6 to 10 nuclear bombs, depending **on the size, and is now most likely producing enough highly enriched uranium for several more bombs every year.** Nuclear weapons can be made from only two elements: uranium that has been highly enriched, and plutonium. Neither occurs in nature. Producing enough of either fuel for a bomb requires a significant industrial plant. North Korea produced its stock of plutonium at its Yongbyon reactor, but that plant was shuttered in 2007 during a hopeful period in international talks about curbing its nuclear arms program. By then, Pyongyang had reduced its arsenal by one bomb, with its 2006 test, and in 2009 it used up a second bomb in another test. We should only hope that it continues conducting plutonium-fueled tests until this stockpile is eliminated. Those numbers figure heavily in the more realistic American assumption that North Korea would most likely use uranium fuel in a third test, rather than further deplete its limited stock of plutonium. Two years ago, North Korea unveiled a showcase uranium enrichment plant at Yongbyon capable of producing enough highly enriched uranium for several bombs annually. There is no evidence, however, that this showcase has become operational. American experts therefore believe that **Pyongyang must have another still-undiscovered parallel plant that has been operating for several years. That plant by now could have produced several bombs’ worth of highly enriched uranium.** Hence the grim conclusion that **North Korea now has a new cash crop — one that is easier to market than plutonium. Highly enriched uranium is harder to detect and therefore easier to export — and it is also simpler to build a bomb from it.** The model of uranium-fueled bomb dropped on Hiroshima in 1945 was so elementary, and its design so reliable, that the United States never bothered to test one before using it. Yet it killed more than 100,000 people. As the former secretary of defense Robert M. Gates put it, **history shows that the North Koreans will “sell anything they have to anybody who has the cash to buy it.” In intelligence circles, North Korea is known as “Missiles ‘R’ Us,” having sold and delivered missiles to Iran, Syria and Pakistan, among others. Who could be interested in buying a weapon for several hundred millions of dollars?** Iran is currently investing billions of dollars annually in its nuclear quest. **While Al Qaeda’s core is greatly diminished** and its resources depleted, **the man who succeeded Osama bin Laden, Ayman al-Zawahiri, has been seeking nuclear weapons for more than a decade. And then there are Israel’s enemies, including wealthy individuals in some Arab countries, who might buy a bomb for the militant groups Hezbollah or Hamas.** President **Obama has rightly identified nuclear terrorism as “the single biggest threat to U.S. security.” If terrorists explode a single nuclear bomb in an American city in the near future, there is a serious possibility that the core of the weapon will have come from North Korea. The** Bush and Obama **administrations have repeatedly warned the North Korean regime that it could not sell nuclear weapons**, materials or technologies **without being held “fully accountable.” But the U**nited **S**tates **used precisely these words before Pyongyang’s sale of a nuclear reactor to Syria — which by now would have produced enough plutonium for Syria’s first nuclear bomb had it not been destroyed by an Israeli airstrike in 2007. With what consequences for North Korea? Pyongyang got paid; Syria got bombed; and the U**nited **S**tates **was soon back at the negotiating table** in the six-party talks. **Given America’s failure to hold** Kim Jong-un’s father, **Kim Jong-il, accountable** when he sold Syria’s president, Bashar al-Assad, the technology from which to make a bomb, **could the younger Mr. Kim imagine that he could get away with selling a nuclear weapon** or bomb-making material? The urgent challenge is to convince him and his regime’s lifeline, China, that North Korea will be held accountable for every nuclear weapon of North Korean origin.

### Word PIC

#### Incarceration distinct from indefinite detention

David Levine 13 Law Clerk, Honorable Michael S. Kanne, United States Court of Appeals for the Seventh Circuit; J.D., May 2012, University of Michigan Law School. “A TIME FOR PRESIDENTIAL POWER? WAR TIME AND THE CONSTRAINED EXECUTIVE” Michigan Law Review, Spring 2013, Vol. 111:1195 <http://www.michiganlawreview.org/assets/pdfs/111/6/Levine.pdf>

The traditional wartime gloss President Bush put on the War on Terror

led to a slackening of legal constraints, despite the war’s lack of temporal

boundaries. The result was a virtually unbound executive. Vice President

Cheney asked the government, in Dudziak’s words, to operate on “the dark

side” (p. 104; internal quotation marks omitted). John Yoo invoked wartime

as a rationale for allowing President Bush to approve coercive, perhaps torturous, interrogations (p. 106). President Bush claimed the power to hold

foreign nationals, without charge, for an indefinite period of time at Guantanamo Bay. Because “the basic temporal structure (normal times, ruptured

by nonnormal times) largely remained in place in legal thought” (p. 114),

these invocations of wartime served both legal and normative arguments.

Wartime detention is not punishment, and so constraints we might normally

put on criminal incarcerations do not apply, for instance. And because wartime is so extraordinary and the stakes are so high, the public should not

want the constraints to apply

#### indef detention is explicitly “indefinite”

The lead author for this report is Cara M. **Cheyette et al 11**, JD, MPH. The drafting and editing of the report was overseen by Scott Allen, MD, Co-Director of the Center for Prisoner Health and Human Rights at Brown University and Medical Advisor to PHR and Vincent Iacopino, MD, PhD, PHR Senior Medical Advisor.June 2011 Physicians for Human Rights physiciansforhumanrights.org “Punishment Before Justice: Indefinite Detention in the US” https://s3.amazonaws.com/PHR\_Reports/indefinite-detention-june2011.pdf

The Nature of Indefinite Detention By definition, indefinite detention refers to a situation in which the government places indi - viduals in custody without informing the detainee – and perhaps without the governmental custodian having decided – when or whether the detainee will be released. Indefinite detention therefore creates a situation of profound uncertainty that sets it apart from other types of gov - ernmental custody. 35 Whereas a criminal trial imposes on the government a rigorous burden of proving that a defendant engaged in conduct that meets carefully and constitutionally defined standards and which results in either a conviction and sentence or an acquittal and freedom, indefinite detention schemes permit the government to keep a detainee in a dead zone of pro - longed custody on the basis of facts or suspicions about the detainee’s associations, affiliations, inclinations, religious or political beliefs, national or ethnic identity, that the detaining authority asserts makes the detainee dangerous. 36 Many of these factors are ones that are neither sus - ceptible to evidentiary standards of proof nor over which the detainee has substantial control.

#### detention: period of custody BEFORE a trial

The Free Dictionary No Date

de·ten·tion (d-tnshn)

n.

1. The act of detaining.

2. The state or a period of being detained, especially:

a. A period of temporary custody while awaiting trial.

b. A period of confinement to a detention home.

c. A form of punishment by which a student is made to stay after regular school hours.

3. A forced or punitive delay.

#### imprisonment implies a term

The Hindu 12

http://www.thehindu.com/news/national/life-imprisonment-means-jail-term-for-entire-life-sc/article4133231.ece

Life imprisonment implies a jail term for the convict’s entire life, the Supreme Court has held, clearing a misconception on this sentence.

**1AR—A2 “Jurisdiction”**

#### Congress hasn’t limited court jurisdiction since 1869

BAUM 04 (Lawrence, professor of political science at the Ohio State University and holds a doctorate from the University of Wisconsin. A widely recognized authority on the court system, Baum is the author of *Judges and Their Audiences: A Perspective on Judicial Behavior* (2006), *American Courts: Process and Policy,* 5th Edition (2001) and *The Puzzle of Judicial Behavior* (1997), as well as numerous articles on topics such as the implementation of court decisions, change in Supreme Court policies, and interaction between the Supreme Court and Congress., The Supreme Court, Eight Edition, CQ Press, 2004, page 215 cabal//wej)

One type of action concerns jurisdiction. The Constitution allows Congress to alter the Court's appellate jurisdiction through legislation, although it is uncertain whether Congress can narrow the Court's jurisdic- tion to prevent it from protecting constitutional rights. Congress used this power in 1869, withdrawing the Court's right to hear appeals in habeas corpus actions to prevent it from deciding a pending challenge to the post-Civil War Reconstruction legislation. In Ex parte McCardle (1869), the Court ruled that Congress had acted properly. Since then, Congress has not directly limited the Court's jurisdiction to prevent it from ruling in a field of policy. In the past half century Congress has considered many bills that would have limited the Court's jurisdiction in areas of civil liberties activism, on issues such as abortion and school busing. Only two-on legislative districting in 1964 and school prayer in 1979-have passed either house, and none has been enacted.

#### Proposals to limit court jurisdiction are never approved

Biskupic and Witt (CQ Supreme Court Writers) 1997 [Joan and Elder, THE SUPREME COURT AND AMERICAN GOVERNMENT, 1997, p. 321.]

Proposals to limit the Court's jurisdiction so that it may not review federal legislation on specific subjects are offered whenever the Court issues a particularly controversial decision or series of rulings, but none of these proposals has been approved.

**1AR—A2 “Overrides”**

#### Statutory override fails

BAUM 04 (Lawrence, professor of political science at the Ohio State University and holds a doctorate from the University of Wisconsin. A widely recognized authority on the court system, Baum is the author of Judges and Their Audiences: A Perspective on Judicial Behavior (2006), American Courts: Process and Policy, 5th Edition (2001) and The Puzzle of Judicial Behavior (1997), as well as numerous articles on topics such as the implementation of court decisions, change in Supreme Court policies, and interaction between the Supreme Court and Congress., The Supreme Court, Eight Edition, CQ Press, 2004, page 215 cabal//wej)

A substantial proportion of statutory decisions receive some congressional scrutiny, and proposals to override decisions are common. Most of these proposals fail, for the same reasons that most bills of any type fail: legislation must navigate successfully through several decision points at which it can be killed, and there is usually a presumption in favor of the status quo. Still, overrides are far from rare. Over the past three decades, on average, more than ten statutory decisions have been overturned in each two-year Congress. Of the statutory decisions in the Court's 1978-1989 terms, Congress had overridden more than 5 percent by 1996. Some overrides follow quickly after a decision. In 2002, for example, Congress overturned a decision on corporate taxes that was only a year old. Others come considerably later. One 1998 statute removed part of the exemption of major league baseball from the antitrust laws, an exemption that the Court first established in a 1922 decision.

#### Congressional overrides are subject to judicial review

BAUM 04 (Lawrence, professor of political science at the Ohio State University and holds a doctorate from the University of Wisconsin. A widely recognized authority on the court system, Baum is the author of Judges and Their Audiences: A Perspective on Judicial Behavior (2006), American Courts: Process and Policy, 5th Edition (2001) and The Puzzle of Judicial Behavior (1997), as well as numerous articles on topics such as the implementation of court decisions, change in Supreme Court policies, and interaction between the Supreme Court and Congress., The Supreme Court, Eight Edition, CQ Press, 2004, page 215 cabal//wej)

Congress does not always have the last word when it overrides a statute, because the new statute is subject to judicial interpretation. In Westfall v. Erwin (1988), the Court held that federal officials could be sued for personal injuries under some circumstances. A few months later Congress overrode Westfall by allowing the attorney general to certify that an employee who had been sued was acting as a federal official and thereby substituting the federal government for the employee as a defendant. But in Gutierrez de Martinez v. Lamagno (1995), the Court weakened the override by holding that the attorney general's certification could be challenged in court.

**Legitimacy DA: 1AR—Resilient**

#### 200 years of rulings deny their arg

Chemerinsky 99 [Erwin, Sydney M. Irmas Professor of Public Interest Law, Legal Ethics, and Political Science, University of Southern California, “The Supreme Court, Public Opinion, and the Role of the Academic Commentator”, South Texas Law Review, Fall, 40 S Tex L Rev 943]

Choper, for example, concludes from this premise that the Court should not rule on federalism or separation of powers issues so as to not squander its political capital in these areas that he sees as less important than individual rights cases. Bickel argued that the Court should practice the "passive virtues" and use justiciability doctrines to avoid highly controversial matters so as to preserve its political capital. 19 Other scholars reason from the same assumption. Daniel Conkle, for example, speaks of the "fragile legitimacy that attaches to Supreme Court pronouncements of constitutional law." 20 I am convinced that these scholars are wrong and that the public image of the Court is not easily tarnished, and preserving it need not be a preoccupation of the Court or constitutional theorists. There is no evidence to support their assertion of fragile public legitimacy and almost 200 years of judicial review refute it.

#### Judicial credibility resilient, even in controversial cases

LISA A. Kloppenberg September, 94 [35 b.c.l. rev 1003, Boston College Law Review, “AVOIDING CONSTITUTIONAL QUESTIONS”]

Even the initial assertion that judicial credibility is fragile is not without dissenters. Two hundred years of history have disproved "predictions of doom -- that society could not accept a government where judges had discretion to choose constitutional values," including values involved in sensitive social issues such as desegregation and abortion. n198 Rather than fragile, judicial credibility can just as persuasively be characterized as robust, and the Supreme Court arguably has reached a historically unparalleled level of stature and importance. n199 Of course, others might counter that the robust state of the Court's credibility derives from past prudence. At a minimum, support for the last resort rule based on the judiciary's limited credibility should be questioned. Although it is difficult to gauge the judiciary's credibility and viability empirically, historical developments indicate that we do not need to take as sacred assertions that the judiciary's credibility and viability are fragile. n200 No link between avoiding decision of constitutional questions and judicial fragility has been proven. For example, imagine the reaction if Brown had been decided on a plausible non-constitutional ground. Suppose a federal funding statute could have been interpreted to require any state accepting federal aid to end public school segregation. If the Court required integration in the statutory rather than constitutional bases, it seems unlikely that the public reaction would focus on the ground for decision rather than the bottom-line integration outcome.