# Aff vs. UNT AS

# 1AC

### Same as UMKC Rd 5

# 2AC

## Solvency

#### The President would use the NSC

Harvey Rishikof 8, Professor of Law and Former Chair of the Department of National Security Strategy at the National War College and Kevin E Lunday, Captain and judge advocate in the US Coast Guard, "Due Process Is a Strategic Choice: Legitimacy and the Establishment of an Article III National Security Court", December 19, www.cwsl.edu/content/journals/Rishikof.pdf

The primary triggering mechanism for establishing NSC jurisdiction would fall within the discretion and control of the Attorney General. Through certification and charging provisions, the Attorney General could invoke NSC jurisdiction by certifying that persons in custody inside the United States are suspected of terrorist activity, or by charging persons in custody outside the United States with one or more specific terrorism offenses. However, the NSC would provide the government with a preferred venue to manage terrorism cases and proceedings, reducing the risk of the NSC being sidelined like the current ATRC.102 Further, the NSC could review challenges to the executive certification or charging decisions,103 transferring those cases in which the government has improperly attempted to employ the NSC for non-terrorism cases to the appropriate district court. This review power will reduce government incentives to dress up any case in terrorism clothing to obtain the advantages of the NSC procedures. The review power would not prevent the government from pursuing a terrorism matter in district court instead of the NSC. However, even without an executive action triggering NSC jurisdiction, if a district court determines that it is unable to adequately manage a terrorism case, it would be permitted to sua sponte transfer the case to NSC jurisdiction.

### AT: No Disease Impact

#### No burnout

**Torrey and Yolken 5** E. Fuller and Robert H, Directors Stanley Medical Research Institute, 2005, Beasts of the Earth: Animals, Humans and Disease, pp. 5-6

The outcome of this marriage, however, is not as clearly defined as it was once thought to be. For many years, it was believed that microbes and human slowly learn to live with each other as microbes evolve toward a benign coexistence wit their hosts. Thus, the bacterium that causes syphilis was thought to be extremely virulent when it initially spread among humans in the sixteenth century, then to have slowly become less virulent over the following three centuries. This reassuring view of microbial history has recently been challenged by Paul Ewald and others, who have questioned whether microbes do necessarily evolve toward long-term accommodation with their hosts. Under certain circumstances, Ewald argues, “Natural selection may…favor the evolution of extreme harmfulness if the exploitation that damages the host [i.e. disease] enhances the ability of the harmful variant to compete with a more benign pathogen.” The outcome of such a “marriage” may thus be the murder of one spouse by the other. In eschatological terms, this view argues that a microbe such as HIV or SARS virus may be truly capable of eradicating the human race.

### T – Authority

#### We meet --- the plan establishes a statute for the review process, that’s T

Julian Davis Mortenson 11, Assistant Professor, University of Michigan Law School, “Review: Executive Power and the Discipline of History Crisis and Command: The History of Executive Power from George Washington to George W. Bush John Yoo. Kaplan, 2009. Pp vii, 524,” Winter 2011, University of Chicago Law Review 78 U. Chi. L. Rev. 377

At least two of Yoo's main examples of presidential power are actually instances of presidential deference to statutory restrictions during times of great national peril. The earliest is Washington's military suppression of the Whiskey Rebellion (III, pp 66-72), a domestic disturbance that Americans viewed as implicating adventurism by European powers and threatening to dismember the new nation. n60 The Calling Forth Act of 1792 n61 allowed the President to mobilize state militias under federal control, but included a series of mandatory procedural checks--including judicial [\*399] approval--that restricted his ability to do so. n62 Far from defying these comprehensive restrictions at a moment of grave crisis, Washington satisfied their every requirement in scrupulous detail. He issued a proclamation ordering the Whiskey Rebels to disperse. n63 When they refused to do so, he submitted a statement to Justice James Wilson of the Supreme Court describing the situation in Pennsylvania and requesting statutory certification. n64 Only when Wilson issued a letter precisely reciting the requisite statutory language (after first requiring the President to come back with authentication of underlying reports and verification of their handwriting n65) did Washington muster the troops. n66 Washington's compliance with statutory restrictions on his use of force continued even after his forces were in the field. Because Congress was not in session when he issued the call-up order, Washington was authorized by statute to mobilize militias from other states besides Pennsylvania--but only "until the expiration of thirty days after the commencement of the ensuing [congressional] session." n67 When it became clear that the Pennsylvania campaign would take longer than that, Washington went back to Congress to petition for extension of the statutory time limit that would otherwise have required him to [\*400] disband his troops. n68 Far from serving as an archetypal example of presidential defiance, the Whiskey Rebellion demonstrates exactly the opposite. FDR's efforts to supply the United Kingdom's war effort before Pearl Harbor teach a similar lesson. During the run-up to America's entry into the war, Congress passed a series of Neutrality Acts that supplemented longstanding statutory restrictions on providing assistance to foreign belligerents. Despite these restrictions, FDR sent a range of military assistance to the future Allies. n69 Yoo makes two important claims about the administration's actions during this period. First, he claims the administration asserted that "[a]ny statutory effort by Congress to prevent the President from transferring military equipment to help American national security would be of 'questionable constitutionality'" (III, p 300). Second, he suggests that American military assistance in fact violated the neutrality statutes (III, pp 295-301, 310, 327-28).

#### C/I --- Statutory restrictions must be legislative limits

The Law Dictionary 13 “What is Statutory Restriction?, The Law Dictionary: **Featuring Black’s Law Dictionary Free Online Legal Dictionary 2nd Edition**, Accessed 7-22-2013, http://thelawdictionary.org/statutory-restriction/

What is STATUTORY RESTRICTION?

Limits or controls that have been place on activities by its ruling legislation.

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

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

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

### 2AC Psycho

#### Zizek’s critique of democracy is hopeless abstraction---democracy is effective and productive

Jerome Roos 13, writer, activist and filmmaker. He studied at University College Utrecht, the University of Bologna, Sciences Po Paris and the London School of Economics, and is currently a PhD Researcher on the European Debt Crisis at the European University Institute in Florence, Roar Magazine, "The dangerous dreams of Slavoj Žižek", April 18, roarmag.org/2013/04/zizek-indignados-occupy-direct-democracy-critique/

On the one hand, the only authentic stance to take in dark times is to do nothing, to refuse all commitment, to be paralyzed like Bartleby. On the other hand, Žižek dreams of a divine violence, a cataclysmic, purifying violence of the sovereign ethical deed, something like Sophocles’ Antigone. But Shakespearean tragedy is a more illuminating guide here than its ancient Greek predecessor. For Žižek is, I think, a Slovenian Hamlet, utterly paralyzed but dreaming of an avenging violent act for which, finally, he lacks the courage. In short, behind its shimmering dialectical inversions, Žižek’s work leaves us in a fearful and fateful deadlock, both a transcendental-philosophical deadlock and a practical-political deadlock: the only thing to do is to do nothing. We should just sit and wait. Don’t act, never commit, and continue to dream of an absolute, cataclysmic revolutionary act of violence. Thus speaks the great obsessional.¶ Myths Which Are Believed Tend to Come True¶ At the end of the day, however, Žižek’s dangerous dreams seem to be little more than the final convulsions of a 20th century ideology that has long since paralyzed itself. As Orwell already put it in his Homage to Catalonia, “In every country in the world a huge tribe of party-hacks and sleek little professors are busy ‘proving’ that Socialism means no more than a planned state-capitalism with the grab-motive left intact. Fortunately there also exists a vision of Socialism quite different from this.” Orwell saw this alternative vision of socialism in action in the militias, which, as he puts it, “were a sort of microcosm of a classless society” and a “crude forecast of what the opening stages of Socialism might be like.” Crucially, Orwell added that, “instead of disillusioning me, it deeply attracted me. The effect was to make my desire to see Socialism established much more actual than it had been before.” Just like Orwell, millions of people have now experienced the microcosms of real democracy in the squares and parks of over 1,000 cities in 82 countries. These experiences will not be washed away — not by the neoliberal jingoism surrounding Thatcher’s publicly-funded funeral and certainly not by the dangerous messianic dreams of some defunct Slovenian philosopher

who apparently sees no contradiction in praising Obama while sleeping underneath a portrait of Stalin.¶ Whatever the armchair revolutionaries may say, the world now knows that the real impulse of anti-capitalist resistance is coming from the anarchist, autonomist and anti-authoritarian Left. Žižek still seems to believe that it is the “myth of direct democracy”, much more than the authoritarian neoliberalism promoted by Thatcher and her acolytes, that poses the greatest obstacle to humanity’s collective emancipation. So be it. As Orwell once put it, “myths which are believed tend to come true,” and if our widely-believed myth of direct democracy truly ends up obstructing Žižek’s dangerous dreams of Thatcherite communism, this should be a source of celebration for us all. After all, in all honesty, what can we claim to have gained if we overthrow our old Master today only to wake up to a new one tomorrow? One message to Žižek now seems to be in place: dream on Slavoj! The salvation of your Stalinist soul depends on it.

#### Pyschoanalysis is non-falsifiable hindsight thinking

Samuels 93—Training Analyst – Society of Analytical Psychology and Science Associate – American Academy of Psychoanalysis (Andrew, Free Associations, “The mirror and the hammer: depth psychology and political transformation”, Vol. 3D, Psychoanalytic Electronic Publishing)

The paper is about the depth psychology of political processes, focusing on processes of political change. It is a contribution to the longstanding ambition of depth psychology to develop a form of political and cultural analysis that will, in Freud's words, 'under-stand the riddles of the world'. It has to be admitted that there is an equally longstanding reluctance in the non-psychological commun¬ity to accept the many and varied ideas and suggestions concerning political matters that have been offered by analysts of all persua¬sions. I do not believe this can all be put down to resistance. There is something offensive above **reductive interpretations** of complex socio-political problems **in exclusively psychological terms**. The tendency to **panpsychism** on the part of some depth psychologists has led me to wonder if an adequate methodology and ethos actually exists with which to make an **engagement of** depth **psychology with the public sphere possible**.¶ By 'politics' I mean the arrangements within a culture for the organization and distribution of power, especially economic power, and the way in which power is deployed to maintain the survival and enhance the quality of human life. Economic and political power includes control of processes of information and representation as well as the use of physical force and possession of vital resources such as land, food and water. On a more personal level, political power reflects the ability to choose freely whether to act and what action to take in a given situation. 'Politics' refers to the interplay between the personal and public dimensions of power. That is, there is an articulation between public, economic power and power as expressed on the personal, private level. This articulation is demonstrated in family organization, gender and race relations, and in religious and artistic assumptions as they affect the life of individuals. (I have also tried to be consistent in my use of the terms 'culture', 'society' and 'collective'.)'¶ Here is an example of the difficulty with psychological rcduc-tionism to which I am referring. At a conference 1 attended in London in 1990, a distinguished psychoanalyst referred to the revolutionary students in Paris in 1968 as 'functioning as a regressive group'. Now, for a large group of students to be said to regress, there must be, in the speaker's mind, some sort of normative developmental starting point for them to regress to. The social group is supposed to have a babyhood, as it were. Similarly, the speaker must have had in mind the possibility of a healthier, progressive group process — what a more mature group of revolutionary students would have looked like. But complex social and political phenomena do not conform to the individualistic, chronological, moralistic, pathologizing framework that is often imported.¶ The problem stems from treating the entire culture, or large chunks of it, as if it were an individual **or, worse, as if it were a baby**. Psychoanalysts project a version of personality development couched in judgemental terms onto a collective cultural and political process**. If we look in this manner for pathology in the culture, we will surely find it**. **As we are looking with a psychological theory in mind**, then, **lo and behold, the theory will explain the pathology**, **but this is a retrospective prophecy** (to use a phrase of Freud's), **twenty-twenty hindsight**. In this psychoanalytic tautologizing there is really nothing much to get excited about. Too much psychological writing on the culture, my own included, has suffered from this kind of smug 'correctness' when the 'material' proves the theoretical point. Of course it does! If we are interested in envy or greed, then we will find envy or greed in capitalistic organization. If we set out to demonstrate the presence of archetypal patterns, such as projection of the shadow, in geopolitical relations, then, without a doubt, they will seem to leap out at us. We influence what we analyse and so psychological reflection on culture and politics needs to be muted- there is not so much 'aha!' as one hoped.

#### Capitalism is sustainable---self-correcting

Seabra 12 (Leo, has a background in Communication and Broadcasting and a broad experience which includes activities in Marketing, Advertising, Sales and Public Relations, 2/27, “Capitalism can drive Sustainability and also innovation,” http://seabraaffairs.wordpress.com/2012/02/27/capitalism-can-drive-sustainability-and-also-innovation/)

There are those who say that if the world does not change their habits, even the end of economic growth, and assuming alternative ways of living, will be a catastrophe. “Our lifestyles are unsustainable. Our expectations of consumption are predatory.Either we change this, or will be chaos”. Others say that the pursuit of unbridled economic growth and the inclusion of more people in consumption is killing the Earth. We have to create alternative because economic growth is pointing to the global collapse. “What will happen when billions of Chinese decide to adopt the lifestyle of Americans?” I’ll disagree if you don’t mind… **They might be** wrong. Completely wrong .. Even very intelligent people wrongly interpret the implications of what they observe when they lose the perspective of time. In the vast scale of time (today, decades, not centuries) it is the opposite of what expected, because they start from a false assumption: the future is the extrapolation of this. But not necessarily be. How do I know? Looking at history. What story? The history of innovation, this thing generates increases in productivity, wealth, quality of life in an unimaginable level. **It is innovation that will defeat pessimism as it always did**. It was innovation that made life today is incomparably better than at any other time in human history. And will further improve. Einstein, who was not a stupid person, believed that capitalism would generate crisis, instability, and growing impoverishment. He said: “The economic anarchy of capitalist society as it exists today is, in my opinion, the true source of evil.” The only way to eliminate this evil, he thought, was to establish socialism, with the means of production are owned by the company. A centrally controlled economy would adjust the production of goods and services the needs of people, and would distribute the work that needed to be done among those in a position to do so. This would guarantee a livelihood to every man, women and children. Each according to his possibilities. To each according to their needs. And guess what? What happened was the opposite of what Einstein predicted. Who tried the model he suggested, impoverished, screwed up. Peter Drucker says that almost of all thinking people of the late nineteenth century thought that Marx was right: there would be increased exploitation of workers by employers. They would become poorer, until one day, the thing would explode. Capitalist society was considered inherently unsustainable. It is more or less the same chat today. **Bullshit. Capitalism, with all appropriate regulations, self-corrects. It is an adaptive system that learns and changes by design. The design is just for the system to learn and change.** There was the opposite of what Einstein predicted, and held the opposite of what many predict, but the logic that “unlike” only becomes evident over time. It wasn’t obvious that the workers are those whom would profit from the productivity gains that the management science has begun to generate by organizing innovations like the railroad, the telegraph, the telephone .. to increase the scale of production and cheapen things. The living conditions of workers today are infinitely better than they were in 1900. They got richer, not poorer .. You do not need to work harder to produce more (as everyone thought), you can work less and produce more through a mechanism that is only now becoming apparent, and that brilliant people like Caetano Veloso still ignores. The output is pursuing growth through innovation, growth is not giving up. More of the same will become unsustainable to the planet, but most of it is not what will happen, will happen more different, than we do not know what is right. More innovative. Experts, such as Lester Brown, insist on statements like this: if the Chinese also want to have three cars for every four inhabitants, as in the U.S. today, there will be 1.1 billion cars there in 2030, and there is no way to build roads unless ends with the whole area used for agriculture. You will need 98 million barrels of oil per day, but the world only produces about 90 million today, and probably never produce much more. The mistake is to extrapolate today’s solutions for the future. We can continue living here for 20 years by exploiting the same resources that we explore today? Of course not. But the other question is: how can we encourage the stream of innovations that will enable the Chinese, Indians, Brazilians, Africans .. to live so as prosperous as Americans live today? Hey, wake up … what can not stop the engine of innovation is that the free market engenders. This system is self correcting, that is its beauty. We do not need to do nothing but ensure the conditions for it to work without distortion. The rest he does himself. It regulates itself.

#### No alternative to capitalism --- even socialists agree

Erik Olin Wright 7, Vilas Distinguished Professor of Sociology at the University of Wisconsin, “Guidelines for Envisioning Real Utopias”, Soundings, April, www.ssc.wisc.edu/~wright/Published%20writing/Guidelines-soundings.pdf

To be a radical critic of existing institutions and social structures is to identify harms that are generated by existing arrangements, to formulate alternatives which mitigate those harms, and to propose transformative strategies for realizing those alternatives. There was a time when many intellectuals on the Left were quite confident in their understanding of each of these: theories of class and political economy provided a framework for identifying what was wrong with capitalism; various contending conceptions of socialism provided models for alternatives; and theories of class struggle and socialist politics (whether reformist or revolutionary) provided the basis for a transformative strategy. Today there is much less certainty among people who still identify strongly with Left values of radical egalitarianism and deep democracy. While Left intellectuals remain critical of capitalism, many acknowledge – if reluctantly – the necessity of markets and the continuing technological dynamism of capitalism. Socialism remains a marker for an alternative to capitalism, but its close association with statist projects of economic planning no longer has much credibility, and no fully convincing alternative comprehensive model has become broadly accepted. And while class struggles certainly remain a central source of conflict in the world today, there is no longer confidence in their potential to provide the anchoring agency for transforming and transcending capitalism.

### 2AC XO CP

#### Obama literally tried to the do the CP and Congress rolled it back

WSJ 10, Congress Bars Gitmo Transfers, online.wsj.com/article/SB10001424052748704774604576036520690885858.html

Congress on Wednesday passed legislation that would effectively bar the transfer of Guantanamo detainees to the U.S. for trial, rejecting pleas from Obama administration officials who called the move unwise.¶ A defense authorization bill passed by the House and Senate included the language on the offshore prison, which President Barack Obama tried unsuccessfully to close in his first year in office.¶ The measure for fiscal year 2011 blocks the Department of Defense from using any money to move Guantanamo prisoners to the U.S. for any reason. It also says the Pentagon can't spend money on any U.S. facility aimed at housing detainees moved from Guantanamo, in a slap at the administration's study of building such a facility in Illinois.¶ The Guantanamo ban was originally included in a broad appropriations bill earlier this month in the House, which died for unrelated reasons. At the time, Attorney General Eric Holder sent a letter to congressional leaders calling the ban "an extreme and risky encroachment on the authority of the executive branch to determine when and where to prosecute terrorist suspects."¶ Republicans and some Democrats say the prison at Guantanamo Bay, Cuba, which the government has spent millions of dollars upgrading, is the most secure place to keep terror suspects.¶ By banning transfers to the U.S., Congress is blocking trials of detainees in U.S. civilian courts. Proponents of the ban say military tribunals, not civilian courts, are the proper forum for bringing to justice suspects accused of trying to attack the U.S.¶ Those contentions grew stronger last month when a New York federal jury acquitted a former Guantanamo detainee of all but one count in the 1998 bombings of U.S. embassies in Africa. The defendant, Ahmed Ghailani, still faces 20 years to life in prison.¶ [2justice]¶ ERIC HOLDER¶ Mr. Obama originally pledged to close the prison by January 2010. That goal has foundered amid congressional opposition, and some 174 detainees remain at Guantanamo.¶ At a news conference Wednesday, the president expressed renewed desire to close Guantanamo, saying it has "become a symbol" and a recruiting tool for "al Qaeda and jihadists." "That's what closing Guantanamo is about," he said, adding: "I think we can do just as good of a job housing [detainees] somewhere else.

#### Future presidents prevent solvency

Harvard Law Review 12, "Developments in the Law: Presidential Authority," Vol. 125:2057, www.harvardlawreview.org/media/pdf/vol125\_devo.pdf

The recent history of signing statements demonstrates how public opinion can effectively check presidential expansions of power by inducing executive self-binding. It remains to be seen, however, if this more restrained view of signing statements can remain intact, for **it relies on the promises of one branch — indeed of one person — to enforce and maintain the separation of powers**. To be sure, President Obama’s guidelines for the use of signing statements contain all the hallmarks of good executive branch policy: transparency, accountability, and fidelity to constitutional limitations. Yet, in practice, this apparent constraint (however well intentioned) may amount to little more than voluntary self-restraint. 146 Without a formal institutional check, it is unclear what mechanism will prevent the next President (or President Obama himself) from reverting to the allegedly abusive Bush-era practices. 147 Only time, and perhaps public opinion, will tell.

#### Internal processes destroy legitimacy and cred – including the courts is key

Kent Roach 13, Professor of Law and Prichard-Wilson Chair of Law and Public Policy at the University of Toronto, editor-in-chief of the Criminal Law Quarterly, “Managing secrecy and its migration in a post-9/11 world,” Ch 8 in Secrecy, National Security And The Vindication Of Constitutional Law, ed. David Cole, Federico Fabbrini, and Arianna Vedaschi, google books

Secret evidence is used by the US military and the CIA in decisions about targeted killing. Attorney General Holder has stressed that the evidence supporting such decisions is carefully reviewed within the government and has argued that the process satisfies due process because due process need not be judicial process.11 The problem with this approach is that it requires people to trust the government that the secret evidence has been thoroughly tested and vetted even though the executive has an incentive to err on the side of security. In contrast to the Israeli courts, American courts have taken a hands-off approach to review of targeted killing.12 The Israeli courts have in one prominent case reviewed targeted killings and have stressed the importance of both ex ante and ex post review within the military and involving the courts.13 To be sure, Israel has not gone as far as the United Kingdom in giving security cleared special advocates access to secret information, but it has provided a process that goes beyond the executive simply reviewing itself. The Obama administration does not seem to think that anyone could seriously challenge the legitimacy of their attempts to keep strategic military information behind targeted killings secret. In a sense, this is a return to a Cold War strategy where the need to preserve secrets from the other side was widely accepted. What has changed since 9;11, however, is that terrorism as opposed to invasion or nuclear war is widely accepted as the prime threat to national security. Terrorism is seen by many as a crime and the use of war-like secrecy is much more problematic in responding to a crime than to a threat of invasion or nuclear war. Hence, the legitimacy of the US’s use of secrets to kill people in its controversial war against al Qaeda has been challenged. It may become a liability in the US’s dealings with the Muslim world.

## DA

### 2AC Resolve DA

#### Their impact evidence is describing the SQ

Josef Joffe 13, Exploiting Obama's Foreign Policy Retreat, WSJ

"We are extremely disappointed," the White House press secretary said after Moscow granted asylum to fugitive NSA leaker Edward Snowden. A nice understatement. Washington is now looking at the greatest counterintelligence failure since the Rosenbergs betrayed nuclear know-how to Stalin some 60 years ago. Now the Russians have Mr. Snowden's hard disks to unearth more U.S. secrets than could be stolen by a battalion of spies.¶ President Vladimir Putin has it in his hands to endlessly embarrass the U.S. by releasing choice bits and pieces from the Snowden trove, or to threaten to do so to keep Washington on its best behavior. After this slap, "extremely disappointed" is the diplomatic equivalent of pouting -- unbecoming to a great power.¶ Why did Mr. Putin decide to thumb his nose at the U.S. after playing cat-and-mouse for six weeks? Easy -- because he could. He has taken the measure of Barack Obama, concluding that there isn't much there there, to paraphrase the president on the State Department's emails about Benghazi.¶ The Russian leader has been checking off the weak spots since Mr. Obama's 2009 inauguration -- in disbelief at first, no doubt, then with growing brashness. It started with the Cairo speech in June of that year, where Mr. Obama made nice to the Islamic Middle East, Iran included. A few months later came the White House cave-in on a Europe-based antimissile system the Russians had vehemently opposed. This was part of the celebrated "reset" -- but Moscow got to pocket something for nothing, a no-no in great-power politics.¶ The Kremlin has also noticed how Mr. Obama has basically scotched the military option against Iran's nuclear-arms program. So has the Khamenei regime in Tehran, which keeps enticing Washington with talks resembling a minuet: bow, circle, return to the starting point. In Libya, the U.S. was "leading from behind," in Syria, not at all. Cutting the defense budget has been the order of the day, with or without the sequester.¶ So if you're Vladimir Putin, why not probe more deeply?¶ Consider the gauntlets flung down by Russia earlier this year. One is the delivery of sophisticated Yakhont antiship missiles to the Assad regime in Syria. Hard to detect and even harder to destroy, these missiles would pose a serious threat to U.S. naval forces if the weapons were ever deployed to the eastern Mediterranean. Israel regarded the danger sufficient to level a storage site in Syria's port city of Latakia on July 5.¶ Moscow keeps denying that it has delivered the mobile S-300 air defense system to Assad. The up-to-date version, the S-300PMU-2, would be a game-changer, engaging planes at all altitudes, as well as cruise missiles. Yes, the U.S. Air Force could take them out -- but it won't be the kind of easy bombing campaign that helped rout Moammar Gadhafi in Libya.¶ Also in the spring, the Russians dispatched about a dozen warships to the eastern Mediterranean, according to press reports. This was a classic, 19th-century show of force to show resolve and to deter. If the U.S. actually did move against Assad, it would have to put serious sea power in the area. And risk a naval clash with Russia just to topple a bad guy? Anyway, the Sixth Fleet that used to patrol the Mediterranean went long ago, except for a single command ship.¶ The Kremlin's message: We shall protect our Syrian asset, the Assad regime. And the Russians have plenty of battle-hardened company: Hezbollah on the ground, Iran nearby. While U.S. Secretary of State John Kerry is investing in a sideshow -- the Israeli-Palestinian peace -- Moscow and Tehran are securing a foothold on the Mediterranean. Preventing Russia from reinserting itself in the Middle East has been a top American priority since the 1970s.

 \*\*\*UNT Card Begins\*\*\*

Mr. Obama's America seems to be withdrawing from the great-power table in favor of "nation-building at home," as the president keeps repeating. In his May speech at National Defense University, Mr. Obama vowed to end the war on terror and to curtail drone strikes, America's best weapon in an age of "asymmetric warfare." He means it. Last week, Mr. Kerry promised to end drone attacks in Pakistan "very, very soon."¶ Terror International will not junk its suicide vests in return. The world is being treated to a first in the history of great-power politics. Traditionally, the might of nations was hemmed in by others in an endless game of pressure and counter-pressure. Now, the reigning superpower is proposing to neutralize itself -- no foes needed. The nation that invented containment in the Cold War is now playing with self-containment.¶ So don't blame Mr. Putin for what ambitious powers always do, which is to probe their rivals' positions on the periphery -- as Beijing is doing in the war of nerves over some tiny islands in the South China Sea. America is turning into a huge medium-power, like an XXL France -- a nation that still shows some great-power reflexes as in nearby Libya and Mali, but cannot take care of global business. When the Europeans ran out of ammunition in Libya, the U.S. stepped in. But if America shrugs off global responsibility, nobody else will shoulder it.¶ Mr. Obama's central problem is philosophical. Just as nature abhors a vacuum, so does the state system. The president apparently believes that the U.S. can safely retract because giants no longer roam the earth. Alas, the chickens of indifference always come home to roost as birds of prey. In the 1930s, the coldblooded opportunists were Nazi Germany and Imperial Japan. In our time, it is second-rate powers like Russia and Iran, and non-nations like Hezbollah, that are taking on the United States, and they do so because they can.

#### The “Obama power” thesis is totally wrong---nothing about a President’s relative resolve matters

James Kitfield 11, Senior Correspondent for The National Journal, three-time winner of the Gerald R. Ford Award for Distinguished Reporting on National Defense, November 18, 2011, “Power Down,” The National Journal, online: http://www.nationaljournal.com/magazine/an-indispensible-nation-no-more--20111117

For generations reared on the mother’s milk of “American exceptionalism,” each day brings a new affront. China, on the rise, stubbornly refuses to end its currency manipulation, distorting Beijing’s advantage in an international system of our making. Close allies in Europe and Japan slash defense budgets, further burdening Washington with the role of global police officer. In the face of repeated threats and sanctions, Iran still dares to build nuclear weapons and plot terrorist attacks on U.S. soil. Syria’s despotic president lingers in power. Israelis and Palestinians blithely ignore presidential exhortations to make concessions for peace. A costly war in Afghanistan drags on toward … what, exactly?

Republicans lay the blame for those international woes on President Obama’s doorstep. They object to his squishy multilateralism, his willingness to engage odious adversaries in diplomacy, and his apologies for past American mistakes. They see insufficient fealty to Israel, indecision in Afghanistan, and a refusal to lead—out front, the way they’re accustomed to seeing—on Libya. They doubt Obama’s conviction that America is a “shining city upon a hill” and a beacon to all free peoples. “As president of the United States, I will devote myself to an American Century, and I will never, ever apologize for America,” Republican presidential candidate Mitt Romney said during a recent foreign-policy speech. In it, he advanced the notion of America’s singularity, its role as a bulwark against tyranny, and its leadership of the free (and, by extension, the entire) world. “America’s strength rises from a strong economy, a strong defense, and the enduring strength of our values,” he said. “Unfortunately, under this president, all three of those elements have been weakened.”

Wait just a minute. Only three years ago, Obama and the Democrats blamed President Bush and his administration for failing to check China and deter Iran. They objected to Bush’s swashbuckling unilateralism, his decision to ignore diplomacy with disagreeable countries, and his with-us-or-against-us triumphalism that alienated even close allies. They questioned his one-sided fealty to Israel and blamed him for a war in Iraq that was dragging toward … what, exactly? They charged that he tarnished the American beacon by endorsing torture and conflating the spread of democracy with regime change at the point of a gun.

Why did two presidents with such different foreign-policy instincts run up against—and, in many cases, get foiled by—the same international challenges? In “George W. Bush, Barack Obama, and the Future of U.S. Global Leadership,” a recent article in International Affairs, James Lindsay wrote that presidents today, no matter their styles, must manage friends and foes who feel increasingly empowered to ignore or contest American dominance. “Americans have this ingrained notion that U.S. leadership and predominance is the natural state of world affairs, with Democrats thus concluding that gentle engagement will automatically cause countries to rally to our banner, and Republicans believing that firmness and consistency will have the same effect,” Lindsay said in an interview. “They are both fundamentally misreading the geostrategic environment.” The post-Cold War period was an era of victory that left the United States standing atop the global order—a superpower with unmatched military, economic, social, and diplomatic might. No wonder expectations are so high.

But things have changed. Brazil, India, Indonesia, Turkey, and especially China are clawing their way to the top of the international system, “insisting on all the privileges that come with their newly elevated status,” as Lindsay puts it. Revolution is sweeping the Middle East, the world’s energy basket. Revisionist powers (Russia) and perennial outliers (Iran, North Korea) sense opportunity and new room to maneuver. “If a unipolar moment ever really existed, it’s not just passed, it’s gone permanently,” says Richard Haass, the former senior official in the first Bush White House who now runs the Council on Foreign Relations. Partly, that follows from two costly wars, a recession, and political dysfunction that blocks a long-term debt solution or a bipartisan foreign-policy consensus. More than that, though, it flows from globalization. “Power is simply too diffuse now, and the challenges we confront are complex, transnational, and they defy the efforts of any one nation,” Haass says.

#### Focus on credibility causes terrible policy---the aff's a better approach

Jonathan Mercer 8/28, 2013, associate professor of political science at the University of Washington in Seattle and a Fellow at the Center for International Studies at the London School of Economics. Bad Reputation, 28 August 2013, www.foreignaffairs.com/articles/139376/jonathan-mercer/bad-reputation

Even if Assad were so simpleminded, the administration’s critics are wrong to suggest that the president should have acted sooner to protect U.S. credibility. After the red line was first crossed, Obama could have taken the United States to war to prevent Assad from concluding that an irresolute Obama would not respond to any further attacks -- a perception on Syria’s part that seems to have now made a U.S. military response all but certain. But going to war to prevent a possible misperception that might later cause a war is, to paraphrase Bismarck, like committing suicide out of fear that others might later wrongly think one is dead.

It is also possible that the United States did not factor into Assad’s calculations. A few months before the United States invaded Iraq, Saddam Hussein’s primary concerns were avoiding a Shia rebellion and deterring Iran. Shortsighted, yes, but also a good reminder that although the United States is at the center of the universe for Americans, it is not for everyone else. Assad has a regime to protect and he will commit any crime to win the war. Finally, it is possible that Assad never doubted Obama’s resolve -- he just expects that he can survive any American response. After all, if overthrowing Assad were easy, it would already have been done.

Instead of worrying about U.S. credibility or the president’s reputation, the administration should focus on what can be done to reinforce the longstanding norm against the use of weapons of mass destruction.

#### Syria tanked resolve --- the process of backing down invites attack

Anthony Cordesman 9/1/13, holds the Arleigh A. Burke Chair in Strategy at the Center for Strategic and International Studies (CSIS) in Washington, D.C., “President Obama and Syria: The ‘Waiting for Godot’ Strategy,” http://csis.org/publication/president-obama-and-syria-waiting-godot-strategy

Instead, the Administration first rushed into the kind of rhetoric you only use if you actually intend to act regardless of domestic and international support. It tied its entire effort to Syrian use of chemical weapons and the precedent for using such weapons forever. And only then did it suddenly spun around and talked about then need for delay, measured action, and Congressional approval.¶ While Beckett might not appreciate my efforts to define Godot as the Syrian Civil war, the Administration followed the script of Beckett’s play to the extent it never defined the reasons for what the actors were doing, why they were waiting, or what would happen after Godot came. Chemical weapons are a very real issue, but they are only a subset of the real issue: the overall level of suffering and growing regional instability coming out of the Syrian civil war.¶ We now face the inevitable reaction. The President’s decisions have reinforced all of the doubts about American strength, and our willingness to act, of both our friends and foes. We now have ten days of confusion and uncertainty to deal with, and then Congress will be evidently be asked to act only on a strike tailored to deter the future use of chemical weapons. It will still lack a meaningful plan for dealing with the Syrian civil war and its impact on the region.¶ Israel is threatening to return to hawk mode over Iran. Russia and China are in the “we told you so” mode. Assad has already launched new conventional artillery barrages against Syrian civilian areas and now has time enough to disperse a significant number of key physical assets from fixed target sites. France is left hanging – as is Britain for very different reasons. Our Arab allies and Turkey have no clear lead to follow. Our whole strategy in the Middle East remains unclear, as is our entire national security posture in an era of Sequestration and funding crises.¶ If the Congress does support the President, it will only be after we have openly faltered, and after having rushed forward before deciding on a course of delay. The President will have set a uniquely dangerous precedent by turning to Congress only after he appeared weak, rather than doing from the start, and will have then committed himself to wait at least ten days for the congress to return for its holiday. The message to the world is obvious.

#### Sequestration thumper

Jeff Lightfoot 13, deputy director of the Brent Scowcroft Center on International Security at the Atlantic Council, 3/1/13, “Sequestration’s Credibility Costs,” http://nationalinterest.org/commentary/sequestrations-credibility-costs-8172

The debate over sequestration is focused nearly entirely on the impact of spending reductions on the U.S. economy. Far less attention is given to how the automatic spending cuts would undermine the credibility of American power abroad. As sequestration comes into force, the White House and Congress signal a dangerous lack of resolve to both allies and adversaries. In doing so, they run the risk that a nervous Israel and an adventurous Iran could plunge the Mideast into a war the United States can ill afford.

#### Legitimacy is more important than resolve

Schwarz 7 senior counsel, and Huq, associate counsel at the Brennan Center for Justice at NYU School of Law, (Frederick A.O., Jr., partner at Cravath, Swaine & Moore, chief counsel to the Church Committee, and Aziz Z, former clerk for the U.S. Supreme Court, Unchecked and Unbalanced: Presidential Power in a Time of Terror, p. 201)

The Administration insists that its plunge into torture, its lawless spying, and its lock-up of innocents have made the country safer. Beyond mere posturing, they provide little evidence to back up their claims. Executive unilateralism not only undermines the delicate balance of our Constitution, but also lessens our human liberties and hurts vital counterterrorism campaigns. How? Our reputation has always mattered. In 1607, Massachusetts governor John Winthrop warned his fellow colonists that because they were a "City on a Hill," "the eyes of all people are upon us."4 Thomas Jefferson began the Declaration of Independence by invoking the need for a "decent respect to the opinions of mankind:' In today's battle against stateless terrorists, who are undeterred by law, morality, or the mightiest military power on earth, our reputation matters greatly.¶ Despite its military edge, the United States cannot force needed aid and cooperation from allies. Indeed, our status as lone superpower means that only by persuading other nations and their citizens—that our values and interests align with theirs, and so merit support, can America maintain its influence in the world. Military might, even extended to the globe's corners, is not a sufficient condition for achieving America's safety or its democratic ideals at home. To be "dictatress of the world," warned John Quincy Adams in 1821, America "would be no longer the ruler of her own spirit." A national security policy loosed from the bounds of law, and conducted at the executive's discretion, will unfailingly lapse into hypocrisy and mendacity that alienate our allies and corrode the vitality of the world's oldest democracy.5

#### No link---NSC preserves enough executive flexibility

Andrew McCarthy 9, 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

What is an asset in the criminal justice system, however, would be a liability in a system whose priority is not justice for the individual but the security of the American people. That liability, though, can be satisfactorily rectified by clear procedural rules which underscore that the overriding mission – into which the judicial function is being imported for very limited purposes – remains executive and military. The default position of the criminal justice system would not carry over to a system conceived for enemies of the United States – i.e., terrorist operatives who would not be facing NSC trials in the first place absent a finding, tested by judicial review, that they were alien enemy combatants. ¶ In such a system, the opportunities for judicial creativity would be limited by being plainspoken and unapologetic in enabling legislation about the fact that the defendants are not Americans but those who mean America harm; that the task of federal judges is not to ensure that defendants are considered as equals to our government before the bar of justice, but merely to ensure that they are not capriciously convicted of war crimes by the same branch of government that is prosecuting the war; that if credible and convincing evidence supports the allegations, the system’s preference is that defendants be convicted and harshly sentenced; and that the authority of judges is enumerated and finite – if the rules as promulgated do not expressly provide for the defendant to have particular relief, the judge is powerless to direct it. In short, the system would curb judicial excess by the recognition, which underlies the military justice system, that prosecuting war remains a quintessentially executive endeavor; in the NSC, judges would be a check against arbitrariness but they would not have any general supervisory authority over the conduct of proceedings and they would not be at liberty to create new entitlements by analogizing to ordinary criminal proceedings.

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### CP Fails

#### Congress key to democratic legitimacy

Benjamin Wittes 9, senior fellow and research director in public law at the Brookings Institution, Stuart Taylor, an American journalist, graduated from Princeton University and Harvard Law School, “Legislating the War on Terror: An Agenda for Reform”, November 3, Book, p. 329-330

While President Obama’s policy makes a clean break with the Bush record, it actually does not effectively answer the question of how best to handle this group. Indeed, the new policy seems likely to fail on both a substantive and a procedural level. First, it goes too far by banning all coercion all the time. Second, the rule is unstable because it can so easily be changed at the whim of the president, whether Obama or, perhaps, a successor more like Bush. An administration down the road that wanted to resume waterboarding could rescind the current order and adopt legal positions like those of the prior administration. Unless the Obama administration and Congress hammer out rules that provide interrogators with clear guidance about what is and is not allowed and write those rules into statute, the United States risks vacillating under the vagaries of current law between overly permissive and overly restrictive guidance. The general goals of new legislation should be threefold: —To make it a crime beyond cavil to use interrogation methods considered by reasonable people to be torture. The torture statute already does that to some degree, but the fact that it arguably permitted techniques as severe as waterboarding suggests that it may require some tightening. The key here is that the statute should cover all techniques the use of which ought to prompt criminal prosecution. —To subject CIA interrogators in almost all cases to rules that, without relaxing current law’s ban on cruel, inhuman, and degrading treatment, permit relatively mild forms of coercion that are properly off limits to military interrogators. —To allow the president, subject to strict safeguards, to authorize use of harsher methods short of torture (as defined in the revised criminal statute) in true emergencies or on extraordinarily high-value captives such as KSM. Only Congress can provide the democratic legitimacy and the fine-tuning of criminal laws that can deliver such a regime. Only Congress can, for example, pass a new law making it clear that waterboarding— or any other technique of comparable severity— will henceforth be a federal crime. Only Congress can offer clear assurances to operatives in the field that there exists a safe harbor against prosecution for conduct ordered by higher-ups in a crisis in the genuine belief that an attack may be around the corner. Only Congress, in other words, can create a regime that plausibly turns away from the past without giving up what the United States will need in the future.

#### Executive detention schemes fail

Deborah N. Pearlstein 9, lecturer in public and international affairs, Woodrow Wilson School of Public & International Affairs, July 2009, "Form and Function in the National Security Constitution," Connecticut Law Review, 41 Conn. L. Rev. 1549, lexis nexis

A. Unitary Executive Detention¶ In theory, a detention scheme involving only the executive branch in set-up and function might be able to operate quickly and in secret. n261 But it **raises a range of concerns against the functional effectiveness** criteria proposed here. For example, it is theoretically possible that the executive would design and operate a detention scheme to function principally in non-war or emergency settings and that could remain functional with minimal adjustments during emergencies. Indeed, the well-developed military justice system does just that. But the military justice system that exists is of course the product of an elaborate statutory scheme, designed to perform a chronic function of military governance. **It is hard to conceive of an organizational or political incentive that would drive an individual, term- limited executive to bear the political burden of setting up and running a new detention scheme, with no certainty or expectation that it would continue beyond that administration, other than an acute short-term need.** n262 Likewise, an executive-driven detention initiative need not (and for similar reasons is unlikely to) incorporate planning incentives or [\*1621] other mechanisms that help to mitigate errors associated with "emergency" decision- making.