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#### Restrictions on authority prohibit- the aff is a condition

William **Conner 78**,former federal judge for the United States District Court for the Southern District of New York United States District Court, S. D. New York, CORPORACION VENEZOLANA de FOMENTO v. VINTERO SALES, http://www.leagle.com/decision/19781560452FSupp1108\_11379

Plaintiff next contends that Merban was charged with notice of the restrictions on the authority of plaintiff's officers to execute the guarantees. **Properly interpreted,** **the "conditions" that had been imposed by plaintiff's** Board of Directors and by the Venezuelan Cabinet **were not "restrictions" or "limitations"** up**on** the **authority of** plaintiff's **agents but rather conditions precedent to the granting of authority**. Essentially, then, plaintiff's argument is that Merban should have known that plaintiff's officers were not authorized to act except upon the fulfillment of the specified conditions.

**Vote neg
limits and ground- anything can indirectly affect war powers--also makes the topic bidirectional because conditions can enhance executive power**

### 1NC Politics of Schmitt K

#### Politics is Schmittian – trying to fight the executive on their own battlefield is naïve – the aff is just a liberal knee-jerk reaction that swells executive power

Kinniburgh, 5/27 **–** (Colin, Dissent, 5-27, <http://www.dissentmagazine.org/blog/partial-readings-the-rule-of-law>)

The shamelessness of the endeavor is impressive—a far cry, in many ways, from the CIA’s secretive Cold War–era assassination plots. Obama has succeeded in anchoring a legal infrastructure for state-sponsored assassinations on foreign soil while trumpeting it, in broad daylight, as a framework for accountability. Peppered with allusions to the Constitution and to “the law” more generally, the call for transparency instead appears to provide an Orwellian foil for a remarkable expansion of executive powers. Existing laws, domestic or international, are proving a hopelessly inadequate framework with which to hold the Obama administration accountable for arbitrary assassinations abroad. No doubt it is tempting to turn to the Constitution, the Universal Declaration of Human Rights, and other relevant legal documents as a litmus test for the validity of government actions. Many progressive media outlets have a tendency to seize on international law, especially, as a straightforward barometer of injustice: this is particularly true in the case of the Israel-Palestine conflict, as an editorial in the current issue of Jacobin points out. Both domestic and international legal systems often do afford a certain clarity in diagnosing excesses of state power, as well as a certain amount of leverage with which to pressure the states committing the injustices. To hope, however, that legal systems alone can redress gross injustices is naive. Many leftists—and not just “bloodless liberals”—feel obliged to retain faith in laws and courts as a lifeline against oppression, rather than as mere instruments of that same oppression. Even Marx, when he was subjected, along with fellow Communist League exiles, to a mass show trial in Prussian courts in the 1850s, was convinced that providing sufficient evidence of his innocence would turn the case against his accuser, Wilhelm Stieber, a Prussian secret agent who reportedly forged his evidence against the communists. In his writings, Marx expressed his disillusionment with all bourgeois institutions, including the courts; in practice, he hoped that the law would serve him justice. Richard Evans highlights this tension in his insightful review of Jonathan Sperber’s Karl Marx: A Nineteenth-Century Life, published in the most recent London Review of Books. “Naively forgetting,” writes Evans, “what they had said in the Manifesto – that the law was just an instrument of class interests – Marx and Engels expected [their evidence against Stieber] to lead to an acquittal, but the jury found several of the defendants guilty, and Stieber went unpunished.” Marx’s disappointment is all too familiar. It is familiar from situations of international conflict, illustrated by Obama’s drone strikes justifications; it is evident, too, when a police officer shoots dead an unarmed Bronx teenager in his own bathroom, and the charge of manslaugher—not murder—brought against the officer is dropped for procedural reasons by the presiding judge. This is hardly the first such callous ruling by a New York court in police violence cases; the last time charges were brought against an NYPD officer relating to a fatal shooting on duty, in 2007, they were also dropped. Dozens of New Yorkers have died at the hands of the police since then, and Ramarley Graham’s case was the first that even came close to a criminal conviction—only to be dropped for ludicrous reasons. Yet New York’s stop-and-frisk opponents are still fighting their battle out in the courts. In recent months, many activists have invested their hopes for fairer policing in a civil class action suit, Floyd, et. al. vs. City of New York, which may just convict the NYPD of discrimination despite the odds. District court judge Shira Scheindlin, profiled in this week’s New Yorker, has gained a reputation for ruling against the NYPD in stop-and-frisk cases, even when it has meant letting apparently dangerous criminals off the hook. In coming weeks, she is likely to do the same for the landmark Floyd case, in what may be a rare affirmation of constitutional law as a bulwark against state violence and for civil liberties. Even if the city wins the case, the spotlight that stop-and-frisk opponents have shined on the NYPD has already led to a 51 percent drop in police stops in the first quarter of this year. Still, when the powerful choose the battlefield and write the laws of war, meeting them on their terms is a dangerous game.

#### Legality is what feeds a new form of muscular liberalism where these illusions cannot see how much they sustain it which legitimizes wars for democracies and doctrines of pre-emption

Motha 8 \*Stewart, Senior Lecturer, Kent Law School, University of Kent, Canterbury, Kent, Journal of Law, Culture, and Humanities Forthcoming 2008, Liberal Cults, Suicide Bombers, and other Theological Dilemmas

A universalist liberal ideology has been re-asserted. It is not only neo-con hawks or Blairite opportunists that now legitimise wars for democracy. Alarmingly, it is a generation of political thinkers who opposed the Nixonian logic of war (wars to show that a country can ‘credibly’ fight a war to protect its interests1), and those humbled by the anticolonial struggles of liberation from previous incarnations of European superiority that are renewing spurious civilizational discourses. This ‘muscular liberalism’ has found its voice at the moment of a global political debate about the legality and effectiveness of ‘just wars’ – so called ‘wars for democracy’ or ‘humanitarian war’. The new political alignment of the liberal left emerged in the context of discussions about the ‘use of force’ irrespective of UN Security Council endorsement or the sovereign state’s territorial integrity, such as in Kosovo – but gained rapid momentum in response to attacks in New York City and Washington on September 11, 2001. Parts of the liberal left have now aligned themselves with neoconservative foreign policies, and have joined what they believe is a new anti-totalitarian global struggle – the ‘war on terror’ or the battle against Islamist fundamentalism. One task of this essay, then, is to identify this new formation of the liberal left. Much horror and suffering has been unleashed on the world in the name of the liberal society which must endure. However, when suicide bombing and state-terror are compared, the retort is that there is no moral equivalence between the two. Talal Asad in his evocative book, On Suicide Bombing, has probed the horror that is felt about suicide bombing in contrast to state violence and terror.2 What affective associations are formed in the reaction to suicide bombing? What does horror about suicide bombing tell us about the constitution of inter-subjective relations? In this essay I begin to probe these questions about the relation between death, subjectivity, and politics. I want to excavate below the surface oppositions of good deaths and bad, justifiable killing and barbarism, which have been so central to left liberal arguments. As so much is riding on the difference between ‘our good war’ and ‘their cult of death’, it seems apt to examine and undo the opposition. The muscular liberal left projects itself as embodying the values of the ‘West’, a geo-political convergence that is regularly opposed to the ‘East’, ‘Muslims’, or the ‘Islamic World’. I undo this opposition, arguing that thanatopolitics, a convergence of death, sacrifice, martyrdom and politics, is common to left liberal and Islamist political formations. How does death become political for left liberals and Islamist suicide bombers? In the case of the latter, what is most immediately apparent is how little is known about the politics and politicization of suicide bombers. Suicide bombers are represented as a near perfect contrast to the free, autonomous, self-legislating liberal subject – a person overdetermined by her backward culture, oppressive setting, and yet also empty of content, and whose death can have no temporal political purchase. The ‘suicide bomber’ tends to be treated by the liberal left as a trans-historical ‘figure’, usually represented as the ‘Islamo-fascist’ or the ‘irrational’ Muslim.3 The causes of suicide bombing are often implicitly placed on Islam itself – a religion that is represented as devoid of ‘scepticism, doubt, or rebellion’ and thus seen as a favourable setting for totalitarianism.4 The account of the suicide bomber as neo-fascist assassin supplements a lack – that is, that the association of suicide bombing with Islam explains very little. The suicide bomber is thus made completely familiar as totalitarian fascist, or wholly other as “[a] completely new kind of enemy, one for whom death is not death”.5 So much that is written about the suicide bomber glosses over the unknown with political subjectivities, figures, and paradigms (such as fascism) which are familiar enough to be vociferously opposed. By drawing the suicide bomber into a familiar moral register of ‘evil’, political and historical relations between victim and perpetrator are erased.6 In the place of ethnographically informed research the ‘theorist’ or ‘public intellectual’ erases the contingency of the suicide bomber and reduces her death to pure annihilation, or nothingness. The discussion concludes by undoing the notion of the ‘West’, the very ground that the liberal left assert they stand for. The ‘West’ is no longer a viable representation of a geo-political convergence, if it ever was. Liberal discourse has regarded itself as the projection of the ‘West’ and its enlightenment. But this ignores important continuities between Islam, Christianity, and contemporary secular formations. The current ‘clash of monotheisms’, I argue after J-L Nancy, reveals a crisis of sense, authority, and meaning which is inherent to the monotheistic form. An increasingly globalised world is made up of political communities and juridical orders that have been ‘emptied’ of authority and certainty. This crisis of sense conditions the horror felt by the supposedly rational liberal in the face of Islamist terrorism. Horror at terrorism is then the affective bond that sustains a grouping that otherwise suffers the loss of a political project with a definite end. The general objective of this essay is to challenge the unexamined assumptions about politics and death that circulate in liberal left denunciations of Islamic fascism. The horror and fascination with the figure of the suicide bomber reveals an unacknowledged affective bond that constitutes the muscular liberal left as a political formation. This relies on disavowing the sacrificial and theological underpinnings of political liberalism itself – and ignores the continuities between what is called the ‘West’ and the theologico-political enterprise of monotheism. Monotheism is not the preserve of something called the ‘West’, but rather an enterprise that is common to all three Religions of the Book. The article concludes by describing how the writings of Jean-Luc Nancy on monotheism offer liberal left thinkers insights for rethinking the crisis of value that resulted from the collapse of grand emancipatory enterprises as well as the fragmentation of politics resulting from a focus on political identification through difference. I opened with a reference to the ‘liberal left’. Of course the ‘liberal left’ signifies a vast and varied range of political thinking and activism – so I must clarify how I am deploying this term. In this essay the terms ‘liberal left’ or ‘muscular liberal’ are used interchangeably. Paul Berman and Nick Cohen, whose writing I will shortly refer to, are exemplars of the new political alignment who self-identify as ‘democrats and progressives’, but whose writings feature bellicose assertions about the superiority of western models of democracy, and universal human rights.7 Among this liberal left, democracy and freedom become hemispheric and come to stand for the West. More generally, now, the ‘liberal left’ can be distinguished from political movements and thinkers who draw inspiration from a Marxist tradition of thought with a socialist horizon. The liberal left I am referring to would view the Marxist tradition as undervaluing democratic freedoms and human rights. Left liberals also tend to dismiss the so called post-Marxist turn in European continental philosophy as ‘postmodern relativism’.8 PostMarxists confronted the problem of the ‘collective’ – addressing the problem of masses and classes as the universal category or agent of historical transformation. This was a necessary correction to all the disasters visited on the masses in the name of a universal working class. The liberal state exploited these divisions on the left. It is true that a left fragmented through identity politics or the politics of difference were reduced to group based claims on the state. However, liberal multiculturalism was critiqued by anti-racist and feminist thinkers as early as the 1970s for ignoring the structural problems of class or as yet another nation-building device. The new formation of the muscular liberal left have only just discovered the defects of multiculturalism. The dismissal of liberal multiculturalism is now code for ‘too much tolerance’ of ‘all that difference’. The liberal left, or muscular liberal, as I use these terms, should not be conflated with the way ‘liberal’ is generally used in North America to denote ‘progressive’, ‘pro-choice’, open to a multiplicity of forms of sexual expression, generally ‘tolerant’, or ‘left wing’ (meaning socialist). It might be objected that it is not the liberal left, but ‘right wing crazies’ driven by Christian evangelical zeal combined with neo-liberal economic strategies that have usurped a post-9/11 crime and security agenda to mount a global hegemonic enterprise in the name of a ‘war on terror’. It might also be said that this is nothing new – global expansionist enterprises such as 18th and 19th century colonialism mobilised religion, science, and theories of economic development to secure resources and justify extreme violence where necessary. Global domination, it might be argued, has always been a thanatopolitical enterprise. So what’s different now? What is crucial, now, is that the entire spectrum of liberalism, including the ‘rational centre’, is engaged in the kind of mindset whereby a destructive and deadly war is justified in the name of protecting or establishing democracy, the rule of law, and human rights. It might then be retorted that this ‘rational centre’ of liberalism have ‘always’ been oriented in this way. That is partly true, but it is worth recalling that the liberal left I have in mind is the generation that came of age with opposition to the war in Vietnam, other Indo-Chinese conflagrations, and the undoing of empire. This is a left that observed the Cold War conducted through various ‘hot wars’ in Africa, Central and Latin America, and South East Asia and thus at least hoped to build a ‘new world order’ of international law and multilateralism. This is a left that was resolved, by the 1970s, not to repeat the error of blindly following a scientific discourse that promised to produce a utopia – whether this was ‘actually existing socialism’ or the purity of ‘blood and soil’. But now, a deadly politics, a thanatopolitics, is drawn out of a liberal horror and struggle against a monolithically drawn enemy called Islamic fundamentalism. What is new is that Islam has replaced communism/fascism as the new ‘peril’ against which the full spectrum of liberalism is mobilized. Islamist terrorism and suicide bombers, a clash between an apparently Islamic ‘cult of death’ versus modern secular rationality has come to be a central preoccupation of the liberal left. In the process, as Talal Asad has eloquently pointed out, horror about terrorism has come to be revealed as one way in which liberal subjectivity and its relation to political community can be interrogated and understood.9 Moreover, the potential for liberal principles to be deployed in the service of legitimating a doctrine of pre-emption as the ‘new internationalism’ is significant. The first and second Gulf Wars, according to the liberal left, are then not wars to secure control over the supply of oil, or regional and global hegemony, as others on the left might argue, but anti-fascist, anti-totalitarian wars of liberation fought in the name of ‘democracy’. Backing ‘progressive wars’ for ‘freedom and democracy’, those who self-identify as a left which is reasserting liberal democratic principles start by asking questions such as: “Are western freedoms only for westerners?”.10 In the process, freedom becomes ‘western’, and its enemy an amorphous legion behind an unidentifiable line between ‘west’ and the rest (the ‘Muslim world’). The ‘war for democracy’ waged against ‘Islamist terrorism’ and Muslim fundamentalism is the crucible on which the new alignment of the liberal left is forged.

#### The alt is to reject the aff in favor of building a culture of resilience

Vermeule and Posner 11 Adrian Vermeule, prof of Law at Harvard University Law School, Eric A Posner., prof of Law at the University of Chicago Law School, *Executive Unbound: After the Madisonian Republic*, Oxford University Press 2011

We do not yet live under a plebiscitary presidency. In such a system, the president has unchecked legal powers except for the obligation to submit to periodic elections. In our system, Congress retains the formal power to make law. It has subjected presidential lawmaking to complex procedures and bureaucratic checks,1 and it has created independent agencies over which the president in theory has limited control. The fed­eral courts can expect the executive to submit to their orders, and the Supreme Court retains certain quasi-lawmaking powers, which it exercises by striking down statutes and blocking executive actions. The federal system is still in place. State legal institutions retain considerable power over their populations. But these legal checks on executive authority (aside from the electoral constraint) have eroded considerably over the last two hundred years. Congress has delegated extensive powers to the executive. For new initia­tives, the executive leads and Congress follows. Congress can certainly slow down policymaking, and block bills proposed by the executive; but it cannot set the agenda. It is hard to quantify the extent of congressional control over regulatory agencies, but it is fair to say that congressional intervention is episodic and limited, while presidential control over both the executive and independent agencies is strong and growing stronger. The states increasingly exercise authority at the sufferance of the national government and hence the president. The federal courts have not tried to stop the erosion of congressional power and state power. Some commentators argue that the federal courts have taken over Con­gress’s role as an institutional check. It is true that the Supreme Court has shown little compunction about striking down statutes (although usually state statutes), and that it rejected some of the legal theories that the Bush administration used to justify its counterterrorism policies. However, the Court remains a marginal player. The Court ducked any legal rulings on counterterror policies until the 2004 Hamdi decision, and even after the Boumediene decision in 2008, no detainee has been released by final judicial order, from Guantanamo or elsewhere, except in cases where the government chose not to appeal the order of a district judge. The vast majority of detainees have received merely another round of legal process. Some speculate that judicial threats to release detainees have caused the administration to release them preemptively. Yet the judges would incur large political costs for actual orders to release suspected terrorists, and the government knows this, so it is unclear that the government sees the judi­cial threats as credible or takes them very seriously. The government, of course, has many administrative and political reasons to release detainees, quite apart from anything the courts do. So the executive submits to judi­cial orders in part because the courts are careful not to give orders that the executive will resist. In general, judicial opposition to the Bush administration’s counterter­rorism policies took the form of incremental rulings handed down at a gla­cial pace, none of which actually stopped any of the major counterterrorism tactics of that administration, including the application of military power against Al Qaeda, the indefinite detention of members of Al Qaeda, tar­geted assassinations, the immigration sweeps, even coercive interrogation. The (limited) modifications of those tactics that have occurred resulted not from legal interventions but from policy adjustments driven by changed circumstances and public opinion, and by electoral victory of the Obama administration. However, the Obama administration has mostly confirmed and in some areas even expanded the counterterrorism policies of the Bush administration. Strong executive government is bipartisan. The 9/11 attack provided a reminder of just how extensive the presi­dent’s power is. The executive claimed the constitutional authority to, in effect, use emergency powers. Because Congress provided redundant stat­utory authority, and the Supreme Court has steadfastly refused to address the ultimate merits of the executives constitutional claims, these claims were never tested in a legal or public forum. But it is worth trying to ima­gine what would have happened if Congress had refused to pass the Autho­rization for Use of Military Force and the Supreme Court had ordered the executive to release detainees in a contested case. We think that the execu­tive, backed up as it was by popular opinion, would have refused to obey. And, indeed, for just that reason, Congress would, never have refused its imprimatur and the Supreme Court would never have stood in the execu­tive’s way. The major check on the executives power to declare an emer­gency and to use emergency powers is—political. The financial crisis of 2008-2009 also revealed the extent of executive power. Acting together, the Fed, the Treasury, and other executive agencies spent hundreds of billions of dollars, virtually nationalizing parts of the financial system. Congress put up a fuss, but it could not make policy and indeed hardly even influenced policy. Congress initially refused to supply a blank check, then in world-record time changed its mind and gave the blank check, then watched helplessly as the administration adopted pol­icies different from those for which it said the legislation would be needed. Courts played no role in the crisis except to ratify executive actions in tension with the law.2 What, then, prevents the executive from declaring spurious emergencies and using the occasion to consolidate its power—or for that matter, consolidating its power during real emergencies so that it retains that power even after normal times return? In many countries, notably in Latin America, presidents have done just that. Citing an economic crisis, or a military threat, or congressional gridlock, executives have shut down independent media, replaced judges with their cronies, suppressed political opposition, and ruled by dictate. Could this happen in the United States? The answer is, very probably, no. The political check on the executive is real. Declarations of emergency not justified by publicly visible events would be met with skepticism. Actions said, to be justified by emergency would not be approved if the justification were not plausible. Separation of powers may be suffering through an enfeebled old age, but electoral democracy is alive and well. We have suggested that the historical developments that have under­mined separation of powers have strengthened democracy. Consider, for example, the communications revolution, which has culminated (so far) in the Internet Age. As communication costs decrease, the size of markets expand, and hence the scale of regulatory activity must increase. Localities and states lose their ability to regulate markets, and the national govern­ment takes over. Meanwhile, reduced communication costs increase the relative value of administration (monitoring firms and ordering them to change their behavior) and reduce the relative value of legislation (issuing broad-gauged rules), favoring the executive over Congress. At the same time, reduced communication costs make it easier for the public to mon­itor the executive. Today, whistleblowers can easily find an audience on the Internet,; people can put together groups that focus on a tiny aspect of the government s behavior; gigabytes of government data are uploaded onto the Internet and downloaded by researchers who can subject them to rigorous statistical analysis. It need not have worked out this way. Govern­ments can also use technology to monitor citizens for the purpose of suppressing political opposition. But this has not, so far, happened in the United States. Nixon fell in part because his monitoring of political enemies caused an overwhelming political backlash, and although the Bush administration monitored suspected terrorists, no reputable critic suggested that it targeted domestic political opponents. Our main argument has been methodological and programmatic: researchers should no longer view American political life through the Madisonian prism, while normative theorists should cease bemoaning the decline of Madisonianism and instead make their peace with the new political order. The center of gravity has shifted to the executive, which both makes policy and administers it, subject to weak constraints imposed by Congress, the judiciary, and the states. It is pointless to bewail these developments, and futile to argue that Madisonian structures should be reinvigorated. Instead, attention should shift to the political constraints on the president and the institutions through, which those political con­straints operate—chief among them elections, parties, bureaucracy, and the media. As long as the public informs itself and maintains a skeptical attitude toward the motivations of government officials, the executive can operate effectively only by proving over and over that it deserves the public s trust. The irony of the new political order is that the executive, freed from the bonds of law, inspires more distrust than in the past, and thus must enter ad hoc partnerships with political rivals in order to persuade people that it means well. But the new system is more fluid, allowing the executive to form those partnerships when they are needed to advance its goals, and not otherwise. Certain types of partnership have become recurrent pat­terns—for example, inviting a member of the opposite party to join the president’s cabinet. Others are likely in the future. In the place of the clockwork mechanism bequeathed to us by the Enlightenment thinking of the founders, there has emerged a more organic system of power sharing and power constraint that depends on shifting political alliances, currents of public opinion, and the particular exigencies that demand government action. It might seem that such a system requires more attention from the public than can reasonably be expected, but the old system of checks and balances always depended on public opinion as well. The centuries-old British parliamentary system, which operated in. just this way, should provide reason, for optimism. The British record on executive abuses, although hardly perfect, is no worse than the American record and arguably better, despite the lack of a Madisonian separation of legislative and executive powers

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#### The Executive Branch of the United States should end the detention of all remaining Afghan detainees at the U.S. military detention center in Guantanamo Bay, Cuba by ordering their immediate release and transfer to Afghanistan. The Executive Branch of the United States should create “executive v. executive” divisions as per our Katyal evidence to promote internal separation of powers via separate and overlapping cabinet offices, mandatory review of government action by different agencies, civil-service protections for agency workers, reporting requirements to Congress, and an impartial decision-maker to resolve inter-agency conflicts.

#### Presidential veto power and executive deference mean external restraints fail – internal separation of powers constrains the president and leads to better decision making

Katyal ’6 Neal Katyal, Professor of Law @ Georgetown, The Yale Law Journal, “Internal Separation of Powers: Checking Today’s Most Dangerous Branch from Within” 115 Yale L.J. 2314, 2006

After all, Publius's view of separation of powers presumes three branches with equivalent ambitions of maximizing their powers, yet legislative abdication is the reigning modus operandi. It is often remarked that "9/11 changed everything"; 2 particularly so in the war on terror, in which Congress has been absent or content to pass vague, open-ended statutes. The result is an executive that subsumes much of the tripartite structure of government. Many commentators have bemoaned this state of affairs. This Essay will not pile on to those complaints. Rather, it begins where others have left off. If major decisions are going to be made by the President, then how might separation of powers be reflected within the executive branch? The first-best concept of "legislature v. executive" checks and balances must be updated to contemplate second-best "executive v. executive" divisions. And this Essay proposes doing so in perhaps the most controversial area: foreign policy. It is widely thought that the President's power is at its apogee in this arena. By explaining the virtues of internal divisions in the realm of foreign policy, this Essay sparks conversation on whether checks are necessary in other, domestic realms. That conversation desperately needs to center on how best to structure the ever-expanding modern executive branch. From 608,915 employees working in agencies in 1930, 3 to 2,649,319 individuals in 2004, 4 the growth of the executive has not generated a systematic focus on internal checks. We are all fond of analyzing checks on judicial activism in the post-Brown, post-Roe era. So too we think of checks on legislatures, from the filibuster to judicial review. But [\*2317] there is a paucity of thought regarding checks on the President beyond banal wishful thinking about congressional and judicial activity. This Essay aims to fill that gap. A critical mechanism to promote internal separation of powers is bureaucracy. Much maligned by both the political left and right, bureaucracy creates a civil service not beholden to any particular administration and a cadre of experts with a long-term institutional worldview. These benefits have been obscured by the now-dominant, caricatured view of agencies as simple anti-change agents. This Essay celebrates the potential of bureaucracy and explains how legal institutions can better tap its powers. A well-functioning bureaucracy contains agencies with differing missions and objectives that intentionally overlap to create friction. Just as the standard separation-of-powers paradigms (legislature v. courts, executive v. courts, legislature v. executive) overlap to produce friction, so too do their internal variants. When the State and Defense Departments have to convince each other of why their view is right, for example, better decision-making results. And when there is no neutral decision-maker within the government in cases of disagreement, the system risks breaking down. In short, the executive is the home of two different sorts of legitimacy: political (democratic will) and bureaucratic (expertise). A chief aim of this Essay's proposal is to allow each to function without undermining the other. This goal can be met without agency competition - overlapping jurisdiction is simply one catalyzing agent. Other ideas deserve consideration, alongside or independent of such competition, such as developing career protections for the civil service modeled more on the Foreign Service. Executives of all stripes offer the same rationale for forgoing bureaucracy-executive energy and dispatch. 5 Yet the Founders assumed that massive changes to the status quo required legislative enactments, not executive decrees. As that concept has broken down, the risks of unchecked executive power have grown to the point where dispatch has become a worn-out excuse for capricious activity. Such claims of executive power are not limited to the current administration, nor are they limited to politicians. Take, for example, Dean Elena Kagan's rich celebration of presidential administration. 6 Kagan, herself a former political appointee, lauded the President's ability to trump bureaucracy. Anticipating the claims of the current administration, Kagan argued that the [\*2318] President's ability to overrule bureaucrats "energizes regulatory policy" because only "the President has the ability to effect comprehensive, coherent change in administrative policymaking." 7 Yet it becomes clear that the Kagan thesis depends crucially on oversight by the coordinate legislative branch (typically controlled by a party in opposition to the President). Without that checking function, presidential administration can become an engine of concentrated power. This Essay therefore outlines a set of mechanisms that create checks and balances within the executive branch. The apparatuses are familiar - separate and overlapping cabinet offices, mandatory review of government action by different agencies, civil-service protections for agency workers, reporting requirements to Congress, and an impartial decision-maker to resolve inter-agency conflicts. But these restraints have been informally laid down and inconsistently applied, and in the wake of September 11 they have been decimated. 8 A general framework statute is needed to codify a set of practices. In many ways, the status quo is the worst of all worlds because it creates the facade of external and internal checks when both have withered. I. THE NEED FOR INTERNAL SEPARATION OF POWERS The treacherous attacks of September 11 gave Congress and the President a unique opportunity to work together. Within a week, both houses of Congress passed an Authorization for Use of Military Force (AUMF); 10 two months later they enacted the USA PATRIOT Act to further expand intelligence and law enforcement powers. 11 But Congress did no more. It passed no laws authorizing or regulating detentions for U.S. citizens. It did not affirm or regulate President Bush's decision to use military commissions to try unlawful belligerents. 12 It stood silent when President Bush accepted thinly reasoned legal views of the Geneva Conventions. 13 The administration was content to rely on vague legislation, and Congress was content to enact little else. 14 There is much to be said about the violation of separation of powers engendered by these executive decisions, but for purposes of this Essay, I want [\*2320] to concede the executive's claim - that the AUMF gave the President the raw authority to make these decisions. A democratic deficit still exists; the values of divided government and popular accountability are not being preserved. Even if the President did have the power to carry out the above acts, it would surely have been wiser if Congress had specifically authorized them. Congress's imprimatur would have ensured that the people's representatives concurred, would have aided the government's defense of these actions in courts, and would have signaled to the world a broader American commitment to these decisions than one man's pen stroke. Of course, Congress has not passed legislation to denounce these presidential actions either. And here we come to a subtle change in the legal landscape with broad ramifications: the demise of the congressional checking function. The story begins with the collapse of the nondelegation doctrine in the 1930s, which enabled broad areas of policymaking authority to be given to the President and to agencies under his control. That collapse, however, was tempered by the legislative veto; in practical terms, when Congress did not approve of a particular agency action, it could correct the problem. But after INS v. Chadha, 15 which declared the legislative veto unconstitutional, that checking function, too, disappeared. In most instances today, the only way for Congress to disapprove of a presidential decree, even one chock full of rampant lawmaking, is to pass a bill with a solid enough majority to override a presidential veto. The veto power thus becomes a tool to entrench presidential decrees, rather than one that blocks congressional misadventures. And because Congress ex ante appreciates the supermajority-override rule, its members do not even bother to try to check the President, knowing that a small cadre of loyalists in either House can block a bill. 16 For example, when some of the Senate's most powerful Republicans (John McCain, Lindsay Graham, and John Warner) tried to regulate detentions and trials at Guantanamo Bay, they were told that the President would veto any attempt to modify the AUMF. 17 The result is that once a court [\*2321] interprets a congressional act, such as the AUMF, to give the President broad powers, Congress often cannot reverse the interpretation, even if Congress never intended to give the President those powers in the first place. Senator McCain might persuade every one of the other ninety-nine Senators to vote for his bill, but that is of no moment without a supermajority in the House of Representatives as well. 18 At the same time, the executive branch has gained power from deference doctrines that induce courts to leave much conduct untouched - particularly in foreign affairs. 19 The combination of deference and the veto is especially insidious - it means that a President can interpret a vague statute to give himself additional powers, receive deference in that interpretation from courts, and then lock that decision into place by brandishing the veto. This ratchet-and-lock scheme makes it almost impossible to rein in executive power. All legislative action is therefore dangerous. Any bill, like Senator McCain's torture bill, can be derailed through compromise. A rational legislator, fearing this cascading cycle, is likely to do nothing at all. This expansion of presidential power is reinforced by the party system. When the political branches are controlled by the same party, loyalty, discipline, and self-interest generally preclude interbranch checking. That reluctance is exacerbated by a paucity of weapons that check the President. Post-Chadha, Congress only has weapons that cause extensive collateral damage. The fear of that damage becomes yet another reason why Congress is plagued with inertia. And the filibuster, the last big check in periods of single-party government, is useless against the host of problems caused by Presidents who take expansive views of their powers under existing laws (such as the AUMF). Instead of preserving bicameralism, Chadha has led to its subversion and "no-cameralism." A Congress that conducts little oversight provides a veneer of legitimacy to an adventurist President. The President can appeal to the historic sense of checks and balances, even if those checks are entirely compromised by modern political dynamics. With this system in place, it is no surprise that recent calls [\*2322] for legislative revitalization have failed. No successful action-forcing mechanisms have been developed; instead we are still in John Hart Ely's world of giving a "halftime pep-talk imploring that body to pull up its socks and reclaim its rightful authority." 20 It is time to consider second-best solutions to bring separation of powers into the executive. Bureaucracy can be reformed and celebrated (instead of purged and maligned), and neutral conflict-decision mechanisms can be introduced. Design choices such as these can help bring our government back in line with the principles envisioned by our Founders. 21

#### Internal checks comparatively solve better and don’t link to politics

Metzger ‘9, Gillian E. Metzger, Professor of Law @ Columbia Law School, “The Interdependent Relationship Between Internal and External Separation of Powers” 59 Emory L.J. 423, Emory Law Journal, 2009

Several bases exist for thinking that internal separation of powers mechanisms may have a comparative advantage. First, internal mechanisms [\*440] operate ex ante, at the time when the Executive Branch is formulating and implementing policy, rather than ex post. As a result, they avoid the delay in application that can hamper both judicial and congressional oversight. 76 Second, internal mechanisms often operate continuously, rather than being limited to issues that generate congressional attention or arise in the form of a justiciable challenge. 77 Third, internal mechanisms operate not just at the points at which policy proposals originate and are implemented but also at higher managerial levels, thus addressing policy and administration in both a granular and systemic fashion. In addition, policy recommendations generated through internal checks may face less resistance than those offered externally because the latter frequently arise after executive officials have already decided upon a policy course and are more likely to take an adversarial form. 78 Internal mechanisms may also gain credibility with Executive Branch officials to the extent they are perceived as contributing to more fully informed and expertise-based decisionmaking. 79

### 1NC DA

#### Insiders think TPA will pass but strong Obama push is key

Economist 2/7

“Harry Reid Threatens To Impoverish The World By At Least $600 Billion A Year” FEB. 7, 2014

http://www.businessinsider.com/harry-reid-threatens-to-impoverish-the-world-by-at-least-600-billion-a-year-2014-2

Mr Obama has never been an ardent free-trader, yet his second term got off to a promising start. The Trans-Pacific Partnership, a deal with large Pacific-rim economies, is close to completion; America and Japan are hammering out the rules for farm goods. European and American trade wonks continue to meet regularly, hoping to wrap up a "next-generation" trade agreement as early as next year.¶ To make all this happen Mr Obama needs "trade promotion authority" (usually known as "fast-track"), which would let him negotiate deals and then present them to Congress for a simple yes-or-no vote, with no chance for lawmakers to rewrite the details. Without such authority, America's trading partners cannot take the White House seriously as a negotiator. Fast-track was last granted to George W. Bush in 2002 and expired in 2007. Since Republicans are generally pro-trade and Democrats are generally loyal to Mr Obama, most people in Washington at first assumed that Congress would give it to him without a fuss.¶ But with elections looming and lawmakers in a populist mood, that is far from certain. Late last year roughly half the members of the House wrote to Mr Obama declaring their opposition to fast-track; most were from his own party. In early January a bipartisan group of senators introduced a fast-track bill. Mr Obama spoke up for it in his state-of-the-union address, but only in passing and in mercantilist terms. The aim is "to protect our workers, protect our environment and open new markets to new goods stamped 'Made in the USA'," he said; without mentioning that cheap imports raise living standards.¶ Barely had he left the podium when Mr Reid mugged him. Answering questions from reporters, he reiterated his opposition to fast-track and advised its backers "not [to] push this right now". Insiders doubt that Mr Reid would kill the bill outright. Haggling in the Senate may yield a new version with enough about labour standards and the environment to satisfy the protectionists. If so, Mr Reid will probably allow a vote, and the bill should pass. The White House remains publicly optimistic.¶ Yet damage is already being done. Michael Froman, Mr Obama's trade representative, says negotiations have not been affected by the politicking in Washington. However, even if Mr Reid's rebellion was partly for show (his seat is at risk in 2016), it still worries America's trade partners. Shinzo Abe, Japan's prime minister, may be reluctant to offend voters at home for the sake of a trade deal that America's legislators might promptly torpedo. Similarly, the French, who have been a constant pain in talks between America and Europe, could argue that since America's leaders seem determined to attach conditions to a fast-track bill, France's demands for carve-outs deserve consideration, too.¶ At home meanwhile, Democratic opposition could harden. Some lawmakers may see an opportunity to put daylight between themselves and their Republican foes ahead of November's elections. With corporate profits looking healthy and wages still stagnant almost five years into the recovery, some may be tempted to portray Republican backing for free trade as support for fat-cat corporations.¶ Mr Reid's surprise rebuke suggests that Mr Obama needs to communicate better with his allies. And if he wishes to prevent two of the most promising trade deals in a decade from unravelling, he will need to make a far more full-throated case for the benefits of free exchange.

#### Plan tanks capital and derails the agenda – empirics prove

Kriner ’10 Douglas L. Kriner, assistant professor of political science at Boston University, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec 1, 2010, page 68-69

While congressional support leaves the president’s reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president’s foreign policies is capital that is unavailable for his future policy initiatives. Moreover, any weakening in the president’s political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races.59 Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War. 60 In addition to boding ill for the president’s perceived political capital and reputation, such partisan losses in Congress only further imperil his programmatic agenda, both international and domestic. Scholars have long noted that President Lyndon Johnson’s dream of a Great Society also perished in the rice paddies of Vietnam. Lacking the requisite funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, many of President Bush’s highest second-term domestic proprieties, such as Social Security and immigration reform, failed perhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq.61 When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies. If congressional opposition in the military arena stands to derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena.

#### TPA is critical to US economic growth and restoring America’s free trade credibility – Obama PC is key

Riley and Kim 4/16 Bryan Riley is Jay Van Andel Senior Analyst in Trade Policy and Anthony B. Kim is a Senior Policy Analyst in the Center for International Trade and Economics at The Heritage Foundation.

www.heritage.org/research/reports/2013/04/advancing-trade-freedom-key-objective-of-trade-promotion-authority-renewal

Trade Promotion Authority (TPA) has been a critical tool for advancing free trade and spreading its benefits to a greater number of Americans. TPA, also known as “fast track” authority, is the legislative power Congress grants to the President to negotiate reciprocal trade agreements. Provided the President observes certain statutory obligations under TPA, Congress agrees to consider implementing those trade pacts without amending them.¶ More than a decade has passed since TPA was last renewed in 2002, and its authority expired in 2007. Reinstituting TPA may well be the most important legislative action on trade for both Congress and the President in 2013 given the urgency of restoring America’s credibility in advancing open markets and securing greater benefits of two-way trade for Americans. As the case for timely reinstallation of an effective and practical TPA is stronger than ever, the quest for renewing TPA should be guided by principles that enhance trade freedom, a vital component of America’s economic freedom.¶ Emerging TPA Renewal Debates¶ Both House Ways and Means Committee chairman David Camp (R–MI) and Senate Finance Committee chairman Max Baucus (D–MT) have announced plans to pursue TPA legislation. However, many lawmakers have correctly pointed out that a proactive push from President Obama is critical, given that trade bills have been a thorny issue for many Democrats in recent years.¶ Historically, it has been common practice, although not formally required, to have the President request that Congress provide renewed TPA. In fact, except for President Obama, every President since Franklin Roosevelt has either requested or received trade negotiating authority.[1]¶ After four years of informing Congress it would seek TPA at “the appropriate time,” early this year the Obama Administration finally indicated its interest in working with Congress to get TPA done. The President’s 2013 trade agenda offered the Administration’s most forward-leaning language yet, specifying that “to facilitate the conclusion, approval, and implementation of market-opening negotiating efforts, we will also work with Congress on Trade Promotion Authority.”[2]¶ In the 2002 Bipartisan Trade Promotion Authority Act, Congress—whose role in formulating U.S. trade policy includes defining trade negotiation objectives—made it clear that¶ [t]he expansion of international trade is vital to the national security of the United States. Trade is critical to the economic growth and strength of the United States and to its leadership in the world. Stable trading relationships promote security and prosperity.… Leadership by the United States in international trade fosters open markets, democracy, and peace throughout the world.[3]

#### Decline collapses power projection – leads to nuclear war

Harris & Burrows 9 Mathew, PhD European History @ Cambridge, counselor of the U.S. National Intelligence Council (NIC) and Jennifer, member of the NIC’s Long Range Analysis Unit “Revisiting the Future: Geopolitical Effects of the Financial Crisis” http://www.ciaonet.org/journals/twq/v32i2/f\_0016178\_13952.pdf

Of course, the report encompasses more than economics and indeed believes the future is likely to be the result of a number of intersecting and interlocking forces. With so many possible permutations of outcomes, each with ample Revisiting the Future opportunity for unintended consequences, there is a growing sense of insecurity. Even so, history may be more instructive than ever. While we continue to believe that the Great Depression is not likely to be repeated, the lessons to be drawn from that period include the harmful effects on fledgling democracies and multiethnic societies (think Central Europe in 1920s and 1930s) and on the sustainability of multilateral institutions (think League of Nations in the same period). There is no reason to think that this would not be true in the twenty-first as much as in the twentieth century. For that reason, the ways in which the potential for greater conflict could grow would seem to be even more apt in a constantly volatile economic environment as they would be if change would be steadier. In surveying those risks, the report stressed the likelihood that terrorism and nonproliferation will remain priorities even as resource issues move up on the international agenda. Terrorism’s appeal will decline if economic growth continues in the Middle East and youth unemployment is reduced. For those terrorist groups that remain active in 2025, however, the diffusion of technologies and scientific knowledge will place some of the world’s most dangerous capabilities within their reach. Terrorist groups in 2025 will likely be a combination of descendants of long established groups\_inheriting organizational structures, command and control processes, and training procedures necessary to conduct sophisticated attacks and newly emergent collections of the angry and disenfranchised that become self-radicalized, particularly in the absence of economic outlets that would become narrower in an economic downturn. The most dangerous casualty of any economically-induced drawdownof U.S. military presence would almost certainly be the Middle East. Although Iran’s acquisition of nuclear weapons is not inevitable, worries about a nuclear-armed Iran could lead states in the region to develop new security arrangements with external powers, acquire additional weapons, and consider pursuing their own nuclear ambitions. It is not clear that the type of stable deterrent relationship that existed between the great powers for most of the Cold War would emerge naturally in the Middle East with a nuclear Iran. Episodes of low intensity conflict and terrorism taking place under a nuclear umbrella could lead to an unintended escalation and broader conflict if clear red lines between those states involved are not well established. The close proximity of potential nuclear rivals combined with underdeveloped surveillance capabilities and mobile dual-capable Iranian missile systems also will produce inherent difficulties in achieving reliable indications and warning of an impending nuclear attack. The lack of strategic depth in neighboring states like Israel, short warning and missile flight times, and uncertainty of Iranian intentions may place more focus on preemption rather than defense, potentially leading to escalating crises. 36 Types of conflict that the world continues to experience, such as over resources, could reemerge, particularly if protectionism grows and there is a resort to neo-mercantilist practices. Perceptions of renewed energy scarcity will drive countries to take actions to assure their future access to energy supplies. In the worst case, this could result in interstate conflicts if government leaders deem assured access to energy resources, for example, to be essential for maintaining domestic stability and the survival of their regime. Even actions short of war, however, will have important geopolitical implications. Maritime security concerns are providing a rationale for naval buildups and modernization efforts, such as China’s and India’s development of blue water naval capabilities. If the fiscal stimulus focus for these countries indeed turns inward, one of the most obvious funding targets may be military. Buildup of regional naval capabilities could lead to increased tensions, rivalries, and counterbalancing moves, but it also will create opportunities for multinational cooperation in protecting critical sea lanes. With water also becoming scarcer in Asia and the Middle East, cooperation to manage changing water resources is likely to be increasingly difficult both within and between states in a more dog-eat-dog world.

### 1NC Solvency

#### Alt causes the aff won’t solve

Rai, 1/25 (“Karzai says either US restart talks with Taliban or leave Afghanistan” All Voices. Web, ACc 1/27/14. <http://www.allvoices.com/contributed-news/16411896-karzai-says-either-us-restart-talks-with-taliban-or-leave-afghanistan>) Nasty ¶ In a clear indication of the Afghan-US security deal in jeopardy, President [Hamid Karzai](http://www.allvoices.com/people/hamid_karzai), on Saturday toughening his stand said, if the US wants to leave Afghanistan it can do so “even today,” but he will not sign a security accord, unless Washington restarts peace talks with Taliban.¶ A bilateral security agreement (BSA) would enable a small contingent of American troops to remain in Afghanistan beyond 2014 to carry on counter-terrorism measures as well as advice and help Afghan security forces.¶ Karzai speaking to reporters in Kabul repeated that before he signs the BSA, the US must honestly foster a peace process with Taliban. "The start of a peace process would mean that no foreigners can benefit from the continuation of war," he [said](http://www.ndtv.com/article/world/afghan-us-deal-falters-as-hamid-karzai-demands-taliban-talks-475350).¶ Unless Afghans are satisfied the security accord will bring positive results “signing the document will mean bringing repression to the country, its soil and the people,” said Karzai.¶ The US has warned it will be forced to leave the war-ravaged nation by Dec. 2014 end and also cut off financial aid to Afghanistan, if the BSA is not signed. A meeting of Afghan elders and politicians (Loya Jirga) has already backed the security pact and even urged Karzai to sign it.¶ But Karzai has stubbornly refused to sign it. Instead, demanded the US forces stop all military raids on Afghan homes including drone strikes while pursuing insurgents. In addition to reviving peace talks with the Taliban, he also wants the US to ensure transparent elections in 2014.¶ Dismissing the US warnings, President Karzai said that if Washington is not willing to accept his conditions and thinking of “leaving, then Allah Hafiz to them [May God Be with them] and they can leave even today”. As far as Afghans are concerned, he said, they will survive.¶ The Afghan president was clear about one thing that his country would never sign anything under duress, adding that “no pressure, no threats and no psychological war against our people will force us to sign the BSA”.¶ He was pressing the US for talks with the Taliban, (in power from 1996-2001) as it was crucial to ensure that Afghanistan was not left with a feeble central government. "Starting peace talks is a condition because we want to be confident that after the signing of the security agreement, Afghanistan will not be divided into fiefdoms," he[said](http://in.reuters.com/article/2014/01/25/afghanistan-usa-idINL5N0KZ06220140125).¶ Karzai also slammed the use of paid adverts by the US lobbying for the BSA to be signed. Referring to the advertisements broadcast for weeks by local media but since taken off the air, he [said](http://in.reuters.com/article/2014/01/25/afghanistan-usa-idINL5N0KZ06220140125): "To harm the psyche and soul of the people of Afghanistan, there is serious propaganda going on."¶ Ahmad Saeedi, a Kabul-based political and security analyst, [said](http://www.bloomberg.com/news/2014-01-25/karzai-declines-afghan-security-deal-in-absence-of-peace-process.html) by telephone that Americans may not be in a position to fulfill the conditions set by Karzai, whose demands could “motivate the Taliban to lay down their arms.” Taliban forces have long sought the complete withdrawal of US troops and also rejected a BSA, he said.¶ Meanwhile, the US does not really want to exit out of Afghanistan in a hurry as Pentagon would most certainly want to keep under its control the Afghan bases. It will provide the American forces with the means to project military might against neighboring Iran, China, South Asia and the oil-rich former Soviet republics of Central Asia.¶ Perhaps, the experienced and shrewd politician, Hamid Karzai knows this and therefore playing his cards pretty well to garner the maximum advantage for himself and Afghanistan.

#### The aff is worse - Obama will circumvent it anad never release the Gitmo 46.

Michael Crowley, May 24, 2013, Time, “Can Obama End the War on Terror?” <http://swampland.time.com/2013/05/24/can-obama-end-the-war-on-terror/>

 But there’s another other critique. This one holds that Guantanamo itself isn’t the problem. It’s the policy behind it: indefinite detention. Obama’s plan would send some Guantanamo detainees back to their home in Yemen, and possibly to some other countries, and try others in the criminal and military justice systems on U.S. soil. But even Obama’s plan would leave nearly 50 prisoners in a state of indefinite detention. These are prisoners who probably can never be charged in court, either because the evidence against them is tainted by the use of torture, or because the government is convinced they are dangerous but does not have specific charges to mount against them. On this question, Obama essentially punted: “[O]nce we commit to a process of closing GTMO, I am confident that this legacy problem can be resolved, consistent with our commitment to the rule of law,” he said.¶ “[H]istory will cast a harsh judgment on this aspect of our fight against terrorism, and those of us who fail to end it,” Obama went on to say. But he has not offered a clear plan for what to do with these prisoners who apparently cannot be tried. One thing he does not seem prepared to do is simply release them. America may have damaged al Qaeda enough that Barack Obama can talk about a day when the war against the disciples of Osama bin Laden will be over. But that day has not yet arrived. And until it does, Obama may have to live with some unpleasant moral compromises.

#### Circumvention paints Obama as unilateral – it destroys any legitimacy gained by the aff.

Sillivana, 2009 (Assistant Professor of Law, Paul M. Herbert Law Center, Louisiana State University.“Lincoln’s Constitutionalism in Time of War: Lessons for the War on Terror?” Article: “INTERNATIONAL LAW AND DOMESTIC LEGITIMACY: REMARKS PREPARED FOR LINCOLN’S CONSTITUTIONALISM IN TIME OF WAR: LESSONS FOR THE CURRENT WAR ON TERROR? Chapman Law Review. Spring 2009. Web, Acc 8/14/2013 at <http://www.chapmanlawreview.com/?p=1514>)

¶ The contemporary framework of international law and international organizations has served as an obstacle to the legitimation of current U.S. policy, but also created an unmatched structural opportunity for President Obama to incorporate U.S. policy preferences into the goals, operations, and structures of the international system. This can perhaps best be done by incorporating structural restraints on the exercise of U.S. power as the general rule while simultaneously opening the debate over the normative desirability of provisions of international law that he perceives as obstructing U.S. goals.¶ ¶ Similarly, purveyors of international law are best served not by reflexive service to provisions of existing law, but through the advocacy of the type of structural limitations that international law has proven most effective– procedural safeguards and overarching principles of action.¶ ¶ The process of public debate in the United States encourages an airing of policy choices that may tweak the executive’s proposed policy or encourage more fundamental restructuring of policy frameworks. As an international matter, the incorporation of allies, enemies and NGOs forces recognition of an underlying value to a controversial policy in an attempt to stake out substantive grounds for the purpose of compromise.67 In both circumstances, the policy of the President no longer emanates from the executive branch alone, but creates investment among a group of actors that, as a consequence of that investment, creates legitimacy.¶ ¶ \*501 A. Consensus Building and International Dialogue¶ ¶ The conflict between exercising unilateral power and engaging in a consultative process is, at heart, playing out the tension between exercising the discretion that attaches to unilateral power against the intrinsic constraints that accompany seeking approval from other parties. In resolving this tension, the executive branch sacrifices discretion to some degree each time it pursues external approval. Similarly, presidential policies are vulnerable to the external challenge of illegitimacy when the foundation of those policies is exclusively the unilateral power of the President.68 This give-and-take represents a core element of many commentators’ critiques of the Bush Administration’s failure to engage in consultation and consensus building.69 Instead of integrating legal constraints into a broader framework of war policy, the Administration “chose to push its legal discretion to its limit, and rejected any binding legal constraints.”70¶ ¶ Working within international law affecting security policy encourages the executive branch to engage in its policy decision-making and execution in as transparent a manner as possible and justifies such actions in public in order to preserve underlying policy goals that might otherwise be compromised.

### Adv. 1

**Pakistani nukes are safe. They are conscious of the security threat and take appropriate safeguards.**

**Siddiqi, 10** (Shahid R., Axis of Logic Columnist, former Paki Air Force and former Bureau Chief – Pakistan & Gulf Economist, “Critical Analysis Are Pakistan’s Strategic Nuclear Assets Threatened by Terrorists?” 2-22, <http://axisoflogic.com/artman/publish/Article_58619.shtml>)

"This is all overblown rhetoric. Even if the country's leadership were to be incapacitated, Pakistan's protections are so strong that the arsenal could never slip from the hands of the country's National Command Authority”, General Kidwai told David Sangers of New York Times. Pakistan has successfully put its strategic weapons program under formalized institutional control and oversight. National Command Authority effectively controls, manages and monitors strategic organizations, prevents tangible and intangible transfers or leakage of sensitive technologies and material - measures in line with IAEA safeguards. An over 8000-men strong Security Division secures nuclear assets and materials and guards against malevolent activities. Supported by the strategic forces, it is fully capable of ensuring nuclear security of components even in transit. Prevention of theft of nuclear assets or fissile material Like other nuclear states, Pakistan also faces the security challenge of preventing Non-State Actors and terror groups from gaining access to nuclear assets. Its preventive measures are no less effective than those of others. Commenting on security of nuclear weapons, Congressional Research Service Report (RL-31589) on Nuclear Threat Reduction Measures for India and Pakistan; observes, “Fissile material components (pits) are thought to be kept separately from the rest of the warhead. Such a physical separation helps deter unauthorized use and complicates theft”. Pakistan is believed to have incorporated certain technical safety features into the weapon design which coupled with de-mated status of the weapons, wherein the warhead and the fissile core are stored in separate locations, discourages and denies seizure or theft of an intact nuclear device, guards against accidental or unauthorized launch and prevents diversion of fissile material in the form of weapon components. Pakistan’s nuclear controls also include the functional equivalent to the two-man rule and Permissive Action Links (PALs) that most nuclear states rely on to protect against loss of control, inadvertent weapons use, accidents, and other mishaps. Pakistan’s nuclear material or radioactive sources have remained safe from theft or pilferage nor has there been any attempt by terrorist elements to gain access to weapons or materials. Lamenting the Western attitude Peter Lavoy (National Intelligence for Analysis) states, “Since the 1998 tests, various pronouncements, publications in the Western press, and events in the region have eroded the credibility of Pakistan’s nuclear command and control, overshadowing the efforts that have been made since 1999 to harness a coherent command system to ensure management of its nuclear capabilities….” Guarav Kampani of Center for Nonproliferation Studies says, “Despite such speculative scenario building among policy and security analysts, there is little public evidence to suggest that the safety or the security of Pakistan’s nuclear installations or its nuclear command and control mechanism was ever in jeopardy from internal political instability or Islamists or terrorists forces inside Pakistan or nearby in Afghanistan, either during the American ‘War against Terrorism‘ in Afghanistan or during the 2001-2002 India-Pakistan military standoff. In their analysis of threats from Islamic fundamentalism, Scott Parrish and William C. Potter of the WMD Commission opined, “……. while many states may view Islamic fundamentalism as a significant threat, there appears to be much less agreement on the nature of that threat and its relationship to nuclear terrorism or proliferation”.

### Adv. 2

**No impact to Afghanistan**

**Haass 10/11/09** – President, Council on Foreign Relations, former Director of the State Department's Policy Planning Staff

(Richard N. “In the Afghan War, Aim for the Middle.” Washington Post Op-Ed. http://www.cfr.org/publication/20383/in\_the\_afghan\_war\_aim\_for\_the\_middle.html)

Why does Afghanistan matter? We generally hear four arguments. First, if the Taliban returns to power, Afghanistan will again be a haven for terrorist groups. Second, if the Taliban takes over, Afghanistan will again become a human rights nightmare. Third, a perceived defeat of the United States in Afghanistan would be a blow to U.S. prestige everywhere and would embolden radicals. Fourth, an Afghanistan under Taliban control would be used by extremists as a sanctuary from which to destabilize Pakistan. None of these assumptions is as strong as proponents maintain. Afghanistan certainly matters -- the question is how much. Al-Qaeda does not require Afghan real estate to constitute a regional or global threat. Terrorists gravitate to areas of least resistance; if they cannot use Afghanistan, they will use countries such as Yemen or Somalia, as in fact they already are. No doubt, the human rights situation would grow worse under Taliban rule, but helping Afghan girls get an education, no matter how laudable, is not a goal that justifies an enormous U.S. military commitment. And yes, the taking of Kabul by the Taliban would become part of the radicals' narrative, but the United States fared well in Asia after the fall of South Vietnam, and less than a decade after an ignominious withdrawal from Beirut, the United States amassed the international coalition that ousted Saddam Hussein from Kuwait. There are and always will be opportunities to demonstrate the effectiveness of U.S. power.

### Adv. 3

#### Lack of ANSF training is an alt cause — their article

**Kagan, 7/18**/2013 [Frederick W., Christopher DeMuth Chair and Director, Critical Threats Project, American Enterprise Institute, “The Continued Expansion of Al Qaeda Affiliates and their Capabilities”, Statement before the House Committee on Foreign Affairs Subcommittee on Terrorism, Nonproliferation, and Trade On “Global al-Qaeda: Affiliates, Objectives, and Future Challenges”, <http://www.criticalthreats.org/al-qaeda/kagan-continued-expansion-al-qaeda-affiliates-capabilities-july-18-2013>, BJM]

The war against al Qaeda is not going well. Afghanistan has seen the most success, since Coalition and Afghan National Security Forces (ANSF) have been able to prevent al Qaeda from re-establishing effective sanctuary in the places from which the 9/11 attacks were planned and launched. The killing of Osama bin Laden has not been followed-up in Pakistan with disruption to the leadership group there on the scale of operations that preceded the Abbottabad raid. Al Qaeda affiliates in Iraq, Syria, Yemen, and West Africa have dramatically expanded their operating areas and capabilities since 2009 and appear poised to continue that expansion. Progress against al Shabaab, the al Qaeda affiliate in Somalia, is extremely fragile and shows signs of beginning to unravel. New groups with al Qaeda leanings, although not affiliations, are emerging in Egypt, and old groups that had not previously been affiliated with al Qaeda, such as Boko Haram in Nigeria, appear to be moving closer to it. Current trends point to continued expansion of al Qaeda affiliates and their capabilities, and it is difficult to see how current or proposed American and international policies are likely to contain that expansion, let alone reduce it to 2009 levels or below. Americans must seriously consider the possibility that we are, in fact, starting to lose the war against al Qaeda. The policy debate about al Qaeda has been bedeviled by competing definitions of the group and, consequently, evaluations of the threat it poses to the United States, as Katherine Zimmerman shows in a major paper that will be forthcoming from the Critical Threats Project at the American Enterprise Institute (AEI) in September. Whereas the Bush Administration saw the group as a global network of cells, the Obama Administration has focused narrowly on the "core group" in Pakistan around bin Laden and, after his death, around his successor, Ayman al Zawahiri. The current administration has also labored to distinguish al Qaeda franchises that have the intent and capability to attack the United States homeland from those that do not, implying (or sometimes stating) that the U.S. should act only against the former while observing the latter to ensure that they do not change course.

**\*Stanford Stops Here\***

American airpower supporting local Afghan militias drove al Qaeda from its training bases near the major Afghan cities of Kandahar and Jalalabad in 2001, but the group retreated to mountain fastnesses near (but not over) the Pakistan border.  Since there is now some debate about the wisdom of introducing American ground forces into Afghanistan in the first place, it is worth remembering that only the operations of those (very limited) ground forces we deployed in 2002 actually drove al Qaeda out of Afghanistan almost entirely.  Although limited al Qaeda cells and individual (generally low-ranking) leaders have remained in Afghanistan (primarily in the extremely rugged and remote areas of Afghanistan's northeast), the leadership group never returned, nor have new training camps or bases been established.  The continued limited al Qaeda presence in Afghanistan and periodic statements by the group, however, indicate that it has not abandoned the desire to re-establish itself in its former strongholds.  Continued success in Afghanistan therefore requires ensuring that the ANSF remains strong and coherent enough to prevent al Qaeda from returning after the withdrawal of U.S. combat forces.

#### The risk of terror is very low and they need to secure fissile material to solve — your author

**Allison, IR Director @ Harvard, 12** [Graham, Director, Belfer Center for Science and International Affairs; Douglas Dillon Professor of Government, Harvard Kennedy School, "Living in the Era of Megaterror", Sept 7, <http://belfercenter.ksg.harvard.edu/publication/22302/living_in_the_era_of_megaterror.html>. BJM]

Fortunately, it is more difficult for a terrorist to acquire the “means” to cause mass casualties. Producing highly enriched uranium or plutonium requires expensive industrial-scale investments that only states will make. If all fissile material can be secured to a gold standard beyond the reach of thieves or terrorists, aspirations to become the world’s first nuclear terrorist can be thwarted.

Capabilities for producing bioterrorist agents are not so easily secured or policed. While more has been done, and much more could be done to further raise the technological barrier, as knowledge advances and technological capabilities to make pathogens become more accessible, the means for bioterrorism will come within the reach of terrorists.

#### Troops are insufficient to solve bioterror — your author

**Myhrvold 13** [Nathan, formerly Chief Technology Officer at Microsoft, is co-founder of Intellectual Ventures—one of the largest patent holding companies in the world, “Strategic Terrorism: A Call to Action”, The Lawfare Research Paper Series Research paper NO . 2, <http://www.lawfareblog.com/wp-content/uploads/2013/07/Strategic-Terrorism-Myhrvold-7-3-2013.pdf>, BJM]

Worries about the future of the human race are hardly novel. indeed, the notion that terrorists or others might use weapons of mass destruction is so commonplace as to be almost passé. spy novels, movies, and television dramas explore this plot frequently. We have become desensitized to this entire genre, in part because James Bond always manages to save the world in the end. reality may be different. in my estimation, the U.s. government, although well-meaning, is unable to protect us from the greatest threats we face. The other nations of the world are also utterly unprepared. even obvious and simple steps are not being taken. The gap between what is necessary and what is being contemplated, much less being done, is staggering. my appraisal of the present situation does not discount the enormous efforts of many brave men and women in law enforcement, intelligence services, and the military. These people are doing what they can, but the resources that we commit to defense and the gathering of intelligence are mostly squandered on problems that are far less dangerous to the american public than the ones we are ignoring. addressing the issue in a meaningful way will ultimately **require large structural changes in many parts of the government**. so far, however, our political leaders have had neither the vision to see the enormity of the problem nor the will to combat it. These weaknesses are not surprising: bureaucracies change only under extreme duress. and despite what some may say, the shocking attacks of september 11th, 2001, have not served as a wake-up call to get serious. given the meager response to that assault, every reason exists to believe that sometime in the next few decades america will be attacked on a scale that will make 9/11 look trivial by comparison. The goal of this essay is to present the case for making the needed changes before such a catastrophe occurs. The issues described here are too important to ignore.

#### No risk of nuclear terrorism – technically impossible\*\*\*

Michael, Professor Nuclear Counterprolif and Deterrence at Air Force Counterprolif Center, ’12 (George, March, “Strategic Nuclear Terrorism and the Risk of State Decapitation” Defence Studies, Vol 12 Issue 1, p 67-105, T&F Online)

Despite the alarming prospect of nuclear terrorism, the obstacles to obtaining such capabilities are formidable. There are several pathways that terrorists could take to acquire a nuclear device. Seizing an intact nuclear weapon would be the most direct method. However, neither nuclear weapons nor nuclear technology has proliferated to the degree that some observers once feared. Although nuclear weapons have been around for over 65 years, the so-called nuclear club stands at only nine members. 72 Terrorists could attempt to purloin a weapon from a nuclear stockpile; however, absconding with a nuclear weapon would be problematical because of tight security measures at installations.¶ Alternatively, a terrorist group could attempt to acquire a bomb through an illicit transaction, but there is no real well-developed black market for illicit nuclear materials. Still, the deployment of tactical nuclear weapons around the world presents the risk of theft and diversion. 73 In 1997, the Russian General, Alexander Lebed, alleged that 84 ‘suitcase’ bombs were missing from the Russian military arsenal, but later recanted his statements. 74 American officials generally remain unconvinced of Lebed’s story insofar as they were never mentioned in any Soviet war plans. 75 Presumably, the financial requirements for a transaction involving nuclear weapons would be very high, as states have spent millions and billions of dollars to obtain their arsenals. 76 Furthermore, transferring such sums of money could raise red flags, which would present opportunities for authorities to uncover the plot. When pursuing nuclear transactions, terrorist groups would be vulnerable to sting operations. 77¶ Even if terrorists acquired an intact nuclear weapon, the group would still have to bypass or defeat various safeguards, such as permissive action links (PALs), and safing, arming, fusing, and firing (SAFF) procedures. Both US and Russian nuclear weapons are outfitted with complicated physical and electronic locking mechanisms. 78 Nuclear weapons in other countries are usually stored partially disassembled, which would make purloining a fully functional weapon very challenging. 79¶ Failing to acquire a nuclear weapon, a terrorist group could endeavor to fabricate its own Improvised Nuclear Device (IND). For years, the US government has explored the possibility of a clandestine group fabricating a nuclear weapon. The so-called Nth Country Experiment examined the technical problems facing a nation that endeavored to build a small stockpile of nuclear weapons. Launched in 1964, the experiment sought to determine whether a minimal team –in this case, two young American physicists with PhDs and without nuclear-weapons design knowledge –could design a workable nuclear weapon with a militarily significant yield. After three man-years of effort, the two novices succeeded in a hypothetical test of their device. 80 In 1977, the US Office of Technology Assessment concluded that a small terrorist group could develop and detonate a crude nuclear device without access to classified material and without access to a great deal of technological equipment. Modest machine shop facilities could be contracted for purposes of constructing the device. 81¶ Numerous experts have weighed in on the workability of constructing an IND. Hans Bethe, the Nobel laureate who worked on the Manhattan Project, once calculated that a minimum of six highly-trained persons representing the right expertise would be required to fabricate a nuclear device. 82 A hypothetical scenario developed by Peter Zimmerman, a former chief scientist for the Arms Control and Disarmament Agency, and Jeffrey G. Lewis, the former executive director of the Managing the Atom Project at Harvard University’s Belfer Center for Science and International Affairs, concluded that a team of 19 persons could build a nuclear device in the United States for about $10 million. 83¶ The most crucial step in the IND pathway is acquiring enough fissile material for the weapon. According to some estimates, roughly 25 kilograms of weapons-grade uranium or 8 kilograms of weapons-grade plutonium would be required to support a self-sustaining fission chain reaction. 84 It would be virtually impossible for a terrorist group to create its own fissile material. Enriching uranium, or producing plutonium in a nuclear reactor, is far beyond the scope of any terrorist organization. 85 However, the International Atomic Energy Agency (IAEA), which maintains a database, confirmed 1,562 incidents of smuggling encompassing trade in nuclear materials or radioactive sources. Fifteen incidents involved HEU or plutonium. 86 Be that as it may, according to the IAEA, the total of all known thefts of HEU around the world between 1993 and 2006 amounted to less than eight kilograms, far short of the estimated minimum 25 kilograms necessary for a crude improvised nuclear device. 87 An amount of fissile material adequate for a workable nuclear device would be difficult to procure from one source or in one transaction. However, terrorists could settle on less demanding standards. According to an article in Scientific American, a nuclear device could be fabricated with as little as 60 kilograms of HEU (defined as concentrated to levels of 20 percent for more of the uranium 235 isotope). 88 Although enriching uranium is well nigh impossible for terrorist groups, approximately 1,800 tons of HEU was created during the Cold War, mostly by the United States and the Soviet Union. 89 Collective efforts, such as the Cooperative Threat Reduction program, the G-8 Partnership against the Spread of Weapons of Mass Destruction, and the Nuclear Suppliers Group, have done much to secure nuclear weapons and fissile materials, but the job is far from complete. 90 And other problems are on the horizon. For instance, the number of nuclear reactors is projected to double by the end of the century, though many, if not most, will be fueled with low-enriched uranium (LEU). With this development, comes the risk of diversion as HEU and plutonium stockpiles will be plentiful in civilian sectors. 91¶ Plutonium is more available around the world than HEU and smuggling plutonium would be relatively easy insofar as it commonly comes in two-pound bars or gravel-like pellets. 92 Constructing an IND from plutonium, though, would be much more challenging insofar as it would require the more sophisticated implosion-style design that would require highly trained engineers working in well-equipped labs. 93 But, if an implosion device does not detonate precisely as intended, then it would probably be more akin to a radiological dispersion device, rather than a mushroom. Theoretically, plutonium could be used in a gun-assembly weapon, but the detonation would probably result in an unimpressive fizzle, rather than a substantial explosion with a yield no greater than 10 to 20 tons of TNT, which would still be much greater than one from a conventional explosive. 94¶ But even assuming that fissile material could be acquired, the terrorist group would still need the technical expertise to complete the required steps to assemble a nuclear device. Most experts believe that constructing a gun-assembly weapon would pose no significant technological barriers. 95 Luis Alvarez once asserted that a fairly high-level nuclear explosion could be occasioned just by dropping one piece of weapons-grade uranium onto another. He may, however, have exaggerated the ease with which terrorists could fabricate a nuclear device. 96¶ In sum, the hurdles that a terrorist group would have to overcome to build or acquire a nuclear bomb are very high. If states that aspire to obtain nuclear capability face serious difficulties, it would follow that it would be even more challenging for terrorist groups with far fewer resources and a without a secure geographic area in which to undertake such a project. The difficulty of developing a viable nuclear weapon is illustrated by the case of Saddam Hussein’s Iraq, which after 20 years of effort and over ten billion dollars spent, failed to produce a functional bomb by the time the country was defeated in the 1991 Gulf War. 97 Nevertheless, the quality of a nuclear device for a non-state entity would presumably be much lower as it would not be necessary to meet the same quality standards of states when fabricating their nuclear weapons. Nor would the device have to be weaponized and mated with a delivery system.¶ In order to be successful, terrorists must succeed at each stage of the plot. With clandestine activities, the probability of security leaks increases with the number of persons involved. 98 The plot would require not only highly competent technicians, but also unflinching loyalty and discipline from the participants. A strong central authority would be necessary to coordinate the numerous operatives involved in the acquisition and delivery of the weapon. Substantial funding to procure the materials with which to build a bomb would be necessary, unless a weapon was conveyed to the group by a state or some criminal entity. 99 Finally, a network of competent and dedicated operatives would be required to arrange the transport of the weapon across national borders without detection, which could be challenging considering heightened security measures, including gamma ray detectors. 100 Such a combination of steps spread throughout each stage of the plot would be daunting. 101¶ As Matthew Bunn and Anthony Wier once pointed out, in setting the parameters of nuclear terrorism, the laws of physics are both kind and cruel. In a sense, they are kind insofar as the essential ingredients for a bomb are very difficult to produce. However, they are also cruel in the sense that while it is not easy to make a nuclear bomb, it is not as difficult as believed once the essential ingredients are in hand. 102 Furthermore, as more and more countries undergo industrialization concomitant with the diffusion of technology and expertise, the hurdles for acquiring these ingredients are now more likely to be surmounted, though HEU is still hard to procure illicitly. In a global economy, dual-use technologies circulate around the world along with the scientific personnel who design and use them. 103 And although both the US and Russian governments have substantially reduced their arsenals since the end of the Cold War, many warheads remain. 104 Consequently, there are still many nuclear weapons that could fall into the wrong hands.

#### Multiple barriers mean bioterror is extremely unlikely

Schneidmiller, Global Security Newswire, 1-13-09 (Chris, “Experts Debate Threat of Nuclear, Biological Terrorism,” http://www.globalsecuritynewswire.org/gsn/nw\_20090113\_7105.php)

Panel moderator Benjamin Friedman, a research fellow at the Cato Institute, said academic and governmental discussions of acts of nuclear or biological terrorism have tended to focus on "worst-case assumptions about terrorists' ability to use these weapons to kill us." There is need for consideration for what is probable rather than simply what is possible, he said. Friedman took issue with the finding late last year of an experts' report that an act of WMD terrorism would "more likely than not" occur in the next half decade unless the international community takes greater action. "I would say that the report, if you read it, actually offers no analysis to justify that claim, which seems to have been made to change policy by generating alarm in headlines." One panel speaker offered a partial rebuttal to Mueller's presentation. Jim Walsh, principal research scientist for the Security Studies Program at the Massachusetts Institute of Technology, said he agreed that nations would almost certainly not give a nuclear weapon to a nonstate group, that most terrorist organizations have no interest in seeking out the bomb, and that it would be difficult to build a weapon or use one that has been stolen. However, he disputed Mueller's assertion that nations can be trusted to secure their atomic weapons and materials. "I don't think the historical record shows that at all," Walsh said. Black-market networks such as the organization once operated by former top Pakistani nuclear scientist Abdul Qadeer Khan remain a problem and should not be assumed to be easily defeated by international intelligence services, Walsh said (see GSN, Jan. 13). It is also reasonable to worry about extremists gaining access to nuclear blueprints or poorly secured stocks of highly enriched uranium, he said. "I worry about al-Qaeda 4.0, kids in Europe who go to good schools 20 years from now. Or types of terrorists we don't even imagine," Walsh said. Greater consideration must be given to exactly how much risk is tolerable and what actions must be taken to reduce the threat, he added. "For all the alarmism, we haven't done that much about the problem," Walsh said. "We've done a lot in the name of nuclear terrorism, the attack on Iraq, these other things, but we have moved ever so modestly to lock down nuclear materials." Biological Terrorism Another two analysts offered a similar debate on the potential for terrorists to carry out an attack using infectious disease material. Milton Leitenberg, a senior research scholar at the Center for International and Security Studies at the University of Maryland, played down the threat in comparison to other health risks. Bioterrorism has killed five U.S. citizens in the 21st century -- the victims of the 2001 anthrax attacks, he said. Meanwhile, at least 400,000 deaths are linked each year to obesity in this country. The United States has authorized $57 billion in spending since the anthrax mailings for biological prevention and defense activities, Leitenberg said. Much of the money would have been better used to prepare for pandemic flu, he argued. "Mistaken threat assessments make mistaken policy and make mistaken allocation of financial resources," Leitenberg said. The number of states with offensive biological weapons programs appears to have stabilized at six beginning in the mid-1970s, despite subsequent intelligence estimates that once indicated an increasing number of efforts, Leitenberg said. Caveats in present analyses of those states make it near-impossible to determine the extent to which their activities remain offensive in nature, he added. There has been minimal proliferation of biological expertise or technology to nations of concern in recent decades, Leitenberg said. He identified roughly 12 Russian scientists who ended up in Iran and shipments of technology and pathogen strains to Iraq from France, Germany, the former Soviet Union and the United States between 1980 and 1990. No evidence exists of state assistance to nonstate groups in this sector. Two prominent extremist organizations, al-Qaeda and Aum Shinrikyo in Japan, failed to produce pathogenic disease strains that could be used in an attack, according to Leitenberg. Terrorists would have to acquire the correct disease strain, handle it safely, correctly reproduce and store the material and then disperse it properly, Leitenberg said. He dismissed their ability to do so. "What we've found so far is that those people have been totally abysmally ignorant of how to read the technical, professional literature," Leitenberg said. "What's on the jihadi Web sites comes from American poisoners' handbooks sold here at gun shows. Which can't make anything and what it would make is just garbage."

## 2NC

### 2NC PreReq

#### Counterplan is a prerequisite – key to effective legislative and judicial oversight

Metzger ‘9, Gillian E. Metzger, Professor of Law @ Columbia Law School, “The Interdependent Relationship Between Internal and External Separation of Powers” 59 Emory L.J. 423, Emory Law Journal, 2009

Equally important, the relationship between internal and external separation of powers is reciprocal: Internal and external checks reinforce and operate in conjunction with one another. Congress needs information to conduct meaningful oversight of the Executive Branch. 94 Internal agency experts and watchdogs are important sources of that information, whether in the guise of [\*445] formal reports, studies, and testimony or informal conversations and leaks. 95 Procedural constraints within agencies can serve a similar function, alerting Congress to agency activities. 96 Internal mechanisms also reinforce congressional mandates by creating bodies of personnel within the Executive Branch who are committed to enforcing the governing statutory regime that sets out the parameters of their authority and regulatory responsibilities - and on whose expertise the functioning of these regulatory regimes often depends. 97 Courts equally depend on information and evidence compiled by agency personnel to review agency actions, and they have invoked this dependence to justify the requirement that agencies disclose underlying information and offer detailed explanations of their decisions. 98 Moreover, despite courts regularly intoning that "it [is] not the function of the court to probe the mental processes of Secretaries in reaching [their] conclusions," 99 judicial review of agency actions often appears to turn on judges' perceptions of the role politics played in decisionmaking by agency officials. 100 Evidence that decisions were made over the objections of career staff and agency professionals often triggers more rigorous review. 101 A particularly striking [\*446] suggestion of how internal checks can effect judicial review came in the recent Boumediene litigation. Just a few months after refusing to grant certiorari in order to allow the Combatant Status Review Tribunal process to proceed, the Court reversed course and granted review, apparently influenced by the concerns of military lawyers about how the tribunals were functioning. 102

### A2 Rollback: Congress

#### Just because congress could doesn’t mean they will – you have to prove they will kill the CP

#### Congress only rolled back one XO in 25 years

Olson 99

William Olson of William Olson, PC, Attorneys at Law, “The Impact of Executive Orders on the Legislative Process” http://www.cato.org/testimony/ct-wo102799.html October 27, 1999

Congress has done little more than the courts in restricting presidential lawmaking. Nevertheless, Congress did make one bold step to check executive powers in the related arenas of executive orders, states of emergency and emergency powers. The Congressional concern led to the creation of a Special Senate Committee on the Termination of the National Emergency, co-chaired by Sens. Frank Church (D-ID) and Charles Mathias, Jr. (R-MD), more than 25 years ago.

**There is a 0.2% risk of an overturn**

**Krause and Cohen 2000**

**[**George and David, Professors of Political Science @ South Carolina, “Opportunity, Constraints, and the Development of the Institutional Presidency: The Issuance of Executive Orders”The Journal Of Politics, Vol. 62, No. 1, February 2000, JSTOR]

We use the annual number of executive orders issued by presidents from 1939 to 1996 to test our hypotheses. Executive orders possess a number of properties that make them appropriate for our purposes. First, the series of executive orders is long, and we can cover the entirety of the institutionalizing and institutional-ized eras to date.6 Second, unlike research on presidential vetoes (Shields and Huang 1997) and public activities (Hager and Sullivan 1994), which have found support for presidency-centered variables but not president-centered factors, ex-ecutive orders offer a stronger possibility that the latter set of factors will be more prominent in explaining their use. One, they are more highly discretionary than vetoes.7 More critically, presidents take action first and unilaterally. In ad-dition, Congress has tended to allow e**xecutive** o**rder**s to stand due to **its own** collective action problems and the cumbersomeness of **using** the legislative process **to reverse or stop such presidential actions**. Moe and Howell (1998) report that between 1973 and 1997, Congress challenged only 36 of **more than** 1,000 **executive** orders **issued. And** only two of **these** 36 challenges led to overturning the **president's executive** order**. Therefore,** presidents are likely to be very successful in implementing their **own** agendas throughsuch actions. In fact, the nature of executive orders leads one to surmise that idiopathic factors will be relatively more important than presidency-centered variables in explaining this form of presidential action. Finally, executive orders have rarely been studied quantitatively (see Gleiber and Shull 1992; Gomez and Shull 1995; Krause and Cohen 1997)8, so a description of the factors motivating their use is worth-while.9 Such a description will allow us to determine the relative efficacy of these competing perspectives on presidential behavior.10

#### Many orders of magnitude prove that the CP is less likely to be rolled back than the plan

Moe and Howell 99 Terry Moe, William Bennett Munro professor of political science at Stanford University, a senior fellow at Stanford University's Hoover Institution, and a member of the Hoover Institution’s Koret Task Force on K-12, William Howell, the Sydney Stein Professor in American Politics in the Harris School, a professor in the Department of Political Science and the College, and a co-director of the Program on Political Institutions, “The Presidential Power of Unilateral Action” 1999, Oxford University Press, http://jleo.oxfordjournals.org.ezproxy.baylor.edu/content/15/1/132.full.pdf

On the other hand, the second form of agenda control, rooted as it is in unilateral action, gives the president what he wants immediately – a shift in the status quo, and perhaps a new increment to his new power – and depends for its success on Congress’s not being able to pass new (and veto-proof) legislation that would overturn or change it. Such a requirement is much more readily met, for it is far easier, by many order of magnitude, to block congressional action than it is to engineer new legislation. And if this were not enough, the new status quo initiated by the president may in itself defuse legislative opposition and do away with the need to block at all. When a president unilaterally launches an invasion of another country, for instance, Congress faces a drastically different set of options than it did before the conflict started, and may find itself politically compelled to support and provide funds for an exercise it never would have agreed to beforehand. Needless to say, these advantages of agenda control give modern presidents strong incentives to favor an “administrative strategy” of leadership as opposed to a “legislative strategy” (Nathan, 1983).

### 2NC Politics NB

#### Executive action avoids politics

Sovacool 9 Dr. Benjamin K. Sovacool 2009 is a Research Fellow in the Energy Governance Program at the Centre on Asia and Globalization., Kelly E. Sovacool is a Senior Research Associate at the Lee Kuan Yew School of Public Policy at the National University of SingaporeArticle: Preventing National Electricity-Water Crisis Areas in the United States, Columbia Journal of Environmental Law 2009 34 Colum. J. Envtl. L. 333,

¶ Executive Orders also save time in a second sense. The President does not have to expend scarce political capital trying to persuade Congress to adopt his or her proposal. Executive Orders thus save ¶ ¶ presidential attention for other topics. Executive Orders bypass congressional debate and opposition, along with all of the horsetrading and compromise such legislative activity entails.¶ ¶ 292¶ ¶ Speediness of implementation can be especially important when challenges require rapid and decisive action. After the September ¶ ¶ 11, 2001 attacks on the Pentagon and World Trade Center, for ¶ ¶ instance, the Bush Administration almost immediately passed ¶ ¶ Executive Orders forcing airlines to reinforce cockpit doors and ¶ ¶ freezing the U.S. based assets of individuals and organizations ¶ ¶ involved with terrorist groups.¶ ¶ 293¶ ¶ These actions took Congress ¶ ¶ nearly four months to debate and subsequently endorse with ¶ ¶ legislation. Executive Orders therefore enable presidents to ¶ ¶ rapidly change law without having to wait for congressional action ¶ ¶ or agency regulatory rulemaking.

#### The Obama administration doesn’t care about the power – they care about whether Congress gets to decide it

Greenwald 11 Glenn, Salon, 12-1

Let’s be very clear, though, about what the “veto threat” is and is not. All things considered, I’m glad the White House is opposing this bill rather than supporting it. But, with a few exceptions, the objections raised by the White House are not grounded in substantive problems with these powers, but rather in the argument that such matters are for the Executive Branch, not the Congress, to decide. In other words, the White House’s objections are grounded in broad theories of Executive Power. They are not arguing: it is wrong to deny accused Terrorists a trial. Instead they insist: whether an accused Terrorist is put in military detention rather than civilian custody is for the President alone to decide. Over and over, the White House’s statement emphasizes Executive power as the basis for its objections to Levin/McCain: Broadly speaking, the detention provisions in this bill micromanage the work of our experienced counterterrorism professionals, including our military commanders, intelligence professionals, seasoned counterterrorism prosecutors, or other operatives in the field. These professionals have successfully led a Government-wide effort to disrupt, dismantle, and defeat al-Qa’ida and its affiliates and adherents over two consecutive Administrations. The Administration believes strongly that it would be a mistake for Congress to overrule or limit the tactical flexibility of our Nation’s counterterrorism professionals. It’s certainly possible that the administration is simply offering these Executive Power arguments as a fig leaf to hide their more politically difficult substantive objections to expanding the War on Terror. But that seems unlikely in the extreme, given that — as I have documented — most of these powers are ones expressly claimed and used already by the Obama administration. Does anyone believe that the same President who kills his own citizens without a whiff of due process or transparency is suddenly so concerned about the imperatives of due process? Indeed, Marcy Wheeler has repeatedly suggested that, in some important respects, Levin/McCain could actually limit Executive Power beyond what the Obama DOJ has seized, and for that reason, has mixed feelings about the Udall amendment to remove it: As I have repeatedly described, I have very mixed feelings about the debate over Detainee Provisions set to pass the Senate tonight or tomorrow. I view it as a fight between advocates of martial law and advocates of relatively unchecked Presidential power. And as I’ve pointed out, the SASC compromise language actually limits Presidential power as it has been interpreted in a series of secret OLC opinions. I’m willing to believe that there is genuine White House opposition to having the military detain and imprison U.S. citizens on U.S. soil, and that’s commendable if true (though it’s a sign of just how extremist our government is that we’re grateful for that). Indeed, the Obama administration has opted for civilian trials for accused Terrorists captured on U.S. soil (outside of Padilla, so, too, did the Bush DOJ, and even Padilla was eventually charged). But by and large the White House’s objections are not to these powers but — explicitly — to the idea that Congress rather than the President can dictate how they are exercised. The White House isn’t defending due process or limited war; it’s defending broad Executive prerogatives to prosecute the war without Congressional interference. In that regard, the “debate” over this bill has taken on the standard vapid, substance-free, anti-democratic form that shapes most Washington debates. Even Democratic opponents of the bill, such as Mark Udall, have couched their opposition in these Executive Power arguments: that it’s better for National Security if the CIA, the Pentagon and the DOJ decides what is done with Terrorists, not Congress.

### 2NC A2 Credibility

#### Counterplan solves US credibility and soft power

Margulies 8 Peter, Professor of Law, Roger Williams University School of Law, Maryland Law Review, 68 Md. L. Rev. 1

This model rests on two elements: transparency and tailoring. Transparency calls for dialog between the branches, within the executive branch, and with the public, to develop a sense of stake and optimize the quality of decisions. Tailoring, like the equitable tailoring that courts do to take into account the interests of parties and the [\*68] public interest, 307 requires that the lawyer seek to accommodate both the rationale and content of proposed executive action within the constitutional scheme of overlapping authority among the branches. The role conception that drives the dialogic equipoise model stems not only from the logic of the separation of powers but also from the lawyer's function in representing collective entities and the historical function of the Attorney General. Under the Model Rules, lawyers representing collective entities such as corporations must act in the best interests of the organization. 308 On significant occasions, such as when a person, like a CEO, that the lawyer would ordinarily look to for direction on the organization's behalf acts against the entity's interests, the lawyer has an obligation to uphold those interests. This institutional obligation reduces the agency costs that flow from the self-dealing or myopia of particular managers, and promotes continuity within the organization. 309 The sense of institutional obligation within the dialogic equipoise model also echoes the background understanding that existed at the founding of the function of the Attorney General, derived from English law. 310 A minimum of objectivity was part and parcel of this understanding. 311 Edmund Randolph, the first Attorney General of the United States, set the tone with opinions on the establishment of the Bank of the United States that were measured, taking into account the most cogent arguments for and against the proposal. 312 Because the model seeks to reduce the agency costs of executive overreaching, it also preserves the long-term perspective that emergencies can sometimes obscure. Transparency can help prevent the loss of executive power and credibility that can follow in the wake of executive overreaching. Transparency also preserves the legitimacy and international reputation of the United States by displaying the executive's confidence that it can rally others to its cause and respond [\*69] to their concerns. This is what the drafters of the Declaration of Independence had in mind when they claimed "a decent Respect [for] the Opinions of Mankind." 313 Maintaining reputation allows the United States to exercise "soft power" 314 that will often be more effective than brute force. 315 In this fashion, a dialogic equipoise model enhances long-term stability and aids in refining current policies. Moreover, transparency does not necessarily frustrate timely action, including the use of force when that is necessary. In the Cuban Missile Crisis, for example, the Administration engaged in a wide and vigorous internal debate and subsequently consulted with foreign capitals and international organizations. 316 The destroyer deal between the United States and Britain featured a robust internal debate. Most recently, dialog with Congress and the United Nations preceded the decision by the United States to intervene militarily in Afghanistan after September 11. Government attorneys should urge dialog and advise the President of the adverse consequences attending a lack of transparency. Just as dialog yields results that preserve American leverage, tailoring an executive response will have similar benefits. Courts use tailoring to ensure that extraordinary remedies such as injunctions serve the public interest and respect the rights of the parties.

### 2NC A2 Precedent

#### Legal norms fail and are not unique to congress – the WPR proves. Executive compliance with international norms SETS A LEGAL PRECEDENT

Twomey 13, Trinity College Dublin, (Laura, Setting a Global Precedent: President Obama's Codification of Drone Warfare, Cambridge Journal of International and Comparative Law, 14 March 2013, http://www.cjicl.org.uk/index.php/cjicl-blog/setting-a-global-precedent-president-obamas-codification-of-drone-warfare, da 7-31-13) PC

It is clear that, as the first State to deploy remote targeting technology in a non international armed conflict, the legal framework forged by the US during President Obama's second term will set significant precedent for the future practice of the estimated 40 States developing their own drone technology. On 7 March 2013, members of the European Parliament expressed deep concern about the “unwelcome precedent” the programme sets, citing its “destabilising effect on the international legal framework” that “destroys ... our common legal heritage.” This 'destabilising effect' arises from the classified and seemingly amorphous substantive legal basis for the programme and the apparent lack of procedural standards in place. It remains to be seen if the classified 'rulebook' will be released for public scrutiny, and allay these concerns. Reliance on international law in world order is based on consent, consensus, good faith and, crucially in this instance, reciprocity. The US programme may harbour short term gains in the pursuit of al-Qaeda operatives, however, if the aforementioned substantive legal justifications continue to be invoked, it risks engendering long term disadvantages. Pursuing this policy encourages other States to adopt similar policies. Administration officials have cited particular concern about setting precedent for Russia, Iran and China, all of which are developing their own remote targeting technology. It is therefore suggested that the Administration should take this opportunity to codify the rules, clarify terms where ambiguity may currently allow for broader interpretations, and to bring its regulations in line with the existing framework of international law. This legal framework should then be made available to the public, with covert operational necessities redacted. This could set a valuable legal precedent, of particular importance at this turning point wherein international law must adapt to the 21st century model of warfare, a model which lacks a clear enemy and a demarcated battlefield.

#### Restraint on constitutional grounds captures the precedent—comparative ev

Atkinson ‘13 – JD NYU, National Security Division, Department of Justice (L. Rush, Vanderbilt Law Review, forthcoming issue, “The Fourth Amendment’s National Security Exception”, http://ssrn.com/abstract=2226404)

When identifying constitutional parameters for the executive, it is particularly instructive to look at historical moments when the executive is restrained. When congressional prohibition draws executive power to its “ebb,” for example, one can identify the executive’s core inextinguishable powers.47 Constitutional boundaries are similarly discernible in some cases where the executive branch **limits its own** conduct. Specifically, the executive’s self-restraint is precedential when it stems from a sense of constitutional obligation.48 Such fealty towards the Constitution might be unprompted by judicial command or legislative action, and there may be no record as obvious as a judicial opinion or legislative bill. Nevertheless, where a discernible opinio juris has shaped executive action, such legal opinion should be considered both for its persuasive power and a historical understanding about what protections the Constitution establishes.49

### A2 Perm – Do Both: Congress

#### Congressional war decisions cause compromise and create a sign of weakness and lack of US resolve

Kahn 2K Paul W. Kahn, Robert W. Winner Professor of Law and Humanities at Yale Law School, “THE SEVENTH ANNUAL FRITZ B. BURNS LECLTURE THE WAR POWERS RESOLUTION AND KOSOVO: WAR POWERS AND THE MILLENNIUM,” Loyola of Los Angeles Law Review, November, 2000, pp. LN.

Domestically, Congress often works best through a process of articulation of policy differences and then compromise. The parties set out widely divergent positions as an initial matter. This allows them to establish distinct identities, which in turn allows appeals to different groups of constituents. Difference is then overcome through a process of negotiated compromise. Compromise is often made possible by the fact that it can be multidimensional: in seeking to achieve a compromise in one area, bargains can be made in other areas. Compromise occurs not only within Congress, but in the process of negotiation between the Congress and the executive. n58 To fully understand the act of negotiating compromise, moreover, one must consider the role of Washington lobbyists who provide information and coordinate interest group positions. n59 This process of party differentiation followed by compromise produces consensus around the middle, which is generally the safest position in American politics. Americans tend to distinguish between politics and government, and do not like it when government [\*29] is driven too explicitly by political ends. n60 They generally expect their politicians to shed the party differentiating ideologies that get them elected and to tend to the task of governance under standards of policy rationality. When this process of compromise appears too risky, when it cuts too deeply into the entrenched political positions of the parties, we have seen appeals to bipartisan, expert commissions, the responsibility of which is to articulate the middle ground and so to relieve the pressure on the politicians as they move toward a common ground. n61 With respect to foreign affairs, however, these techniques of congressional decision-making work poorly. The differentiation that marks the parties as distinct and separate, and is domestically an initial step toward compromise, serves the same differentiating function in foreign policy, but there it tends to freeze party positions. Treaties come before the Senate too late in the process for compromise to be an option, particularly when they are multiparty covenants. n62 Moreover, compromises can look like concessions of U.S. interests to foreign states, rather than a distribution among competing elements of the polity. Nor is there a great deal of pressure to compromise. Rejecting foreign policy initiatives is a way of preserving the [\*30] status quo, and preserving the international status quo is rarely a policy for which one is held politically accountable. It is hard to make an issue out of a failure to change the conditions that prevail internationally, when the country is enjoying power, prestige, and wealth. Unable to compromise, the Senate can end up doing nothing, and then treaty ratification fails. Difference leads to stalemate, rather than to negotiation. The problem is greatly exacerbated by the two-thirds requirement for ratification. n63 This structural bias toward inaction accounts in part for the use of executive agreements in place of treaties. n64 These agreements make use of some of the tactical advantages of presidential initiative. Many of the structural problems remain, however, when executive agreements require subsequent congressional approval. If the issue involves the use of force, compromise is particularly difficult. A compromise that produces a less substantial response to a foreign policy crisis can look like a lack of commitment. Disagreement now threatens to appear to offer an "exploitable weakness" to adversaries. Congress cannot simply give the president less of what he wants, when what he wants is a military deployment. There cannot easily be compromises on a range of unrelated issues in order to achieve support for a military deployment. While that may happen, it has the look of disregard for the national interests and of putting politics ahead of the public interest. Nor can Congress easily adopt the technique of the expert commission. n65 The timeframe of a crisis usually will not allow it. More importantly, the military - particularly in the form of the Joint Chiefs of Staff - has already preempted the claim of expertise, as well as the claim to be "apolitical." [\*31] Finally, there is little room for the private lobbyist with respect to these decisions. Congress, in short, is not capable of acting because it only knows how to reach compromise across dissensus. When disagreement looks unpatriotic, and compromise appears dangerous, Congress is structurally disabled. This produces the double consequence for American foreign policy of a reluctance to participate in much of the global development of international law - outside of those trade and finance arrangements that are in our immediate self-interest - and a congressional abdication of use of force decisions to the president. The same structural incapacities are behind these seemingly contradictory results.

### Nuke Terror

#### Reduce the terminal impact to zero – Michael evidence

-tight security measures at installations

-no black market

-financial

far short of the estimated minimum 25 kilograms necessary for a crude improvised nuclear device. 87 An amount of fissile material adequate for a workable nuclear device would be difficult to procure from one source or in one transaction. However, terrorists could settle on less demanding standards. According to an article in Scientific American, a nuclear device could be fabricated with as little as 60 kilograms of HEU (defined as concentrated to levels of 20 percent for more of the uranium 235 isotope). 88 Although enriching uranium is well nigh impossible for terrorist groups, approximately 1,800 tons of HEU was created during the Cold War, mostly by the United States and the Soviet Union. 89 Collective efforts, such as the Cooperative Threat Reduction program, the G-8 Partnership against the Spread of Weapons of Mass Destruction, and the Nuclear Suppliers Group, have done much to secure nuclear weapons and fissile materials, but the job is far from complete. 90 And other problems are on the horizon. For instance, the number of nuclear reactors is projected to double by the end of the century, though many, if not most, will be fueled with low-enriched uranium (LEU). With this development, comes the risk of diversion as HEU and plutonium stockpiles will be plentiful in civilian sectors. 91¶ Plutonium is more available around the world than HEU and smuggling plutonium would be relatively easy insofar as it commonly comes in two-pound bars or gravel-like pellets. 92 Constructing an IND from plutonium, though, would be much more challenging insofar as it would require the more sophisticated implosion-style design that would require highly trained engineers working in well-equipped labs. 93 But, if an implosion device does not detonate precisely as intended, then it would probably be more akin to a radiological dispersion device, rather than a mushroom. Theoretically, plutonium could be used in a gun-assembly weapon, but the detonation would probably result in an unimpressive fizzle, rather than a substantial explosion with a yield no greater than 10 to 20 tons of TNT, which would still be much greater than one from a conventional explosive. 94¶ But even assuming that fissile material could be acquired, the terrorist group would still need the technical expertise to complete the required steps to assemble a nuclear device. Most experts believe that constructing a gun-assembly weapon would pose no significant technological barriers. 95 Luis Alvarez once asserted that a fairly high-level nuclear explosion could be occasioned just by dropping one piece of weapons-grade uranium onto another. He may, however, have exaggerated the ease with which terrorists could fabricate a nuclear device. 96¶ In sum, the hurdles that a terrorist group would have to overcome to build or acquire a nuclear bomb are very high. If states that aspire to obtain nuclear capability face serious difficulties, it would follow that it would be even more challenging for terrorist groups with far fewer resources and a without a secure geographic area in which to undertake such a project. The difficulty of developing a viable nuclear weapon is illustrated by the case of Saddam Hussein’s Iraq, which after 20 years of effort and over ten billion dollars spent, failed to produce a functional bomb by the time the country was defeated in the 1991 Gulf War. 97 Nevertheless, the quality of a nuclear device for a non-state entity would presumably be much lower as it would not be necessary to meet the same quality standards of states when fabricating their nuclear weapons. Nor would the device have to be weaponized and mated with a delivery system.¶ In order to be successful, terrorists must succeed at each stage of the plot. With clandestine activities, the probability of security leaks increases with the number of persons involved. 98 The plot would require not only highly competent technicians, but also unflinching loyalty and discipline from the participants. A strong central authority would be necessary to coordinate the numerous operatives involved in the acquisition and delivery of the weapon. Substantial funding to procure the materials with which to build a bomb would be necessary, unless a weapon was conveyed to the group by a state or some criminal entity. 99 Finally, a network of competent and dedicated operatives would be required to arrange the transport of the weapon across national borders without detection, which could be challenging considering heightened security measures, including gamma ray detectors. 100 Such a combination of steps spread throughout each stage of the plot would be daunting. 101¶ As Matthew Bunn and Anthony Wier once pointed out, in setting the parameters of nuclear terrorism, the laws of physics are both kind and cruel. In a sense, they are kind insofar as the essential ingredients for a bomb are very difficult to produce. However, they are also cruel in the sense that while it is not easy to make a nuclear bomb, it is not as difficult as believed once the essential ingredients are in hand. 102 Furthermore, as more and more countries undergo industrialization concomitant with the diffusion of technology and expertise, the hurdles for acquiring these ingredients are now more likely to be surmounted, though HEU is still hard to procure illicitly. In a global economy, dual-use technologies circulate around the world along with the scientific personnel who design and use them. 103 And although both the US and Russian governments have substantially reduced their arsenals since the end of the Cold War, many warheads remain. 104 Consequently, there are still many nuclear weapons that could fall into the wrong hands.

#### No risk of WMD terrorism – don’t have the resources or focus

Mueller, Professor PolSci Ohio State, and Stewart, Professor Infrastructure Performance at U of Newcastle, ’12 (John- Senior Research Scientist Mershon Center for International Security Studies, Mark- Australian Research Council Professorial Fellow, Summer, “The Terrorism Delusion: America’s Overwrought Response to September 11” International Security, Vol 37 No 1, ProjectMuse)

Few of the sleepless, it seems, found much solace in the fact that an al-Qaida computer seized in Afghanistan in 2001 indicated that the group’s budget for research on weapons of mass destruction (almost all of it focused on primitive chemical weapons work) was $2,000 to $4,000.49 In the wake of the killing of Osama bin Laden, officials now have many more al-Qaida computers, and nothing in their content appears to suggest that the group had the time or inclination, let alone the money, to set up and staff a uranium-seizing operation, as well as a fancy, super-high-technology facility to fabricate a bomb. This is a process that requires trusting corrupted foreign collaborators and other criminals, obtaining and transporting highly guarded material, setting up a machine shop staffed with top scientists and technicians, and rolling the heavy, cumbersome, and untested finished product into position to be detonated by a skilled crew—all while attracting no attention from outsiders.50¶ If the miscreants in the American cases have been unable to create and set off even the simplest conventional bombs, it stands to reason that none of them were very close to creating, or having anything to do with, nuclear weapons—or for that matter biological, radiological, or chemical ones. In fact, with perhaps one exception, none seems to have even dreamed of the prospect; and the exception is José Padilla (case 2), who apparently mused at one point about creating a dirty bomb—a device that would disperse radiation—or even possibly an atomic one. His idea about isotope separation was to put uranium into a pail and then to make himself into a human centrifuge by swinging the pail around in great arcs.51 [End Page 98]¶ Even if a weapon were made abroad and then brought into the United States, its detonation would require individuals in-country with the capacity to receive and handle the complicated weapons and then to set them off. Thus far, the talent pool appears, to put mildly, very thin.

#### Current US effort prevent acquisition and shipment of fissile material

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(William H.-, Fmr. Deputy Administrator National Nuclear Security Administration, City Journal, “Doomsday Deferred”, Vol. 21 #1)

Experts warn that the proliferation of nuclear material and expertise has put the world at the brink of what Paul Bracken, a professor at Yale’s School of Management, has called a “second nuclear age.” Graham Allison, a former Pentagon official now at Harvard, says that, absent an abrupt change of course, a nuclear terrorist attack on America in the coming decade “is more likely than not.” Billionaire investor Warren Buffett, experienced at assessing risk, has called an atomic attack on the U.S. by mid-century “virtually a certainty.” Even the publishers of the prestigious Bulletin of Atomic Scientists, keepers of the “Doomsday Clock,” have chimed in. The Clock’s first setting, in 1947, was seven minutes to “midnight,” which signified global nuclear war; today, the Clock stands at six minutes to midnight.¶ Are the fears of Armageddon justified? Only if Washington fails to continue the extraordinary progress that Republican and Democratic administrations have made to complicate terrorists’ ability to acquire nuclear devices. Despite the continuing spread of nuclear expertise and efforts by Iran to become a nuclear power, the battle to limit the spread of destructive weapons and fissile material has been hugely successful—so far, at least—and Americans are safer from a nuclear strike today than when the Berlin Wall fell.¶ One of the nation’s most important moves to prevent nuclear terrorism has been reducing the number of nuclear weapons that terrorists or rogue states might buy or steal. Since the end of the Cold War, the United States has cut its nuclear arsenal by 80 percent. Though American nukes are so well guarded that terrorists would be unlikely to steal them, the great advantage of reducing our own stockpiles is that it has led Russia to follow suit.¶ And Russian weapons—and the fissile material that fuels them—were far less secure, at least until recently. At its peak, the Soviet Union’s arsenal may have totaled more than 45,000 nuclear weapons, with hundreds of tons of plutonium and highly enriched uranium stored at dozens of facilities across 11 time zones. But when the USSR collapsed, security for its nuclear weapons collapsed, too. When American experts first arrived at Russian nuclear sites in the early 1990s, they found fallen fences, decrepit buildings, and broken morale. Young, underpaid, ill-trained, bored, and often drunk, Russian guards were said routinely to ignore the “two-man rule,” which forbids single individuals from accessing fissile material and is intended to prevent a lone thief from stealing it. At one nuclear-material storage facility, according to a Russian general’s published account, “a resourceful conscript, who was serving without ammunition, was asked what he would do if he saw 5–6 unknown persons with assault rifles approaching from a wooded area. He vowed to . . . ‘defend my post with a bayonet!’”¶ Reducing stockpiles is just one way that America has countered the danger posed by such carelessly guarded sites. Since 1992, the Cooperative Threat Reduction program (CTR), based on legislation cowritten by Republican senator Richard Lugar of Indiana and former Democratic senator Sam Nunn of Georgia, has spent over $2 billion to dismantle thousands of Moscow’s nuclear weapons and to secure the remaining weapons and fissile material at nuclear sites in the former Soviet Union. Beginning in 1992, American technicians installed cameras that, for the first time, provided the Russians with constant remote monitoring of the most sensitive materials. Also installed were metal and radiation detectors, stronger locks, reinforced doors and windows, bulletproof guard facilities, perimeter fences with intrusion detectors, robust barriers at vehicle entry points, and “man traps”—heavy turnstiles that require authorized access and proper identification before they permit entry. The work was hard and conditions difficult. The temperature at one facility in Siberia dropped below -65 degrees Fahrenheit in the winter and rose above 100 degrees in the summer. That facility alone required some 3.6 miles of fencing, some of it installed through dense forest and bogs.¶ Such security improvements accelerated after 9/11, but by the summer of 2004, the energy department’s National Nuclear Security Administration (NNSA) and the Pentagon’s Defense Threat Reduction Agency—the agencies that oversee security at nuclear-weapons sites—were frustrated with the pace of progress. Whether from inertia or from reflexive secrecy about opening some of its most sensitive sites, Russia had excluded many of its warhead storage facilities from the CTR program, and even at sites with ongoing work, there were no firm schedules or deadlines; time and money were being squandered. Worse, the security situation in Russia was deteriorating: on September 1, 2004, Chechen terrorists attacked a school in the North Ossetian town of Beslan and slaughtered more than 300 hostages, many of them children.¶ In early 2005, the George W. Bush White House, recognizing the ruthlessness of terrorists operating within Russia, urged his national security advisor, Condoleezza Rice, and her deputy, Stephen Hadley, to convince the Russians of the urgency of securing their nuclear facilities. Not long after, Rice and Hadley met with the Russian defense minister, Sergei Ivanov, at the White House, offering him a briefing (presented by coauthor Tobey) that included overhead photography of Russia’s dilapidated nuclear sites and idle American security equipment, contrasting them with state-of-the-art American sites. Ivanov, seemingly genuinely concerned, agreed to investigate the matter when he returned to Moscow. Six weeks later, Bush and Russian president Vladimir Putin, meeting in Slovakia, agreed to expand the scope and pace of nuclear-security cooperation in what became known as the Bratislava Initiative.¶ The new deadline to complete the job was tight—the end of 2008—and only a few contractors in Russia had the skills and clearances needed to perform such sensitive tasks. Nonetheless, American program managers pushed, cajoled, and lobbied their Russian counterparts, constantly invoking the agreement by the two presidents. In the end, the deadline was met. A total of 148 Russian nuclear-weapons and nuclear-material sites—essentially all of them—were secured. The gaping security holes from the 1990s were plugged, dramatically reducing the risk that nuclear material might fall into the hands of terrorists.¶ Another area in which enormous progress has been made is detecting and combating nuclear smuggling. The world’s premier nuclear smuggler is Pakistan’s notorious Abdul Qadeer Khan, who ran an international trading ring that spanned several continents for over a decade. In a dramatic televised confession in early 2004, he admitted to selling nuclear technology to Iran, Libya, and North Korea. He later recanted his confession; Pakistan has refused to provide direct access to Khan, who is now living comfortably in Islamabad; and to this day, Washington remains uncertain of what he sold to whom. But Khan is a poster boy for the need to fight nuclear smuggling.¶ In 2003, President Bush announced the Proliferation Security Initiative (PSI), which encourages nations to allow their ships to be boarded and inspected for illegal cargo. Since then, some 90 states have joined the initiative. In one signal success, counter-proliferation officials in the Bush administration relied on techniques at the heart of PSI to seize nuclear-related cargo aboard a German cargo ship headed for Libya, adding to pressure on Libyan leader Muammar el-Qaddafi to renounce and dismantle his secret effort to join the nuclear club. American experts would eventually remove nuclear technology and materials from Libya.¶ Washington also championed United Nations Security Council Resolution 1540 in 2004. The resolution requires all nations to enact and enforce effective export controls; prohibit the proliferation of nuclear, chemical, biological, and missile technologies by private citizens; and secure proliferation-sensitive materials. The measure binds all states—a rare instance of Security Council action tantamount to international legislation. But American officials knew that a UN resolution would not suffice, as the Khan case had shown. A Khan factory that made centrifuge parts was located in Malaysia, but the Malaysian government was unaware that the plant posed a proliferation risk. Other nations also lacked the means to detect and prevent illicit activities.¶ So in 2006, the U.S. and Russia launched the Global Initiative to Combat Nuclear Terrorism, which now numbers more than 80 members. Aimed at helping states implement UNSCR 1540, it encourages states to share best practices, train and engage in joint exercises, and share intelligence, law enforcement, and border-security work. In 2007, for example, China, a Global Initiative member, quietly hosted an exercise to practice tracking and recovering stolen radiological material.¶ The National Nuclear Security Administration, meanwhile, is fighting smugglers by bolstering security at border crossings all over the world. The beefed-up security includes radiation detectors, which demonstrated their effectiveness on June 26, 2003, when Garik Dadayan was arrested in Sadakhlo, Georgia, carrying six ounces of highly enriched uranium. He had set off a radiation detector that the NNSA had installed in an area rife with smuggling near the borders between Georgia, Armenia, and Azerbaijan. Dadayan was carrying the material in a cellophane bag inside a tea tin in the trunk of his car. While the quantity of material was not nearly enough to build a weapon, the material was weapons-grade. Georgian authorities told the New York Times that Dadayan had twice before traveled between Moscow and Novosibirsk, the site of a major Russian nuclear complex, where Dadayan said he had gotten the material. Dadayan’s motives remain obscure.¶ Radiation detectors aren’t perfect; a nuclear smuggler might be able to shield emissions from fissile material with lead. But that tactic, aside from being costly, yields suspiciously heavy packages and risks setting off metal detectors and X-ray sensors, which are also deployed at border crossings. So Russia and the United States have agreed to equip nearly 450 Russian border crossings with radiation detectors by the end of 2011, half of which will be financed by the United States. Washington has also helped equip more than 300 border crossings, ports, and airports in 18 other countries with radiation detectors. In addition, 34 “megaports”—high-volume, containerized shipping facilities—now scan all inbound and outbound cargo for nuclear and radiological material, with American cooperation and funding. And the NNSA has trained thousands of frontline personnel at the borders of some 50 countries to identify fissile and other sensitive materials. The goal is not to inspect every container capable of transporting nuclear material—with some 17 million shipping containers in use around the world, that would be impossible—but to make it harder for smugglers to operate with impunity.¶ One more component of the nation’s counter-proliferation strategy is disposing of fissile material that can be used in weapons—or preventing it from being produced in the first place. Until recently, for example, three pre-Chernobyl plutonium-production nuclear reactors were operating in Russia. Located in frigid Siberia, they provided not only electrical power but also steam heat for the surrounding area. While all nuclear reactors produce plutonium, the Siberian reactors were built to do so for the Russian weapons program and therefore were especially proficient at it. Though no longer intended for that purpose, they continued to churn out plutonium simply by operating. Moreover, their designs were among the world’s least safe. So both American and Russian officials wanted to close them as quickly as possible.¶ Under the Clinton administration, the United States agreed to fund two coal-fired power plants to replace the three dangerous reactors. One of the replacement projects employed about 2,000 people at its peak, during the Russian oil and construction boom of the 2000s, when labor was tight. Work had to stop when temperatures fell below -40—cold enough, in one case, for a crane’s frozen axles to snap. Nevertheless, the NNSA persevered. The third and last of the reactors was closed last April, almost nine months ahead of schedule. Though few Americans know it, the project has prevented the production of one and a half metric tons of plutonium annually—enough for more than 180 nuclear weapons.¶ Moscow and Washington are also cooperating on programs to dispose of nuclear material, particularly highly enriched uranium, or HEU. HEU is a severe proliferation risk because—unlike plutonium in spent fuel—it doesn’t require difficult chemical processing to be used in a bomb. A mere 55 pounds of HEU is enough to make an atomic weapon. Luckily, HEU can be “down-blended” into a safer substance used to fuel nuclear reactors. Under the 1993 Highly Enriched Uranium Purchase Agreement, Washington is in the process of buying 500 metric tons of down-blended HEU that once armed Russian nuclear weapons. In fact, of the 20 percent of American electricity generated by nuclear power, half is currently fueled by this Russian uranium—meaning that one of every ten homes in America is illuminated by material from the very missiles that once targeted them.

## 1NR

### Turns Case

#### Key to EU global leadership and turns US primacy

Dobriansky, Senior Fellow Belfer Center for Science and International Affairs, and Saunders, Executive Director Center for the National Interest., 7-8-’12 (Paula and Paul, “How About a Free-Trade Deal With Europe?” Wall Street Journal, http://online.wsj.com/article/SB10001424052702304141204577510700096660154.html)

Europe's ongoing economic crisis and the evident discord among its key leaders have profound implications for the United States. Despite a new agreement during the most recent European Union summit last month, the crisis will likely endure for some time, with unpredictable political and economic consequences. Visionary and determined American leadership is essential both to help some of our closest and oldest allies and to protect our national interests, domestically and internationally. The deep links between the American and European economies are not always fully appreciated. According to a recent study by the German Marshall Fund, European investment amounted to 72% of total foreign direct investment in the U.S. in 2010. U.S.-EU merchandise trade reached $632 billion in 2011. The same study found that affiliates of European majority-owned companies employed 3.5 million Americans in 2010. Europe's economic health has a clear, direct and unparalleled impact on America's economy and American jobs. The danger posed by Europe's crisis to American interests is not solely economic. Even before the euro crisis, our European allies were contributing less and less to sustaining the North Atlantic Treaty Organization, with the U.S. share of the costs rising to 70.5% in 2011, up from 63.6% in 2000. The crisis is sure to put further downward pressure on European defense spending. NATO was wholly unsuccessful in addressing this problem at its May summit. The real-world consequences were apparent during NATO's operations in Libya last year, when some allies nearly ran out of precision bombs. Looking ahead, though NATO members have formally committed to supporting Afghanistan's government as most foreign military forces withdraw, their ability to do so is increasingly in question. More broadly, a Europe compelled to focus inward to preserve the euro and the EU—already topics of heated debate within and among European nations—will be less capable of leading globally. It will also have trouble serving as an essential partner to the U.S. This challenge will exist at the EU, NATO, and individual-country levels; all will be preoccupied. Tellingly, when France's new president, François Hollande, declared last May that "it is not possible to allow Bashar Assad to massacre his own people," German Foreign Minister Guido Westerwelle promptly retorted that "there is no cause for speculation over military options." The message from Berlin was clear: A European-led military intervention in Syria will remain off the agenda. These are not new divisions, but they seem set to widen. In this environment, U.S. leadership is simultaneously harder and more important. The Obama administration's approach to Libya—waiting for and then hiding behind France and the United Kingdom—simply will not work in dealing with current challenges and those that may emerge in the next three to five years. Historically, only the U.S. and Europe have had the ability to mobilize sufficiently broad international support to address major problems. Today, without leadership by one, the other or both, issues like Iran's nuclear ambitions and Syria's civil war will fester. This in turn will do more harm to U.S. interests and to regional and international security—not to mention our shared values. Unfortunately, President Obama seems to be handling the euro crisis in the same manner that his administration dealt with Libya and so many other major issues. Asked about the impact of Europe's troubles on the U.S. at the G-20 summit in Mexico, the president acknowledged the danger to the American economy but failed to report any action other than financial and regulatory reforms that do little to reduce the risk to the U.S.—and then called on the Congress to pass his domestic jobs bill. Of course, only Europe can ultimately solve its crisis, and the U.S. must concentrate its resources at home. But we have too much at stake to sit on the sidelines. One bold policy option would be to conclude a trans-Atlantic free-trade agreement between the U.S. and Europe, something the EU has already welcomed in principle. Mr. Obama has called for greater trade with Europe, but his administration has pursued a free-trade agreement without a sense of urgency or clear leadership from the top. An immediate and vocal commitment to free trade with Europe—followed by prompt action to make it happen—would send a powerful signal of America's enduring confidence in its closest and deepest economic relationship. While not a panacea, reducing the costs of trans-Atlantic trade can contribute importantly over the longer term to creating new jobs and fueling sustained economic growth on both sides of the ocean. This is sure to strengthen American and European leadership for decades to come.

#### Enhancing US-German cooperation is critical to greater German involvement in Afghanistan reconstruction.

Miko 4 Francis T. Miko, Specialist in International Relations, Foreign Affairs, Defense, and Trade Division, CRS Report for Congress, Received through the CRS Web, Order Code RL32710, 12-27

This could mean, for instance, that Germany might be better positioned to take on a greater role in long-term reconstruction efforts in countries like Afghanistan. Some argue that with a better understanding of the potential complementary roles the two countries can play based on the strengths and advantages of each, new opportunities for enhanced cooperation in the global war on terrorism might be found. The final report of the U.S. 9/11 Commission suggests that long-term success in the war against terrorism demands the use of all elements of national power, including “soft power” instruments such as diplomacy, intelligence, and foreign aid. A key question is to what degree differences are likely to hamper U.S.-German cooperation against terrorism. It could be argued that U.S. and German security in the near and mid-term are likely to be affected far more by what Germany does to cooperate with the United States in terms of domestic security and bilaterally than by Germany’s stance on other international issues.

#### Turns Middle east stability –

#### Economic crisis turns Indo-Pak war

Kemp 10 Geoffrey Kemp, Director of Regional Strategic Programs at The Nixon Center, served in the White House under Ronald Reagan, special assistant to the president for national security affairs and senior director for Near East and South Asian affairs on the National Security Council Staff, Former Director, Middle East Arms Control Project at the Carnegie Endowment for International Peace, 2010, The East Moves West: India, China, and Asia’s Growing Presence in the Middle East, p. 233-4

The second scenario, called Mayhem and Chaos, is the opposite of the first scenario; everything that can go wrong does go wrong. The world economic situation weakens rather than strengthens, **and** India, China, and Japan suffer a major reduction in their growth rates, further weakening the global economy. As a result, energy demand falls and the price of fossil fuels plummets, leading to a financial crisis for the energy-producing states, which are forced to cut back dramatically on expansion programs and social welfare. That in turn leads to political unrest: and nurtures different radical groups, including, but not limited to, Islamic extremists. The internal stability of some countries is challenged, and there are more “failed states.” Most serious is the collapse of the democratic government in Pakistan and its takeover by Muslim extremists, who then take possession of a large number of nuclear weapons. The danger of war between India and Pakistan increases significantly. Iran, always worried about an extremist Pakistan, expands and weaponizes its nuclear program. That further enhances nuclear proliferation in the Middle East, with Saudi Arabia, Turkey, and Egypt joining Israel and Iran as nuclear states. Under these circumstances, the potential for nuclear terrorism increases, and the possibility of a nuclear terrorist attack in either the Western world or in the oil-producing states may lead to a further devastating collapse of the world economic market, with a tsunami-like impact on stability. In this scenario, major disruptions can be expected, with dire consequences for two-thirds of the planet’s population.

#### Economic decline causes Middle East instability and global nuclear war

Harris and Burrows 9 Mathew Harris (PhD European History @ Cambridge, counselor of the U.S. National Intelligence Council) and Jennifer Burrows (member of the NIC’s Long Range Analysis Unit) 2009 “Revisiting the Future: Geopolitical Effects of the Financial Crisis” <http://www.ciaonet.org/journals/twq/v32i2/f_0016178_13952.pdf>

The most dangerous casualty of any economically-induced drawdown of U.S. military presence would almost certainly be the Middle East. Although Iran’s acquisition of nuclear weapons is not inevitable, worries about a nuclear-armed Iran could lead states in the region to develop new security arrangements with external powers, acquire additional weapons, and consider pursuing their own nuclear ambitions. It is not clear that the type of stable deterrent relationship that existed between the great powers for most of the Cold War would emerge naturally in the Middle East with a nuclear Iran. Episodes of low intensity conflict and terrorism taking place under a nuclear umbrella could lead to an unintended escalation and broader conflict if clear red lines between those states involved are not well established. The close proximity of potential nuclear rivals combined with underdeveloped surveillance capabilities and mobile dual-capable Iranian missile systems also will produce inherent difficulties in achieving reliable indications and warning of an impending nuclear attack. The lack of strategic depth in neighboring states like Israel, short warning and missile flight times, and uncertainty of Iranian intentions may place more focus on preemption rather than defense, potentially leading to escalating crises.

#### Economic decline collapses Pakistan

Warrick 8, Washington Post, ‘8 (Joby, November 15, “Experts See Security Risks in Downturn, http://www.washingtonpost.com/wp-dyn/content/article/2008/11/14/AR2008111403864.html)

Intelligence officials are warning that the deepening global financial crisis could weaken fragile governments in the world's most dangerous areas and undermine the ability of the United States and its allies to respond to a new wave of security threats. U.S. government officials and private analysts say the economic turmoil has heightened the short-term risk of a terrorist attack, as radical groups probe for weakening border protections and new gaps in defenses. A protracted financial crisis could threaten the survival of friendly regimes from Pakistan to the Middle East while forcing Western nations to cut spending on defense, intelligence and foreign aid, the sources said. The crisis could also accelerate the shift to a more Asia-centric globe, as rising powers such as China gain more leverage over international financial institutions and greater influence in world capitals. Some of the more troubling and immediate scenarios analysts are weighing involve nuclear-armed Pakistan, which already was being battered by inflation and unemployment before the global financial tsunami hit. Since September, Pakistan has seen its national currency devalued and its hard-currency reserves nearly wiped out. Analysts also worry about the impact of plummeting crude prices on oil-dependent nations such as Yemen, which has a large population of unemployed youths and a history of support for militant Islamic groups. The underlying problems and trends -- especially regional instability and the waning influence of the West -- were already well established, but they are now "being accelerated by the current global financial crisis," the nation's top intelligence official, Director of National Intelligence Mike McConnell, said in a recent speech. McConnell is among several top U.S. intelligence officials warning that deep cuts in military and intelligence budgets could undermine the country's ability to anticipate and defend against new threats.

#### Economic collapse causes a U.S.-Russian War

Nyquist 8 [J.R., a WorldNetDaily contributing editor and author of 'Origins of the Fourth World War.', “Financial Collapse and Destructive War”, September 19, http://www.financialsense.com/stormwatch/geo/pastanalysis/2008/0919.html]

If the United States went bankrupt the following sequence would occur: The U.S. government would lose its credibility, the country’s currency would fail and imports could not be maintained – especially oil imports. There would be shortages. But the sequence doesn’t end with shortages. It doesn’t end with mere economic loss. When the financial structure collapses, the national security structure collapses. Then nothing will restrain the military power of Russia and China. A few days ago Russia’s representative to NATO, Dimitry Rogozin, made a striking statement. He warned that the Europeans risk war if Georgia joins the alliance. “We will terminate all contact with NATO because we cannot cooperate with an organization which supports an aggressor against us. If NATO makes another mistake in its relations with the East, we will be unable to continue our relations. Our people will not understand. For us, it is a ‘red line.’” He then characterized Mikhail Saakashvili as a war criminal and “puppet of the United States.” Rogozin warned that Europe should stay out of the “somebody else’s war, which is a war against Russia.” What did Rogozin mean by this? If the Europeans know what is good for them, they will leave the Americans to fend for themselves. In other words – Europe must break with the United States. The real conflict is between Russia and America. Europe need not get involved. The Kremlin’s position was clarified recently by Prime Minister Putin. He said that George Bush was a good man, but that George Bush was no longer in charge of the U.S. government. Evil advisors have taken over in Washington, and these must be dealt with. If you follow Russia closely, and listen to the words of Russian leaders, then you know that there is a low-level war being fought between Russia and America. In fact, it is a war of national survival and Russia is determined to prevail. This has not been stated directly, but was indirectly alluded to by Vladimir Putin when he spoke to the Russian people after the Beslan massacre in 2004. “Despite all the difficulties,” said Putin in a televised speech, “we have managed to preserve the core of the colossus that was the Soviet Union.” And that core has come under attack. “Someone” wants to destroy what remains of the USSR. The Russian leadership is consistent in its policy. Talk of Russia’s “partnership” with America has always been a smokescreen. The Kremlin seeks to justify future military action against the United States and has long been building a case. The Kremlin wants America cut off from its allies, and has patiently waited for the advent of financial collapse as the signal to push hard for Europe’s neutrality. As explained in previous columns, this is the basis of Russia’s recent turn of policy. “Some want to cut a juicy morsel from us,” said Putin in 2004, referring to the oil-rich Caucasus region. “Others are helping them. They are helping because they believe that, as one of the world’s major nuclear powers, Russia still poses a threat to them, and therefore this threat must be removed. And terrorism, of course, is only a tool for achieving these goals.” They want to break the back of the Russian state. They want to deprive Russia of its nuclear arsenal because it “still” threatens them. “This is a challenge to the whole of Russia,” Putin explained, “to the whole of our people. This is an attack on our country.” The plan is to “intimidate” Russia with “inhuman cruelty,” to “paralyze our will and demoralize our society.” The Russian president added: “It would appear that we have a choice of resisting them or agreeing to their claims, surrendering or allowing them to destroy and split Russia….” It is a case of kill or be killed, split or be split. Russia is therefore at war with America. “One cannot fail to see the obvious,” said Putin. “We are not just dealing with separate actions aimed at frightening us, or separate terrorist sorties. We are dealing with direct intervention by way of terrorism against Russia, with total, cruel and full-scale war in which our compatriots die again and again.” Putin is lying, of course. He knows that the wars of the Caucasus were contrived by the Russian General Staff and the KGB. The Kremlin has long operated on the basis of a secret policy. This policy includes the retreat from ideology, the abdication of the Communist Party and false liberalization. KGB defector Anatoliy Golitsyn described this secret policy five years before the Berlin Wall came down, warning that a long-range strategy had been jointly agreed upon by Russia and China in 1960. He outlined the details of the planned collapse of Communism: including the unification of Germany, the elimination of the Warsaw Pact and the push for European neutrality at the outset of a renewed Cold War. To be sure, no policy works exactly as the planners envisioned. There were setbacks and delays. But the objective of the conspiracy remains. It is global revolution. This was Lenin’s conception. This was also the rationale of the Soviet state and the mission of the KGB. The collapse of the Soviet Union was conceived as a strategic maneuver in the late 1950s. It was discussed by KGB Chairman Alexander Shelepin at a secret meeting in 1959. The KGB infiltrated and financed various dissident movements inside the Soviet Bloc. The future role of these movements was clear. A period of fake democracy would be initiated and the West would be “put to sleep.” The Communists in the East denied their faith publicly. They repeated Lenin’s New Economic Policy with a straight face and their hands out. When Communism lost its official standing in Russia, the Communists discovered the feebleness of their revolutionary order. They discovered that fraud is a two-way street. The party bosses weren’t the only ones who could steal, cheat and lie. The reality of the Soviet economy was, in part, expressed in a simple formula: “We pretend to work and they pretend to pay us.” A fraudulent system engenders a fraudulent citizenry and a hollow center. The Soviet public suspected the official ideology was rotten with lies; so once the bankruptcy of the system was publicly admitted the people were confirmed in their cynicism. Besides this, they never really cared about class struggle. The ruling ideology was not theirs. They did not choose it willingly, or embrace it enthusiastically. It was imposed on them by Lenin and Stalin. Only a sub-faction within the aspiring cadre of the Communist Party Soviet Union appreciated Marxist concepts. For such people, Communist ideas signified foreknowledge and power. It was the science and method, pure and rigorous, of global revolutionary conquest. It was a method of seizing power, winning wars and crushing enemies. That is why Mao Zedong scoffed at the atomic bomb. Weapons don’t decide everything, he said. Man decides what happens, and men are guided by ideas, and the ideas of Marx and Lenin are “more powerful than a machine gun,” and more destructive than the atomic bomb. To understand the power of Communist ideas we must come to terms with the emergence of the modern nihilistic misfit and his special brand of narcissistic megalomania. Lenin once wrote that there is no such thing as Communist dogma. This statement may confuse the party idiots, but it clarifies the real situation for the politically perceptive. The apparent abdication of the Communists during the period 1989-91 was a subterfuge long in the making. It was conceivable by the strategists in Moscow because the framework of their ideology involved the integration of sociology, economics and psychology with politics and war. It represented the science of “divide and conquer” carried to perfection. Today the name of Hitler has become a caricature. In our mind’s eye we see the carpet-chewing megalomaniac foaming at the mouth, screaming hate before demented crowds, parading around with goose-stepping soldiers. We call Hitler a “madman” and dismiss him as an aberration. We fool ourselves by thinking there is nobody like him today. But the leaders in Moscow and Beijing are more cunning and better equipped for mass extermination than Hitler ever was. The leaders of the totalitarian countries, behind the façade of liberal reform, are serial killers imprinted with an impulse to butchery. They want more victims, and they want the victims piled ever higher. These are the blood-proofs of their power, and the ultimate assurance of longed-for preeminence. If the ancient Romans destroyed Carthage without nuclear weapons, without modern instruments of war, what will Moscow and Beijing do to the United States when America is paralyzed by financial collapse? Again and again I am asked the question: Why would the leaders of Russia or China want to destroy the United States? One might as well ask why Hitler sought the destruction of the Jews. Why did Genghis Khan exterminate entire cities and depopulate entire regions of the earth? You say that these are the acts of “madmen.” But history is populated with madmen. Everyone can see that Lenin’s successors have refused to bury him. They buried Stalin. They buried Khrushchev. They buried everyone in the country. But they refuse to bury Lenin. He lays in state, in his mausoleum, the great symbol of Communism’s persistence and the KGB’s ongoing mission. The cadre stays the course. The dynamos continue to propel the great engine of destruction. They are there, wearing their masks – in league with their comrades around the globe (in Cuba, in Venezuela, in Bolivia, in South Africa, in Congo, in the American universities). Only when they bury Lenin, only when the Red Tsar is laid to rest, should we accept the death of Communism as an authentic happening in Russia. You see, it doesn’t matter if one percent of a country actually adheres to something. If that one percent is driven to dominate, if that one percent guides the machine, if that one percent makes policy and follows the same old strategy, then the rest are fodder. They are grist for a terrible mill. Ideas are decisive in every system, even if those ideas are a rationale for mass murder, even if those ideas only appeal to thieves and murderers. The killer has an impulse to kill, the tyrant to tyrannize and the warmonger to make war. Vladimir Putin has referred to himself as a “Soviet person.” He has publicly decried the fall of the Soviet Union. He has overseen the return of Soviet symbols to the Russian military, the rebuilding and modernization of key elements of the old Soviet war machine. Whether he is a true tsar or the public face of a secret ruling group, the spirit of Lenin bleeds through his cold Napoleonic façade. America’s financial collapse threatens to uncork the totalitarian genie from its bottle. I believe it is too late to stop the worst from happening. The sequence has begun. The Kremlin knew that a financial crash was about to take place. They’ve been waiting on it. They are prepared to exploit it. And the Americans are completely oblivious. They are utterly unprepared.

#### Economic decline leads to terrorism

Thomas 8 [John Thomas, Professor of Economics, January 18 2008, Becker-Posner Blog, Accessed April 8 2008, http://www.becker-posner-blog.com/archives/2008/01/terrorism\_and\_e.html]

However lack of economic growth also helps terrorism. To manage in the modern world, every country requires an intellectual class, and without sufficient economic growth this intellectual class is often idle or their partially educated children are idle and likely somewhat unemployed, and thus ripe for radicalism. Also, lack of economic growth tends to support the idea that the nation has fallen behind as a great power. People always like to feel like their part of a great power and economic growth makes people feel like if they are not part of a great power they are becoming part of one. Much of the discontent in the Muslim world is from the idea that the Muslim world has fallen behind the West and thus it must become a great power by any means necessarily.

### A2: Reid

#### Reid’s opposition won’t stall progress

Seher 2/1

CNN's Jason Seher “Kerry, Hagel rebuke Reid on fast-track trade bill” http://politicalticker.blogs.cnn.com/2014/02/01/kerry-hagel-rebuke-reid-on-fast-track-track-bill/

In a rare joint appearance at the Munich Security Conference, Secretary of State John Kerry and Defense Secretary Chuck Hagel dismissed Senate Majority Leader Harry Reid's opposition to renewing fast-track trade authority and predicted that the bill will ultimately pass in spite of Reid's opposition.¶ "I've heard plenty of statements in the Senate on one day that are categorical, and we've wound up finding accommodations and a way to find our way forward," Kerry told the audience of European allies.¶ "I respect Harry Reid, worked with him for a long time," Kerry said. "I think all of us have learned to interpret a comment on one day in the United States Senate as not necessarily what might be the situation in a matter of months."¶ Reid said Wednesday he is unlikely to consider a bill on the issue anytime soon.¶ "I’m against fast track," said Reid, who controls which bills get to the Senate floor. "I think everyone would be well-advised not to push this right now."¶ With several outstanding trade pacts - including a major deal with the European Union - securing President Barack Obama's "trade promotion authority" remains a priority for the administration. The power would limit Congress' ability to influence American trade policy, only allowing them up or down votes on massive trade deals while leaving negotiations with other nations entirely under the purvey of the President. Proponents of the measure say the TPA prevents crucial trade agreements from getting bogged down in the bureaucratic slog and would help open new markets for U.S. goods. Democrats oppose the measure, arguing past trade deals led companies to ship jobs overseas.¶ Heralding the ability as something that could "have a profound impact" on the American economy, Kerry said the extension of President Obama's authority could pay dividends and help further drive down the unemployment rate.¶ "It's worth millions of jobs," he said.¶ Kerry also was emphatic that Reid's opposition would not stall progress.

#### Empirics on our side

Washington Post 2/2

“The Washington Post: Reid can undermine Obama on TPP” Feb 02 http://www.sltrib.com/sltrib/opinion/57477685-82/obama-trade-reid-tpp.html.csp

The day after Mr. Obama made his plea, Mr. Reid sounded as if he were rejecting it — thus imperiling the entire TPP project. That might be a stretch: Mr. Reid has never supported trade promotion authority, and he has never been much for free-trade deals, either. He has nevertheless permitted such legislation to move through the Senate in the past, and he stopped short of an explicit threat to block it this time.

#### Reid’s opposition means PC key

WSJ 1/29

“Harry Reid's Trade Veto Are Democrats playing a double political game on free trade?” Jan. 29, 2014 http://online.wsj.com/news/articles/SB10001424052702304428004579351180680000934

Harry's veto underscores that if Mr. Obama is going to get a trade victory, he's going to have to spend some political capital persuading his own party. That is, if he really wants a negotiating success and isn't looking for a political excuse to drop the whole thing.

#### Obama negotiations with Reid will succeed

Washington Times, 2-3-’14 (“Obama reaches out to Democratic leaders” http://www.washingtontimes.com/news/2014/feb/3/obama-reaches-out-to-democratic-leaders/)

Despite his vow to work around Congress, President Obama huddled Monday with Senate Majority Leader Harry Reid to begin a week of meetings with congressional Democrats on legislative and political priorities where he needs their support. The Oval Office meeting came just days after Mr. Reid, Nevada Democrat, announced that he opposes granting the president “fast-track” authority to negotiate pending trade deals in Asia and Europe with minimal input from Congress. Emerging from the White House after the 75-minute meeting, Mr. Reid dismissed a reporter’s assertion that he was in the president’s “doghouse,” and said the two men didn’t talk about trade. “We’re on the same page with everything,” Mr. Reid told reporters. The president and Mr. Reid were joined in the closed-door strategy session by Sen. Michael Bennet of Colorado, chairman of the Democratic Senatorial Campaign Committee, and DSCC Executive Director Guy Cecil. Rather than free trade, they discussed how to keep Republicans from winning control of the Senate in November’s elections, Yahoo News reported. The White House is eager for passage of a trade bill written by Sen. Max Baucus, Montana Democrat, that Mr. Reid and his liberal allies are reluctant to bring to the floor for a vote. White House press secretary Jay Carney said Mr. Obama will “push hard” for trade-promotion authority (TPA) because the pacts would create high-paying jobs in the U.S. “Securing these trade agreements and increasing exports is key to promoting our economic recovery,” Mr. Carney said. But three-fourths of House Democrats oppose TPA on the grounds that the free-trade deals would drain jobs from the U.S. and wouldn’t require adequate environmental protections among the other nations joining the agreements. Republican lawmakers who favor free trade say Mr. Obama must show more leadership with his own party if he wants to achieve the deals. It’s another example of the election-year challenge Mr. Obama is facing. Frustrated by congressional stalemate, the president is promising to take executive action whenever he can toward goals such as reviving the economy and improving education. But on big-picture initiatives such as free trade, comprehensive immigration reform and universal preschool services, he still needs Congress. The president’s schedule this week in fact resembles a full-court press on Democratic lawmakers. In addition to Monday’s meeting with Mr. Reid, the president is hosting House Democrats at the White House on Tuesday night for a roundtable discussion and a reception. Vice President Joseph R. Biden Jr., who enjoys schmoozing with lawmakers more than the president does, also will attend. And on Wednesday, Mr. Obama will deliver a speech at a Senate Democrats’ issues conference in Washington. “There’s an important amount of business that can and should be done with and through Congress,” Mr. Carney said. “This is part of a process in which the president and Senate Democrats and House Democrats discuss a way to move forward on an agenda that is focused on expanding opportunity, rewarding hard work and responsibility and the ways that we can do that. During his State of the Union address last week, Mr. Obama urged lawmakers to give him the needed leverage to close the trade deals. “We need to work together on tools like bipartisan trade promotion authority to protect our workers, protect our environment, and open new markets to new goods stamped ‘Made in the USA,’” Mr. Obama said. “China and Europe aren’t standing on the sidelines. Neither should we.” The president’s push for more executive action is angering Republican lawmakers, who say it’s a potential abuse of power. Sen. Charles E. Grassley, Iowa Republican, pressed Attorney General Eric H. Holder Jr. in a letter released Monday to review the constitutionality of Mr. Obama’s executive actions and to make those reviews public.

### Links

#### CONGRESS WOULD HATE ITSELF FOR DOING THE PLAN – especially before midterms

Michael Catalini, May 3, 2013, National Journal, “Political Barriers Stand Between Obama and Closing Guantanamo Facility” <http://www.nationaljournal.com/politics/political-barriers-stand-between-obama-and-closing-guantanamo-facility-20130503>

The last time President Obama tried to close the Guantanamo Bay detention center, Congress stopped him abruptly. The Senate did what it rarely does: It voted in bipartisan fashion, blocking his attempt at funding the closure.¶ Four years later, and the political barriers that blocked the president from closing the camp that now houses 166 detainees are as immovable as ever. Moving the prisoners to facilities in the U.S., a solution the administration suggested, proved to be a political minefield in 2009. Most Americans oppose closing the base, according to a polls, and congressional leaders have balked at taking action.¶ The Cuban camp is grabbing headlines again because of a hunger strike among the detainees. Nearly 100 have stopped eating, and the military is forcing them to eat by placing tubes through their noses, the Associated Press reported. The president reconfirmed his opposition to the camp, responding to a question about the recent hunger strikes at Guantanamo Bay with regret in his voice.¶ “Well, it is not a surprise to me that we've got problems in Guantanamo, which is why, when I was campaigning in 2007 and 2008 and when I was elected in 2008, I said we need to close Guantanamo. I continue to believe that we've got to close Guantanamo,” he said.¶ Obama blamed his failure to follow through on a campaign promise on lawmakers. “Now, Congress determined that they would not let us close it,” he said. Despite Obama’s desire to close the base and his pledge this week to “go back to this,” he touched on a political reality: Lawmakers are not inclined to touch the issue.¶ "The president stated that the reason Guantanamo has not closed was because of Congress. That's true," Majority Leader Harry Reid told reporters last month, declining to elaborate.¶ The stakes for Obama on this issue are high when it comes to his liberal base, who would like to see him display the courage of his convictions and close the camp. But the political will is lacking, outside a small contingent of lawmakers, including Sen. Dick Durbin of Illinois and five other liberal Democrats who sided with Obama in 2009, and left-leaning opinion writers.¶ Congressional Democrats, unlike Obama, will have to face voters again. And closing the camp is deeply unpopular. A Washington Post/ABC News poll in February 2012 showed that 70 percent of Americans wantedto keep the camp open to detain “terrorist suspects,” and in a 2009 Gallup Poll, a majority said they would be upset if it shut down. In 2009, the Senate voted 90-6 to block the president’s efforts at closing the camp. Obama had signed an order seeking to close the detention center, but the Senate’s vote denied the administration the $80 million needed to fund the closure. ¶ Closing the camp in Cuba and bringing the detainees into the United States grates against the political sensibilities of many lawmakers. Jim Manley, a Democratic strategist who served as Reid’s spokesman at the time, remembers the debate very well.¶ “I'm still not sure that there's much of an appetite among Democrats on the Hill to try and deal with this issue once and for all,” Manley said in an interview.

#### Plan hugely unpopular with Republicans.

Michael Crowley, May 24, 2013, Time, “Can Obama End the War on Terror?” <http://swampland.time.com/2013/05/24/can-obama-end-the-war-on-terror/>

But while Obama has an obviously sincere desire to bring the war against al Qaeda to a close and close the books on Guantanamo, however, he also lacks the power to make these things happen on his own. The future of the terror war that Obama inherited from George W. Bush and Dick Cheney depends on some very open questions:¶ Will Republicans Play Along? The initial GOP response to Obama’s speech was skeptical. “The theme of the speech was that this war is winding down… [but] the enemy is morphing and spreading, there are more theaters of conflict today than in several years,” said GOP Senator Lindsey Graham of South Carolina. “The President’s speech today will be viewed by terrorists as a victory,” declared Saxby Chambliss of Georgia.¶ Some of Obama’s plans require no Republican sign-off—he can change the rules governing drone strikes, for instance, by presidential directive. And he can transfer the dozens of Yemeni detainees at the camp who have been cleared for release back to their home country on his own. But fully shuttering Gitmo will require him to win Congress’s permission to move dozens of the camp’s 166 inmates from Cuba into the U.S., something now barred by law. At the moment, some Republicans seem no more interested in helping him than they did when Obama first proposed this idea in 2009. “GITMO must stay open for business,” Chambliss said Thursday. Others are more amenable, though still skeptical: House Armed Services Chairman Buck McKeon, who would play a lead role in any Congressional action, calls himself “open to a proposal from the president, but that plan has to consist of more than political talking points.”¶ Obama also said that he wants Congress to revisit the Authorization for Use of Military Force, the law it passed a few days after the September 11 attacks authorizing the broad use of force to fight al Qaeda and its allies; the president suggested he might like to see the law repealed eventually. Many Republicans like it just fine, and would oppose efforts to limit its scope

#### It’s a partisan battle.

Howell, 7/25 (“GOP resists new attempt to shutter Guantanamo” The Washington Times. 7/25/2013. Web, Acc 8/15/2013. http://www.washingtontimes.com/news/2013/jul/25/gop-resists-new-attempt-to-shutter-guantanamo/?page=all#pagebreak

[Congress](http://www.washingtontimes.com/topics/congress/) sent strong signals this week that President Obama’s 5-year-old vow to close [Guantanamo Bay prison](http://www.washingtontimes.com/topics/guantanamo-bay-prison/) is far from coming to fruition, as partisan camps drew battle lines over whether the facility in [Cuba](http://www.washingtontimes.com/topics/cuba/) bottles up terrorists or simply breeds more abroad.¶ [Senate](http://www.washingtontimes.com/topics/senate/) Democrats held a hearing on closing the detention center this week, but it was their first since 2009 and revealed little agreement between Mr. Obama’s party and conservatives. In the House, lawmakers shot down a measure that would clear the way for transferring prisoners off the island.¶ Almost a dozen years after the [Bush administration](http://www.washingtontimes.com/topics/bush-administration/) set up the detention center on the U.S. naval base in the wake of [the terrorist attacks on Sept. 11, 2001](http://www.washingtontimes.com/topics/september-11-2001-attacks/), Mr. Obama redoubled his efforts this spring to close the facility as many of its 166 detainees refused food for weeks, protesting conditions there and their prolonged detention.¶ But Republicans say the [Obama administration](http://www.washingtontimes.com/topics/barack-obama/) is ignoring the realities of the war on terrorism and have put the brakes on plans to provide for the release or transfer of detainees to maximum-security prisons in the U.S.¶ [Sen. James M. Inhofe](http://www.washingtontimes.com/topics/james-m-inhofe/), Oklahoma Republican, said Guantanamo is “one of the few good deals that we have in government.”¶ “I think we pay $4,000 a year, and [[Cuba](http://www.washingtontimes.com/topics/cuba/)’s communist government] doesn’t collect about half the time,” he said Thursday at a [Senate Armed Services Committee](http://www.washingtontimes.com/topics/united-states-senate-committee-on-armed-services/) hearing.¶ But Democrats contend the U.S. is losing hundreds of millions of dollars in operation costs — roughly $2.7 million per detainee each year in [Cuba](http://www.washingtontimes.com/topics/cuba/) compared to $78,000 at a high-security facility in the United States — and ceding its moral high ground, as terrorism suspects are detained without charges or trial.¶ Their detention, coupled with the practice of force-feeding those on hunger strike, is fostering ill-will abroad and serves as a recruitment tool for terrorists, they said.¶ To some lawmakers, the debate is over the nuts and bolts of how to close the base.¶ “We still don’t have a coherent plan from the [administration](http://www.washingtontimes.com/topics/barack-obama/),” [Sen. John McCain](http://www.washingtontimes.com/topics/john-mccain/), Arizona Republican, said Thursday. “What about those who we can’t bring to trial or can’t release? Where will they go back to if they’re released? All of these are questions that need to be answered.”¶ A legislative aide said one of the first meetings that [Mr. McCain](http://www.washingtontimes.com/topics/john-mccain/) and Sen. Lindsey Graham, South Carolina Republican, had with president-elect Obama in 2008 was about Guantanamo. But, [Mr. McCain](http://www.washingtontimes.com/topics/john-mccain/) said, “they were pushed by the left so far that they really couldn’t ever come up with a coherent plan.”¶ The American Civil Liberties Union said the [administration](http://www.washingtontimes.com/topics/barack-obama/) can back up its rhetoric by immediately transferring 86 prisoners who have been cleared to be repatriated to a foreign nation.¶ Christopher Anders, the ACLU’s senior legislative counsel, said the [Obama administration](http://www.washingtontimes.com/topics/barack-obama/) has a good track record of making sure these detainees are imprisoned, monitored or rehabilitated in their new countries.¶ “No one’s going to be dropped off at the airport with $20 in their pockets,” he said.¶ [Senate](http://www.washingtontimes.com/topics/senate/) Armed Services Chairman Carl Levin, Michigan Democrat, noted Thursday his committee inserted a series of Guantanamo reforms into a defense-spending bill that will come to the [Senate](http://www.washingtontimes.com/topics/senate/) floor.¶ The provisions would make it easier to transfer detainees to U.S. detention centers, or to foreign nations if they are unlikely to re-engage in terrorist activity. It also provides for the temporary transfer of detainees to Defense Department medical facilities ” to prevent death or significant imminent harm.”¶ But lawmakers in the Republican-led House on Tuesday, on a 247-175 vote, defeated an amendment from [Rep. James P. Moran](http://www.washingtontimes.com/topics/james-p-moran/), Virginia Democrat, that would have permitted the release or transfer of Guantanamo detainees to the U.S. or foreign nations if the secretary of defense signed off on certain conditions.¶ In a policy statement, the White House condemned a section of the House defense spending bill that would prohibit the modification or creation of a facility in the United States to house the detainees — a provision that [Mr. Moran](http://www.washingtontimes.com/topics/james-p-moran/) had tried to strip from the bill.¶ “The U.S. should not stand for indefinite detention,” a spokeswoman for [Mr. Moran](http://www.washingtontimes.com/topics/james-p-moran/) said Thursday. “It’s un-American and against our founding principle of justice.”