# UNLV Round 2 vs Cal

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#### Indef detention is without trial -

US LEGAL 13 [US Legal Forms Inc., Indefinite Detention Law and Legal Definition http://definitions.uslegal.com/i/indefinite-detention/]

Indefinite detention is the practice of detaining an arrested person by a national government or law enforcement agency without a trial. It may be made by the home country or by a foreign nation. Indefinite detention is a controversial practice, especially in situations where the detention is by a foreign nation. It is controversial because it seems to violate many national and international laws. It also violates human rights laws. Indefinite detention is seen mainly in cases of suspected terrorists who are indefinitely detained.The Law Lords, Britain’s highest court, have held that the indefinite detention of foreign terrorism suspects is incompatible with the Human Rights Act and the European Convention on Human Rights. [Human Rights Watch] In the U.S., indefinite detention has been used to hold terror suspects. The case relating to the indefinite detention of Jose Padilla is one of the most highly publicized cases of indefinite detention in the U.S. In the U.S., indefinite detention is a highly controversial matter and is currently under review. Organizations such as International Red Cross and FIDH are of the opinion that U.S. detention of prisoners at Guantanamo Bay is not based on legal grounds. However, the American Civil Liberties Union is of the view that indefinite detention is permitted pursuant to section 412 of the USA Patriot Act.

#### Violation – the plan text does not restrict the war powers authority to indefinitely detain – merely the war powers authority to detain in MILITARY DETENTION

#### 1. Limits – justifies any aff that creates a new prison system to indefinitely detain and ANY AFF that imposes new standards on how we can detain in MILITARY detention

#### 2. bidirectionality – aff could functionally increase the authority of the executive to detain in the civilian prison system.

#### Voter for fairness, education, and competitive equity

### CIR DA

#### CIR will pass SOON Obama’s continued push is key

Matthews 10/16

Laura Matthews, MA Columbia, International Business Times “2013 Immigration Reform Bill: 'I'm Going To Push To Call A Vote,' Says Obama” October 16 2013 http://www.ibtimes.com/2013-immigration-reform-bill-im-going-push-call-vote-says-obama-1429220

When Congress finally passes a bipartisan bill that kicks the fiscal battles over to early next year, the spotlight could return to comprehensive immigration reform before 2013 ends.¶ At least that’s the hope of President Barack Obama and his fellow Chicagoan Rep. Luis Gutierrez, D-Ill., chairman of the Immigration Task Force of the Congressional Hispanic Caucus and one of the most vocal advocates for immigration reform in the House of Representatives.¶ “When we emerge from this crazy partisan eruption from the Republicans, there will be a huge incentive for sensible Republicans who want to repair some of the damage they have done to themselves,” Gutierrez said in a statement. “Immigration reform remains the one issue popular with both Democratic and Republican voters on which the two parties can work together to deliver real, substantive solutions in the Congress this year.”¶ Reforming the status quo has consistently been favored by a majority of Americans. Earlier this year, at least two-thirds of Americans supported several major steps to make the system work better, according to a Gallup poll. Those steps include implementing an E-verify system for employers to check electronically the immigration status of would-be employees (85 percent), a path to citizenship for undocumented immigrants, (72 percent), an entry-exit check system to make sure people who enter the country then leave it (71 percent), more high-skilled visas (71 percent) and increased border security (68 percent).¶ The Senate passed its version of a 2013 immigration reform bill in June that includes, but is not limited to, a pathway to citizenship for immigrants without documentation and doubling security on the southern border. But that measure has stalled in the House, where Republicans are adamant they will take a piecemeal approach.¶ The momentum that lawmakers showed for reform has been sapped by the stalemate that that has shut down the government for 16 days and brought the U.S. to the brink of default. The Senate has agreed on Wednesday to a bipartisan solution to break the gridlock.¶ When the shutdown and default threat is resolved (for a time), that’s when Obama will renew his push to get Congress to move on immigration reform. On Tuesday the president said reform will become his top priority.¶ “Once that’s done, you know, the day after, I’m going to be pushing to say, call a vote on immigration reform,” Obama told Univision affiliate KMEX-TV in Los Angeles. “And if I have to join with other advocates and continue to speak out on that, and keep pushing, I’m going to do so because I think it’s really important for the country. And now is the time to do it.”¶ The president pointed the finger at House Speaker John Boehner, R-Ohio, for not allowing the bill to be brought to the floor for a vote. Boehner had promised that the Senate’s bill would not be voted on unless a majority of the majority in the House supports it -- the same principle he was holding out for on the government shutdown before he gave in.¶ “We had a very strong Democratic and Republican vote in the Senate,” Obama said. “The only thing right now that’s holding it back is, again, Speaker Boehner not willing to call the bill on the floor of the House of Representatives. So we’re going to have to get through this crisis that was unnecessary, that was created because of the obsession of a small faction of the Republican Party on the Affordable Care Act.”¶ Republicans are opposing the Democratic view of immigration reform because of its inclusion of a 13-year path to citizenship for undocumented immigrants. They said this amounted to “amnesty.” Some Republicans prefer to give them legal resident status instead.¶ Immigration advocates have also been urging Obama to use his executive authority to halt the more than 1,000 deportations taking place daily. Like the activists, Gutierrez said the government shutdown didn’t do anything to slow the number of daily deportations.¶ Some Republicans who welcomed Sen. Ted Cruz’s filibuster over Obamacare because it shifted the focus from immigration.¶ “If Ted [didn’t] spin the filibuster, if we don’t make this the focus, we had already heard what was coming,” Rep. Louie Gohmert, R-Texas, told Fox News on Tuesday. “As soon as we got beyond this summer, we were going to have an amnesty bill come to the floor. That’s what we would have been talking about. And that’s where the pivot would have been if we had not focused America on Obamacare.”¶ Still, pro-immigration advocates are hopeful they can attain their goal soon. “With more prodding from the president and the American people,” Gutierrez said, “we can get immigration reform legislation passed in the House and signed into law.”

#### 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.

#### CIR solves multiple internal links to the economy

Beadle 12/10 Amanda Peterson, Reporter/Blogger at ThinkProgress.org. She received her B.A. in journalism and Spanish from the University of Alabama, where she was editor-in-chief of the campus newspaper The Crimson White and graduated with honors. Before joining ThinkProgress, she worked as a legislative aide in the Maryland House of Delegates. “Top 10 Reasons Why The U.S. Needs Comprehensive Immigration Reform” http://thinkprogress.org/justice/2012/12/10/1307561/top-10-reasons-why-the-us-needs-comprehensive-immigration-reform-that-includes-a-path-to-citizenship/

The nation needs a comprehensive immigration plan, and it is clear from a recent poll that most Americans support reforming the U.S.’s immigration system. In a new poll, nearly two-thirds of people surveyed are in favor of a measure that allows undocumented immigrants to earn citizenship over several years, while only 35 percent oppose such a plan. And President Obama is expected to “begin an all-out drive for comprehensive immigration reform, including seeking a path to citizenship” in January.¶ Several top Republicans have softened their views on immigration reform following November’s election, but in the first push for reform, House Republicans advanced a bill last month that would add visas for highly skilled workers while reducing legal immigration overall. Providing a road map to citizenship for the millions of undocumented immigrants living in the U.S. would have sweeping benefits for the nation, especially the economy.¶ Here are the top 10 reasons why the U.S. needs comprehensive immigration reform:¶ 1. Legalizing the 11 million undocumented immigrants in the United States would boost the nation’s economy. It would add a cumulative $1.5 trillion to the U.S. gross domestic product—the largest measure of economic growth—over 10 years. That’s because immigration reform that puts all workers on a level playing field would create a virtuous cycle in which legal status and labor rights exert upward pressure on the wages of both American and immigrant workers. Higher wages and even better jobs would translate into increased consumer purchasing power, which would benefit the U.S. economy as a whole.¶ 2. Tax revenues would increase. The federal government would accrue $4.5 billion to $5.4 billion in additional net tax revenue over just three years if the 11 million undocumented immigrants were legalized. And states would benefit. Texas, for example, would see a $4.1 billion gain in tax revenue and the creation of 193,000 new jobs if its approximately 1.6 million undocumented immigrants were legalized.¶ 3. Harmful state immigration laws are damaging state economies. States that have passed stringent immigration measures in an effort to curb the number of undocumented immigrants living in the state have hurt some of their key industries, which are held back due to inadequate access to qualified workers. A farmer in Alabama, where the state legislature passed the anti-immigration law HB 56 in 2011, for example, estimated that he lost up to $300,000 in produce in 2011 because the undocumented farmworkers who had skillfully picked tomatoes from his vines in years prior had been forced to flee the state.¶ 4. A path to citizenship would help families access health care. About a quarter of families where at least one parent is an undocumented immigrant are uninsured, but undocumented immigrants do not qualify for coverage under the Affordable Care Act, leaving them dependent on so-called safety net hospitals that will see their funding reduced as health care reforms are implemented. Without being able to apply for legal status and gain health care coverage, the health care options for undocumented immigrants and their families will shrink.¶ 5. U.S. employers need a legalized workforce. Nearly half of agricultural workers, 17 percent of construction workers, and 12 percent of food preparation workers nationwide lacking legal immigration status. But business owners—from farmers to hotel chain owners—benefit from reliable and skilled laborers, and a legalization program would ensure that they have them.¶ 6. In 2011, immigrant entrepreneurs were responsible for more than one in four new U.S. businesses. Additionally, immigrant businesses employ one in every 10 people working for private companies. Immigrants and their children founded 40 percent of Fortune 500 companies, which collectively generated $4.2 trillion in revenue in 2010—more than the GDP of every country in the world except the United States, China, and Japan. Reforms that enhance legal immigration channels for high-skilled immigrants and entrepreneurs while protecting American workers and placing all high-skilled workers on a level playing field will promote economic growth, innovation, and workforce stability in the United States.¶ 7. Letting undocumented immigrants gain legal status would keep families together. More than 5,100 children whose parents are undocumented immigrants are in the U.S. foster care system, according to a 2011 report, because their parents have either been detained by immigration officials or deported and unable to reunite with their children. If undocumented immigrants continue to be deported without a path to citizenship enabling them to remain in the U.S. with their families, up to 15,000 children could be in the foster care system by 2016 because their parents were deported, and most child welfare departments do not have the resources to handle this increase.¶ 8. Young undocumented immigrants would add billions to the economy if they gained legal status. Passing the DREAM Act—legislation that proposes to create a roadmap to citizenship for immigrants who came to the United States as children—would put 2.1 million young people on a pathway to legal status, adding $329 billion to the American economy over the next two decades.¶ 9. And DREAMers would boost employment and wages. Legal status and the pursuit of higher education would create an aggregate 19 percent increase in earnings for young undocumented immigrants who would benefit from the DREAM Act by 2030. The ripple effects of these increased wages would create $181 billion in induced economic impact, 1.4 million new jobs, and $10 billion in increased federal revenue.¶ 10. Significant reform of the high-skilled immigration system would benefit certain industries that require high-skilled workers. Immigrants make up 23 percent of the labor force in high-tech manufacturing and information technology industries, and immigrants more highly educated, on average, than the native-born Americans working in these industries. For every immigrant who earns an advanced degree in one of these fields at a U.S. university, 2.62 American jobs are created.

#### Global economic crisis causes nuclear war

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

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

### 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 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

### CP

#### The Executive Branch of the United States should discontinue the detention of individuals in military detention who have won a habeas corpus hearing and 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.

#### The president can and should apply Geneva to current policies

De Nevers ‘6 (Renee is an assistant professor of public administration at the Maxwell School at Syracure Univeristy. “Modernizing the Geneva Conventions.” The Center for Strategic and International Studies and the Massachusetts Institute of Technology.” The Washington Quarterly. <http://www.supportgenevaconventions.org/library/modernizing_the_geneva_conventions.pdf>)

In late 2004, the Defense Department retracted the more permissive¶ guidelines for interrogation that were established in 2002. This too is a step¶ in the right direction, as is the adoption¶ of new Army guidelines for interrogation¶ in April 2005 that are more explicit¶ than previous guidelines about permitted¶ and prohibited practices and which¶ specifically bar many of the techniques¶ used in Abu Ghraib. The president should¶ affirm these policies and state clearly that¶ the Geneva conventions apply to all¶ combat situations and to all prisoners. In addition, the president and his¶ subordinates should publicly reaffirm the national and international laws¶ that prohibit torture and prisoner abuse. Secretary of State Condoleezza¶ Rice issued the administration’s clearest statement regarding U.S. adherence¶ to international laws proscribing torture in December 2005, stating that the¶ United States considers its obligations under the Convention Against Torture¶ and Other Cruel, Inhuman, and Degrading Treatment or Punishment¶ to “extend to U.S. personnel wherever they are, whether they are in the¶ United States or outside of the United States.”23 Questions remain, however,¶ about how the administration defines torture, and as a result, U.S. adherence¶ to national or international laws remains murky.

#### 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

### Solvency

#### Even if the president has to rely on risky legal grounds – no court will ever rule against him on national security affairs and even if they did, the executive would circumvent them

Vermeule 9 \*Adrian, John H. Watson, Jr. Professor of Law, Harvard Law School. Harvard Law Review, 122 Harv. L. Rev. 1095, February

4. Standards Versus Grey Holes. - A particular clarification about grey holes is also necessary. A conventional legal perspective would hold that administrative law is, of course, composed of both "rules" and "standards" in the sense in which these terms are used in legal theory. 35 And on this perspective, it is unsurprising that where the relevant law creates standards, judges will increase deference to the executive when administrative action touches on sensitive matters of national security and foreign relations, or as emergencies arise. No one thinks that liberal legalism is inconsistent with standards, as opposed to rules, or that it prohibits all judicial deference to the executive, or that it requires judges to redecide all administrative decisions. Is the claim that our administrative law is Schmittian just a claim that it contains standards, or that judges sometimes defer to agencies? No. A "standard" in the legal theorist's sense is merely a potential grey hole, and the sort of deference that liberal-legalist judges are usually willing to afford is not enough to bring a grey hole into being either. My suggestion is that the standards inherent in administrative law are best understood as adjustable parameters, in which the intensity of review can be dialed up or down. When (and only when) it is dialed down far enough, the apparent availability of judicial review becomes a sham or facade, and a grey hole arises. It is hard to specify, in the abstract, when exactly this occurs, or how deferential review must be to create a grey hole. But it is not necessary to specify that in the abstract. If the examples in Part II are convincing - the proof must be in the pudding - then the reality is that in certain domains, and with respect to certain questions, it is an inescapable fact that judges applying the adjustable parameters of our administrative law have upheld executive or administrative action on such deferential terms as to make legality a pretense. In such cases, judicial review is itself a kind of legal fiction and the outcome of judicial review is a foregone conclusion - not something that is compatible, even in theory, with the banal liberal-legalist observations that administrative law contains standards and permits deference. II. The Black and Grey Holes of Administrative Law I will lay the groundwork for the later theoretical discussion with an overview of decisions by the federal courts of appeals in cases at the intersection of administrative law and national security, especially after 9/11. It is important to be clear about what this overview is intended [\*1107] to show. I do not attempt to prove an empirical hypothesis to the effect that administrative law in the courts of appeals has become more deferential after 9/11, although that may well be true. The examples of law-free zones and sham review I will examine are not evidence of some further hypothesis; rather they are themselves the facts to be established. They show that administrative law in operation contains substantial black and grey holes built into its working structure - that our administrative law is in this sense substantially Schmittian. Not as Schmittian as possible, but much more so than the various camps of rule-of-law theorists and administrative law theorists think is true or desirable.

#### Drone Strikes are decreasing

Pakistan News & Views 7/26/13 (“U.S Drones Strikes has Decreased Due To Its Criticism”, http://pakistannewsviews.com/u-s-drone-strikes-has-decreased-due-to-its-criticism/)

The tempo of CIA drone strikes in Pakistan has slowed significantly in recent months, and anonymous officials tell The Associated Press that the reason has to do with the public’s intensifying criticism of the program, which has reportedly killed hundreds of civilians since 2004. ¶ While the attacks are by no means stopping, their frequency has reached a low not seen since the secret program began in Pakistan, with 16 strikes occurring so far this year. That’s a far cry from the peak of 122 strikes in 2010, according to data from the New America Foundation; whose most recent estimates show those strikes killed 97 alleged “militants” and four “others” in 2013. Current and former intelligence officials tell AP that public scrutiny has led the program to be more focused on “high value” targets, supposedly dropping the controversial practice of “signature strikes,” which attack anonymous individuals based solely on behavior observed in the field.¶ The statements seem to be in line with those from President Obama, who said during a speech in May that he would roll back the CIA program and limit targets to those who constitute a “continuing, imminent threat.” But a Justice Department legal memo leaked prior to the speech broadly defines “imminent” to include any plot which “may or may not occur in the near future.” The administration has also defended its demonstrated ability to execute — without charge or trial — American citizens who fit that criteria.¶ The decreased number of strikes comes after massive public outrage in Pakistan, where the high court in Peshawar has ruled that US drone strikes constitute war crimes and violations of the country’s sovereignty. Ben Emmerson, the UN’s special rapporteur on civil rights, reached similar conclusions during his own investigation of the ongoing US drone campaign. In the past, Pakistani officials have publicly spoken out against drone strikes while secretly consenting to them behind closed doors. But anonymous US officials told the AP that the strikes decreased after Pakistani officials made it clear the attacks could not continue at the current rate, citing concerns over the civilian death toll.

#### Detainee protections increase the incentives for kill rather than capture

Crandall 13 Carla, Law Clerk to the Honorable Carolyn Dineen King, U.S. Court of Appeals for the Fifth Circuit. J.D., J. Reuben Clark Law School, Brigham Young University. "If You Can't Beat Them, Kill Them: Complex Adaptive Systems Theory and the Rise in Targeted Killing,"Seton Hall Law Review: Vol. 43: Iss. 2, Article 3. http://erepository.law.shu.edu/shlr/vol43/iss2/3

But while these developments have been hailed as victories by civil libertarians, they have not come without significant cost. With increasing frequency, journalists and scholars have begun to document the marked expansion in the government’s use of drones to kill targets who purportedly pose a threat to U.S. national security.12 Though a few observers have intimated that there may be a causal connection between the increase in targeted killing and the growing dearth of unfettered detention options,13 the actual link between these phenomena has not been thoroughly explored. This Article fills that gap. Examining the connection between the government’s detention and targeted killing policies, this Article argues that attempts to remove the “stain” of Guantánamo Bay have created what might be an even greater crisis. Specifically, while civil libertarians have claimed success in executive and judicial efforts to grant detainees greater protections, this success has produced an unintended incentive for the government to kill rather than capture individuals involved in the war on terror. This perverse outcome has occurred not as a result of a foreseeable linear process whereby one phenomenon caused the other, but rather as an unanticipated reaction to changes thrust into the nonlinear dynamic systems14 of warfare and national security law.15 To uncover the relationship between the government’s detention and targeted killing programs, this Article invokes the insights of complex adaptive systems theory.16 While scholars have employed chaos and complexity theory to examine legal issues for some time,17 the more nuanced theory of complex adaptive systems is a relative newcomer.18 Nevertheless, scholars are increasingly making the case that the theory offers a useful means by which to understand the legal system and the effects that flow from changes introduced thereto.19 This Article explains and builds upon that work by arguing that legal policies regulating the war on terror actually implicate two systems—that of both warfare and law. Because these two systems “interact complexly with each other, as well as with all . . . other complex social and physical systems with which they are interconnected,”20 introducing even small changes into either of these complex adaptive systems can generate dramatic effects that are unforeseeable when the intervention initially is introduced.21 Within the context of the war on terror, altering detainee policies may have led to the unintended consequence of encouraging the government to dismiss the option of capturing high-value targets in favor of simply eliminating them with drones.22 This important insight suggests a broader one: thinking of war and national security law as interrelated complex adaptive systems can help policymakers, lawmakers, and judges gain a better appreciation of the practical consequences of their decision-making processes. 22 The law of unintended consequences suggests that well-intentioned efforts to attain a specific goal may actually produce results antithetical to the hoped for effect. See Frank B. Cross, Paradoxical Perils of the Precautionary Principle, 53 WASH. & LEE L. REV. 851, 862 (1996). To make these arguments, the Article proceeds as follows. Part II introduces the theory of complex adaptive systems and explains that law and war both exhibit properties of these systems. Part III provides a summary of significant post-9/11 legal developments related to war on terror detentions and interrogations, and describes how these developments gradually increased the protections afforded to detainees. Part IV argues that these efforts to protect the civil liberties of detainees may actually have had the perverse effect of encouraging targeted killing. More specifically, using complex adaptive systems theory, Part IV argues that the rise of the drone may be evidence of the adaptive and self-organizing properties inherent within the systems of law and war. Part V concludes that the government’s expanded use of drones is representative of an unexpected and unintended consequence that can arise as a result of human intervention into complex adaptive systems.

#### US drones get modeled---causes war (READ PURPLE)

Roberts, 13 **–** (Kristen, news editor for the National Journal, master in security studies from Georgetown, “When the Whole World Has Drones”, March 22, <http://www.nationaljournal.com/magazine/when-the-whole-world-has-drones-20130321>)

The proliferation of drone technology has moved well beyond the control of the United States government and its closest allies. The aircraft are too easy to obtain, with barriers to entry on the production side crumbling too quickly to place limits on the spread of a technology that promises to transform warfare on a global scale. Already, more than 75 countries have remote piloted aircraft. More than 50 nations are building a total of nearly a thousand types. At its last display at a trade show in Beijing, China showed off 25 different unmanned aerial vehicles. Not toys or models, but real flying machines. It’s a classic and common phase in the life cycle of a military innovation: An advanced country and its weapons developers create a tool, and then others learn how to make their own. But what makes this case rare, and dangerous, is the powerful combination of efficiency and lethality spreading in an environment lacking internationally accepted guidelines on legitimate use. This technology is snowballing through a global arena where the main precedent for its application is the one set by the United States; it’s a precedent Washington does not want anyone following. America, the world’s leading democracy and a country built on a legal and moral framework unlike any other, has adopted a war-making process that too often bypasses its traditional, regimented, and rigorously overseen military in favor of a secret program never publicly discussed, based on legal advice never properly vetted. The Obama administration has used its executive power to refuse or outright ignore requests by congressional overseers, and it has resisted monitoring by federal courts. To implement this covert program, the administration has adopted a tool that lowers the threshold for lethal force by reducing the cost and risk of combat. This still-expanding counterterrorism use of drones to kill people, including its own citizens, outside of traditionally defined battlefields and established protocols for warfare, has given friends and foes a green light to employ these aircraft in extraterritorial operations that could not only affect relations between the nation-states involved but also destabilize entire regions and potentially upset geopolitical order. Hyperbole? Consider this: Iran, with the approval of Damascus, carries out a lethal strike on anti-Syrian forces inside Syria; Russia picks off militants tampering with oil and gas lines in Ukraine or Georgia; Turkey arms a U.S.-provided Predator to kill Kurdish militants in northern Iraq who it believes are planning attacks along the border. Label the targets as terrorists, and in each case, Tehran, Moscow, and Ankara may point toward Washington and say, we learned it by watching you. In Pakistan, Yemen, and Afghanistan. This is the unintended consequence of American drone warfare. For all of the attention paid to the drone program in recent weeks—about Americans on the target list (there are none at this writing) and the executive branch’s legal authority to kill by drone outside war zones (thin, by officials’ own private admission)—what goes undiscussed is Washington’s deliberate failure to establish clear and demonstrable rules for itself that would at minimum create a globally relevant standard for delineating between legitimate and rogue uses of one of the most awesome military robotics capabilities of this generation. THE WRONG QUESTION The United States is the indisputable leader in drone technology and long-range strike. Remote-piloted aircraft have given Washington an extraordinary ability to wage war with far greater precision, improved effect, and fewer unintended casualties than conventional warfare. The drones allow U.S. forces to establish ever greater control over combat areas, and the Pentagon sees the technology as an efficient and judicious force of the future. And it should, given the billions of dollars that have gone into establishing and maintaining such a capability. That level of superiority leads some national security officials to downplay concerns about other nations’ unmanned systems and to too narrowly define potential threats to the homeland. As proof, they argue that American dominance in drone warfare is due only in part to the aircraft itself, which offers the ability to travel great distances and loiter for long periods, not to mention carry and launch Hellfire missiles. The drone itself, they argue, is just a tool and, yes, one that is being copied aggressively by allies and adversaries alike. The real edge, they say, is in the unparalleled intelligence-collection and data-analysis underpinning the aircraft’s mission. “There is what I think is just an unconstrained focus on a tool as opposed to the subject of the issue, the tool of remotely piloted aircraft that in fact provide for greater degrees of surety before you employ force than anything else we use,” said retired Lt. Gen. David Deptula, the Air Force’s first deputy chief of staff for intelligence, surveillance, and reconnaissance. “I think people don’t realize that for the medium altitude aircraft—the MQ-1 [Predator] and MQ-9 [Reaper] that are generally written about in the press—there are over 200 people involved in just one orbit of those aircraft.… The majority of those people are analysts who are interpreting the information that’s coming off the sensors on the aircraft.” The analysts are part of the global architecture that makes precision strikes, and targeted killing, possible. At the front end, obviously, intelligence—military, CIA, and local—inform target decisions. But in as near-real time as technologically possible, intel analysts in Nevada, Texas, Virginia, and other locations watch the data flood in from the aircraft and make calls on what’s happening on target. They monitor the footage, listen to audio, and analyze signals, giving decision-makers time to adjust an operation if the risks (often counted in potential civilian deaths) outweigh the reward (judged by the value of the threat eliminated). “Is that a shovel or a rifle? Is that a Taliban member or is this a farmer? The way that warfare has advanced is that we are much more exquisite in our ability to discern,” Maj. Gen. Robert Otto, commander of the Air Force Intelligence, Surveillance, and Reconnaissance Agency, told National Journal at Nellis Air Force Base in Nevada. “We’re not overhead for 15 minutes with a fighter that’s about to run out of gas, and we have to make a decision. We can orbit long enough to be pretty sure about our target.” Other countries, groups, and even individuals can and do fly drones. But no state or group has nearly the sophisticated network of intelligence and data analysis that gives the United States its strategic advantage. Although it would be foolish to dismiss the notion that potential U.S. adversaries aspire to attain that type of war-from-afar, pinpoint-strike capability, they have neither the income nor the perceived need to do so. That’s true, at least today. It’s also irrelevant. Others who employ drones are likely to carry a different agenda, one more concerned with employing a relatively inexpensive and ruthlessly efficient tool to dispatch an enemy close at hand. “It would be very difficult for them to create the global-strike architecture we have, to have a control cell in Nevada flying a plane over Afghanistan. The reality is that most nations don’t want or need that,” said Peter Singer, director of the Brookings Institution’s Center for 21st Century Security and Intelligence and one of the foremost experts in advanced military technology. “Turkey’s not looking to conduct strikes into the Philippines.... But Turkey is looking to be able to carry out long-duration surveillance and potentially strike inside and right on its border.” And that’s a NATO ally seeking the capability to conduct missions that would run afoul of U.S. interests in Iraq and the broader Middle East. Already, Beijing says it considered a strike in Myanmar to kill a drug lord wanted in the deaths of Chinese sailors. What happens if China arms one of its remote-piloted planes and strikes Philippine or Indian trawlers in the South China Sea? Or if India uses the aircraft to strike Lashkar-e-Taiba militants near Kashmir? “We don’t like other states using lethal force outside their borders. It’s destabilizing. It can lead to a sort of wider escalation of violence between two states,” said Micah Zenko, a security policy and drone expert at the Council on Foreign Relations. “So the proliferation of drones is not just about the protection of the United States. It’s primarily about the likelihood that other states will increasingly use lethal force outside of their borders.” LOWERING THE BAR Governments have covertly killed for ages, whether they maintained an official hit list or not. Before the Obama administration’s “disposition matrix,” Israel was among the best-known examples of a state that engaged, and continues to engage, in strikes to eliminate people identified by its intelligence as plotting attacks against it. But Israel certainly is not alone. Turkey has killed Kurds in Northern Iraq. Some American security experts point to Russia as well, although Moscow disputes this. In the 1960s, the U.S. government was involved to differing levels in plots to assassinate leaders in Congo and the Dominican Republic, and, famously, Fidel Castro in Cuba. The Church Committee’s investigation and subsequent 1975 report on those and other suspected plots led to the standing U.S. ban on assassination. So, from 1976 until the start of President George W. Bush’s “war on terror,” the United States did not conduct targeted killings, because it was considered anathema to American foreign policy. (In fact, until as late as 2001, Washington’s stated policy was to oppose Israel’s targeted killings.) When America adopted targeted killing again—first under the Bush administration after the September 11 attacks and then expanded by President Obama—the tools of the trade had changed. No longer was the CIA sending poison, pistols, and toxic cigars to assets overseas to kill enemy leaders. Now it could target people throughout al-Qaida’s hierarchy with accuracy, deliver lethal ordnance literally around the world, and watch the mission’s completion in real time. The United States is smartly using technology to improve combat efficacy, and to make war-fighting more efficient, both in money and manpower. It has been able to conduct more than 400 lethal strikes, killing more than 3,500 people, in Afghanistan, Pakistan, Yemen, Somalia, and North Africa using drones; reducing risk to U.S. personnel; and giving the Pentagon flexibility to use special-forces units elsewhere. And, no matter what human-rights groups say, it’s clear that drone use has reduced the number of civilians killed in combat relative to earlier conflicts. Washington would be foolish not to exploit unmanned aircraft in its long fight against terrorism. In fact, defense hawks and spendthrifts alike would criticize it if it did not. “If you believe that these folks are legitimate terrorists who are committing acts of aggressive, potential violent acts against the United States or our allies or our citizens overseas, should it matter how we choose to engage in the self-defense of the United States?” asked Rep. Mike Rogers, R-Mich., chairman of the House Intelligence Committee. “Do we have that debate when a special-forces team goes in? Do we have that debate if a tank round does it? Do we have the debate if an aircraft pilot drops a particular bomb?” But defense analysts argue—and military officials concede—there is a qualitative difference between dropping a team of men into Yemen and green-lighting a Predator flight from Nevada. Drones lower the threshold for military action. That’s why, according to the Council on Foreign Relations, unmanned aircraft have conducted 95 percent of all U.S. targeted killings. Almost certainly, if drones were unavailable, the United States would not have pursued an equivalent number of manned strikes in Pakistan. And what’s true for the United States will be true as well for other countries that own and arm remote piloted aircraft. “The drones—the responsiveness, the persistence, and without putting your personnel at risk—is what makes it a different technology,” Zenko said. “When other states have this technology, if they follow U.S. practice, it will lower the threshold for their uses of lethal force outside their borders. So they will be more likely to conduct targeted killings than they have in the past.” The Obama administration appears to be aware of and concerned about setting precedents through its targeted-strike program. When the development of a disposition matrix to catalog both targets and resources marshaled against the United States was first reported in 2012, officials spoke about it in part as an effort to create a standardized process that would live beyond the current administration, underscoring the long duration of the counterterrorism challenge. Indeed, the president’s legal and security advisers have put considerable effort into establishing rules to govern the program. Most members of the House and Senate Intelligence committees say they are confident the defense and intelligence communities have set an adequate evidentiary bar for determining when a member of al-Qaida or an affiliated group may be added to the target list, for example, and say that the rigor of the process gives them comfort in the level of program oversight within the executive branch. “They’re not drawing names out of a hat here,” Rogers said. “It is very specific intel-gathering and other things that would lead somebody to be subject for an engagement by the United States government.” BEHIND CLOSED DOORS The argument against public debate is easy enough to understand: Operational secrecy is necessary, and total opacity is easier. “I don’t think there is enough transparency and justification so that we remove not the secrecy, but the mystery of these things,” said Dennis Blair, Obama’s former director of national intelligence. “The reason it’s not been undertaken by the administration is that they just make a cold-blooded calculation that it’s better to hunker down and take the criticism than it is to get into the public debate, which is going to be a hard one to win.” But by keeping legal and policy positions secret, only partially sharing information even with congressional oversight committees, and declining to open a public discussion about drone use, the president and his team are asking the world to just trust that America is getting this right. While some will, many people, especially outside the United States, will see that approach as hypocritical, coming from a government that calls for transparency and the rule of law elsewhere. “I know these people, and I know how much they really, really attend to the most important details of the job,” said Barry Pavel, a former defense and security official in the Bush and Obama administrations who is director of the Brent Scowcroft Center on International Security at the Atlantic Council. “If I didn’t have that personal knowledge and because there isn’t that much really in the press, then I would be giving you a different rendering, and much more uncertain rendering.” That’s only part of the problem with the White House’s trust-us approach. The other resides in the vast distance between the criteria and authorization the administration says it uses in the combat drone program and the reality on the ground. For example, according to administration officials, before a person is added to the targeted strike list, specific criteria should be met. The target should be a 1) senior, 2) operational 3) leader of al-Qaida or an affiliated group who presents 4) an imminent threat of violent attack 5) against the United States. But that’s not who is being targeted. Setting aside the administration’s redefining of “imminence” beyond all recognition, the majority of the 3,500-plus people killed by U.S. drones worldwide were not leaders of al-Qaida or the Taliban; they were low- or mid-level foot soldiers. Most were not plotting attacks against the United States. In Yemen and North Africa, the Obama administration is deploying weaponized drones to take out targets who are more of a threat to local governments than to Washington, according to defense and regional security experts who closely track unrest in those areas. In some cases, Washington appears to be in the business of using its drone capabilities mostly to assist other countries, not to deter strikes against the United States (another precedent that might be eagerly seized upon in the future). U.S. defense and intelligence officials reject any suggestion that the targets are not legitimate. One thing they do not contest, however, is that the administration’s reliance on the post-9/11 Authorization for Use of Military Force as legal cover for a drone-strike program that has extended well beyond al-Qaida in Afghanistan or Pakistan is dodgy. The threat that the United States is trying to deal with today has an ever more tenuous connection to Sept. 11. (None of the intelligence officials reached for this article would speak on the record.) But instead of asking Congress to consider extending its authorization, as some officials have mulled, the administration’s legal counsel has chosen instead to rely on Nixon administration adviser John Stevenson’s 1970 justification of the bombing of Cambodia during the Vietnam War, an action new Secretary of State John Kerry criticized during his confirmation hearing this year. Human-rights groups might be loudest in their criticism of both the program and the opaque policy surrounding it, but even the few lawmakers who have access to the intelligence the administration shares have a hard time coping with the dearth of information. “We can’t always assume we’re going to have responsible people with whom we agree and trust in these positions,” said Sen. Angus King, I-Maine, who sits on the Senate Intelligence Committee. “The essence of the Constitution is, it shouldn’t matter who is in charge; they’re still constrained by principles and rules of the Constitution and of the Bill of Rights.” PEER PRESSURE Obama promised in his 2013 State of the Union to increase the drone program’s transparency. “In the months ahead, I will continue to engage Congress to ensure not only that our targeting, detention, and prosecution of terrorists remains consistent with our laws and system of checks and balances, but that our efforts are even more transparent to the American people and to the world,” the president said on Feb. 12. Since then, the administration, under pressure from allies on Senate Intelligence, agreed to release all of the legal memos the Justice Department drafted in support of targeted killing. But, beyond that, it’s not certain Obama will do anything more to shine light on this program. Except in situations where leaks help it tell a politically expedient story of its skill at killing bad guys, the administration has done little to make a case to the public and the world at large for its use of armed drones. Already, what’s become apparent is that the White House is not interested in changing much about the way it communicates strike policy. (It took Sen. Rand Paul’s 13-hour filibuster of CIA Director John Brennan’s nomination to force the administration to concede that it doesn’t have the right to use drones to kill noncombatant Americans on U.S. soil.) And government officials, as well as their surrogates on security issues, are actively trying to squash expectations that the administration would agree to bring the judicial branch into the oversight mix. Indeed, judicial review of any piece of the program is largely off the table now, according to intelligence officials and committee members. Under discussion within the administration and on Capitol Hill is a potential program takeover by the Pentagon, removing the CIA from its post-9/11 role of executing military-like strikes. Ostensibly, that shift could help lift the secret-by-association-with-CIA attribute of the program that some officials say has kept them from more freely talking about the legitimate military use of drones for counterterrorism operations. But such a fix would provide no guarantee of greater transparency for the public, or even Congress. And if the administration is not willing to share with lawmakers who are security-cleared to know, it certainly is not prepared to engage in a sensitive discussion, even among allies, that might begin to set the rules on use for a technology that could upend stability in already fragile and strategically significant places around the globe. Time is running out to do so. “The history of technology development like this is, you never maintain your lead very long. Somebody always gets it,” said David Berteau, director of the International Security Program at the Center for Strategic and International Studies. “They’re going to become cheaper. They’re going to become easier. They’re going to become interoperable,” he said. “The destabilizing effects are very, very serious.” Berteau is not alone. Zenko, of the Council on Foreign Relations, has urged officials to quickly establish norms. Singer, at Brookings, argues that the window of opportunity for the United States to create stability-supporting precedent is quickly closing. The problem is, the administration is not thinking far enough down the line, according to a Senate Intelligence aide. Administration officials “are thinking about the next four years, and we’re thinking about the next 40 years. And those two different angles on this question are why you see them in conflict right now.” That’s in part a symptom of the “technological optimism” that often plagues the U.S. security community when it establishes a lead over its competitors, noted Georgetown University’s Kai-Henrik Barth. After the 1945 bombing of Hiroshima and Nagasaki, the United States was sure it would be decades before the Soviets developed a nuclear-weapon capability. It took four years. With drones, the question is how long before the dozens of states with the aircraft can arm and then operate a weaponized version. “Pretty much every nation has gone down the pathway of, ‘This is science fiction; we don’t want this stuff,’ to, ‘OK, we want them, but we’ll just use them for surveillance,’ to, ‘Hmm, they’re really useful when you see the bad guy and can do something about it, so we’ll arm them,’ ” Singer said. He listed the countries that have gone that route: the United States, Britain, Italy, Germany, China. “Consistently, nations have gone down the pathway of first only surveillance and then arming.” The opportunity to write rules that might at least guide, if not restrain, the world’s view of acceptable drone use remains, not least because this is in essence a conventional arms-control issue. The international Missile Technology Control Regime attempts to restrict exports of unmanned vehicles capable of carrying weapons of mass destruction, but it is voluntary and nonbinding, and it’s under attack by the drone industry as a drag on business. Further, the technology itself, especially when coupled with data and real-time analytics, offers the luxury of time and distance that could allow officials to raise the evidentiary bar for strikes—to be closer to certain that their target is the right one. But even without raising standards, tightening up drone-specific restrictions in the standing control regime, or creating a new control agreement (which is never easy to pull off absent a bad-state actor threatening attack), just the process of lining up U.S. policy with U.S. practice would go a long way toward establishing the kind of precedent on use of this technology that America—in five, 10, or 15 years—might find helpful in arguing against another’s actions.

#### Plan causes extraordinary rendition shift

Kenneth Anderson 09, Professor of International Law at American University, 5/31, “Security Issues Like Squeezing Jello? Reversion to the Mean? Jack Goldsmith on the Effects of Security Alternatives,” http://opiniojuris.org/2009/05/31/security-issues-like-squeezing-jello-reversion-to-the-mean-jack-goldsmith-on-the-effects-of-security-alternatives/#sthash.TB1xcePu.dpuf

One way you might look at this is that there is a sort-of national security constant that remains in equilibrium over time, using one tactic or another, gradually evolving but representing over time a reversion to the national security mean. Or you might say that national security, seen over time, looks a little like squeezing jello – if squeezed one place it pops out another. ¶ I think Jack is right that the administration – any administration – tends to strive for a certain equilibrium, as it is confronted with a flow of threats that the public discounts to near-zero but which it does not see itself quite so able to do, however much it might want to. However, as the op-ed also notes, and I agree, these methods are not completely equivalent or compensating. That is so not just with regards to third party costs, but also with respect to security as such. Intelligence gathering, by all accounts not very effective to begin with, has become much more difficult. This is not compensation, it is a seemingly permanent downward shift in the security mean. ¶ Besides the consequences that Jack identifies, I would add that the current move to semi-compensating policies means two things. First, intelligence is likely to be increasingly outsourced to foreign intelligence services. That can provide valuable information, but it will be increasingly uncorroborated and subject to filtering by those services. That is not good. ¶ Second, in a somewhat unrelated matter, I would guess that future conflicts, where not fought by Predator, will be increasingly outsourced to proxy forces. ¶ In the focus on intelligence and security, I think this second point has not received sufficient attention. The United States has a long familiarity with proxy forces as a form of deniability, among other things – Ronald Reagan, for example, faced with many limitations placed by Congress on his uses of force, found proxy forces an essential element of his foreign policy, in Central America particularly. The domestic risks that policy can entail are illustrated by the Iran-Contra contra-temps; on the other hand, Reagan was reasonably successful in pursuing his administration’s anti-Communist and anti-Soviet policy aims in Salvador and Nicaragua, among other places, by proxy forces. ¶ But I would be quite surprised if proxy war were not today under active discussion for places like Somalia (where we have already undertaken measures close to it) and other places. More precisely, I would surprised if it were not an active discussion among the New Liberal Realists of the Obama administration, whatever the transnationalists say or think.¶ In any case, whether those last two speculations prove true or not, the tendency of the administration to seek compensating policies seems likely at a minimum to complicate the issues of Guantanamo, Bagram, and other matters besides.

#### Means they solve nothing

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

The CIA’s use of “extraordinary rendition”, the practice of transporting a suspect to a third country for interrogation, has also stoked the ire of many traditional allies. Critics charge that this tactic quite simply allows the CIA to sidestep international laws and obligations by conducting interrogations in nations with poor human-rights records. In 2003, an Italian magistrate formally indicted 13 CIA agents for allegedly kidnapping an Italian resident and transporting him to a third country for interrogation. Ultimately 22 CIA agents and one US military officer were convicted in absentia of crimes connected to the abduction (Stewart, 1). The case not only heightened criticism of the US in Italy but challenged U.S. strategic communications aimed at reducing anti-Americanism worldwide (Reveron 462). According to Julianne Smith, director of the Europe program at the Center for Strategic and International Studies (CSIS), “[extraordinary rendition] makes it extremely difficult [for European governments] to stand shoulder-to-shoulder with the U.S.” (Heller 1).

### Legitimacy

#### Way too many alt causes – can’t

#### The plan is another chapter in the story of Congressional stripping of judicial rulings increasing the rights of detainees –

#### a) Overturned the first two Supreme Court cases that attempted to limit indefinite detention

Nikkel 12, 2012, J.D. Candidate, 2012, William S. Boyd School of Law, Las Vegas; B.A., 2009, University of Nevada, Reno. Nevada Law Journal. Spring 2012. The Author would like to thank Professor Christopher L. Blakesley, Professor Terrill Pollman, and the Nevada Law Journal staff for helping with the research and writing of this Note.) Web, Lexis Nexis.

The first challenges to the detention program came in the form of Rasul and Hamdi, both decisions handed down on June 28, 2004, by the Supreme Court.93 Sixteen detainees—two British, two Australian, and twelve Kuwaiti citizens—brought the Rasul action, seeking a writ of habeas corpus in federal court.94 In the 6 to 3 Rasul decision, the Supreme Court held Guant´anamo prisoners could challenge the lawfulness of their detention in federal court because Cuba’s “ultimate sovereignty” over the base did not preclude access.95 On the other hand, in Hamdi, a plurality of the Court found the government could detain an American citizen as an enemy combatant pursuant to the AUMF, but had to offer him the opportunity to challenge the factual basis for his detention with the benefit of a fair hearing before a neutral tribunal and access to counsel.96 Justice O’Connor’s plurality opinion warned “a state of war is not a blank check for the President when it comes to the rights of the Nation’s citizens.”97 O’Connor thought the war against the Taliban closely resembled wars of the past, and the president’s traditional war powers likely did not apply in the war against al Qaeda or in conflicts against other non-state actors.98 Furthermore, as critical as the Government’s interest may have been in addressing immediate threats to national security, “history and common sense teach us that an unchecked system of detention carries the potential to become a means for oppression and abuse of others who do not present that sort of threat.”99 O’Connor concluded enemy combatant proceedings should be carefully tailored to alleviate “their uncommon potential to burden the Executive at a time of ongoing military conflict.”100 Therefore, the Court attempted to strike a balance in Rasul and Hamdi: although the president could detain unlawful combatants, the administration needed to provide basic due process for captured persons. In response to the Rasul and Hamdi decisions, the government responded twofold to limit due process for Guant´anamo detainees: first with the Combatant Status Review Tribunal (“CSRT”)101 and then with the Detainee Treatment Act of 2005 (“DTA”).102 A mere nine days after the Rasul and Hamdi decisions, allowed Guant´anamo detainees to contest their designations as enemy combatants. 103 The CSRT allowed the detainees to consult a “personal representative” (a military officer “with the appropriate security clearance”) to review “any reasonably available information” possessed by the Department of Defense regarding the detainee’s classification.104 After a preparation and consultation period of thirty days, the Department of Defense would convene a tribunal, composed of three neutral commissioned military officers, to review the detainee’s status.105 However, the rules of evidence did not apply and the tribunal allowed admission of hearsay.106 The detainee could only call “reasonably available” witnesses and the memo created a rebuttable presumption in favor of the government’s evidence.107 Therefore, although the executive branch complied with the Court’s mandate for a neutral tribunal before which detainees could challenge their classifications as “enemy combatants,” the limited due process protections led to criticism that the CSRTs were not in place to discover the truth about the detainees, but rather to prolong their detentions.108 Anticipating more judicial challenges from Guant´anamo detainees due to the shortcomings of the CSRT process, Congress finally entered the fray on December 30, 2005, by passing the Detainee Treatment Act.109 The Act amended 28 U.S.C § 2241, the federal habeas statute, and stripped federal courts of their jurisdiction to hear habeas petitions filed by detainees.110 Couched in language about prohibiting “cruel, inhuman, or degrading treatment” of persons in the United States’ custody,111 the Act codified Wolfowitz’s CSRT memo112 and provided, “no court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the Department of Defense at Guant´anamo Bay, Cuba.”113

#### b) When the courts responded to give more rights, Congress stripped that decision of meaning too.

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The DTA threw pending habeas claims by Guant´anamo detainees, like that of Salim Ahmed Hamdan (allegedly Osama bin Laden’s chauffer and bod-yguard),114 into chaos because it was unclear if pending claims could still be heard by federal courts.115 The Supreme Court, in its 5 to 3 Hamdan v. Rumsfeld decision, found the DTA did not retroactively strip habeas jurisdiction over pending cases.116 Furthermore, the Court invalidated the system of military tribunals the Bush administration created in the wake of 9/11 because the system violated Article 3 of the Geneva Conventions.117 The administration modeled these tribunals after those President Roosevelt used to try the prisoners in Quirin and Eisentrager, but the new tribunals lacked the express authorization from Congress, either by statute or declaration of war.118 At President Bush’s behest, Congress responded yet again, this time in the form of the Military Commissions Act of 2006 (“MCA”), which scholars have called “a harsh rebuke of the Hamdan court.”119 In order to provide President Bush with the “tools he need[ed] to protect [the] country” by allowing military tribunals to provide swift justice for terrorists and to combat future attacks,120 Section 7 of the MCA struck the DTA’s amendment to the federal habeas statute and inserted a new subsection:¶ [N]o court, justice, or judge shall have jurisdiction to hear or consider an application¶ for a writ of habeas corpus filed by or on behalf of an alien detained by the United¶ States who has been determined by the United States to have been properly detained¶ as an enemy combatant or is awaiting such a determination.121¶ The MCA avoided the pitfalls of Hamdan’s challenge by ensuring that its¶ provisions would apply to pending cases as well.122 The Act also defined new¶ offenses the Commission could try,123 permitted testimony obtained through¶ coercive techniques,124 and even prohibited combatants from invoking the protections¶ of the Geneva Conventions.125 The jurisdiction-stripping provisions of¶ the MCA triggered Suspension Clause concerns, setting the stage for¶ Boumediene, the principal case in the Guant´anamo litigation.

#### Stripping guts the case solvency and turns the case—all rights protections would go completely unenforced—trampling meaningful rights:

Barry W. Lynn, 2004 bachelor's degree at Dickinson College, theology degree from Boston University School of Theology, minister in the United Church of Christ, of the Washington, D.C. bar, law degree from Georgetown University Law Center, the Executive Director of Americans United for Separation of Church and State, 20**04**[“Congress and Court Stripping: Just Keep Your Shirts On” Church and State Magazine, May]

Another measure, the misnamed "Constitution Restoration Act of 2004," was written by former Alabama Supreme Court Chief Justice Roy Moore and his allies. It would ban all cases challenging state-sponsored acknowledgement of "God as the sovereign source of law, liberty, or government." For good measure, it would also retroactively overturn all existing rulings in this area and establish a mechanism for impeaching federal judges who dare to uphold church-state separation! One wonders if the legislators who wrote these bills slept through high school civics class. The separation of powers means that the U.S. government consists of three co-equal branches: the president, the Congress and the courts. Congress does not have the power, through simple legislation, to decimate the authority of the courts over issues dealing with the Bill of Rights. Such power would rapidly make the courts superfluous. Whenever a judge ruled in a manner that displeased a legislator, a court-stripping bill would be drawn up and passed. Pretty soon the courts would be nothing but a rubber-stamp **body for Congress**. Some members of Congress might want that, but it would be a disaster for American democracy. Courts exist to make hard decisions. When lawmakers overstep their bounds and infringe on constitutional rights, courts are there to pull them back. Without the judiciary to protect us, Americans would quickly be at the mercy of the momentary whims of the majority. Our rights would be trampled on.

#### No causality between hegemony and peace

-this card is really good

Fettweis 11 Christopher, Professor of Political Science @ Tulane, Dangerous Times?: The International Politics of Great Power Peace, pg. 172-174

The primary attack on restraint, or justification of internationalism, posits that if the United States were to withdraw from the world, a variety of ills would sweep over key regions and eventually pose threats to U.S. security and/or prosperity. These problems might take three forms (besides the obvious if remarkably unlikely, direct threats to the homeland.). generalized chaos, hostile imbalances in Eurasia, and/or failed states. Historian Arthur Schlesinger was typical when he worried that restraint would mean "a chaotic, violent, and ever more dangerous planet." All of these concerns either implicitly or explicitly assume that the presence of the United States is the primary reason for international stability, and if that presence were withdrawn chaos would ensue. In other words, they depend upon hegemonic-stability logic. Simply stated, the hegemonic stability theory proposes that international peace is only possible when there is one country strong enough to make and enforce a set of rules. At the height of Pax Romana between 27 BC and 180 AD, for example, Rome was able to bring unprecedented peace and security to the Mediterranean. The Pax Britannica of the nineteenth century brought a level of stability to the high seas. Perhaps the current era is peaceful because the United States has established a de facto Pax Americana where no power is strong enough to challenge its dominance, and because it has established a set of rules that are generally in the interests of all countries to follow. Without a benevolent hegemon, some strategists fear, instability may break out around the globe.."'. Unchecked conflicts could cause humanitarian disaster and, in today's interconnected world, economic turmoil that would ripple throughout global financial markets. If the United States were to abandon its commitments abroad, argued Art, the world would "become a more dangerous place' and, sooner or later, that would 'redound to America's detriment."' If the massive spending that the United States engages in actually provides stability in the international political and economic systems, then perhaps internationalism is worthwhile. There are good theoretical and empirical reasons, however, to believe that U.S hegemony is not the primary cause of the current era of stability. First of all, the hegemonic-stability argument overstates the role that the United States plays in the system. No country is strong enough to police the world on its own. The only way there can he stability in the community of great powers is if self-policing occurs, if states have decided that their interests are served by peace. if no pacific normative shift had occurred among the great powers that was filtering down through the system, then no amount of international constabulary work by the United States could maintain stability. Likewise, if it is true that such a shift has occurred, then most of what the hegemon spends to bring stability would be wasted. The 5 percent of the world's population that live in the United States simply could not force peace upon an unwilling 95. At the risk of beating the metaphor to death, the United States maybe patrolling a neighborhood that has already rid itself of crime. Stability and unipolarity may be simply coincidental. In order for U.S. hegemony to he the reason for global stability, the rest of the world would have to expect reward for good behavior and fear punishment for bad. Since the end of the Cold War, the United States has not always proven to he especially eager to engage in humanitarian interventions abroad. Even rather incontrovertible evidence of genocide has not been sufficient to inspire action. Hegemonic stability can only take credit for influencing those decisions that would have ended in war without the presence, whether physical or psychological, of the United States. Ethiopia and Eritrea are hardly the only states that could go to war without the slightest threat of U.S. intervention. Since most of the world today is free to fight without U.S. involvement, something else must be at work. Stability exists in many places where no hegemony is present. Second, the limited empirical evidence we have suggests that there is little connection between the relative level of U.S. activism and international stability. During the 1990s the United States cut back on its defense spending fairly substantially. By 1998 the United States was spending $100 billion less on defense in real terms than it had in 1990,72 To internationalists, defense hawks, and other believers in hegemonic stability, this irresponsible peace dividend" endangered both national and global security. "No serious analyst of American military capabilities;' argued Kristol and Kagan, 'doubts that the defense budget has been cut much too far to meet America's responsibilities to itself and to world peac&'73 If the pacific trends were due not to U.S. hegemony but a strengthening norm against interstate war, however, one would not have expected an increase in global instability and violence. The verdict from the past two decades is fairly plain: The world grew' more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable Pentagon, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums; no security dilemmas drove mistrust and arms races; no regional balancing occurred once the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in U.S. capabilities. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and it kept declining as the Bush Administration ramped spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated. It is also worth noting for our purposes that the United States was no less safe.

#### Heg is unsustainable –

#### Rising challengers and erosion in political, military and economic cred

Layne ’12 Christopher Layne, Robert M. Gates Chair in Intelligence and National Security at the George Bush School of Government and Public Service at Texas A&M University, noted neorealist, “This Time It’s Real: The End of Unipolarity and the *Pax Americana*,” International Studies Quarterly (2012) 56, 203-213

Some twenty years after the Cold War’s end, it now is evident that both the 1980s declinists and the unipolar pessimists were right after all. The Unipolar Era has ended and the Unipolar Exit has begun. The Great Recession has underscored the reality of US decline, and only ‘‘denialists’’ can now bury their heads in the sand and maintain otherwise. To be sure, the Great Recession itself is not the cause either of American decline or the shift in global power, both of which are the culmination of decades-long processes driven by the big, impersonal forces of history. However, it is fair to say the Great Recession has both accelerated the causal forces driving these trends and magnified their impact. There are two drivers of American decline, one external and one domestic. The external driver of US decline is the emergence of new great powers in world politics and the unprecedented shift in the center of global economic power from the EuroAtlantic area to Asia. In this respect, the relative decline of the United States and the end of unipolarity are linked inextricably: the rise of new great powers—especially China—is in itself the most tangible evidence of the erosion of the United States’ power. China’s rise signals unipolarity’s end. Domestically, the driver of change is the relative—and in some ways absolute—decline in America’s economic power, the looming fiscal crisis confronting the United States, and increasing doubts about the dollar’s long-term hold on reserve currency status. Unipolarity’s demise marks the end of era of the post-World War II Pax Americana. When World War II ended, the United States, by virtue of its overwhelming military and economic supremacy, was incontestably the most powerful actor in the international system. Indeed, 1945 was the United States’ first unipolar moment. The United States used its commanding, hegemonic position to construct the postwar international order—the Pax Americana— which endured for more than six decades. During the Cold War, the Pax Americana reflected the fact that outside the Soviet sphere, the United States was the preponderant power in the three regions of the world it cared most about: Western Europe, East Asia, and the Persian Gulf. The Pax Americana rested on the foundational pillars of US military dominance and economic leadership and was buttressed by two supporting pillars: America’s ideological appeal (‘‘soft power’’) and the framework of international institutions that the United States built after 1945. Following the Cold War’s end, the United States used its second unipolar moment to consolidate the Pax Americana by expanding both its geopolitical and ideological ambitions. In the Great Recession’s aftermath, however, the economic foundation of the Pax Americana has crumbled, and its ideational and institutional pillars have been weakened. Although the United States remains preeminent militarily, the rise of new great powers like China, coupled with US fiscal and economic constraints, means that over the next decade or two the United States’ military dominance will be challenged. The decline of American power means the end of US dominance in world politics and a transition to a new constellation of world power. Without the ‘‘hard’’ power (military and economic) upon which it was built, the Pax Americana is doomed to wither in the early twenty-first century. Indeed, because of China’s great-power emergence, and the United States’ own domestic economic weaknesses, it already is withering.

#### Structural economic factors

Niblett 2-20-‘12 – Director of Chatham House Robert, Director of Chatham House, Elcano Royal Institute, The Economic Crisis and the Emerging Powers: Towards a New International Order?, http://www.eurasiareview.com/21022012-economic-crisis-and-emerging-powers-towards-a-new-international-order-analysis/

The US does not face the same demographic challenges as its European partners, but it now appears to be facing its own structural economic challenges. For example, US unemployment has been stuck at roughly 9% over the past two years –nearly double its rate in the late 1990s and most of the 2000s, and only a little below the EU-27 rate, which climbed back up to 9.5% in the first half of 2011–. The current high rate of unemployment and slow rate of job creation in the US may not simply reflect the after-effects of credit de-leveraging. As Michael Spence has noted in the July/August 2011 edition of Foreign Affairs, many US multinational companies are now creating more jobs abroad than they are at home, focusing their job creation on the dynamic markets of East Asia with its well-educated and well-priced workforces. Today, the US, Japan and major European economies depend on exports to China and other emerging markets to drive their own marginal rates of growth. In 2010, President Obama made exports a central plan in his growth strategy for the US. Similarly, French, German and British political leaders are beating a path to Beijing and New Delhi to try to secure major new export orders. And the UK has announced a new ‘commercial diplomacy’ that places improved access for UK goods and services to emerging markets at the heart of the Foreign Office’s remit. This economic rebalancing is contributing to a weakening of the West’s strategic influence across the world, from the Middle East and Latin America to South-East Asia and Sub-Saharan Africa. First of all, regional powers in each region (Turkey and Iran in the Middle East; Brazil in South America; China in South-East Asia; South Africa in Sub-Saharan Africa) now vie more effectively for influence relative to the US in capitals in these regions, partly because of their own growing economic magnetism and partly because they have taken advantage of the decline in the legitimacy and credibility of US global leadership during and following the George W Bush Administration. Secondly, regional organisations are also challenging US and western influence across the world, whether it is ASEAN, the East Asia Summit, UNASUL, the African Union or the Shanghai Cooperation Organisation. Third, the West’s influence is declining also in the world’s major international institutions, such as the UN, IMF and WTO, where the emerging powers now follow a far more independent line. The most obvious symptom of this shift in institutional power was the nomination of the G20 (at the London 2009 G20 summit) to be the world’s primary forum for international economic coordination, in place of the Western-led G7. Finally, perceptions are also important in the emergence of a new international order. When asked in a 1997 ABC/Washington Post poll which country would be the world’s leading nation in 20 years time, 56% of Americans said the US and only 9% said China. In a similar ABC/Washington Post poll conducted in 2011, only 35% said the US while 38% said China. The growing sense among US citizens of their relative declining power risks becoming a self-fulfilling prophecy, which will then weaken the US and the West’s voice on the international stage.

### Democracy

#### Judicial review exacerbates problems of democracy

Fox and Stephenson, 11 **–** (\*\*Justin assistant professor in the Department of Political Science, AND Mathew, Professor of Law at Harvard Law School, “Judicial Review as a Response to Political Posturing,” American Political Science Review)

What is the appropriate role for judicial review in a democracy? This question has been a central preoccupation of American constitu- tional theory (Friedman 2002), and has assumed in- creasing salience internationally as the power and in- fluence of courts around the world has grown (Hirschl 2004). Many have defended judicial review as a way to reduce or correct systematic failures in legislative and executive decision making— –thereby reducing the di- vergence between actual policy choices and those that would prevail in an ideally functioning representative democracy. Appropriately designed judicial review, on this view, can be justified on democratic grounds, even if judicial review is not itself a democratic institution. Critics, however, argue that judicial review tends to exacerbate rather than ameliorate the pathologies of representative democracy, and that the costs of judicial review typically exceed whatever benefits it may have. We analyze judicial review as a potential response to a particular problem: The incentive of elected officials to “posture” by taking bold but unwarranted action in response to a perceived emergency in order to appear competent to the voters. We begin by providing a brief overview of this potential problem and the debates over whether judicial review is an appropriate rem- edy. We then turn to presenting a model of political agency, without judicial review, to show how this sort of posturing may arise. We then modify this model by introducing judicial review We show that judicial review has two main effects on the frequency of posturing. First , judicial review may rescue elected officials from the consequences of ill-advised policies, and this “bailout effect” increases posturing; second , judicial approval or disapproval of a policy may affect public opinion of the government that enacted it, and this “legitimation effect” can cut in the opposite direction— –decreasing posturing. We next show that a rational judge’s review strategy depends on the prevalence of posturing. If posturing is sufficiently rare, then the judge would defer to the elected leader, whereas if posturing is sufficiently common, the judge would flatly prohibit the problematic government ac- tion; judges rely on their own judgment only for “inter- mediate” levels of posturing. We then combine these partial-equilibrium analyses to assess the net impact of judicial review.

#### Global democracy resilient – no support for authoritarian capitalism

Plattner, Co-Editor of Journal for Democracy, ‘9 (Marc- Vice President of Research at National Endowment for Democracy, January 13, “Democracy and the Economic Crisis” Washington Post, http://www.washingtonpost.com/wp-dyn/content/article/2009/01/12/AR2009011202482.html)

Democrats can hardly gloat about the fallout from the crisis, given the breadth of the suffering and the inevitability that some democracies will be at risk. Yet democrats' rivals are likely to suffer even more. For the most part, the "authoritarian capitalist" regimes are not based on a coherent ideology that has wide support among their populations. Instead, regimes such as those in Russia and China are propped up by what political scientists call "performance legitimacy": As long as they deliver the economic goods, most of their citizens may be willing to accept the accompanying limits on their political freedom. Russian citizens who endured poverty after the fall of communism appreciated the improvement in their quality of life that Vladimir Putin's regime offered. But when such regimes stop delivering, what other sources of legitimacy can they fall back on to justify their rule? Over the long term, democracies, too, may succumb if they fail to deliver, but in the short term they have other resources -- not just popular attachment to political liberty but also the ability to change their governments via elections without changing their regimes. Today's authoritarian regimes are likely to be more vulnerable than their democratic counterparts.

In the 1970s, the French political scientist Pierre Hassner used the phrase "competitive decadence" to describe the Cold War contest between the United States and the Soviet Union. This notion suggested that the superpowers were each beset with serious internal problems and that whichever side decayed more slowly was likely to emerge the winner. The global economic crisis may well stimulate a similar kind of dynamic between democracy and its rivals. But democracy's advantages in such a struggle are not limited to its ability to take a punch and outlast its glass-jawed competitors. Democracy has often displayed a remarkable ability to reform and renew itself. This gives it a resilience that may prove decisive in the competition with its more brittle authoritarian challengers.

#### Democratic peace theory is flawed—laundry list

Rosato, prof @ Notre Dame, 3 [Sebastian Rosato is an Assistant Professor of Political Science at the University of Notre Dame, “The Flawed Logic of Democratic Peace Theory,” The American Political Science Review. Menasha: Nov 2003. Vol. 97, Iss. 4; pg. 585, 18 pgs]

The causal mechanisms that comprise the normative logic do not appear to operate as stipulated. The available evidence suggests that, contrary to the claims of democratic peace theorists, democracies do not reliably externalize their domestic norms of conflict resolution, nor do they generally treat each other with trust and respect when their interests clash. Moreover, existing attempts to repair the logic are unconvincing. The historical record indicates that democracies have often failed to adopt their internal norms of conflict resolution in an international context. This claim rests, first, on determining what democratic norms say about the international use of force and, second, on establishing whether democracies have generally adhered to these prescriptions. Liberal democratic norms narrowly circumscribe the range of situations in which democracies can justify the use of force. As Doyle (1997, 25) notes, "Liberal wars are only fought for popular, liberal purposes." This does not mean that they will go to war less often than other kinds of states; it only means that there are fewer reasons available to them for waging war. Democracies are certainly justified in fighting wars of self-defense. Locke ([1690] 1988), for example, argues that states, like men in the state of nature, have a right to destroy those who violate their rights to life, liberty, and property (269-72). There is considerable disagreement among liberal theorists regarding precisely what kinds of action constitute self-defense, but repulsing an invasion, preempting an impending military attack, and fighting in the face of unreasonable demands all plausibly fall under this heading. Waging war when the other party has not engaged in threatening behavior does not. In short, democracies should only go to war when "their safety and security are seriously endangered by the expansionist policies of outlaw states" (Rawls 1999, 90-91). Another justification for the use of force is intervention in the affairs of other states or peoples, either to prevent blatant human rights violations or to bring about conditions in which liberal values can take root. For Rawls (1999,81), as for many liberals, human rights violators are "to be condemned and in grave cases may be subjected to forceful sanctions and even to intervention" (see also Doyle 1997, 31-32, and Owen 1997, 34-35). Mill ([1859] (1984)) extends the scope of intervention, arguing that "barbarous" nations can be conquered to civilize them for their own benefit (see also Mehta 1990). However, if external rule does not ensure freedom and equality, it will be as illiberal as the system it seeks to replace. Consequently, intervention can only be justified if it is likely to "promote the development of conditions in which appropriate principles of justice can be satisfied" (Beitz 1979, 90). The imperialism of Europe's great powers between 1815 and 1975 provides good evidence that liberal democracies have often waged war for reasons other than self-defense and the inculcation of liberal values. Although there were only a handful of liberal democracies in the international system during this period, they were involved in 66 of the 108 wars listed in the Correlates of War (COW) dataset of extrasystemic wars (Singer and Small 1994). Of these 66 wars, 33 were "imperial," fought against previously independent peoples, and 33 were "colonial," waged against existing colonies.

#### **Calling out Russia on human rights violations collapses relations and prevents further cooperation– Magnitsky proves**

Ivanov 12 (Oleg, a professor at the Diplomatic Academy, Russian Ministry of Foreign Affairs, “Magnitsky Act sends US-Russian relations into dangerous territory,” http://www.globaltimes.cn/content/751152.shtml)

This course of events caused a negative reaction in Moscow. One of the basic principles of international relations is reciprocity and the Russian Parliament began to work out a Russian version of the Magnitsky Act aimed at imposing similar sanctions on US officials. ¶ What is not clear for critics is why the Magnitsky Act was adopted since there are other countries, for example in the Middle East, where the situation of human rights can hardly be called acceptable by Western standards, but they are not targeted by the Western parliaments. ¶ How can the adoption of the Magnitsky Act be assessed and what are the possible consequences? The act will only worsen relations between Russia and the Western countries which have adopted or will adopt the act. Speaking at the International Parliamentary Forum on December 10, 2012 Russian Foreign Minister Sergey Lavrov stressed, "The role of Parliaments is not to teach each other. These efforts only bring intolerance and conflicts in international affairs."¶ The Russian approach is that human rights issues should be discussed on an equal and mutually respectful basis. The principles of state sovereignty should be observed and national, cultural and historic traditions should be taken into account. ¶ Lavrov also stated that "These actions run counter to the tasks to deepen cooperation between Russia and the USA, between two nations bearing special responsibility for ensuring international stability."¶ There are several negative consequences as a result of the situation with the Magnitsky Act. The situation may turn into an ongoing process with unpredictable consequences. Russian-US relations are poisoned and the "reset" of relations will be endangered. These consequences may go beyond the humanitarian area and affect other fields of Russian-US relations.¶ Some experts assess the ban on the import of US beef containing food additive to Russia as Russian retaliation and the beginning of a trade war between the two countries. Russia and the US have positive results in such areas of global cooperation as fighting terrorism, arms control and non-proliferation of WMD. The Magnitsky Act may hamper further cooperation in this field and the international community will suffer as well as Russia and the US. In this case only terrorists and proliferators of WMD will benefit. ¶ As Russia and China have a common position that sovereignty and non-interference into domestic affairs must be a guiding line in international relations, the adoption of the Magnitsky Act brings Russia and China closer and makes it possible to strengthen their cooperation.

#### US human rights pressure only causes Russia backlash– Magnitsky proves

Huffington Post 13 (“Russia Responds To U.S. Magnitsky Act By Placing 18 Americans On Blacklist,” April 13, 2013, http://www.huffingtonpost.com/2013/04/13/russia-responds-to-us-mag\_n\_3075795.html)

MOSCOW — Russia on Saturday banned 18 Americans from entering the country in response to Washington imposing sanctions on 18 Russians for alleged human rights violations.¶ The list released by the Foreign Ministry includes John Yoo, a former U.S. Justice Department official who wrote legal memos authorizing harsh interrogation techniques; David Addington, the chief of staff for former U.S. Vice President Dick Cheney; and two former commanders of the Guantanamo Bay detention center: retired Maj. Gen. Geoffrey Miller and Adm. Jeffrey Harbeson.¶ The move came a day after the U.S. announced its sanctions under the Magnitsky Law, named for Russian lawyer Sergei Magnitsky, who was arrested in 2008 for tax evasion after accusing Russian police officials of stealing $230 million in tax rebates. He died in prison the next year, allegedly after being beaten and denied medical treatment.¶ The U.S. State Department released a statement Saturday in response to Russia's latest decision.¶ "As we've said many times before, the right response by Russia to the international outcry over Sergey Magnitsky's death would be to conduct a proper investigation and hold those responsible for his death accountable, rather than engage in tit-for-tat retaliation," according to the statement.¶ Neither Washington nor Moscow put high-ranking or politically prominent figures on their lists, perhaps aiming to limit the effect on U.S.-Russian relations that have deteriorated, despite President Barack Obama's initiative to "reset" relations with Moscow.¶ The Magnitsky law infuriated Russian authorities, and parliament quickly passed a retaliatory measure than banned Americans from adopting Russian children. Russia also has banned U.S. funding for any non-governmental organization deemed to be engaging in politics.

## 2NC

### 2NC K

#### Second is national security utilitarianism – the public has been subdued into believing the government’s means-end rationality logic that seeks to control and dominate around the world which is pushing us on the brink of extinction – Syria is the most recent example

Instead of engaging in diplomacy which would have been the better option we were on the brink of initiating a nuclear war in the region

Williams 8 \*Daniel R, Associate Professor of Law, Northeastern University School of Law.

Penn State Law Review, Summer, 113 Penn St. L. Rev. 55

B. The Underbelly of the Enlightenment Heritage - the Weberian Nightmare What has heretofore given a patina of acceptability to this modern-day Foucauldian "political dream of the plague" is the narrative idea of a wounded and vulnerable nation gripped in an existential crisis, seeking to protect itself against human "missiles of destruction." The descriptive (a threatened wounded nation) produces in this story the normative (the adjudicative assembly line for enemy combatants). The Foucauldian "political dream of the plague" is the Weberian nightmare. In Dialectic of the Enlightenment, Frankfurt School theorists Horkheimer and Adorno identify the Weberian nightmare of obsessive instrumental rationality as the dominant cognitive orientation in Western culture. 147 Whereas most Americans see as features of this means-ends orientation the awesome feats of science (the amazing technological prosthetics that drives humanity closer to becoming a God, as Freud observed), critical theorists like Horkheimer and Adorno saw what Weber saw 148 - a cognitive orientation that feeds into and fuels our obsessive drive to dominate and control all that surrounds us. 149 The salient point in the Dialectic of the Enlightenment, for our purposes, is that the instrumentalist orientation has been unleashed to devour the very idea of the "sacred" in life. 150 September 11th and the war on terror has only hastened a movement along an already existing trajectory. What we experience in our alienated, gadget-filled, but spiritually vacant existence - what Max Weber termed our "disenchantment with the world" 151 - is a reflection of what Horkheimer and Adorno diagnosed, and of how badly our capacity for reason has been corrupted by a fetish for means-ends rationality. 152 That corruption, which is on [\*91] full display in the overt means-ends reasoning of Hamdi itself, has led to what philosopher Albert Borgmann calls a "crucial debility" in our culture, characterized by the "expatriate quality of public life" where we "live in self-imposed exile from communal conversation and action." 153 There is, then, a certain blowback effect, where a mode of thinking that was supposed to lead to humanity's flourishing has been whipsawed back upon us as a powerful corrupting, even imprisoning, force. Whereas the Enlightenment, as exemplified by Rousseau, Voltaire, and Kant, promised freedom from irrationality and darkness, it has instead denuded the public sphere and bequeathed to us a technocratic language that debilitates the ability to conceptualize our way out of a disastrous course (ecologically and otherwise) on which our technocratic means-ends orientation has put us. 154 The quest for domination and control immanent within Enlightenment's fetish for means-ends reasoning, which supposedly promised a world of flourishing human rights (though pursued through the blood of ancient cultures, such as the native peoples in the Americas), drained modernity of the very vitality that modernist thinkers insisted [\*92] was distinctive about Enlightenment society. 155 It has instead taken us to the brink of annihilation in a world where the disparities of wealth are grossly appalling and human behavior slides so easily into barbarism and violence, usually in the service of preserving or further deepening those disparities. Whereas the Enlightenment broke the bondage of atrophied tradition, it has wrought a world where little is sacred, and what little remains is rapidly dwindling, where "what holds us all together is a cold and impersonal design." 156 We slaughtered cultures within our own country - Native American cultures that we still do not fully appreciate and comprehend - with the quintessential Enlightenment slogan, Manifest Destiny, only to bring about an ennui and despair that produces a nostalgic yearning for the sacred upon which those slaughtered cultures built their now-defunct way of life.

#### All of our solvency arguments are *net offense*---legalism creates the façade that the executive is being constrained while allowing the government to do as it pleases under the guise of constraint---this swells executive power and turns the case

Osborn 8 Timothy Kaufman is the Baker Ferguson Professor of Politics and Leadership at Whitman College; from 2002-06 as president of the American Civil Liberties of Washington; and he recently completed a term on the Executive Council of the American Political Science Association. Theory & Event > Volume 11, Issue 2

The examples cited in this section suggest not the formation of an utterly lawless regime, but, rather, within an order that continues to understand itself in terms of the categories provided by liberal contractarianism, the more insidious creation, multiplication, and institutionalization of what David Dyzenhaus calls "grey holes." Such holes are "spaces in which there are some legal constraints on executive action...but the constraints are so insubstantial that they pretty well permit government to do as it pleases."40 As such, they are more harmful to the rule of law than are outright dictatorial usurpations, first, because the provision of limited procedural protections masks the absence of any real constraint on executive power; and, second, because location of the authority to create such spaces within the Constitution implies that, in the last analysis, they bear ex ante authorization by the people. When created, in other words, they may receive but they do not require ratification, whether by Congress or by those whom its members are said to represent. What this means in effect is that the second Bush administration has dispensed with Jefferson's stipulation that extra-constitutional executive acts (or, rather, acts that Jefferson deemed to be outside those constitutionally permitted) require ex post facto ratification; and, in addition, that it has dispensed with Locke's contention that, however unlikely, at least in principle, specific exercises of extra-legal prerogative power (or, rather, acts that Locke deemed to be outside those legally permitted) are properly subject to revolutionary rejection. What one finds in the second Bush administration, then, is a denial of both models of accountability, combined with an aggressive commitment to the constitution of a security state that is liberal only in name. As it extends its reach, perfection of that state renders the prospect of popular repudiation of prerogative power ever more chimerical, and, indeed, renders recognition of the problematic character of its exercise ever less likely.

#### Sequencing DA – alt key to come before the plan otherwise movements get sapped

Nagin 5 Tomiko Brown, Visiting Associate Professor, University of Virginia School of Law, “ELITES, SOCIAL MOVEMENTS, AND THE LAW: THE CASE OF AFFIRMATIVE ACTION,” Columbia Law Review, 105 Colum. L. Rev. 1436

Those seeking to have an impact on the political and legal orders should not root a mass movement in the courts;instead, affirmative litigation about constitutional rights should be anchored upon and preceded by a mass movement.Efforts to achieve fundamental change shouldbegin with the target constituency and be waged initially outside of the confines of institutionalized politics.Law should be understood as a tactic in an ongoing political struggle, where the struggle is the main event and favorable legal outcomes are its byproducts. There is a crucially important temporal component to this view. Legal claims can be tactically useful in a political strategy for achieving change - butonly after social movements lay the groundworkfor legal change. Social movements must first create political pressure that frames issues in a favorable manner, creates cultural norm shifts, and affects public opinion; these norm shifts then increase the likelihood that courts will reach outcomes favored by lawyers. [437](http://www.lexis.com/research/retrieve?_m=b1b76c3bff33e7c7527182cc42568c87&docnum=11&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzz-zSkAl&_md5=b4841fe459fa752b47486b13d84385b6&focBudTerms=milliken%20w/150%20hispanic%20or%20latino&focBudSel=all#n437) Again, my claims find support in the history of the mid-twentieth-century civil rights movement. This narrative posits an intimate relationship between the sociopolitical dynamics within black client communities and the success (or failure) of civil rights lawyers' litigation campaigns for rights. The postwar civil rights movement confirms that the moral suasion of participatory democratic groups of nonlawyers, and typically nonelites, was integral to law's movement from a Jim Crow regime to a [\*1523] constitutional order in which formal equality was the norm. During the past three decades, historians who have analyzed social change have discovered that small groups of inexpert individuals can be the leading edge of a social movement, especially when they work in coalition with those who traditionally wield influence in society. [438](http://www.lexis.com/research/retrieve?_m=b1b76c3bff33e7c7527182cc42568c87&docnum=11&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzz-zSkAl&_md5=b4841fe459fa752b47486b13d84385b6&focBudTerms=milliken%20w/150%20hispanic%20or%20latino&focBudSel=all#n438)Through their commitment to a social cause, ordinary people with no insider knowledge of the technical aspects of the broad issue on which they are mobilizing can create circumstances in which those with actual power (political, economic, and, ultimately, legal power) are persuaded to act in their favor.

#### Aff gets lost in the details of specifics – they zero in on certain aspects of executive power which stop broader systemic criticisms and provides a cover to normalize the war on terror

Saas, 12 \*\*William O. Pf Department of Communication Arts and Sciences at the Pennsylvania State University. symploke > Volume 20, Numbers 1-2

How might one critique this massive network of violence that has become so enmeshed in our contemporary geo-socio-political reality? Is there any hope for reversing the expansion of executive violence in the current political climate, in which the President enjoys minimal resistance to his most egregious uses of violence? How does exceptional violence become routine? Answers to these broad and difficult questions, derived as they are from the disorientingly vast and hyper-accelerated retrenchment of our current political situation, are best won through the broad strokes of what Slavoj Žižek calls "systemic" critique. For Žižek, looking squarely at interpersonal or subjective violences (e.g., torture, drone strikes), drawn as we may be by their gruesome and immediate appeal, distorts the critic's broader field of vision. For a fuller picture, one must pull one's critical focus back several steps to reveal the deep, objective structures that undergird the spectacular manifestations of everyday, subjective violence (Žižek 2008, 1-2). Immediately, however, one confronts the limit question of Žižek's mandate: how does one productively draw the boundaries of a system without too severely dampening the force of objective critique? For practical purposes, this essay leaves off discussion of neoliberal economic domination, vital as it may be to a full accounting for the U.S.' latest and most desperate expressions of state solvency.

### 2NC Framework

#### The state is hijacked by elites who control the decision making that normalizes an authoritarian state that wages war on populations – the focus of debate should be how culture elements can create change to combat normalization of violence caused by the military-industrial-state

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In addition, as the state is hijacked by the financial-military-industrial complex, the “most crucial decisions regarding national policy are not made by representatives, but by the financial and military elites.”53 Such massive inequality and the suffering and political corruption it produces point to the need for critical analysis in which the separation of power and politics can be understood. This means developing terms that clarify how power becomes global even as politics continues to function largely at the national level, with the effect of reducing the state primarily to custodial, policing, and punishing functions—at least for those populations considered disposable. The state exercises its slavish role in the form of lowering taxes for the rich, deregulating corporations, funding wars for the benefit of the defense industries, and devising other welfare services for the ultra-rich. There is no escaping the global politics of finance capital and the global network of violence it has produced. Resistance must be mobilized globally and politics restored to a level where it can make a difference in fulfilling the promises of a global democracy. But such a challenge can only take place if the political is made more pedagogical and matters of education take center stage in the struggle for desires, subjectivities, and social relations that refuse the normalizing of violence as a source of gratification, entertainment, identity, and honor. War in its expanded incarnation works in tandem with a state organized around the production of widespread violence. Such a state is necessarily divorced from public values and the formative cultures that make a democracy possible. The result is a weakened civic culture that allows violence and punishment to circulate as part of a culture of commodification, entertainment, distraction, and exclusion. In opposing the emergence of the United States as both a warfare and a punishing state, I am not appealing to a form of left moralism meant simply to mobilize outrage and condemnation. These are not unimportant registers, but they do not constitute an adequate form of resistance .What is needed are modes of analysis that do the hard work of uncovering the effects of the merging of institutions of capital, wealth, and power, and how this merger has extended the reach of a military-industrial-carceral and academic complex, especially since the 1980s. This complex of ideological and institutional elements designed for the production of violence must be addressed by making visible its vast national and global interests and militarized networks, as indicated by the fact that the United States has over 1,000 military bases abroad.54 Equally important is the need to highlight how this military-industrial-carceral and academic complex uses punishment as a structuring force to shape national policy and everyday life. Challenging the warfare state also has an important educational component. C. Wright Mills was right in arguing that it is impossible to separate the violence of an authoritarian social order from the cultural apparatuses that nourish it. As Mills put it, the major cultural apparatuses not only “guide experience, they also expropriate the very chance to have an experience rightly called ‘our own.’”55 This narrowing of experience shorn of public values locks people into private interests and the hyper-individualized orbits in which they live. Experience itself is now privatized, instrumentalized, commodified, and increasingly militarized. Social responsibility gives way to organized infantilization and a flight from responsibility. Crucial here is the need to develop new cultural and political vocabularies that can foster an engaged mode of citizenship capable of naming the corporate and academic interests that support the warfare state and its apparatuses of violence, while simultaneously mobilizing social movements to challenge and dismantle its vast networks of power. One central pedagogical and political task in dismantling the warfare state is, therefore, the challenge of creating the cultural conditions and public spheres that would enable the U.S. public to move from being spectators of war and everyday violence to being informed and engaged citizens.Unfortunately, major cultural apparatuses like public and higher education, which have been historically responsible for educating the public, are becoming little more than market-driven and militarized knowledge factories. In this particularly insidious role, educational institutions deprive students of the capacities that would enable them not only to assume public responsibilities, but also to actively participate in the process of governing. Without the public spheres for creating a formative culture equipped to challenge the educational, military, market, and religious fundamentalisms that dominate U.S. society, it will be virtually impossible to resist the normalization of war as a matter of domestic and foreign policy. Any viable notion of resistance to the current authoritarian order must also address the issue of what it means pedagogically to imagine a more democratically oriented notion of knowledge, subjectivity, and agency and what it might mean to bring such notions into the public sphere. This is more than what Bernard Harcourt calls “a new grammar of political disobedience.”56 It is a reconfiguring of the nature and substance of the political so that matters of pedagogy become central to the very definition of what constitutes the political and the practices that make it meaningful. Critical understanding motivates transformative action, and the affective investments it demands can only be brought about by breaking into the hardwired forms of common sense that give war and state-supported violence their legitimacy. War does not have to be a permanent social relation, nor the primary organizing principle of everyday life, society, and foreign policy. The war of all-against-all and the social Darwinian imperative to respond positively only to one’s own self-interest represent the death of politics, civic responsibility, and ethics, and set the stage for a dysfunctional democracy, if not an emergent authoritarianism. The existing neoliberal social order produces individuals who have no commitment, except to profit, disdain social responsibility, and loosen all ties to any viable notion of the public good. This regime of punishment and privatization is organized around the structuring forces of violence and militarization, which produce a surplus of fear, insecurity, and a weakened culture of civic engagement—one in which there is little room for reasoned debate, critical dialogue, and informed intellectual exchange. Patricia Clough and Craig Willse are right in arguing that we live in a society “in which the production and circulation of death functions as political and economic recovery.”57 The United States understood as a warfare state prompts a new urgency for a collective politics and a social movement capable of negating the current regimes of political and economic power, while imagining a different and more democratic social order. Until the ideological and structural foundations of violence that are pushing U.S. society over the abyss are addressed, the current warfare state will be transformed into a full-blown authoritarian state that will shut down any vestige of democratic values, social relations, and public spheres. At the very least, the U.S. public owes it to its children and future generations, if not the future of democracy itself, to make visible and dismantle this machinery of violence while also reclaiming the spirit of a future that works for life rather than death—the future of the current authoritarianism, however dressed up they appear in the spectacles of consumerism and celebrity culture. It is time for educators, unions, young people, liberals, religious organizations, and other groups to connect the dots, educate themselves, and develop powerful social movements that can restructure the fundamental values and social relations of democracy while establishing the institutions and formative cultures that make it possible. Stanley Aronowitz is right in arguing that: the system survives on the eclipse of the radical imagination, the absence of a viable political opposition with roots in the general population, and the conformity of its intellectuals who, to a large extent, are subjugated by their secure berths in the academy [and though] we can take some solace in 2011, the year of the protester…it would be premature to predict that decades of retreat, defeat and silence can be reversed overnight without a commitment to what may be termed “a long march” through the institutions, the workplaces and the streets of the capitalist metropoles.58 The current protests among young people, workers, the unemployed, students, and others are making clear that this is not—indeed, cannot be—only a short-term project for reform, but must constitute a political and social movement of sustained growth, accompanied by the reclaiming of public spaces, the progressive use of digital technologies, the development of democratic public spheres, new modes of education, and the safeguarding of places where democratic expression, new identities, and collective hope can be nurtured and mobilized. Without broad political and social movements standing behind and uniting the call on the part of young people for democratic transformations, any attempt at radical change will more than likely be cosmetic.

### \*A2 Legal Norms K2 Credibility/Soft Power

#### 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.

### \*A2 Legal Norms K2 Precedent

#### Legal norms fail and is not unique to congress – the War Powers resolution alone is proof. 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.

### A2 Perm – Do Both: Politics

#### 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.

### 2NC Legitimacy

#### Turns the aff - Even stripping threats ensure judicial compliance—means plan can’t solve

Keith E. Whittington 5, Ph.D. Professor of Politics at Princeton, 2005. [American Political Science Review 99(4), “Interpose Your Friendly Hand: Political Supports for the Exercise of Judicial Review by the United States Supreme Court,” p. 583—96]

Though federal judges are protected by such securities as lifetime tenure and guaranteed salaries from political retaliation for their decisions, the judiciary as a whole is still vulnerable to politics (Ferejohn 1999). Most routinely, the political appointments process creates regular opportunities for elected officials to bring the Court into line with political preferences (Dahl 1957; Stimson, Mackuen, and Erikson 1995). Despite the life-tenure of judges, a variety of legislative sticks are available to punish the Court for politically unpopular decisions. Court-curbing actions, by constitutional amendment, statute, or impeachment, have been frequently threatened over the course of American history, and often that threat has been sufficient to alter judicial behavior (Epstein and Knight 1998; Nagel 1965; Rosenberg 1992). Government officials can also limit the power of the Court by simply evading judicial edicts, which highlights the vulnerability of a judiciary that lacks, as Alexander Hamilton promised, both the executive sword and the legislative will (Hamilton 1961; Rosenberg 1991; Vanberg 2001).

#### The Hamdan decision proves that the executive will always just circiumvent, security concerns and too many other laws

AP 8 – Associated Press, "Supreme Court back Guantanamo detainees", 6/12, www.nbcnews.com/id/25117953/ns/world\_news-terrorism/t/supreme-court-backs-guantanamo-detainees/#.Ue58KY2TiSI

In a stinging rebuke to President Bush's anti-terror policies, a deeply divided Supreme Court ruled Thursday that foreign detainees held for years at Guantanamo Bay in Cuba have the right to appeal to U.S. civilian courts to challenge their indefinite imprisonment without charges. Bush said he strongly disagreed with the decision — the third time the court has repudiated him on the detainees — and suggested he might seek yet another law to keep terror suspects locked up at the prison camp, even as his presidency winds down. Justice Anthony Kennedy, writing for the 5-4 high court majority, acknowledged the terrorism threat the U.S. faces — the administration's justification for the detentions — but he declared, "The laws and Constitution are designed to survive, and remain in force, in extraordinary times**."** In a blistering dissent, Justice Antonin Scalia said the decision "will make the war harder on us. It will almost certainly cause more Americans to be killed." Bush claims detentions are needed Bush has argued the detentions are needed to protect the nation in a time of unprecedented threats from al-Qaida and other foreign terrorist groups. The president, in Rome, said Thursday, "It was a deeply divided court, and I strongly agree with those who dissented." He said he would consider whether to seek new laws in light of the ruling "so we can safely say to the American people, 'We're doing everything we can to protect you.'" Kennedy said federal judges could ultimately order some detainees to be released, but he also said such orders would depend on security concerns and other circumstances. The ruling itself won't result in any immediate releases. The decision also cast doubt on the future of the military war crimes trials that 19 detainees, including Khalid Sheikh Mohammed and four other alleged Sept. 11 plotters, are facing so far. The Pentagon has said it plans to try as many as 80 men held at Guantanamo. [Advertise](http://www.nbcnews.com/id/31066137/media-kit/) Lawyers for detainees differed over whether the ruling, unlike the first two, would lead to prompt hearings for those who have not been charged. Roughly 270 men remain at the prison at the U.S. naval base in Cuba. Most are classed as enemy combatants and held on suspicion of terrorism or links to al-Qaida and the Taliban. Some detainee lawyers said hearings could take place within a few months. But James Cohen, a Fordham University law professor who has two clients at Guantanamo, predicted Bush would continue seeking ways to resist the ruling.

### 2NC No Impact

#### More evidence – your authors cite vague threats and your impacts are exaggerated

-specific Kagan indict

Fettweis 11 Christopher, Professor of Political Science @ Tulane, Dangerous Times?: The International Politics of Great Power Peace, pg. 85

Today’s security debate seems driven less by actual threats than by vague, unnamed dangers. Former Secretary of Defense Donald Rumsfeld warned about “unknown unknowns,” which are the threats that “we don’t know we don’t know,” which “tend to be the difficult ones.” Kagan and Kristol worry that if the United States fails to remain highly engaged, the system “is likely to yield very real external dangers, as threatening in their own way as the Soviet Union was a quarter century ago.” What exactly these dangers would be is left open to interpretation. In the absence of identifiable threats, the unknown can provide us with an enemy, one whose power and danger is limited only by the imagination. It is what Friedman and Sapolsky call “the threat of no threats” and is perhaps the most frightening of all. Even if, as everyone schooled in folk wisdom knows, “anything is possible,” it is not true that everything is plausible. There is no limit on the potential dangers that the human mind can manufacture, but there are very definite limits on the specific threats that system contains. “To make anything very terrible, obscurity seems in general to be necessary,” noted Edmund Burke. “When we know the full extent of any danger, when we can accustom our eyes to it, a great deal of apprehension vanishes.” The full extent of today’s dangers is not only knowable, but relatively minor. Threat exaggeration has been one of the favorite tools used by opponents of restraint, from Wilson to Roosevelt to Bush. Since self-defense is one of the few justifications for international activism that is uncomplicated by questions of morality, once foreign events are linked to the security of the Untied States intervention becomes an easier sell. Exaggerating threats is a traditional weapon in the domestic politics arsenal of the internationalists, inspiring a variety of actions conceived to address threats more imagined than real. When Robert noted that "security concerns are greatly reduced for the unipole," he was guilty of understatement. If they were honest, those who actively or passively favor internationalism would admit that very few of our foreign adventures have been necessary to secure the country. The United States is no more and no less secure after having replaced Saddam with chaos, for instance. Simply put, the United States is not compelled to play an active role in world affairs in order to address its basic security, since that security is already all but assured. The benefits of activist strategies must therefore manifestly outweigh the costs, since the United States could easily survive inaction, no matter how dire the situation may appear. In U.S. foreign policy, necessity is an illusion. Choices always exist, especially for the strongest country in the history of the world. What are often sold to the public as necessary actions are almost always matters of choice; rather than emergency operations, U.S. interventions are in reality elective surgery. And elective surgery, as everyone knows, often makes problems worse.

### 2NC Unsustainable

#### More evidence – only our authors assume coming budget cuts

Michael Mandelbaum – Prof, Foreign Policy, SAIS - August 9, 2011, America's Coming Retrenchment, Foreign Affairs, http://www.foreignaffairs.com/articles/68024/michael-mandelbaum/americas-coming-retrenchment?page=show

The acrimonious negotiation that produced legislation to raise the American debt ceiling while cutting the federal budget deficit, which President Barack Obama signed on August 2, was an early skirmish in the battle to bring deficits under control. That battle is bound to be protracted, difficult, and contentious, and one of its casualties will be spending on foreign and security policy, which will decline in the years ahead. That will impose new limits on the projection of American power around the world. What a difference a year makes. Only last year, in the May/June issue of Foreign Affairs, I published a review (“Overpowered?”) of three books whose common theme was that the United States was doing far too much beyond its borders. For its own sake and the sake of other countries, the three authors recommended, the country should pursue a more modest foreign policy. Now, as I forecast at the end of that essay, the fiscal condition of the United States will compel the fulfillment of that recommendation -- for better (the general sentiment of the books’ authors) or for worse (my own view). The August 2 legislation calls for $1 trillion in spending cuts over a ten-year period, about $350 billion of which is likely to come from the defense budget. The legislation also mandates a further $1.5 trillion reduction in expenditures in the next decade. If a special Congressional panel cannot agree on the targets of those reductions, an automatic trigger will impose across-the-board budget savings that will lower the Defense Department’s budget by an estimated $600 billion. Even if the triggering mechanism is avoided, spending on defense and on other aspects of U.S. foreign policy will decline over the next decade. The scale of deficit reduction required to put the country on solid fiscal footing is so large that it must involve both limits on Social Security and Medicare, despite the Democrats’ determination to preserve these programs intact, and increases in taxes in some form, despite the Republicans’ determination to prevent this. When Americans are paying more to their government and getting less from it, they will not be as generous in supporting the United States’ global role as they have been in recent decades. Defense budgets will contract for two other reasons. First, the sense of external threat that the country felt throughout the Cold War and after 9/11 has ebbed. Americans’ support for defense spending depends on how threatened they feel. For the moment, at least, the world does not seem particularly threatening. Second, the politics of the federal budget do not favor the Department of Defense, which cannot count on either political party to protect its share of federal spending. No major part of the Democratic coalition makes foreign and security policy a high priority. The Republican coalition does include national security hawks, who are committed to a large military and a robust foreign policy. But there are two other parts of the Republican coalition. Social conservatives are indifferent in these matters, and proponents of small government and low taxes -- now the most influential members of the coalition because they express the views of the Tea Party movement -- are willing to sacrifice defense spending for the sake of their principal goals.

## 1NR

### Econ

#### Economic collapse causes nuclear war.

Mead 9 Senior Fellow in U.S. Foreign Policy at the Council on Foreign Relations, Only Makes You Stronger, The New Republic, [www.tnr.com/politics/story.html?id=571cbbb9-2887-4d81-8542-92e83915f5f8&p=2](http://www.tnr.com/politics/story.html?id=571cbbb9-2887-4d81-8542-92e83915f5f8&p=2)

The greatest danger both to U.S.-China relations and to American power itself is probably not that China will rise too far, too fast; it is that the current crisis might end China's growth miracle. In the worst-case scenario, the turmoil in the international economy will plunge China into a major economic downturn. The Chinese financial system will implode as loans to both state and private enterprises go bad. Millions or even tens of millions of Chinese will be unemployed in a country without an effective social safety net. The collapse of asset bubbles in the stock and property markets will wipe out the savings of a generation of the Chinese middle class. The political consequences could include dangerous unrest--and a bitter climate of anti-foreign feeling that blames others for China's woes. (Think of Weimar Germany, when both Nazi and communist politicians blamed the West for Germany's economic travails.) Worse, instability could lead to a vicious cycle, as nervous investors moved their money out of the country, further slowing growth and, in turn, fomenting ever-greater bitterness. Thanks to a generation of rapid economic growth, China has so far been able to manage the stresses and conflicts of modernization and change; nobody knows what will happen if the growth stops. India's future is also a question. Support for global integration is a fairly recent development in India, and many serious Indians remain skeptical of it. While India's 60-year-old democratic system has resisted many shocks, a deep economic recession in a country where mass poverty and even hunger are still major concerns could undermine political order, long-term growth, and India's attitude toward the United States and global economic integration. The violent Naxalite insurrection plaguing a significant swath of the country could get worse; religious extremism among both Hindus and Muslims could further polarize Indian politics; and India's economic miracle could be nipped in the bud. If current market turmoil seriously damaged the performance and prospects of India and China, the current crisis could join the Great Depression in the list of economic events that changed history, even if the recessions in the West are relatively short and mild. The United States should stand ready to assist Chinese and Indian financial authorities on an emergency basis--and work very hard to help both countries escape or at least weather any economic downturn. It may test the political will of the Obama administration, but the United States must avoid a protectionist response to the economic slowdown. U.S. moves to limit market access for Chinese and Indian producers could poison relations for years. For billions of people in nuclear-armed countries to emerge from this crisis believing either that the United States was indifferent to their well-being or that it had profited from their distress could damage U.S. foreign policy far more severely than any mistake made by George W. Bush. It's not just the great powers whose trajectories have been affected by the crash. Lesser powers like Saudi Arabia and Iran also face new constraints. The crisis has strengthened the U.S. position in the Middle East as falling oil prices reduce Iranian influence and increase the dependence of the oil sheikdoms on U.S. protection. Success in Iraq--however late, however undeserved, however limited--had already improved the Obama administration's prospects for addressing regional crises. Now, the collapse in oil prices has put the Iranian regime on the defensive. The annual inflation rate rose above 29 percent last September, up from about 17 percent in 2007, according to Iran's Bank Markazi. Economists forecast that Iran's real GDP growth will drop markedly in the coming months as stagnating oil revenues and the continued global economic downturn force the government to rein in its expansionary fiscal policy. All this has weakened Ahmadinejad at home and Iran abroad. Iranian officials must balance the relative merits of support for allies like Hamas, Hezbollah, and Syria against domestic needs, while international sanctions and other diplomatic sticks have been made more painful and Western carrots (like trade opportunities) have become more attractive. Meanwhile, Saudi Arabia and other oil states have become more dependent on the United States for protection against Iran, and they have fewer resources to fund religious extremism as they use diminished oil revenues to support basic domestic spending and development goals. None of this makes the Middle East an easy target for U.S. diplomacy, but thanks in part to the economic crisis, the incoming administration has the chance to try some new ideas and to enter negotiations with Iran (and Syria) from a position of enhanced strength. Every crisis is different, but there seem to be reasons why, over time, financial crises on balance reinforce rather than undermine the world position of the leading capitalist countries. Since capitalism first emerged in early modern Europe, the ability to exploit the advantages of rapid economic development has been a key factor in international competition. Countries that can encourage--or at least allow and sustain--the change, dislocation, upheaval, and pain that capitalism often involves, while providing their tumultuous market societies with appropriate regulatory and legal frameworks, grow swiftly. They produce cutting-edge technologies that translate into military and economic power. They are able to invest in education, making their workforces ever more productive. They typically develop liberal political institutions and cultural norms that value, or at least tolerate, dissent and that allow people of different political and religious viewpoints to collaborate on a vast social project of modernization--and to maintain political stability in the face of accelerating social and economic change. The vast productive capacity of leading capitalist powers gives them the ability to project influence around the world and, to some degree, to remake the world to suit their own interests and preferences. This is what the United Kingdom and the United States have done in past centuries, and what other capitalist powers like France, Germany, and Japan have done to a lesser extent. In these countries, the social forces that support the idea of a competitive market economy within an appropriately liberal legal and political framework are relatively strong. But, in many other countries where capitalism rubs people the wrong way, this is not the case. On either side of the Atlantic, for example, the Latin world is often drawn to anti-capitalist movements and rulers on both the right and the left. Russia, too, has never really taken to capitalism and liberal society--whether during the time of the czars, the commissars, or the post-cold war leaders who so signally failed to build a stable, open system of liberal democratic capitalism even as many former Warsaw Pact nations were making rapid transitions. Partly as a result of these internal cultural pressures, and partly because, in much of the world, capitalism has appeared as an unwelcome interloper, imposed by foreign forces and shaped to fit foreign rather than domestic interests and preferences, many countries are only half-heartedly capitalist. When crisis strikes, they are quick to decide that capitalism is a failure and look for alternatives. So far, such half-hearted experiments not only have failed to work; they have left the societies that have tried them in a progressively worse position, farther behind the front-runners as time goes by. Argentina has lost ground to Chile; Russian development has fallen farther behind that of the Baltic states and Central Europe. Frequently, the crisis has weakened the power of the merchants, industrialists, financiers, and professionals who want to develop a liberal capitalist society integrated into the world. Crisis can also strengthen the hand of religious extremists, populist radicals, or authoritarian traditionalists who are determined to resist liberal capitalist society for a variety of reasons. Meanwhile, the companies and banks based in these societies are often less established and more vulnerable to the consequences of a financial crisis than more established firms in wealthier societies. As a result, developing countries and countries where capitalism has relatively recent and shallow roots tend to suffer greater economic and political damage when crisis strikes--as, inevitably, it does. And, consequently, financial crises often reinforce rather than challenge the global distribution of power and wealth. This may be happening yet again. None of which means that we can just sit back and enjoy the recession. History may suggest that financial crises actually help capitalist great powers maintain their leads--but it has other, less reassuring messages as well. If financial crises have been a normal part of life during the 300-year rise of the liberal capitalist system under the Anglophone powers, so has war. The wars of the League of Augsburg and the Spanish Succession; the Seven Years War; the American Revolution; the Napoleonic Wars; the two World Wars; the cold war: The list of wars is almost as long as the list of financial crises. Bad economic times can breed wars. Europe was a pretty peaceful place in 1928, but the Depression poisoned German public opinion and helped bring Adolf Hitler to power. If the current crisis turns into a depression, what rough beasts might start slouching toward Moscow, Karachi, Beijing, or New Delhi to be born? The United States may not, yet, decline, but, if we can't get the world economy back on track, we may still have to fight.

### Democracy

#### **Calling out Russia on human rights violations collapses relations and prevents further cooperation– Magnitsky proves**

Ivanov 12 (Oleg, a professor at the Diplomatic Academy, Russian Ministry of Foreign Affairs, “Magnitsky Act sends US-Russian relations into dangerous territory,” http://www.globaltimes.cn/content/751152.shtml)

This course of events caused a negative reaction in Moscow. One of the basic principles of international relations is reciprocity and the Russian Parliament began to work out a Russian version of the Magnitsky Act aimed at imposing similar sanctions on US officials. ¶ What is not clear for critics is why the Magnitsky Act was adopted since there are other countries, for example in the Middle East, where the situation of human rights can hardly be called acceptable by Western standards, but they are not targeted by the Western parliaments. ¶ How can the adoption of the Magnitsky Act be assessed and what are the possible consequences? The act will only worsen relations between Russia and the Western countries which have adopted or will adopt the act. Speaking at the International Parliamentary Forum on December 10, 2012 Russian Foreign Minister Sergey Lavrov stressed, "The role of Parliaments is not to teach each other. These efforts only bring intolerance and conflicts in international affairs."¶ The Russian approach is that human rights issues should be discussed on an equal and mutually respectful basis. The principles of state sovereignty should be observed and national, cultural and historic traditions should be taken into account. ¶ Lavrov also stated that "These actions run counter to the tasks to deepen cooperation between Russia and the USA, between two nations bearing special responsibility for ensuring international stability."¶ There are several negative consequences as a result of the situation with the Magnitsky Act. The situation may turn into an ongoing process with unpredictable consequences. Russian-US relations are poisoned and the "reset" of relations will be endangered. These consequences may go beyond the humanitarian area and affect other fields of Russian-US relations.¶ Some experts assess the ban on the import of US beef containing food additive to Russia as Russian retaliation and the beginning of a trade war between the two countries. Russia and the US have positive results in such areas of global cooperation as fighting terrorism, arms control and non-proliferation of WMD. The Magnitsky Act may hamper further cooperation in this field and the international community will suffer as well as Russia and the US. In this case only terrorists and proliferators of WMD will benefit. ¶ As Russia and China have a common position that sovereignty and non-interference into domestic affairs must be a guiding line in international relations, the adoption of the Magnitsky Act brings Russia and China closer and makes it possible to strengthen their cooperation.

#### Finish the Huff Po evidence -

Huffington Post 13 (“Russia Responds To U.S. Magnitsky Act By Placing 18 Americans On Blacklist,” April 13, 2013, http://www.huffingtonpost.com/2013/04/13/russia-responds-to-us-mag\_n\_3075795.html)

MOSCOW — Russia on Saturday banned 18 Americans from entering the country in response to Washington imposing sanctions on 18 Russians for alleged human rights violations.¶ The list released by the Foreign Ministry includes John Yoo, a former U.S. Justice Department official who wrote legal memos authorizing harsh interrogation techniques; David Addington, the chief of staff for former U.S. Vice President Dick Cheney; and two former commanders of the Guantanamo Bay detention center: retired Maj. Gen. Geoffrey Miller and Adm. Jeffrey Harbeson.¶ The move came a day after the U.S. announced its sanctions under the Magnitsky Law,

 named for Russian lawyer Sergei Magnitsky, who was arrested in 2008 for tax evasion after accusing Russian police officials of stealing $230 million in tax rebates. He died in prison the next year, allegedly after being beaten and denied medical treatment.¶ The U.S. State Department released a statement Saturday in response to Russia's latest decision.¶ "As we've said many times before, the right response by Russia to the international outcry over Sergey Magnitsky's death would be to conduct a proper investigation and hold those responsible for his death accountable, rather than engage in tit-for-tat retaliation," according to the statement.¶ Neither Washington nor Moscow put high-ranking or politically prominent figures on their lists, perhaps aiming to limit the effect on U.S.-Russian relations that have deteriorated, despite President Barack Obama's initiative to "reset" relations with Moscow.¶ The Magnitsky law infuriated Russian authorities, and parliament quickly passed a retaliatory measure than banned Americans from adopting Russian children. Russia also has banned U.S. funding for any non-governmental organization deemed to be engaging in politics.

### Turns Heg

#### CIR’s key to heg

Nye 12Joseph S. Nye, a former US assistant secretary of defense and chairman of the US National Intelligence Council, is University Professor at Harvard University. “Immigration and American Power,” December 10, Project Syndicate, http://www.project-syndicate.org/commentary/obama-needs-immigration-reform-to-maintain-america-s-strength-by-joseph-s--nye

CAMBRIDGE – The United States is a nation of immigrants. Except for a small number of Native Americans, everyone is originally from somewhere else, and even recent immigrants can rise to top economic and political roles. President Franklin Roosevelt once famously addressed the Daughters of the American Revolution – a group that prided itself on the early arrival of its ancestors – as “fellow immigrants.”¶ In recent years, however, US politics has had a strong anti-immigration slant, and the issue played an important role in the Republican Party’s presidential nomination battle in 2012. But Barack Obama’s re-election demonstrated the electoral power of Latino voters, who rejected Republican presidential candidate Mitt Romney by a 3-1 majority, as did Asian-Americans.¶ As a result, several prominent Republican politicians are now urging their party to reconsider its anti-immigration policies, and plans for immigration reform will be on the agenda at the beginning of Obama’s second term. Successful reform will be an important step in preventing the decline of American power.¶ Fears about the impact of immigration on national values and on a coherent sense of American identity are not new. The nineteenth-century “Know Nothing” movement was built on opposition to immigrants, particularly the Irish. Chinese were singled out for exclusion from 1882 onward, and, with the more restrictive Immigration Act of 1924, immigration in general slowed for the next four decades.¶ During the twentieth century, the US recorded its highest percentage of foreign-born residents, 14.7%, in 1910. A century later, according to the 2010 census, 13% of the American population is foreign born. But, despite being a nation of immigrants, more Americans are skeptical about immigration than are sympathetic to it. Various opinion polls show either a plurality or a majority favoring less immigration. The recession exacerbated such views: in 2009, one-half of the US public favored allowing fewer immigrants, up from 39% in 2008.¶ Both the number of immigrants and their origin have caused concerns about immigration’s effects on American culture. Demographers portray a country in 2050 in which non-Hispanic whites will be only a slim majority. Hispanics will comprise 25% of the population, with African- and Asian-Americans making up 14% and 8%, respectively.¶ But mass communications and market forces produce powerful incentives to master the English language and accept a degree of assimilation. Modern media help new immigrants to learn more about their new country beforehand than immigrants did a century ago. Indeed, most of the evidence suggests that the latest immigrants are assimilating at least as quickly as their predecessors.¶ While too rapid a rate of immigration can cause social problems, over the long term, immigration strengthens US power. It is estimated that at least 83 countries and territories currently have fertility rates that are below the level needed to keep their population constant. Whereas most developed countries will experience a shortage of people as the century progresses, America is one of the few that may avoid demographic decline and maintain its share of world population.¶ For example, to maintain its current population size, Japan would have to accept 350,000 newcomers annually for the next 50 years, which is difficult for a culture that has historically been hostile to immigration. In contrast, the Census Bureau projects that the US population will grow by 49% over the next four decades.¶ Today, the US is the world’s third most populous country; 50 years from now it is still likely to be third (after only China and India). This is highly relevant to economic power: whereas nearly all other developed countries will face a growing burden of providing for the older generation, immigration could help to attenuate the policy problem for the US.¶ In addition, though studies suggest that the short-term economic benefits of immigration are relatively small, and that unskilled workers may suffer from competition**,** skilled immigrants can be important to particular sectors – and to long-term growth. There is a strong correlation between the number of visas for skilled applicants and patents filed in the US. At the beginning of this century, Chinese- and Indian-born engineers were running one-quarter of Silicon Valley’s technology businesses, which accounted for $17.8 billion in sales; and, in 2005, immigrants had helped to start one-quarter of all US technology start-ups during the previous decade. Immigrants or children of immigrants founded roughly 40% of the 2010 Fortune 500 companies.¶ Equally important are immigration’s benefits for America’s soft power. The fact that people want to come to the US enhances its appeal, and immigrants’ upward mobility is attractive to people in other countries. The US is a magnet, and many people can envisage themselves as Americans, in part because so many successful Americans look like them. Moreover, connections between immigrants and their families and friends back home help to convey accurate and positive information about the US.¶ Likewise, because the presence of many cultures creates avenues of connection with other countries, it helps to broaden Americans’ attitudes and views of the world in an era of globalization. Rather than diluting hard and soft power, immigration enhances both.¶ Singapore’s former leader, Lee Kwan Yew, an astute observer of both the US and China, argues that China will not surpass the US as the leading power of the twenty-first century, precisely because the US attracts the best and brightestfrom the rest of the world and melds them into a diverse culture of creativity. China has a larger population to recruit from domestically, but, in Lee’s view, its Sino-centric culture will make it less creative than the US.¶ That is a view that Americans should take to heart. If Obama succeeds in enacting immigration reform in his second term, he will have gone a long way toward fulfilling his promise to maintain the strength of the US.

#### Economic collapse turns hegemony—geopolitical shifts, undermines will, destroys alliances

Rothkopf 9 David, Visiting Fellow @ Carnegie Endowment for Int’l Peace, 3/11/9. CQ Congressional Testimony, Lexis

We have only experienced the first wave of shocks associated with the international economic collapse. It is still too early to say how long the economic dimensions of the global downturn will continue to challenge leaders and populations worldwide, and while it is impossible to predict how much further conditions will deteriorate before the global economy begins to recover as it inevitably will, one set of consequences of the crisis can be predicted with a high degree of confidence. A crisis of this severity, one that according to the most recent estimate by the World Bank will produce net global contraction in 2009, that has already brought U.S. stock markets to 12 year lows stripping away over half their value, that has deeply eaten into world trade cutting volumes by almost a third and into capital flows and shaken the global financial system to its very foundations, will unavoidably produce a series of political aftershocks. A recent report for the Asian Development Bank suggests the crisis has already obliterated approximately $50 trillion in asset value worldwide - the equivalent of roughly a year of global economic output. We have already seen political reactions in public demonstrations and other violent episodes in a diverse list of countries including Greece, China, Haiti, Latvia, Bolivia, Bulgaria, Russia, Italy, Ireland, Iceland and Lithuania. But these events are just the first rumblings of upsets that almost certainly will ultimately be far more serious and will have important national security consequences for the U.S.. Further, the crisis may in the longer run produce lasting geopolitical shifts as power is concentrated in the hands of nations with available capital, drawn away from those who are net borrowers, and greater and greater constraints limit the options of nations who are likely to spend years seeking to work down the debts incurred during this time of severe global contraction. This new reality was reflected in the fact that Director of National Intelligence Blair in his February 12, 2009 testimony to the Senate Select Committee on Intelligence on the Intelligence Community's Annual Threat Assessment cited the crisis as the primary driver of concerns in today's world. As he clearly stated, "The primary near-term security concern of the United States is the global economic crisis and its geopolitical implications." In fact, during the past few months, as the crisis has brought down governments (Iceland) and threatened others (across Eastern Europe), it has also had more pernicious effects that are harder to see. Greatest of these is certainly its impact on the United States, reducing the resources available to this country as well as seemingly eating away at the political will that would be required if the U.S. were to play the active, broad-ranging internationally stabilizing role that has marked our foreign policy since the end of the Second World War. Adding to this is the weakening of our core alliances, not in terms of the desire to collaborate, but rather because allies have been preoccupied by challenges at home. Some leading allies, notably the EU, have in recent weeks seen the viability of their core institutions questioned. The weakening of international institutions has been a related consequence of the crisis. Without a degree of financial support and political flexibility for vital organizations like the IMF and the World Bank that seems unlikely at the moment, we may well find ourselves at a true crossroads for the international system. At precisely the instance that the crisis has revealed a need for greater global regulatory oversight and stronger financial institutions to prevent and to respond to crisis, rising nationalism, the political imperative of turning inward, and limited resources threaten existing institutions with irrelevance and needed new ones with being stillborn. Given other weaknesses in this system, such as the dubious value- added of much of the United Nations, the unsettling recent track record of the global non-proliferation regime, the troubles at the WTO with the Doha Round and the failure to establish, as yet, a global environmental organization to address climate change, it is possible to see the crisis neutralizing much of the system built up since the end of the Second World War. The challenges the system faces are made all the more complex by the need to rethink the steering committee for this system and recognize the rise of emerging powers and the declining relevance of some established powers. That this economic crisis has also produced a global crisis of confidence in institutions from national governments to financial markets, from international economic coordination mechanisms that have failed to big corporations, only further exacerbates these already daunting challenges. Beyond threats to stabilizing forces and the international system, individual countries and key regions are also likely to see decline and unrest brought on by the crisis. Some of this unrest is likely to take the form of regime changes or social instability. Other risks associated with the crisis will come as opportunists seek to use anger at the failures in a system that is closely associated with the U.S. to foment hatred, to fuel recruitment for extremist and anti-US organizations and to simply produce distractions from local problems via the time-tested means of identifying foreign or domestic scapegoats and lashing out against them.

### Turns Democracy

#### Economic crises collapse global democracy

Diamond 9 Larry Diamond, senior fellow @ Hoover Institution “Supporting Democracy”, March 2009, <http://csis.org/files/media/csis/pubs/090310_lennon_democracy_web.pdf>,

Second, there is the new fact of a global economic crisis of potentially catastrophic scope, depth, and duration. In thinking about grand strategy, this has to be considered a potential game changer. We cannot rule out the possibility that what is now a recession could turn into a global depression.And even if it is "just" a recession, it will be the most severe in decades. Economic crisis stresses regimes of all kinds, and the last global depression coincided with a retrenchment of democracy so sweeping that Samuel Huntington identified it as the "first reverse wave" of democratic breakdowns.

#### Comprehensive reform is critical to restore US international credibility

Alden, Bush, and McLarty 2009

Edward Alden, Bernard L. Schwartz Senior Fellow, Florida governor Jeb Bush and former White House chief of staff Thomas "Mack" McLarty.Council on Foreign Relations “U.S. Immigration Policy” July 2009

http://www.cfr.org/immigration/us-immigration-policy/p20030

"The continued failure to devise and implement a sound and sustainable immigration policy threatens to weaken America's economy, to jeopardize its diplomacy, and to imperil its national security," concludes a new Council on Foreign Relations (CFR) Independent Task Force co-chaired by former Florida governor Jeb Bush and former White House chief of staff Thomas "Mack" McLarty. "The stakes are too high to fail," says the report. "If the United States continues to mishandle its immigration policy, it will damage one of the vital underpinnings of American prosperity and security, and could condemn the country to a long, slow decline in its status in the world." For this reason, the report urges: "The United States needs a fundamental overhaul of its immigration laws."¶ U.S. Immigration Policy contends that America has reaped tremendous benefits from opening its doors to immigrants, as well as to students, skilled employees and others who may only live in the country for shorter periods of time. But it warns that "the continued inability of the United States to develop and enforce a workable system of immigration laws threatens to undermine these achievements."¶ Directed by CFR Senior Fellow Edward Alden, the CFR-sponsored Independent Task Force on U.S. Immigration Policy reflects the consensus of a bipartisan group of eminent leaders in the fields of immigration policy, homeland security, education, labor, business, academia and human rights. The group urges Congress and the Obama administration to move ahead with immigration reform legislation that achieves three critical goals:¶ Reforms the legal immigration system so that it operates more efficiently, responds more accurately to labor market needs, and enhances U.S. competitiveness;¶ Restores the integrity of immigration laws through an enforcement regime that strongly discourages employers and employees from operating outside that legal system, secures America's borders, and levies significant penalties against those who violate the rules;¶ Offers a fair, humane, and orderly way to allow many of the roughly twelve million migrants currently living illegally in the United States to earn the right to remain legally.¶ According to the report, the high level of illegal immigration in the country is increasingly damaging to U.S. national interests—"[it] diminishes respect for the law, creates potential security risks, weakens labor rights, strains U.S. relations with its Mexican neighbor, and unfairly burdens public education and social services in many states."¶ But it contends that "no enforcement effort will succeed properly unless the legal channels for coming to the United States can be made to work better." Therefore, "the U.S. government must invest in creating a working immigration system that alleviates long and counterproductive backlogs and delays, and ensures that whatever laws are enacted by Congress are enforced thoroughly and effectively."¶ The Task Force lays out a series of concrete, realistic recommendations for legislation and administrative reforms that would be part of an immigration policy that better serves America's national interests:¶ -Comprehensive immigration reform: A new effort to pass a comprehensive immigration reform bill should be a first-tier priority for the Obama administration and Congress, and should be started without delay.¶ -Attracting skilled immigrants: The United States must tackle head-on the growing competition for skilled immigrants from other countries, and make the goal of attracting such immigrants a central component of its immigration policy. The report urges an end to the hard caps on employment-based immigrant visas and skilled work visas in favor of a more flexible system, the elimination of strict nationality quotas, and new opportunities for foreign students earning advanced degrees to remain in the United States after they graduate.¶ -National security: The Task Force calls for minimizing visa restrictions that impede scientific collaboration, noting that America's long-term security depends on maintaining its place as a world leader in science and technology. The administration should also permit a broader effort by the U.S. military to recruit recent immigrants who are not yet citizens or green card holders, so as to bolster U.S. military capabilities.¶ -Employer enforcement: The Task Force supports a mandatory system for verifying those who are authorized to work in the United States, including a workable and reliable biometric verification system with secure documents. Tougher penalties should be levied against those who refuse to comply. It calls employer enforcement "the single most effective and humane enforcement tool available to discourage illegal migration."¶ -Simplifying, streamlining, and investing in the immigration system: Congress and the Obama administration should establish a high-level independent commission to make recommendations for simplifying the administration and improving the transparency of U.S. immigration laws. The government must redouble its efforts to reduce backlogs and other unnecessary delays by investing in the personnel and technology necessary for handling visa and immigration applications efficiently.¶ -Improving America's image abroad: The administration and Congress should launch a comprehensive review of the current security-related restrictions on travel to the United States, with an eye toward lifting restrictions that do not significantly reduce the risk of terrorists or criminals entering the country.

### 2NC U

#### Will pass – Obama will reverse on cooperation post – debt ceiling

Miller 10/17

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President Barack Obama has a new message for congressional Republicans today: let’s talk.¶ “I will look for willing partners wherever I can to get important work done,” the president said Thursday morning, announcing he intends to work with Congress to pass an annual budget, comprehensive immigration reform, and a farm bill.¶ Fresh off his victory over House Republicans in twin fiscal crises, the president is preparing an about-face after weeks of swearing off any negotiations with the GOP to fund the government and raise the debt limit. Not only that, but he is also setting the stage to criticize the opposition if they decline to put everything on the table.¶ It’s the completion of a months-long White House strategy on the debt limit that whittled away at the president’s preferred public image as moderate dealmaker. After getting rolled in 2011, Obama swore to his staff that he wouldn’t again get held hostage over the debt limit. Earlier this year, Obama laid down that no-negotiation promise in a statement on the New Year’s fiscal cliff deal, and he stood by it. There were no serious talks. No secret back-channel negotiations. No Joe Biden. Aides on both sides of Pennsylvania Ave. described meetings with congressional leaders last week as more to please the media than a reflection of any attempt to make progress.¶ Aides admit they were wary of the impact of Obama’s hardline position during the shutdown, especially as Republicans passed piecemeal bills to reopen slices of the federal government last week. Business leaders called on the president to throw Republicans a lifeline. Senate Democrats instinctively rushed to cut rogue deals. They fretted the rebuke from the “David Gergen caucus” of beltway pundits. But more than anything, it posed a danger to the Obama brand. He ran for office in 2008 insisting that he was open to negotiating with Iran without preconditions. He had pledged to change the way business is done in Washington and bridge the partisan divides.¶ As the afterglow of an end to the shutdown quickly faded, Obama turned his focus to the next crisis in a morning address at the White House, taking a swing at the tea party and extending an olive branch to moderate Republicans.

#### Reform has momentum but House must act soon – GOP needs acome back

Aguilar 10/17

Julián Aguilar, Texas Tribune, “After Shutdown, Immigration Reform Push Picks Up” October 17, 2013 http://www.texastribune.org/2013/10/17/advocates-immigration-reform-continue-push/

With the federal government fully operational and the debt ceiling debate on hold until next year, proponents of immigration reform resumed their campaign blitz and called on leaders to address the issue before the year ends.¶ The push came after President Obama on Thursday reasserted his belief that Congress can tackle immigration reform after taking on the budget.¶ “There's already a broad coalition across America that’s behind this effort of comprehensive immigration reform — from business leaders to faith leaders to law enforcement,” Obama said, according to an emailed transcript of the president’s remarks. ¶ The House calendar indicates Congress must act quickly to make immigration reform happen this year. There are fewer than 25 working days left on the regular calendar, according to the agenda posted on the website for House Majority Leader Eric Cantor of Virginia. House Republicans have yet to indicate whether they expect to take up immigration reform before the end of the year.¶ The president reiterated that the Senate has already passed a measure that would beef up border security and “modernize our legal immigration system; make sure everyone plays by the same rules, makes sure that folks who came here illegally have to pay a fine, pay back taxes, meet their responsibilities.”¶ He added that if that bill became law, the country would see a 5 percent climb in the economy over 20 years.¶ Advocates said the issue could provide the stage for a comeback for the GOP, whose image took a hit after the 16-day standoff that furloughed thousands of federal employees and shut down various nonessential services.

#### Immigration reform is TOA and will pass – GOP vulnerable, advocates mobilized, and Obama aggressively pushing

Salamanca 10/16

Jean-Paul Salamanca Latino Post “Immigration Reform 2013 News: President Obama Looks to Push for Vote on Immigration Bill Post-Fiscal Crisis”Oct 16, 2013 http://www.latinospost.com/articles/29856/20131016/immigration-reform-2013-news-president-obama-looks-push-vote-bill.htm

Even with the nation still gripped in a fiscal crisis with Congress still arguing over the debt ceiling, President Obama told the nation Tuesday that he would push for a vote on immigration reform.¶ In a sit-down interview with Spanish-language network Univision, President Obama said that the stalled issue of immigration reform, which currently remains frozen in the Republican-controlled U.S. House of Representatives, would become a top priority for him once Congress can agree on a deal regarding the debt limit.¶ "Once that's done, you know, the day after, I'm going to be pushing to say, call a vote on immigration reform," he told Univision, as noted by Reuters.¶ As the current political climate indicates, President Obama faces an intimidating battle to successfully pass immigration reform. While the issue gathered support from Democrats and even several top Republicans--the GOP looking to rebound after suffering stinging defeats at the polls in the November 2013 presidential election--the bill has encountered resistance as it passed to the House.¶ The Democrat-controlled Senate passed a bill in June from the bipartisan "Gang of Eight" Senate panel that would have created a pathway to citizenship for millions of undocumented immigrants living in the U.S. However, Republicans in the House, some of which are denouncing the bill as offering "amnesty" to immigrants who came into the country without authorization, have stalled the bill on the floor, refusing to put it to a vote.¶ President Obama laid the blame at the feet of House Speaker John Boehner for the bill's delay.¶ "We had a very strong Democratic and Republican vote in the Senate," he said. "The only thing right now that's holding it back is, again, Speaker Boehner not willing to call the bill on the floor of the House of Representatives."¶ Boehner has indicated that the House would not consider a dramatic immigration overhaul, and would pass immigration issues in smaller bills, including tighter border security measures. Immigration advocates, however, have opposed such a measure, as it means there would be little chance of legally giving undocumented immigrants a chance to become U.S. citizens via a "pathway," such as the one offered in the Senate proposal, which includes a decade-plus long waiting period along with the payment of back taxes and fines for time said immigrants have lived in the country unauthorized.¶ Several late year issues -- the crisis in Syria and now, the debt limit debacle -- have occupied much of Washington legislators' time. However, it appears the White House and Democrats on Capitol Hill may be ready to head back into the battle for immigration reform after the fiscal crisis is over.¶ Frank Sharry, executive director of the immigration reform group America's Voice, told Buzzfeed that with the GOP's public opinion numbers plummeting, it is possible that the Republicans could be open to discussing immigration reform more easily if Congress can work together to solve the fiscal crisis.¶ "It's at least possible with sinking poll numbers for the Republicans, with a [GOP] brand that is badly damaged as the party that can't govern responsibly and is reckless that they're going to say, 'Alright, what can we do that will be in our political interest and also do tough things?'" said Sharry. "That's where immigration could fill the bill."¶ A recent poll from the Public Religion Research Institute indicated that Hispanics in the U.S. are three times more likely to identify with Democrats than they would Republicans, with 50 percent of Latinos identifying with Democrats while only 15 percent of those Hispanics polled identify with the GOP.¶ Meanwhile, advocates for immigration reform appear to be gearing up for another fight on that front.¶ "We're talking about it. We want to be next up and we're going to position ourselves that way," Sharry said. "There are different people doing different things, and our movement will be increasingly confrontational with Republicans, including civil disobedience. A lot of people are going to say, 'we're not going to wait.'"

#### Evangelical push

UPI 10/17

“Evangelicals for immigration reform considerable force in House” http://www.upi.com/Top\_News/US/2013/10/17/Evangelicals-for-immigration-reform-considerable-force-in-House/7441381955719/

WASHINGTON -- Evangelical Christians are pulling together to advocate for action on immigration reform by the end of the year -- and their influence could be substantial.¶ The Evangelical Immigration Table's “Pray4Reform: Gathered Together in Jesus' Name” campaign running from Oct. 12 through Oct. 20. includes more than 300 events in 40 states where members of the faith are praying for reform. The Evangelical Immigration Table is a coalition of evangelical Christian groups including World Relief, Bread for the World, and the National Latino Evangelical Coalition.¶ While many Americans who back changes in the immigration law do so for economic or political reasons, the Evangelical Immigration Table does not support any specific legislation or political party. Rather the group favors a pathway to citizenship for undocumented workers for moral reasons.¶ “There is overwhelming evidence in scripture for hospitality and for welcoming the stranger,” said the Rev. Gabriel Salguero who leads the National Latino Evangelical Coalition, a moderate-to-progressive evangelical organization. “The word stranger appears 92 times in the Old Testament and states 'Welcome the stranger because you were once a stranger.'”¶ A Senate-approved immigration bill stalled in House of Representatives passage earlier this year. Unrest in Syria, the roll out of Obamacare and the partial government shutdown have all overshadowed immigration reform efforts.¶ But in light of the renewed push for reform in 2013 the personal is becoming political for some Christians. Many Evangelical church members and leaders plan to come to Washington for a two-day event on Oct 28-29 to lobby lawmakers and hold a news conference.¶ Jenny Yang, vice president of World Relief, said Evangelicals have come out of the woodwork because they don't want to miss an opportunity at a time when urgent change is needed.¶ “We've never advocated to a specific bill, but there are basic principles that we support,” Yang said.¶ Those principles include offering aid to people in need, keeping families together and welcoming those who are new to the county. But both Yang and Rev. Salguero understand that merging political and personal beliefs is unusual evangelicals.¶ While not every evangelical in the United States supports immigration reform, a CBS poll conducted in July showed that three out of four evangelicals favor reform efforts.¶ “We know it's a win-win,” Salguero said. “Ours in the moral argument, but we know there is overwhelmingly evidence that there is an economic need for it”¶ The Senate-passed bill would overhaul the immigration system, allowing some of the nearly 12 million undocumented immigrants in the United States to eventually achieve citizenship, provided they pay taxes and learn English. Many economists argue this will boost the U.S. economy and add jobs.¶ William Galston, a senior fellow at the Brookings Institution thinks Evangelical backing for support for immigration reform is important. Galston reasoned that the mainly Republican group in the House -- those most resistant to changes benefiting the undocumented -- might also be the most responsive to the Evangelical movement.¶ “If Evangelical leaders walked the halls of Congress and knocked on the doors of Southern Republicans, they won't be turned away,” Galston said.¶ Yang said Evangelicals held over 100 meetings with members of both parties during reform-related events this past summer. October's events in Washington will focus on meeting with even more members of Congress.¶ “For members who do take their faith very seriously, we are trying to reach out to them, and say have you considered this issue through the lens of your faith?” Yang questioned.¶ The role of faith in legislative matters is woven into the history of the United States.¶ “The separation of church and state is one thing, but the separation of religion and politics is another," Galston said. “This is nothing new.”¶ While the push for immigration reform is intensifying, time is dwindling to get it passed by the end of the calendar year.¶ “Every day that we don't see legislation, there is a cost to an action,” Yang said.¶ While the question of when immigration reform will pass lingers, Brookings senior fellow Galston says the Evangelicals are showing a real sign of commitment.¶ “They are not going to give this up without a fight,” he said. “These are some tough, experienced people, so stay tuned.”

#### Will Pass – shutdown empirics PROVE

Gomez 10/17

Alan Gomez, USA TODAY, “Shutdown over, Democrats say immigration is next”

http://www.usatoday.com/story/news/politics/2013/10/17/government-shutdown-shift-immigration-reform/3000575/

Rep. Luis Gutierrez, D-Ill., one of the main proponents of getting an immigration bill through Congress, is looking to history for signs of optimism that the House can pass something.¶ Gutierrez was in the House during the last government shutdown in 1996, and he says Republicans emerged from the damaging closure scurrying to pass "big things" to show the country they could get things done. In the aftermath of that shutdown, the government passed welfare reform, the sweeping Kennedy-Kassebaum health care law and an increase in the minimum wage. "It was in people's self-interest to pass some good stuff," Gutierrez said. "That's what's going to drive a lot of what goes on around here."

### 2NC LINKS

#### They say shielding – Stimpson assumes Congress has no say in releases but they have transfer restrictions

Leopold, 8/22 (Jason, “What the White House’s ‘Secret’ Plan to Close Guantanamo Looks Like.” Freedom of the Press Foundation. Web, Acc at https://pressfreedomfoundation.org/blog/2013/08/heres-what-white-houses-secret-plan-close-guantanamo-looks

.¶ Measures to Reduce the Population and Close the Detention Facility:¶ • Detainee Transfers. The principal way the Administration will reduce the detainee population at Guantanamo Bay is by transferring detainees back to their home countries – or, where that is not possible, to third countries willing to accept them. Restrictions in current law significantly limit the Administration’s ability to transfer detainees, and the President has called for their repeal. None of these restrictions were in place when more than 600 detainees were transferred out of Guantanamo Bay from 2002 to 2011. Until these restrictions are repealed or reformed, the President has directed the Administration to transfer detainees to the greatest extent possible. In furtherance of the President’s directive, the Administration is working hard to complete a number of detainee transfers in 2013.¶ • Special Envoys. In June, Secretary of State John Kerry appointed Clifford Sloan to serve as the State Department’s Special Envoy for Guantanamo Closure. The Department of Defense will soon also select a Special Envoy. Mr. Sloan has begun meeting with foreign governments to negotiate potential detainee transfers and has traveled to Guantanamo Bay.¶ • Lifting Yemen Moratorium. The President lifted the Executive Branch moratorium on transfers to Yemen on May 23, 2013. The Administration will evaluate Yemeni detainees on a case-by-case basis, and is engaged with the Yemeni government to facilitate the conditions that would enable the repatriation of Yemeni detainees who have been designated for transfer.¶ • Periodic Review Boards. As directed in Executive Order 13567, the Administration has implemented a Periodic Review Board (PRB) process to review whether certain detainees designated for law of war detention continue to pose a significant threat to the security of the United States. Counsel for the first two detainees receiving PRB hearings have been notified and additional notices and hearings will follow on a rolling basis.¶ • Prosecution and Detention. The U.S. Government will prosecute detainees in federal courts or military commission proceedings to the extent feasible and in the national security interest. The President has directed the Department of Defense to identify a site in the United States for military commission proceedings. But current law bars the transfer of detainees to the United States for any reason. As a result, the Government is prohibited from prosecuting any detainees in a military commission in the United States or in a federal court, even if it represents the best – or only – option for bringing a detainee to justice. This is true even though the Government has successfully prosecuted more than

#### 2. No reason why the rest of the GOP agrees – national security concern overwhelms - 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

#### Congress JUST VOTED to keep Gitmo open- plan is an epic reversal

Michael McAuliff, June 14, 2013, “Guantanamo Bay To Stay Open As House Blocks Bill To Close Infamous Prison,” <http://www.huffingtonpost.com/2013/06/14/guantanamo-bay-close_n_3438347.html>

A worsening hunger strike and a fresh plea by President Barack Obama to close the Guantanamo Bay prison fell on deaf ears in Congress Friday, as the House of Representatives voted to keep the increasingly infamous jail open.¶ The House voted to make it harder for Obama to begin shifting inmates, adding a restriction to the National Defense Authorization Act of 2014 that bars any of the roughly 56 prisoners who have been cleared by military and intelligence officials to be sent to Yemen from being transferred there for one year. Some 30 other Gitmo inmates of the 166 kept there have also been cleared for release.

#### Obama fights the plan – detention specific.

Rana 11. [Aziz, Assistant Professor of Law, Cornell Law School, “TEN QUESTIONS: RESPONSES TO THE TEN QUESTIONS” 2011, 37 Wm. Mitchell L. Rev. 5099 -- lexis]

Thus, for many legal critics of executive power, the election of Barack Obama as President appeared to herald a new approach to security concerns and even the possibility of a fundamental break from Bush-era policies. These hopes were immediately stoked by Obama's decision before taking office to close the Guantanamo Bay prison. n4 Over two years later, however, not only does Guantanamo remain open, but through a recent executive order Obama has formalized a system of indefinite detention for those held there and also has stated that new military commission trials will begin for Guantanamo detainees. n5 More important, in ways small and large, the new administration remains committed to core elements of the previous constitutional vision of national security. Just as their predecessors, Obama officials continue to defend expansive executive detention and war powers and to promote the centrality of state secrecy to national security.

#### Court rulings on detention cause Congressional fights – empirics.

Abramowitz and Weisman 6. [Michael, Jonathan, WaPo staff writers, “GOP Seeks Advantage In Ruling On Trials” Washington Post -- June 1 -- <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/30/AR2006063001737.html>]

Republicans yesterday looked to wrest a political victory from a legal defeat in the Supreme Court, serving notice to Democrats that they must back President Bush on how to try suspects at Guantanamo Bay or risk being branded as weak on terrorism.¶ In striking down the military commissions Bush sought for trials of suspected members of al-Qaeda and other terrorist groups, the high court Thursday invited Congress to establish new rules and put the issue prominently before the public four months before the midterm elections. As the White House and lawmakers weighed next steps, House GOP leaders signaled they are ready to use this week's turn of events as a political weapon.¶ House Majority Leader John A. Boehner (R-Ohio) criticized House Minority Leader Nancy Pelosi's comment Thursday that the court decision "affirms the American ideal that all are entitled to the basic guarantees of our justice system." That statement, Boehner said, amounted to Pelosi's advocating "special privileges for terrorists."¶ Similar views ricocheted around conservative talk radio -- Rush Limbaugh called Pelosi's comments "deranged" on his show Thursday -- and Republican strategists said they believed that the decision presented Bush a chance to put Democrats on the spot while uniting a Republican coalition that lately has been splintered on immigration, spending and other issues.¶ "It would be good politics to have a debate about this if Democrats are going to argue for additional rights for terrorists," said Terry Nelson, a prominent GOP political strategist who was political director for Bush's reelection campaign in 2004.