# 1NC

### Off #1

#### Kritik

#### Notions of US legal prestige and modeling solidify global inequality by replacing political violence with legal violence---turns the case because it subordinates effective domestic systems to predatory rule of law models

Ugo Mattei 3, Alfred and Hanna Fromm Professor of International and Comparative Law, ¶ U.C. Hastings; Professore Ordinario di Diritto Civile, Università di Torino A Theory of Imperial Law: A Study on U.S. Hegemony and the Latin Resistance, ic.ucsc.edu/~rlipsch/pol160A/Mattei.pdf

This essay attempts to develop a theory of imperial law that is able to explain postCold War changes in the general process of Americanization in legal thinking. My claim is that “imperial law” is now a dominant layer of world-wide legal systems.1 Imperial law is produced, in the interest of international capital, by a variety of both public and private institutions, all sharing a gap in legitimacy, sometimes called the “democratic deficit.” Imperial law is shaped by a spectacular process of exaggeration, aimed at building consent for the purpose of hegemonic domination. Imperial law subordinates local legal arrangements world-wide, reproducing on the global scale the same phenomenon of legal dualism that thus far has characterized the law of developing countries. Predatory economic globalization is the vehicle, the all-mighty ally, and the beneficiary of imperial law. Ironically, despite its absolute lack of democratic legitimacy, imperial law imposes as a natural necessity, by means of discursive practices branded “democracy and the rule of law,” a reactive legal philosophy that outlaws redistribution of wealth based on social solidarity.2 At the core of imperial law there is U.S. law, as transformed and adapted after the Reagan-Thatcher revolution, in the process of infiltrating the huge periphery left open after the end of the Cold War. A study of imperial law requires a careful discussion of the factors of penetration of U.S. legal consciousness world-wide, as well as a careful distinction between the context of production and the context of reception3 of the variety of institutional arrangements that make imperial law. Factors of resistance need to be fully appreciated as well.

I. AMERICAN LAW: FROM LEADERSHIP TO DOMINANCE The years following the Second World War have shown a dramatic change in the pattern of world hegemony in the law. Leading legal ideas, once produced in Continental Civilian Europe and exported through the periphery of the world, are now for the first time produced in a common law jurisdiction: the United States.4 There is little question that the present world dominance of the United States has been economic, military, and political first, and legal only in a more recent moment, so that a ready explanation of legal hegemony can be found with a simple Marxist explanation of law as a superstructure of the economy.5 Nevertheless, the question of the relationship between legal, political, and economic hegemony is not likely to be correctly addressed within a cause-and-effect paradigm.6 Ultimately, addressing this question is a very important area of basic jurisprudential research because it reveals some general aspects about the nature of law as a device of global governance.

Observing historical patterns of legal hegemony allows us to critique the distinction between two main patterns of governance through the law (and of legal transplants).7 Scholars of legal transplants have traditionally distinguished two patterns. The first is law as dominance without hegemony, in which the legal system is ultimately a coercive apparatus asserting political and economic power without consent. This area of inquiry and this model have been used to explain the relationship between the legal system of the motherland and that of the colonies within imperialistic colonial enterprises. The opposing pattern, telling a story of consensual voluntary reception by an admiring periphery of legal models developed and provided for at the center, is usually considered the most important pattern of legal transplants. It is described by stressing on the idea of consent within a notion of “prestige.”8

Little effort is necessary to challenge the sufficiency of this basic taxonomy in introducing legal transplants. Law is a detailed and complex machinery of social control that cannot function with any degree of effectiveness without some cooperation from a variety of individuals staffing legal institutions. These individuals usually consist of a professional elite which either already exists or is created by the hegemonic power. Such an elite provides the degree of consent to the reception of foreign legal ideas that is necessary for any legal transplant to occur. Hence, the distinction between imperialistic and non-imperialistic transplants is a matter only of degree and not of structure. In order to understand the nature of present legal hegemony, it is necessary to capture the way in which the law functions to build a degree of consent to the present pattern of international economic and political dominance.9

In this essay I suggest that a fundamental cultural construct of presumed consent is the rhetoric of democracy and the rule of law utilized by the imperial model of governance, 10 triumphant worldwide together with the neo-American model of capitalism developed by the Reagan and Thatcher revolution early in the 1980s. I argue that the last twenty years have produced the triumph in global governance of reactive, politically irresponsible institutions, such as the courts of law, over proactive politically accountable institutions such as direct administrative apparatuses of the State.11

This essay attempts to open a radical revision of some accepted modes of thought about the law as they appear today, at what has been called “the end of history.”12 Its aim is to discuss some ways in which global legality has been created in the present stage of world-wide legal development. It will show how democracy and the rule of law, in the present legal landscape, are just another rhetoric of legitimization of a given international dynamic of power. It will also denounce the present unconscious state in which the law is produced and developed by professional “consent building” elites. The consequences of such unconsciousness are creating a legal landscape in which the law is “naturally” giving up its role of constraining opportunistic behavior of market actors. This process results in the development of faked rules and institutions that are functional to the interests of the great capital and that dramatically enlarge inequality within society. I predict that such a legal environment is unable to avoid tragic results on a global scale such as those outlined in the well-known parable of the tragedy of the commons.13

My object of observation is a legal landscape in transition. I wish to analyze this path of transition from one political setting (the local state) to another political setting (world governance) in which American-framed reactive institutions are asserting themselves as legitimate and legitimating governing bodies, which I call imperial law. Imperial law is the product of a renowned alliance between state and economic institutions, a cooperative game in which a very limited number of powerful players are at play.14 While in the ages of colonialism such political battles for international hegemony were mostly carried on with an open use of force and political violence (in such a way that final extensive conflict between superpowers was unavoidable), in the age of globalization and of economic Empire political violence has been transformed into legal violence.

#### Our alternative is to reject their emphasis on Western-models of law in favor of a fundamental rethink of democracy from the bottom-up

Ugo Mattei 9, Professor at Hastings College of the Law & University of Turin; and Marco de Morpurgo, M.Sc. Candidate, International University College of Turin, LL.M. Candidate, Harvard Law School, 2009, “GLOBAL LAW & PLUNDER: THE DARK SIDE OF THE RULE OF LAW,” online: <http://works.bepress.com/cgi/viewcontent.cgi?article=1014&context=bocconi_legal_papers>

In the complex spectrum of global law, both throughout the era of colonialism and neo-liberal US-led Western imperialism within a pattern of continuity, the rule of law, together with the theory of ‘lack’ and other powerful rhetorical arguments, has been used in order to legitimize political interventions and plunder in the ‘emerging’ economies. The sacred concept of rule of law, whose positive connotations are ‘naturally’ assumed, has been portrayed as the embodiment of a professional and neutral technology, thus being capable of substituting the lack of democratic legitimacy of the institutions that are protagonist in the creation of global law. But its dark side has never been shown or discussed. An imperial rule of law is now a dominant layer for the worldwide legal systems. It is produced, in the interest of international capital, by a variety of institutions, both public and private, all sharing a gap in political legitimacy sometimes referred to as ‘democratic deficit’.31 At the same time, law has been constructively turned into a technology and a mere component of an economic system of capitalism, thus hiding its intrinsic political nature, and annulling the relevance of local political systems, now impotent in front of the dynamics of global law. The ‘dry technology’ of the rule of law penetrates worldwide legal systems without any political discussion at the local level, attempting to create the conditions for the development of market economies, often without success, and causing serious consequences for the less powerful. ¶ Under the technology of the rule of law, in its imperial version capable of producing plunder, the essence of the United States’ law hides. In the aftermath of World War II, there was a dramatic change in the pattern of Western legal development. Leading legal ideas once produced in continental Europe and exported through the colonized world are now, for the first time, produced in a common law jurisdiction: the United States. Clearly, the present world dominance of the United States has been economic, military and political first, and only recently legal, so that a ready explanation of legal hegemony can be found within a simple conception of law as a product of the economy.32 Furthermore, US law has been capable of expanding worldwide thanks to its prestige, the high level of professionalization of its attorneys and a series of procedural institutions, that benefit plaintiffs, that allow US courts to have a certain capacity to attract jurisdiction, while showing themselves as courts for universal justice.33¶ The general attitude of the United States has been a very ethnocentric one, and precisely that of showing itself as the guardian of a universal legality, which it is legitimized to export through its courts of law, scholarly production, military and political intervention, and through a set of US-centric international institutions. In recent times, in particular after September 11th 2001 and the declaration of the ‘war on terror’, the US rule of law has come under attack 34, so that once admiring crowds of lawyers and intellectuals worldwide are now beginning to look upon the United States as an uncivilized old West from the perspective of legal culture, despite the professional prestige still enjoyed by the giant New York law firms and by the US academy. ¶ Notwithstanding, there has been no decline in the rhetoric of the rule of law when it comes to foreign relations. Bringing democracy and the rule of law is still used as a justification to keep intruding in foreign affairs. The same can be said for the international financial institutions and their innumerable ‘development’ projects that come packaged with the prestigious wrapping of the rule of law. ¶ A rethinking of the very idea of global law is necessary and it must derive from a revaluation of the local dimension, which is currently ignored by the neo-liberal model of development. The production of global law should change its direction, and follow a bottom-up approach, rather than a top-down one, thus being sensitive to the local particularities and complexities. Western spectacular ideas of democracy and the rule of law should be rethought. On this planet, resources are scarce, but there would be more than enough for all to live well. Nobody would admire and respect someone who, at a lunch buffet for seven, ate 90 percent of the food, leaving the other guests to share an amount insufficient for one. In a world history of capitalism in which the rule of law has reproduced this precise ‘buffet’ arrangement on the large scale, admiring the instruments used to secure such an unfair arrangement seems indeed paradoxical. People have to be free to build their own economies. ¶ There is nothing inevitable about the present arrangements and their dominant and taken-for granted certainties. Indeed, it may be that the present legal and political hegemonies suffer from lack: the lack of world culture and of global political realism.

### Off #2

#### Debt Ceiling DA

#### Debt ceiling will be raised now but it’s not certain --- Obama’s ironclad political capital is forcing the GOP to give in

Brian Beutler 10/3/13, “Republicans finally confronting reality: They’re trapped!,” Salon <http://www.salon.com/2013/10/03/republicans_finally_confronting_reality_theyre_trapped/>

After struggling for weeks and weeks in stages one through four, Republicans are finally entering the final stage of grief over the death of their belief that President Obama would begin offering concessions in exchange for an increase in the debt limit.¶ The catalyzing event appears to have been an hour-plus-long meeting between Obama and congressional leaders at the White House on Wednesday. Senior administration officials say that if the meeting accomplished only one thing it was to convey to Republican leaders the extent of Obama’s determination not to negotiate with them over the budget until after they fund the government and increase the debt limit. These officials say his will here is stronger than at any time since he decided to press ahead with healthcare reform after Scott Brown ended the Democrats’ Senate supermajority in 2010.¶ There’s evidence that it sunk in.¶ First, there’s this hot mic moment in which Senate Minority Leader Mitch McConnell tells Sen. Rand Paul, R-Ky., that the president’s position is ironclad.¶ Then we learn that House Speaker John Boehner has told at least one House Republican privately what he and McConnell have hinted at publicly for months, which is that they won’t execute their debt limit hostage. Boehner specifically said, according to a New York Times report, and obliquely confirmed by a House GOP aide, that he would increase the debt limit before defaulting even if he lost more than half his conference on a vote.¶ None of this is to say that Republicans have “folded” exactly, but they’ve pulled the curtain back before the stage has been fully set for the final act, and revealed who’s being fitted with the red dye packet.

#### Obama’s political capital is key --- it’s his sole focus now

Jonathan Allen 9/19, Politico, 9/19/13, GOP battles boost President Obama, dyn.politico.com/printstory.cfm?uuid=17961849-5BE5-43CA-B1BC-ED8A12A534EB

There’s a simple reason President Barack Obama is using his bully pulpit to focus the nation’s attention on the battle over the budget: In this fight, he’s watching Republicans take swings at each other. And that GOP fight is a lifeline for an administration that had been scrambling to gain control its message after battling congressional Democrats on the potential use of military force in Syria and the possible nomination of Larry Summers to run the Federal Reserve. If House Republicans and Obama can’t cut even a short-term deal for a continuing resolution, the government’s authority to spend money will run out on Oct. 1. Within weeks, the nation will default on its debt if an agreement isn’t reached to raise the federal debt limit. For some Republicans, those deadlines represent a leverage point that can be used to force Obama to slash his health care law. For others, they’re a zero hour at which the party will implode if it doesn’t cut a deal. Meanwhile, “on the looming fiscal issues, Democrats — both liberal and conservative, executive and congressional — are virtually 100 percent united,” said Sen. Charles Schumer (D-N.Y.). Just a few days ago, all that Obama and his aides could talk about were Syria and Summers. Now, they’re bringing their party together and shining a white hot light on Republican disunity over whether to shut down the government and plunge the nation into default in a vain effort to stop Obamacare from going into effect. The squabbling among Republicans has gotten so vicious that a Twitter hashtag — #GOPvsGOPugliness — has become a thick virtual data file for tracking the intraparty insults. Moderates, and even some conservatives, are slamming Texas Sen. Ted Cruz, a tea party favorite, for ramping up grassroots expectations that the GOP will shut down the government if it can’t win concessions from the president to “defund” his signature health care law. “I didn’t go to Harvard or Princeton, but I can count,” Sen. Bob Corker (R-Tenn.) tweeted, subtly mocking Cruz’s Ivy League education. “The defunding box canyon is a tactic that will fail and weaken our position.” While it is well-timed for the White House to interrupt a bad slide, Obama’s singular focus on the budget battle is hardly a last-minute shift. Instead, it is a return to the narrative arc that the White House was working to build before the Syria crisis intervened. And it’s so important to the president’s strategy that White House officials didn’t consider postponing Monday’s rollout of the most partisan and high-stakes phase even when a shooter murdered a dozen people at Washington’s Navy Yard that morning. The basic storyline, well under way over the summer, was to have the president point to parts of his agenda, including reducing the costs of college and housing, designed to strengthen the middle class; use them to make the case that he not only saved the country from economic disaster but is fighting to bolster the nation’s finances on both the macro and household level; and then argue that Republicans’ desire to lock in the sequester and leverage a debt-ceiling increase for Obamacare cuts would reverse progress made. The president is on firm ground, White House officials say, because he stands with the public in believing that the government shouldn’t shut down and that the country should pay its bills.

#### Obama would push the plan --- costs tons of political capital

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Although pulling this off will require that President Obama spend tremendous political capital, it would actually push some very difficult decisions onto his successor’s shoulders, too. ¶ Even if it closes Guantanamo along the lines laid out above, it’s very unlikely that the Obama administration will have prosecuted or found alternative security solutions abroad for some number of the most dangerous detainees (by most credible estimates, at least a few dozen). It’s also very unlikely that they’ll simply release them – especially because whatever political deal Obama strikes to close Guantanamo will probably include assurances that he won’t do that.¶ To deal with these toughest cases, one possibility is that the Obama administration closes Guantanamo but does not declare the armed conflict with al Qaida to have ended during this presidential term. The most dangerous detainees who are not prosecuted could then continue simply to be held under existing law-of-war detention authorities. This will anger many Guantanamo-closure advocates who see that facility as merely a manifestation of the much larger problem of detention without trial, but some of those advocates are willing to give a little ground on this issue, at least for what they sometimes refer to as Bush-era “legacy” detainees. Alternatively, President Obama might declare an end to the war with al Qaida (that would allow him to claim he ended three wars) but assert a continuing “wind-up” legal authority to deal with some remaining cases. Either way, the ultimate decisions whether to release some of the hardest detainee cases will very likely be deferred to the next presidential term.¶ Besides the obvious point that we don’t know what that next president’s detention policy or campaign promises will be, several factors will shape that next administration’s decision-making in ways that differ from Obama’s.¶ First, in closing Guantanamo, President will have declared those remaining detainees — in his own judgment and in the judgment of his national security cabinet — too dangerous to release. That is, the very security arguments that President Obama makes in the course of closing Guantanamo will constrain the next president.¶ At the same time, the arguments that it’s in our national security interest to close Guantanamo (such as propaganda and terrorist-recruiting value) will be significantly diluted. Presumably Obama will have justified his decision to move detainees into the United States on the grounds that it’s dangerous to national security to keep Guantanamo open but not dangerous to national security to continue keeping some detainees without trial in the United States.¶ Additionally, assuming that President Obama closes Guantanamo but doesn’t declare a cessation of hostilities with al Qaida, the remainder of these non-prosecutable-but-dangerous detainees will put pressure — from both sides — on the President’s (and perhaps Congress’s, as well as courts’) decision about whether the armed conflict persists. It will be harder to characterize continuing detention versus release/transfer as a policy judgment about individual detainees; instead it will be framed as a legal one about the conflict as a whole. If President Obama does declare an end to the war but claims a continuing “wind-up” detention authority, the same will be true, but the legal debate will be about the extent and duration of that authority.¶ Finally, as just alluded to, it’s not clear what the other branches will do once detainees are moved into the United States, and how that might either box in or relieve pressure on the next president. Even if President Obama wouldn’t want it, maybe Congress will enact aggressive new detention legislation that applies to these remaining detainees — especially if the next president asks for it. Perhaps political support for new detention powers might be greater with releasable detainees inside the United States than if they were outside it, or perhaps continuing detainee transfers and movement of some detainees into the United States will demonstrate that the risks of further releases or transfers are quite manageable. Maybe courts will take a tougher line against the government with respect to law-of-war detention (or post-conflict detention) than they have so far. It’s hard to predict, but I doubt we’ll know the final answers to these questions during the Obama presidency, even if he succeeds in closing Guantanamo on his own watch.¶ In other words, any plan to close Guantanamo will be very difficult politically for Obama to pull off during the remainder of his term, but it will also still probably involve kicking to the next president and his or her counterparts in the other branches of government some equally difficult decisions.¶ Advocates inside and outside the government of closing Guantanamo will be emphasizing in coming months that the second-term Obama is willing to take upon himself political accountability for transfer or release decisions, and that Obama does not want to leave this issue for the next president. Especially with so much to do in so little time, that’s probably impossible.

#### Independently, the plan takes Obama off-message --- it undermines his constant pressure on the GOP --- that’s key to resolving the debt ceiling

Milbank 9/27/13 – Washington Post Opinion Writer (Dana, “Obama should pivot to Dubya’s playbook” Washington Post, <http://www.washingtonpost.com/opinions/dana-milbank-obama-should-try-pivoting-to-george-bushs-playbook/2013/09/27/c72469f0-278a-11e3-ad0d-b7c8d2a594b9_story.html>)

If President Obama can stick to his guns, he will win his October standoff with Republicans. That’s an awfully big “if.” This president has been consistently inconsistent, predictably unpredictable and reliably erratic. Consider the events of Thursday morning: Obama gave a rousing speech in suburban Washington, in defense of Obamacare, on the eve of its implementation. “We’re now only five days away from finishing the job,” he told the crowd. But before he had even left the room, his administration let slip that it was delaying by a month the sign-up for the health-care exchanges for small businesses. It wasn’t a huge deal, but it was enough to trample on the message the president had just delivered. Throughout his presidency, Obama has had great difficulty delivering a consistent message. Supporters plead for him to take a position — any position — and stick with it. His shifting policy on confronting Syria was the most prominent of his vacillations, but his allies have seen a similar approach to the Guantanamo Bay prison, counterterrorism and climate change. Even on issues such as gun control and immigration where his views have been consistent, Obama has been inconsistent in promoting his message. Allies are reluctant to take risky stands, because they fear that Obama will change his mind and leave them standing alone. Now come the budget showdowns, which could define the rest of his presidency. Republican leaders are trying to shift the party’s emphasis from the fight over a government shutdown to the fight over the debt-limit increase, where they have more support. A new Bloomberg poll found that Americans, by a 2-to-1 margin, disagree with Obama’s view that Congress should raise the debt limit without any conditions. But Obama has a path to victory. That poll also found that Americans think lawmakers should stop trying to repeal Obamacare. And that was before House Republicans dramatically overplayed their hand by suggesting that they’ll allow the nation to default if Obama doesn’t agree to their laundry list of demands, including suspending Obamacare, repealing banking reforms, building a new oil pipeline, easing environmental regulations, limiting malpractice lawsuits and restricting access to Medicare. To beat the Republicans, Obama might follow the example of a Republican, George W. Bush. Whatever you think of what he did, he knew how to get it done: by simplifying his message and repeating it, ad nauseam, until he got the result he was after. Obama instead tends to give a speech and move along to the next topic. This is why he is forever making “pivots” back to the economy, or to health care. But the way to pressure Congress is to be President One Note. In the debt-limit fight, Obama already has his note: He will not negotiate over the full faith and credit of the United States. That’s as good a theme as any; it matters less what the message is than that he delivers it consistently. The idea, White House officials explained to me, is to avoid getting into a back-and-forth over taxes, spending and entitlement programs. “We’re right on the merits, but I don’t think we want to argue on the merits,” one said. “Our argument is not that our argument is better than theirs; it’s that theirs is stupid.” This is a clean message: Republicans are threatening to tank the economy — through a shutdown or, more likely, through a default on the debt — and Obama isn’t going to negotiate with these hostage-takers. Happily for Obama, Republicans are helping him to make the case by being publicly belligerent. After this week’s 21-hour speech on the Senate floor by Sen. Ted Cruz (R-Tex.), the publicity-seeking Texan and Sen. Mike Lee (R-Utah) objected to a bipartisan request to move a vote from Friday to Thursday to give House Republicans more time to craft legislation avoiding a shutdown. On the Senate floor, Sen. Bob Corker (R-Tenn.) accused them of objecting because they had sent out e-mails encouraging their supporters to tune in to the vote on Friday. The Post’s Ed O’Keefe caught Cruz “appearing to snicker” as his colleague spoke — more smug teenager than legislator. Even if his opponents are making things easier for him, Obama still needs to stick to his message. As in Syria, the president has drawn a “red line” by saying he won’t negotiate with those who would put the United States into default. If he retreats, he will embolden his opponents and demoralize his supporters.

#### Debt ceiling collapses the global economy --- fast timeframe and no resiliency

Adam Davidson 9/10/13, economy columnist for The New York Times, co-founder of Planet Money, NPR’s team of economics reporters, “Our Debt to Society,” NYT, http://www.nytimes.com/2013/09/15/magazine/our-debt-to-society.html?pagewanted=all&\_r=0

If the debt ceiling isn’t lifted again this fall, some serious financial decisions will have to be made. Perhaps the government can skimp on its foreign aid or furlough all of NASA, but eventually the big-ticket items, like Social Security and Medicare, will have to be cut. At some point, the government won’t be able to pay interest on its bonds and will enter what’s known as sovereign default, the ultimate national financial disaster achieved by countries like Zimbabwe, Ecuador and Argentina (and now Greece). In the case of the United States, though, it won’t be an isolated national crisis. If the American government can’t stand behind the dollar, the world’s benchmark currency, then the global financial system will very likely enter a new era in which there is much less trade and much less economic growth. It would be, by most accounts, the largest self-imposed financial disaster in history.¶ Nearly everyone involved predicts that someone will blink before this disaster occurs. Yet a small number of House Republicans (one political analyst told me it’s no more than 20) appear willing to see what happens if the debt ceiling isn’t raised — at least for a bit. This could be used as leverage to force Democrats to drastically cut government spending and eliminate President Obama’s signature health-care-reform plan. In fact, Representative Tom Price, a Georgia Republican, told me that the whole problem could be avoided if the president agreed to drastically cut spending and lower taxes. Still, it is hard to put this act of game theory into historic context. Plenty of countries — and some cities, like Detroit — have defaulted on their financial obligations, but only because their governments ran out of money to pay their bills. No wealthy country has ever voluntarily decided — in the middle of an economic recovery, no less — to default. And there’s certainly no record of that happening to the country that controls the global reserve currency.¶ Like many, I assumed a self-imposed U.S. debt crisis might unfold like most involuntary ones. If the debt ceiling isn’t raised by X-Day, I figured, the world’s investors would begin to see America as an unstable investment and rush to sell their Treasury bonds. The U.S. government, desperate to hold on to investment, would then raise interest rates far higher, hurtling up rates on credit cards, student loans, mortgages and corporate borrowing — which would effectively put a clamp on all trade and spending. The U.S. economy would collapse far worse than anything we’ve seen in the past several years.¶ Instead, Robert Auwaerter, head of bond investing for Vanguard, the world’s largest mutual-fund company, told me that the collapse might be more insidious. “You know what happens when the market gets upset?” he said. “There’s a flight to quality. Investors buy Treasury bonds. It’s a bit perverse.” In other words, if the U.S. comes within shouting distance of a default (which Auwaerter is confident won’t happen), the world’s investors — absent a safer alternative, given the recent fates of the euro and the yen — might actually buy even more Treasury bonds. Indeed, interest rates would fall and the bond markets would soar.¶ While this possibility might not sound so bad, it’s really far more damaging than the apocalyptic one I imagined. Rather than resulting in a sudden crisis, failure to raise the debt ceiling would lead to a slow bleed. Scott Mather, head of the global portfolio at Pimco, the world’s largest private bond fund, explained that while governments and institutions might go on a U.S.-bond buying frenzy in the wake of a debt-ceiling panic, they would eventually recognize that the U.S. government was not going through an odd, temporary bit of insanity. They would eventually conclude that it had become permanently less reliable. Mather imagines institutional investors and governments turning to a basket of currencies, putting their savings in a mix of U.S., European, Canadian, Australian and Japanese bonds. Over the course of decades, the U.S. would lose its unique role in the global economy.¶ The U.S. benefits enormously from its status as global reserve currency and safe haven. Our interest and mortgage rates are lower; companies are able to borrow money to finance their new products more cheaply. As a result, there is much more economic activity and more wealth in America than there would be otherwise. If that status erodes, the U.S. economy’s peaks will be lower and recessions deeper; future generations will have fewer job opportunities and suffer more when the economy falters. And, Mather points out, no other country would benefit from America’s diminished status. When you make the base risk-free asset more risky, the entire global economy becomes riskier and costlier.

#### Economic collapse causes global nuclear war

Cesare Merlini 11, nonresident senior fellow at the Center on the United States and Europe and chairman of the Board of Trustees of the Italian Institute for International Affairs, May 2011, “A Post-Secular World?”, Survival, Vol. 53, No. 2

Two neatly opposed scenarios for the future of the world order illustrate the range of possibilities, albeit at the risk of oversimplification. The first scenario entails the premature crumbling of the post-Westphalian system. One or more of the acute tensions apparent today evolves into an open and traditional conflict between states, perhaps even involving the use of nuclear weapons. The crisis might be triggered by a collapse of the global economic and financial system, the vulnerability of which we have just experienced, and the prospect of a second Great Depression, with consequences for peace and democracy similar to those of the first. Whatever the trigger, the unlimited exercise of national sovereignty, exclusive self-interest and rejection of outside interference would self-interest and rejection of outside interference would likely be amplified, emptying, perhaps entirely, the half-full glass of multilateralism, including the UN and the European Union. Many of the more likely conflicts, such as between Israel and Iran or India and Pakistan, have potential religious dimensions. Short of war, tensions such as those related to immigration might become unbearable. Familiar issues of creed and identity could be exacerbated. One way or another, the secular rational approach would be sidestepped by a return to theocratic absolutes, competing or converging with secular absolutes such as unbridled nationalism**.**

### Off #3

#### Intel Sharing DA

#### The plan collapses intelligence gathering --- sources dry up when their intelligence is used in court --- destroys the heart of counter-terror policy

Delery Et.al. ’12 - Principal Deputy, Assistant Attorney General, Civil Division, DOJ

Principal Deputy, Assistant Attorney General, Civil Division, STUART F. DELERY

Defendants' Motion to Dismiss, United States' Statement of Interest, Case 1:12-cv-01192-RMC Document 18 Filed 12/14/12 Page 1 of 58, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, 12/14/2012

Third. Plaintiffs' claims raise the specter of disclosing classified intelligence information in open court. The D.C. Circuit has recognized that "the difficulties associated with subjecting allegations involving CIA operations and covert operatives to judicial and public scrutiny" are pertinent to the special factors analysis. Wilson, 535 F.3d at 710. In such suits, "'even a small chance that some court will order disclosure of a source's identity could well impair intelligence gathering and cause sources to close up like a clam."'1 Id. (quoting Tenet v. Doe, 544 U.S. 1,11 (2005)). And where litigation of a plaintiffs allegations "would inevitably require an inquiry into "classified information that may undermine ongoing covert operations,"\* special factors apply. Wilson, 535 F.3d at 710 (quoting Tenet, 544 U.S. at 11). See also Vance, 2012 WL 5416500 at "8 ("When the state-secrets privilege did not block the claim, a court would find it challenging to prevent the disclosure of secret information.11); Lebron, 670 F.3d at 554 (noting that the "chilling effects on intelligence sources of possible disclosures during civil litigation and the impact of such disclosures on military and diplomatic initiatives at the heart of counterterrorism policy1' are special factors); Arar, 585 F.3d at 576 (holding that the risk of disclosure of classified information is a special factor in the "extraordinary rendition" context).

#### Credible US intelligence security measures are crucial to intelligence sharing

Anna-Katherine McGill 12, School of Graduate and Continuing Studies in Diplomacy, Norwich University, David Gray, Campbell University, Summer 2012, “Challenges to International Counterterrorism Intelligence Sharing,” <http://globalsecuritystudies.com/McGill%20Intel%20Share.pdf>

It is clear that diplomacy will continue to be a key component in US counterterrorism coalition building. Intelligence sharing, as a by-product of these efforts, will likely improve for as long as trust is maintained or improved and compromises are made in the greater interest of combating the shared threat of terrorism. However, the US is also likely to face continuing foreseeable challenges from the ever expanding breadth of its international allies, its increasing dependence on its counterterrorism coalitions, and unpredictable setbacks to international trust like WikiLeaks. There are ways, however, to allay the impact of these challenges if not overcome them all together. ¶ With regards to traditional allies the United States must continue to negotiate a close working relationship with its NATO, EU, and 5 EYES partners. Great strides have been made but future disagreements on policy, tactics, and strategy for the war on terrorism are inevitable. The best way to prepare for such future issues is to continue to foster a positive collaborative relationship with these nations so that mutual trust will prevent arguments from threatening the survival of the alliance. This means that the US must carefully manage its international position. It cannot exploit legal loopholes like exporting suspects to other nations for questionable interrogations; it cannot bully its friends nor act unilaterally against their wishes; and it must hold itself to high moral standards befitting a liberal democracy.¶ For new and non-traditional allies, Reveron states that “the long-term challenge for policymakers will be to convert these short-term tactical relationships into meaningful alliances while protecting against counterintelligence threats” (467). Traditional alliances have to start somewhere and over time these new relationships can turn in to tried and tested cooperation. In order to further develop these relationships the US should attempt to iron out policy differences in other arenas rather than turn a blind eye to them and continue providing technical and material support to their development of effective intelligence programs. The US should not however hold CT cooperation supreme over other critical issues such as nuclear and conventional arms proliferation and human rights violations. Nations like Iran and Syria may be helpful in the short term and for limited purposes but this does not negate their less desirable practices.¶ Finally, the US will also need to look inward to prevent more classified information leaks. The US needs to be more critical in the issuance of security clearances, employ digital monitoring of who is downloading information and in what amount to prevent mass dumps, and give greater importance to curtailing the “insider threat” of US citizens leaking information overall. Improving intelligence security will help to mitigate the blowback from WikiLeaks and will go a long way to advancing US credibility and trust building.

#### Intelligence sharing is key to NATO effectiveness—solves war

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\*Note: SOF = Special Operation Forces

NATO’s essential purpose is to safeguard the freedom and security of all its members via political and military means in accordance with the North Atlantic Treaty and the principles of the United Nations Charter.3 “There is a common perspective among a variety of defense and security establishments around the world that the nature of the current and future security environment we face presents complex and irregular challenges that are not readily apparent and are difficult to anticipate.”4 SOF is being singled out and recognized as a key component of the North Atlantic Treaty Organization (NATO) alliance in the fight against contemporary and future threats, because SOF is “ideally suited to [the] ambiguous and dynamic irregular environment” facing NATO.5¶ SOF has traditionally been considered a national asset. NATO had no history of utilizing SOF in the Alliance when NATO nations first assumed responsibility for the conflicts in the Balkans. However the lessons learned during those conflicts were not applied due to a lack of a central NATO SOF entity until the NATO Riga summit of 2006. On December 22, 2006, Admiral William McRaven was appointed Director of the NATO SOF Coordination Center (NSCC) and ordered to start the transformation process. Three years later, on March 1, 2010, the NATO SOF Headquarters (NSHQ) was formally established as a three-star headquarters within the Alliance in Mons, Belgium.6¶ According to its mission statement, the purpose of NSHQ is twofold. First, it must optimize the employment of SOF by the Alliance. NSHQ further describes this as “the intention to make the employment of SOF as perfect, efficient, and effective as possible, so as to deliver to the Alliance a highly agile Special Operations capability across the range of military operations.”7 Second, it must provide a command capability when so directed by Supreme Allied Commander Europe (SACEUR). NSHQ further describes this as “the ability to deploy a robust C4I capability and enablers for the support and employment of SOF in NATO operations.”8 To be able to carry out successful special operations in support of the current and future operating environments, the Alliance needs adequate interoperability, command and control, and intelligence structures. ¶ Even amongst the closest allies, challenges in intelligence sharing remain. During the early years of Operation Iraqi Freedom, British operators were denied access to intelligence fused by the U.S. that the British had gathered themselves. The issue became so contentious that it had to be raised by British and Australian Prime Ministers with the U.S. President to be resolved.9 Having realized that intelligence sharing is always a compromise between the need to share and the need to protect (even with the best-designed organizations, much less a large, multinational, bureaucratic organization), the NSHQ has developed an innovative approach to solving its intelligence deficiencies. It has created its own organic intelligence collection, analysis, and exploitation capability. It has also acquired its own equipment and created a robust NATO SOF training facility and training program to supplement intelligence flow to NATO SOF forces.!¶ B. BACKGROUND ¶ Special operations often test the limits of both equipment and personnel. This extremity introduces a significant degree of uncertainty or “fog of war.” Success in special operations dictates that the uncertainty associated with the enemy, weather, and terrain must be minimized through access to best available intelligence.10 Most special operations conducted nationally benefit from access to the best national intelligence available. However, because of classification issues, special operations by international coalitions often lack access to the best available intelligence. This absence increases the likelihood of operational failure and further risks the personal safety of the operators. ¶ NATO (and many of the individual member states) foresees a future threat environment shaped by unconventional threats such as transnational crime, terrorist attacks, and the proliferation of weapons of mass destruction.11 There are so many similarities in threats projected by the NATO member states and by official NATO strategy it is easy to conclude that a common enemy exists: transnational problems require transnational solutions. The complexities in the international order and the “significant challenges to the intelligence system [that] arise in targeting groups such as al-Qaeda due to their networked and volatile structure”12 make multinational intelligence sharing requisite. There is much to gain from multinational cooperation. The expected continued decline in military budgets and limited SOF human resources make burden-sharing and proper division of labor even more appropriate. ¶ C. PURPOSE AND SCOPE ¶ Intelligence is a decisive factor, sometimes the decisive factor, in special operations. As such, the NSHQ’s ultimate success will rely on its ability to solve some of the perennial problems related to intelligence sharing within coalitions. The newly established NSHQ in Mons, Belgium serves as an excellent testing ground to analyze SOF intelligence sharing issues within a coalition. NSHQ is attempting to streamline and optimize the intelligence available to NATO SOF units.

#### NATO prevents global nuclear war

Zbigniew Brzezinski 9, former U.S. National Security Advisor, the Robert E. Osgood Professor of American Foreign Policy at Johns Hopkins University's School of Advanced International Studies, September/October 2009, “An Agenda for NATO,” Foreign Affairs

And yet, it is fair to ask: Is NATO living up to its extraordinary potential? NATO today is without a doubt the most powerful military and political alliance in the world. Its 28 members come from the globe’s two most productive, technologically advanced, socially modern, economically prosperous, and politically democratic regions. Its member states’ 900 million people account for only 13 percent of the world’s population but 45 percent of global GDP.

NATO’s potential is not primarily military. Although NATO is a collective-security alliance, its actual military power comes predominantly from the United States, and that reality is not likely to change anytime soon. NATO’s real power derives from the fact that it combines the United States’ military capabilities and economic power with Europe’s collective political and economic weight (and occasionally some limited European military forces). Together, that combination makes NATO globally significant. It must therefore remain sensitive to the importance of safeguarding the geopolitical bond between the United States and Europe as it addresses new tasks.

The basic challenge that NATO now confronts is that there are historically unprecedented risks to global security. Today’s world is threatened neither by the militant fanaticism of a territorially rapacious nationalist state nor by the coercive aspiration of a globally pretentious ideology embraced by an expansive imperial power. The paradox of our time is that the world, increasingly connected and economically interdependent for the first time in its entire history, is experiencing intensifying popular unrest made all the more menacing by the growing accessibility of weapons of mass destruction - not just to states but also, potentially, to extremist religious and political movements. Yet there is no effective global security mechanism for coping with the growing threat of violent political chaos stemming from humanity’s recent political awakening.

The three great political contests of the twentieth century (the two world wars and the Cold War) accelerated the political awakening of mankind, which was initially unleashed in Europe by the French Revolution. Within a century of that revolution, spontaneous populist political activism had spread from Europe to East Asia. On their return home after World Wars I and II, the South Asians and the North Africans who had been conscripted by the British and French imperial armies propagated a new awareness of anticolonial nationalist and religious political identity among hitherto passive and pliant populations. The spread of literacy during the twentieth century and the wide-ranging impact of radio, television, and the Internet accelerated and intensified this mass global political awakening.

In its early stages, such new political awareness tends to be expressed as a fanatical embrace of the most extreme ethnic or fundamentalist religious passions, with beliefs and resentments universalized in Manichaean categories. Unfortunately, in significant parts of the developing world, bitter memories of European colonialism and of more recent U.S. intrusion have given such newly aroused passions a distinctively anti-Western cast. Today, the most acute example of this phenomenon is found in an area that stretches from Egypt to India. This area, inhabited by more than 500 million politically and religiously aroused peoples, is where NATO is becoming more deeply embroiled.

Additionally complicating is the fact that the dramatic rise of China and India and the quick recovery of Japan within the last 50 years have signaled that the global center of political and economic gravity is shifting away from the North Atlantic toward Asia and the Pacific. And of the currently leading global powers—the United States, the EU, China, Japan, Russia, and India—at least two, or perhaps even three, are revisionist in their orientation. Whether they are “rising peacefully” (a self-confident China), truculently (an imperially nostalgic Russia) or boastfully (an assertive India, despite its internal multiethnic and religious vulnerabilities), they all desire a change in the global pecking order. The future conduct of and relationship among these three still relatively cautious revisionist powers will further intensify the strategic uncertainty.

Visible on the horizon but not as powerful are the emerging regional rebels, with some of them defiantly reaching for nuclear weapons. North Korea has openly flouted the international community by producing (apparently successfully) its own nuclear weapons - and also by profiting from their dissemination. At some point, its unpredictability could precipitate the first use of nuclear weapons in anger since 1945. Iran, in contrast, has proclaimed that its nuclear program is entirely for peaceful purposes but so far has been unwilling to consider consensual arrangements with the international community that would provide credible assurances regarding these intentions. In nuclear-armed Pakistan, an extremist anti-Western religious movement is threatening the country’s political stability.

### Off #4

#### Counterplan

#### The United States federal government should provide traditional Article III courts exclusive jurisdiction over the United States’ indefinite detention policy in the area prescribed by the 2001 Authorization for Use of Military Force and ensure that sufficient resources are available for training, preparation and trial.

#### Article III courts solve detention problems—aff kills due process

David Cole 08, Professor of Law, Georgetown University Law Center, David Keene, Chairman, American Conservative Union, 6/23/08, “A Critiuqe of ‘National Security Courts’,” http://www.constitutionproject.org/pdf/Critique\_of\_the\_National\_Security\_Courts.pdf

Advocates of national security courts that would try terrorism suspects claim that traditional Article III courts are unequipped to handle these cases. This claim has not been substantiated, and is made in the face of a significant — and growing — body of evidence to the contrary. A recent report released by Human Rights First persuasively demonstrates that our existing federal courts are competent to try these cases. The report examines more than 120 international terrorism cases brought in the federal courts over the past fifteen years. It finds that established federal courts were able to try these cases without sacrificing either national security or the defendants’ rights to a fair trial.3 The report documents how federal courts have successfully dealt with classified evidence under the Classified Information Procedures Act (CIPA) without creating any security breaches. It further concludes that courts have been able to enforce the government’s Brady obligations to share exculpatory evidence with the accused, deal with Miranda warning issues, and provide means for the government to establish a chain of custody for physical evidence, all without jeopardizing national security. Of course, our traditional federal courts have not always done everything that the government would like them to do. They are, after all, constrained by well-established constitutional limits on prosecutorial power. For example, no federal court would permit the prosecution to present witnesses without protecting the defendant’s constitutional right to confront those witnesses against him or her.4¶ Nor would a federal court permit the prosecution to rely on a coerced confession in violation of a defendant’s Fifth Amendment right against self-incrimination. But creating a new set of courts would not repeal existing constitutional rights. Conversely, to the extent that the existing rules are not constitutionally compelled, ordinary federal courts (or Congress, where applicable) can modify them when it is shown that the modification is necessary to accommodate the government’s legitimate interests.¶ Most importantly, there is the intrinsic and inescapable problem of definition. Whereas the argument for specialized courts for tax and patent law is that expert judges are particularly necessary given the complex subject-matter, proposals for specialized courts for terrorism trials are based on the asserted need for relaxed procedural and evidentiary rules and are justified on the ground that terrorists do not deserve full constitutional protections.5 This creates two fundamental constitutional problems. First, justifying departures from constitutional protections on the basis that the trials are for terrorists undermines the presumption of innocence for these individuals. Second, if a conviction were obtained in a national security court using procedural and evidentiary rules that imposed a lesser burden on the government, then the defendant would be subjected to trial before a national security court based upon less of a showing than would be required in a traditional criminal proceeding. The result would be to apply less due process to the question of guilt or innocence, which, by definition, would increase the risk of error. And, if the government must make a preliminary showing that meets traditional rules of procedure and evidence in order to trigger the jurisdiction of a national security court, such a showing would also enable it to proceed via the traditional criminal process.

#### Plan destroys US legitimacy, rule of law, and fuels terrorism

Deborah Colson 09, Acting Director, Law & Security Program at Human Rights First, March, “The Case Against A Special Terrorism Court,” http://www.humanrightsfirst.org/wp-content/uploads/pdf/090323-LS-nsc-policy-paper.pdf

Human Rights First believes that all indefinite detention and special court proposals—whatever form they might take—are unwise, unnecessary and should be rejected. The federal criminal courts have proven to be fully capable of handling the challenges posed by complex terrorism cases without compromising national security or sacrificing standards of fairness and due process. Our procedural safeguards and evidentiary standards comprise the bedrock of American justice. A decision to jettison them, even for a small number of suspects, would weaken our system as a whole, undermine America’s efforts to forge an international coalition to combat terrorism, and perpetuate the damage to America’s reputation for fairness and transparency done by unjust trials and prolonged detention without charge at Guantánamo. ¶ Moreover, the problems that plagued the military commission system—with prolonged litigation over the applicable procedures and rules and increasingly widespread dissention within the military command structure—do not favor the creation of a new court to deal with these cases. Establishing another separate, and secondary, system for terrorism suspects would only result in more legal challenges and would negate many of the strategic advantages of closing Guantánamo and ending military commissions. ¶ Just as importantly, a special terrorism court is not smart counterterrorism policy. Current U.S. counterinsurgency doctrine underscores the important strategic value of treating terrorism suspects as criminals, rather than as military combatants, in order to deprive them of legitimacy and undermine their support in the societies from which they seek recruits to their cause. Unjust detentions and trials at Guantánamo have fueled animosity toward the United States. These decisions also have undermined U.S. efforts to advance the rule of law around the world, which is critical to confronting the threat of terrorism. Creating a special terrorism court and a substitute system of detention without charge would perpetuate these errors rather than solve them. ¶ The new Congress and the Obama Administration have a window of opportunity to signal to the American people and the world that the policies of the Bush Administration were an aberration and that, as it confronts the threat of terrorism, the United States is prepared to uphold the Constitution, restore the rule of law, and honor its international obligations. At stake are the effectiveness of our counterterrorism strategy and the integrity of the American justice system.

## Solvency

### Offense --- Drones

#### Obama is prioritizing capture over drone strikes now

David Corn 13, Washington Bureau Chief at Mother Jones, 5/23/13, “Obama's Counterterrorism Speech: A Pivot Point on Drones and More?,” http://www.motherjones.com/mojo/2013/05/obama-speech-drones-civil-liberties

So Obama's speech Thursday on counterterrorism policies—which follows his administration's acknowledgment yesterday that it had killed four Americans (including Anwar al-Awlaki, an Al Qaeda leader in Yemen)—is a big deal, for with this address, Obama is self-restricting his use of drones and shifting control of them from the CIA to the military. And the president has approved making public the rules governing drone strikes.¶ The New York Times received the customary pre-speech leak and reported:¶ A new classified policy guidance signed by Mr. Obama will sharply curtail the instances when unmanned aircraft can be used to attack in places that are not overt war zones, countries like Pakistan, Yemen and Somalia. The rules will impose the same standard for strikes on foreign enemies now used only for American citizens deemed to be terrorists.¶ Lethal force will be used only against targets who pose "a continuing, imminent threat to Americans" and cannot feasibly be captured, Attorney General Eric H. Holder Jr. said in a letter to Congress, suggesting that threats to a partner like Afghanistan or Yemen alone would not be enough to justify being targeted.¶ These moves may not satisfy civil-liberties-minded critics on sthe right and the left. Obama is not declaring an end to indefinite detention or announcing the closing of Gitmo—though he is echoing his State of the Union vow to revive efforts to shut down that prison. Still, these moves would be unimaginable in the Bush years. Bush and Cheney essentially believed the commander in chief had unchallenged power during wartime, and the United States, as they saw it, remained at war against terrorism. Yet here is Obama subjecting the drone program to a more restrictive set of rules—and doing so publicly. This is very un-Cheney-like. (How soon before the ex-veep arises from his undisclosed location to accuse Obama of placing the nation at risk yet again?)¶ Despite Obama's embrace of certain Bush-Cheney practices and his robust use of drones, the president has tried since taking office to shift US foreign policy from a fixation on terrorism. During his first days in office, he shied away from using the "war on terrorism" phrase. And his national security advisers have long talked of Obama's desire to reorient US foreign policy toward challenges in the Pacific region. By handing responsibility for drone strikes to the military, Obama is helping CIA chief John Brennan, who would like to see his agency move out of the paramilitary business and devote more resources to its traditional tasks of intelligence gathering and analysis.¶ With this speech, Obama is not renouncing his administration's claim that it possesses the authority to kill an American overseas without full due process. The target, as Holder noted in that letter to Congress, must be a senior operational leader of Al Qaeda or an associated group who poses an "imminent threat of violent attack against the United States" and who cannot be captured, and Holder stated that foreign suspects now can only be targeted if they pose "a continuing, imminent threat to Americans." (Certainly, there will be debates over the meaning of "imminent," especially given that the Obama administration has previously used an elastic definition of imminence.) And Obama is not declaring an end to the dicey practice of indefinite detention or a conclusion to the fight against terrorism. **But the speech may well mark a** pivot point. Not shockingly, **Obama is attempting to find middle ground**, where there is more oversight and more restraint regarding activities that pose serious civil liberties and policy challenges. The McCainiacs of the world are likely to howl about any effort to place the effort to counter terrorism into a more balanced perspective. The civil libertarians will scoff at half measures. But Obama, at the least, is showing that he does ponder these difficult issues in a deliberative manner and is still attempting to steer the nation into a post-9/11 period. That journey, though, may be a long one.

#### Restricting detention policies means we massively ramp up targeted killings and extradite prisoners --- turns case

Jack Goldsmith 09, a professor at Harvard Law School and a member of the Hoover Institution Task Force on National Security and Law, assistant attorney general in the Bush administration, 5/31/09, “The Shell Game on Detainees and Interrogation,” <http://www.washingtonpost.com/wp-dyn/content/article/2009/05/29/AR2009052902989.html>

The cat-and-mouse game does not end there. As detentions at Bagram and traditional renditions have come under increasing legal and political scrutiny, the Bush and Obama administrations have relied more on other tactics. They have secured foreign intelligence services to do all the work -- capture, incarceration and interrogation -- for all but the highest-level detainees. And they have increasingly employed targeted killings, a tactic that eliminates the need to interrogate or incarcerate terrorists but at the cost of killing or maiming suspected terrorists and innocent civilians alike without notice or due process.¶ There are at least two problems with this general approach to incapacitating terrorists. First, it is not ideal for security. Sometimes it would be more useful for the United States to capture and interrogate a terrorist (if possible) than to kill him with a Predator drone. Often the United States could get better information if it, rather than another country, detained and interrogated a terrorist suspect. Detentions at Guantanamo are more secure than detentions in Bagram or in third countries.¶ The second problem is that terrorist suspects often end up in less favorable places. Detainees in Bagram have fewer rights than prisoners at Guantanamo, and many in Middle East and South Asian prisons have fewer yet. Likewise, most detainees would rather be in one of these detention facilities than be killed by a Predator drone. We congratulate ourselves when we raise legal standards for detainees, but in many respects all we are really doing is driving the terrorist incapacitation problem out of sight, to a place where terrorist suspects are treated worse.¶ It is tempting to say that we should end this pattern and raise standards everywhere. Perhaps we should extend habeas corpus globally, eliminate targeted killing and cease cooperating with intelligence services from countries that have poor human rights records. This sentiment, however, is unrealistic. The imperative to stop the terrorists is not going away. The government will find and exploit legal loopholes to ensure it can keep up our defenses.¶ This approach to detention policy reflects a sharp disjunction between the public's view of the terrorist threat and the government's. After nearly eight years without a follow-up attack, the public (or at least an influential sliver) is growing doubtful about the threat of terrorism and skeptical about using the lower-than-normal standards of wartime justice.¶ The government, however, sees the terrorist threat every day and is under enormous pressure to keep the country safe. When one of its approaches to terrorist incapacitation becomes too costly legally or politically, it shifts to others that raise fewer legal and political problems. This doesn't increase our safety or help the terrorists. But it does make us feel better about ourselves.

#### Increased drone use sets a precedent that causes South China Sea conflict

Roberts 13 (Kristen, News Editor at National Journal, “When the Whole World Has Drones”, 3/22/13, <http://www.nationaljournal.com/magazine/when-the-whole-world-has-drones-20130321>)

And that’s a NATO ally seeking the capability to conduct missions that would run afoul of U.S. interests in Iraq and the broader Middle East. Already, Beijing says it considered a strike in Myanmar to kill a drug lord wanted in the deaths of Chinese sailors. What happens if China arms one of its remote-piloted planes and strikes Philippine or Indian trawlers in the South China Sea? Or if India uses the aircraft to strike Lashkar-e-Taiba militants near Kashmir? “We don’t like other states using lethal force outside their borders. It’s destabilizing. It can lead to a sort of wider escalation of violence between two states,” said Micah Zenko, a security policy and drone expert at the Council on Foreign Relations. “So the proliferation of drones is not just about the protection of the United States. It’s primarily about the likelihood that other states will increasingly use lethal force outside of their borders.” LOWERING THE BAR Governments have covertly killed for ages, whether they maintained an official hit list or not. Before the Obama administration’s “disposition matrix,” Israel was among the best-known examples of a state that engaged, and continues to engage, in strikes to eliminate people identified by its intelligence as plotting attacks against it. But Israel certainly is not alone. Turkey has killed Kurds in Northern Iraq. Some American security experts point to Russia as well, although Moscow disputes this. In the 1960s, the U.S. government was involved to differing levels in plots to assassinate leaders in Congo and the Dominican Republic, and, famously, Fidel Castro in Cuba. The Church Committee’s investigation and subsequent 1975 report on those and other suspected plots led to the standing U.S. ban on assassination. So, from 1976 until the start of President George W. Bush’s “war on terror,” the United States did not conduct targeted killings, because it was considered anathema to American foreign policy. (In fact, until as late as 2001, Washington’s stated policy was to oppose Israel’s targeted killings.) When America adopted targeted killing again—first under the Bush administration after the September 11 attacks and then expanded by President Obama—the tools of the trade had changed. No longer was the CIA sending poison, pistols, and toxic cigars to assets overseas to kill enemy leaders. Now it could target people throughout al-Qaida’s hierarchy with accuracy, deliver lethal ordnance literally around the world, and watch the mission’s completion in real time. The United States is smartly using technology to improve combat efficacy, and to make war-fighting more efficient, both in money and manpower. It has been able to conduct more than 400 lethal strikes, killing more than 3,500 people, in Afghanistan, Pakistan, Yemen, Somalia, and North Africa using drones; reducing risk to U.S. personnel; and giving the Pentagon flexibility to use special-forces units elsewhere. And, no matter what human-rights groups say, it’s clear that drone use has reduced the number of civilians killed in combat relative to earlier conflicts. Washington would be foolish not to exploit unmanned aircraft in its long fight against terrorism. In fact, defense hawks and spendthrifts alike would criticize it if it did not. “If you believe that these folks are legitimate terrorists who are committing acts of aggressive, potential violent acts against the United States or our allies or our citizens overseas, should it matter how we choose to engage in the self-defense of the United States?” asked Rep. Mike Rogers, R-Mich., chairman of the House Intelligence Committee. “Do we have that debate when a special-forces team goes in? Do we have that debate if a tank round does it? Do we have the debate if an aircraft pilot drops a particular bomb?” But defense analysts argue—and military officials concede—there is a qualitative difference between dropping a team of men into Yemen and green-lighting a Predator flight from Nevada. Drones lower the threshold for military action. That’s why, according to the Council on Foreign Relations, unmanned aircraft have conducted 95 percent of all U.S. targeted killings. Almost certainly, if drones were unavailable, the United States would not have pursued an equivalent number of manned strikes in Pakistan. And what’s true for the United States will be true as well for other countries that own and arm remote piloted aircraft. “The drones—the responsiveness, the persistence, and without putting your personnel at risk—is what makes it a different technology,” Zenko said. “When other states have this technology, if they follow U.S. practice, it will lower the threshold for their uses of lethal force outside their borders. So they will be more likely to conduct targeted killings than they have in the past.” The Obama administration appears to be aware of and concerned about setting precedents through its targeted-strike program. When the development of a disposition matrix to catalog both targets and resources marshaled against the United States was first reported in 2012, officials spoke about it in part as an effort to create a standardized process that would live beyond the current administration, underscoring the long duration of the counterterrorism challenge. Indeed, the president’s legal and security advisers have put considerable effort into establishing rules to govern the program. Most members of the House and Senate Intelligence committees say they are confident the defense and intelligence communities have set an adequate evidentiary bar for determining when a member of al-Qaida or an affiliated group may be added to the target list, for example, and say that the rigor of the process gives them comfort in the level of program oversight within the executive branch. “They’re not drawing names out of a hat here,” Rogers said. “It is very specific intel-gathering and other things that would lead somebody to be subject for an engagement by the United States government.”

#### South China Sea conflicts cause extinction

Wittner 11 (Lawrence S. Wittner, Emeritus Professor of History at the State University of New York/Albany, Wittner is the author of eight books, the editor or co-editor of another four, and the author of over 250 published articles and book reviews. From 1984 to 1987, he edited Peace & Change, a journal of peace research., 11/28/2011, "Is a Nuclear War With China Possible?", www.huntingtonnews.net/14446)

While nuclear weapons exist, there remains a danger that they will be used. After all, for centuries national conflicts have led to wars, with nations employing their deadliest weapons. The current deterioration of U.S. relations with China might end up providing us with yet another example of this phenomenon. The gathering tension between the United States and China is clear enough. Disturbed by China’s growing economic and military strength, the U.S. government recently challenged China’s claims in the South China Sea, increased the U.S. military presence in Australia, and deepened U.S. military ties with other nations in the Pacific region. According to Secretary of State Hillary Clinton, the United States was “asserting our own position as a Pacific power.” But need this lead to nuclear war? Not necessarily. And yet, there are signs that it could. After all, both the United States and China possess large numbers of nuclear weapons. The U.S. government threatened to attack China with nuclear weapons during the Korean War and, later, during the conflict over the future of China’s offshore islands, Quemoy and Matsu. In the midst of the latter confrontation, President Dwight Eisenhower declared publicly, and chillingly, that U.S. nuclear weapons would “be used just exactly as you would use a bullet or anything else.” Of course, China didn’t have nuclear weapons then. Now that it does, perhaps the behavior of national leaders will be more temperate. But the loose nuclear threats of U.S. and Soviet government officials during the Cold War, when both nations had vast nuclear arsenals, should convince us that, even as the military ante is raised, nuclear saber-rattling persists. Some pundits argue that nuclear weapons prevent wars between nuclear-armed nations; and, admittedly, there haven’t been very many—at least not yet. But the Kargil War of 1999, between nuclear-armed India and nuclear-armed Pakistan, should convince us that such wars can occur. Indeed, in that case, the conflict almost slipped into a nuclear war. Pakistan’s foreign secretary threatened that, if the war escalated, his country felt free to use “any weapon” in its arsenal. During the conflict, Pakistan did move nuclear weapons toward its border, while India, it is claimed, readied its own nuclear missiles for an attack on Pakistan. At the least, though, don’t nuclear weapons deter a nuclear attack? Do they? Obviously, NATO leaders didn’t feel deterred, for, throughout the Cold War, NATO’s strategy was to respond to a Soviet conventional military attack on Western Europe by launching a Western nuclear attack on the nuclear-armed Soviet Union. Furthermore, if U.S. government officials really believed that nuclear deterrence worked, they would not have resorted to championing “Star Wars” and its modern variant, national missile defense. Why are these vastly expensive—and probably unworkable—military defense systems needed if other nuclear powers are deterred from attacking by U.S. nuclear might? Of course, the bottom line for those Americans convinced that nuclear weapons safeguard them from a Chinese nuclear attack might be that the U.S. nuclear arsenal is far greater than its Chinese counterpart. Today, it is estimated that the U.S. government possesses over five thousand nuclear warheads, while the Chinese government has a total inventory of roughly three hundred. Moreover, only about forty of these Chinese nuclear weapons can reach the United States. Surely the United States would “win” any nuclear war with China. But what would that “victory” entail? A nuclear attack by China would immediately slaughter at least 10 million Americans in a great storm of blast and fire, while leaving many more dying horribly of sickness and radiation poisoning. The Chinese death toll in a nuclear war would be far higher. Both nations would be reduced to smoldering, radioactive wastelands. Also, radioactive debris sent aloft by the nuclear explosions would blot out the sun and bring on a “nuclear winter” around the globe—destroying agriculture, creating worldwide famine, and generating chaos and destruction.

## Advantage 2: Terrorism

### I/L Defense

#### Wide-spread torture is inevitable and guts the aff

Thomas Hilde 09, professor at the University of Maryland School of Public Policy, “Beyond Guantanamo. Restoring U.S. Credibility on Human Rights,” Heinrich Böll Foundation, http://www.boell.org/downloads/hbf\_Beyond\_Guantanamo\_Thomas\_Hilde(2).pdf

Beginning at least in 2002, the United States created and developed a policy instituting torture — what it calls “enhanced interrogation” — of its detainees in the “global war on terror”2 under the general framework of a state of necessity. Many of these torture techniques have already been used and refined by the Western powers during the 20th century.3 They are also built partially into U.S. “survival, evasion, resistance, escape” (sere) training program techniques, which reportedly also adapt techniques previously used by China.4 The logic of torture used as an information-seeking instrument in the current conflict, however, has entailed the creation of a large-scale institution of torture, spread among several countries, and implicating hundreds and perhaps thousands of people.5¶ This institution strikes at the heart of the very idea of human rights and core principles of liberal democratic society. It raises important and uncomfortable questions about the nature of human rights in the wake of the torture at Guantánamo and other sites, the policy and practice of extraordinary rendition, indefinite detentions and the suspension of due process and habeas corpus, the violation of domestic and international laws, and perhaps other features and goals of the program yet to come into the public light. The claim is a claim to exception or necessity to the suspension of laws and civil liberties in a moment of national emergency. This is not unusual, unfortunately. Most states have similar national emergency procedures, even if only implicit. The law will always be suspended in the name of survival and the global war on terror was framed as a matter of the survival of civilization. With self-defense being the moral justification of violence par excellence, extraordinary acts may be viewed as entirely legitimate in the defense of civilization. What should also concern us, however, is the suspension of rights in the name of political expediency. In other words, this is not only a moment for lawyers to rise to the occasion. The problem is political and philosophical. There is more at stake than the legally appropriate punishment of terrorists and credibility of certain public officials and agencies.¶ The prohibition of torture has been formal international law since the UN Declaration on Human Rights (1948) and the Geneva Conventions (1949). It is also generally assumed to be an international peremptory norm (jus cogens), a norm accepted universally by the international community that cannot be derogated, such as the norm of state sovereignty. The UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984/1987) and the non-binding Istanbul Protocol (1999), among other international legal instruments, further codified the norm into international law. Torture violates international law, usually domestic law (as, for example, in the 8th Amendment to the United States constitution banning “cruel and unusual punishment”), basic morality, and one of the fundamental shared norms of international society. Violation of the law entails criminality by definition. Violation of a basic shared norm entails a loss of moral and political standing, of credibility, trust, and legitimacy in international society.

### Turn---General

#### The plan result in catastrophic terrorism---releases them and kills intel gathering

Jack Goldsmith 09, Henry L. Shattuck Professor at Harvard Law School, 2/4/09, “Long-Term Terrorist Detention and Our National Security Court,” http://www.brookings.edu/~/media/research/files/papers/2009/2/09%20detention%20goldsmith/0209\_detention\_goldsmith.pdf

These three concerns challenge the detention paradigm. They do nothing to eliminate the need for detention to prevent detainees returning to the battlefield. But many believe that we can meet this need by giving trials to everyone we want to detain and then incarcerating them under a theory of conviction rather than of military detention. I disagree. For many reasons, it is too risky for the U.S. government to deny itself the traditional military detention power altogether, and to commit itself instead to try or release every suspected terrorist. ¶ For one thing, military detention will be necessary in Iraq and Afghanistan for the foreseeable future. For another, we likely cannot secure convictions of all of the dangerous terrorists at Guantánamo, much less all future dangerous terrorists, who legitimately qualify for non-criminal military detention. The evidentiary and procedural standards of trials, civilian and military alike, are much higher than the analogous standards for detention. With some terrorists too menacing to set free, the standards will prove difficult to satisfy. Key evidence in a given case may come from overseas and verifying it, understanding its provenance, or establishing its chain of custody in the manners required by criminal trials may be difficult. This problem is exacerbated when evidence was gathered on a battlefield or during an armed skirmish. The problem only grows when the evidence is old. And perhaps most importantly, the use of such evidence in a criminal process may compromise intelligence sources and methods, requiring the disclosure of the identities of confidential sources or the nature of intelligence-gathering techniques, such as a sophisticated electronic interception capability. ¶ Opponents of non-criminal detention observe that despite these considerations, the government has successfully prosecuted some Al Qaeda terrorists—in particular, Zacharias Moussaoui and Jose Padilla. This is true, but it does not follow that prosecutions are achievable in every case in which disabling a terrorist suspect represents a surpassing government interest. Moreover, the Moussaoui and Padilla prosecutions highlight an under-appreciated cost of trials, at least in civilian courts. The Moussaoui and Padilla trials were messy affairs that stretched, and some observers believe broke, our ordinary criminal trial conceptions of conspiracy law and the rights of the accused, among other things. The Moussaoui trial, for example, watered down the important constitutional right of the defendant to confront witnesses against him in court, and the Padilla trial rested on an unprecedentedly broad conception of conspiracy.15 An important but under-appreciated cost of using trials in all cases is that these prosecutions will invariably bend the law in ways unfavorable to civil liberties and due process, and these changes, in turn, will invariably spill over into non-terrorist prosecutions and thus skew the larger criminal justice process.16¶ A final problem with using any trial system, civilian or military, as the sole lawful basis for terrorist detention is that the trials can result in short sentences (as the first military commission trial did) or even acquittal of a dangerous terrorist.17 In criminal trials, guilty defendants often go free because of legal technicalities, government inability to introduce probative evidence, and other factors beyond the defendant's innocence. These factors are all exacerbated in terrorist trials by the difficulties of getting information from the place of capture, by classified information restrictions, and by stale or tainted evidence. One way to get around this problem is to assert the authority, as the Bush administration did, to use non-criminal detention for persons acquitted or given sentences too short to neutralize the danger they pose. But such an authority would undermine the whole purpose of trials and would render them a sham. As a result, putting a suspect on trial can make it hard to detain terrorists the government deems dangerous. For example, the government would have had little trouble defending the indefinite detention of Salim Hamdan, Osama Bin Laden's driver, under a military detention rationale. Having put him on trial before a military commission, however, it was stuck with the light sentence that Hamdan is completing at home in Yemen.¶ As a result of these considerations, insistence on the exclusive use of criminal trials and the elimination of non-criminal detention would significantly raise the chances of releasing dangerous terrorists who would return to kill Americans or others. Since noncriminal military detention is clearly a legally available option—at least if it is expressly authorized by Congress and contains adequate procedural guarantees—this risk should be unacceptable. In past military conflicts, the release of an enemy soldier posed risks. But they were not dramatic risks, for there was only so much damage a lone actor or small group of individuals could do.18 Today, however, that lone actor can cause far more destruction and mayhem because technological advances are creating ever-smaller and ever-deadlier weapons. It would be astounding if the American system, before the advent of modern terrorism, struck the balance between security and liberty in a manner that precisely reflected the new threats posed by asymmetric warfare. We face threats from individuals today that are of a different magnitude than threats by individuals in the past; having government authorities that reflect that change makes sense.

## Advantage 1: Legitimacy

### Soft Power Not Key to Heg

#### Legitimacy’s inevitable and not key to heg

Brooks and Wohlforth, 9 (Stephen Brooks and William Wohlforth, both are professors of Government at Dartmouth, “Reshaping the world order: how Washington should reform international institutions,” Foreign Affairs, March-April)

FOR ANALYSTS such as Zbigniew Brzezinski and Henry Kissinger, the key reason for skepticism about the United States' ability to spearhead global institutional change is not a lack of power but a lack of legitimacy. Other states may simply refuse to follow a leader whose legitimacy has been squandered under the Bush administration; in this view, the legitimacy to lead is a fixed resource that can be obtained only under special circumstances. The political scientist G.John Ikenberry argues in After Victory that states have been well positioned to reshape the institutional order only after emerging victorious from some titanic struggle, such as the French Revolution, the Napoleonic Wars, or World War I or II. For the neoconservative Robert Kagan, the legitimacy to lead came naturally to the United States during the Cold War, when it was providing the signal service of balancing the Soviet Union. The implication is that today, in the absence of such salient sources of legitimacy, the wellsprings of support for U.S. leadership have dried up for good. But this view is mistaken. For one thing, it overstates how accepted U.S. leadership was during the Cold War: anyone who recalls the Euromissile crisis of the 1980s, for example, will recognize that mass opposition to U.S. policy (in that case, over stationing intermediaterange nuclear missiles in Europe) is not a recent phenomenon. For another, it understates how dynamic and malleable legitimacy is. Legitimacy is based on the belief that an action, an actor, or a political order is proper, acceptable, or natural. An action - such as the Vietnam War or the invasion of Iraq - may come to be seen as illegitimate without sparking an irreversible crisis of legitimacy for the actor or the order. When the actor concerned has disproportionately more material resources than other states, the sources of its legitimacy can be refreshed repeatedly. After all, this is hardly the first time Americans have worried about a crisis of legitimacy. Tides of skepticism concerning U.S. leadership arguably rose as high or higher after the fall of Saigon in 1975 and during Ronald Reagan's first term, when he called the Soviet Union an "evil empire." Even George W. Bush, a globally unpopular U.S. president with deeply controversial policies,oversaw a marked improvement in relations with France, Germany, and India in recent years - even before the elections of Chancellor Angela Merkel in Germany and President Nicolas Sarkozy in France. Of course, the ability of the United States to weather such crises of legitimacy in the past hardly guarantees that it can lead the system in the future. But there are reasons for optimism. Some of the apparent damage to U.S. legitimacy might merely be the result of the Bush administration's approach to diplomacy and international institutions. Key underlying conditions remain particularly favorable for sustaining and even enhancing U.S. legitimacy in the years ahead. The United States continues to have a far larger share of the human and material resources for shaping global perceptions than any other state, as well as the unrivaled wherewithal to produce public goods that reinforce the benefits of its global role. No other state has any claim to leadership commensurate with Washington's. And largely because of the power position the United States still occupies, there is no prospect of a counterbalancing coalition emerging anytime soon to challenge it. In the end, the legitimacy of a system's leader hinges on whether the system's members see the leader as acceptable or at least preferable to realistic alternatives. Legitimacy is not necessarily about normative approval: one may dislike the United States but think its leadership is natural under the circumstances or the best that can be expected. Moreover, history provides abundant evidence that past leading states - such as Spain, France, and the United Kingdom - were able to revise the international institutions of their day without the special circumstances Ikenberry and Kagan cite. Spainfashioned both normative and positive laws to legitimize its conquest of indigenous Americans in the early seventeenth century; France instituted modern concepts of state borders to meet its needs as Europe's preeminent land power in the eighteenth century; and the United Kingdom fostered rules on piracy, neutral shipping, and colonialism to suit its interests as a developing maritime empire in the nineteenth century. As Wilhelm Grewe documents in his magisterial The Epochs of International Law, these states accomplished such feats partly through the unsubtle use of power: bribes, coercion, and the allure oflucrative long-term cooperation. Less obvious but often more important, the bargaining hands of the leading states were often strengthened by the general perception that they could pursue their interests in even less palatable ways - notably, through the naked use of force. Invariably, too, leading states have had the power to set the international agenda, indirectly affecting the development of new rules by defining the problems they were developed to address. Given its naval primacy and global trading interests, the United Kingdom was able to propel the slave trade to the forefront of the world's agenda for several decades after it had itself abolished slavery at home, in 1833. The bottom line is that the UnitedStates today has the necessary legitimacy to shepherd reform of the international system.

### AT: Hegemony

#### Unipolarity causes policy failure---they can’t access any impact

Charles L. Glaser 11, professor in the Elliott School of International Affairs and the Department of Political Science at the George Washington University and the director of the Elliott School’s Institute for Security and Conﬂict Studies, June 2011, “Why unipolarity doesn’t matter (much),” Cambridge Review of International Affairs, Vol. 24, No. 2, p. 135-147

A still different type of argument holds that unipolar powers tend to adopt expanded interests and associated goals that unipolarity then enables them to achieve. To the extent that these goals are actually in the unipole’s true interest, unipolarity is good for the unipole. In broad terms, this argument follows the claim that states’ interests and goals grow with their power. 19¶ These expanded goals can be attributed to three different types of factors. 20 The ﬁrst is a permissive structure, which allows the state to pursue more ambitious goals. The state’s interests do not change, but its increased ability to pursue them results in a redeﬁnition of its goals. A state could have goals that were previously unachievable at acceptable cost; by lowering the costs, unipolarity places these goals within reach, enabling the state to make itself better off. A unipole’s desire for a higher degree of security can be an example of this type of expanded goal, reﬂecting the means that it can wield. Second, the state can acquire new interests, which are generated by the unipole’s greater territorial and institutional reach. For example, a state that controls more territory may face new threats and, as a result, conclude that it needs to control still more territory, acquire still more power, and/or restructure international institutions to further protect its interests. Third, the unipole’s goals can be inﬂuenced by what is commonly described as human nature and by psychology. A unipolar state will be inclined to lose track of how secure it is and consequently pursue inappropriate policies that are designed to increase its security but turn out to be too costly and/or to have a high probability of backﬁring. One variant of this type of argument expects unipolar powers to conclude that they need to spread their type of governance or political ideology to be secure. These dangers can be reinforced by a tendency for a unipolar power to see its new interests, which are optional, as necessary ones.¶ The ﬁrst two types of expanded interests and goals can make the unipole better off. The question here is whether the interests the United States might ﬁnd within its reach due to its unipolar position are very valuable. With respect to security, the answer is ‘no’. For the reasons summarized above, the United States can be very secure in bipolarity, and unipolarity is important only in an extreme and unlikely case. Other US goals, for example, spreading democracy and free markets, do not depend on unipolarity, at least not its military dimension. Instead, whether these liberal systems spread will depend most heavily on their own effectiveness. Regarding the down side, there does not appear to be an overwhelming reason that the United States cannot avoid the dangers of unipolar overreach. The Bush administration certainly proved itself vulnerable to these dangers and the United States is continuing to pay for its ﬂawed judgments. Arguably, strands of overreach can be traced back to the Clinton administration’s emphasis on democratic enlargement, although the means that it chose were much more in line with US interests. 21 And the Obama administration’s decision to escalate the war in Afghanistan may well be an example of striving for too much security. Nevertheless, none of the basic arguments about unipolarity explain why these errors are unavoidable. The overreach claim is more an observation about the past than a well-supported prediction about the future. We do not have strong reasons for concluding that the United States will be unable to beneﬁt from analyses of its grand strategy options, learning to both appreciate how very secure it is and at the same time to respect the limits of its power.¶ In sum, then, under current conditions, unipolarity does little to enable the United States to increase its security. Given the limited beneﬁts of unipolarity and the not insigniﬁcant dangers of unipolar overreach, the United States will have to choose its policies wisely if it is going to be better off in a unipolar world than a bipolar one.

### Multilat Fails---Warming Specific

#### No climate multilateralism — nationalism ensures gridlock

David Held 13, Professor of Politics and International Relations, at the University of Durham AND Thomas Hale, Postdoctoral Research Fellow at the Blavatnik School of Government, Oxford University AND Kevin Young, Assistant Professor in the Department of Political Science at the University of Massachusetts Amherst, 5/24/13, “Gridlock: the growing breakdown of global cooperation,” http://www.opendemocracy.net/thomas-hale-david-held-kevin-young/gridlock-growing-breakdown-of-global-cooperation

Gridlock exists across a range of different areas in global governance today, from security arrangements to trade and finance. This dynamic is, arguably, most evident in the realm of climate change. The diffusion of industrial production across the world—a process enabled by economic globalization—has created a situation in which the basic consumption of each individual directly affects the life chances of every other individual on the planet, as well as the life chances of future generations.¶ This is a powerful and entirely new form of global interdependence. Bluntly put, the future of our civilization depends on our ability to cooperate across borders. And yet, despite twenty years of multilateral negotiations under the UN, a global deal on climate change mitigation or adaptation remains elusive, with differences between developed countries, which have caused the problem, and developing countries, which will drive future emissions, forming the core barrier to progress. Unless we overcome gridlock in climate negotiations, as in other issue areas, we will be unable to continue to enjoy the peace and prosperity we have inherited from the postwar order.¶ There are, of course, several forces that might work against gridlock. These include the potential of social movements to uproot existing political constraints, catalysed by IT innovation and the use of associated technology for coordination across borders; the capacity of existing institutions to adapt and accommodate factors such as emerging multipolarity (the shift from the G-5/7 to the G-20 is one example); and efforts at institutional reform which seek to alter the organizational structure of global governance (for example, proposals to reform the Security Council or to establish a financial transaction tax). ¶ Whether there is the political will or leadership to move beyond gridlock remains a pressing question. Social movements find it difficult to convert protests into consolidated institutional change. At the same time, the political leadership of the great power blocs appears dogged by national concerns: Washington is sharply divided, Europe is preoccupied with the future of the Euro and China is absorbed by the challenge of sustaining economic growth as the prime vehicle of domestic legitimacy. Against this background, the further deepening of gridlock and the continuing failure to address global collective action problems appears likely.

### AT: Warming

#### No impact---mitigation and adaptation will solve---no tipping point or “1% risk” args

Robert O. Mendelsohn 9, the Edwin Weyerhaeuser Davis Professor, Yale School of Forestry and Environmental Studies, Yale University, June 2009, “Climate Change and Economic Growth,” online: http://www.growthcommission.org/storage/cgdev/documents/gcwp060web.pdf

The heart of the debate about climate change comes from a number of warnings from scientists and others that give the impression that human-induced climate change is an immediate threat to society (IPCC 2007a,b; Stern 2006). Millions of people might be vulnerable to health effects (IPCC 2007b), crop production might fall in the low latitudes (IPCC 2007b), water supplies might dwindle (IPCC 2007b), precipitation might fall in arid regions (IPCC 2007b), extreme events will grow exponentially (Stern 2006), and between 20–30 percent of species will risk extinction (IPCC 2007b). Even worse, there may be catastrophic events such as the melting of Greenland or Antarctic ice sheets causing severe sea level rise, which would inundate hundreds of millions of people (Dasgupta et al. 2009). Proponents argue there is no time to waste. Unless greenhouse gases are cut dramatically today, economic growth and well‐being may be at risk (Stern 2006).

These statements are largely alarmist and misleading. Although climate change is a serious problem that deserves attention, society’s immediate behavior has an extremely low probability of leading to catastrophic consequences. The science and economics of climate change is quite clear that emissions over the next few decades will lead to only mild consequences. The severe impacts predicted by alarmists require a century (or two in the case of Stern 2006) of no mitigation. Many of the predicted impacts assume there will be no or little adaptation. The net economic impacts from climate change over the next 50 years will be small regardless. Most of the more severe impacts will take more than a century or even a millennium to unfold and many of these “potential” impacts will never occur because people will adapt. It is not at all apparent that immediate and dramatic policies need to be developed to thwart long‐range climate risks. What is needed are long‐run balanced responses.

#### **No extinction from climate change**

NIPCC 11 – the Nongovernmental International Panel on Climate Change, an international panel of nongovernment scientists and scholars, March 8, 2011, “Surviving the Unprecedented Climate Change of the IPCC,” online: http://www.nipccreport.org/articles/2011/mar/8mar2011a5.html

In a paper published in Systematics and Biodiversity, Willis et al. (2010) consider the IPCC (2007) "predicted climatic changes for the next century" -- i.e., their contentions that "global temperatures will increase by 2-4°C and possibly beyond, sea levels will rise (~1 m ± 0.5 m), and atmospheric CO2 will increase by up to 1000 ppm" -- noting that it is "widely suggested that the magnitude and rate of these changes will result in many plants and animals going extinct," citing studies that suggest that "within the next century, over 35% of some biota will have gone extinct (Thomas et al., 2004; Solomon et al., 2007) and there will be extensive die-back of the tropical rainforest due to climate change (e.g. Huntingford et al., 2008)."

On the other hand, they indicate that some biologists and climatologists have pointed out that "many of the predicted increases in climate have happened before, in terms of both magnitude and rate of change (e.g. Royer, 2008; Zachos et al., 2008), and yet biotic communities have remained remarkably resilient (Mayle and Power, 2008) and in some cases thrived (Svenning and Condit, 2008)." But they report that those who mention these things are often "placed in the 'climate-change denier' category," although the purpose for pointing out these facts is simply to present "a sound scientific basis for understanding biotic responses to the magnitudes and rates of climate change predicted for the future through using the vast data resource that we can exploit in fossil records."

Going on to do just that, Willis et al. focus on "intervals in time in the fossil record when atmospheric CO2 concentrations increased up to 1200 ppm, temperatures in mid- to high-latitudes increased by greater than 4°C within 60 years, and sea levels rose by up to 3 m higher than present," describing studies of past biotic responses that indicate "the scale and impact of the magnitude and rate of such climate changes on biodiversity." And what emerges from those studies, as they describe it, "is evidence for rapid community turnover, migrations, development of novel ecosystems and thresholds from one stable ecosystem state to another." And, most importantly in this regard, they report "there is very little evidence for broad-scale extinctions due to a warming world."

In concluding, the Norwegian, Swedish and UK researchers say that "based on such evidence we urge some caution in assuming broad-scale extinctions of species will occur due solely to climate changes of the magnitude and rate predicted for the next century," reiterating that "the fossil record indicates remarkable biotic resilience to wide amplitude fluctuations in climate."

# 2NC

## Counterplan

### Net-Benefit

#### The plan collapses legitimacy, credibility and rule of law

Fisher 9 – Australian Ambassador for Counter-terrorism

(William, “Special ‘Terror’ Courts Worry Legal Experts,” http://original.antiwar.com/fisher/2009/05/20/special-terror-courts/)

The administration of President Barack Obama is considering the creation of a national security court to try cases in which there is enough reliable intelligence to hold a foreign terrorism suspect in preventive detention but not enough to bring a case in federal court or even through military commissions.¶ Human rights advocates and legal experts confirm that the new institution is among the options being considered by the Justice Department Task Force Obama created to determine how best to adjudicate the cases of suspected terrorists held at the U.S. naval base at Guantanamo Bay, Cuba. Obama has pledged to close that detention center by January 2010.¶ But the idea of establishing a national security court is attracting widespread criticism because it would mean keeping some terrorism suspects on U.S. soil indefinitely.¶ While the idea of such a new court system is generally supported by conservatives, that support is far from universal.¶ Sen. Lindsey Graham, a conservative Republican from South Carolina and a military judge in the Air Force Reserve, notes the legal difficulties that would arise from a national security court. "How do you hold someone in prison without a trial indefinitely?" he asked.¶ Another prominent conservative, Bruce Fein, who served in the Justice Department under President Ronald Reagan, described the issues surrounding detention and trial of alleged terrorists as "the most important the Republic has confronted since the Civil War as to what America means. It should not mean Empire!"¶ Fein believes the regular federal court system should be the venue for terrorism trials.¶ He told IPS, "Shortly after 9/11, Michael Chertoff, then head of the Criminal Division of DOJ, testified before the Senate Judiciary Committee that Article III federal courts have performed brilliantly in the trials of terrorism cases assisted by the Classified Information Procedures Act of 1980 (CIPA)."¶ CIPA enables trials without disclosing national security secrets where a summary of the incriminating evidence is sufficient to enable the accused to conduct a fair defense.¶ Fein says Chertoff told the Senate Judiciary Committee that "the history of this government in prosecuting terrorists in domestic courts has been one of unmitigated success and one in which the judges have done a superb job of managing the courtroom and not compromising our concerns about security and our concerns about classified information."¶ He said the Obama administration "has failed to adduce a crumb of evidence, experience, or intuition suggesting that a national security court is necessary to secure justice – unless the term is meant to include convicting the innocent like a page from Orwell’s 1984."¶ Since 9/11, federal courts have tried approximately 120 terror-related cases, with defendants including some considered among the most dangerous.¶ Prof. Francis Boyle of the University of Illinois law school agrees. He told IPS, "The proposal to establish a ‘national security court’ here in the United States would constitute a U.S. constitutional abomination."¶ "It would simply import the Gitmo kangaroo courts into the United States itself and purport to render these U.S. domestic kangaroo national security courts part of our long-standing constitutional system for the administration of justice going back to the foundation of our Republic," he said.¶ A similar view is expressed by Chip Pitts, president of the board of directors of the Bill of Rights Defense Committee. He told IPS, "The basic problem with national security courts is similar to that with military commissions or other second-tier systems not offering the full panoply of basic human rights and civil liberties to defendants: they posit a category of people (suspected terrorists) purportedly not entitled to basic constitutional and human rights, including a full and genuine presumption of innocence with the associated opportunities to fairly defend themselves."¶ He added, "These have been the very concerns prompting the U.S. to routinely object when such courts are used by other countries."¶ He said, "The bottom line is that such courts – like military commissions applying outside of the usual circumstances (real-world war, with battlefields, etc.) – are neither needed nor a good idea. They would risk being broadened and subjected to mission creep, but even if they can be limited to the circumstances contemplated would be an alarming step along the road toward a very different country indeed from what our founders envisioned."¶ "The rule of law, by contrast, has proven to be a pretty good idea, along with its associated notions of human rights/civil liberties," he said.¶ Jonathan Hafetz, an attorney with the American Civil Liberties Union’s National Security Project, believes the establishment of national security courts "would be a terrible mistake."¶ He told IPS that these new courts "would institutionalize many of the worst features of Bush administration policies, perpetuating both indefinite detention and trial of terrorism suspects outside the established federal criminal courts."¶ He added, "National security court proposals are riddled with constitutional flaws including reliance on secret evidence, elimination of core constitutional safeguards like the right to confront one’s accusers, and the absence of protections against the use of evidence obtained by coercion."¶ "While they might be sold as a reform measure, national security courts are part of an agenda to continue the failed Guantanamo system rather than to end it," he said.¶ Brian J. Foley, visiting associate professor at the Boston University law school, says U.S. detention policy "needs rethinking."¶ He told IPS, "The current Guantanamo system has rules that are too soft and allow roundups of suspected terrorists based on unreliable evidence. Interrogating these people using harsh methods leads to false confessions and other statements calculated to end the abuse. Threatening them with trial by what amounts to a kangaroo court will also cause many to confess falsely."¶ He says the result is that "U.S. anti-terror officials end up with a false picture of the enemy and waste their time chasing false leads and phantoms, which can distract them from actual terrorists. If the U.S. is to have a special court system for terrorists, it should be focused on coming to accurate results, not simply politically expedient convictions."¶ Foley sees the current debate as an "opportunity for policymakers to think really hard about accuracy and about how rules can foster accuracy."¶ He explains: "Most discussions right now are ‘rights’-based. Accuracy, though, should be the focus on any such new court system."¶ He said he is "not convinced that alleged terrorists and war criminals should not be tried in our regular courts. It would be easier to tinker with the existing system – which has developed slowly over the years – if necessary rather than building an entirely new one."¶ Mark Shulman, a professor at the Pace University law school, sees an ominous similarity between the current discussion and the experiences of other countries.¶ "National security or terrorist courts in other countries offer troubling lessons, mostly because of their implications for the respect for civil liberties generally – not only of the accused, but of the wider population," he said.¶ "Existing proposals to create such a court in the United States inadequately account for this risk, or explain how it would be minimized or mitigated. Emergency systems in other countries have invariably reduced civil liberties for the general population."¶ He emphasized that "it is important to recognize that these emergency systems in such diverse jurisdictions as Great Britain, Malaysia, and South Africa have diminished freedoms for society as a whole."

#### National security courts collapse legitimacy, fuels anti-Americanism and prevents cooperation

Colson 9 - Acting Director, Law & Security Program @ HR First

(Deborah, Prepared the following report: “The Case Against A Special Terrorism Court,” HR First, http://www.humanrightsfirst.org/wp-content/uploads/pdf/090323-LS-nsc-policy-paper.pdf)

Proposals for a special terrorism court should be rejected ¶ „ A special terrorism court is unnecessary and impractical: Among the many lessons learned from the ¶ misguided Guantánamo episode are the practical difficulties of trying to create new, ad hoc justice systems. ¶ Just like the military commissions at Guantánamo, a new court inevitably would be bogged down in litigation ¶ and delay. ¶ „ Our procedural safeguards and evidentiary standards comprise the bedrock of American justice: A ¶ new court would undermine the integrity of the justice system and perpetuate the damage to America’s ¶ reputation for fairness and transparency done by unjust military commissions and prolonged detention without ¶ charge at Guantánamo. Special courts and detention without trial undermine U.S. counterterrorism strategy: Creating a ¶ state-side replica of the Guantánamo legal regime would impair counterterrorism cooperation with our allies ¶ and fuel terrorist recruitment.

## Politics

### Impact Calculus

#### Economic decline turns signal based advs

Tilford 8 — Earl Tilford, military historian and fellow for the Middle East and terrorism with The Center for Vision & Values at Grove City College, served as a military officer and analyst for the Air Force and Army for thirty-two years, served as Director of Research at the U.S. Army’s Strategic Studies Institute, former Professor of History at Grove City College, holds a Ph.D. in History from George Washington University, 2008 (“Critical Mass: Economic Leadership or Dictatorship,” Published by The Center for Vision & Values, October 6th, Available Online at http://www.visionandvalues.org/2008/10/critical-mass-economic-leadership-or-dictatorship/, Accessed 08-23-2011)

Nevertheless, al-Qaeda failed to seriously destabilize the American economic and political systems. The current economic crisis, however, could foster critical mass not only in the American and world economies but also put the world democracies in jeopardy.¶ Some experts maintain that a U.S. government economic relief package might lead to socialism. I am not an economist, so I will let that issue sit. However, as a historian I know what happened when the European and American economies collapsed in the late 1920s and early 1930s. The role of government expanded exponentially in Europe and the United States. The Soviet system, already well entrenched in socialist totalitarianism, saw Stalin tighten his grip with the doctrine of "socialism in one country," which allowed him to dispense with political opposition real and imagined. German economic collapse contributed to the Nazi rise to power in 1933. The alternatives in the Spanish civil war were between a fascist dictatorship and a communist dictatorship. Dictatorships also proliferated across Eastern Europe.¶ In the United States, the Franklin Roosevelt administration vastly expanded the role and power of government. In Asia, Japanese militarists gained control of the political process and then fed Japan's burgeoning industrial age economy with imperialist lunges into China and Korea; the first steps toward the greatest conflagration in the history of mankind ... so far ... World War II ultimately resulted. That's what happened the last time the world came to a situation resembling critical mass. Scores upon scores of millions of people died.¶ Could it happen again? Bourgeois democracy requires a vibrant capitalist system. Without it, the role of the individual shrinks as government expands. At the very least, the dimensions of the U.S. government economic intervention will foster a growth in bureaucracy to administer the multi-faceted programs necessary for implementation. Bureaucracies, once established, inevitably become self-serving and self-perpetuating. Will this lead to "socialism" as some conservative economic prognosticators suggest? Perhaps. But so is the possibility of dictatorship. If the American economy collapses, especially in wartime, there remains that possibility. And if that happens the American democratic era may be over. If the world economies collapse, totalitarianism will almost certainly return to Russia, which already is well along that path in any event. Fragile democracies in South America and Eastern Europe could crumble.¶ A global economic collapse will also increase the chance of global conflict. As economic systems shut down, so will the distribution systems for resources like petroleum and food. It is certainly within the realm of possibility that nations perceiving themselves in peril will, if they have the military capability, use force, just as Japan and Nazi Germany did in the mid-to-late 1930s. Every nation in the world needs access to food and water. Industrial nations -- the world powers of North America, Europe, and Asia -- need access to energy. When the world economy runs smoothly, reciprocal trade meets these needs. If the world economy collapses, the use of military force becomes a more likely alternative. And given the increasingly rapid rate at which world affairs move; the world could devolve to that point very quickly.

#### Econ underpins every part of US power

Morgan 12 Iwan, London School of Economics, Professor of United States Studies Institute of the Americas, University College London, “The United States after unipolarity: the American economy and America’s global Power,”

America’s economic strength has long underwritten its leading role in world affairs. The buoyant tax revenues generated by economic growth fund its massive military spending, the foundation of its global hard power. America’s economic success is also fundamental to its soft power and the promotion of its free-market values in the international economy. Finally, prosperity generally makes the American public more willing to support an expansive foreign policy on the world stage, whereas economic problems tend to engender popular introspection. Ronald Reagan understood that a healthy economy was a prerequisite for American power when he became president amid conditions of runaway inflation and recession. As he put it in his memoirs, ‘In 1981, no problem the country faced was more serious than the economic crisis – not even the need to modernise our armed forces – because without a recovery, we couldn’t afford to do the things necessary to make the country strong again or make a serious effort to reduce the dangers of nuclear war. Nor could America regain confidence in itself and stand tall once again. Nothing was possible unless we made the economy sound again’.

#### Depression means more terror recruitment and motivation

Fandl 4, Adjunct Law Professor @ Washington College of Law, ‘4

(Kevin J, 19 Am. U. Int'l L. Rev. 587)

In his final speech in the United Kingdom as President of the United States, Bill Clinton stressed: "we have seen how abject poverty accelerates conflict, how it creates recruits for terrorists and those who incite ethnic and religious hatred, [and] how it fuels a violent rejection of the economic and social order on which our future depends." 50 His words carried more significance than he could have known at that moment. 51¶ The terrorist networks that have come about in recent history are a significant threat to world security not only because of the suicidal methods they employ, but also because of the status of the countries [\*598] where these networks recruit new members, engage in training exercises and where the leadership seeks refuge. These countries are not equipped politically or economically to design proactive plans to uproot such organizations in their own countries, despite their expressed efforts to do so. 52 They are developing countries with weak, or no, democratic political structure with which to coordinate such efforts. They do not have the resources that European countries, for instance, have in place to take preventative measures in order to sustain peace. 53¶ The George W. Bush Administration indicated that it "is aware of the link between desperate economic circumstances and terrorism." 54 Yet, rather than working to develop sustainable economies capable of both directly (through increased political pressure and rule of law programs) and indirectly (through increased employment opportunities and social stability) eradicating terrorism, President Bush has chosen to dedicate significant resources to a military conquest against the elusive concept of terrorism itself. 55 Many Americans and, to a much lesser extent, other Western citizens, support the view that terrorism can be fought with tanks and [\*599] bombs. 56 They obstinately believe that military technology is capable of uncovering each potentially threatening terrorist cell and keeping the West safe. 57 This conventional method of warfare, while effective in pinpointing targets in complete darkness, will be useless in eliminating the ideology that fuels terrorism. Terrorists are non-conventional actors using non-conventional means through amorphous concepts that cannot be identified, contained, or labeled. These are actors whose most potent weapon is the communication of ideas among masses of people awaiting an opportunity for a better life. Many of us watch in excited anticipation for Osama bin Laden's capture and/or death. However, we should rest assured that whether he is still alive will have no bearing on the control that his ideas, and the ideas of those like him, have on the impoverished and desperate in the Middle East, South Asia, and perhaps beyond. No military technology will be able to destroy the prevalence and furtherance of those ideas. 58

#### Economic downturn causes destroys anti-climate change efforts

Dawson 8 – Bill Dawson, Yale Forum on Climate Change and the Media, 11-11, 2008, “Obama, Financial Crisis, Climate Change: Rocky Road Ahead for Journalism and Climate,” online: http://www.yaleclimatemediaforum.org/2008/11/obama-financial-crisis-and-climate-change/

After Hurricane Katrina, An Inconvenient Truth, the 2007 reports by the Intergovernmental Panel on Climate Change, and other events pushed the climate change issue higher on the public agenda, it may have seemed that it wouldn’t soon slide back down.¶ That assumption was weakened earlier this year when soaring gasoline prices prompted election-year sloganeering keyed to public concerns - “drill here, drill now, pay less,” and “drill, baby, drill.”¶ The congressional defeat in June of the Lieberman-Warner climate bill was attributed in large part to worries about extra costs that its cap-and-trade program would impose for cutting greenhouse emissions, as high prices at the pump provided an uneasy backdrop.¶ Then came the early fall financial meltdown, stock market collapses, and bailouts, with predictions of a deep recession. Intensifying economic worries, combined with cascading 401(k) accounts, sharpened the financial focus of a presidential race in which both major candidates had endorsed the cap-and-trade concept.¶ With the election now past, economy-related questions loom large for the climate issue and for reporters covering it. Will the economic and financial crisis and its continuing after-effects eclipse concerns about climate change, at least for the foreseeable future, relegating climate change, at best, to the inside pages?¶ Less coverage? Different coverage? More attention to the intersection of climate, energy, economy, and politics? Fewer stories on the science of climate change, and more on policy-focused debates about strategies for dealing with it?¶ Time magazine’s Bryan Walsh wrote an article in October that was headlined, “Will the Environment Lose Out to the Economy?”¶ In it, he juxtaposed scientists’ and environmentalists’ warnings about severe consequences of global warming and mounting worries about the dire consequences of a global economic collapse: “What happens when another more alarming, more immediate catastrophe co-opts people’s fear?”¶ Capturing the uncertainty of the moment, Walsh continued: “With the tanking economy dominating the news, and the government willing to virtually bankrupt itself to bail out the financial sector, it could be hard to push the climate change agenda - and possibly hard to find any money left to support it.”

### 2NC---AT: XO/14th Amendment

#### Obama won’t use executive action --- the debate’s over --- even if he did it still collapses the economy

Dan Roberts 10/4/13, writer @ the Guardian, “US shutdown: Republicans threaten to take debt limit fight to the brink,” The Guardian, http://www.theguardian.com/world/2013/oct/03/republicans-debt-limit-treasury-economy

The White House has ruled out using a legal veto to force Congress to extend the US debt limit as conservative Republicans threaten to take what the Treasury described as a potentially catastrophic economic standoff to the brink of a 17 October deadline.¶ President Obama had been encouraged by senior Democrats to call the bluff of hardline Republicans who want to add a debt limit refusal to an existing spending impasse that has already shut down much of the federal government.¶ Some Democrats argue that powers granted under the 14th amendment to the constitution, which was introduced to control southern states after the civil war, would allow the president to unilaterally borrow money if there was such a threat to the credit-worthiness of the US.¶ "Using the 14th would show the Republicans he means business," one former aide to Bill Clinton told the Guardian last week.¶ But the White House ruled out the option on Thursday, ending days of Washington debate about whether this obscure legal authority might provide a way out for Obama – at least from one half of Republicans' fiscal pincer movement. "The administration does not believe the 14th amendment gives power to the president to ignore the debt ceiling," said spokesman Jay Carney.¶ "The fact that there is significant controversy around the president's authority to act unilaterally means that it would not be a credible alternative to Congress raising the debt ceiling and would not be taken seriously by the market."

#### Even if he did, it wouldn’t solve --- nobody would buy the bonds

Adam Liptak 10/3/2013, correspondent for the New York Times, “Experts See Potential Ways Out for Obama in Debt Ceiling Maze,” NYT, http://www.nytimes.com/2013/10/04/us/politics/experts-see-potential-ways-out-for-obama-in-debt-ceiling-maze.html

However one interprets the Constitution, there remains the practical question of whether the nation’s creditors would continue to lend to the United States if the president did take unilateral action.¶ “I don’t think anyone in their right minds would buy those bonds,” Michael W. McConnell, a law professor at Stanford, said of debt issued without Congressional authorization.

#### Obama’s consistently rejected this option

Margaret Talev 10/1, Bloomberg, “White House Rejects 14th Amendment to Raise Debt Ceiling,” 2013, http://www.bloomberg.com/news/2013-10-01/white-house-rejects-14th-amendment-to-raise-debt-ceiling.html

President Barack Obama has neither the legal authority nor the practical ability to bypass Congress and extend the nation’s borrowing limit, and attempting such a step might trigger turmoil in the markets, two top White House advisers said.¶ National Economic Council Director Gene Sperling and Obama adviser Dan Pfeiffer were responding to some congressional Democrats who urged Obama to extend the federal debt ceiling without congressional authorization under the 14th Amendment to the U.S. Constitution.¶ Hours into a partial government shutdown resulting from a fiscal stalemate with House Republicans, administration officials and lawmakers are looking ahead to an Oct. 17 deadline for Congress to raise the $16.7 trillion federal debt limit.¶ Senate Finance Committee Chairman Max Baucus, a Montana Democrat, told reporters at the Capitol today that invoking the president’s powers under the 14th Amendment to raise the limit is “an option that should seriously be considered.”¶ House minority leader Nancy Pelosi said last week that she disagrees with Obama’s decision not to act unilaterally during a 2011 standoff over increasing the debt limit. “I would never have taken it off the table,” the California Democrat said.¶ White House lawyers don’t see that as an option, Sperling and Pfeiffer said today at a Bloomberg Government luncheon.¶ “Our folks have never found that there was such extraordinary authority,” Sperling said.¶ Not Practical¶ Pfeiffer said employing such a tactic is impractical.¶ “Would people buy bonds that are legally questionable?” he said. “If you were buying a car, would you ever buy a car when the title was in doubt? The answer to that question is no.”¶ “I don’t know why we would assume that investors would buy bonds that are legally in question, that could at any day be invalidated by a court,” he said. “So it is an impractical solution to the problem.”¶ Proponents cite the language of the 14th amendment, which says that the “validity of the public debt of the United States, authorized by law, including debts incurred for payments of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned.”¶ Obama and his advisers have consistently rejected using the amendment to justify raising the debt ceiling without Congressional support.

### 2NC---AT: UQ Overwhelms (Boehner Concession)

#### Wrong --- the GOP will still pushback and try to extract concessions

Lori Montgomery 10/3/13, writer for the Washington Post, and Ed O’Keefe, “GOP lawmakers: Boehner tells colleagues he will avoid a default on federal debt,” Washington Post, http://www.washingtonpost.com/politics/on-day-3-of-shutdown-focus-turns-to-debt-ceiling-deadline/2013/10/03/21f42abc-2c24-11e3-8ade-a1f23cda135e\_story.html

“Speaker Boehner has always said that the United States will not default on its debt, but if we’re going to raise the debt limit, we need to deal with the drivers of our debt and deficits,” Boehner spokesman Michael Steel said in a written statement.¶ The shift in strategy among Republicans caused a brief sensation Thursday, as political analysts speculated that Boehner, who has long acknowledged the dangers of a default, may be ready to give up the fight. But Republicans pushed back hard against that idea. Although it may have been a mistake to shut down the government in a fruitless quest to dismantle Obama's health-care law, they said, that does not mean they will roll over on the debt limit without concessions from Democrats.

### 2NC---AT: UQ Overwhelms

#### Fights caused by the plan distract from congressional efforts to resolve the debt ceiling --- collapses the economy

Norm Ornstein 13, resident scholar at the American Enterprise Institute, 9/1/13, Showdowns and Shutdowns, www.foreignpolicy.com/articles/2013/09/01/showdowns\_and\_shutdowns\_syria\_congress\_obama

Then there is the overload of business on the congressional agenda when the two houses return on Sept. 9 -with only nine legislative days scheduled for action in the month. We have serious confrontations ahead on spending bills and the debt limit, as the new fiscal year begins on Oct. 1 and the debt ceiling approaches just a week or two thereafter. Before the news that we would drop everything for an intense debate on whether to strike militarily in Syria, Congress-watchers were wondering how we could possibly deal with the intense bargaining required to avoid one or more government shutdowns and/or a real breach of the debt ceiling, with devastating consequences for American credibility and the international economy. Beyond the deep policy and political divisions, Republican congressional leaders will likely use both a shutdown and the debt ceiling as hostages to force the president to cave on their demands for deeper spending cuts. Avoiding this end-game bargaining will require the unwavering attention of the same top leaders in the executive and legislative branches who will be deeply enmeshed in the Syria debate. The possibility -even probability -of disruptions caused by partial shutdowns could complicate any military actions. The possibility is also great that the rancor that will accompany the showdowns over fiscal policy will bleed over into the debate about America and Syria.

#### It’ll come down to the wire --- this time is different

Garcia 9/26/13 Macroeconomic Leading Economist Writer for Financial Times’ Alphaville, formerly Dow Jones Financial news Writer [Cardiff Garcia, Meet the new idiots, same as the… actually these idiots might be worse, <http://ftalphaville.ft.com/2013/09/26/1647792/meet-the-new-idiots-same-as-the-actually-these-idiots-might-be-worse/>]

To the seasoned finance blogger, US Congressional asshattery lacks the terrifying intrigue it had in 2011.¶ The world was in worse shape back then. It was pre-LTROs in Europe and high season for Eur-exit speculation, while in the US we were confronting another dispiriting summer slowdown and the legitimate possibility of a double-dip recession. As the possibility that the debt ceiling wouldn’t be lifted in time became frighteningly real, financial markets started flashing signs of acute distress, and consumer confidence cratered.¶ We got through it. The debt ceiling was raised enough to avoid approaching it again until after the end of the 2012 election. Earlier this year, notwithstanding the Trillion Dollar Coin distraction, the ceiling was raised once more.¶ And given the many fiscal battles of the past three years, some of which were the result of the 2011 agreement — the fiscal cliff, sequestration cuts, government shutdowns averted by continuing resolutions — it’s all become quite stale. And it’s also been easy to think that once again Congress will come to its senses at the last minute and, at the very least, avoid catastrophe.¶ But we just came across this piece by Ezra Klein arguing that the dispute between Republicans and Democrats this year is worse than it was in 2011, when they actually agreed on a few things:¶ In 2013, however, the parties don’t agree on anything:¶ 1) Republicans believe Obamacare’s unpopularity gives them a mandate to defund or delay the law. Democrats believe that their victory in the last election gives them a mandate to implement their agenda.¶ 2) Republicans believe there should be negotiations around raising the debt ceiling. Democrats emphatically don’t. Currently, there are no ongoing negotiations, nor any plan for them.¶ 3) Republicans believe the aim of these negotiations should be defunding or delaying Obamacare. Democrats say they will not, under any circumstances, delay or defund Obamacare.¶ There is, quite literally, no shared ground for a deal. Democrats and Republicans disagree on everything from the principle of negotiations to the potential objective of those negotiations. …¶ Most in Washington and on Wall Street hold to a serene faith that the two parties will figure something out. And that’s probably right. But in interviews with both Democratic and Republican staff from the House and Senate leadership, as well as the White House, I have yet to hear a plausible story for how they figure something out.¶ We don’t have much more to add with respect to the politics, which has never been our specialty. Klein’s points resemble those made in a recent post by Stan Collender, who also worries about the extent to which the Congressional Republican leadership has control over its own members. See also Paul Krugman.¶ It seems at the moment as if the decision about whether to pass another continuing resolution or shut down the government will come down to the wire next week. A government shutdown wouldn’t be a complete disaster, especially if it’s short-lived, and double-especially if an agreement to get it up and running again helps lead to a deal on the debt ceiling.

### 2NC---XT Debt Ceiling Kills Econ

#### The impacts are irreversible

Reuters 9/17/13 (“Treasury urges Congress to act now on U.S. debt ceiling,” <http://www.reuters.com/article/2013/09/17/us-usa-debt-idUSBRE98G0KD20130917>)

Treasury Secretary Jack Lew on Tuesday warned Congress against waiting until the last minute to raise the nation's limit on borrowing, saying a misstep could irrevocably damage the economy. "We cannot afford for Congress to gamble with the full faith and credit of the United States," Lew told the Economic Club of Washington, a business forum. The government has been scraping up against its $16.7 trillion debt limit since May but has avoided defaulting on any bills by employing emergency measures to manage its cash, such as suspending investments in pension funds for federal workers. Lew repeated a warning he made last month that Treasury would run out of borrowing options around mid-October, when he said that Treasury would be left with only around $50 billion in cash on hand. Default could come soon after that. As America runs lows on cash there is a risk investors could lose confidence in Washington and stop reinvesting in U.S. government debt. Every Thursday, the Treasury pays investors back about $100 billion that investors immediately lend back to the government, a process known as rolling over the debt. "If U.S. bond holders decided that they wanted to be repaid rather than continuing to roll over their investments, we could unexpectedly dissipate our entire cash balance," Lew said. Any default on the nation's debts could be calamitous for the U.S. economy. A default would rock Wall Street and hurt businesses and families by fueling a sharp increase in interest rates.

#### It would wreck all forms of business confidence

Davis 9/23/13 (Susan, USA Today, “Clock ticking on shutdown, with 'Obamacare' center stage; GOP ties health care law to two budget deadlines” lexis)

However the stopgap spending bill is resolved, soon after it lurks a fiscal fight that holds greater consequences to the U.S. and global economies. "Shutting down the government is one bad thing, but you shut it down, you open it up again," said Minority Leader Nancy Pelosi, D-Calif., "Not lifting the debt limit is unleashing a torrent, a river of no return. It is beyond cataclysmic." The nation has never defaulted. Though the exact impacts are unclear, there is broad consensus among economists, financial markets and most lawmakers that it would upend the markets. "If you don't raise the debt limit in time, you will be opening an economic Pandora's Box. It will be devastating to the economy," Moody's economist Mark Zandi testified before a congressional panel last week. He explained the consequences: "Consumer confidence will sharply decline, investor confidence, business confidence. Businesses will stop hiring, consumers will stop spending, the stock market will fall significantly in value, borrowing costs for businesses and households will rise."

#### Confidence is the key internal link to the economy

Goldmark 9/22/13 – Former budget director of New York State and publisher of the International Herald Tribune, Goldmark headed the climate program at the Environmental Defense Fund (Peter, Newsday (New York), lexis)

Apparently our closest ally couldn't quite figure out what they wanted to do either, and voted against supporting the president in his proposed military strike on Syria. The lifetime of the proposal for a military strike was briefer than expected - though long enough both to ask Congress to approve it and to allow the Syrians to move their chemical weapons. But before Congress could get around to debating the question, the Russians came up with a plan under which the Syrians would hand over their chemical weapons to an international force supervised, in part, by the Russians. After having said that you can't trust the Russians on Syria, the U.S. government leaped into their arms - even though their plan was dependent for both approval and enforcement on a UN Security Council where both Russia and China have a veto. And in the middle of all this, a group of influential senators from the president's own party attacked Obama's putative nominee to head the Federal Reserve before the choice was even announced. Yes, indeed, many of the weaknesses of the Obama administration have been on display over the past few months. They include not thinking clearly through the consequences of decisions and not communicating with the American people or world leaders in terms compelling and coherent enough to command support. And this is the government we are counting on to lead us through a difficult confrontation over approving a spending plan and raising the debt ceiling next month - a crisis with enormous potential to disrupt the economy and harm American families. What's at stake here? The financial system depends on confidence - confidence that debts will be paid, that governments will support their currencies, that large financial institutions will not fail, and that all the millions of retail financial payments and transactions on which families and businesses depend will continue. A failure or even a significant delay in agreeing on a financing and spending plan for the U.S. government could cause that web of trust and transactions to unravel in several places. And the very prospect of damage to that web could itself trigger a cascade of breaks in the system. The financial markets are skittish cats, as we have had painful reason to be reminded over the past several years. Consider, for example, the consequences of the inability of the U.S. government to assure an orderly market in the face of low or no demand for U.S. Treasury notes. Consider the impact on the U.S. economy and global confidence if the government were unable to fully meet its obligations under Social Security or Medicare and Medicaid in October or November, or had to stretch out payments to its contractors and vendors. What have the Republicans in the House said about this prospect? At least some have said they don't care. And this summer has taught us that under great pressure and against tough deadlines, this administration is not at its best. It would be a cruel outcome for Americans struggling to find work and make ends meet in a fragile recovery if a divided and incompetent government threw us back into a deeper recession. Fasten your seat belts, please. We are about to experience some turbulence.

### AT: PC Not Key---Top Level

#### PC is key and zero sum---best scholarship proves

Matthew N. Beckmann and Vimal Kumar 11, Profs Department of Political Science, @ University of California Irvine "How Presidents Push, When Presidents Win" Journal of Theoretical Politics 2011 23: 3 SAGE

Before developing presidents’ lobbying options for building winning coalitions on Capitol Hill, it is instructive to consider **cases where the president has no** political capital and no viable lobbying options. In such circumstances of **imposed passivity** (beyond offering a proposal), **a president’s fate is clear**: his proposals are subject to pivotal voters’ preferences. So if a president lacking political capital proposes to change some far-off status quo, that is, one on the opposite side of the median or otherwise pivotal voter, a (Condorcet) winner always exists, and it coincides with the pivot’s predisposition (Brady and Volden, 1998; Krehbiel, 1998) (see also Black (1948) and Downs (1957)). Considering that there tends to be substantial ideological distance between presidents and pivotal voters, positive presidential inﬂuence without lobbying, then, is not much inﬂuence at all.¶ As with all lobbyists, presidents looking to push legislation must do so indirectly by **push**ing the **lawmakers whom they need to pass it**. Or, as Richard Nesustadt artfully explained:¶ The essence of a President’s persuasive task, with congressmen and everybody else, is to induce them to believe that what he wants of them is what their own appraisal of their own responsibilities requires them to do in their interest, not his…Persuasion deals in the coin of self-interest with men who have some freedom to reject what they ﬁnd counterfeit. (Neustadt, 1990: 40) ¶ Fortunately for contemporary presidents, today’s White House affords its occupants an unrivaled supply of **persuasive carrots and sticks**. Beyond the ofﬁce’s unique visibility and prestige, among both citizens and their representatives in Congress, presidents may also sway lawmakers by using their discretion in budgeting and/or rulemaking, unique fundraising and campaigning capacity, control over executive and judicial nominations, veto power, or numerous other options under the chief executive’s control. Plainly, when it comes to the arm-twisting, brow-beating, and horse-trading that so often characterizes legislative battles, modern presidents are uniquely well equipped for the ﬁght. In the following we employ the omnibus concept of ‘presidential political capital’ to capture this conception of presidents’ positive power as persuasive bargaining.¶ Speciﬁ- cally, we deﬁne presidents’ political capital as the **class of tactics White House ofﬁcials employ to induce changes in lawmakers’ behavior.**¶Importantly, this conception of presidents’ positive power as persuasive bargaining not only **meshes with previous scholarship** on lobbying (see, e.g., Austen-Smith and Wright (1994), Groseclose and Snyder (1996), Krehbiel (1998: ch. 7), and Snyder (1991)), but also **presidential practice.** For example, Goodwin recounts how President Lyndon Johnson routinely allocated ‘rewards’ to ‘cooperative’ members:¶ The rewards themselves (and the withholding of rewards) . . . might be something as unobtrusive as receiving an invitation to join the President in a walk around the White House grounds, knowing that pictures of the event would be sent to hometown newspapers . . . [or something as pointed as] public works projects, military bases, educational research grants, poverty projects, appointments of local men to national commissions, the granting of pardons, and more. (Goodwin, 1991: 237) Of course, presidential political capital is a scarce commodity with a ﬂoating value. Even a favorabl[e]y situated president enjoys only a ﬁnite supply of political **capital**; **he can only promise or pressure so much**. What is more, this capital **ebbs and ﬂows as realities and/or perceptions change**. So, similarly to Edwards (1989), we believe presidents’ bargaining resources cannot fundamentally alter legislators’ predispositions, but rather operate ‘at the margins’ of US lawmaking, **however important those margins may be** (see also Bond and Fleisher (1990), Peterson (1990), Kingdon (1989), Jones (1994), and Rudalevige (2002)). Indeed, our aim is to explicate those margins and show how **presidents may** systematically inﬂuence them.

## Solvency

#### Drones destroy U.S. credibility---outweighs detention

Stephen Holmes 13, the Walter E. Meyer Professor of Law, New York University School of Law, July 2013, “What’s in it for Obama?,” The London Review of Books, <http://www.lrb.co.uk/v35/n14/stephen-holmes/whats-in-it-for-obama>

On the basis of undisclosed evidence, evaluated in unspecified procedures by rotating personnel with heterogeneous backgrounds, the US is continuing to kill those it classifies as suspected terrorists in Somalia, Yemen and Pakistan. It has certainly been eliminating militants who had nothing to do with 9/11, including local insurgents fighting local battles who, while posing no realistic threat to America, had allied themselves opportunistically with international anti-American jihadists. By following the latter wherever they go, the US is allowing ragtag militants to impose ever new fronts in its secret aerial war. Mistakes are made and can’t be hidden, at least not from local populations. Nor can the resentment of surrounding communities be easily assuaged. This is because, even when it finds its target, the US is killing not those who are demonstrably guilty of widely acknowledged crimes but rather those who, it is predicted, will commit crimes in the future. Of course, the civilian populations in the countries where these strikes take place will never accept the hunches of CIA or Pentagon futurologists. And so they will never accept American claims about the justice of Obama’s slimmed-down war on terror, but instead claim the right of self-defence, and this would be true even if drone operators could become as error-free as Brennan once claimed they already are. But of course collateral damage and mistaken-identity strikes will continue. They are inevitable accompaniments of all warfare. And they, too, along with intentional killings that are never publicly justified, will communicate resoundingly to the world that the arbitrary and unpredictable killing of innocent Muslims falls within America’s commodious concept of a just war.

The rage such strikes incite will be all the greater if onlookers believe, as seems likely, that the killing they observe makes relatively little contribution to the safety of Americans. Indeed, this is already happening, which is the reason that the drone, whatever its moral superiority to land armies and heavy weaponry, has replaced Guantánamo as the incendiary symbol of America’s indecent callousness towards the world’s Muslims. As Bush was the Guantánamo president, so Obama is the drone president. This switch, whatever Obama hoped, represents a worsening not an improvement of America’s image in the world.

# Legitimacy Adv

### Soft Power Not Key to Heg

#### Legitimacy’s inevitable and not key to heg

Brooks and Wohlforth, 9 (Stephen Brooks and William Wohlforth, both are professors of Government at Dartmouth, “Reshaping the world order: how Washington should reform international institutions,” Foreign Affairs, March-April)

FOR ANALYSTS such as Zbigniew Brzezinski and Henry Kissinger, the key reason for skepticism about the United States' ability to spearhead global institutional change is not a lack of power but a lack of legitimacy. Other states may simply refuse to follow a leader whose legitimacy has been squandered under the Bush administration; in this view, the legitimacy to lead is a fixed resource that can be obtained only under special circumstances. The political scientist G.John Ikenberry argues in After Victory that states have been well positioned to reshape the institutional order only after emerging victorious from some titanic struggle, such as the French Revolution, the Napoleonic Wars, or World War I or II. For the neoconservative Robert Kagan, the legitimacy to lead came naturally to the United States during the Cold War, when it was providing the signal service of balancing the Soviet Union. The implication is that today, in the absence of such salient sources of legitimacy, the wellsprings of support for U.S. leadership have dried up for good. But this view is mistaken. For one thing, it overstates how accepted U.S. leadership was during the Cold War: anyone who recalls the Euromissile crisis of the 1980s, for example, will recognize that mass opposition to U.S. policy (in that case, over stationing intermediaterange nuclear missiles in Europe) is not a recent phenomenon. For another, it understates how dynamic and malleable legitimacy is. Legitimacy is based on the belief that an action, an actor, or a political order is proper, acceptable, or natural. An action - such as the Vietnam War or the invasion of Iraq - may come to be seen as illegitimate without sparking an irreversible crisis of legitimacy

for the actor or the order. When the actor concerned has disproportionately more material resources than other states, the sources of its legitimacy can be refreshed repeatedly. After all, this is hardly the first time Americans have worried about a crisis of legitimacy. Tides of skepticism concerning U.S. leadership arguably rose as high or higher after the fall of Saigon in 1975 and during Ronald Reagan's first term, when he called the Soviet Union an "evil empire." Even George W. Bush, a globally unpopular U.S. president with deeply controversial policies,oversaw a marked improvement in relations with France, Germany, and India in recent years - even before the elections of Chancellor Angela Merkel in Germany and President Nicolas Sarkozy in France. Of course, the ability of the United States to weather such crises of legitimacy in the past hardly guarantees that it can lead the system in the future. But there are reasons for optimism. Some of the apparent damage to U.S. legitimacy might merely be the result of the Bush administration's approach to diplomacy and international institutions. Key underlying conditions remain particularly favorable for sustaining and even enhancing U.S. legitimacy in the years ahead. The United States continues to have a far larger share of the human and material resources for shaping global perceptions than any other state, as well as the unrivaled wherewithal to produce public goods that reinforce the benefits of its global role. No other state has any claim to leadership commensurate with Washington's. And largely because of the power position the United States still occupies, there is no prospect of a counterbalancing coalition emerging anytime soon to challenge it. In the end, the legitimacy of a system's leader hinges on whether the system's members see the leader as acceptable or at least preferable to realistic alternatives. Legitimacy is not necessarily about normative approval: one may dislike the United States but think its leadership is natural under the circumstances or the best that can be expected. Moreover, history provides abundant evidence that past leading states - such as Spain, France, and the United Kingdom - were able to revise the international institutions of their day without the special circumstances Ikenberry and Kagan cite. Spainfashioned both normative and positive laws to legitimize its conquest of indigenous Americans in the early seventeenth century; France instituted modern concepts of state borders to meet its needs as Europe's preeminent land power in the eighteenth century; and the United Kingdom fostered rules on piracy, neutral shipping, and colonialism to suit its interests as a developing maritime empire in the nineteenth century. As Wilhelm Grewe documents in his magisterial The Epochs of International Law, these states accomplished such feats partly through the unsubtle use of power: bribes, coercion, and the allure oflucrative long-term cooperation. Less obvious but often more important, the bargaining hands of the leading states were often strengthened by the general perception that they could pursue their interests in even less palatable ways - notably, through the naked use of force. Invariably, too, leading states have had the power to set the international agenda, indirectly affecting the development of new rules by defining the problems they were developed to address. Given its naval primacy and global trading interests, the United Kingdom was able to propel the slave trade to the forefront of the world's agenda for several decades after it had itself abolished slavery at home, in 1833. The bottom line is that the UnitedStates today has the necessary legitimacy to shepherd reform of the international system.

### Multilat Fails---Warming Specific

#### No climate multilat — global agreements fail — insiders prove

Olga Belogolova 12, reports on energy and environment policy for National Journal and manages the bi-monthly Energy and Environment Insiders Poll, 6/21/12, “Insiders: Global Conferences Becoming Obsolete,” [www.nationaljournal.com/energy/insiders-global-conferences-becoming-obsolete-20120620?page=1](http://www.nationaljournal.com/energy/insiders-global-conferences-becoming-obsolete-20120620?page=1)

This week, Secretary of State Hillary Rodham Clinton is heading up the U.S. delegation tothe United Nations Rio+20 Summit on sustainable development, but no one seems to be paying much attention.Part of the problem is the collapse of public confidence in the U.N. process and the inability of recent global conferences such as Rio to produce measurable results. ¶ In light of this trend, most National Journal Insiders say that it’s time for negotiators to trade in mammoth environment and climate summits for smaller, focused meetings that might yield more results.¶ Fifty-three percent of Insiders say that the world should forgo the high-profile conferences like Rio+20 and the U.N. climate summit later this year for smaller, more incremental meetings. ¶Recent global environmental summits have seen divisions between developed and developing countries and clashes between those with big goals and those with smaller appetites for action. The result has been few meaningful agreements, and most Insiders say they don’t expect much more from Rio this week. ¶Big conferences, Insiders said, are unmanageable and too ambitious. Too often, they are “used more for grandstanding rather than focusing on narrow regional issues that can actually be practical and drive down greenhouse-gas emissions,” said one Insider. ¶“Little of substance has been accomplished in these conferences. It’s time to pursue a different strategy,” said another Insider. ¶ Some Insiders went so far as to argue that U.N. conferences, as a whole, are obsolete, calling the process a “manufactured and failed apparatus.”¶ “For years, these conferences have been a boondoggle,” one Insider said. “The world would be better off [if] the geniuses at the U.N. stopped having meetings [altogether],” said another.¶Still, 47 percent of Insiders argued that global conferences serve an important purpose. Without the high-profile nature of these meetings, pressure for change will slacken and there will not be any incentives to achieve results on environmental problems.¶ “Without the periodic high-profile conferences, there would be no impetus to achieve progress in the smaller incremental meetings,” said one Insider.¶ Another Insider added that “smaller, more incremental meetings would still be ineffective, since they would be attended by lower-ranking officials with even less decisional authority.”¶ Some Insiders said that the small meetings will work only if they are alongside ambitious, major conferences. ¶ “It is not an either/or choice,” explained one Insider. “Large events are important for galvanizing interest, but only in closed small-bore settings can we expect results.”¶ Another Insider summed it up this way: “The world needs to continue talking about these issues if it [is] ever going to come up with solutions.” ¶Regardless of some support for the overall U.N. process,100 percent of Insiders still agreed that the Rio+20 Summit going on this week will not yield any meaningful results. Insiders cited the global financial crisis, arguing that it will hold back countries from making commitments or keeping them. ¶"With the world focused on global economic issues, there is not enough oxygen left in the room to make meaningful progress on environmental issues," said one Insider. ¶"The world isn't in a position to agree to much right now," added another. Even if there is any progress, Insiders said that it would be minimal.

### Multilat Fails---U.S. Won’t Engage

#### US engagement in multilat will never be strong enough to make it effective --- they can’t change this

Vezirgiannidou, 13 - Lecturer in International Organizations, University of Birmingham (SEVASTI-ELENI, “The United States and rising powers in a post-hegemonic global order,” International Affairs, May, Wiley Online)

The current US approach to rising powers, which engages them as equals in informal forums with little ‘hard’ law capabilities, while being passive or hesitant in reforming international institutions where it has a primary role (and a veto), exemplifies its own commitment to sovereignty and freedom of action in international politics. The US is just as reluctant as the BRICS to be bound by hard law commitments. It also indicates a lukewarm commitment to sharing its power with rising powers in hard law institutions. Some of this reluctance may be attributable to the constraints of congressional politics (and American exemptionalism); its strength can also depend on who sits in the White House and who his advisers are.118 Irrespective of the cause, this reluctance to share power formally while promoting multilateralism in informal settings is likely to have transformative implications on global order if it continues.¶ Specifically, the resulting order will become more plurilateral than multilateral, with the exclusion of minor powers and most decision­making moving into forums like the G20. It will also shift to more ‘soft law’ policy­making, as informal institutions will be less intrusive on sovereignty but also less able to move far beyond political declarations followed up on a voluntary basis. Finally, it is also likely to be more fragmented, as each power establishes a ‘sphere of influence’ in its region. This kind of order will not necessarily be more unstable, but even in such an order the US will have to accept some limits to its exercise of power abroad; it will not, though, be limited in its domestic policies, thus satisfying the exemptionalists in Congress. However, US policy­makers should be aware of the direction in which their current choices are moving global order; if they do not desire such an order, they should question their strategy towards both rising and minor powers and should show more leadership in the reform of formal institutions.

#### Multilateral coop will always structurally fail regardless of their internal link

Barma et al., 13 (Naazneen, assistant professor of national-security affairs at the Naval Postgraduate School; Ely Ratner, a fellow at the Center for a New American Security; and Steven Weber, professor of political science and at the School of Information at the University of California, Berkeley, March/April 2013, “The Mythical Liberal Order,” The National Interest, http://nationalinterest.org/print/article/the-mythical-liberal-order-8146)

Assessed against its ability to solve global problems, the current system is falling progressively further behind on the most important challenges, including financial stability, the “responsibility to protect,” and coordinated action on climate change, nuclear proliferation, cyberwarfare and maritime security. The authority, legitimacy and capacity of multilateral institutions dissolve when the going gets tough—when member countries have meaningfully different interests (as in currency manipulations), when the distribution of costs is large enough to matter (as in humanitarian crises in sub-Saharan Africa) or when the shadow of future uncertainties looms large (as in carbon reduction). Like a sports team that perfects exquisite plays during practice but fails to execute against an actual opponent, global-governance institutions have sputtered precisely when their supposed skills and multilateral capital are needed most. ¶ WHY HAS this happened? The hopeful liberal notion that these failures of global governance are merely reflections of organizational dysfunction that can be fixed by reforming or “reengineering” the institutions themselves, as if this were a job for management consultants fiddling with organization charts, is a costly distraction from the real challenge. A decade-long effort to revive the dead-on-arrival Doha Development Round in international trade is the sharpest example of the cost of such a tinkering-around-the-edges approach and its ultimate futility. Equally distracting and wrong is the notion held by neoconservatives and others that global governance is inherently a bad idea and that its institutions are ineffective and undesirable simply by virtue of being supranational. ¶ The root cause of stalled global governance is simpler and more straightforward. “Multipolarization” has come faster and more forcefully than expected. Relatively authoritarian and postcolonial emerging powers have become leading voices that undermine anything approaching international consensus and, with that, multilateral institutions. It’s not just the reasonable demand for more seats at the table. That might have caused something of a decline in effectiveness but also an increase in legitimacy that on balance could have rendered it a net positive.¶ Instead, global governance has gotten the worst of both worlds: a decline in both effectiveness and legitimacy. The problem is not one of a few rogue states acting badly in an otherwise coherent system. There has been no real breakdown per se. There just wasn’t all that much liberal world order to break down in the first place. The new voices are more than just numerous and powerful. They are truly distinct from the voices of an old era, and they approach the global system in a meaningfully different way.¶

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## Intel DA

#### B. Turns WOT

Anna-Katherine Staser McGill 12, School of Graduate and Continuing Studies in Diplomacy, Norwich University, David Gray, Campbell University, Summer 2012, “Challenges to International Counterterrorism Intelligence Sharing,” http://globalsecuritystudies.com/McGill%20Intel%20Share.pdf

In his article “Old Allies and New Friends: Intelligence-Sharing in the War on Terror”, Derek Reveron states “the war on terror requires high levels of intelligence to identify a threat relative to the amount of force required to neutralize it” as opposed to the Cold War where the opposite was true (455). As a result, intelligence is the cornerstone of effective counterterrorism operations in the post 9/11 world. Though the United States has the most robust intelligence community in the world with immense capability, skills, and technology, its efficiency in counterterrorism issues depends on coalitions of both traditional allies and new allies. Traditional allies offer a certain degree of dependability through a tried and tested relationship based on similar values; however, newly cultivated allies in the war on terrorism offer invaluable insight into groups operating in their own back yard. The US can not act unilaterally in the global fight against terrorism. It doesn’t have the resources to monitor every potential terrorist hide-out nor does it have the time or capability to cultivate the cultural, linguistic, and CT knowledge that its new allies have readily available. The Department of Defense’s 2005 Quadrennial Review clearly states that the United States "cannot meet today's complex challenges alone. Success requires unified statecraft: the ability of the U.S. government to bring to, bear all elements of national power at home and to work in close cooperation with allies and partners abroad" (qtd in Reveron, 467). The importance of coalition building for the war on terrorism is not lost on US decision-makers as seen by efforts made in the post 9/11 climate to strengthen old relationships and build new ones; however, as seen in the following sections, the possible hindrances to effective, long term CT alliances must also be addressed in order to sustain current operations.

#### C. Independently causes nuclear war---intel is key to prevent WMD use

John Yoo 4, Emanuel S. Heller Professor of Law @ UC-Berkeley Law, visiting scholar @ the American Enterprise Institute, former Fulbright Distinguished Chair in Law @ the University of Trento, served as a deputy assistant attorney general in the Office of Legal Council at the U.S. Department of Justice between 2001 and 2003, received his J.D. from Yale and his undergraduate degree from Harvard, “War, Responsibility, and the Age of Terrorism,” UC-Berkeley Public Law and Legal Theory Research Paper Series, http://works.bepress.com/cgi/viewcontent.cgi?article=1015&context=johnyoo

Third, the nature of warfare against such unconventional enemies may well be different from the set-piece battlefield matches between nation-states. Gathering intelligence, from both electronic and human sources, about the future plans of terrorist groups may be the only way to prevent September 11-style attacks from occurring again. Covert action by the Central Intelligence Agency or unconventional measures by special forces may prove to be the most effective tool for acting on that intelligence. Similarly, the least dangerous means for preventing rogue nations from acquiring WMD may depend on secret intelligence gathering and covert action, rather than open military intervention. A public revelation of the means of gathering intelligence, or the discussion of the nature of covert actions taken to forestall the threat by terrorist organizations or rogue nations, could render the use of force ineffectual or sources of information useless. Suppose, for example, that American intelligence agencies detected through intercepted phone calls that a terrorist group had built headquarters and training facilities in Yemen. A public discussion in Congress about a resolution to use force against Yemeni territory and how Yemen was identified could tip-off the group, allowing terrorists to disperse and to prevent further interception of their communications.

## Terrorism DA

### Link---General

#### Broad detention powers are key to the War on Terror

Michael Tomatz 13, Colonel, B.A., University of Houston, J.D., University of Texas, LL.M., The Army Judge Advocate General Legal Center and School (2002); serves as the Chief of Operations and Information Operations Law in the Pentagon. AND Colonel Lindsey O. Graham B.A., University of South Carolina, J.D., University of South Carolina, serves as the Senior Individual Mobilization Augmentee to The Judge Advocate Senior United States Senator from South Carolina, “NDAA 2012: CONGRESS AND CONSENSUS ON ENEMY DETENTION,” 69 A.F. L. Rev. 1

In simplest terms, the statute authorizes military detention of al-Qaeda, the Taliban or associated forces enemy personnel, as well as any persons committing belligerent acts or directly supporting hostilities in aid of the enemy. If ten years of experience have taught us anything, it is that this is a unusual conflict where enemy forces fail to distinguish themselves from civilians, where terrorist enemies may be U.S. citizens or citizens of friendly countries, where the battle space defies geographic delimitation, and where it is difficult to define with particularity how the conflict will end. When legislating, Congress necessarily paints with a broad brush, and it would be impractical and likely counterproductive for Congress to define with precise granularity who may be subject to detention, particularly when this legislation is future-oriented and meant not only to apply to those who planned, committed or aided in the attacks of 9/11 but also to al-Qaeda, the Taliban or associated forces engaged in hostilities now or in the future against the United States in Afghanistan and throughout the world. Section 1021(b) does, however, tailor the statute's scope of application by excluding other recognized terrorists groups that are not a part of and have never substantially supported or associated with al-Qaeda or the Taliban. It also limits covered persons and would exclude, for example, al-Qaeda sympathizers and others who may profess extremist beliefs but have otherwise not directly supported hostilities or committed any belligerent acts in support of al-Qaeda or associated enemy forces. n14

#### Plan prevents the broad powers needed to combat terrorism

Eric Posner 09, professor at the University of Chicago Law School, “Destructive technologies require us to re-assess civil liberties,” http://www.bostonreview.net/eric-posner-keeping-us-safe-destructive-technologies-require-us-to-reassess-civil-liberties

As highly destructive weapons become cheaper, smaller, and more transportable, they pose a greater risk to the lives of innocent people. Not only terrorist organizations like al Qaeda, but also states and ordinary criminal gangs can exploit these advances in weapons technology. Meanwhile, governments and private firms strive to develop defensive technologies that adequately counter the new weapons. These technological developments have produced improved surveillance techniques, screening machines, encryption and decryption devices, drones and other robot craft, vaccines, data mining algorithms, hazardous substance detectors, and much else. Unfortunately, technology still favors offense over defense, putting civilians at greater risk from small groups than at any time in recent memory.¶ The difference between the general problem posed by the offensive capabilities of modern technology and the particular problem posed by al Qaeda was not lost on the U.S. government after 9/11. The executive branch sought broad powers to address any terrorist threat, not just al Qaeda, and it has exploited the search and surveillance powers obtained in the Patriot Act and later legislation against many actors.¶ Inherent in the functioning of these powers is a degree of restriction of civil liberties. Critics see the restrictions as excessive, but the rationale for Bush administration’s approach is straightforward. The standard package of civil liberties in the United States—including the right to a trial and other elements of criminal procedure and protections against surveillance and searches—makes sense in a society in which the police can provide adequate protection from criminal threats. But, to an extent that is rarely appreciated, this legal regime is contingent on a balance of offensive and defensive technologies. 9/11 made clear that the balance has shifted.¶ Once we understand that the civil liberties a society enjoys reflect a tradeoff between security (including protection from criminality as well as external military threats) and the benefits of freedom, and, further, that security at any point will reflect technological changes that are largely outside of that society’s control, we ought to appreciate the Bush administration’s impulse to restrict civil liberties after 9/11. The problem to which the Bush administration and Congress responded with laws like the Patriot Act was not so much the threat of al Qaeda itself, but the vulnerability of the United States to destructive weapons in the hands of anyone with hostile intent.¶ Cole’s proposal to expand powers of preventive detention against members of al Qaeda, while reasonable within the narrow scope of his agenda, fails to come to terms with the overall problem that 9/11 demands we recognize. What is to be done when the executive branch learns of an organization or even individual who it suspects has obtained, or is likely to obtain, weapons of mass destruction, but can’t convict of a crime? The executive can’t very well ask Congress to declare war against every new shadowy, but potentially harmless, institution or individual who briefly emerges into the light. And yet the implication of Cole’s approach is exactly that: no preventive detention regime to address a new threat until congressional authorization has been obtained.¶ I suspect that in the next years, even under a more liberal administration, Bush-era restrictions on civil liberties will be retained, at least to some extent. And they will be extended if new attacks occur. It is only a matter of time before a general preventive detention system, not limited to members of al Qaeda and associated groups, will be added to the criminal justice repertoire.¶ Cole’s preference for a preventive detention scheme that lurches into operation only after Congress declares war on a particular group rests on worries about executive overreaching. This approach, though well-grounded in history, is in tension with rule-of-law ideals, which promote generally applicable laws rather than laws retroactively aimed at particular individuals or groups. Under Cole’s approach, Congress will have to respond to new threats by declaring war against more and more groups and associations until Cole’s limited preventive detention scheme has general applicability. Indeed, it seems likely that, even in the absence of further declarations of war, courts would be willing to apply Cole’s scheme to any dangerous organization with a connection to radical Muslims, with al Qaeda playing just a symbolic role. Secular terrorists, and terrorists associated with other religions, would get a pass for the time being.¶ A general preventive detention law puts everyone on notice that certain activities will raise suspicions of criminal or military dangerousness, and would thus be more consistent with the rule-of-law values that Cole seeks to uphold.

### Link Wall

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

Gregory McNeal 08, Visiting Assistant Professor of Law, Pennsylvania State University Dickinson School of Law. The author previously served as an academic consultant to the former Chief Prosecutor, Department of Defense Office of Military Commissions, “ARTICLE: BEYOND GUANTANAMO, OBSTACLES AND OPTIONS,” August 08, 103 Nw. U. L. Rev. Colloquy 29

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

### AT: Recruitment

#### Weak detention responses emboldens terrorists

Andrew McCarthy 09, Director of the Center for Law & Counterterrorism at the Foundation for the Defense of Democracies. From 1985 through 2003, he was a federal prosecutor at the U.S. Attorney’s Office for the Southern District of New York, and was the lead prosecutor in the seditious conspiracy trial against Sheikh Omar Abdel Rahman and eleven others, described subsequently. AND Alykhan Velshi, a staff attorney at the Center for Law & Counterterrorism, where he focuses on the international law of armed conflict and the use of force, 8/20/09, “Outsourcing American Law,” AEI Working Paper, http://www.aei.org/files/2009/08/20/20090820-Chapter6.pdf

3. Terrorism prosecutions create the conditions for more terrorism. The treatment of a national security problem as a criminal justice issue has consequences that imperil Americans. To begin with, there are the obvious numerical and motivational results. As noted above, the justice system is simply incapable, given its finite resources, of meaningfully countering the threat posed by international terrorism. Of equal salience, prosecution in the justice system actually increases the threat because of what it conveys to our enemies. Nothing galvanizes an opposition, nothing spurs its recruiting, like the combination of successful attacks and a conceit that the adversary will react weakly. (Hence, bin Laden’s well-known allusion to people’s instinctive attraction to the “strong horse” rather than the “weak horse,” and his frequent citation to the U.S. military pullout from Lebanon after Hezbollah’s 1983 attack on the marine barracks, and from Somalia after the 1993 “Black Hawk Down” incident). For militants willing to immolate themselves in suicide-bombing and hijacking operations, mere prosecution is a provocatively weak response. Put succinctly, where they are the sole or principal response to terrorism, trials in the criminal justice system inevitably cause more terrorism: they leave too many militants in place and they encourage the notion that the nation may be attacked with relative impunity.

#### It’s impossible to solve cred or perception without completely banning drones

Stephen Holmes 13, the Walter E. Meyer Professor of Law, New York University School of Law, July 2013, “What’s in it for Obama?,” The London Review of Books, <http://www.lrb.co.uk/v35/n14/stephen-holmes/whats-in-it-for-obama>

On the basis of undisclosed evidence, evaluated in unspecified procedures by rotating personnel with heterogeneous backgrounds, the US is continuing to kill those it classifies as suspected terrorists in Somalia, Yemen and Pakistan. It has certainly been eliminating militants who had nothing to do with 9/11, including local insurgents fighting local battles who, while posing no realistic threat to America, had allied themselves opportunistically with international anti-American jihadists. By following the latter wherever they go, the US is allowing ragtag militants to impose ever new fronts in its secret aerial war. Mistakes are made and can’t be hidden, at least not from local populations. Nor can the resentment of surrounding communities be easily assuaged. This is because, even when it finds its target, the US is killing not those who are demonstrably guilty of widely acknowledged crimes but rather those who, it is predicted, will commit crimes in the future. Of course, the civilian populations in the countries where these strikes take place will never accept the hunches of CIA or Pentagon futurologists. And so they will never accept American claims about the justice of Obama’s slimmed-down war on terror, but instead claim the right of self-defence, and this would be true even if drone operators could become as error-free as Brennan once claimed they already are. But of course collateral damage and mistaken-identity strikes will continue. They are inevitable accompaniments of all warfare. And they, too, along with intentional killings that are never publicly justified, will communicate resoundingly to the world that the arbitrary and unpredictable killing of innocent Muslims falls within America’s commodious concept of a just war.

### HVT

#### Detention without trial is crucial to incapacitate high value terrorists

Jack Goldsmith 10, Henry L. Shattuck Professor at Harvard Law School, 10/8/10, “Don’t Try Terrorists, Lock Them Up,” http://www.nytimes.com/2010/10/09/opinion/09goldsmith.html

The real lesson of the ruling, however, is that prosecution in either criminal court or a tribunal is the wrong approach. The administration should instead embrace what has been the main mechanism for terrorist incapacitation since 9/11: military detention without charge or trial.¶ Military detention was once legally controversial but now is not. District and appellate judges have repeatedly ruled — most recently on Thursday — that Congress, in its September 2001 authorization of force, empowered the president to detain members of Al Qaeda, the Taliban and associated forces until the end of the military conflict.¶ Because the enemy in this indefinite war wears no uniform, courts have rightly insisted on high legal and evidentiary standards — much higher than what the Geneva Conventions require — to justify detention. And many detainees in cases that did not meet these standards have been released.¶ Still, while it is more difficult than ever to keep someone like Mr. Ghailani in military detention, it is far easier to detain him than to convict him in a civilian trial or a military commission. Military detention proceedings have relatively forgiving evidence rules and aren’t constrained by constitutional trial rules like the right to a jury and to confront witnesses. There is little doubt that Mr. Ghailani could be held in military detention until the conflict with Al Qaeda ends.¶ Why, then, does the Obama administration seek to prosecute him in federal court? One answer might be that trials permit punishment, including the death penalty. But the Justice Department is not seeking the death penalty against Mr. Ghailani. Another answer is that trials “give vent to the outrage” over attacks on civilians, as Judge Kaplan has put it. This justification for the trial is diminished, however, by the passage of 12 years since the crimes were committed.¶ The final answer, and the one that largely motivates the Obama administration, is that trials are perceived to be more legitimate than detention, especially among civil libertarians and foreign allies.¶ Military commissions have secured frustratingly few convictions. The only high-profile commission trial now underway — that of Omar Khadr, a Canadian who was 15 at the time he was detained — has been delayed for months. Commissions do not work because they raise scores of unresolved legal issues like the proper rules of evidence and whether material support and conspiracy, usually the main charges, can be brought in a tribunal since they may not be law-of-war violations.¶ Civilian trials in federal court, by contrast, often do work. Hundreds of terrorism-related cases in federal court have resulted in convictions since 9/11; this week, the would-be Times Square bomber, Faisal Shahzad, was sentenced to life in prison after a guilty plea.¶ But Mr. Ghailani and his fellow detainees at Guantánamo Bay are a different matter. The Ghailani case shows why the administration has been so hesitant to pursue criminal trials for them: the demanding standards of civilian justice make it very hard to convict when the defendant contests the charges and the government must rely on classified information and evidence produced by aggressive interrogations.¶ A further problem with high-stakes terrorism trials is that the government cannot afford to let the defendant go. Attorney General Eric Holder has made clear that Khalid Shaikh Mohammed, the 9/11 plotter, would be held indefinitely in military detention even if acquitted at trial. Judge Kaplan said more or less the same about Mr. Ghailani this week. A conviction in a trial publicly guaranteed not to result in the defendant’s release will not be seen as a beacon of legitimacy.¶ The government’s reliance on detention as a backstop to trials shows that it is the foundation for incapacitating high-level terrorists in this war. The administration would save money and time, avoid political headaches and better preserve intelligence sources and methods if it simply dropped its attempts to prosecute high-level terrorists and relied exclusively on military detention instead.

#### Detention powers are key to disrupt terror ops

Stephanie Blum 09, attorney for the Transportation Security Administration. She received a master’s degree in security studies from the Naval Postgraduate School in December 2008. She received a law degree from The University of Chicago Law School in 1999, “The Why and How of Preventative Detention in the War on Terror,” http://www.brookings.edu/~/media/research/files/papers/2009/2/09%20detention%20goldsmith/0209\_detention\_goldsmith.pdf

A second reason for preventive detention and President Bush’s enemy-combatant policy is incapacitation. As explained previously, the battlefield in this war on terror is no longer an actual zone of combat but includes otherwise peaceful civilian areas. Incapacitation as a rationale for preventive detention is obviously more compelling if the terrorist suspect is detained by military personnel on an actual battlefield during hostilities, such as Hamdi, but loses some persuasiveness when the terrorist suspect is detained by the FBI in an American city that is not involved in a battle, such as Padilla and al-Marri. An argument can be made, however, that terrorists, if not incapacitated when caught in a civilian area, may then leave for a zone of combat in Afghanistan or Iraq, or commit terrorist attacks in civilian areas. Critics respond that the criminal justice system can incapacitate terrorist suspects caught in a peaceful civilian area by the filing of criminal charges—not by labeling them as enemy combatants when they are not captured in a zone of combat. While it would be impractical to require “soldiers in the field to worry about warrants, lawyers, Miranda, forensic evidence, and chains of custody if we want to win the war on terrorism,”146 such an argument cannot honestly apply to the situations of Padilla and al-Marri, who were detained in the U.S. by the FBI (not soldiers) and not on an actual battlefield.¶ During the oral argument in Hamdi, Clement argued that incapacitation of Hamdi was a legitimate rationale for designating him an enemy combatant.147 Clement posited that the Bush Administration needed to detain Hamdi so he would not rejoin the battlefield while the United States had 10,000 American troops in Afghanistan.148 According to an affidavit from a DOD official (i.e., the Mobbs declaration), Hamdi surrendered to the Northern Alliance who turned him over to U.S. authorities. Thus, the Mobbs declaration is based on hearsay from a Northern Alliance official who informed the United States that Hamdi was fighting for the Taliban in Afghanistan with an assault rifle.149 Significantly, Hamdi was never allowed to challenge the facts presented in this affidavit. According to his father, Hamdi was in Afghanistan on a humanitarian mission.¶ Justice O’Connor, in her plurality opinion in Hamdi, explicitly upheld incapacitation as a justification for preventive detention as long as the individual was held only for the duration of hostilities and allowed an opportunity to challenge the designation as an enemy combatant: “Because detention to prevent combatant’s return to the battlefield is a fundamental incident of waging war, in permitting the use of ‘necessary and appropriate force,’ Congress has clearly and unmistakably authorized detention in the narrow circumstances considered here.”150 Significantly, after this ruling, the Bush Administration did not provide Hamdi a meaningful opportunity to challenge his designation as an enemy combatant or the underlying facts asserted in the Mobbs declaration. Rather, in October 2004, the government released Hamdi to Saudi Arabia after it determined that he no longer posed a threat to the United States, thereby undermining—to some extent—the Bush Administration’s rationale for detaining this dangerous individual.151¶ Nonetheless, there is evidence to suggest that al-Qaeda detainees who have been released have returned to the battlefield.152 In April 2008, a Kuwaiti man released from Guantanamo Bay in 2005 blew himself up in a suicide bombing in Iraq killing six people.153 The Bush Administration stated “that as many as 12 people released from Guantanamo . . . returned to the battlefield to fight . . . against U.S. interests.”154¶ Although the Supreme Court has upheld the rationale of incapacitation of a terrorist suspect caught in an active zone of combat (e.g., Hamdi), it has not addressed whether incapacitation of terrorist suspects caught by the FBI in an American city is justified (e.g., Padilla and al-Marri). Certainly, in some cases, the filing of criminal charges is one uncontroversial way to incapacitate terrorist suspects caught in a civilian area. Yet, advocates of preventive detention argue that there may not be sufficient admissible evidence to detain a terrorist suspect under the traditional criminal justice system. For instance, a foreign government may provide intelligence about an individual but refuse to provide any admissible evidence, the evidence may have been obtained by unsavory means and therefore inadmissible, or the evidence could compromise sources and methods. Michael Chertoff, former federal appellate judge and former Secretary of Homeland Security, asked a chilling question at an American Bar Association Standing Committee on Law and National Security meeting in 2004.155 He assumed it was September 10, 2001, and FBI agents just received word from a reliable and confidential source that members of an international terrorist organization were planning to hijack commercial airliners and bomb New York and Washington, D.C. Chertoff pondered what the FBI could legally do.156 While FBI agents could arrest the members to disrupt their plans, it would be hard to hold them on specific charges based on the confidential nature of the sources and the hearsay nature of the evidence. It would seem, at a minimum, that these individuals should be arrested and incapacitated at least for a short time to disrupt their plans. Such incapacitation, however, would negate the idea of innocent until proven guilty. Chertoff suggested that America needed changes to its current legal system that balance these real security threats with civil liberties.157 According to former Deputy Attorney General George Terwilliger, “the use of criminal prosecutions to incapacitate terrorists is proving to be clumsy, inadequate and, civil libertarians should note, taking law enforcement powers where they have never gone before.”158 Thus, it appears that one rationale for preventive detention is interruption of plans, even if specific criminal charges cannot be made within forty-eight hours of arrest, as is the usual requirement under the Fourth Amendment of the Constitution.159

### AT: Gitmo

#### GITMO is a drop in bucket

David Welsh 11, J.D. from the University of Utah, “Procedural Justice Post-9/11: The Effects of Procedurally Unfair Treatment of Detainees on Perceptions of Global Legitimacy”, http://law.unh.edu/assets/images/uploads/publications/unh-law-review-vol-09-no2-welsh.pdf

Although this paper focuses specifically on the detention of suspected terrorists at the Guantanamo Bay Detention Camp (Guantanamo Bay),34 this facility is but one of many detention centers holding suspected terrorists on behalf of the United States.35 Today, approximately 250 prisoners (out of approximately 800) remain at this U.S.-run military base in Cuba that is outside U.S. legal jurisdiction.36 However, it is critical to note that these 250 individuals represent a mere 1% of “approximately 25,000 detainees worldwide held directly or indirectly by or on behalf of the United States.”37 Prisoners have alleged torture, sexual degradation, religious persecution,38 and many other specific forms of mistreatment while being detained.39 In many detention facilities including Guantanamo Bay, Abu Ghraib, and Bagram, these allegations are substantiated by significant evidence and have gained worldwide attention.40