## 2AC

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

**2. Counter-interpretation:**

**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.

**A restriction on war powers authority limits Presidential discretion**

Jules **Lobel 8**, Professor of Law at the University of Pittsburgh  Law School, President of the Center for Constitutional Rights, represented members of Congress challenging assertions of Executive power to unilaterally initiate warfare, “Conflicts Between the Commander in Chief and Congress: Concurrent Power  over the Conduct of War,” Ohio State Law Journal, Vol 69, p 391, 2008, http://moritzlaw.osu.edu/students/groups/oslj/files/2012/04/69.3.lobel\_.pdf

So too, **the congressional power to declare or authorize war has been long held to permit Congress to authorize and wage a limited war**—“limited in place, in objects, and in time.” 63 **When Congress places such restrictions on the President’s authority to wage war, it limits the President’s discretion to conduct battlefield operations**. For example, **Congress authorized** President George H. W. **Bush to attack Iraq** in response to Iraq’s 1990 invasion of Kuwait, **but** it **confined the President’s authority to the use of U.S. armed forces pursuant to U.N. Security Council resolutions** directed to force Iraqi troops to leave Kuwait. **That restriction would not have permitted the President to march into Baghdad** after the Iraqi army had been decisively ejected from Kuwait, a limitation recognized by President Bush himself.64

### Legalism

**Working through the courts is necessary to solve Gitmo—popular activism can’t solve**

**Cole 2011** - Professor, Georgetown University Law Center (Winter, David, “WHERE LIBERTY LIES: CIVIL SOCIETY AND INDIVIDUAL RIGHTS AFTER 9/11,” 57 Wayne L. Rev. 1203, Lexis)

Unlike the majoritarian electoral politics Posner and Vermeule imagine, the work of **civil society cannot be segregated neatly from the law**. On the contrary, **it will often coalesce around a distinctly legal challenge,** objecting to departures from specific legal norms, **often** but not always heard **in** a **court** case, **as with civil society's challenge to the treatment of detainees at Guantanamo. Congress's actions** on that subject **make clear that had Guantánamo been left to the majoritarian political process, there would have been few if any advances**. The **litigation generated** and concentrated **pressure** on claims for a restoration of the values of legality, **and**, as discussed above, that pressure then **played a critical role in the litigation's outcome, which in turn contributed to** a broader impetus for **reform**.

**Legal norms don’t cause wars and the alt can’t effect liberalism**

David **Luban 10**, law prof at Georgetown, Beyond Traditional Concepts of Lawfare: Carl Schmitt and the Critique of Lawfare, 43 Case W. Res. J. Int'l L. 457

Among these associations is **the positive, constructive side of politics**, the very foundation of Aristotle's conception of politics, which **Schmitt completely ignores. Politics**, we often say, is the art of the possible. It **is the medium for organizing** all human **cooperation. Peaceable civilization, civil institutions, and elemental tasks such as collecting the garbage and delivering food to hungry mouths all depend on politics**. Of course, peering into the sausage factory of even such mundane municipal institutions as the town mayor's office will reveal plenty of nasty politicking, jockeying for position and patronage, and downright corruption. Schmitt sneers at these as "banal forms of politics, . . . all sorts of tactics and practices, competitions and intrigues" and dismisses them contemptuously as "parasite- and caricature-like formations." n55 **The fact is that Schmitt has nothing whatever to say about the constructive side of politics, and his entire theory focuses on enemies, not friends. In my small community, political meetings debate issues as trivial as whether to close a street and divert the traffic to another street. It is hard to see mortal combat as even a remote possibility in such disputes,** and so, in Schmitt's view, they would not count as politics, but merely administration. **Yet issues like these are the stuff of peaceable human politics**. Schmitt, I have said, uses the word "political" polemically--in his sense, politically. I have suggested that his very choice of the word "political" to describe mortal enmity is tendentious, attaching to mortal enmity Aristotelian and republican associations quite foreign to it. But the more basic point is that Schmitt's critique of humanitarianism as political and polemical is itself political and polemical. In a word, **the critique of lawfare is** itself **lawfare**. It is self-undermining because to the extent that it succeeds in showing that lawfare is illegitimate, it de-legitimizes itself. What about the merits of Schmitt's critique of humanitarianism? His argument is straightforward: either humanitarianism is toothless and [\*471] apolitical, in which case ruthless political actors will destroy the humanitarians; or else humanitarianism is a fighting faith, in which case it has succumbed to the political but made matters worse, because wars on behalf of humanity are the most inhuman wars of all. Liberal humanitarianism is either too weak or too savage. The argument has obvious merit. When Schmitt wrote in 1932 that wars against "outlaws of humanity" would be the most horrible of all, it is hard not to salute him as a prophet of Hiroshima. The same is true when Schmitt writes about the League of Nations' resolution to use "economic sanctions and severance of the food supply," n56 which he calls "imperialism based on pure economic power." n57 Schmitt is no warmonger--he calls the killing of human beings for any reason other than warding off an existential threat "sinister and crazy" n58 --nor is he indifferent to human suffering. But **international humanitarian law and criminal law are not the same thing as wars to end all war or humanitarian military interventions, so Schmitt's important moral** **warning** **against ultimate military self-righteousness** **does not** **really** **apply**. n59 **Nor does "bracketing" war by humanitarian constraints on war-fighting presuppose a vanished order of European public law.** The fact is that in nine years of conventional war, the United States has significantly bracketed war-fighting, even against enemies who do not recognize duties of reciprocity. n60 This may frustrate current lawfare critics who complain that American soldiers in Afghanistan are being forced to put down their guns. **Bracketing warfare is a decision**--Schmitt might call it an existential decision--**that rests in part on values that** **transcend the friend-enemy distinction.** **Liberal values are not alien extrusions into politics** **or evasions of politics;** **they are part of politics, and,** **as Stephen Holmes argued against Schmitt,** **liberalism has proven remarkably strong, not weak**. n61 **We could choose to abandon liberal humanitarianism, and that would be a political decision. It would simply be a bad one.**

**In a nuclear world we have to weigh consequences.**

Sissela **Bok** (Professor of Philosophy) 19**98** Applied Ethics and Ethical Theory, Ed. David Rosenthal and Fudlou Shehadi

The same argument can be made for Kant’s other formulations of the Categorical Imperative: “So act as to use humanity, both in your own person and in the person of every other, always at the same time as an end, never simply as a means”; and “So act as if you were always through actions a law-making member in a universal Kingdom of Ends.” **No one with a concern for humanity could** consistently **will to risk eliminating humanity** in the person of himself and every other **or to risk the death of all members in a universal Kingdom of Ends for the sake of justice. To risk their collective death for the sake of following one’s conscience would be,** as Rawls said, **“irrational, crazy.” And to say that one did not intend such a catastrophe, but** that one **merely failed to stop other persons from bringing it about would be beside the point when the end of the world was at stake. For although it is true that we cannot be held responsible for most of the wrongs that others commit,** the Latin maxim presents a case where **we would have to take such a responsibility seriously—perhaps to the**

**Judicial action is a meaningful restraint, and debating judicial prez powers restraints is good**

**Serrano and Minami, ‘03** (Susan, Project Director, Equal Justice Society; J.D. 1998, William S. Richardson School of Law, University of Hawai', partner, Minami, Lew & Timaki, Asian Law Journal, Korematsu v. United States: A "Constant Caution" in a Time of Crisis, p. Lexis)

Today, a broadly conceived **political identity is critical to** the defense of **civil liberties**. In 1942, Japanese Americans stood virtually alone, without allies, and suffered the banishment of their entire race. Forty years later, Japanese Americans, supported by Americans of all colors, were able to extract an apology and redress from a powerful nation. That lesson of **the need for political empowerment was made even more obvious after September 11,** 2001, **when Arab and Muslim American communities**, politically isolated and besieged by hostility fueled by ignorance, **became targets of violence** and discrimination. In the aftermath of September 11, Japanese Americans knew from history that the United States, which turned on them in 1942, could repeat itself in 2001. Therefore, on September 12, 2001, the Japanese American Citizens' League, the oldest Asian American civil rights organization in the country, immediately issued a press release warning against racial discrimination against Arab and Muslim Americans and supporting their  [**[\*49]**](http://www.lexis.com/research/retrieve?_m=bee887063044547ab12532f483726d11&docnum=3&_fmtstr=FULL&_startdoc=1&wchp=dGLbVtz-zSkAk&_md5=f0e31afba24c7755402ea0ead0b3cfb6&focBudTerms=%2522serrano%2522%20and%20%2522minami%2522%20and%20%2522korematsu%2522&focBudSel=all)  civil rights.n60 Other Japanese American individuals and groups have offered their friendship, political support, and solidarity with Arab and Muslim Americans. Japanese Americans also knew from their Redress experience that **political power was the strongest antidote**. The **coram nobis legal teams** understood the political dimensions of their cases and **adopted** a course of **litigation that would discredit the Wartime Cases by undermining** the **legal argument** that the Supreme Court had legitimized the World War II exclusion and detention. **This impaired** (though did not overturn) the value of Korematsu, Hirabayashi, and Yasui as legal **precedents for mass imprisonments** of any definable racial group without due process**. The even larger vision of these cases**, however, **was** the long-term **education of the** American **public**. **Many still believed** (and continue to believe) that th**ere were valid reasons for incarcerating Japanese Americans** en masse: **the** coram nobis **cases strongly refuted that notion and boldly illuminated the essentially political nature of the judicial system**. In doing so**, the coram nobis cases have contributed to the public's education about the frailty of civil rights and the evanescence of justice in our courts**. As such, **these cases highlight the need for continuing political activism and constant vigilance to protect our civil rights. In today's climate of fear and uncertainty**, **we must engage ourselves to assure that the vast national security regime does not overwhelm the civil liberties of vulnerable groups.** T**his means exercising our political power, making our dissents heard, publicizing injustices** done to our communities as well as to others, **and enlisting allies** from diverse communities. Concretely, this may mean **joining others' struggles in the courts**, Congress, schools and union halls; organizing protests against secret arrests, incarcerations, and deportations; building coalitions with other racial communities; writing op-ed essays or letters to politicians; launching media campaigns; donating money; and writing essays and articles.n61 Through these various ways, "**our task is to compel our institutions, particularly the courts, to be vigilant, to "protect all**.'" n62 **The lesson of the Wartime Cases and coram nobis cases taken together is not that the government may target an entire ethnic group in the name of national security; the cases teach us instead that civil rights and liberties are best protected by strongly affirming their place in our national character, especially in times of national crisis.** As Fred Korematsu avowed nearly twenty years ago, we must not let our governmental  [**[\*50]**](http://www.lexis.com/research/retrieve?_m=bee887063044547ab12532f483726d11&docnum=3&_fmtstr=FULL&_startdoc=1&wchp=dGLbVtz-zSkAk&_md5=f0e31afba24c7755402ea0ead0b3cfb6&focBudTerms=%2522serrano%2522%20and%20%2522minami%2522%20and%20%2522korematsu%2522&focBudSel=all)  institutions mistreat another racial group in such a manner again. To do this, **we must "collectively [turn] the lessons learned, the political and economic capital gained, the alliances forged and the spirit renewed, into many small and some grand advances against continuing harmful discrimination across America.**"n63 **We must become**, as Professor Yamamoto has argued, "**present-day social actors, agents of justice, because real, hard injustices are occurring all around us every day to Asian Americans and other racial communities and beyond.**" n64

### Defer Add-On: Civil Rights 2AC

#### Deference trend allows excessive executive power, allowing racial internment

Masur 05 [Jonathan, Law clerk to Posner, Seventh Circuit Court of Appeals, “A Hard Look or a Blind Eye: Administrative Law and Military Deference,” 56 Hastings L.J. 441, February, LN//uwyo-ajl]

A court's recognition that the Executive's general authority over military affairs should not preclude judicial protection of individual constitutional rights - and judicial acknowledgment of the extant legal constraints on executive action - does not guarantee meaningful judicial scrutiny of executive action and enforced adherence to the rule of law. Even when courts acknowledge the role of the judiciary as guardian of constitutional rights, they often defer to military factual determinations based purely on the military's experience and expertise over national security issues. This acquiescence to the government's factual claims in wartime cases renders operative legal constraints functionally toothless, just as did deference based on the Executive's particular role in military affairs. Self-propelled into accepting military proffers of fact at essentially face value, Article III courts have transformed "strict scrutiny" and other rights-protecting doctrines into exercises in artful pleading. An executive branch actor haled into court to defend its wartime actions need only allege sufficient facts to justify its choices and declare the question otherwise inscrutable to judicial eyes. Perhaps the most striking example of overwrought judicial deference to an "expert" military is Korematsu, a case that achieved infamy on other grounds. Korematsu marked the first appearance of "strict scrutiny" for laws that classify by race (in this case, the exclusion of recent immigrants of Japanese descent from the West Coast in 1942) and, notoriously, is one of only two cases in which such a violation has ever been judicially sanctioned. Yet the case also contained the seeds of another insidious judicial practice, one that has continued to operate on a regular basis. In Korematsu, the factual determinations upon which the racist exclusionary and curfew orders rested received no meaningful scrutiny from the Court. Deference to the military was essentially unbounded.

#### Reject all instances of racism—they risk extinction

Barndt 91 [Joseph, Co-director of Ministry Working to Dismantle Racism, "Dismantling Racism" p. 155//wdc]

But we have also seen that the walls of racism can be dismantled. We are not condemned to an inexorable fate, but are offered the vision and the possibility of freedom. Brick by brick, stone by stone, the prison of individual, institutional, and cultural racism can be destroyed. You and I are urgently called to join the efforts of those who know it is time to tear down, once and for all, the walls of racism. The danger point of self-destruction seems to be drawing even more near. The results of centuries of national and worldwide conquest and colonialism, of military buildups and violent aggression, of overconsumption and environmental destruction may be reaching a point of no return. A small and predominantly white minority of the global population derives its power and privilege from the sufferings of vast majority of peoples of all color. For the sake of the world and ourselves, we dare not allow it to continue.

### Defer Add-On: Liberty 2AC

#### Court deference places liberty outside of its purview, thus risking bureaucratic control of liberty

Solove 99 (law clerk and associate at arnold & porter) 1999 [Daniel J., “The Darkest Domain: Deference, Judicial Review, and the Bill of Rights”, Iowa Law Review. 84 Iowa L. Rev. 941, L/N//mac-djw]

There are at least three reasons why the practice of deference poses significant problems for liberal theories of judicial review. First, the bureaucratic state poses problems that all liberal theories of judicial review, regardless of their differences, cannot ignore. Increasingly, individual autonomy and freedom are becoming circumscribed by government institutions. The problem for liberalism is that the geography of liberty has radically changed since the founding days of the Constitution. Today, our liberty is bound up in the institutions that employ, license, regulate, conscript, imprison, police, and educate us. We live under a sprawl of numerous interacting and overlapping regulatory regimes, controlling the types of food we eat, the medicines we take, the roads we drive, the products we use, the air we breathe, and the layout of the cities in which we live. Decisions about what we watch on television, what we learn in school, what we can say at work, and how much privacy we will have are frequently made by public and private bureaucrats, officials to whom we have scant access to and over whom we have little power. Their decisions, however, play an enormous role in shaping liberty in the modern state. Deference places the burgeoning contexts of the bureaucratic state -- the rise of administrative agencies, the growth in the power and pervasiveness of existing institutions -- outside the scope of more searching judicial inquiry. This means that the geography of liberty is shifting toward areas that are protected only by deferential judicial review.

#### Must reject every invasion of liberty

Petro 74 [Sylvester, (Prof., Law, Wake Forest Univ.) Toledo Law Review, p. 480]

It is seldom that liberty of any kind is lost all at once. Thus it is unacceptable to say that the invasion of one aspect of freedom is of no import because there have been invasions of so many other aspects. That road leads to chaos, tyranny, despotism and the end of all human aspiration. Ask Solzhensyn. Ask Milovan Dijilas. In sum, if one believes in freedom as a supreme value and the proper ordering principle for any society aiming to maximize spiritual and material welfare, then every invasion of freedom must be emphatically identified and resisted with an undying spirit.

#### Judicial review necessary to check torture

Mukul **Sharma**, "Bagram, the Other Guantanamo," THE HINDU, 1--6--**10**, http://beta.thehindu.com/opinion/op-ed/article76282.ece, accessed 8-15-13.

As at Guantanamo, in the absence of judicial oversight the detentions in Bagram have been marked by torture and other kinds of ill-treatment of detenus. Agents of the Federal Bureau of Investigation (FBI) deployed in Afghanistan between late-2001 and the end of 2004 reported personally having observed military interrogators in Bagram and elsewhere employing stripping , sleep deprivation, threats of death or pain, threats against detenus’ family members, prolonged use of shackles, stress positions, hooding and blindfolding other than for transportation, use of loud music, use of strobe lights or darkness, extended isolation, forced cell extractions, use of and threats of use of dogs to induce fear, forcible shaving of hair for the purpose of humiliating detenus, holding detenus in an unregistered manner, sending them to other countries for “more aggressive” interrogation and threatening to take such action.

#### Torture is a side constraint

Amnesty International, Response to the Proposed “Interrogations Procedures Act,” 2--16--05, http://web.amnesty.org/library/Index/ENGAMR510392005

What should matter even more is that the absolute duty to treat all prisoners with dignity without exception is a moral value reflecting fundament principles of humanity, as well as part of the bedrock of international law. The proposed legislation threatens to destroy all that and replace it by a legalized, regularized, supervised, and officially approved form of cruelty. The act of one individual terrorizing another serves only to destroy the values it claims to be protecting

### BB

**Hegemony is sustainable**

-econ/military dominance

-trade measures

-diffusion of tech

Michael Beckley, PhD, “The Unipolar Era: Why American Power Persists and China’s Rise Is Limited,” Dissertation, Columbia University, 2012, p. 4-6.

In the pages that follow, I argue that such **declinist beliefs are exaggerated** and that **the alternative perspective more accurately captures the dynamics of the current unipolar era**. First, I show that **the United States is not in decline. Across most indicators of national power, the United States has maintained, and** in some areas **increased, its lead** over other countries since 1991. **Declinists often characterize the expansion of globalization and U.S. hegemonic burdens as** sufficient **conditions for U.S.** relative **decline. Yet, over the last two decades American economic and military dominance endured while globalization and U.S. hegemony increased significantly.** Second, I find that **U.S. hegemony is profitable** in certain areas. **The U**nited **S**tates **delegates part of the burden of maintaining international security to others while channeling** its own **resources**, and some of its allies resources, **into** enhancing **its** own **military dominance. It imposes punitive trade measures against others while deterring such measures against its own industries. And it manipulates global technology flows** in ways that enhance the technological and military capabilities of itself and allies. Such a privileged position has not provoked significant opposition from other countries. In fact, **balancing against the United States has declined steadily since the end of the Cold War.** Third, I conclude that **globalization benefits the United States more than other countries. Globalization causes innovative activity to concentrate in areas where it is done most efficiently**. Because the United States is already wealthy and innovative, it sucks up capital, technology, and people from the rest of the world. Paradoxically, therefore, **the diffusion of technology around the globe helps sustain a concentration of technological and military capabilities in the U**nited **S**tates.Taken together, **these results suggest that unipolarity will be an enduring feature of international relations, not a passing moment in time, but a deeply embedded material condition that will persist for the foreseeable future**. The United States may decline because of some unforeseen disaster, bad policies, or from domestic decay. But the two chief features of the current international system – **American hegemony and globalization – both reinforce unipolarity.** For scholars, this conclusion implies that the study of unipolarity should become a major research agenda, at least on par with the study of power transitions and hegemonic decline. For policymakers, the results of this study suggest that the United States should not retrench from the world, but rather continue to integrate with the world economy and sustain a significant diplomatic and military presence abroad.

**Hegemony will remain strong—bandwagoning by other powerful states behind the U.S.**

-weakness in rising powers

-us led order favorable

William C. Wohlforth, Professor, Government, Dartmouth College, "US Decline? (No.2): William Wohlforth: The United States Lost Some Ground over the Past Decade," interviewed by Kourosh Ziabari, IRAN REVIEW, 12--13--12, www.iranreview.org/content/Documents/US-Decline-No-2-William-Wohlforth-The-United-States-Lost-Some-Ground-over-the-Past-Decade.htm, accessed 5-23-13.

There is little doubt that after increasing its economic, technological and military dominance in the 1990s, **the U**nited **S**tates **has lost some ground** over the past ten years. While this trend may well continue, **whether it** really **leads to a transformation depends on** two things primarily: **the speed and scale of U.S. decline, and the interests of other major players**. A lot of ink has been spilled on the first of these, the so called “rise of the rest.” So much, in fact, that **we’re now seeing something of backlash, as analysts are starting to notice weaknesses and vulnerabilities in the rising powers’ economies, societies and politics**. But the second issue is at least as important, if not more so. Note that **the attitude of the countries with most of the world’s largest and most advanced economies and militaries are generally favorable to the U.S.-led order**: the EU, Japan, Canada, Mexico and many other American countries, Australia, New Zealand, South Korea, etc. **Given this huge preponderance of power lining up basically in favor of the status quo, even if the U.S. itself declines, there will still be very powerful support for the current arrangements**.

#### Leadership checks prolif and nuclear terrorism

Jim **Talent**, U.S. Senator, and Heath Hall, Heritage Foundation, Sowing the Wind: The Decay fo American Power and Its Consequences, American Freedom & Enterprise Foundation, 3--5--**10**, www.freedomsolutions.org/2010/03/sowing-the-wind-the-decay-of-american-power-and-its-consequences/.

There is a reason that regimes like Iran and North Korea go to the time and expense, and assume the risks of developing nuclear weapons programs; nuclear capability empowers them to achieve their ends, and thereby poses challenges to the United States, for several reasons. First, there is a danger that rogue regimes with nuclear material may assist terrorists in developing weapons of mass destruction.[36] Even the possibility that such regimes may do so gives them leverage internationally. Second, these regimes have ambitions in their regions and around the world.[37] Some of their leaders are fanatical enough to actually consider a first strike using nuclear weapons; for example, high-ranking officials of the Iranian government have openly discussed using a nuclear weapon against Israel.[38] Whether a first strike occurs or not, the possession of nuclear capability frees aggressive regimes to pursue their other goals violently with less fear of retaliation. For example, North Korea’s nuclear capability means that it could attack South Korea conventionally with a measure of impunity; even if the attack failed, the United States and its allies would be less likely to remove the North Korean regime in retaliation. In other words, nuclear capability lessens the penalties which could be exacted on North Korea if it engages in aggression, which makes the aggression more likely. The same logic applies to Iran, which is why the other nations in the Middle East are so concerned about Iran’s nuclear program. A nuclear attack by Iran is possible, but the real danger of Iranian nuclear capability is that it would make conventional aggression in the region more likely.[39] Finally, the more nations that get nuclear weapons, the greater the pressure on other nations to acquire them as a deterrent, and this is particularly true when a government acquiring the capability is seen as unstable or aggressive. North Korea’s possession of nuclear weapons has tended, for obvious reasons, to make the South Koreans and Japanese uncomfortable about having no deterrent themselves. The possibility of uncontrolled proliferation—what experts call a “nuclear cascade”[40]—is tremendously dangerous; it increases the possibility that terrorists can get nuclear material from a national program, and it raises the prospect of a multilateral nuclear confrontation between nations.[41] Many of the smaller nuclear nations do not have well-established first strike doctrine or launch protocols; the chance of a nuclear exchange, accidental or intentional, increases geometrically when a confrontation is multilateral. The antidote to proliferation is American leadership and power. The reality and perception of American strength not only deters aggressive regimes from acquiring weapons of mass destruction; it reassures other countries that they can exist safely under the umbrella of American power without having to develop their own deterrent capability.[42]

**Mueller’s wrong—Cherry Picks his arguments**

Hugh **Gusterson**, February 20**11**, Anthropologist on Nuclear Culture, International Security and Anthropology of Science at George Mason University “Atomic Escapism” American Scientist, Volume 99, Number 1, pg.72 Lexis

**Reading John Mueller’s Atomic Obsession is like going through the looking glass with Alice.** Examining the conventional wisdom about nuclear weapons from the other side of the looking glass, Mueller tells us that their destructiveness has been exaggerated; that the bombings of Hiroshima and Nagasaki were of marginal importance in ending World War II; that “nuclear weapons have been of little historic consequence,” and that the United States and the Soviet Union would not have gone to war even in the absence of nuclear deterrence; that arms-control treaties are usually a waste of time and effort; that the dangers of nuclear proliferation are greatly exaggerated; that sanctions aimed at stopping countries from seeking nuclear weapons make it more likely that they will pursue them; and, finally, that “the likelihood a terrorist group will come up with an atomic bomb seems to be vanishingly small.”¶ **In arguing against atomic “alarmism” and the inclination “to wallow in a false sense of insecurity,” Mueller has something to annoy everyone**. Conservatives can take umbrage at his arguments that the bombing of Hiroshima was unnecessary to end World War II and that the Cold War nuclear buildup was not needed to deter the Soviets. Liberals can be upset by the claim that arms-control treaties are pointless and sometimes even counterproductive.¶ The challenge in reading Mueller’s book is to separate insights that are deviant but useful (some of his deconstructions of the conventional wisdom are genuinely insightful) from arguments that are deviant because they are exaggerated, misshapen or just plain wrong. Many of Mueller’s sharp-edged points about the hyping of the dangers of nuclear proliferation and terrorism fall into the first (insightful) category, but his critiques of arms control and his apparent smugness about all nuclear dangers belong in the latter.¶ Mueller argues that liberals and conservatives have joined in exaggerating the danger and importance of nuclear weapons; they have used our fears over the years to justify unnecessary weapons programs and arms-control negotiations, a counterproductive invasion of Iraq, and now bloated counterterrorism initiatives. **He builds his argument atop an exercise in counterfactual history, maintaining that nuclear weapons were unnecessary to keep the peace during the Cold War, because both superpowers would have been deterred from war anyway by memories of the carnage of World War II, and because the Soviet Union was too risk-averse to chance an invasion of Europe**. (**He does not ask whether Soviet nuclear weapons might have deterred the United States from starting a war with the Soviets**.) **Those who know Cold War history in its rich complexity will be infuriated by the simplifications, omissions and blithe assumptions in this exercise in intellectual casuistry, which brings to mind not the work of a scholar seriously weighing evidence, but the efforts of a high-school debate team to push a contrived point of view as far as possible.¶** The most original, incisive and interesting part of the book is the last third, in which Mueller slashes through the hype that guides much public discourse and policymaking about the risk of nuclear terrorism. He points out that a foreign government is unlikely to give a nuclear weapon to a terrorist group because of the danger that, as supplier, that country would invite retaliation against itself. He also uses the writings of several nuclear scientists, including the former Los Alamos division leaders Carson Mark and Steve Younger, to argue that it would be prohibitively difficult for a small terrorist group that lacked state sponsorship to acquire the subtle engineering knowledge needed to overcome the technical challenges involved in turning black-market nuclear material into a workable nuclear weapon. Many scientific experts not cited here by Mueller would take issue with that argument. And having read one of the articles that Mueller does cite—“Can Terrorists Build Nuclear Weapons?,” by J. Carson Mark and others (1987)—I am of the opinion that it does not, in fact, support Mueller’s argument. Furthermore**, in dismissing the case for a terrorist nuclear threat, Mueller does not adequately address the possibility that a terrorist group seeking a bomb might have access to a scientist with nuclear-weapons experience from another state as an adviser or team member.** Still, by pointing out the importance of tacit and esoteric knowledge to the success of such an endeavor**, Mueller is making an important challenge to glib assumptions about the ease with which a terrorist group, even if it had access to uranium and plutonium, might be able to make a bomb.¶** **Mueller fails to discuss another possibility:** that **a rogue element within a state, not the state leadership itself, might sell an intact nuclear weapon to which it has access**. **This scenario is far from speculative**: After the fall of the Berlin wall, a Soviet soldier guarding nuclear weapons in East Germany offered to sell an atomic warhead to the antinuclear organization Greenpeace; Greenpeace wanted to buy the weapon and display it to show the dangers of nuclear proliferation. They were arranging payment and transportation when the warhead in question was abruptly removed from East Germany by the Soviets. It is, sadly, all too typical of Mueller’s style of argument that he makes his case with copious references to any literature that supplies evidence supporting his point of view, but he ignores inconvenient facts and arguments.¶ We see something similar **in Mueller’s discussion of arms-control treaties**. He **regards such treaties as bureaucratically unwieldy and argues that states often only agree to them when they involve no real sacrifice or merely codify what the state already intended to do**. **He bases this argument largely on a discussion of the Limited Test Ban Treaty of 1963, which forced nuclear testing underground but did nothing to curtail the nuclear arms race, and the Strategic Arms Limitation Talks Agreement (SALT I), which limited missiles but not the newly miniaturized warheads packed several to a missile, which were the real problem.¶** **Mueller has cherry-picked his treaties here. Why not discuss the Outer Space Treaty, which preempted a nuclear arms race in space?** And what about the 1988 Intermediate-Range Nuclear Forces (INF) Treaty, which eliminated an entire category of nuclear weapons from Europe, much to the chagrin of hardliners in both superpowers? Above all, **why not discuss the 1972 Anti-Ballistic Missile (ABM) Treaty (the existence of which, astonishingly, is never mentioned in Mueller’s book)?** The ABM Treaty was widely seen by arms-control advocates as having headed off an expensive and destabilizing race between offensive and defensive weapons during the Cold War.¶ The strengths and weaknesses **of Mueller’s argument collide most jarringly in his discussion of nuclear proliferation.** **He is entertaining when he catalogs decades of dire predictions from experts about a coming cascade of countries crossing the nuclear threshold—predictions that have failed to come true, although this has not deterred contemporary pundits from re-sounding the alarm.** And we need to think seriously about his argument that sanctions intended to deter nuclear proliferation killed hundreds of thousands of civilians in Iraq and North Korea while increasing the attractiveness of nuclear weapons to the paranoid leaders of those countries; the remedy may be worse than the disease.¶ But **surely Mueller goes too far, and his polemical casuistry becomes dangerous, when he argues that sanctions and treaties are largely unnecessary because most countries have freely eschewed proliferation, recognizing that nuclear weapons are “militarily useless, and a spectacular waste of money and scientific talent.”** Although he is surely right that nuclear weapons are overrated and often fail to bring the bargaining power and military strength their owners seek, some countries (whether because they are in a bad neighborhood or have a bad regime) have spared no expense to seek them. **And when a country acquires them, this puts pressure on rivals and neighbors to seek them too** (as Pakistan did in response to India, for example). **There can be a collective logic that forces individual countries to make choices they would rather not. The importance of the Treaty on the Non-Proliferation of Nuclear Weapons, for which Mueller shows so little respect, is that it releases countries from the prisoner’s dilemma here: The treaty and its inspection provisions give confidence to countries who want to eschew nuclear weapons as long as they can be sure that their rivals do so too**. This is why Brazil and Argentina both joined the treaty regime in the 1990s, for instance.¶ In short, **Mueller has a gimlet eye for hype about nuclear weapons but is blind to their very real dangers. His book, which should sport a “don’t-worry-be-happy” smiley face rather than a scrawled atom on the cover, counsels us in its final sentence that we are not in danger and should “sleep well**.” **Mueller seems to assume that, because there has not yet been an accidental nuclear war, because terrorists have not yet exploded a nuclear weapon, and because no country has used nuclear weapons since the United States bombed Nagasaki, we are safe**. Presumably BP executives talked the same way about the safety of deep-water drilling before April 20, 2010; Soviet engineers talked the same way about the safety of their nuclear reactors before April 26, 1986; and NASA engineers talked the same way about the safety of shuttle launches at low temperatures before January 28, 1986. **In regard to nuclear weapons, we have** arguably **been lucky**. **There have been several incidents in which U.S. planes carrying nuclear weapons have crashed or burned.** In 1995 the Soviets mistook a Norwegian weather rocket for a U.S. nuclear attack, and Boris Yeltsin found himself staring into the nuclear briefcase as his aides told him he might only have a few minutes to launch Russian nuclear weapons. And we now know that in the early years of the Cold War, there were senior U.S. military officers who wanted to preemptively attack the Soviet Union.¶ Mueller mocks those who warn of events that are possible but have not happened. “There is a ‘genuine possibility,’” he says, “that Osama bin Laden could convert to Judaism, declare himself to be the Messiah, and fly in a gaggle of Mafioso hit men from Rome to have himself publicly crucified.”¶ **If only nuclear disaster were that unlikely.**

#### Al Qaeda is highly motivated to get a nuke

Allison 08 (Graham, Director, Belfer Center for Science and International Affairs; Douglas Dillon Professor of Government, Harvard Kennedy School, 4-23-08, "Nuclear Attack a Worst-Case Reality?" Belfer Center) belfercenter.ksg.harvard.edu/publication/18230/nuclear\_attack\_a\_worstcase\_reality.html

Al Qaeda remains a formidable enemy with clear nuclear ambitions. In 1998, Osama bin Laden declared that obtaining weapons of mass destruction was "a religious duty" for al Qaeda. According to the final report of the 9/11 commission, "Al Qaeda has tried to acquire or make nuclear weapons for at least 10 years ... and continues to pursue its strategic goal of obtaining a nuclear capability." Al Qaeda spokesman Sulaiman Abu Ghaith announced the group's objective — "to kill 4 million Americans — 2 million of them children," in retaliation for the deaths the group thinks the United States and Israel have inflicted on Muslims. As former CIA Director George J. Tenet reveals in his memoir, "the most senior leaders of al Qaeda are still singularly focused on acquiring [weapons of mass destruction]... . The main threat is the nuclear one. I am convinced that this is where Osama bin Laden and his operatives desperately want to go." Homeland Security Undersecretary Charles Allen confirmed Mr. Tenet's view in his Senate testimony earlier this month. He told lawmakers: "Our post-9/11 successes against the Taliban in Afghanistan yielded volumes of information that completely changed our view of al Qaeda's nuclear program. We learned that al Qaeda wants a weapon to use, not a weapon to sustain and build a stockpile. ... A terrorist group needs only to produce a nuclear yield once to change history." Would a nuclear 9/11 be a game-changer? You bet.

#### Consensus goes aff

Hashmi 12 (Muhammad Jawad, M.Phil. in Defence and Strategic Studies, 1-29-12, "Al Qaeda In Pursuit Of Nuclear Weapons/Radiological Material – Analysis" Eurasia Review) www.eurasiareview.com/29012012-al-qaeda-in-pursuit-of-nuclear-weaponsradiological-material-analysis/

It is a consensus among the world community generally, and the U.S. particularly, that al Qaeda has actively pursued the acquisition of nuclear weapons. As the director of the Defence Intelligence Agency told the Senate Select Committee on Intelligence on 11 February 2003, “Al Qaeda and other terrorist groups are seeking to acquire chemical, biological, radiological, and nuclear (CBRN) capabilities.” It should be noted that to date there has been no public confirmation by officials that Al Qaeda has actually acquired nuclear weapons, or indeed any nuclear material necessary to build a weapon. Motivational Factors There may be various reasons for Al Qaeda to acquire nuclear weapons, but two rationales underlying its attempts to acquire nuclear weapons. First, may be the solemn religious duty, to defend co-religionists from the “Jews and Crusaders” and the second may be to inflict the maximum amount of physical damage on the United States. Given their potential power, nuclear weapons are an obvious means to this end. On November, 2001 Al Qaeda announced, that we have chemical and nuclear weapons as a deterrent and if America used them against us we reserve the right to use them.

#### Environmental decay risks collapse of civilization

John C. Dernbach, Associate Professor, Law, Widener University, “Sustainable Development as a Framework for National Governance,” CASE WESTERN RESERVE UNIVERSITY LAW REVIEW v. 49, Fall 1998, p. 16.

The global scale and severity of environmental degradation and poverty are unprecedented in human history. Major adverse consequences are not inevitable, but they are likely if these problems are not addressed. Many civilizations collapsed or were severely weakened because they exhausted or degraded the natural resource base on which they depended. In addition, substantial economic and social inequalities have caused or contributed to many wars and revolutions. These problems are intensified by the speed at which they have occurred and are worsening, making it difficult for natural systems to adapt. The complexity of natural and human systems also means that the effects of these problems are difficult to anticipate. The potential impact of global warming on the transmission of tropical diseases in a time of substantial international travel and commerce is but one example.

#### Good civil military relations key to check global wars

Cohen, professor of strategic studies John Hopkins, 1997

(Eliot, Civil-military relations - Are U.S. Forces Overstretched?, Orbis, Spring 1997, <http://findarticles.com/p/articles/mi_m0365/is_n2_v41/ai_19416332/pg_9/?tag=content;col1>)

Left uncorrected, the trends in American civil-military relations could breed certain pathologies. The most serious possibility is that of a dramatic civil-military split during a crisis involving the use of force. In the recent past, such tensions did not result in open division; for example, Franklin Roosevelt insisted that the United States invade North Africa in 1942, though the chiefs of both the army and the navy vigorously opposed such a course, favoring instead a buildup in England and an invasion of the continent in 1943. Back then it was inconceivable that a senior military officer would leak word of such a split to the media, where it would have reverberated loudly and destructively. To be sure, from time to time individual officers broke the vow of professional silence to protest a course of action, but in these isolated cases the officers paid the accepted price of termination of their careers. In the modern environment, such cases might no longer be isolated. Thus, presidents might try to shape U.S. strategy so that it complies with military opinion, and rarely in the annals of statecraft has military opinion alone been an adequate guide to sound foreign policy choices. Had Lincoln followed the advice of his senior military advisors there is a good chance that the Union would have fallen. Had Roosevelt deferred to General George C. Marshall and Admiral Ernest J. King there might well have been a gory debacle on the shores of France in 1943. Had Harry S Truman heeded the advice of his theater commander in the Far East (and it should be remembered that the Joint Chiefs generally counseled support of the man on the spot) there might have been a third world war. Throughout much of its history, the U.S. military was remarkably politicized by contemporary standards. One commander of the army, Winfield Scott, even ran for president while in uniform, and others (Leonard Wood, for example) have made no secret of their political views and aspirations. But until 1940, and with the exception of periods of outright warfare, the military was a negligible force in American life, and America was not a central force in international politics. That has changed. Despite the near halving of the defense budget from its high in the 1980s, it remains a significant portion of the federal budget, and the military continues to employ millions of Americans. More important, civil-military relations in the United States now no longer affect merely the closet-room politics of Washington, but the relations of countries around the world. American choices about the use of force, the shrewdness of American strategy, the soundness of American tactics, and the will of American leaders have global consequences. What might have been petty squabbles in bygone years are now magnified into quarrels of a far larger scale, and conceivably with far more grievous consequences. To ignore the problem would neglect one of the cardinal purposes of the federal government: "to provide for the common defense" in a world in which security cannot be taken for granted.

## 1AR

### Deference

### Defer Add-On: Civil Rights 2AC

#### Deference trend allows excessive executive power, allowing racial internment

Masur 05 [Jonathan, Law clerk to Posner, Seventh Circuit Court of Appeals, “A Hard Look or a Blind Eye: Administrative Law and Military Deference,” 56 Hastings L.J. 441, February, LN//uwyo-ajl]

A court's recognition that the Executive's general authority over military affairs should not preclude judicial protection of individual constitutional rights - and judicial acknowledgment of the extant legal constraints on executive action - does not guarantee meaningful judicial scrutiny of executive action and enforced adherence to the rule of law. Even when courts acknowledge the role of the judiciary as guardian of constitutional rights, they often defer to military factual determinations based purely on the military's experience and expertise over national security issues. This acquiescence to the government's factual claims in wartime cases renders operative legal constraints functionally toothless, just as did deference based on the Executive's particular role in military affairs. Self-propelled into accepting military proffers of fact at essentially face value, Article III courts have transformed "strict scrutiny" and other rights-protecting doctrines into exercises in artful pleading. An executive branch actor haled into court to defend its wartime actions need only allege sufficient facts to justify its choices and declare the question otherwise inscrutable to judicial eyes. Perhaps the most striking example of overwrought judicial deference to an "expert" military is Korematsu, a case that achieved infamy on other grounds. Korematsu marked the first appearance of "strict scrutiny" for laws that classify by race (in this case, the exclusion of recent immigrants of Japanese descent from the West Coast in 1942) and, notoriously, is one of only two cases in which such a violation has ever been judicially sanctioned. Yet the case also contained the seeds of another insidious judicial practice, one that has continued to operate on a regular basis. In Korematsu, the factual determinations upon which the racist exclusionary and curfew orders rested received no meaningful scrutiny from the Court. Deference to the military was essentially unbounded.

#### Reject all instances of racism—they risk extinction

Barndt 91 [Joseph, Co-director of Ministry Working to Dismantle Racism, "Dismantling Racism" p. 155//wdc]

But we have also seen that the walls of racism can be dismantled. We are not condemned to an inexorable fate, but are offered the vision and the possibility of freedom. Brick by brick, stone by stone, the prison of individual, institutional, and cultural racism can be destroyed. You and I are urgently called to join the efforts of those who know it is time to tear down, once and for all, the walls of racism. The danger point of self-destruction seems to be drawing even more near. The results of centuries of national and worldwide conquest and colonialism, of military buildups and violent aggression, of overconsumption and environmental destruction may be reaching a point of no return. A small and predominantly white minority of the global population derives its power and privilege from the sufferings of vast majority of peoples of all color. For the sake of the world and ourselves, we dare not allow it to continue.

### Defer Add-On: Liberty 2AC

#### Court deference places liberty outside of its purview, thus risking bureaucratic control of liberty

Solove 99 (law clerk and associate at arnold & porter) 1999 [Daniel J., “The Darkest Domain: Deference, Judicial Review, and the Bill of Rights”, Iowa Law Review. 84 Iowa L. Rev. 941, L/N//mac-djw]

There are at least three reasons why the practice of deference poses significant problems for liberal theories of judicial review. First, the bureaucratic state poses problems that all liberal theories of judicial review, regardless of their differences, cannot ignore. Increasingly, individual autonomy and freedom are becoming circumscribed by government institutions. The problem for liberalism is that the geography of liberty has radically changed since the founding days of the Constitution. Today, our liberty is bound up in the institutions that employ, license, regulate, conscript, imprison, police, and educate us. We live under a sprawl of numerous interacting and overlapping regulatory regimes, controlling the types of food we eat, the medicines we take, the roads we drive, the products we use, the air we breathe, and the layout of the cities in which we live. Decisions about what we watch on television, what we learn in school, what we can say at work, and how much privacy we will have are frequently made by public and private bureaucrats, officials to whom we have scant access to and over whom we have little power. Their decisions, however, play an enormous role in shaping liberty in the modern state. Deference places the burgeoning contexts of the bureaucratic state -- the rise of administrative agencies, the growth in the power and pervasiveness of existing institutions -- outside the scope of more searching judicial inquiry. This means that the geography of liberty is shifting toward areas that are protected only by deferential judicial review.

#### Must reject every invasion of liberty

Petro 74 [Sylvester, (Prof., Law, Wake Forest Univ.) Toledo Law Review, p. 480]

It is seldom that liberty of any kind is lost all at once. Thus it is unacceptable to say that the invasion of one aspect of freedom is of no import because there have been invasions of so many other aspects. That road leads to chaos, tyranny, despotism and the end of all human aspiration. Ask Solzhensyn. Ask Milovan Dijilas. In sum, if one believes in freedom as a supreme value and the proper ordering principle for any society aiming to maximize spiritual and material welfare, then every invasion of freedom must be emphatically identified and resisted with an undying spirit.

### Defer Add-On: APA 2AC

#### Military super deference undermines the APA

Kovacs 11 (Kathryn, Assistant Professor, Rutgers School of Law-Camden, 2011, "Leveling the Deference Playing Field" Oregon Law Review, Lexis)

The courts' practice of giving the military super-deference in APA cases also undermines two of the APA's basic goals - enhancing uniformity and augmenting judicial review - which Congress saw as critical to protecting individual liberties and avoiding totalitarianism. This unpredictability causes doctrinal confusion, which does not do agencies, plaintiffs, or regulated industries any favors. It also raises concerns related to the hypocrisy of courts: they purport to keep agencies within the bounds of their delegated authority through rules of administrative common law, even though creating that common law may exceed the courts' authority. Likewise, courts emphasize the rule of law while defying rule-of-law values by singling out one agency for special treatment and leaving little restraint on the agency's discretion. Finally, this unpredictability is inconsistent with the Supreme Court's slow but steady trend toward closer adherence to the text of the APA.

#### FDA is in violation of the APA by allowing nanoparticles in food

Joyce 12 (Robert, attorney specializing in environmental and toxic tort litigation, April 2012, “FDA sued for not responding to rulemaking petition on nanoparticles” McAfee & Taft RegLINC) http://www.mcafeetaft.com/Resources/Attorney-Articles/Articles/FDA-sued-for-not-responding-to-rulemaking-petition.aspx

The Food and Drug Administration has been sued by a group of consumer safety and environmental advocates concerned over possible health and environmental effects of engineered nanomaterials. In this first-of-a-kind lawsuit, the group alleges that the FDA failed to adequately respond to the group’s May 16, 2006, petition under the Administrative Procedures Act (APA) seeking amendment of FDA regulations regarding such materials. According to a statement issued by one of the plaintiffs, Friends of the Earth, “The agency’s unlawful delay unnecessarily places consumers and the environment at risk.” In 2006, the group petitioned the FDA to enact new regulations which would better define the materials at issue, treat them as new substances distinct from their bulk forms, require them to have detailed labeling, and subject them to “nano-specific paradigms of health and safety testing.” The petition also requested the FDA to prepare an Environmental Impact Statement under the National Environmental Policy Act to assess the impacts of nanotechnology in products regulated by the FDA. According to the complaint filed on December 21, 2011, with the U.S. District Court for the Northern District of California (International Center for Technology Assessment v. Hamburg, Case No. CV-11-6592-MEJ), “The FDA has not meaningfully responded to or taken action on the 2006 petition in violation of the Administrative Procedure Act” and, “in the interim, nanomaterial consumer products have proliferated.” Plaintiffs have requested the court to declare the FDA to be in violation of the APA and to order the FDA “to respond to the 2006 petition as soon as possible.” Of particular concern to plaintiffs is that, because of their small size, nanomaterials have unique properties, functions and effects. Nanoparticles are typically between 1 and 100 nanometers in size (a nanometer is one-billionth of a meter), while “a red blood cell is approximately 7,000 nanometers wide.” As such, nanoparticles have novel “electrical, optical, magnetic, toxicity, chemical, photoreactive, persistence, bioaccumulative and explosiveness” properties that are alleged to pose hazards to humans and the environment. The small size of the particles purportedly results in “unprecedented mobility in the body and environment” and allows them to “enter the body and pass through biological membranes – like cell walls, cell tissues, and organs – more easily than larger particles.” Consequently, when inhaled, ingested or absorbed, the particles are said to be able to accumulate in cells, organs and tissues and even make their way into cell mitochondria and nuclei “where they can interfere with cell signaling and induce structural damage, including DNA damage.” The fundamental concern is that the FDA’s existing information on bulk forms of the materials from which the particles are made is inadequate to characterize them. According to the complaint, the FDA’s belief that “particle size is not an issue... is a loggerheads with the consensus view of the scientific community, which is that the adverse effects of nanoparticles cannot be reliably predicted or derived from the known toxicity of the bulk material.” Consequently, the groups want the FDA to treat nanoparticles and nanotubes as new chemicals with properties distinct from their bulk forms. According to plaintiffs, there are well over 1,300 products containing nanoparticles that are intended for human consumption or application. Of immediate concern to plaintiffs are sunscreens containing nanoparticles of zinc oxide and titanium oxide. Plaintiffs point out that there are “several hundred sunscreen products containing manufactured nanoparticles... currently on the market in Australia.” They maintain that FDA’s “first and only words” on such sunscreens was that it “considered manufactured nanoparticle ingredients in these sunscreens a mere reduction in size and not a new drug ingredient, permitting manufacturers to sell [them] based on the agency’s safety assessment of bulk material sunscreens.” However, plaintiffs fear that zinc oxide and titanium oxide nanoparticle ingredients in sunscreens pose new and distinct risks not associated with their bulk forms. In particular, they cite early studies that link these ingredients with damage to colon cells and brain stem cells, and that purport to affect gene expression in the brains of mice fetuses in ways that have been associated with autism, epilepsy and Alzheimer’s disease. Plaintiffs also cite studies which indicate that nanoparticles smaller than 240nm can pass through the human placenta to the fetus, “meaning that the toxicity of manufactured nanomaterials could extend across generations.” Not limiting themselves to potential effects of human exposure, the plaintiffs’ complaint also raises various environmental issues. They characterize nanomaterials as “a new class of non-biodegradable pollutants” which can enter the environment by being sprayed on, washed off, or disposed of. They claim the potential environmental issues include: “mobility, reaching places that larger particles cannot, moving through aquifers and soils; transport, the ability to absorb or bond to harmful chemicals and carry them places they would not otherwise reach; reactivity, interacting with natural substances to develop toxic compounds; fate and persistence; and bioaccumulation.” Plaintiffs even cite the EPA for the proposition that “there is a significant gap in our knowledge of the environmental, health, and ecological implications associated with nanotechnology.”

#### Nanoparticles contaminate the environment, causing food scarcity

Common Dreams 12 (Progressive nonprofit news center, 11/21/12, “Nanotechnology could reduce plant's ability to produce food”)

http://www.commondreams.org/headline/2012/11/21-6

Scientists planted soybeans in soil doused with two kinds of metallic nanoparticles to determine whether the materials would become part of the plants. In both cases, the substances became part of the plants. In ground spiked with zinc oxide nanoparticles, soybeans seemed to fare slightly better than normal. In soil treated with cerium oxide nanoparticles, the plants grew fewer leaves and punier bean pods," Scott Canon of The Kansas City Star reports. "That raises implications for the fields of Kansas, Missouri and the rest of the Grain Belt where, scientists presume, manufactured nanoparticles have been accumulating for a few decades now. And nanotechnology could wreak havoc elsewhere, including in sewage plants, after chemicals wash off into local wastewater treatment facilities. According to the study, "The results provide a clear, but unfortunate, view of what could arise over the long term (including that) plant growth and yield diminished ... Juxtaposed against widespread land application of wastewater treatment biosolids to food crops, these findings forewarn of agriculturally associated human and environmental risks from the accelerating use of (manufactured nanomaterial)." "The stuff is going to end up somewhere," said Patricia Holden, a professor of environmental microbiology at the University of California-Santa Barbara and a lead researcher in the soybean study, published in the Proceedings of the National Academy of Sciences. "We're only beginning to learn what that might mean." Organizations such as Food & Water Watch worry that the science will become so ingrained in our way of life that it can't be undone. And while Todd Kuiken, a senior researcher at the Woodrow Wilson Center's Project on Emerging Nanotechnology, said the study "dosed the hell out of a bunch of soil," he acknowledged that nanoparticles can be absorbed by the plant and cut back its ability to produce food. Ken Klabunde, a Kansas State University distinguished professor of chemistry, told The Kansas City Star that nanotechnology should use only safe substances such as zinc and cerium, rather than lead. "There are many things on the periodic table that we could make nano and would be highly toxic," he said. "There could be unintended consequences ... if we're not careful."

#### Food scarcity causes World War III

Calvin 02 (William H., Professor of Biology – University of Washington, “A Brain for All Season”, http://WilliamCalvin.com/BrainForAllSeasons/ NAcoast.htm)

The population-crash scenario is surely the most appalling. Plummeting crop yields will cause some powerful countries to try to take over their neighbors or distant lands – if only because their armies, unpaid and lacking food, will go marauding, both at home and across the borders. The better-organized countries will attempt to use their armies, before they fall apart entirely, to take over countries with significant remaining resources, driving out or starving their inhabitants if not using modern weapons to accomplish the same end: eliminating competitors for the remaining food. This will be a worldwide problem – and could easily lead to a Third World War – but Europe's vulnerability is particularly easy to analyze.The last abrupt cooling, the Younger Dryas, drastically altered Europe's climate as far east as Ukraine.  Present-day Europe has more than 650 million people.  It has excellent soils, and largely grows its own food.  It could no longer do so if it lost the extra warming from the North Atlantic.

### Another deference card

#### Specific solutions to detention mandated by the court are key to solve

Scheppele 12 (Kim, Professor of Sociology and Public Affairs in the Woodrow Wilson School, Director of the Program in Law and Public Affairs, Princeton University, January 2012, "The New Judicial Deference" Boston University Law Review, Lexis)

Had the Court really had its eye on the detainees instead of on the other branches of government as its main audience, the Court might have moved more quickly to put effective, constitutionally vetted procedures in place at the first opportunity. It didn't. Instead, the Court gave only very general guidance both to the other branches and to the courts below, and the time it took for those others to respond dragged out the detentions further. n347 This is why we should consider the brave and bold decisions that found for the suspected terrorists not as an absence of deference, as the judgment themselves often trumpeted, but instead as a new form of deference. As separation of powers cases, the decisions reviewed here created a bold place for the judiciary and stood firm against go-it-alone executive action, both important principles to maintain during a crisis. But as individual rights cases, these decisions provided little immediate relief because they were not specific enough about the next steps for vindicating the rights that detainees were found to have. The combination - long on principle, short on immediate results - is new judicial deference. The government may have lost as a general matter in these cases, but it won by getting effective permission to keep the offending practices in effect long after the government lost in court.

### Defer: A2 “Won’t Spill Over”

**Supreme Court action is crucial to overturn the deference doctrine**

**O'Connor 2K** (John, Associate, Steptoe & Johnson LLP; B.A., University of Rochester; M.S.Sc., Syracuse University; J.D., University of Maryland School of Law, Fall 2000, "ARTICLE: THE ORIGINS AND APPLICATION OF THE MILITARY DEFERENCE DOCTRINE" Georgia Law Review Association, Lexis)

Of course, **the continued vitality of the military deference doctrine is entirely dependent on the** membership of the **Supreme Court,** and it would be a mistake to think otherwise. **This** reality **can be seen from the manner in which the Court established the doctrine.** While the Court's increasingly favorable view of military regulations during the mid-1970s could be attributed to improvements in the court-martial system, such as the provision of military judges at courts-martial, this change in attitude is more likely a result of a simple changing of the guard at the Supreme Court. Indeed, one could make a forceful argument that the military deference doctrine primarily is a function of the persuasive abilities of Chief Justice Rehnquist. Then-Justice **Rehnquist authored the two most important of the four military deference opinions issued by the Burger Court** between 1974 and 1976-Parker v. Levy n825 and Middendorf v. Henry. n826 Chief Justice Rehnquist also authored the most important military deference decisions of the 1980s and 1990s- Rostker v. Goldberg, n827 Goldman v. Weinberger, n828 Solorio v. United States, n829 and Weiss v. United States. n830 Although it would seem a bit impolitic **for the Supreme Court to "overrule" the military deference doctrine** at any time in the near future, changes on the [\*310] Court certainly **could decrease the ardor with which the doctrine is applied.**

### Heg

#### Hegemonic decline causes transition wars

**Pape 9** [Robert, Professor of Political Science at the University of Chicago “Empire Falls” National Interest January 6th http://www.nationalinterest.org/Article.aspx?id=20484]

Most disturbing, whenever there are major changes in the balance of power, conflict routinely ensues. Examining the historical record reveals an important pattern: the states facing the largest declines in power compared to other major powers were apt to be the target of opportunistic aggression. And this is surely not the only possible danger from relative decline; states on the power wane also have a history of launching preventive wars to strengthen their positions. All of this suggests that major relative declines are often accompanied by highly dangerous international environments. So, these declines matter not just in terms of economics, but also because of their destabilizing consequences.