# \*\*2AC\*\*

### China

**Alt cause- corruption and poverty doom the economy- AND prevent other sectors from solving**

**Kashmir Times, 12**

("Independence Day poser," 8-14-12, l/n, accessed 10-27-12, mss)

But **outward appearance**, good as it may be, should not-and **does not-hide the troubling facts** about the country's internal state of affairs. **Mismanagement at the top stands out** like a sore thumb. **Corruption**has become a way of life even as it continues to **erode the gains achieved on other fronts.** Social disparities have aggravated rather than getting reduced with the progress in the economic sphere. **Poverty remains a**s **serious**a **problem**as it ever was. Conflicts rooted in communal, caste, regional and ethnic factors continue to surface menacingly and take a toll of the national fabric. These are the symptoms of degradation in the quality of governance. And **this**, more than anything else, **is** today **India's problem number one**. Having moved away from its traditional ideological moorings in the glare and glitz of ruthless market economy, India seems to have lost its way. The present **policy paralysis is a natural consequence.** Decision making apparatus has lost its dazzle which it used to flaunt, evidently in the reflected glory of some distant object. Vicious **recession**, claiming one country after another from amongst the supposedly prosperous nations, **has given a couple of body blows to Indian economy** as well. **The falling rupee**, falling **exports and**, more importantly, fall in the rate of economic **growthare disturbing**features.

**econ collapsing now**

**Moore 12** (Elaine Moore, Financial Times, Bloomberg, “China: Crouching trader, slowing dragon”, <http://www.ft.com/intl/cms/s/0/d4d4aafa-f8d4-11e1-8d92-00144feabdc0.html#axzz273leP6VX>, September 21, 2012)

**Running out of steam**: **Chinese construction companies are reporting losses and the country's stock market is fallingInvestors pinning their hopes** of global recovery **on China received a nasty shock this summer**. **The world’s second-largest economyannounced** that economic **growth** in the second quarter of the year had **slowed to 7.6 per cent**, **the weakest since early 2009.**More Although the rate of growth is still far higher than that in many countries**, commentators expressed concern that the slowdown could herald a hard landing.**Chinese **construction groups are** already **reporting losses and the country’s stock market is falling,** while the government is making public commitments about stabilising the economy. David **Morrison, senior market strategist at GFT Markets, says** China’s economic **prospects have broad implications for investors**, whether or not they are directly exposed to Chinese stocks. He says: “**A wobble in the data from Beijing sends commodity prices tumbling**,**the big energy firms and miners see a sell off and the FTSE** – which these stocks now account for about 30 per cent of – comes ratcheting down, too. In other words, **the health of the Chinese economy has implications far beyond its local stock markets.”**To put the growth of China and its role in the global economy into context think of a country that is building sites the size of Wales, suggests Angus Campbell of Capital Spreads. “We are still heavily dependent on the population of China buying our goods and so it is in our interests that its economy continues to boom.” The UK’s benchmark equity index, the FTSE 100, is full of mining and energy stocks that derive much of their revenue from China, he adds. If China cannot sustain its growth then it will have a severe effect on global economies and companies. If markets do slide then investors should be thinking about ways to protect themselves, say advisers. GFT’s Mr Morrison says: “Obviously keeping abreast of the news agenda is prudent – markets at the moment seem happy to drift higher in the absence of any real news before typically being knocked back when facts emerge.” Traders who are worried about a severe Chinese slowdown and its effects globally should consider taking short positions in some of the large global indices such as the FTSE or the Hang Seng, suggests Mr Campbell. But the sting in the tail of China’s phenomenal growth has always been uncertainty, and the present economic data are no different, says ShaiHeffetz, managing director of InterTrader. “There are plenty of ifs and buts in China’s economic mix, which clouds any investor’s view about what may be around the corner in the next few months.” With no real growth expected in Europe or the US, Chinese equities could be undervalued he says, even if China’s economy is not as strong as it was. The Hang Seng China Enterprises index trades on about eight times estimated earnings compared with more than 13 times for the S&P 500. For those who believe in the China growth story a potential trade might be to buy one of the main Chinese indices while taking a short position on the S&P 500, suggests MrHeffetz.

**No Asian war or instability**

**Bitzinger 9** (Richard A. Bitzinger, Senior Fellow at the S. Rajaratnam School of International Studies and Barry Desker, Dean of the S. Rajaratnam School of International Studies and Director of the Institute of Defense and Strategic Studies, Nanyang Technological University, Singapore, 2009. Survival vol. 50 no. 6, “Why East Asian War is Unlikely,” p. Proquest)

**Yet despite all these potential crucibles of conflict, the Asia-Pacific, if not an area of serenity and calm, is certainly more stable than one might expect.** To be sure, there are separatist movements and internal struggles, particularly with insurgencies, as in Thailand, the Philippines and Tibet. Since the resolution of the East Timor crisis, however, the region has been relatively free of open armed warfare. **Separatism remains a challenge, but the break-up of states is unlikely. Terrorism is a nuisance, but its impact is contained. The North Korean nuclear issue**, while not fully resolved**, is at least moving toward a conclusion with the likely denuclearisation of the peninsula. Tensions between China and Taiwan**, while always just beneath the surface, **seem unlikely to erupt in open conflict any time soon, especially given recent Kuomintang Party victories in Taiwan and efforts by Taiwan and China to re-open informal channels of consultation as well as institutional relationships between organisations responsible for cross-strait relations.** And while in Asia there is no strong supranational political entity like the European Union, **there are many multilateral organisations and international initiatives dedicated to enhancing peace and stability, including the Asia-Pacific Economic Cooperation (APEC) forum**, the Proliferation Security Initiative and the Shanghai Co-operation Organisation. In Southeast Asia, countries are united in a common geopolitical and economic organisation – the Association of Southeast Asian Nations (**ASEAN) – which is dedicated to peaceful economic, social and cultural development, and to the promotion of regional peace and stability**. ASEAN has played a key role in conceiving and establishing broader regional institutions such as the East Asian Summit, ASEAN+3 (China, Japan and South Korea) and the ASEAN Regional Forum. **All this suggests that war in Asia – while not inconceivable – is unlikely.**

**Drone Shift DA: 2AC**

**Drone shift now, but plan still solves legitimacy**

David **Ignatius 10**, Washington Post, "Our default is killing terrorists by drone attack. Do you care?", December 2, www.washingtonpost.com/wp-dyn/content/article/2010/12/01/AR2010120104458.html

Every war brings its own deformations, but consider this disturbing fact about America's war against al-Qaeda: **It has become easier, politically and legally, for the United States to kill suspected terrorists than to capture** and interrogate **them**.¶ **Predator and Reaper drones**, armed with Hellfire missiles, **have become the weapons of choice against al-Qaeda** operatives in the tribal areas of Pakistan. They have also been used in Yemen, and the demand for these efficient tools of war, which target enemies from 10,000 feet, is likely to grow.¶ **The pace of drone attacks on the tribal areas has increased sharply** during the Obama presidency, with more assaults in September and October of this year than in all of 2008. **At the same time, efforts to capture al-Qaeda suspects have virtually stopped.** Indeed, if CIA operatives were to snatch a terrorist tomorrow, the agency wouldn't be sure where it could detain him for interrogation.¶ Michael **Hayden, a former director of the CIA, frames the puzzle** this way: "Have **we made detention** and interrogation **so legally difficult and politically risky that our default option is to kill our adversaries rather than capture** and interrogate **them**?"¶ It's curious why the American public seems so comfortable with a tactic that arguably is a form of long-range assassination, after the furor about the CIA's use of nonlethal methods known as "enhanced interrogation." When Israel adopted an approach of "targeted killing" against Hamas and other terrorist adversaries, it provoked an extensive debate there and abroad.¶ "**For reasons that defy logic, people are more comfortable with drone attacks"** than with killings at close range, says Robert Grenier, a former top CIA counterterrorism officer who now is a consultant with ERG Partners. "**It's something that seems so clean and antiseptic, but the moral issues are the same."**

**There’s no tradeoff**

Robert **Chesney 11**, Charles I. Francis Professor in Law at the UT School of Law as well as a non-resident Senior Fellow at Brookings, "Examining the Evidence of a Detention-Drone Strike Tradeoff", October 17, www.lawfareblog.com/2011/10/examining-the-evidence-of-a-detention-drone-strike-tradeoff/

Yesterday Jack linked to this piece by Noah **Feldman**, which among other things **advances the argument that** the **Obama** administration has **resorted to** drone **strikes** at least in part **in order to avoid having to grapple with** the **legal and political problems associated with** military **detention**:¶ Guantanamo is still open, in part because Congress put obstacles in the way. Instead of detaining new terror suspects there, however, Obama vastly expanded the tactic of targeting them, with eight times more drone strikes in his first year than in all of Bush’s time in office.¶ **Is there truly a detention-drone strike tradeoff, such that** the **Obama** administration **favors killing** rather than capturing? As an initial matter, **the numbers quoted above aren’t correct** according to the New America Foundation database of drone strikes in Pakistan, **2008 saw a total of 33 strikes, while in 2009 there were 53** (51 subsequent to President Obama’s inauguration). Of course, you can recapture something close to the same point conveyed in the quote by looking instead to the full number of strikes conducted under Bush and Obama, respectively. There were relatively few drone strikes prior to 2008, after all, while the numbers jump to 118 for 2010 and at least 60 this year (plus an emerging Yemen drone strike campaign). But **what does all this really prove?**¶ **Not much**, I think. Most if not all of **the difference in drone strike rates can be accounted for by specific policy decisions relating to the quantity of drones available** for these missions, **the locations in Pakistan** where drones have been permitted to operate, **and** most notably **whether drone strikes were conditioned on** obtaining **Pakistani permission**. Here is how I summarize the matter in my forthcoming article on the legal consequences of the convergence of military and intelligence activities:¶ According to an analysis published by the New America Foundation, two more drone strikes in Pakistan’s FATA region followed in 2005, with at least two more in 2006, four more in 2007, and four more in the first half of 2008.[1] The pattern was halting at best. Yet that soon changed. U.S. policy up to that point had been to obtain Pakistan’s consent for strikes,[2] and toward that end to provide the Pakistani government with advance notification of them.[3] But intelligence suggested that on some occasions “the Pakistanis would delay planned strikes in order to warn al Qaeda and the Afghan Taliban, whose fighters would then disperse.”[4] A former official explained that in this environment, it was rare to get permission and not have the target slip away: “If you had to ask for permission, you got one of three answers: either ‘No,’ or ‘We’re thinking about it,’ or ‘Oops, where did the target go?”[5]¶ Declaring that he’d “had enough,” Bush in the summer of 2008 “ordered stepped-up Predator drone strikes on al Qaeda leaders and specific camps,” and specified that Pakistani officials going forward should receive only “‘concurrent notification’…meaning they learned of a strike as it was underway or, just to be sure, a few minutes after.”[6] **Pakistani permission no longer was required**.[7] ¶ **The results were dramatic. The CIA conducted dozens of strikes in Pakistan over the remainder of 2008, vastly exceeding the number of strikes over the prior four years combined**.[8] **That pace continued in 2009**, which eventually saw a total of 53 strikes.[9] **And then, in 2010, the rate more than doubled**, with 188 attacks (followed by 56 more as of late August 2011).[10] The further acceleration in 2010 appears to stem at least in part from a meeting in October 2009 during which President Obama granted a CIA request both for more drones and for permission to extend drone operations into areas of Pakistan’s FATA that previously had been off limits or at least discouraged.[11] ¶ **There is an additional reason to doubt that the number of drone strikes tells us much about a potential detention/targeting tradeoff: most of these strikes involved circumstances in which there was no feasible option for capturing the target. These strikes are concentrated in the FATA region**, after all. ¶ Having said all that: it does not follow that there is no detention-targeting tradeoff at work. I’m just saying that drone strikes in the FATA typically should not be understood in that way (though there might be limited exceptions where a capture raid could have been feasible). Where else to look, then, for evidence of a detention/targeting tradeoff?¶ Bear in mind that it is not as if we can simply assume that the same number of targets emerge in the same locations and circumstances each year, enabling an apples-to-apples comparison. But set that aside.¶ First, consider locations that (i) are outside Afghanistan (since we obviously still do conduct detention ops for new captures there) and (ii) entail host-state government control over the relevant territory plus a willingness either to enable us to conduct our own ops on their territory or to simply effectuate captures themselves and then turn the person(s) over to us. This is how most GTMO detainees captured outside Afghanistan ended up at GTMO. Think Bosnia with respect to the Boumediene petitioners, Pakistan’s non-FATA regions, and a variety of African and Asian states where such conditions obtained in years past. **In** such **locations, we seem to be using neither drones nor detention. Rather, we** either **are relying on host-state intervention or we are limiting ourselves to surveillance**. Very hard to know how much of each might be going on, of course. **If it is occurring often**, moreover, **it might reflect a decline in host-state willingness to cooperate with us** (in light of increased domestic and diplomatic pressure from being seen to be responsible for funneling someone into our hands, and the backdrop understanding that, in the age of wikileaks, we simply can’t promise credibly that such cooperation will be kept secret). **In any event, this tradeoff is not about detention versus targeting, but something much more complex and difficult to measure**.

### XO CP: 2AC

#### Multiple congressional restrictions block—only court action solves

Rosenberg 12 (Carol, 1-9-12, "Congress, rules keep Obama from closing Guantanamo Bay" The Miami Herald) www.mcclatchydc.com/2012/01/09/135179/congress-rule-keep-obama-from.html#.UjXQNcasiSo

The last two prisoners to leave the U.S. detention center at Guantánamo Bay were dead. On February 1, Awal Gul, a 48-year-old Afghan, collapsed in the shower and died of an apparent heart attack after working out on an exercise machine. Then, at dawn one morning in May, Haji Nassim, a 37-year-old man also from Afghanistan, was found hanging from bed linen in a prison camp recreation yard. In both cases, the Pentagon conducted swift autopsies and the U.S. military sent the bodies back to Afghanistan for traditional Muslim burials. These voyages were something the Pentagon had not planned for either man: Each was an “indefinite detainee,” categorized by the Obama administration’s 2009 Guantánamo Review Task Force as someone against whom the United States had no evidence to convict of a war crime but had concluded was too dangerous to let go. Today, this category of detainees makes up 46 of the last 171 captives held at Guantánamo. The only guaranteed route out of Guantánamo these days for a detainee, it seems, is in a body bag. The responsibility lies not so much with the White House but with Congress, which has thwarted President Barack Obama’s plans to close the detention center, which the Bush administration opened on Jan. 11, 2002, with 20 captives. Congress has used its spending oversight authority both to forbid the White House from financing trials of Guantánamo captives on U.S. soil and to block the acquisition of a state prison in Illinois to hold captives currently held in Cuba who would not be put on trial — a sort of Guantánamo North. The latest defense bill adopted by Congress moved to mandate military detention for most future al Qaida cases. The White House withdrew a veto threat on the eve of passage, and then Obama signed it into law with a “signing statement” that suggested he could lawfully ignore it. On paper, at least, the Obama administration would be set to release almost half the current captives at Guantánamo. The 2009 Task Force Review concluded that about 80 of the 171 detainees now held at Guantánamo could be let go if their home country was stable enough to help resettle them or if a foreign country could safely give them a new start. But Congress has made it nearly impossible to transfer captives anywhere. Legislation passed since Obama took office has created a series of roadblocks that mean that only a federal court order or a national security waiver issued by Secretary of Defense Leon Panetta could trump Congress and permit the release of a detainee to another country.

#### Bureaucracy prevents implementation of an executive order

Rosenberg 12 (Carol, 1-9-12, "Congress, rules keep Obama from closing Guantanamo Bay" The Miami Herald) www.mcclatchydc.com/2012/01/09/135179/congress-rule-keep-obama-from.html#.UjXQNcasiSo

Lastly, Obama’s executive order to close Guantánamo was undone by the burdensome bureaucracy of the task force, which sought to sort each captive’s Bush-era file. Each detainee’s case file contained competing and often contradictory assessments from the Defense Intelligence Agency, the Pentagon’s Office of Military Commissions, the Department of Justice, and myriad other offices, bogging down the review process. Time ran out before the task force could settle on a master plan to move the detainees out of Guantánamo in time for Obama’s one-year deadline. Now it’s the war court — the military commissions that the Bush administration created to hear war crimes cases at Guantánamo, which were reformed by Obama through legislation — or nothing. And only two cases, both proposing military executions, are currently slated to go before the Guantánamo tribunals: those for the 9/11 attacks and for the October 2000 bombing of the U.S.S. Cole. To date, the war court has produced six convictions, four of them through guilty pleas in exchange for short sentences designed to get the detainees out of Guantánamo within a couple of years. Still, in the Kafkaesque world of military detention, neither an acquittal at the war court nor even a completed sentence guarantees that a detainee gets to leave Guantánamo. Once convicted, a captive is separated from the other detainees to serve his sentence on a different cellblock. (Four are there today, only one serving life.) Once that sentence is over, as both the Bush and Obama administrations have outlined detention policy, the convict can then be returned to the general population at Guantánamo as an “unprivileged enemy belligerent.” The doctrine has yet to be challenged. But if Ibrahim al Qosi, a 51-year-old Sudanese man convicted for working as a cook in an al Qaida compound in Kandahar, does not go home when his sentence expires this year, his lawyers are likely to turn to the civilian courts to seek a release order. Guantánamo has largely faded from public attention. There is little reason to expect it to emerge as an issue in the upcoming presidential campaign season beyond the usual finger-pointing and slogans: Obama may blame Congress for cornering him into keeping the captives at Guantánamo rather than moving them somewhere else, and his opponents will no doubt argue that, by virtue of his wanting to close the facility in the first place, Obama is soft on terrorism. (“My view is we ought to double it,” Mitt Romney said about Guantánamo in a 2007 debate.) Meanwhile, the detention center enters its 11th year on January 11. Guantánamo is arguably the most expensive prison camp on earth, with a staff of 1,850 U.S. troops and civilians managing a compound that contains 171 captives, at a cost of $800,000 a year per detainee. Of those 171 prisoners, just six are facing Pentagon tribunals that may start a year from now after pretrial hearings and discovery. Guantánamo today is the place that Obama cannot close.

**Executive orders are not enforced and will get rolled back**

Richard Wolf, citing Paul Light, professor of public service, “Obama Uses Executive Powers to Get Past Congress,” USA TODAY, 10—27—11, www.usatoday.com/news/washington/story/2011-10-26/obama-executive-orders/50942170/1, accessed 7-18-12.

On all three initiatives, Obama used his executive authority rather than seeking legislation. That limited the scope of his actions, but it enabled him to blow by his Republican critics. "It's the executive branch flexing its muscles," presidential historian and author Douglas Brinkley says. "President Obama's showing, 'I've still got a lot of cards up my sleeve.'" The cards aren't exactly aces, however. Unlike acts of Congress, executive actions cannot appropriate money. And they **can be wiped off the books** by courts, Congress or the next president. Thus it was that on the day after Obama was inaugurated, he revoked one of George W. Bush's executive orders limiting access to presidential records. On the very next day, Obama signed an executive order calling for the Guantanamo Bay military detention facility in Cuba to be closed within a year. **It remains open** today. Harry Truman's federal seizure of steel mills was invalidated by the Supreme Court. George H.W. Bush's establishment of a limited fetal tissue bank was blocked by Congress. Bill Clinton's five-year ban on senior staff lobbying former colleagues was lifted eight years later — by Clinton. "**Even presidents sometimes reverse themselves**," says Paul Light, a professor of public service at New York University. "Generally speaking, it's more symbolic than substantive."

**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 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.**

**Defer Add-On: Nuclear Testing 2AC**

**Deference allows massive nuclear testing**

Barry **Kellman**, Professor, Law, Depaul University, “Judicial Abdication of Military Tort Accountability: But Who is to Guard the Guards Themselves?” DUKE LAW JOURNAL, December 19**89**, p. 1600-1601.

The flaw in the court of appeals' decision is that **the judiciary's reluctance to review military discretion is without** either definition or **limitations**. Is the critical factor the asserted connection between atomic testing and strategic deterrence policy, or is it the direct line of authority from the AEC officer at the site up to the President of the United States? As to the absence of limitations on the decision, is reckless conduct by a junior functionary completely immune simply because the judiciary does not believe that it is appropriate to review the conduct of atomic tests? It may be helpful to ask what conduct, if any, could have given rise to a litigable claim. Judge Logan's opinion for the Tenth Circuit indicates that the plaintiffs would have had to prove that the test manager "failed to release information he was required to give out" or "failed to take a specific radiation measurement that had been decided upon." n170 This requirement signifies that the less defined the authority delegated to junior managers, the broader their discretion. Any decision made by those managers would be beyond review so long as the decision is in fact carried through. **This** extraordinarily broad **delegation** of authority is not justified by any accepted notion of administrative law, but **is based** fundamentally **on the judiciary's unwillingness to intrude into military affairs**. Like the Stanley litigation, the plaintiffs' claims in Allen did not focus on the improper decisions of Pentagon planners; rather, their claims alleged that the atomic tests were conducted in a manner that significantly ignored the health concerns of affected citizens and thereby violated their rights. **No challenge was made to the policy decision to develop nuclear weapons nor to test prototypes**. The claims were focused against the ground level managers at the test sites who decided where people would be stationed and what protective equipment would be distributed. Like the Supreme Court in Stanley, the Tenth Circuit in Allen decided against allowing such claims not because of deference to reasonable decisions reasonably executed, but rather because the national security implications of atomic testing placed those decisions beyond the reach of judicial review. The atomic testing litigation was, quite literally, a once-in-a-nation's-lifetime case. Never before has the government, acting in a non-combat situation, caused such widespread suffering. Hopefully, it never will again. It is hard to imagine that the federal courts again will be asked to hold in judgment military decisions of such consequence, so imbued with national security considerations. It is unfortunate that the Supreme Court did not consider this matter of sufficient importance to grant certiorari. Furthermore, it is unfortunate that the undefined and limitless doctrine established in the atomic testing litigation may be extended to controversies where the judiciary's reluctance to review "national security" cases is based on far less weighty considerations.

**Sun goes nova**

Daniel **Shaddox**, “Nova Trauma Therapy,” ZKD MEDICAL CENTER LITERATURE, 19**99**, <http://business.gorge.net/zdkf/mcl-ntt.html>, accessed 1/30/06.

Unfortunately, at this time, the exact date of **the Sun's erruption into a Nova** cannot be predicted, scientifically! Moreover, the **timing** situation **is in grave danger of rapid acceleration, do to the side-effects of advanced nuclear testings** (ie D'Stridium events). So, while we do not know its exact timing, we know that it is SOON, and that every day brings us closer to it! So, what are we saying here? Is it going to be 5, 10, 20, 50, or 100 years? Hopefully, around 100! But, **with testing, we may find that the Nova is set off in next year's Sun cycle,** with its standard erruptions continuing to expand into... Which brings up another issue. Some Stars go straight into Super-Novas and explode! (**If our sun were to do this, it would wipe out the whole solar system in a matter of minutes**.) Others swell and slowly expand into super-giants, sometimes.

**Earth goes death star**

**Chalko 03** [Dr. Tom, Msc, PhD, Head of Geophysics Division & Sci Reearch @ Mt Best, “Can a Neutron Bomb accelerate Global Volcanic Activity?” *NU Journal of Discovery*, March, nujournal.net/neutron\_bomb.pdf, 9-12-06//uwyo-ajl]

Consequences of using modern nuclear weapons can be far more serious than previously imagined. These consequences relate to the fact that most of the heat generated in the planetary interior is a result of nuclear decay. Over the last few decades, **all superpowers have been developing** so-called "**neutron bombs**" [1]. These bombs are designed to emit intensive neutron radiation while creating relatively little local mechanical damage. Military seem very keen to use neutron bombs in combat, because lethal neutron radiation can penetrate even the largest and deepest bunkers. However, the military seem to ignore the fact that a neutron radiation is capable to reach significant depths in the planetary interior. In the process of passing through the planet and losing its intensity, a neutron beam stimulates nuclei of radioactive isotopes inside the planet to disintegrate. Stimulated disintegration, in turn, produces more neutrons. This process causes not only an increase in radiation levels but also increased nuclear heat generation in the planetary interior, far greater than the energy of the bomb itself. It typically takes many days or even weeks for this extra heat to conduct/convect to the surface of the planet and cause increased seismic/volcanic activity. Due to this variable and seemingly inconsistent delay, nuclear tests are not currently associated with seismic/volcanic activity, simply because it is believed that there is no theoretical basis for such an association. Perhaps you heard that after every major series of nuclear test there is always a period of increased seismic activity in some part of the world. This actually cannotbe explained by direct energy from the explosion. The mechanism of neutron radiation accelerating decay of radioactive isotopes in the planetary interior – a process that generates more neutrons and heat, however, is a very realistic explanation of Observable Reality. The process of accelerating volcanic activity is nuclear in essence. Accelerated decay of radioactive isotopes already present in the planetary interior provides the necessary energy. The TRUE danger of modern nuclear weaponry is that their **neutron radiation is capable to induce global overheating of the planetary interior, global volcanic activity and**, in extreme circumstances, may even cause **the entire planet to be demolished**. So far, nuclear tests on Earth were limited to a few per year. Can we really predict what will happen if the US army uses dozens of their Neutron Bombs to destroy all “suspected” and “potential” weapon sites in Iraq?

### HRIRA CP

#### “Resolved” doesn’t lock the aff into “certainty”:

**Merriam Webster ‘9** (http://www.merriam-webster.com/dictionary/resolved)

# Main Entry: 1re·solve # Pronunciation: \ri-ˈzälv, -ˈzȯlv also -ˈzäv or -ˈzȯv\ # Function: verb # Inflected Form(s): **resolved**; re·solv·ing 1 : to become separated into component parts; also : to become reduced by dissolving or analysis 2 : **to** form a resolution : determine 3 : **consult, deliberate**

#### Neither does “should”

**Encarta** World English Dictionary 200**5** (http://encarta.msn.com/encnet/features/dictionary/DictionaryResults.aspx?refid=1861735294)

expressing conditions or consequences: **used to express the conditionality of an occurrence and suggest it is not a given, or to indicate the consequence of something that might happen** ( used in conditional clauses )

#### And resolved doesn’t mean immediate

Online Plain Text English **Dictionary ‘9** (http://www.onelook.com/?other=web1913&w=Resolve)

**Resolve**: “To form a purpose; **to make a decision**; especially, to determine **after reflection**; as, to resolve on a better course of life.”

**Their immigration arg relies on a flawed district court decision—cant get around it**

**Vaughns 13** (Katherine, Professor of Law, University of Maryland, "Of Civil Wrongs and Rights: Kiyemba v. Obama and the Meaning of Freedom, Separation of Powers, and the Rule of Law Ten Years After 9/11" Asian American Law Journal, Lexis)

As for Kiyemba, in the district court, the government asserted that the Executive may detain individuals pursuant to its inherent "wind-up" authority, the purported authority to detain individuals associated with a conflict for some period of time following the end of that conflict. n236 It then argued that Shaughnessy v. United States ex rel. Mezei n237 "provides a better read on the constitutional limits to detention than either Zadvydas or Clark." n238 Mezei is a case that involved "an alien immigrant permanently excluded from the United States on security grounds but stranded in his temporary haven on Ellis Island because other countries [would] not take him back." n239 The district court, reviewing the Uighurs' petitions, found several very important distinctions between Mezei and the petitions before the court: First, **Mezei was an immigration case; Kiyemba is not. Unlike in Mezei, the Uighurs are not seeking immigrant admission to the United** [\*41] **States**. n240 Second, **in Mezei, the lower court was not aware of the evidence against the petitioner's admission because it was confidential and undisclosed; in the case of the Uighurs, the government presented evidence supposedly "justifying" their detention, but "failed to meet its burden."** n241 Consequently, the court concluded - "drawing from the principles espoused in the Clark and Zadvydas cases and from the Executive's authority as Commander in Chief" - that the asserted constitutional authority to "wind up" matters administratively prior to release had ceased. n242 I agree. **Relying on Mezei, and** largely **ignoring Boumediene**, n243 **the D.C. Circuit Court of Appeals found that the district court lacked the requisite authority to order the government to admit the Uighurs into the continental U**nited **S**tates. **In so doing, the court refused to appreciate a key distinction: The habeas court would not be ordering the admission of the Uighurs into the U**nited **S**tates **under immigration law. Rather, their release is mandated by the constitutional guarantee of habeas relief,** particularly **as the Uighurs' plight was in no way of their own making.** n244 **In light of the foregoing, it is clear that, until the Supreme Court explicitly rules on the constitutional remedy available to such detainees** (as distinguished from the right to challenge the lawfulness of their detention, which was established by Boumediene), **the D.C. Circuit will continue to misguidedly apply immigration law to an issue plainly outside of its purview, with the effect of granting nearly unreviewable discretion to the Executive and therefore, leaving the Uighurs indefinitely and unlawfully detained at Guantanamo** Bay until the Executive is able to secure a relocation destination. **As stated in the Uighurs' certiorari petition, as a constitutional matter, "the President's discretionary release of a prisoner is no different from his discretionary imprisonment: each proceeds from unchecked power."** n245 **To** [\*42] **view the question of release as** based on sovereign prerogative in the administration of **immigration law, while viewing the question of imprisonment as** based **on constitutional authority is, put simply, senseless and without precedent**. It cannot be that the two inquiries are unrelated; they both undoubtedly implicate individual constitutional rights and the separation of powers. Having refused to resolve this matter, the Supreme Court has left the separation of powers out of balance and tilting dangerously toward unilateralism.

**Prez Flex DA: 2AC**

#### Flexibility is irrelevant in the hegemonic era—rule-breaking is a greater risk

Knowles 09 (Robert, Assistant Professor, New York University School of Law, Spring 2009, "American Hegemony and the Foreign Affairs Constitution" Arizona State Law Journal, Lexis)

The hegemonic model also reduces the need for executive branch flexibility, and the institutional competence terrain shifts toward the courts. The stability of the current U.S.-led international system depends on the ability of the U.S. to govern effectively. Effective governance depends on, among other things, predictability. n422 G. John Ikenberry analogizes America's hegemonic position to that of a "giant corporation" seeking foreign investors: "The rule of law and the institutions of policy making in a democracy are the political equivalent of corporate transparency and [\*155] accountability." n423 Stable interpretation of the law bolsters the stability of the system because other nations will know that they can rely on those interpretations and that there will be at least some degree of enforcement by the United States. At the same time, the separation of powers serves the global-governance function by reducing the ability of the executive branch to make "abrupt or aggressive moves toward other states." n424 The Bush Administration's detainee policy, for all of its virtues and faults, was an exceedingly aggressive departure from existing norms, and was therefore bound to generate intense controversy. It was formulated quickly, by a small group of policy-makers and legal advisors without consulting Congress and over the objections of even some within the executive branch. n425 Although the Administration invoked the law of armed conflict to justify its detention of enemy combatants, it did not seem to recognize limits imposed by that law. n426 Most significantly, it designed the detention scheme around interrogation rather than incapacitation and excluded the detainees from all legal protections of the Geneva Conventions. n427 It declared all detainees at Guantanamo to be "enemy combatants" without establishing a regularized process for making an individual determination for each detainee. n428 And when it established the military commissions, also without consulting Congress, the Administration denied defendants important procedural protections. n429 In an anarchic world characterized by great power conflict, one could make the argument that the executive branch requires maximum flexibility to defeat the enemy, who may not adhere to international law. Indeed, the precedents relied on most heavily by the Administration in the enemy combatant cases date from the 1930s and 1940s - a period when the international system was radically unstable, and the United States was one of several great powers vying for advantage. n430 But during that time, the executive branch faced much more exogenous pressure from other great powers to comply with international law in the treatment of captured enemies. If the United States strayed too far from established norms, it would risk retaliation upon its own soldiers or other consequences from [\*156] powerful rivals. Today, there are no such constraints: enemies such as al Qaeda are not great powers and are not likely to obey international law anyway. Instead, the danger is that American rule-breaking will set a pattern of rule-breaking for the world, leading to instability. n431 America's military predominance enables it to set the rules of the game. When the U.S. breaks its own rules, it loses legitimacy.

#### Executive flexibility is bad—leads to arbitrary decisions and mismanagement

Pearlstein 09 (Deborah, Visiting Scholar and Lecturer in Public and International Affairs, Woodrow Wilson School of Public & International Affairs, Princeton University, "Form and Function in the National Security Constitution" Connecticut Law Review) uconn.lawreviewnetwork.com/files/archive/v41n5/formandfunction.pdf

The new functionalists’ instinctive attraction to flexibility in decisionmaking rules or structures—and its corresponding possibilities of secrecy and dispatch—is not without foundation in organization theory.183 Flexibility ideally can make it possible for organizations to adapt and respond quickly in circumstances of substantial strain or uncertainty, as conditions change or knowledge improves, and to respond to events that cannot be predicted in advance.184 In a crisis or emergency setting in particular, one can of course imagine circumstances in which taking the time to follow a series of structurally required decision-making steps would vitiate the need for action altogether.185 What the new functionalists fail to engage, however, are flexibility’s substantial costs, especially in grappling with an emergency. For example, organizations that depend on decentralized decision-making but leave subordinates too much flexibility can face substantial principal-agent problems, resulting in effectively arbitrary decisions. The problem of differences in motivation or understanding between organizational leaders and frontline agents is a familiar one, a disjunction that can leave agents poorly equipped to translate organizational priorities into priority consistent operational goals. As Sagan found in the context of U.S. nuclear weapons safety, whatever level of importance organizational leadership placed on safety, leaders and operatives would invariably have conflicting priorities, making it likely that leaders would pay “only arbitrary attention to the critical details of deciding among trade-offs” faced by operatives in real time.186 One way of describing this phenomenon is as “goal displacement”—a narrow interpretation of operational goals by agents that obscures focus on overarching priorities.187 In the military context, units in the field may have different interests than commanders in secure headquarters;188 prison guards have different interests from prison administrators.189 Emergencies exacerbate the risk of such effectively arbitrary decisions. Critical information may be unavailable or inaccessible.190 Short-term interests may seek to exploit opportunities that run counter to desired long-term (or even near-term) outcomes. 191 The distance between what a leader wants and what an agent knows and does is thus likely even greater. The Cuban Missile Crisis affords striking examples of such a problem. When informed by the Joint Chiefs of Staff of the growing tensions with the Soviet Union in late October 1962, NATO’s Supreme Allied Commander in Europe, American General Lauris Norstad, ordered subordinate commanders in Europe not to take any actions that the Soviets might consider provocative.192 Putting forces on heightened alert status was just the kind of potentially provocative move Norstad sought to forestall. Indeed, when the Joint Chiefs of Staff ordered U.S. forces globally to increase alert status in a directive leaving room for Norstad to exercise his discretion in complying with the order, Norstad initially decided not to put European-stationed forces on alert.193 Yet despite Norstad’s no-provocation instruction, his subordinate General Truman Landon, then Commander of U.S. Air Forces in Europe, increased the alert level of nuclear-armed NATO aircraft in the region.194 In Sagan’s account, General Landon’s first organizational priority—to maximize combat potential—led him to undermine higher priority political interests in avoiding potential provocations of the Soviets.195 It is in part for such reasons that studies of organizational performance in crisis management have regularly found that “planning and effective response are causally connected.”196 Clear, well-understood rules, formalized training and planning can function to match cultural and individual instincts that emerge in a crisis with commitments that flow from standard operating procedures and professional norms.197 Indeed, “the less an organization has to change its pre-disaster functions and roles to perform in a disaster, the more effective is its disastetr [sic] response.”198 In this sense, a decisionmaker with absolute flexibility in an emergency— unconstrained by protocols or plans—may be systematically more prone to error than a decision-maker who is in some way compelled to follow procedures and guidelines, which have incorporated professional expertise, and which are set as effective constraints in advance. Examples of excessive flexibility producing adverse consequences are ample. Following Hurricane Katrina, one of the most important lessons independent analysis drew from the government response was the extent to which the disaster was made worse as a result of the lack of experience and knowledge of crisis procedures among key officials, the absence of expert advisors available to key officials (including the President), and the failure to follow existing response plans or to draw from lessons learned from simulations conducted before the fact. 199 Among the many consequences, basic items like food, water, and medicines were in such short supply that local law enforcement (instead of focusing on security issues) were occupied, in part, with breaking into businesses and taking what residents needed.200 Or consider the widespread abuse of prisoners at U.S. detention facilities such as Abu Ghraib. Whatever the theoretical merits of applying coercive interrogation in a carefully selected way against key intelligence targets,201 the systemic torture and abuse of scores of detainees was an outcome no one purported to seek. There is substantial agreement among security analysts of both parties that the prisoner abuse scandals have produced predominantly negative consequences for U.S. national security.202 While there remain important questions about the extent to which some of the abuses at Abu Ghraib were the result of civilian or senior military command actions or omissions, one of the too often overlooked findings of the government investigations of the incidents is the unanimous agreement that the abuse was (at least in part) the result of structural organization failures 203—failures that one might expect to produce errors either to the benefit or detriment of security. In particular, military investigators looking at the causes of Abu Ghraib cited vague guidance, as well as inadequate training and planning for detention and interrogation operations, as key factors leading to the abuse. Remarkably, “pre-war planning [did] not include[] planning for detainee operations” in Iraq.204 Moreover, investigators cited failures at the policy level—decisions to lift existing detention and interrogation strictures without replacing those rules with more than the most general guidance about custodial intelligence collection.205 As one Army General later investigating the abuses noted: “By October 2003, interrogation policy in Iraq had changed three times in less than thirty days and it became very confusing as to what techniques could be employed and at what level non-doctrinal approaches had to be approved.”206 It was thus unsurprising that detention and interrogation operations were assigned to troops with grossly inadequate training in any rules that were still recognized.207 The uncertain effect of broad, general guidance, coupled with the competing imperatives of guidelines that differed among theaters of operation, agencies, and military units, caused serious confusion among troops and led to decisionmaking that it is overly kind to call arbitrary.208 Would the new functionalists disagree with the importance of government planning for detention operations in an emergency surrounding a terrorist nuclear attack? Not necessarily. Can an organization anticipate and plan for everything? Certainly not. But such findings should at least call into question the inclination to simply maximize flexibility and discretion in an emergency, without, for example, structural incentives that might ensure the engagement of professional expertise.209 Particularly if one embraces the view that the most potentially damaging terrorist threats are nuclear and biological terrorism, involving highly technical information about weapons acquisition and deployment, a security policy structure based on nothing more than general popular mandate and political instincts is unlikely to suffice; a structure that systematically excludes knowledge of and training in emergency response will almost certainly result in mismanagement.210 In this light, a general take on role effectiveness might suggest favoring a structure in which the engagement of relevant expertise in crisis management is required, leaders have incentives to anticipate and plan in advance for trade-offs, and organizations are able to train subordinates to ensure that plans are adhered to in emergencies. Such structural constraints could help increase the likelihood that something more than arbitrary attention has been paid before transcendent priorities are overridden.

**Iraq disproves the link**

National Institute of Military Justice, Amicus Brief, Rasul v. Bush, 2003 U.S. Briefs 334, January 14, 2004, p. 12-13.

The experience of United States armed forces in combat belies the Government's expressed concern that judicial review of the claims of combatants "would interfere with the President's authority as Commander in Chief." (Opp. at 11) Courts-martial, prisoner status determinations, and other legal processes have been a regular adjunct of American wartime operations throughout the period since Eisentrager. During the Vietnam era, the United States Army held approximately 25,000 courts-martial in the war theater. In 1969 alone, 7691 of these were special and general courts-martial, which are trials presided over by a military judge in which the defendant is entitled to a panel equivalent to a jury as provided in the UCMJ. Frederic L. Borch, Judge Advocates In Combat: Army Lawyers in Military Operations from Vietnam to Haiti 29 (2001). Another 1146 special and general courts-martial were held in Vietnam by the Marine Corps in 1969. In addition, still only in 1969, the Army held 66,702 less formal disciplinary proceedings under Article 15 of the UCMJ, 10 U.S.C. § 815. Id. . The United States Military Assistance Command in Vietnam enforced strict requirements for the classification of captured personnel, including providing impartial tribunals to determine eligibility for prisoner of war status. Military Assistance Command Vietnam, Directive No. 381-46, Annex A (Dec. 27, 1967) and Directive No. 20-5 (Sept. 21, 1966 as amended Mar. 15, 1968.) . During the 1991 Persian Gulf War, the status of approximately 1200 detainees was determined by "competent tribunals" established for that purpose. Dep't of Defense, Final Report to Congress: Conduct of the Persian Gulf War 578 (1992); Army Judge Advocate General's School, Operational Law Handbook 22 (O'Brien ed. 2003). . At this very time, United States forces in Iraq, a theater of actual combat, are providing impartial tribunals compliant with Article 5 of the GPW to adjudicate the status of captured belligerents. Although details are difficult to come by, American commanders of forces in Iraq acknowledge that as many as 100 prisoners there have had their status adjudicated by impartial tribunals under Article 5 of the GPW.

**Military necessity claims empirically exaggerated—Korematsu proves**

Fred Korematsu, Brief of Amicus Curiae Fred Korematsu in Support of Petitioners, Stephen J. Schulhofer, Counsel of Record, in Fawzi Khalid Abdullah Fahad Al Odah, et al., Petitioners, v. United States of America, et al., Respondents. Shafiz Rasul, et al., Petitioners, v. George W. Bush, et al., Respondents, Nos. 03-334, 03-343, 2003 U.S. Briefs 334; 2004 U.S. S. Ct. Briefs LEXIS 38, January 14, 2004, LN.

It is no doubt essential in some circumstances to modify ordinary safeguards to meet the exigencies of war. But history teaches that we tend to sacrifice civil liberties too quickly based on claims of military necessity and national security, only to discover later that those claims were overstated from the start. Fred Korematsu's experience is but one example of many in which courts unnecessarily accepted such claims uncritically and allowed the executive branch to insulate itself from any accountability for actions restricting the most basic of liberties. Fortunately, there are counterexamples. In Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952), this Court invalidated President Truman's nationalization of the steel mills during the Korean Conflict, despite the Commander-in-Chief's insistence that his actions were necessary to maintain production of essential war material. During the Vietnam War, this Court rejected a Government request to enjoin publication of the Pentagon Papers, refusing to defer to executive branch claims that publication of this top-secret document would endanger our troops in the field and undermine ongoing military operations. New York Times Co. v. United States, 403 U.S. 713 (1971). In deciding the cases now before [\*\*11] it, this Court should follow the tradition those cases represent, not the one exemplified by Korematsu. To avoid repeating the mistakes of the past, this Court should reverse the decision of the District of Columbia Circuit and affirm that the United States respects fundamental constitutional and human rights -- even in time of war.ARGUMENT Since September 11th, the United States has taken significant steps to ensure the nation's safety. It is only natural that in times of crisis our government should tighten the measures it ordinarily takes to preserve our security. But we know from long experience that the executive branch often reacts too harshly in circumstances of felt necessity and underestimates the damage to civil liberties. Typically, we come later to regret our excesses, but for many, that recognition comes too late. The challenge is to identify excess when it occurs and to protect constitutional rights before they are compromised unnecessarily. These cases provide the Court with the opportunity to protect constitutional liberties when they matter most, rather than belatedly, years after the fact. As Fred Korematsu's life story demonstrates, our history merits attention. Only by understanding the errors of the past can we do better in the present. Six examples illustrate the nature and magnitude of the challenge: the Alien and Sedition Acts of 1798, the suspension of habeas corpus during the Civil War, the prosecution of dissenters during World War I, the Red Scare of 1919-1920, the internment of 120,000 individuals of Japanese descent during World War II, and the era of loyalty oaths and McCarthyism during the Cold War. I. THROUGHOUT ITS HISTORY, THE UNITED STATES HAS UNNECESSARILY RESTRICTED CIVIL LIBERTIES IN TIMES OF STATED MILITARY CRISIS History teaches that, in time of war, we have often sacrificed fundamental freedoms unnecessarily. The executive and legislative branches, reflecting public opinion formed in the heat of the moment, frequently have overestimated the need to restrict civil liberties and failed to consider alternative ways to protect the national security. Courts, which are not immune to the demands of public opinion, have too often deferred to exaggerated claims of military necessity and failed to insist that measures curtailing constitutional rights be carefully justified and narrowly tailored. In retrospect, it is clear that judges and justices should have scrutinized these claims more closely and done more to ensure that essential security measures did not unnecessarily impair individual freedoms and the traditional separation of powers.

**UCMJ disproves the link**

National Institute of Military Justice, Brief for the National Institute of Military Justice as Amicus Curiae in Support of Petitioners, Ronald W. Meister, Counsel of Record, in Fawzi Khalid Abdullah Fahad Al Odah, et al., Petitioners, v. United States of America, et al., Respondents. Shafiz Rasul, et al., Petitioners, v. George W. Bush, et al., Respondents, Nos. 03-334, 03-343, 2003 U.S. Briefs 334; 2004 U.S. S. Ct. Briefs LEXIS 20, January 14, 2004, LN.

The UCMJ established not only a code of substantive and procedural law, but also a tiered system of judicial review, including intermediate appellate courts, UCMJ art. 66, 10 U.S.C. § 866, and extending up to the civilian United States Court of Appeals for the Armed Forces, [\*\*9] formerly the United States Court of Military Appeals, UCMJ arts. 67, 141-45, 10 U.S.C. § § 867, 941-45. The Military Justice Acts of 1968, Pub. L. No. 90-632, 82 Stat. 1335, and of 1983, Pub. L. No. 98-209, 310(a)(1), 97 Stat. 1405, further professionalized court-martial personnel, see UCMJ arts. 26, 66, 10 U.S.C. § § 826, 866, and added certiorari jurisdiction in this Court, UCMJ art. 67a, 10 U.S.C. § 867a; 28 U.S.C. § 1259. Congress has forbidden military officers and other persons subject to the UCMJ to influence unlawfully the actions of courts-martial and other military tribunals, UCMJ art. 37, 10 U.S.C. § 837, and the military services have taken further steps to reduce command influence and insure the independence of the judiciary. This Court, as well as courts throughout the military justice system, regularly re-affirm that military personnel do not forfeit their rights to the protection of the law when they enter the military. United States ex rel. Toth v. Quarles, 350 U.S. 11, 21-22 (1955); United States v. Jacoby, 11 C.M.A. 428, 430-31, 29 C.M.R. 244, 246-47 (1960). [\*\*10] Military personnel and prisoners of war in custody of the armed forces enjoy the following protections and guarantees, among others: . Against self-incrimination, compare U.S. Const. amend. 5 with UCMJ art. 31, 10 U.S.C. § 831. . Against double jeopardy, compare U.S. Const. amend. 5 with UCMJ art. 44, 10 U.S.C. § 844. . Against cruel and unusual punishment, compare U.S. Const. amend. 8 with UCMJ art. 55, 10 U.S.C. § 855; see United States v. Matthews, 16 M.J. 354 (C.M.A. 1983). . To a speedy trial, compare U.S. Const. amend. 6 with Rule for Courts-Martial 707. . To a knowing, intelligent and voluntary waiver of trial rights before entering a guilty plea. United States v. Care, 18 C.M.A. 535, 40 C.M.R. 247 (1967). Significantly, the rule of law in the military has also been enforced through the issuance of writs of habeas corpus by civilian courts. E.g., Reid v. Covert, 354 U.S. 1 (1957); Toth, supra. Over a half century of experience with the UCMJ has justified the Legislative determination that the rule of law can be applied in peace and war without modification and without concern that doing so will interfere with Executive Branch power.

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### China

**Interdependence checks**

Eskildsen 09 (Robert, Assistant Professor of Japanese History – Smith College “Whither East Asia? Reflections on Japan’s Colonial Experience in Taiwan”, The Asia-Pacific Journal, 3-22, http://japanfocus.org/-Robert-Eskildsen/2058)

The Meiji Restoration gave Japan the flexibility to pursue changes in the diplomatic status quo in East Asia, but the changes carried with them enormous risks. Domestically, Japan implemented radical institutional changes in order to conform more closely to Western norms, but doing so alienated important constituencies—farmers and samurai—and ultimately provoked armed rebellion. In foreign relations, Japan set out to learn the norms of Western diplomacy and use them to clarify a number of border relationships: with Russia in the north, Korea in the west, and China in the south—through a complex intermediate zone that included the Ryukyu archipelago and Taiwan. The process of redefining Japan’s borders in the west and south proved particularly troublesome and embroiled Japan in a sustained challenge to China’s diplomatic supremacy in East Asia that involved gunboat diplomacy, diplomatic coercion and armed conflict. Although it involved no clash with Chinese forces, the Taiwan Expedition was the earliest of these armed conflicts.Fast forward to the present, and we see that some of the issues that clouded the future of **East Asia** in the second half of the nineteenth century have contemporary analogues, although the geopolitical context **has changed dramatically** in the last 150 years. The biggest difference in the geopolitical context, of course, is that **all the states in the region,** with the possible exception of North Korea, **are committed to operating within the international system and** they **have developed** a measure of **economic interdependence. These factors will mitigate the possibility of armed conflict** **i**n the future. On the other hand, nationalism, the legacies of Japanese imperialism, World War II and the Cold War, and China’s growing economic stature already exacerbate diplomatic conflicts, and they undoubtedly will continue to do so for many years to come. Against this geopolitical backdrop, three contemporary strategic conflicts stand out as particularly troublesome.

**Heg: A2 “Alt Cause—Surveillance”**

**PRISM doesn’t matter**

**Paramaguru 9-27** (Kharunya, 9-27-13, “Three Months After Snowden’s NSA Revelations, Europe Has Moved On” Time Magazine) http://world.time.com/2013/09/27/three-months-after-snowdens-nsa-revelations-europe-has-moved-on/#ixzz2g969BszS

**When** Edward **Snowden**, a former National Security Agency contractor, **disclosed details about** some of the clandestine electronic **surveillance programs run by the intelligence agencies** of the United States government in June, **it was widely seen as one of the biggest intelligence leaks in American history.** The Guardian, the British paper Snowden leaked the information to, saw record surges in web traffic as it published his exposés. Its main article on Edward Snowden, in which the paper declared that Snowden “will go down in history as one of America’s most consequential whistleblowers,” has become the most popular article ever read on the website, with over 3.7 million page impressions and counting according to the Guardian. **But, three months later, it’s difficult to see how consequential Snowden’s revelations have actually been. Despite** immediate and **widespread interest** from the news media and diplomatic backlash from some parts of the world (mainly from foreign officials who found out that the U.S. had been intercepting their communications), **the allegations of widespread spying conducted through the NSA’s PRISM program have not become the subject of any successful legislative efforts in Congress**–an initial attempt in July to cut the NSA’s funding for its phone metadata program fell flat after a narrow defeat. **And in some parts of the world, responses beyond the immediate surprise** caused by the revelations **have been particularly muted, with** some **British and French politicians suggesting** that **there was nothing in the leaks to cause the general public any concern.** Some politicians, such as Conservative Member of Parliament David Davis, questioned if there was adequate oversight of intelligence operations. But **in general, Europeans have shrugged and moved on.**