# 1NC

### **1NC**

#### The aff must specify statutory or judicial restrictions—

#### “And/or” means one or the other or both

CED ‘9

(http://dictionary.reference.com/browse/and%2For)

**and/or**¶ — conj¶ ( coordinating ) **used to join terms when either one or the other or both is indicated**: passports and/or other means of identification

#### Vote neg—plan text clarity key to specific negative ground and tests the core question of the resolution—where the authority is located—

#### Presumption

CMS ‘3

(http://www.chicagomanualofstyle.org/CMS\_FAQ/CapitalizationTitles/CapitalizationTitles32.html, accessed 10/16/07, re-accessed at <http://www.chicagomanualofstyle.org/qanda/data/faq/topics/CapitalizationTitles/faq0015.html>, 8/19/2013)

Q. When I refer to the government of the United States in text, should it be US Federal Government or US federal government? A. **The government of the** United States **is not a single official entity**. Nor is it **when** it is **referred to as the federal government** or the U.S. government or the U.S. federal government. **It**’s **just** a government, which, like those in all countries, **has** some official **bodies that act** and operate **in the name of government**: **the Congress**, the Senate, **the Department of State**, **etc**.

#### Aff conditionality – violates “Resolved”

Random House Unabridged Dictionary, 1997

(http://www.infoplease.com/dictionary/resolved)

**firm in purpose or intent**; determined

### **1NC**

#### The affirmative must propose and advocate a course of action to be taken by the federal government in Washington, D.C.

#### 1. To be ‘resolved’ is to express an opinion regarding some action following the colon.

Words and Phrases 1964 [Permanent Edition //STRONG]

Definition of the word “resolve,” given by Webster is “to express an opinion or determination by resolution or vote; as ‘it was resolved by the legislature;” It is of similar force to the word “enact,” which is defined by Bouvier as meaning “to establish by law”.

#### 2. The United States is the government in Washington, D.C.

DPG 1998 [Dictionary of Government and Politics Ed. P.H. Collin, p. 292//STRONG]

United States of America (USA) [ju:’naitid ‘steits av e’merike] noun independent country, a federation of states (originally thirteen, now fifty in North America; the United States Code = book containing all the permanent laws of the USA, arranged in sections according to subject and revised from time to time COMMENT: the federal government (based in Washington D.C.) is formed of a legislature (the Congress) with two chambers (the Senate and House of Representatives), an executive (the President) and a judiciary (the Supreme Court). Each of the fifty states making up the USA has its own legislature and executive (the Governor) as well as its own legal system and constitution.

#### 3. “Should” expresses the desirability of the action of the verb phrase following it. In this case, you must substantially decrease military or police presence.Cambridge Dictionary, 2000 [Cambridge University Press p.792//STRONG]Should – v. aux. Used to express that it is necessary, desirable, admirable, or imperative to perform the action of the following verb

#### Violation – they don’t defend the implementation of a policy by the USFG, instead they [whatever]

#### Vote negative

#### Predictability – it is impossible for the negative to prepare for any of the thousands possible performances or starting points that the aff could select. There are an infinite number of discussions that are related to the resolution. Restricting the topic to government policies creates predictable ground for both sides. It is impossible for the negative to respond in a meaningful way to a string of political pronouncements by the aff.

#### Fairness and education

#### Organizational decisionmaking best equips us to work through civil society organizations that empirically provide the best check on excessive state violence

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)

A. The Role of Civil Society

The vast majority of the reforms introduced by the executive were not ordered by a court or compelled by statute. No detainee has been released by order of a court against the executive's will, yet more than 600 of the 779 people once held at Guantanamo Bay have been released. n94 Neither Congress nor any court ordered administrative hearings or access to attorneys for Guantanamo detainees, yet all detainees now have those rights. Neither Congress nor any court ordered that the International Committee for the Red Cross be granted access to detainees in the conflict with Al Qaeda, yet today such access is routinely afforded. Neither Congress nor any court ordered the end of "enhanced interrogation techniques," but President Obama banned these techniques, n95 and rescinded and disclosed previously secret Justice Department memos that had twisted the law to give a green light to such methods. n96 Neither Congress nor any court rejected President Bush's claims of uncheckable authority as Commander-in-Chief under Article II [\*1223] of the Constitution, yet President Obama abandoned it. n97 Neither Congress nor any court ordered suspension of the NSA spying program, but President Bush suspended it in 2007, proceeding instead with a program approved by a FISA court. n98 Neither Congress nor any court questioned the widespread preventive detention of Muslim and Arab immigrants in the United States in the first years after September 11, but that practice was widely condemned, and has not been repeated. n99 Neither Congress nor any court has expressed any opinion on the legality of the "extraordinary rendition" program, but there have been no reported renditions to torture in years. n100 Neither Congress nor any court so required, but the CIA's "black sites" are now closed. n101 And neither Congress nor any court ordered cessation of "special registration"--a national program of ethnic and religious profiling that selectively required foreign nationals of predominantly Arab and Muslim countries to be fingerprinted, photographed, and interviewed n102 --but in April 2011, after much criticism from civil liberties groups, the government ended the program. n103 While some of the reforms are attributable to President Obama, many were undertaken by President Bush.¶ If most of these reforms were attributable neither to judicial enforcement nor to congressional mandates, what were the moving forces behind them? The answer is to be found outside the formal institutions of government, in civil society--the loosely coordinated political actions of concerned individuals and groups, here and abroad. Following September 11, many organizations took up the mantle of defending liberty, human rights, and the rule of law--among them the [\*1224] American Civil Liberties Union, the Center for Constitutional Rights, Human Rights First, Human Rights Watch, the Council on American-Islamic Relations, the Bill of Rights Defense Committee, the Constitution Project, the Muslim Public Affairs Council, and the American Arab Anti-Discrimination Committee. n104 These organizations are all, in one way or another, dedicated to the protection of constitutional and human rights. They consist of individuals--citizens and noncitizens, lawyers and laypersons--drawn together by a common commitment to rule-of-law values, and they seek to further those values both politically and legally--doing public education, lobbying Congress and the executive, filing lawsuits, writing reports, and organizing grassroots campaigns.

### 1NC

#### A interpretation-- Indefinite detention is the illegal detaining of an individual**US LEGAL no date**http://definitions.uslegal.com/i/indefinite-detention/Indefinite detention is the practice of detaining an arrested person by a national government or law enforcement agency without a trial. It may be made by the home country or by a foreign nation. Indefinite detention is a controversial practice, especially in situations where the detention is by a foreign nation. It is controversial because it seems to violate many national and international laws. It also violates human rights laws.

#### And,

#### Arrest means to detain by legal authority**Free Dictionary no date**<http://legal-dictionary.thefreedictionary.com/arrest>A seizure or forcible restraint; an exercise of the power to deprive a person of his or her liberty; the taking or keeping of a person in custody by legal authority, especially, in response to a criminal charge**Violation- HOLD THE LINE HERE- The plan text says restrict the authority to arrest material witnesses- that’s not detention- that’s a restriction on LEGAL practices**

#### At best they’re extra T- the arrest doesn’t make the detention indefinite it just may be an affect of the plan that we can’t detain anymore because it’s illegal to arrest in the first place!

#### **Voter for reasons of predictable limits, fairness and education – there are an infinite number of political arrests the executive could carry out--**

### **1NC**

#### **The United States Congress should propose an Amendment to the United States Constitution which** bans the preventative arrests of material witnesses in the so-called “war on terror” **The Amendment should specify that it must be ratified immediately. The necessary states should ratify the Amendment. We’ll clarify.**

#### Amendments solve war powers

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

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

### 1NC

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

Bowman 1/23 Michael Bowman, “Support Slipping for Iran Sanctions in US Senate”, VOA News, January 23rd, 2014, http://www.voanews.com/content/support-slipping-for-iran-sanctions-in-senate/1836453.html

CAPITOL HILL — More Democratic senators are quietly signaling their opposition to a bill that spells out new sanctions against Iran if negotiations to limit the country’s nuclear program do not yield a final accord. ¶ The bill retains bipartisan support in both houses of Congress, but passage is seen as increasingly unlikely in the Democratic-led Senate amid an intense lobbying effort by the Obama administration to hold off on sanctions while international negotiations proceed. ¶ Senators Patty Murray and Elizabeth Warren are the latest Democrats to announce their opposition to the Iran sanctions bill currently before Congress. ¶ In a letter to constituents in Washington state, Murray said “the administration should be given time to negotiate a strong verifiable comprehensive agreement” on Iran’s nuclear program. At the same time, she pledged to work “to swiftly enact sanctions” if the talks ultimately fail.¶ Similarly, a spokeswoman for Warren says the Massachusetts senator “does not support imposing additional sanctions through new legislation while diplomatic efforts to achieve a long-term agreement are ongoing.”¶ The sanctions bill has 16 Democratic co-sponsors, near-unanimous support among Republicans, and the backing of politically potent pro-Israeli U.S. lobbying groups. But 11 Senate committee chairs, including Murray, currently oppose the bill. ¶ Among Democrats who signed on to the measure late last year, some have grown less vocal in their defense and promotion of the measure in recent weeks. Senate Majority Leader Harry Reid has neither explicitly promised a vote on the bill, nor ruled it out.¶ Congressional expert William Galston of the Brookings Institution says pressure from President Barack Obama appears to be swaying a growing number of Democratic lawmakers.¶ “The White House is determined to prevent this from happening," he said. "The administration believes in the marrow of its bones that the executive branch is the lead negotiator in the matter and that it deserves a chance to conduct its own foreign policy."¶ Iran says any new sanctions would violate last year’s interim nuclear accord and spell the end of negotiations.¶ The White House has promised a presidential veto of any sanctions Congress may pass before negotiations run their course.

#### It’s a war powers fight that Obama wins – but failure signals support for Israeli strikes

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

Presidential press secretary Jay Carney uttered 10 words the other day that represent a major presidential challenge to the American Israel lobby and its friends on Capitol Hill. Referring to Senate legislation designed to force President Obama to expand economic sanctions on Iran under conditions the president opposes, Mr. Carney said: “If it were to pass, the president would veto it.”¶ For years, there has been an assumption in Washington that you can’t buck the powerful Israel lobby, particularly the American Israel Public Affairs Committee, or AIPAC, whose positions are nearly identical with the stated aims of Israeli Prime Minister Benjamin Netanyahu. Mr. Netanyahu doesn’t like Mr. Obama’s recent overture to Iran, and neither does AIPAC. The result is the Senate legislation, which is similar to a measure already passed by the House.¶ With the veto threat, Mr. Obama has announced that he is prepared to buck the Israel lobby — and may even welcome the opportunity. It isn’t fair to suggest that everyone who thinks Mr. Obama’s overtures to Iran are ill-conceived or counterproductive is simply following the Israeli lobby’s talking points, but Israel’s supporters in this country are a\* major reason for the viability of the sanctions legislation the president is threatening to veto.¶ It is nearly impossible to avoid the conclusion that the Senate legislation is designed to sabotage Mr. Obama’s delicate negotiations with Iran (with the involvement also of the five permanent members of the U.N. Security Council and Germany) over Iran’s nuclear program. The aim is to get Iran to forswear any acquisition of nuclear weapons in exchange for the reduction or elimination of current sanctions. Iran insists it has a right to enrich uranium at very small amounts, for peaceful purposes, and Mr. Obama seems willing to accept that Iranian position in the interest of a comprehensive agreement.¶ However, the Senate measure, sponsored by Sens. Robert Menendez, New Jersey Democrat; Charles E. Schumer, New York Democrat; and Mark Kirk, Illinois Republican, would impose potent new sanctions if the final agreement accords Iran the right of peaceful enrichment. That probably would destroy Mr. Obama’s ability to reach an agreement. Iranian President Hasan Rouhani already is under pressure from his country’s hard-liners to abandon his own willingness to seek a deal. The Menendez-Schumer-Kirk measure would undercut him and put the hard-liners back in control.¶ Further, the legislation contains language that would commit the United States to military action on behalf of Israel if Israel initiates action against Iran. This language is cleverly worded, suggesting U.S. action should be triggered only if Israel acted in its “legitimate self-defense” and acknowledging “the law of the United States and the constitutional responsibility of Congress to authorize the use of military force,” but the language is stunning in its brazenness and represents, in the view of Andrew Sullivan, the prominent blogger, “an appalling new low in the Israeli government’s grip on the U.S. Congress.”¶ While noting the language would seem to be nonbinding, Mr. Sullivan adds that “it’s basically endorsing the principle of handing over American foreign policy on a matter as grave as war and peace to a foreign government, acting against international law, thousands of miles away.”¶ That brings us back to Mr. Obama’s veto threat. The American people have made clear through polls and abundant expression (especially during Mr. Obama’s flirtation earlier this year with military action against Bashar Assad’s Syrian regime) that they are sick and weary of American military adventures in the Middle East. They don’t think the Iraq and Afghanistan wars have been worth the price, and they don’t want their country to engage in any other such wars.¶ That’s what the brewing confrontation between Mr. Obama and the Israel lobby comes down to — war and peace. Mr. Obama’s delicate negotiations with Iran, whatever their outcome, are designed to avert another U.S. war in the Middle East. The Menendez-Schumer-Kirk initiative is designed to kill that effort and cedes to Israel America’s war-making decision in matters involving Iran, which further increases the prospects for war. It’s not even an argument about whether the United States should come to Israel’s aid if our ally is under attack, but whether the decision to do so and when that might be necessary should be made in Jerusalem or Washington.¶ 2014 will mark the 100th anniversary of beginning of World War I, a conflict triggered by entangling alliances that essentially gave the rulers of the Hapsburg Empire power that forced nation after nation into a war they didn’t want and cost the world as many as 20 million lives. Historians have warned since of the danger of nations delegating the power to take their people into war to other nations with very different interests.¶ AIPAC’s political power is substantial, but this is Washington power, the product of substantial campaign contributions and threats posed to re-election prospects. According to the Center for Responsive Politics’ Open Secrets website, Sens. Kirk, Menendez and Schumer each receives hundreds of thousands of dollars a year in pro-Israel PAC money and each of their states includes concentrations of pro-Israel voters who help elect and re-elect them.¶ Elsewhere in the country, AIPAC’s Washington power will collide with the country’s clear and powerful political sentiment against further U.S. adventurism in the Middle East, particularly one as fraught with as much danger and unintended consequence as a war with Iran. If the issue gets joined, as it appears that it will, Mr. Obama will see that it gets joined as a matter of war and peace. If the Menendez-Schumer-Kirk legislation clears Congress and faces a presidential veto, the war-and-peace issue could galvanize the American people as seldom before.¶ If that happens, the strongly held opinions of a democratic public are liable to overwhelm the mechanisms of Washington power, and the vaunted influence of the Israel lobby may be seen as being not quite what it has been cracked up to be.

#### The plan undermines Obama’s credibility and flexibility on war power issues killing negotiations

Matthew Waxman, professor of law at Columbia Law School and an adjunct senior fellow at the Council on Foreign Relations. He previously served as principal deputy director of policy planning (2005–7) and acting director of policy planning (2007) at the US Department of State, 1/28/13, Executive-Congressional Relations and National Security, www.advancingafreesociety.org/the-briefing/executive-congressional-relations-and-national-security/

The last four years should have been a good period for executive-congressional relations in the areas of national security and foreign affairs. The president, vice president, and secretary of state were former Senators. They all viewed President George W. Bush as too inclined to bypass or ignore Congress and they promised to do better. And the Obama administration started with Democratic majorities in the House and Senate.¶ It is thus surprising that the past four years have been notable for inter-branch clashes and paralysis on some major national security agenda items, with the administration failing to engage Congress or operating in a slowly reactive mode, while many congressional Republicans remain in an obstructionist mode. In the second term, the Obama administration will need to pick its legislative priorities more deliberately, engage with allies and opponents in Congress more actively, and be willing to negotiate compromises or wage aggressive campaigns on key issues.¶ Congress has repeatedly stifled the president’s signature counterterrorism promise to close the Guantanamo Bay detention facility. Congress’s opposition has been more than political. Beginning with legislation in 2010 when Democrats controlled both houses of Congress, Congress has consistently placed legal barriers on the president’s ability to transfer Guantanamo detainees or to try them in civilian courts in the United States. After hinting in his speech at the National Archives in 2009 that he would work with Congress on these issues, Obama has put forward no proposal of his own, nor has his administration been willing to explore possible compromises on long-term Guantanamo policies, instead playing defense against moves by congressional blocs with their own Guantanamo agendas. That defensive strategy has included a series of veto threats, which were always abandoned in the end and now carry little credibility.¶ With regard to war powers, the administration barely escaped a significant congressional rebuke after it failed to obtain congressional authorization for the operations in Libya in 2011 or at least to advance a convincing account for why such authorization was not needed. The administration conducted international diplomacy effectively, and obtained UN Security Council and Arab League endorsement of military operations to protect Libyan civilians from slaughter. However, on the domestic front it alienated even congressional supporters of its policy with poor early consultation on the Hill. In the end, Senate Majority Leader Harry Reid prevented the Senate from taking up a resolution passed by the Foreign Relations Committee that would have authorized the operation but rejected the administration’s strained interpretation of the War Powers Resolution. Throughout the Libya crisis, the administration’s approach toward Congress was passive and tentative. It was fortunate for the administration that Congress was splintered and few members were willing to defend its institutional prerogatives, at least within the limited timeframe of the intervention. But Obama might not be so lucky the next time.¶ As to treaties, the administration garnered super-majority Senate advice and consent on a record-low number of agreements in its first term. Despite a strong effort by Secretary of State Hillary Clinton and the Navy leadership, the administration failed to get the UN Convention on the Law of the Sea out of the Senate Foreign Relations Committee. Once again, part of the explanation for failure was the administration’s poorly timed and coordinated engagement of the Senate on the issue. In the face of Senate Republican portrayals of other global treaties as threats to US sovereignty, the White House failed to throw its full weight behind its valid arguments that the Law of the Sea Convention would strengthen the US position with respect, for example, to crisis hotspots in Asia and in commercial spheres.¶ To be clear, the Obama administration has scored successes, too. For example, putting aside the policy merits, it worked reasonably well with Congress on the completed wind-down of the Iraq war. It will need to do the same with respect to the planned wind-down of the Afghanistan war and in developing a long-term strategy for Afghanistan and Pakistan. Much of the blame for policy incoherence on many national security issues such as cybersecurity lies with Congress, which is infected by political polarization and dysfunction as much in international affairs as it is in domestic affairs.¶ Going forward, the Obama administration will need to bring the same kind of sustained attention and hard-nosed strategic thinking to its legislative agenda on national security issues as it has on some major domestic policy issues. First, it will need to be selective in its legislative agenda and then wage aggressive campaigns on matters it labels national security priorities. It did so early in the first term with respect to the New START Treaty, which was in danger of collapse until the administration went all out for it. Obama’s team enlisted influential allies from previous Republican administrations, engaged in a serious communications campaign at the highest levels, and negotiated as necessary to get the key votes in favor of the treaty.¶ On some issues, the administration will need to decide on a coherent policy internally and then more actively engage both its allies and opponents on Capitol Hill. One area where this will be important is the legal architecture of counterterrorism policy. It is widely understood that continuing to rely on the September 2001 congressional Authorization for Use of Military Force as the basis for detention and targeting operations is increasingly problematic as al Qaeda splinters apart and as the United States winds down combat operations in Afghanistan. The Obama administration also maintains publicly a commitment to closing Guantanamo. Yet it has not come forward with proposed legislative frameworks for dealing with these issues. Even though the president has said repeatedly that he wants to work with Congress on a more durable legal architecture for counterterrorism operations, the administration has been reactive and appears to be undecided about what, if anything, it wants from Congress.¶ Another area in which executive-congressional relations will feature heavily is Iran’s nuclear build-up, surely one of the most delicate and complex international crises the administration will face this year. After engaging seriously only at the last minute, it has had to swallow several times congressionally-mandated sanctions that it regards as counterproductive. As the administration tries to ramp up pressure, it will need to convince skeptical members of Congress that it is applying tough diplomatic pressure on other UN Security Council members and on Iran’s trading partners. If—under the most optimistic scenarios—it reaches a satisfactory negotiated solution (or establishes a process toward one) with Iran, it will need Congress onboard; otherwise it will find its freedom to maneuver and deliver on assurances severely constrained.

#### That makes the bill veto-proof

Armbruster, 1/6/14(Ben, Think Progress, “Security Experts Ask Senators To Pull Back Iran Sanctions Bill”

<http://thinkprogress.org/security/2014/01/06/3122551/crocker-experts-senate-iran-sanctions-bill/>

After various avenues to put forth Iran sanctions measures recently failed, Sens. Robert Menendez (D-NJ) and Mark Kirk (R-IL) introduced the stand-alone bill late last month. Nearly 50 senators — mostly Republicans — have signed on as co-sponsors, but the chairs of 10 Senate committees recently wrote to Senate Majority Harry Reid (D-NV) slamming the bill and asking him not to move forward with it. The White House has said it will veto the bill if it passes.¶ In the letter sent to Menendez and Kirk on Monday, the group of experts — which includes former U.S. Ambassador to Iraq and Afghanistan Ryan Crocker, former U.S. Ambassador to Israel and Egypt Daniel Kurtzer, William H. Luers, the former Ambassador to Venezuela and Czechoslovakia, and Jessica Tuchman Mathews, the President of the Carnegie Endowment for International Peace — say their bill “will threaten the prospects for success in the current negotiations and thus present us and our friends with a stark choice — military action or living with a nuclear Iran.” Crocker et al note that attacking Iran would not prevent it from developing nuclear weapons and would most likely give the Iranians the justification to decide to seek them — “the very thing the U.S. hopes to prevent,” they write.¶ The interim agreement reached between the Iran, the U.S. and its international partners in Geneva last November significantly reined in Iran’s nuclear program in exchange for modest sanctions relief (most polls show that Americans support this first step deal). But Obama administration officials and Iran experts believe that passing new sanctions on Iran now — even those with a delayed trigger as the Menendez-Kirk bill mandates — would violate the terms of Geneva’s Joint Plan of Action, thus jeopardizing any final deal with Iran.¶ The letter’s signatories share that concern and address the argument that lawmakers often make when pushing more sanctions now: the threat of harsh penalties will strengthen the U.S.’s negotiating position. “To the contrary,” the letter says, “Iranian leaders are more likely to see such Congressional action as a violation of the spirit and perhaps the letter of the Joint Plan of Action of November 24, 2013, and to harden rather than soften their negotiating position.” They note that Iranian parliamentarians have already introduced a measure to enrich nearly weapons-grade uranium in response to the Menendez-Kirk bill. “This kind of tit-for-tat spiral threatens to undermine any possibility of curtailing Iran’s nuclear program,” they write.¶ “Should the U.S. Congress decide it must unilaterally seek to add even more burdens now on this complicated and critical process, it is unlikely that the goals of our negotiations can be achieved,” they write, warning that “our other negotiating partners (UK, France, Germany, Russia, and China) would be displeased and would conclude that the US is no longer proceeding in good faith in accord with the Joint Plan of Action. This bill could lead to an unraveling of the sanctions regime that the U.S. and its partners have so patiently built.”¶ CQ Roll Call reported last week that Reid “still has not publicly signaled his intentions on a floor vote” on the Kirk-Menendez bill.¶ “The bill had 47 co-sponsors signed up before Christmas and we expect at least a dozen more to sign up in the first couple of days back in session,” a Senate aide said via e-mail to CQ. “Once there are 60 co-sponsors, meaning the bill can clear a cloture motion, it will be difficult for Harry Reid to delay a vote on the bill; if it gets to a veto-proof majority of co-sponsors, it will be nearly impossible.”¶ The White House has been lobbying Congress against passing new sanctions. Secretary of State John Kerry told a House Panel last month that it would be “gratuitous in the context of this situation.”

#### Causes Israel strikes

Perr, 12/24/13 **–** B.A. in Political Science from Rutgers University; technology marketing consultant based in Portland, Oregon. Jon has long been active in Democratic politics and public policy as an organizer and advisor in California and Massachusetts. His past roles include field staffer for Gary Hart for President (1984), organizer of Silicon Valley tech executives backing President Clinton's call for national education standards (1997), recruiter of tech executives for Al Gore's and John Kerry's presidential campaigns, and co-coordinator of MassTech for Robert Reich (2002).(Jon, “Senate sanctions bill could let Israel take U.S. to war against Iran” Daily Kos, <http://www.dailykos.com/story/2013/12/24/1265184/-Senate-sanctions-bill-could-let-Israel-take-U-S-to-war-against-Iran>

As 2013 draws to close, the negotiations over the Iranian nuclear program have entered a delicate stage. But in 2014, the tensions will escalate dramatically as a bipartisan group of Senators brings a new Iran sanctions bill to the floor for a vote. As many others have warned, that promise of new measures against Tehran will almost certainly blow up the interim deal reached by the Obama administration and its UN/EU partners in Geneva. But Congress' highly unusual intervention into the President's domain of foreign policy doesn't just make the prospect of an American conflict with Iran more likely. As it turns out, the Nuclear Weapon Free Iran Act essentially empowers Israel to decide whether the United States will go to war against Tehran.¶ On their own, the tough new sanctions imposed automatically if a final deal isn't completed in six months pose a daunting enough challenge for President Obama and Secretary of State Kerry. But it is the legislation's commitment to support an Israeli preventive strike against Iranian nuclear facilities that almost ensures the U.S. and Iran will come to blows. As Section 2b, part 5 of the draft mandates:¶ If the Government of Israel is compelled to take military action in legitimate self-defense against Iran's nuclear weapon program, the United States Government should stand with Israel and provide, in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic, military, and economic support to the Government of Israel in its defense of its territory, people, and existence.¶ Now, the legislation being pushed by Senators Mark Kirk (R-IL), Chuck Schumer (D-NY) and Robert Menendez (D-NJ) does not automatically give the President an authorization to use force should Israel attack the Iranians. (The draft language above explicitly states that the U.S. government must act "in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force.") But there should be little doubt that an AUMF would be forthcoming from Congressmen on both sides of the aisle. As Lindsey Graham, who with Menendez co-sponsored a similar, non-binding "stand with Israel" resolution in March told a Christians United for Israel (CUFI) conference in July:¶ "If nothing changes in Iran, come September, October, I will present a resolution that will authorize the use of military force to prevent Iran from developing a nuclear bomb."¶ Graham would have plenty of company from the hardest of hard liners in his party. In August 2012, Romney national security adviser and pardoned Iran-Contra architect Elliott Abrams called for a war authorization in the pages of the Weekly Standard. And just two weeks ago, Norman Podhoretz used his Wall Street Journal op-ed to urge the Obama administration to "strike Iran now" to avoid "the nuclear war sure to come."¶ But at the end of the day, the lack of an explicit AUMF in the Nuclear Weapon Free Iran Act doesn't mean its supporters aren't giving Prime Minister Benjamin Netanyahu de facto carte blanche to hit Iranian nuclear facilities. The ensuing Iranian retaliation against to Israeli and American interests would almost certainly trigger the commitment of U.S. forces anyway.¶ Even if the Israelis alone launched a strike against Iran's atomic sites, Tehran will almost certainly hit back against U.S. targets in the Straits of Hormuz, in the region, possibly in Europe and even potentially in the American homeland. Israel would face certain retaliation from Hezbollah rockets launched from Lebanon and Hamas missiles raining down from Gaza.¶ That's why former Bush Defense Secretary Bob Gates and CIA head Michael Hayden raising the alarms about the "disastrous" impact of the supposedly surgical strikes against the Ayatollah's nuclear infrastructure. As the New York Times reported in March 2012, "A classified war simulation held this month to assess the repercussions of an Israeli attack on Iran forecasts that the strike would lead to a wider regional war, which could draw in the United States and leave hundreds of Americans dead, according to American officials." And that September, a bipartisan group of U.S. foreign policy leaders including Brent Scowcroft, retired Admiral William Fallon, former Republican Senator (now Obama Pentagon chief) Chuck Hagel, retired General Anthony Zinni and former Ambassador Thomas Pickering concluded that American attacks with the objective of "ensuring that Iran never acquires a nuclear bomb" would "need to conduct a significantly expanded air and sea war over a prolonged period of time, likely several years." (Accomplishing regime change, the authors noted, would mean an occupation of Iran requiring a "commitment of resources and personnel greater than what the U.S. has expended over the past 10 years in the Iraq and Afghanistan wars combined.") The anticipated blowback?¶ Serious costs to U.S. interests would also be felt over the longer term, we believe, with problematic consequences for global and regional stability, including economic stability. A dynamic of escalation, action, and counteraction could produce serious unintended consequences that would significantly increase all of these costs and lead, potentially, to all-out regional war.

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

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

A unilateral Israeli strike on Iran’s nuclear facilities would likely have dire consequences, including a regional war, global economic collapse and a major power clash. For an Israeli campaign to succeed, it must be quick and decisive. This requires an attack that would be so overwhelming that Iran would not dare to respond in full force. Such an outcome is extremely unlikely since the locations of some of Iran’s nuclear facilities are not fully known and known facilities are buried deep underground. All of these widely spread facilities are shielded by elaborate air defense systems constructed not only by the Iranians but also the Chinese and, likely, the Russians as well. By now, Iran has also built redundant command and control systems and nuclear facilities, developed early warning systems, acquired ballistic and cruise missiles and upgraded and enlarged its armed forces. Because Iran is well-prepared, a single, conventional Israeli strike—or even numerous strikes—could not destroy all of its capabilities, giving Iran time to respond. Unlike Iraq, whose nuclear program Israel destroyed in 1981, Iran has a second-strike capability comprised of a coalition of Iranian, Syrian, Lebanese, Hezbollah, Hamas, and, perhaps, Turkish forces. Internal pressure might compel Jordan, Egypt and the Palestinian Authority to join the assault, turning a bad situation into a regional war. During the 1973 Arab-Israeli War, at the apex of its power, Israel was saved from defeat by President Nixon’s shipment of weapons and planes. Today, Israel’s numerical inferiority is greater, and it faces more determined and better-equipped opponents. After years of futilely fighting Palestinian irregular armies, Israel has lost some of its perceived superiority—bolstering its enemies’ resolve. Despite Israel’s touted defense systems, Iranian coalition missiles, armed forces, and terrorist attacks would likely wreak havoc on its enemy, leading to a prolonged tit-for-tat. In the absence of massive U.S. assistance, Israel’s military resources may quickly dwindle, forcing it to use its alleged nuclear weapons, as it had reportedly almost done in 1973. An Israeli nuclear attack would likely destroy most of Iran’s capabilities, but a crippled Iran and its coalition could still attack neighboring oil facilities, unleash global terrorism, plant mines in the Persian Gulf and impair maritime trade in the Mediterranean, Red Sea and Indian Ocean. Middle Eastern oil shipments would likely slow to a trickle as production declines due to the war and insurance companies decide to drop their risky Middle Eastern clients. Iran and Venezuela would likely stop selling oil to the United States and Europe. From there, things could deteriorate as they did in the 1930s. The world economy would head into a tailspin; international acrimony would rise; and Iraqi and Afghani citizens might fully turn on the United States, immediately requiring the deployment of more American troops. Russia, China, Venezuela, and maybe Brazil and Turkey—all of which essentially support Iran—could be tempted to form an alliance and openly challenge the U.S. hegemony. Russia and China might rearm their injured Iranian protege overnight, just as Nixon rearmed Israel, and threaten to intervene, just as the U.S.S.R. threatened to join Egypt and Syria in 1973. President Obama’s response would likely put U.S. forces on nuclear alert, replaying Nixon’s nightmarish scenario. Iran may well feel duty-bound to respond to a unilateral attack by its Israeli archenemy, but it knows that it could not take on the United States head-to-head. In contrast, if the United States leads the attack, Iran’s response would likely be muted. If Iran chooses to absorb an American-led strike, its allies would likely protest and send weapons but would probably not risk using force. While no one has a crystal ball, leaders should be risk-averse when choosing war as a foreign policy tool. If attacking Iran is deemed necessary, Israel must wait for an American green light. A unilateral Israeli strike could ultimately spark World War III.

#### Gigantic colonial wars

David Harvey, Professor of Political Economy – Cambridge U, 82

(The Limits To Capital, p. 451)

At times of savage devaluation, interregional rivalries typically degenerate into struggles over who is to bear the burden of devaluation. The export of unemployment, of inflation, of idle productive capacity become the stakes in the game. Trade wars, dumping, interest rate wars, restrictions on capital flow and foreign exchange, immigration policies, colonial conquest, the subjugation of the division of labour within economic empires, and, finally, the physical destruction and forced devaluation of a rival’s capital through war are some of the methods at hand. Each entails the aggressive manipulation of some aspect of economic, financial or state power. The politics of imperialism, the sense that the contradictions of capitalism can be cured through world domination by some omnipotent power, surges to the forefront. The ills of capitalism cannot so easily be contained. Yet the degeneration of economic into political struggles play its part in the long-run stabilization of capitalism, provided enough capital is destroyed *en route*. Patriotism and nationalism have many functions in the contemporary world and may arise for diverse reasons; but they frequently provide a most convenient cover for the devaluation of both capital and labour. We will shortly return to this aspect of matters since it is, I believe, by far the most serious threat, not only to the survival of capitalism (which matters not a jot), but to the survival of the human race.

### 1NC

#### Enmity is a fundamental condition of the political--- the goal of politics must be to limit, not eradicate war---the affirmative’s project of embracing vulnerability can only end in a violent war on difference

**Prozorov 6** – Sergei Prozorov, collegium fellow at the Helsinki Collegium for Advanced Studies, University of Helsinki, Professor of International Relations in the Department of International Relations, Faculty of Politics and Social Sciences, Petrozavodsk State University, Russia, 2006, “Liberal Enmity: The Figure of the Foe in the Political Ontology of Liberalism,” Millennium: Journal of International Studies, Vol. 35, No. 1, p. 75-99

The Savage and the Barbarian: Natural Liberty and Supplementary Violence

Schmitt’s prophecy about **the infinite plasticity of the category of the foe** as ‘proscribed by nature itself’ **may be elaborated with reference to the naturalistic political ontology of liberal government**, discussed in Foucault’s analytics of governmentality and multiple post-Foucauldian studies in this field. In this section we shall argue that **it is precisely the combination of the universalist ethos, at work in the deployment of the category of humanity, with a naturalist political ontology that accounts for** the emergence of friend–foe ultra-politics **in contemporary Western liberal democracies.**¶ **The radical innovation of liberal governmentality, which emerged as a critique of** the theory of ‘police science’ and the practice of ‘**police states’** of the seventeenth to eighteenth centuries, **is the reinscription of the social order in terms of socio-economic processes, which, in the episteme of classical liberalism, are deemed to be natural, self-regulating, antecedent to authority and as having an intrinsic logic of their own that is not fully transparent to state knowledge: ‘Inscribed within the** very **logic of liberalism is a certain naturalism.’55 From this epistemic principle follows the central tenet of liberal government: the suspicion that ‘one always governs too much’**.**56 The liberal solution to this** problem **consists in** adapting the techniques of government to the principles found in the naturalised reality of the social and **making government** itself **accountable to** these principles of the ‘system of **natural liberty’**.57¶ At the same time, liberal policies of laissez-faire are not a passive abandonment of an aboriginal reality to its own devices, but an elaborate activist and interventionist course that secures natural liberty by taking necessary measures to correct its perversions. **This ‘corrective’ aspect points to** what Mitchell Dean and Barry Hindess have respectively termed **the ‘illiberality of liberalism’ and the ‘liberal government of unfreedom’**.58 Within the ‘natural’ realm of the social, **liberal government has historically identified manifold categories of the population, whose properties or acts were ‘contrary to nature’ and had to be rectified through governmental intervention, which historically has taken manifold forms**, from the confinement of madmen to the correction of juvenile delinquents.59¶ It is in this possibility of governmental ‘re-naturalisation’, which we have elsewhere described in terms of the ‘pedagogical technology’ of liberalism60 that **we may locate the condition of emergence of the figure of the foe as the ‘enemy of liberalism’**.¶ **The centrality of pedagogical interventions to liberal governmentality demonstrates that despite its avowed naturalism, liberalism remains conditioned by the constitutive, asymmetric and individualising ‘pastoral power’** that Foucault has famously identified as the condition of emergence of modern governmentality as such.61 **What unites all the objects of liberal corrections**, irrespectively of whether they are deemed to be evil, mentally disabled, morally deficient or simply ‘irrational’, **is their functioning in the liberal discourse as beings, whose existence is deemed to be contrary to nature**. On the one hand, these individuals and groups belong to the social realm, cast as ontologically and axiologically prior to government in the liberal episteme. On the other hand, however, their practices are not in accordance with the liberal vision of ‘natural liberty’ and thus require corrective interventions of liberal government, whose modus operandi is itself adapted to the natural processes of the social. ‘Natural liberty’ is therefore not an aboriginal property of the subject, but an effect of governmental intervention. The Other, who was so generously let into the global liberal ‘homeland’, is endowed with liberty only on condition of his or her subjection to the corrective interventions that eradicate his or her alterity.¶ **This Foucauldian thesis parallels Schmitt’s critique of the ‘educational theory’ involved in the valorisation of liberal democracy**: The people can be brought to recognise and express their own will correctly through the right education. This means nothing else than that the educator identifies his will at least provisionally with that of the people, not to mention that the content of education that the pupil will receive is also decided by the educator. **The consequence of this educational theory is a dictatorship that suspends democracy in the name of a true democracy that is still to be created**.62¶ **Thus, liberal government finds its condition of (im)possibility in the generalised illiberality of pedagogical interventionism, which** manifestly **violates liberalism’s own naturalist presuppositions but is nonetheless essential to its existence**, functioning in the manner of the Derridean supplement, ‘a strange difference which constitutes [liberalism] by breaching it’.63¶ In Dean’s argument, **this paradox makes liberalism a potentially ‘total’ modality of government, ‘because its program of self-limitation is linked to the facilitation** and augmentation **of the powers of civil society and its use of these powers, in conjunction with the sovereign, disciplinary and biopolitical powers of the state itself, to establish a comprehensive normalisation of** social, economic and cultural **existence’**.64 **The naturalisation of a certain artefactual conception of the social permits perpetual interventions in the name of its natural values, disavowing the** constitutive and frequently **violent character of governmental practices**. At the heart of liberal government we may therefore observe the aporia whereby the naturalist ontology is always contaminated by the logic of supplementarity and every ‘natural liberty’ bears traces of governmental ‘corrective’ interventions.65¶ **This relationship is at work** not only in liberal domestic politics, but also, and **with an even greater intensity, in the international domain, where liberal governmentality is deployed in such diverse contexts as military interventions ‘in the name of democracy’, neoliberal programmes of development assistance and economic restructuring, and even** the global campaign for the **promotion of ‘human rights’**. As William Rasch argues **in** his reading of **the discourse of human rights as a form of geopolitics**, ‘**the term “human” is not descriptive, but evaluative. To be truly human, one needs to be corrected**.’66 **It is this object of liberal corrective interventions**, whether domestic or international, **that epitomises the figure of the foe – a ‘not truly human’ being ‘proscribed by nature itself’. The ‘incomplete’ humanity of this creature renders it infinitely inferior to the ‘fully’ liberal rights-holders, which justifies the deployment of asymmetric subject–object relations in pedagogical practices of correction**, while the ‘unnaturality’ of this creature provokes a degree of apprehension:¶ even if the foe is infinitely weaker than ‘us’, any engagement with him is dangerous, as one never knows what these ‘monsters’ are capable of. To recall our discussion in the previous section, **the fear of the Other that animates Schmitt’s discourse on enmity does not disappear in the liberal political ontology of monistic naturalism**. **Instead**, **it is supplemented with a violent project of eradicating this dangerous alterity that liberalism has itself incorporated into its ‘universal homeland’ through** manifold corrective, disciplinary and **punitive practices, which have no rationality whatsoever in the Schmittian pluriverse of irreducible alterity**. The foe is therefore, as it were, a double enemy: both a transcendental Other that is intrinsically dangerous in Schmitt’s sense of radical alterity and an empirical Other, whose dangerousness is established by his or her actual resistance to the efforts of liberal government to purge this alterity. We may specify the liberal construct of the foe with the help of Foucault’s idiosyncratic contrast between the savage and the barbarian.¶ The savage (usually presented as ‘noble’) is manifestly a natural being, albeit probably a prehistoric one, a being that exists before society and who is central in founding society in the mythology of the ‘social contract’ – a central presupposition of liberal political ontology. Moreover, for the liberal economic rationality the savage is an essential presupposition that provides a referent to the abstract figure of the ‘homo economicus’, ‘a man without past or a history, who is motivated only by self-interest and who exchanges his product for another product’.67 The savage is therefore both a precursor of civilisation and a condition of its possibility. Thus, when modern liberal subjects perceive the Other as a ‘savage’, they may be said to be encountering their own selves in pure essence; hence the interest in and even a mild fondness for the ‘exotic otherness’ of the savage throughout the history of liberalism, from the colonial period to the contemporary ‘multiculturalism’.¶ The barbarian, on the other hand, is ‘someone who can be understood, characterised, and defined only in relation to a civilisation, and by the fact that he exists outside it. There can be no barbarian unless an island of civilisation exists somewhere, unless he lives outside it, and unless he fights it.’68 Crucially, unlike the savage, who becomes a subject only insofar as he enters or founds a civilised social relationship, the barbarian is an active subject from the outset, yet solely a negative subject of refusal, resistance and destruction. ‘Unlike the savage, the barbarian does not emerge from some natural backdrop to which he belongs. He appears only when civilisation already exists, and only when he is in conflict with it. He does not make his entrance into history by founding a society, but by penetrating a civilisation, setting it ablaze and destroying it.’69¶ What is the criterion that distinguishes the barbarian as the foe to be battled and annihilated from the ‘noble savage’, whose authenticity we might revel in and whose safe eccentricities we might even valorise in the spirit of liberal ‘tolerance’? The savage is manifestly the object of the liberal pastoral, whose transformation into a liberal subject does not, in the aporetic ontology of liberalism, detract from his naturality, but rather completes it, transforming a ‘not truly human’ being into a full-fledged ‘free subject’. The pedagogical endowment of the savage with a ‘natural liberty’ transforms this Other, that from the perspective of the ‘most extreme possibility’ is always a ‘potential enemy’, into a liberal ‘friend’, thereby creating the conditions for the universalisation of the ‘liberal peace’.¶ In contrast, the barbarian is simply the savage who resists this **civilising correction** and thus forfeits his own nature, becoming a monstrous foe. The barbarian is thus anyone who does not feel at home in the universal liberal homeland and continues to assert his Otherness despite his inclusion in global civilisation. **It is thus resistance and daringness to resist that turns the savage, a mute and passive Other, into the most extreme form of the enemy, the enemy of both nature and civilisation, insofar as in the liberal ontology the two function in a mutually supplementary manner. The enemy of liberalism is** thus, by necessity, **a foe, which entails that a Schmittian relation of ‘just enmity’ is entirely foreclosed in the liberal political ontology**. While in the latter relation a minimal identity of all interacting subjects as sovereign states provided a common framework of legitimate equality between particularistic communities, **liberalism is constituted by a strict dividing line between societies that are in accordance with ‘natural liberty’ and those that are not**. The latter may either function in the modality of the savage, **the passively acquiescent objects of pedagogical correctional practices**, or, in the case of their resistance to such interventions, **are automatically cast as inhuman and unnatural foes, with whom no relationship of legitimate equality may be conceivable.** If the transformation of the savage into a liberal subject functions as a condition for ‘liberal peace’, the ultrapolitical engagement with the foe may well be viewed as the continuation of the liberal peace by other means.¶ Thus, **the distinguishing feature of the liberal ‘politics of enmity’ is that its utopian desire to eliminate enmity as such from the human condition inevitably leads to the return of the foreclosed in the most obscene form – for liberalism, there indeed are no enemies, just friends and foes.** President **Bush’s infamous diatribe ‘you are either with us or against us’ should not be read as an extreme deviation from the liberal standard of tolerance, but rather as an expression**, at an ‘inappropriate’ site of the transatlantic ‘community of friends’, **of the binary liberal logic. When both nature and humanity are a priori on the side of liberalism, there is no need for a Schmittian reflection on how to manage co-existence with radical alterity for the purposes of limiting a permanently possible confrontation**. One is either with ‘us’ or against ‘us’, and, in the latter case, one forfeits not merely a place within ‘our’ community of friends, but also one’s belonging to nature and humanity.¶ Conclusion: Beyond the Ultra-Political Terrain¶ **The present hegemony of liberal ultra-politics is** well **illustrated by the** contemporary phenomenon of the **global ‘war on terror’**. The ‘war on terror’ offers a fruitful site for inquiring into the politics of enmity for two reasons. First, the widely perceived undecidability of the category of ‘terrorism’ to the extent that it is frequently attributed to the very same states that have launched the ‘war on terror’ illuminates starkly the contingency of the friend–enemy distinction. This contingency, i.e. the absence of both essence and necessity to any particular empirical form of enmity, points to the permanent gap between the transcendental function of the friend–enemy distinction and its particular historical modality. The deployment of **the** ultra-political **objectification of the enemy as a terrorist ‘rogue’** **is a purely contingent option**, **made possible by a fundamental asymmetry**

**that endows the subjects of the ‘war on terror’ with** what Derrida terms the ‘reason of the strongest’, **an epistemico-moral self-certitude** that itself has something roguish about it:¶ [T]hose states that are able or are in a state to denounce or accuse some ‘rogue state’ of violating the law, of failing to live up to the law, of being guilty of some perversion or deviation, those states that claim to uphold international law and that take the initiative of war, of police or peacekeeping operations because they have the force to do so, are themselves, as sovereign, the first rogue states. This is true even before any evidence is gathered to make a case against them, however useful and enlightening such a case may be. There are always (no) more rogue states than one thinks.70¶ Secondly and consequently, the ‘war on terror’ is of particular interest, insofar as **the perception of this fundamental inequality is** arguably **constitutive of the very subject-position of the ‘terrorist’ foe**. Indeed, **contemporary terrorist violence may be grasped as a retort of the foe, a paradoxical refusal of the subject-position, imposed on the enemy of liberalism**, through its assumption in a hyperbolic and excessive manner, **whereby the foe ‘acts out’, with a vengeance, an identity attributed to him or her.** Let us suggest that **the specificity of terrorist violence is not derivative of extra-political factors that may function as its background motives** (poverty, economic inequality, underdevelopment, lack of education, etc.), **but is rather a** **direct expression of a properly political grievance**, **a retort against the humiliation**, **incurred in not being recognised as a legitimate enemy**. **Our demonstration of the monistic nature of liberal pluralism** and the artefactual character of liberal naturalism **points to the fact that the subject-position of the foe is preconstituted in the political ontology of liberalism**, insofar as the appropriation of **the capacity to adjudicate** what is human and what, within **humanity**, is natural **makes exclusion and stigmatisation a permanently available option** for dealing with expressions of dissent.¶ The image of the terrorist foe is thus both entirely contingent from the standpoint of a Schmittian transcendental function of enmity and always-already articulated within the ontological edifice of liberalism. While the motives for particular acts of terrorism might be distinct in each particular case, we may suggest that all these acts, first, take place in the preconstituted subject position of the ‘enemy of liberalism’ and, secondly, target precisely this subject position as a priori inferior. **Terrorism is little more and nothing less than the resentful acceptance by the Other of the ultra-political terms of engagement, if only because there is no other way that the present global order can be legitimately opposed: the refusal to be liberalism’s ‘noble savage’ inevitably turns one into a barbarian. If our enemy can only be a monster, should we be surprised that the acts of our enemies are so monstrous?** The uncanny effect of the liberal negation of pluralistic antagonism is that in the eyes of its adversaries liberalism may no longer be opposed other than by murderous and meaningless destruction. To the oft-cited empirical claims that contemporary terrorism has been produced as an effect of Cold War policies of Western powers, we must add a conceptual thesis: **terrorism is the practical expression of that mode of enmity** **which the liberal West has** **constituted as the sole political possibility due to its appropriation of both nature and humanity**. **The ‘war on terror’ is not an accidental deviation from the maxims of Western liberalism but rather an exemplary model of the only kind of ‘war’ that the liberal foreclosure of political enmity permits**, i.e. **a war against an a priori ‘unjust enemy’**. **It should therefore not be surprising to see this model generalised beyond its original articulation, whereby it becomes a standard response to the worldwide expressions of anti-liberal dissent**.¶ For this reason, **one gains nothing by attempting to battle terrorism** either on its constitutive ultra-political terms or, **as much of critical thought suggests**, **on the extra-political fronts of development, poverty relief, civic education**, democratisation, **etc**. Instead, **any authentic confrontation with terrorism must** logically pass through the stage of **questioning what confrontation, struggle and antagonism actually mean today**, who we fight, how we fight and, possibly, whether we still have any meaningful willingness to fight. During the 1970s, Foucault frequently lamented that the proverbial ‘class struggle’ tended to be theorised in critical thought in terms of ‘class’ rather than ‘struggle’, the latter term functioning as a mere metaphor.71 The same problem is still with us today – the proliferation of metaphors (‘culture wars’, ‘wars on drugs’, ‘fight against poverty’) is increasingly obscuring the reflection on the concrete meaning of antagonism in contemporary political life.¶ In the interbellum of the 1990s, one frequently encountered discussions of who the new enemy might be after the demise of the Soviet Union. As subsequent events have demonstrated, it is entirely redundant to attempt a theoretical deduction of the concrete enemy, which is after all always constituted in a political decision. However, while the ‘who’ question may be entrusted to history and politics, **what requires reflection is a question of** **how enmity is to be managed**. **Should we maintain the present ultra-politics of the foe despite its evident boomerang effects on our societies**, **or should we attempt to return to the structure of ‘legitimate enmity’** of the Westphalian era, expanding it beyond the European system to the entire international society? Should we put our trust in and surrender our freedom to the governmental apparatuses of ‘homeland security’ or should we heed Schmitt’s warning that no security may ever be attained as long as our sense of the world is that in which there is ‘only a homeland’?¶ This article has demonstrated that **it is impossible to evade these questions** **by the** plethoric yet repetitive **discourse on overcoming enmity in the chimerical project of ‘world unity’** and that **answers to these questions** **require an interrogation of many ontological assumptions** **that frame the conduct of modern liberal politics**. **We have seen that the desire to dispense with enmity as such**, arising out of **liberal epistemicomoral certitude**, **has not brought about a ‘universal friendship’** **but rather produced a limited but universalistic community**, **which permanently feels threatened** **due to its incomplete embrace of the globe and,** for the same reason, **threatens everyone outside itself**. The escape from the murderous ultra-politics of the foe is impossible unless it passes through the stage of an ontological critique of liberalism, hence the present importance of Schmitt.

**The alternative is to reject the aff in order to re-ground counter-terror within a framework of proper-political enmity---the aff misreads global war as a result of the executive’s desire for control---the problem with the war on terror is that it is not instrumental or political enough**

David **Chandler 9**, Professor of International Relations at the Department of Politics and International Relations, University of Westminster, War Without End(s): Grounding the Discourse of `Global War', Security Dialogue 2009; 40; 243

International law evolved on the basis of the ever-present possibility of real war between real enemies. Today’s global wars of humanitarian intervention and the ‘war on terror’ appear to be bypassing or dismantling this framework of international order. Taken out of historical context, today’s period might seem to be analogous to that of the imperial and colonial wars of the last century, which evaded or undermined frameworks of international law, which sought to treat the enemy as a justus hostis – a legitimate opponent to be treated with reciprocal relations of equality. Such analogies have enabled critical theorists to read the present through past frameworks of strategic political contestation, explaining the lack of respect for international law and seemingly arbitrary and ad hoc use of military force on the basis of the high political stakes involved. Agamben’s argument that classical international law has dissipated into a ‘permanent state of exception’, suggesting that we are witnessing a global war machine – constructing the world in the image of the camp and reducing its enemies to bare life to be annihilated at will – appears to be given force by Guantánamo Bay, extraordinary rendition and Abu Ghraib.¶ Yet, once we go beyond the level of declarations of policy values and security stakes, the practices of Western militarism fit uneasily with the policy discourses and suggest a different dynamic: one where the lack of political stakes in the international sphere means that there is little connection between military intervention and strategic planning. In fact, as Laïdi suggests, it would be more useful to understand the projection of violence as a search for meaning and strategy rather than as an instrumental outcome. To take one leading example of the ‘unlimited’ nature of liberal global war: the treatment of terrorist suspects held at Guantánamo Bay, in legal suspension as ‘illegal combatants’ and denied Geneva Red Cross conventions and prisoner-of-war status. The ‘criminalization’ of the captives in Guantánamo Bay is not a case of reducing their status to criminals but the development of an exceptional legal category. In fact, far from criminalizing fundamentalist terrorists, the USA has politically glorified them, talking up their political importance. ¶ It would appear that the designation of ‘illegal combatants’ could be understood as an ad hoc and arbitrary response to the lack of a clear strategic framework and ‘real enemy’.

In this context, the concept of criminalization needs to be reconsidered. Guantánamo Bay can be seen instead as an attempt to create an enemy of special status. In fact, with reference to Agamben’s thesis, it would be better to understand the legal status of the ‘illegal combatants’ as sacralizing them rather than reducing them to the status of ‘bare life’. In acting in an exceptional way, the USA attempted to create a more coherent and potent image of the vaguely defined security threat¶ This approach is very different, for example, from the framework of criminalization used by the British government in the fight against Irish republicanism, where the withdrawal of prisoner-of-war status from republican prisoners was intended to delegitimize their struggle and was a strategic act of war. Ironically, whereas the criminalization of the republican struggle was an attempt to dehumanize the republicans – to justify unequal treatment of combatants – the criminalization of global terrorists has served to humanize them in the sense of giving coherence, shape and meaning to a set of individuals with no clear internally generated sense of connection. Far from ‘denying the enemy the very quality of being human’, it would appear that the much-publicized abuses of the ‘war on terror’ stem from the Western inability to cohere a clear view of who the enemy are or of how they should be treated.¶ The policy frameworks of global war attempt to make sense of the implosion of the framework of international order at the same time as articulating the desire to recreate a framework of meaning through policy activity. However, these projections of Western power, even when expressed in coercive and militarized forms, appear to have little connection to strategic or instrumental projects of hegemony. The concept of ‘control’, articulated by authors such as Carl Schmitt and Faisal Devji, seems to be key to understanding the transition from strategic frameworks of conflict to today’s unlimited (i.e. arbitrary) expressions of violence. Wars fought for control, with a socially grounded telluric character, are limited by the needs of instrumental rationality: the goals shape the means deployed. Today’s Western wars are fought in a nonstrategic, non-instrumental framework, which lacks a clear relationship between means and ends and can therefore easily acquire a destabilizing and irrational character. To mistake the arbitrary and unlimited nature of violence and coercion without a clear strategic framework for a heightened desire for control fails to contextualize conflict in the social relations of today.

### Case

#### Util good- Calculation is good and doesn’t devalue life

Revesz 2008 Richard L. Revesz (Dean and Lawrence King Professor of Law at New York University School of Law, JD Yale Law School) and Michael A Livermore. (JD NYU School of Law, Executive Director of the Institute for Policy Integrity, and Managing director of the NYU Law Review). Retaking Rationality How Cots-Benefit Analysis Can Better protect the Environment and Our Health. 2008. P. 1-4.

Governmental decisions are also fundamentally different from personal decisions in that they often affect people in the aggregate. In our individual lives, we come into contact with at least some of the consequences of our decisions. If we fail to consult a map, we pay the price: losing valuable time driving around in circles and listening to the complaints of our passengers. We are constantly confronted with the consequences of the choices that we have made. Not so for governments, however, which exercise authority by making decisions at a distance. Perhaps one of the most challenging aspects of governmental decisions is that they require a special kind of compassion—one that can seem, at first glance, cold and calculating, the antithesis of empathy. The aggregate and complex nature of governmental decisions does not address people as human beings, with concerns and interests, families and emotional relationships, secrets and sorrows. Rather, people are numbers stacked in a column or points on a graph, described not through their individual stories of triumph and despair, but by equations, functions, and dose-response curves. The language of governmental decisionmaking can seem to—and to a certain extent does—ignore what makes individuals unique and morally important. But, although the language of bureaucratic decisionmaking can be dehumanizing, **it is** also a prerequisite for the kind of compassion that is needed in contemporary society. Elaine Scarry has developed a comparison between individual compassion and statistical compassion.' Individual compassion is familiar—when we see a person suffering, or hear the story of some terrible tragedy, we are moved to take action. Statistical compassion seems foreign—we hear only a string of numbers but must comprehend "the concrete realities embedded there."' Individual compassion derives from our social nature, and may be hardwired directly into the human brain.' Statistical compassion calls on us to use our higher reasoning power to extend our natural compassion to the task of solving more abstract—but no less real—problems. Because compassion is not just about making us feel better—which we could do as easily by forgetting about a problem as by addressing it—we have a responsibility to make the best decisions that we can. This book argues that cost-benefit analysis, properly conducted, can improve environmental and public health policy. Cost-benefit analysis—the translation of human lives and acres of forest into the language of dollars and cents—can seem harsh and impersonal. But such an approach is also necessary to improve the quality of decisions that regulators make. Saving the most lives, and best protecting the quality of our environment and our health—in short, exercising our compassion most effectively—requires us to step back and use our best analytic tools. Sometimes, in order to save a life, we need to treat a person like a number. This is the challenge of statistical compassion. This book is about making good decisions. It focuses on the area of environmental, health and safety regulation. These regulations have been the source of numerous and hard-fought controversies over the past several decades, particularly at the federal level. Reaching the right decisions in the areas of environmental protection, increasing safety, and improving public health is clearly of high importance. Although it is admirable (and fashionable) for people to buy green or avoid products made in sweatshops, efforts taken at the individual level are not enough to address the pressing problems we face—there is a vital role for government in tackling these issues, and sound collective decisions concerning regulation are needed. There is a temptation to rely on gut-level decisionmaking in order to avoid economic analysis, which, to many, is a foreign language on top of seeming cold and unsympathetic. For government to make good decisions, however, it cannot abandon reasoned analysis. Because of the complex nature of governmental decisions, we have no choice but to deploy complex analytic tools in order to make the best choices possible. Failing to use these tools, which amounts to abandoning our duties to one another, is not a legitimate response. Rather, we must exercise statistical compassion by recognizing what numbers of lives saved represent: living and breathing human beings, unique, with rich inner lives and an interlocking web of emotional relationships. The acres of a forest can be tallied up in a chart, but that should not blind us to the beauty of a single stand of trees. We need to use complex tools to make good decisions while simultaneously remembering that we are not engaging in abstract exercises, but that we are having real effects on people and the environment. In our personal lives, it would be unwise not to shop around for the best price when making a major purchase, or to fail to think through our options when making a major life decision. It is equally foolish for government to fail to fully examine alternative policies when making regulatory decisions with life-or-death consequences. This reality has been recognized by four successive presidential administrations. Since 1981, the cost-benefit analysis of major regulations has been required by presidential order. Over the past twenty-five years, however, environmental and other progressive groups have declined to participate in the key governmental proceedings concerning the cost-benefit analysis of federal regulations, instead preferring to criticize the technique from the outside. The resulting asymmetry in political participation has had profound negative consequences, both for the state of federal regulation and for the technique of cost-benefit analysis itself. Ironically, this state of affairs has left progressives open to the charge of rejecting reason, when in fact strong environmental and public health pro-grams are often justified by cost-benefit analysis. It is time for progressive groups, as well as ordinary citizens, to retake the high ground by embracing and reforming cost-benefit analysis. The difference between being unthinking—failing to use the best tools to analyze policy—and unfeeling—making decisions without compassion—is unimportant: Both lead to bad policy. Calamities can result from the failure to use either emotion or reason. Our emotions provide us with the grounding for our principles, our innate interconnectedness, and our sense of obligation to others. We use our powers of reason to build on that emotional foundation, and act effectively to bring about a better world.

#### Not the root cause of conflict – other factors overwhelm

Volf 2002 Miroslav Volf (Henry B. Wright Professor of Theology at Yale Divinity School since 1998) Journal of Ecumenical Studies 1-1-02

Though “otherness**”–**cultural, ethnic, religious, racial difference–is **an** important **factor in our relations with others,** we should not overestimate it as a cause of conflict**.** During the war in the former Yugoslavia in the early 1990′s, I was often asked, “What is this war about**? Is it about** religious and cultural differences**? Is it about** economic advantage**? Is it about** political power**? Is it about** land**?” The correct response was**, of course, **that** the war was about all of these things**.** Monocausal explanations of major eruptions of violence are rarely right. Moreover, **v**arious causes are intimately intertwined, and each contributes to others. That holds true also for otherness**,** which I am highlighting here. However, neither should we underestimate otherness as a factor. The contest for political power, for economic advantage, and for a share of the land took place between people who belonged to discrete cultural and ethnic groups**.** Part of the goal of the war in the former Yugoslavia was the creation of ethnically clean territories with economic and political autonomy. The importance of “otherness” is only slightly diminished if we grant that the sense of ethnic and religious belonging was manipulated by unscrupulous, corrupt, and greedy politicians for their own political and economic gain. The fact that conjured fears for one’s identity could serve to legitimize a war whose major driving force lay elsewhere is itself a testimony to how much “otherness” matters.

#### Threatcon is completely backwards—risk we under-react is far greater

Posner and Vermeule, 7– \*Kirkland and Ellis Professor of Law at the University of Chicago Law School AND \*\*professor at Harvard Law School (Eric and Adrian, **Terror in the Balance: Security, Liberty, and the Courts** p. 65)

While, as we have noted, there is psychological research suggesting that normal cognition partly shuts down in response to an immediate threat, we are aware of no research suggesting that people who feel anxious about a medium-term or long-term threat are incapable of thinking, or thinking properly, or that they systematically overweight the threat relative to other values. Indeed, it would be surprising to find research that clearly distinguished “anxious thinking” and “calm thinking,” given that anxiety is a pervasive aspect of life. People are anxious about their children, about their health, about their job prospects, about their vacation arrangements, about walking home at night.16 So it is hard to see why anxiety about more remote threats, from terrorists or unfriendly countries with nuclear weapons, should cause the public or elected officials to place more emphasis on security than is justified and to sacrifice civil liberties unnecessarily. Quite the contrary, a standard view is that people ignore low-probability risks and that elected officials with short time horizons ignore remote ones; on this account, government will probably do too little to prevent terrorist threats, not too much.

#### A violent war on terror is the only way to solve – the plan undermines that

Hanson 10—Senior Fellow, Hoover. Former visiting prof, classics, Stanford. PhD in classics, Stanford (Victor Davis, The Tragic Truth of War, 19 February 2010, http://www.victorhanson.com/articles/hanson021910.html)

Victory has usually been defined throughout the ages as forcing the enemy to accept certain political objectives. “Forcing” usually meant killing, capturing, or wounding men at arms. In today’s polite and politically correct society we seem to have forgotten that nasty but eternal truth in the confusing struggle to defeat radical Islamic terrorism. What stopped the imperial German army from absorbing France in World War I and eventually made the Kaiser abdicate was the destruction of a once magnificent army on the Western front — superb soldiers and expertise that could not easily be replaced. Saddam Hussein left Kuwait in 1991 when he realized that the U.S. military was destroying his very army. Even the North Vietnamese agreed to a peace settlement in 1973, given their past horrific losses on the ground and the promise that American air power could continue indefinitely inflicting its damage on the North. When an enemy finally gives up, it is for a combination of reasons — material losses, economic hardship, loss of territory, erosion of civilian morale, fright, mental exhaustion, internal strife. But we forget that central to a concession of defeat is often the loss of the nation’s soldiers — or even the threat of such deaths. A central theme in most of the memoirs of high-ranking officers of the Third Reich is the attrition of their best warriors. In other words, among all the multifarious reasons why Nazi Germany was defeated, perhaps the key was that hundreds of thousands of its best aviators, U-boaters, panzers, infantrymen, and officers, who swept to victory throughout 1939–41, simply perished in the fighting and were no longer around to stop the allies from doing pretty much what they wanted by 1944–45. After Stalingrad and Kursk, there were not enough good German soldiers to stop the Red Army. Even the introduction of jets could not save Hitler in 1945 — given that British and American airmen had killed thousands of Luftwaffe pilots between 1939 and 1943. After the near destruction of the Grand Army in Russia in 1812, even Napoleon’s genius could not restore his European empire. Serial and massive Communist offensives between November 1950 and April 1951 in Korea cost Red China hundreds of thousands of its crack infantry — and ensured that, for all its aggressive talk, it would never retake Seoul in 1952–53. But aren’t these cherry-picked examples from conventional wars of the past that have no relevance to the present age of limited conflict, terrorism, and insurgency where ideology reigns? Not really. We don’t quite know all the factors that contributed to the amazing success of the American “surge” in Iraq in 2007–08. Surely a number of considerations played a part: Iraqi anger at the brutish nature of al-Qaeda terrorists in their midst; increased oil prices that brought massive new revenues into the country; General Petraeus’s inspired counterinsurgency tactics that helped win over Iraqis to our side by providing them with jobs and security; much-improved American equipment; and the addition of 30,000 more American troops. But what is unspoken is also the sheer cumulative number of al Qaeda and other Islamic terrorists that the U.S. military killed or wounded between 2003 and 2008 in firefights from Fallujah to Basra. There has never been reported an approximate figure of such enemy dead — perhaps wisely, in the post-Vietnam age of repugnance at “body counts” and the need to create a positive media image. Nevertheless, in those combat operations, the marines and army not only proved that to meet them in battle was a near death sentence, but also killed thousands of low-level terrorists and hundreds of top-ranking operatives who otherwise would have continued to harm Iraqi civilians and American soldiers. Is Iraq relatively quiet today because many who made it so violent are no longer around? Contemporary conventional wisdom tries to persuade us that there is no such thing as a finite number of the enemy. Instead, killing them supposedly only incites others to step up from the shadows to take their places. Violence begets violence. It is counterproductive, and creates an endless succession of the enemy. Or so we are told. We may wish that were true. But military history suggests it is not quite accurate. In fact, there was a finite number of SS diehards and kamikaze suicide bombers even in fanatical Nazi Germany and imperial Japan. When they were attrited, not only were their acts of terror curtailed, but it turned out that far fewer than expected wanted to follow the dead to martyrdom. The Israeli war in Gaza is considered by the global community to be a terrible failure — even though the number of rocket attacks against Israeli border towns is way down. That reduction may be due to international pressure, diplomacy, and Israeli goodwill shipments of food and fuel to Gaza — or it may be due to the hundreds of Hamas killers and rocketeers who died, and the thousands who do not wish to follow them, despite their frequently loud rhetoric about a desire for martyrdom. Insurgencies, of course, are complex operations, but in general even they are not immune from eternal rules of war. Winning hearts and minds is essential; providing security for the populace is crucial; improving the economy is critical to securing the peace. But all that said, we cannot avoid the pesky truth that in war — any sort of war — killing enemy soldiers stops the violence. For all the much-celebrated counterinsurgency tactics in Afghanistan, note that we are currently in an offensive in Helmand province to “secure the area.” That means killing the Taliban and their supporters, and convincing others that they will meet a violent fate if they continue their opposition. Perhaps the most politically incorrect and Neanderthal of all thoughts would be that the American military’s long efforts in both Afghanistan and Iraq to kill or capture radical Islamists has contributed to the general safety inside the United States. Modern dogma insists that our presence in those two Muslim countries incited otherwise non-bellicose young Muslims to suddenly prefer violence and leave Saudi Arabia, Yemen, or Egypt to flock to kill the infidel invader. A more tragic view would counter that there was always a large (though largely finite) number of radical jihadists who, even before 9/11, wished to kill Americans. They went to those two theaters, fought, died, and were therefore not able to conduct as many terrorist operations as they otherwise would have, and also provided a clear example to would-be followers not to emulate their various short careers. That may explain why in global polls the popularity both of bin Laden and of the tactic of suicide bombing plummeted in the Middle Eastern street — at precisely the time America was being battered in the elite international press for the Iraq War. Even the most utopian and idealistic do not escape these tragic eternal laws of war. Barack Obama may think he can win over the radical Islamic world — or at least convince the more moderate Muslim community to reject jihadism — by means such as his Cairo speech, closing Guantanamo, trying Khalid Sheikh Mohammed in New York, or having General McChrystal emphatically assure the world that killing Taliban and al-Qaeda terrorists will not secure Afghanistan. Of course, such soft- and smart-power approaches have utility in a war so laden with symbolism in an age of globalized communications. But note that Obama has upped the number of combat troops in Afghanistan, and he vastly increased the frequency of Predator-drone assassination missions on the Pakistani border. Indeed, even as Obama damns Guantanamo and tribunals, he has massively increased the number of targeted assassinations of suspected terrorists — the rationale presumably being either that we are safer with fewer jihadists alive, or that we are warning would-be jihadists that they will end up buried amid the debris of a mud-brick compound, or that it is much easier to kill a suspected terrorist abroad than detain, question, and try a known one in the United States. In any case, the president — immune from criticism from the hard Left, which is angrier about conservative presidents waterboarding known terrorists than liberal ones executing suspected ones — has concluded that one way to win in Afghanistan is to kill as many terrorists and insurgents as possible. And while the global public will praise his kinder, gentler outreach, privately he evidently thinks that we will be safer the more the U.S. marines shoot Taliban terrorists and the more Hellfire missiles blow up al-Qaeda planners. Why otherwise would a Nobel Peace Prize laureate order such continued offensive missions? Victory is most easily obtained by ending the enemy’s ability to resist — and by offering him an alternative future that might appear better than the past. We may not like to think all of that entails killing those who wish to kill us, but it does, always has, and tragically always will — until the nature of man himself changes.

#### Court interference decks executive hyper energy k2 respond to terrorism, prolif, and regional conflict de-escalation – modern evolution of threats makes the link threshold EXTREMELY LOW

Robert Blomquist 10, Professor of Law, Valparaiso University School of Law, THE JURISPRUDENCE OF AMERICAN NATIONAL SECURITY PRESIPRUDENCE, 44 Val. U.L. Rev. 881

Supreme Court Justices--along with legal advocates--need to conceptualize and prioritize big theoretical matters of institutional design and form and function in the American national security tripartite constitutional system. By way of an excellent introduction to these vital issues of legal theory, the Justices should pull down from the library shelf of the sumptuous Supreme Court Library in Washington, D.C. (or more likely have a clerk do this chore) the old chestnut, The Legal Process: Basic Problems in the Making and Application of Law by the late Harvard University law professors Henry M. Hart and Albert M. Sacks. n7 Among the rich insights on institutional design coupled with form and function in the American legal system that are germane to the Court's interpretation of national security law-making and decision-making by the President are several pertinent points. First, "Hart and Sacks' intellectual starting point was the interconnectedness of human beings, and the usefulness of law in helping us coexist peacefully together." n8 By implication, therefore, the Court should be mindful of the unique [\*883] constitutional role played by the POTUS in preserving peace and should prevent imprudent judicial actions that would undermine American national security. Second, Hart and Sacks, continuing their broad insights of social theory, noted that legal communities establish "institutionalized[] procedures for the settlement of questions of group concern" n9 and regularize "different procedures and personnel of different qualifications . . . appropriate for deciding different kinds of questions" n10 because "every modern society differentiates among social questions, accepting one mode of decision for one kind and other modes for others-e.g., courts for 'judicial' decisions and legislatures for 'legislative' decisions" n11 and, extending their conceptualization, an executive for "executive" decisions. n12 Third, Professors Hart and Sacks made seminal theoretical distinctions between rules, standards, principles, and policies. n13 While all four are part of "legal arrangements [\*884] in an organized society," n14 and all four of these arrangements are potentially relevant in judicial review of presidential national security decisions, principles and policies n15 are of special concern because of the sprawling, inchoate, and rapidly changing nature of national security threats and the imperative of hyper-energy in the Executive branch in responding to these threats. n16¶ The Justices should also consult Professor Robert S. Summers's masterful elaboration and amplification of the Hart and Sacks project on enhancing a flourishing legal system: the 2006 opus, Form and Function in a Legal System: A General Study. n17 The most important points that [\*885] Summers makes that are relevant to judicial review of American national security presiprudence are three key considerations. First, a "conception of the overall form of the whole of a functional [legal] unit is needed to serve the founding purpose of defining, specifying, and organizing the makeup of such a unit so that it can be brought into being and can fulfill its own distinctive role" n18 in synergy with other legal units to serve overarching sovereign purposes for a polity. The American constitutional system of national security law and policy should be appreciated for its genius in making the POTUS the national security sentinel with vast, but not unlimited, powers to protect the Nation from hostile, potentially catastrophic, threats. Second, "a conception of the overall form of the whole is needed for the purpose of organizing the internal unity of relations between various formal features of a functional [legal] unit and between each formal feature and the complementary components of the whole unit." n19 Thus, Supreme Court Justices should have a thick understanding of the form of national security decision-making conceived by the Founders to center in the POTUS; the ways the POTUS and Congress historically organized the processing of national security through institutions like the National Security Council and the House and Senate intelligence committees; and the ways the POTUS has structured national security process through such specific legal forms as Presidential Directives, National Security Decision Directives, National Security Presidential Decision Directives, Presidential Decision Directives, and National Security Policy Directives in classified, secret documents along with typically public Executive Orders. n20 Third, according to Summers, "a conception of the overall form of the whole functional [legal] unit is needed to organize further the mode of operation and the instrumental capacity of the [legal] unit." n21 So, the Supreme Court should be aware that tinkering with national security decisions of the POTUS--unless clearly necessary to counterbalance an indubitable violation of the text of the Constitution--may lead to unforeseen negative second-order consequences in the ability of the POTUS (with or without the help of Congress) to preserve, protect, and defend the Nation. n22¶ [\*886] B. Geopolitical Strategic Considerations Bearing on Judicial Interpretation¶ Before the United States Supreme Court Justices form an opinion on the legality of national security decisions by the POTUS, they should immerse themselves in judicially-noticeable facts concerning what national security expert, Bruce Berkowitz, in the subtitle of his recent book, calls the "challengers, competitors, and threats to America's future." n23 Not that the Justices need to become experts in national security affairs, n24 but every Supreme Court Justice should be aware of the following five basic national security facts and conceptions before sitting in judgment on presiprudential national security determinations.¶ (1) "National security policy . . . is harder today because the issues that are involved are more numerous and varied. The problem of the day can change at a moment's notice." n25 While "[y]esterday, it might have been proliferation; today, terrorism; tomorrow, hostile regional powers" n26, the twenty-first century reality is that "[t]hreats are also more likely to be intertwined--proliferators use the same networks as narco-traffickers, narco-traffickers support terrorists, and terrorists align themselves with regional powers." n27¶ (2) "Yet, as worrisome as these immediate concerns may be, the long-term challenges are even harder to deal with, and the stakes are higher. Whereas the main Cold War threat--the Soviet Union--was brittle, most of the potential adversaries and challengers America now faces are resilient." n28¶ (3) "The most important task for U.S. national security today is simply to retain the strategic advantage

. This term, from the world of military doctrine, refers to the overall ability of a nation to control, or at least influence, the course of events." n29 Importantly, "[w]hen you hold [\*887] the strategic advantage, situations unfold in your favor, and each round ends so that you are in an advantageous position for the next. When you do not hold the strategic advantage, they do not." n30¶ (4) While "keeping the strategic advantage may not have the idealistic ring of making the world safe for democracy and does not sound as decisively macho as maintaining American hegemony," n31 maintaining the American "strategic advantage is critical, because it is essential for just about everything else America hopes to achieve--promoting freedom, protecting the homeland, defending its values, preserving peace, and so on." n32¶ (5) The United States requires national security "agility." n33 It not only needs "to refocus its resources repeatedly; it needs to do this faster than an adversary can focus its own resources." n34¶ [\*888] As further serious preparation for engaging in the jurisprudence of American national security presiprudence in hotly contested cases and controversies that may end up on their docket, our Supreme Court Justices should understand that, as Walter Russell Mead pointed out in an important essay a few years ago, n35 the average American can be understood as a Jacksonian pragmatist on national security issues. n36 "Americans are determined to keep the world at a distance, while not isolating ourselves from it completely. If we need to take action abroad, we want to do it on our terms." n37 Thus, recent social science survey data paints "a picture of a country whose practical people take a practical approach to knowledge about national security. Americans do not bother with the details most of the time because, for most Americans, the details do not matter most the time." n38 Indeed, since the American people "do know the outlines of the big picture and what we need to worry about [in national security affairs] so we know when we need to pay greater attention and what is at stake. This is the kind of knowledge suited to a Jacksonian." n39¶ Turning to how the Supreme Court should view and interpret American presidential measures to oversee national security law and policy, our Justices should consider a number of important points. First, given the robust text, tradition, intellectual history, and evolution of the institution of the POTUS as the American national security sentinel, n40 and the unprecedented dangers to the United States national security after 9/11, n41 national security presiprudence should be accorded wide latitude by the Court in the adjustment (and tradeoffs) of trading liberty and security. n42 Second, Justices should be aware that different presidents [\*889] institute changes in national security presiprudence given their unique perspective and knowledge of threats to the Nation. n43 Third, Justices should be restrained in second-guessing the POTUS and his subordinate national security experts concerning both the existence and duration of national security emergencies and necessary measures to rectify them. "During emergencies, the institutional advantages of the executive are enhanced", n44 moreover, "[b]ecause of the importance of secrecy, speed, and flexibility, courts, which are slow, open, and rigid, have less to contribute to the formulation of national policy than they do during normal times." n45 Fourth, Supreme Court Justices, of course, should not give the POTUS a blank check--even during times of claimed national emergency; but, how much deference to be accorded by the Court is "always a hard question" and should be a function of "the scale and type of the emergency." n46 Fifth, the Court should be extraordinarily deferential to the POTUS and his executive subordinates regarding questions of executive determinations of the international laws of war and military tactics. As cogently explained by Professors Eric Posner and Adrian Vermeule, n47 "the United States should comply with the laws of war in its battle against Al Qaeda"--and I would argue, other lawless terrorist groups like the Taliban--"only to the extent these laws are beneficial to the United States, taking into account the likely response of [\*890] other states and of al Qaeda and other terrorist organizations," n48 as determined by the POTUS and his national security executive subordinates.

# 2NC

## K

### 2NC Impact Calc

**That generates total war through paranoia and genocidal conflicts of all against all**

**Reinhard 4** – Kenneth Reinhard, Professor of Jewish Studies at UCLA, 2004, “Towards a Political Theology- Of the Neighbor,” online: http://www.cjs.ucla.edu/Mellon/Towards\_Political\_Theology.pdf

**If the concept of the political is defined, as** Carl Schmitt does, **in terms of the Enemy/Friend opposition**, the world we find ourselves in today is one from which the political may have already disappeared, or at least has mutated into some strange new shape. **A world not anchored by the “us” and “them” binarisms** that flourished as recently as the Cold War **is** one **subject to radical instability**, **both subjectively and politically**, as Jacques Derrida points out in The Politics of Friendship: ¶ **The effects of this destructuration would be countless**: **the ‘subject’** in question **would be looking for new reconstitutive enmities**; **it would multiply ‘little wars’ between nation-states**; **it would sustain** at any price so-called ethnic or **genocidal struggles**; **it would seek to pose itself**, to find repose, **through opposing still identifiable adversaries – China, Islam?** **Enemies without which** … **it would lose its political** **being** … without an enemy, and therefore without friends, where does one then find oneself, qua a self? (PF 77) ¶ **If one accepts Schmitt’s account of the political**, **the disappearance of the enemy results in** something like **global psychosis**: **since the mirroring relationship between Us and Them provides a form of stability**, **albeit one based on projective identifications and repudiations**, **the loss of the enemy threatens to destroy** what Lacan calls **the “imaginary tripod” that props up the psychotic with a sort of pseudo-subjectivity, until something causes it to collapse, resulting in full-blown delusions, hallucinations, and paranoia.** ¶Hence, for Schmitt, **a world without enemies is much more dangerous than one where one is surrounded by enemies**; as Derrida writes, **the disappearance of the enemy** **opens the door for** “an **unheard-of violence**, **the evil of a malice knowing neither measure nor ground,** **an unleashing** **incommensurable in its unprecedented –** therefore **monstrous** –forms; a **violence** **in the face of which what is called hostility, war, conflict, enmity, cruelty,** even hatred, **would regain reassuring and ultimately appeasing contours, because they would be identifiable**” (PF 83).

### 2NC Enmity Inevitable

**Refusing to demarcate terrorists doesn’t eliminate conflict – instead ---the drive to exclude becomes more violent --- such as preemptive strikes against terrorists before they reach they even reach the border**

**Prozorov 6** – Sergei Prozorov, collegium fellow at the Helsinki Collegium for Advanced Studies, University of Helsinki, Professor of International Relations in the Department of International Relations, Faculty of Politics and Social Sciences, Petrozavodsk State University, Russia, 2006, “Liberal Enmity: The Figure of the Foe in the Political Ontology of Liberalism,” Millennium: Journal of International Studies, Vol. 35, No. 1, p. 75-99

At the same time, the practical implementation of such a project is hardly conceivable as encountering no resistance. **The project of world unity and the effacement of exteriority is** therefore **bound to have its own enemies**, **insofar as** **alterity is ontologically ineradicable**. **Letting the Other into the global ‘homeland’** **does not eliminate** **the** **‘most extreme possibility’ of violent conflict** **but makes it** **impossible to manage it** **through the pluralistic disjunction of the Self and the Other**. **In the world in which there is ‘only a homeland’**, **radical alterity has no place**, both literally and figuratively. **In this setting**, **conflict appears no longer merely possible but actually inevitable**, **as the Other is certain to resist its violent inclusion into the homeland of liberal humanity**. Yet, having disposed of genuine political pluralism, **liberalism finds itself lacking in any instruments to protect its universal homeland other than the** **absolute existential negation of the Other** **that parallels the conceptual negation of alterity in liberal monism**. Thus, **the universalisation of the liberal disposition to embrace the entire humanity** **actualises the ‘most extreme possibility’** either **by exposing the Self to the resentful violence of the Othoer** **or by** **annihilating the Other to eliminate the former existential threat**. **It is here that enmity**, foreclosed in the symbolic register of liberalism with its monistic universalism, returns with a vengeance, **since the sole consequence of the deployment of the concept of humanity as the referent of the liberal political project** **is the inevitable designation of the adversaries of this project in terms of the** **negation of humanity** **as**, in a strict sense, **inhuman beings**:¶ When a state fights its political enemy in the name of humanity, it is not a war for the sake of humanity, but a war wherein a particular state seeks to usurp a universal concept against its military opponent. At the expense of its opponent, it tries to identify itself with humanity in the same way as one can misuse peace, justice, progress and civilisation in order to claim these as one’s own and to deny the same to the enemy.50¶ Indeed, denial is a central category in the discursive transformation of the enemy into the foe – through manifold gestures of denial the enemy is reduced to the purely negative figure that reminds us of Agamben’s homo sacer, a bare life that is both worthless and undesirable: ‘The enemy is easily expropriated of his human quality. He is declared an outlaw of humanity. … The absolute enemy encounters an undivided humanity that regards him as already always proscribed by God or by nature.’51 **The effect of the** liberal **foreclosure of enmity**, i.e. **its bracketing off from the political discourse, is** ironically **the de-bracketing of violence**, **its deregulation and intensification**, **whereby the enemy is** **absolutised as the inhuman monster**, ‘the negative pole of the distinction, [**that] is to be fully and finally consumed without remainder’**.52 In line with Zizek’s diagnosis of ultra-politics, **depoliticisation brings about** nothing other than **an extreme politicisation**, **which can no longer be contained within the symbolic dimension of potentiality but** **must pass into the actuality of existential negation**: “Depoliticisation is a political act in a particularly intense way.”53 **It is thus the liberal ‘peace project’ itself** **that** **produces its own opposite** or perhaps reveals its own essence in the guise of its antithesis.¶ As Schmitt notes, the practice of **the constitution of the foe through the exclusion of ‘concrete Others’ from the abstract category of ‘humanity’ lends itself to** **infinite replication and generalisation**: while one of the justifications for the extermination of American Indians consisted in the attribution to them of the crime of ‘eating human flesh’, ‘as civilisation progresses and morality rises, even less harmful things than devouring human flesh could perhaps qualify as deserving to be outlawed in such a manner. Maybe one day it will be enough if a people were unable to pay its debts.’54 In the following section we shall discuss the way in which Schmitt’s prophecy is being fulfilled through the proliferation of categories of population, whose acts and properties are deemed to be ‘proscribed by nature itself’.

### A2 Perm

#### Gitmo is the epitome of Schmitt’s “friend/enemy” distinction and the state of exception – worlds jurists conclude this

**Steyn ‘4** [Johan Steyn – South African/English Jurist, “Guantanamo Bay: The Legal Black Hole”, published in The International and Comparative Law Quarterly, Vol. 53, No. 1 (Jan., 2004), pp. 1-15, accessed 7/17/13, JSTOR] //pheft

The most powerful democracy is detaining hundreds of suspected foot soldiers¶ of the Taliban in a legal black hole at the United States naval base at¶ Guantanamo Bay, where they await trial on capital charges by military¶ tribunals. This episode must be put in context. Democracies must defend¶ themselves. Democracies are entitled to try officers and soldiers of enemy¶ forces for war crimes. But it is a recurring theme in history that in times of¶ war, armed conflict, or perceived national danger, even liberal democracies¶ adopt measures infringing human rights in ways that are wholly disproportionate¶ to the crisis. One tool at hand is detention without charge or trial, that¶ is, executive detention. Ill-conceived rushed legislation is passed granting¶ excessive powers to executive governments which compromise the rights and¶ liberties of individuals beyond the exigencies of the situation. Often the loss¶ of liberty is permanent. Executive branches of government, faced with a¶ perceived emergency, often resort to excessive measures. The litany of grave¶ abuses of power by liberal democratic governments is too long to recount, but¶ in order to understand and to hold governments to account, we do well to take¶ into account the circles of history.

### ROB

#### The Role of the ballot is to determine which acts are politically important in the context of *the political*

**Only this method enables accurate understandings of present and future politics**

**Odysseos & Petito 7** – Louiza Odysseos, Senior Lecturer in International Relations, University of Sussex, and Fabio Petito, teaches International Relations at the School of Oriental and African Studies (SOAS), London, and the University ‘L’Orientale’ in Naples, 2007, “Introduction The international political thought of Carl Schmitt,” in The International Political Thought of Carl Schmitt, Edited by: Odysseos and Petito, p. 3

Second, **what is really at stake** in seeking to redress the neglect of Schmitt’s international thought, beyond the important problem of exegesis, **is the need for a deeper understanding of the present international condition of crisis and epoch-making change in the normative structures of international society**. The contributors to this volume variably illustrate **that Schmitt’s insights can provide scholars from social, legal and political sciences with a** new common **multidisciplinary research platform** **that helps** to **analyse** the rise of global terrorism, **the current international political environment** of the global ‘War on Terror’, the crisis of international legality, **the emergence of US ‘imperial’ hegemony**, **and** the prevalence of a **global interventionist liberal cosmopolitanism** (see Schmitt 2000 [1963], 1996).¶ Yet **why place such an emphasis on the past, that is on a history of international relations** – a history written, moreover, more than half a century ago – if what we are urged to understand is the present situation of world (dis)order, institutional instability and political violence and what we are expected to construct is a future peaceful and just global order? There is a great need to give a context, to localise, to give a perspective to our fast-changing globalised world politics and this requires, more than ever, acute historical sensitivity. **We cannot** hope to **read the present, even less** to **construct the future, without understanding the past**, and this **notwithstanding what the dominant positivistic methodologies of social sciences would like us to believe**. In particular, we would contend that, in this time of transformation, **any serious reflection** **on the contemporary international situation, aiming to go beyond the news commentary,** **needs to be historically informed**. In this respect, **we are committed to a** **historical sociological methodology** and would gladly subscribe to the final sentence of Hedley Bull and Adam Watson’s introduction written to The Expansion of International Society: ‘[w]e certainly hold that **our subject can be understood only in historical perspective, and that without an awareness of the past that generated it, the universal international society of the present can have no meaning’** (1984: 9).

### Util

#### Util good- Calculation is good and doesn’t devalue life

Revesz 2008 Richard L. Revesz (Dean and Lawrence King Professor of Law at New York University School of Law, JD Yale Law School) and Michael A Livermore. (JD NYU School of Law, Executive Director of the Institute for Policy Integrity, and Managing director of the NYU Law Review). Retaking Rationality How Cots-Benefit Analysis Can Better protect the Environment and Our Health. 2008. P. 1-4.

Governmental decisions are also fundamentally different from personal decisions in that they often affect people in the aggregate. In our individual lives, we come into contact with at least some of the consequences of our decisions. If we fail to consult a map, we pay the price: losing valuable time driving around in circles and listening to the complaints of our passengers. We are constantly confronted with the consequences of the choices that we have made. Not so for governments, however, which exercise authority by making decisions at a distance. Perhaps one of the most challenging aspects of governmental decisions is that they require a special kind of compassion—one that can seem, at first glance, cold and calculating, the antithesis of empathy. The aggregate and complex nature of governmental decisions does not address people as human beings, with concerns and interests, families and emotional relationships, secrets and sorrows. Rather, people are numbers stacked in a column or points on a graph, described not through their individual stories of triumph and despair, but by equations, functions, and dose-response curves. The language of governmental decisionmaking can seem to—and to a certain extent does—ignore what makes individuals unique and morally important. But, although the language of bureaucratic decisionmaking can be dehumanizing, **it is** also a prerequisite for the kind of compassion that is needed in contemporary society. Elaine Scarry has developed a comparison between individual compassion and statistical compassion.' Individual compassion is familiar—when we see a person suffering, or hear the story of some terrible tragedy, we are moved to take action. Statistical compassion seems foreign—we hear only a string of numbers but must comprehend "the concrete realities embedded there."' Individual compassion derives from our social nature, and may be hardwired directly into the human brain.' Statistical compassion calls on us to use our higher reasoning power to extend our natural compassion to the task of solving more abstract—but no less real—problems. Because compassion is not just about making us feel better—which we could do as easily by forgetting about a problem as by addressing it—we have a responsibility to make the best decisions that we can. This book argues that cost-benefit analysis, properly conducted, can improve environmental and public health policy. Cost-benefit analysis—the translation of human lives and acres of forest into the language of dollars and cents—can seem harsh and impersonal. But such an approach is also necessary to improve the quality of decisions that regulators make. Saving the most lives, and best protecting the quality of our environment and our health—in short, exercising our compassion most effectively—requires us to step back and use our best analytic tools. Sometimes, in order to save a life, we need to treat a person like a number. This is the challenge of statistical compassion. This book is about making good decisions. It focuses on the area of environmental, health and safety regulation. These regulations have been the source of numerous and hard-fought controversies over the past several decades, particularly at the federal level. Reaching the right decisions in the areas of environmental protection, increasing safety, and improving public health is clearly of high importance. Although it is admirable (and fashionable) for people to buy green or avoid products made in sweatshops, efforts taken at the individual level are not enough to address the pressing problems we face—there is a vital role for government in tackling these issues, and sound collective decisions concerning regulation are needed. There is a temptation to rely on gut-level decisionmaking in order to avoid economic analysis, which, to many, is a foreign language on top of seeming cold and unsympathetic. For government to make good decisions, however, it cannot abandon reasoned analysis. Because of the complex nature of governmental decisions, we have no choice but to deploy complex analytic tools in order to make the best choices possible. Failing to use these tools, which amounts to abandoning our duties to one another, is not a legitimate response. Rather, we must exercise statistical compassion by recognizing what numbers of lives saved represent: living and breathing human beings, unique, with rich inner lives and an interlocking web of emotional relationships. The acres of a forest can be tallied up in a chart, but that should not blind us to the beauty of a single stand of trees. We need to use complex tools to make good decisions while simultaneously remembering that we are not engaging in abstract exercises, but that we are having real effects on people and the environment. In our personal lives, it would be unwise not to shop around for the best price when making a major purchase, or to fail to think through our options when making a major life decision. It is equally foolish for government to fail to fully examine alternative policies when making regulatory decisions with life-or-death consequences. This reality has been recognized by four successive presidential administrations. Since 1981, the cost-benefit analysis of major regulations has been required by presidential order. Over the past twenty-five years, however, environmental and other progressive groups have declined to participate in the key governmental proceedings concerning the cost-benefit analysis of federal regulations, instead preferring to criticize the technique from the outside. The resulting asymmetry in political participation has had profound negative consequences, both for the state of federal regulation and for the technique of cost-benefit analysis itself. Ironically, this state of affairs has left progressives open to the charge of rejecting reason, when in fact strong environmental and public health pro-grams are often justified by cost-benefit analysis. It is time for progressive groups, as well as ordinary citizens, to retake the high ground by embracing and reforming cost-benefit analysis. The difference between being unthinking—failing to use the best tools to analyze policy—and unfeeling—making decisions without compassion—is unimportant: Both lead to bad policy. Calamities can result from the failure to use either emotion or reason. Our emotions provide us with the grounding for our principles, our innate interconnectedness, and our sense of obligation to others. We use our powers of reason to build on that emotional foundation, and act effectively to bring about a better world.

#### Not the root cause of conflict – other factors overwhelm

Volf 2002 Miroslav Volf (Henry B. Wright Professor of Theology at Yale Divinity School since 1998) Journal of Ecumenical Studies 1-1-02

Though “otherness**”–**cultural, ethnic, religious, racial difference–is **an** important **factor in our relations with others,** we should not overestimate it as a cause of conflict**.** During the war in the former Yugoslavia in the early 1990′s, I was often asked, “What is this war about**? Is it about** religious and cultural differences**? Is it about** economic advantage**? Is it about** political power**? Is it about** land**?” The correct response was**, of course, **that** the war was about all of these things**.** Monocausal explanations of major eruptions of violence are rarely right. Moreover, **v**arious causes are intimately intertwined, and each contributes to others. That holds true also for otherness**,** which I am highlighting here. However, neither should we underestimate otherness as a factor. The contest for political power, for economic advantage, and for a share of the land took place between people who belonged to discrete cultural and ethnic groups**.** Part of the goal of the war in the former Yugoslavia was the creation of ethnically clean territories with economic and political autonomy. The importance of “otherness” is only slightly diminished if we grant that the sense of ethnic and religious belonging was manipulated by unscrupulous, corrupt, and greedy politicians for their own political and economic gain. The fact that conjured fears for one’s identity could serve to legitimize a war whose major driving force lay elsewhere is itself a testimony to how much “otherness” matters.

#### Threatcon is completely backwards—risk we under-react is far greater

Posner and Vermeule, 7– \*Kirkland and Ellis Professor of Law at the University of Chicago Law School AND \*\*professor at Harvard Law School (Eric and Adrian, **Terror in the Balance: Security, Liberty, and the Courts** p. 65)

While, as we have noted, there is psychological research suggesting that normal cognition partly shuts down in response to an immediate threat, we are aware of no research suggesting that people who feel anxious about a medium-term or long-term threat are incapable of thinking, or thinking properly, or that they systematically overweight the threat relative to other values. Indeed, it would be surprising to find research that clearly distinguished “anxious thinking” and “calm thinking,” given that anxiety is a pervasive aspect of life. People are anxious about their children, about their health, about their job prospects, about their vacation arrangements, about walking home at night.16 So it is hard to see why anxiety about more remote threats, from terrorists or unfriendly countries with nuclear weapons, should cause the public or elected officials to place more emphasis on security than is justified and to sacrifice civil liberties unnecessarily. Quite the contrary, a standard view is that people ignore low-probability risks and that elected officials with short time horizons ignore remote ones; on this account, government will probably do too little to prevent terrorist threats, not too much.

#### 1. So does their moral framework—in fact, more evil is created in a world where you don’t have to consider consequences, because it creates incentives to privilege your own selfish ethics above the rights of others. The affirmative’s logic is the logic of the Crusades—that we have a moral obligation to spread religion, that it’s the highest end, so we’re not responsible for lesser consequences.

#### 2. Looking to consequences and accepting cost-benefit assessment solves this—

#### A.) Protecting the greater good means that you take all actions to limit evil whereever possible, but it realizes that hard choices are inevitable and that people will be hurt by decisions no matter what you do. Avoiding evil is a matter of doing the least harm possible, and you assess that by weighing consequences.

#### B.) The affirmative specifically justifies more evil than our framework--the point of our disads is to demonstrate why the affirmative hurts more people than they help, and their framework arguments amount to callous indifference to the suffering they inflict on the world.

#### Their arguments about minorities being scapegoated is an indict of normal politics, not of war powers – in fact, minorities are more likely to see gains in emergency politics

Posner and Vermeule, 7– \*Kirkland and Ellis Professor of Law at the University of Chicago Law School AND \*\*professor at Harvard Law School (Eric and Adrian, **Terror in the Balance: Security, Liberty, and the Courts** p. 88)

On several counts, however, the democratic failure theory is puzzling, and our aim here is to express skepticism about it. First, it is not clear what the account has to do with emergencies. The structures of voting and representation that are said to produce democratic failure are the same in both emergencies and normal times. Perhaps an emergency causes a loss for society as a whole. But it is still unclear why the new, post-emergency equilibrium will be relatively worse for the minority than was the old, pre-emergency equilibrium; the minority should get the same proportional slice of the social product it had before, albeit from a smaller pie. The possibility that a majority will externalize costs onto nonvoters or other minorities is just a general structural charge against democratic decisionmaking, one that can apply at any time, not merely in times of emergency or terrorist threat. There is little evidence, and no theoretical reason to believe, that democratic failure is more likely in emergencies. Indeed, there is some evidence that minorities fare especially well in times of emergency, because government has more need of their contributions. Emergencies have often been an engine of progressive government and policy reform.

### A2 Psych Violence

#### Their impact doesn’t escalate

Robert Hinde and Lea Pulkkinnen, Cambridge psychology professor and University of Jyväskylä psychology professor, 2K, DRAFT Background Paper for Working Group 1: HUMAN AGGRESSIVENESS AND WAR, 50th Pugwash Conference On Science and World Affairs: "Eliminating the Causes of War" Queens' College, Cambridge, http://www.pugwash.org/reports/pac/pac256/WG1draft1.htm

People are capable of perpetrating the most terrible acts of violence on their fellows. From before recorded history humans have killed humans, and violence is potentially present in every society. There is no escaping the fact that the capacity to develop a propensity for violence is part of human nature. But that does not mean that aggression is inevitable: temporary anger need not give rise to persistent hostility, and hostility need not give rise to acts of aggression. And people also have the capacity to care for the needs of others, and are capable of acts of great altruism and self-sacrifice. A subsidiary aim of this workshop is to identify the factors that make aggressive tendencies predominate over the cooperative and compassionate ones. Some degree of conflict of interest is often present in relationships between individuals, in the relations between groups of individuals within states, and in the relations between states: we are concerned with the factors that make such conflicts escalate into violence.¶ The answer to that question depends critically on the context. While there may be some factors in common, the bases of individual aggressiveness are very different from those involved in mob violence, and they differ yet again from the factors influencing the bomb-aimer pressing the button in a large scale international war. In considering whether acts which harm others are a consequence of the aggressive motivation of individuals, it is essential to recognise the diversity of such acts, which include interactions between individuals, violence between groups, and wars of the WW2 type. We shall see that, with increasing social complexity, individual aggressiveness becomes progressively less important, but other aspects of human nature come to contribute to group phenomena. Although research on human violence has focussed too often on the importance of one factor or another, it is essential to remember that violence always has multiple causes, and the interactions between the causal factors remain largely unexplored.

**Terrorism causes extinction**

Nathan **Myhrvold 13**, Phd in theoretical and mathematical physics from Princeton, and founded Intellectual Ventures after retiring as chief strategist and chief technology officer of Microsoft Corporation , July 2013, "Stratgic Terrorism: A Call to Action," The Lawfare Research Paper Series No.2, <http://www.lawfareblog.com/wp-content/uploads/2013/07/Strategic-Terrorism-Myhrvold-7-3-2013.pdf>

Several **powerful trends have aligned to** profoundly **change the way that the world works. Technology** ¶ now **allows stateless groups to organize, recruit, and fund** ¶ **themselves in an unprecedented fashion**. **That, coupled** ¶ **with** the extreme **difficulty of** finding and **punishing a stateless group, means that stateless groups are positioned to be** ¶ **lead players on the world stage.** **They may act on their own,** ¶ **or** they may act **as proxies for nation-states that wish to** ¶ **duck responsibility**. Either way, stateless groups are forces ¶ to be reckoned with.¶ At the same time, a different set of **technology trends** ¶ **means that small numbers of people can obtain incredibly** ¶ **lethal power.** Now, for the first time in human history, **a** ¶ **small group can be as lethal as the largest superpower**. Such ¶ a group could execute an attack that could kill millions of ¶ people. **It is technically feasible for such a group to kill billions** of people, to end modern civilization—perhaps **even** ¶ to drive the human race to extinction. Our defense establishment was shaped over decades to ¶ address what was, for a long time, the only strategic threat ¶ our nation faced: Soviet or Chinese missiles. More recently, ¶ it has started retooling to address tactical terror attacks like ¶ those launched on the morning of 9/11, but the reform ¶ process is incomplete and inconsistent. **A real defense will require rebuilding our military and intelligence capabilities** from the ground up. Yet, so far, **strategic terrorism has** ¶ **received relatively little attention in defense agencies, and** ¶ the **efforts** that have been **launched to combat this existential threat seem fragmented**.¶ **History suggests what will happen. The only thing that shakes America out of complacency is a direct threat from a determined adversary that confronts us with our shortcomings by repeatedly attacking us or hectoring us for decades.**

# 1NR

## DA

### Oview

#### Iran sanctions are at the top of the docket now – Obama’s using PC to sustain a Democratic veto – it’s try-or-die because Obama wins the fight now but failure cedes military authority to Israel – they’ll strike Iran and use US defense doctrine to get us involved escalating to full scale Middle East war – Russia, China, Venezuela, Brazil and Turkey would form a coalition against the US which collapses heg and ensures conflict escalates to global nuclear war

#### Turns the entire case – it sets a precedent to delegate war powers authority to Israel – drawing the US into war

Richman, 12/29/13(Sheldon, Counterpunch, “AIPAC's Stranglehold Congress Must Not Cede Its War Power to Israel”, <http://www.counterpunch.org/2013/12/27/congress-must-not-cede-its-war-power-to-israel/>)

The American people should know that pending right now in Congress is a bipartisan bill that would virtually commit the United States to go to war against Iran if Israel attacks the Islamic Republic. “The bill outsources any decision about resort to military action to the government of Israel,” Columbia University Iran expert Gary Sick wrote to Sen. Chuck Schumer (D-NY) in protest, one of the bill’s principal sponsors.¶ The mind boggles at the thought that Congress would let a foreign government decide when America goes to war, so here is the language (PDF):¶ If the government of Israel is compelled to take military action in legitimate self-defense against Iran’s nuclear weapon program, the United States Government should stand with Israel and provide, in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic, military and economic support to the Government of Israel in its defense of its territory, people and existence.¶ This section is legally nonbinding, but given the clout of the bill’s chief supporter outside of Congress — the American-Israel Public Affairs Committee (AIPAC [PDF]), leader of the pro-Israel lobby — that is a mere formality.¶ Since AIPAC wants this bill passed, it follows that so does the government of Israeli Prime Minister Benjamin Netanyahu, who opposes American negotiations with Iran and has repeatedly threatened to attack the Islamic Republic. Against all evidence, Netanyahu insists the purpose of Iran’s nuclear program is to build a weapon with which to attack Israel. Iran says its facilities, which are routinely inspected, are for peaceful civilian purposes: the generation of electricity and the production of medical isotopes.¶ The bill, whose other principal sponsors are Sen. Robert Menendez (D-NJ) and Sen. Mark Kirk (R-IL), has a total of 26 Senate cosponsors. If it passes when the Senate reconvenes in January, it could provoke a historic conflict between Congress and President Obama, whose administration is engaged in negotiations with Iran at this time. Aside from declaring that the U.S. government should assist Israel if it attacks Iran, the bill would also impose new economic sanctions on the Iranian people. Obama has asked the Senate not to impose additional sanctions while his administration and five other governments are negotiating with Iran on a permanent settlement of the nuclear issue.¶ A six-month interim agreement is now in force, one provision of which prohibits new sanctions on Iran. “The [Menendez-Schumer-Kirk] bill allows Obama to waive the new sanctions during the current talks by certifying every 30 days that Iran is complying with the Geneva deal and negotiating in good faith on a final agreement,” Ali Gharib writes at Foreign Policy magazine. That would effectively give Congress the power to undermine negotiations. As Iran’s foreign minister, Javad Zarif, told Time magazine, if Congress imposes new sanctions, even if they are delayed for six months, “The entire deal is dead. We do not like to negotiate under duress.”¶ Clearly, the bill is designed to destroy the talks with Iran, which is bending over backward to demonstrate that its nuclear program has no military aims.

#### It risks global nuclear war through miscalculation and draws in every major nuclear power

PressTV, 11/13/13(“Global nuclear conflict between US, Russia, China likely if Iran talks fail,” <http://www.presstv.ir/detail/2013/11/13/334544/global-nuclear-war-likely-if-iran-talks-fail/>)

A global conflict between the US, Russia, and China is likely in the coming months should the world powers fail to reach a nuclear deal with Iran, an American analyst says.¶ “If the talks fail, if the agreements being pursued are not successfully carried forward and implemented, then there would be enormous international pressure to drive towards a conflict with Iran before [US President Barack] Obama leaves office and that’s a very great danger that no one can underestimate the importance of,” senior editor at the Executive Intelligence Review Jeff Steinberg told Press TV on Wednesday. ¶ “The United States could find itself on one side and Russia and China on the other and those are the kinds of conditions that can lead to miscalculation and general roar,” Steinberg said. ¶ “So the danger in this situation is that if these talks don’t go forward, we could be facing a global conflict in the coming months and years and that’s got to be avoided at all costs when you’ve got countries like the United States, Russia, and China with” their arsenals of “nuclear weapons,” he warned. ¶ The warning came one day after the White House told Congress not to impose new sanctions against Tehran because failure in talks with Iran could lead to war.

#### Heg solves nuclear war and decline of American power causes it

Zhang and Shi 11 Yuhan Zhang is a researcher at the Carnegie Endowment for International Peace, Washington, D.C.; Lin Shi is from Columbia University. She also serves as an independent consultant for the Eurasia Group and a consultant for the World Bank in Washington, D.C., 1/22, “America’s decline: A harbinger of conflict and rivalry”, http://www.eastasiaforum.org/2011/01/22/americas-decline-a-harbinger-of-conflict-and-rivalry/

This does not necessarily mean that the US is in systemic decline, but it encompasses a trend that appears to be negative and perhaps alarming. Although the US still possesses incomparable military prowess and its economy remains the world’s largest, the once seemingly indomitable chasm that separated America from anyone else is narrowing. Thus, the global distribution of power is shifting, and the inevitable result will be a world that is less peaceful, liberal and prosperous, burdened by a dearth of effective conflict regulation. Over the past two decades, no other state has had the ability to seriously challenge the US military. Under these circumstances, motivated by both opportunity and fear, many actors have bandwagoned with US hegemony and accepted a subordinate role. Canada, most of Western Europe, India, Japan, South Korea, Australia, Singapore and the Philippines have all joined the US, creating a status quo that has tended to mute great power conflicts. However, as the hegemony that drew these powers together withers, so will the pulling power behind the US alliance. The result will be an international order where power is more diffuse, American interests and influence can be more readily challenged, and conflicts or wars may be harder to avoid. As history attests, power decline and redistribution result in military confrontation. For example, in the late 19th century America’s emergence as a regional power saw it launch its first overseas war of conquest towards Spain. By the turn of the 20th century, accompanying the increase in US power and waning of British power, the American Navy had begun to challenge the notion that Britain ‘rules the waves.’ Such a notion would eventually see the US attain the status of sole guardians of the Western Hemisphere’s security to become the order-creating Leviathan shaping the international system with democracy and rule of law. Defining this US-centred system are three key characteristics: enforcement of property rights, constraints on the actions of powerful individuals and groups and some degree of equal opportunities for broad segments of society. As a result of such political stability, free markets, liberal trade and flexible financial mechanisms have appeared. And, with this, many countries have sought opportunities to enter this system, proliferating stable and cooperative relations. However, what will happen to these advances as America’s influence declines? Given that America’s authority, although sullied at times, has benefited people across much of Latin America, Central and Eastern Europe, the Balkans, as well as parts of Africa and, quite extensively, Asia, the answer to this question could affect global society in a profoundly detrimental way. Public imagination and academia have anticipated that a post-hegemonic world would return to the problems of the 1930s: regional blocs, trade conflicts and strategic rivalry. Furthermore, multilateral institutions such as the IMF, the World Bank or the WTO might give way to regional organisations. For example, Europe and East Asia would each step forward to fill the vacuum left by Washington’s withering leadership to pursue their own visions of regional political and economic orders. Free markets would become more politicised — and, well, less free — and major powers would compete for supremacy. Additionally, such power plays have historically possessed a zero-sum element. In the late 1960s and 1970s, US economic power declined relative to the rise of the Japanese and Western European economies, with the US dollar also becoming less attractive. And, as American power eroded, so did international regimes (such as the Bretton Woods System in 1973). A world without American hegemony is one where great power wars re-emerge, the liberal international system is supplanted by an authoritarian one, and trade protectionism devolves into restrictive, anti-globalisation barriers. This, at least, is one possibility we can forecast in a future that will inevitably be devoid of unrivalled US primacy.

#### Strikes end Muslim cooperation in the War on Terror

Larrabee ‘6

[Stephen,- Corporate Chair in European Security @ RAND 3-9 “Defusing the Iranian Crisis” <http://www.rand.org/commentary/030906OCR.html> //MGW-JV]

Moreover, the political costs would be very high. **A** military **strike would unleash a wave of nationalism and unite the Iranian population behind the current regime, ending any prospect of internal change** in the near future and **ensuring decades of enmity from the Iranian middle class and youth**, who are largely opposed to the current regime. I**t would also provoke outrage in the Muslim world,** probably **making any attempt to obtain the support of moderate Muslims in the war on terror impossible**.

#### That’s the key internal link to victory

AFP ‘5 [Agence France Presse. “Trust and Confidence of Muslims “Crucial” in Fight Against Terror” 2005. Lexis//MGW-JV]

**The United States must use its "soft power" to gain the trust and confidence of Muslims worldwide if it is to "prevail over terrorism**", Singapore Prime Minister Lee Hsien Loong said Friday. Opening an international security conference, Lee said one reason why many moderate Muslims are reluctant to condemn and disown religious extremists was the "wide gap that separates the US from the Muslim world". He said the large-scale US assistance to Indonesia, the world's biggest Muslim nation, in the aftermath of the December 26 tsunami disaster had not completely erased the resentment many Muslims feel toward the United States. "The sources of this Muslim anger are historical and complex, but they have been accentuated in recent years by Muslim perceptions of American unilateralism and hostility to the faith," Lee told the audience, which included US Defense Secretary Donald Rumsfeld. Lee cited a survey that found that in 2000 three quarters of Indonesians said they were "attracted" to the United States but that by 2003 the number had fallen to just 15 percent. Lee said US help to bring relief assistance to the tsunami victims in Indonesia had touched the hearts of many Indonesians. "But this singular event has not eliminated the antipathy that many Muslims still feel towards the US," he said. He cited demonstrations worldwide, including in Jakarta and Kuala Lumpur, following a report by the US magazine Newsweek that US interrogators at the Guantanamo Bay detention centre had flushed a copy of the Koran down the toilet. Newsweek later withdrew the report, saying they could not confirm the story with their source. "**The US needs to make more use of its 'soft power' to win over international opinion, correct misperceptions and build trust and credibility, especially in the Muslim world**," Lee said. "**In the long term this is vital if the US is to prevail over terrorism, and to maintain its position of global leadership."**

### **Link**

#### **The link is Kriner- Obama gets distracted, can’t fight a two front war with courts and congress- guts his influence**

Congress reacts to judicial decisions and cost political capital

Canon and Johnson- Professors of political science, 1999 p. 116-117

(Bradley Canon- professor of political science at the University of Kentucky and Charles Johnson- dept. head of political science at Texas A&M, judicial policies: implementation and impact)

More than any other public agency, Congress tends to be the focal point for public reaction to judicial policies. As a political body, Congress cannot ignore any sizable or prominent group of constituents. Some groups become especially agitated when they are unhappy with some judicial decision or doctrine, and they make their dissatisfaction known to members of Congress. If the pressure is great enough and is not counterbalanced by pressure from groups that support the judicial policy, Congress will, if feasible, take action. At the very least, numerous members of Congress will score political points by showing righteous indignation on behalf of the disaffected groups. Clashes between Congress and the courts are virtually as old as the two branches. Marbury v. Madison (1803) was a political finesse of a hostile Congress by the Supreme Court. Constitutional crises have been provoked by such decisions as Dred Scott (Scott v Sandford, 1857) and several anti-New Deal decisions in the 1930s. Strained relationships just short of crises have developed from numerous other decisions. Of course, not all differences between the courts and Congress are emotionally charged. Many of the differences arise over mundane issues such as pension or admiralty law. Either way, almost every year, Congress reacts to judicial decisions.

#### Implementation of court decisions ensures political involvement and influence.

Charles A. Johnson and Bradley C. Canon (professors political science @ Texas A&M and Univ. Kentucky) 1999 Judicial Policies: Implementation and Impact, p. 24

President Andrew Jackson, unhappy with a Supreme Court decision, is said to have retorted: "John Marshall has made his decision, now let him enforce it." His remark reminds us of a central fact of American democracy: judicial policies do not implement themselves. In virtually all instances, courts that formulate policies must rely on other courts or on nonjudicial actors to translate those policies into action. Inevitably, just as making judicial policies is a political process, so too is the implementation of the policies - the issues are essentially politics, and the actors are subject to political pressures.

#### Every significant Supreme Court action is perceived – court decisions are a part of a larger battle for political influence.

David M. O’Brien (prof. law @ Univ. Virginia) 2000 Storm Center: The Supreme Court in American Politics, p. xiii

The Supreme Court, Justice Oliver Wendell Holmes observed, is a "storm centre" of political controversy. The Court stands as a temple of law - an arbitrator of political disputes, an authoritative organ of law, and an expression of the American ideal of "a government of laws, not of men." But it remains a fundamentally political institution. Behind the marble fide, the justices compete for influence; the Court itself is locked in a larger struggle for power in society. This book is about the political struggles among the justices and between the Court and rival political forces in the country.

## T

### 2NC Limits DA

#### Presidents claim authority to do all sorts of shit

Jennifer K. Elsea 2013 CRS Attorney

Jennifer K. Elsea Legislative Attorney Michael John Garcia Legislative Attorney Thomas J. Nicola Legislative Attorney February 19, 2013 Congressional Research Service 7-5700 www.crs.gov R41989 Congressional Authority to Limit

Presidents from Truman to Obama have claimed independent authority to commit U.S. Armed Forces to involvements abroad absent any congressional participation other than consultation and after-the-fact financing. In 1994, for example, President Clinton based his authority to order the participation of U.S. forces in NATO actions in Bosnia-Herzegovina on his “constitutional authority to conduct U.S. foreign relations” and as his role as Commander in Chief, 66 and protested efforts to restrict the use of military forces there and elsewhere as an improper and possibly unconstitutional limitation on his “command and control” of U.S. forces. 67 In March 2011, President Obama ordered U.S. military forces to take action as part of an international coalition to enforce U.N. Security Council Resolution 1973, which authorized U.N. Member States to take all necessary measures (other than through military occupation) to protect civilians from attacks by the Libyan government and to es tablish a no-fly zone over the country. Although these operations had not been authorized by legislation, the executive submitted a report to Congress which claimed that the President has the “constitutional authority, as Commander in Chief and Chief Executive and pursuant to his foreign affairs powers, to direct such limited military operations abroad.” 68 The executive branch has also, on occasion, claimed independent authority to detain, interrogate, and try belligerents captured in hostilities, and suggested that this authority may not be circumscribed by Congress. In the context of what it described as the “Global War on Terror,” the George W. Bush Administration claimed that the President’s Commander-in-Chief authority entails inherent authority with respect to the capture and detention of suspected terrorists, authority he has claimed cannot be infringed by legislation, 69 meaning that even criminal laws prohibiting torture were deemed inapplicable to activities conducted pursuant to the President’s war powers. 70 In 2004, the Supreme Court avoided deciding whether Congress could pass a statute to prohibit or regulate the detention and interrogation of captured suspects, which the Bush Administration had asserted would unconstitutionally interfere with core Commander-in-Chief powers, by finding that Congress had implicitly authorized the detention of enemy combatants when it authorized the use of force in the aftermath of the September 11, 2001, terrorist attacks. 71 However, the Supreme Court in 2006 invalidated President Bush’s military order authorizing trials of aliens accused of terrorist offenses by military commission, finding that the regulations promulgated to implement the order did not comply with relevant statutes. 72 The Court did not expressly pass on the constitutionality of any statute or discuss possible congressional incursion into areas of exclusive presidential authority, which was seen by many as implicitly confirming Congress’s authority to legislate in such a way as to limit the power of the Commander in Chief. 73

#### Limits outweigh –

#### A. Most logical—the significance of one-of-many issues is minimal. Constraints inherently increase meaning.

#### B. It’s a precursor—education is inevitable, unfocused education isn’t productive. Limits determine the direction and productivity of learning.

#### Small schools- Huge topic with constantly developing literature magnifies resource disparities- Big programs can have a new aff every other round- No topic generics sufficient to restore balance

#### Key to fairness- essential to ensure that debates at the end of the year have meaningful clash over the mechanism

#### Literally doubles the educational benefit

**Arrington 2009** (Rebecca, UVA Today, “Study Finds That Students Benefit From Depth, Rather Than Breadth, in High School Science Courses” March 4)

A recent study reports that high school students who study fewer science topics, but study them in greater depth, have an advantage in college science classes over their peers who study more topics and spend less time on each. Robert Tai, associate professor at the University of Virginia's Curry School of Education, worked with Marc S. Schwartz of the University of Texas at Arlington and Philip M. Sadler and Gerhard Sonnert of the Harvard-Smithsonian Center for Astrophysics to conduct the study and produce the report. "Depth Versus Breadth: How Content Coverage in High School Courses Relates to Later Success in College Science Coursework" relates the amount of content covered on a particular topic in high school classes with students' performance in college-level science classes. The study will appear in the July 2009 print edition of Science Education and is currently available as an online pre-print from the journal. "As a former high school teacher, I always worried about whether it was better to teach less in greater depth or more with no real depth. This study offers evidence that teaching fewer topics in greater depth is a better way to prepare students for success in college science," Tai said. "These results are based on the performance of thousands of college science students from across the United States." The 8,310 students in the study were enrolled in introductory biology, chemistry or physics in randomly selected four-year colleges and universities. Those who spent one month or more studying one major topic in-depth in high school earned higher grades in college science than their peers who studied more topics in the same period of time. The study revealed that students in courses that focused on mastering a particular topic were impacted twice as much as those in courses that touched on every major topic

#### Turns their offense—limits are vital to creativity and innovation

David Intrator (President of The Creative Organization) October 21, 2010 “Thinking Inside the Box,” http://www.trainingmag.com/article/thinking-inside-box

One of the most pernicious myths about creativity, one that seriously inhibits creative thinking and innovation, is the belief that one needs to “think outside the box.” As someone who has worked for decades as a professional creative, nothing could be further from the truth. This a is view shared by the vast majority of creatives, expressed famously by the modernist designer Charles Eames when he wrote, “Design depends largely upon constraints.” The myth of thinking outside the box stems from a fundamental misconception of what creativity is, and what it’s not. In the popular imagination, creativity is something weird and wacky. The creative process is magical, or divinely inspired. But, in fact, creativity is not about divine inspiration or magic. It’s about problem-solving, and by definition a problem is a constraint, a limit, a box. One of the best illustrations of this is the work of photographers. They create by excluding the great mass what’s before them, choosing a small frame in which to work. Within that tiny frame, literally a box, they uncover relationships and establish priorities. What makes creative problem-solving uniquely challenging is that you, as the creator, are the one defining the problem. You’re the one choosing the frame. And you alone determine what’s an effective solution. This can be quite demanding, both intellectually and emotionally. Intellectually, you are required to establish limits, set priorities, and cull patterns and relationships from a great deal of material, much of it fragmentary. More often than not, this is the material you generated during brainstorming sessions. At the end of these sessions, you’re usually left with a big mess of ideas, half-ideas, vague notions, and the like. Now, chances are you’ve had a great time making your mess. You might have gone off-site, enjoyed a “brainstorming camp,” played a number of warm-up games. You feel artistic and empowered. But to be truly creative, you have to clean up your mess, organizing those fragments into something real, something useful, something that actually works. That’s the hard part. It takes a lot of energy, time, and willpower to make sense of the mess you’ve just generated. It also can be emotionally difficult. You’ll need to throw out many ideas you originally thought were great, ideas you’ve become attached to, because they simply don’t fit into the rules you’re creating as you build your box.

### EXTRA-TOPICALITY BAD

#### 1. Ground — The purpose of the resolution is to divide ground. By going outside resolutional parameters, the affirmative reduces negative ground and creates an unfair advantage.

#### 2. Abusive — The affirmative can spike out disads and claim advantages from the plan plank. This means that our ground is undermined. Permitting extra-topical planks enables the affirmative to spike out all negative positions in which the negative could never win.

#### 3. Limits — Extra-topical plan planks are virtually limitless and infinitely regressive. We could never prepare or anticipate what planks the affirmative chooses to use.

#### 4. Derails Policy Discussion — The topic is designed to focus discussion. Extra-topical planks derails our policy discussion by moving it into a different direction. All topic focus becomes lost.

#### 5. Fiat Abuse — Fiat is derived from the word “should.” Only topical action within the resolution is within the confines of possible fiat. There is no resolutional sanction for fiat beyond the resolution.

#### 6. Justifies Negative Ballot — Extra-topical planks concede that the resolution by itself is insufficient. An insufficient resolution warrants its rejection.

### Violation

#### Even if you think they restrict a WPA- it’s not detention because the plan text doesn’t limit the NDAA or AUMF

#### Detention authority is found in the AUMF and NDAA

Kelley 2012 [Michael Kelley October 24, 2012 “Why Losing Indefinite Detention Powers Would Be A Disaster For Obama” Business Insider http://www.businessinsider.com/why-losing-indefinite-detention-powers-would-be-a-disaster-for-obama-2012-10]

There's a big story by Greg Miller in the Washington Post on how the Obama administration has expanded its powers in the War on Terror.¶ Miller notes that the legal foundation for U.S. counterterrorism strategy is partially based on "the Congressional authorization to use military force" (AUMF) that was passed after 9/11.¶ Specifically it seems to be based on an interpretation of the AUMF that was "reaffirmed" by the indefinite detention clause of the National Defense Authorization Act (NDAA). ¶ This explains why Obama is fighting so hard to keep the indefinite detention clause in effect.¶ In court the government argued that the indefinite detention clause is simply a "reaffirmation" of the Authorization Use Of Military Force (AUMF), which gives the president authority "to use all necessary and appropriate force against those ... [who] aided the terrorist attacks that occurred on September 11, 2001 or harbored such organizations or persons." In the NDAA lawsuit, the government argued that the NDAA §1021 is simply an "affirmation" or "reaffirmation" of the AUMF.

### 2NC Reasonability

#### Reasonability begs the question of which interpretation is more correct - if we win a link to precision or limits it outweighs

#### It’s subjective—the difference is impossible to quantify—debate should emphasize 2 competing claims—that encourages debate—best for education.

#### Judge intervention may be inevitable – but offense/defense is key to prevent the worst and most arbitrary form

#### Explodes limits—dozens of exceptions to our interpretation can be made to explode the topic.

#### Reasonability is impossible – it’s arbitrary and undermines research and preparation

Resnick, assistant professor of political science – Yeshiva University, ‘1

(Evan, “Defining Engagement,” Journal of International Affairs, Vol. 54, Iss. 2)

In matters of national security, establishing a clear definition of terms is a precondition for effective policymaking. Decisionmakers who invoke critical terms in an erratic, ad hoc fashion risk alienating their constituencies. They also risk exacerbating misperceptions and hostility among those the policies target. Scholars who commit the same error undercut their ability to conduct valuable empirical research. Hence, if scholars and policymakers fail rigorously to define "engagement," they undermine the ability to build an effective foreign policy.