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### Contention 1- Modelling

#### Scenario one is Afghanistan

#### Afghanistan is adopting detention policies modeled off US law- this makes instability inevitable

Rodgers 12 (Chris Rogers is a human rights lawyer for the Open Society Foundations specializing in human rights and conflict in Afghanistan and Pakistan, May 14, “Karzai's bid for a dictatorial detention law”, http://afpak.foreignpolicy.com/posts/2012/05/14/karzais\_bid\_for\_a\_dictatorial\_detention\_law)

As part of the agreement to transfer control of Bagram, the Afghan government is creating the authority to hold individuals without charge or trial for an indefinite period of time on security grounds-a power it has never before said it needed. While such "administrative detention" regimes are permissible under the laws of war, this new detention power is being established in order to hand over a U.S. detention facility, not because changes in the conflict have convinced Afghan officials that it is necessary. A surge in U.S. detention operations like night raids has driven the prison population to over 3,000 detainees, most of whom the United States lacks evidence against for prosecution under Afghans law. Because the Afghan constitution, like the United States', protects individuals from being detained without charge or trial, the Afghan government needs a new detention law, which is now being modeled on deeply problematic U.S. detention policies and practices. As a result, Bagram's real legacy may be the establishment of a detention regime that will be ripe for abuse in a country with pervasive corruption and weak rule of law. Despite potentially far-reaching consequences, the development of this new detention power has been hidden from public view. When I met with leading Afghan lawyers and civil society organizations in Kabul several weeks ago, few knew that the government was proposing to create a new, non-criminal detention regime. Their reaction was disbelief and dismay. None had even seen a copy of the proposed regime, which the Afghan government has not made public and is trying to adopt by presidential fiat. The Open Society Foundations recently obtained a copy of the proposed detention regime, and after review, we have found what it details deeply troubling. The proposed changes leave open critical questions about the nature and scope of this proposed detention regime, which if left unanswered make it ripe for abuse. Who can be held in administrative detention and for how long? Where will it apply? When will the government cease to have this power? How will the government ensure it will not be abused to imprison the innocent or suppress political opposition? Most alarming is the failure to address the serious, long-term risks posed by such a regime. From apartheid South Africa to modern day China, administrative detention regimes adopted on security grounds have too often been used as tools of repression. In Egypt, the former government used administrative detention for decades to commit gross human rights violations and suppress political opposition, relying on a state of emergency declared in 1958, and nominally lifted only after last year's revolution. Across the border in Pakistan, the draconian Frontier Crimes Regulations are another stark reminder of the long, dark shadow that such legal regimes can cast. The ongoing imposition of these British, colonial-era laws, which among other things legalize collective punishment and detention without trial, are cited by many as a key driver of the rise of militancy in the tribal areas of Pakistan. But there is still time for the United States to avoid this legacy in Afghanistan. If the Afghan government cannot be dissuaded from adopting an administrative detention regime, then the United States should urge the Afghan government to include provisions that limit its scope and reduce its vulnerability to abuse. First, a ‘sunset' provision should be adopted, which would impose a time limit on such powers, or require an act by the Afghan Parliament to extend their duration. Second, the regime should be limited to individuals currently held by the United States at Bagram prison. There is no clear reason why the handover of Bagram detainees requires the creation of a nation-wide administrative detention regime. More generally, the scope of who can be detained must be clearly defined and limited. Third, detainees must have right to counsel as well as access to the evidence used against them in order to have a meaningful opportunity to challenge their detention-a fundamental right in international law. At present it seems the government will follow the well-documented due process shortfalls of the U.S. model. The United States and its Afghan partners must be honest about the serious, long-term risks of establishing an administrative detention regime in Afghanistan-particularly one that lacks clear limits and is democratically unaccountable. Protection from arbitrary or unlawful deprivation of life or liberty is at the constitutional core of the United States, and is essential to lasting stability and security in Afghanistan. Living up to the President's promise of responsibly ending the war in Afghanistan requires defending, not betraying this principle.

#### Detention policy has prevented rule of law restoration in Afghanistan- judicial modeling makes US action key

ICG 10 (International Crisis Group, November 17, “REFORMING AFGHANISTAN’S BROKEN JUDICIARY”, http://www.crisisgroup.org/~/media/Files/asia/south-asia/afghanistan/195%20Reforming%20Afghanistans%20Broken%20Judiciary.ashx)

U.S. detention policy has frequently been cited by Afghan and international legal experts as one of the chief obstacles to restoring balance to the Afghan justice system and citizens’ faith in the rule of law.233 The operation of parallel U.S.-controlled prisons has been problematic from the start. Thousands of Afghans have been detained since the start of Operation Enduring Freedom in 2001 without recourse to trial or the means to challenge their detention. Abuse of prisoners at the U.S.-run Bagram Theatre Internment Facility in the early years of its operation under the Bush administration has been well documented, including the use of harsh interrogation techniques that resulted in the deaths of two Afghans.234 Extrajudicial detentions at Bagram have eroded support for foreign troops and for many Afghans – Pashtuns in particular – stand as a symbol of oppression. Like its sister facility at the U.S. military base in Guantanamo, Cuba, the Bagram prison has provided much grist for Taliban propaganda mills.235 U.S. officials under the Obama administration appear to have begun to recognise that extrajudicial detentions have negatively impacted Afghan perceptions of the rule of law. In January 2009, the U.S. government announced plans to close the facility at Guantanamo and to re-evaluate its detainee programs overall. A U.S. federal district court ruling in April 2009 concluding that non-Afghan detainees held at the Bagram facility have a right to challenge their detention in American courts has hastened the need to find solutions to the legal conundrum posed by the extrajudicial status of prisoners at Bagram.236 In September 2009, the U.S. Department of Defense adopted a new framework for evaluating the status of detainees in U.S. facilities in Afghanistan. Responsibility for detainee policy and operations now falls to Task Force 435, an interagency unit under joint military-civilian leadership whose mission is to bring detention and rule of law practices in line with U.S. strategic goals in Afghanistan. The old Bagram facility has since been replaced by the more modern Detention Facility in Parwan (DFIP), which opened in 2009 at the edge of the Bagram military base. Under this new policy, new detainee review board (DRB) procedures were adopted to bring detention practices in Afghanistan more in line with U.S. and international law. They replaced the Unlawful Enemy Combatant Review Boards, which had been generally deemed inadequate because they afforded detainees few, if any, opportunities to challenge their arrest or to review evidence in cases brought against them in closed hearings. Under the new procedures, a military panel determines if a detainee has been properly captured and poses a future threat to the Afghan government or international security forces. Although the U.S. government is careful not to characterise the proceedings as legal or adversarial in the sense that a trial might be, detainees are allowed to some extent to present their version of events with the help of a U.S.-assigned “personal representative”. Hundreds of detainees have had their cases reviewed since the new review procedures were adopted and a number have been released because of insufficient evidence that they posed a threat to the Afghan government.237 These new guidelines are an important step forward, but they are far from replicating internationally recognised fair trial standards. A number of other actions must be taken to make U.S. detention policy more transparent, humane and fair and to bring it in line with international law. Specifically, U.S. investigation and intelligence gathering standards must be improved and the review board process must incorporate a more vigorous mechanism that allows detainees to review and challenge evidence brought against them, including measures for classified evidence. Transition to Afghan control of specially designated detainees will also necessitate a re-evaluation of classification procedures both at the point of capture and across agencies – both Afghan and U.S. The current process of declassifying information is far too cumbersome and there is a demand for greater clarity on the rules of transfer of information from coalition and Afghan sources to Afghan government sources.238 Changes in declassification policy will necessitate a serious review of current Afghan law and investigative practices and procedures employed by the Afghan National Directorate of Security and other security organs. In January 2010, the U.S. and Afghan government signed a memorandum of understanding calling for the DFIP to pass from U.S. to Afghan control in July 2011. By that time, review proceedings should be conducted entirely by Afghan judges and prosecutors; an Afghan judge in the Parwan provincial courts has already reviewed a number of detainee cases.239 The U.S. has set up a rule of law centre at the new facility with a view to training Afghan legal professionals to build cases against the roughly 1,100 detainees housed at the prison. The training and transition are important first steps toward dismantling the parallel legal systems that have co-existed uneasily in Afghanistan since the start of the U.S. military engagement. The transition could entail some tricky procedural challenges in terms of potential conflicts between Afghan courts and U.S. military authorities over the danger posed by “highrisk” detainees.240 This and other issues should be clarified before the transition in 2011.

#### Starting with US policy is key- it will restore credibility in our system and allows us to improve the Afghani justice system

Eviatar 12 (Daphne Eviatar Law and Security Program Human Rights First, 1-9, “The Latest Skirmish in Afghanistan: Hate to Say We Told You So”, http://www.humanrightsfirst.org/2012/01/09/the-latest-skirmish-in-afghanistan-hate-to-say-we-told-you-so/)

Responsibility begins with due process. As we wrote in our report in May, based on our observations of the hearings given to detainees at the U.S.-run detention facility at Bagram: “the current system of administrative hearings provided by the U.S. military fails to provide detainees with an adequate opportunity to defend themselves against charges that they are collaborating with insurgents and present a threat to U.S. forces.” As a result, the U.S. hearings “fall short of minimum standards of due process required by international law.” For President Karzai, that’s an argument that the U.S. should immediately turn the thousands of detainees it’s holding over to the government of Afghanistan. But that would do little to solve the problem. TheUnited Nations reported in October that Afghanistan’s intelligence service systematically tortures detainees during interrogations. The U.S. government cannot hand prisoners over to the Afghans if they’re likely to be tortured, according to its obligations under international law. And unfortunately, as we also noted in our report, the Afghan justice system, although improving with the growing introduction of defense lawyers, is still hardly a model of due process. Still, unlike the United States, at least Afghan law does not permit detention without criminal charge, trial and conviction. The United States hasn’t exactly proven itself the best model for the Afghan justice system. Restoring U.S. credibility is going to be key to our ability to withdraw from Afghanistan without it becoming a future threat to U.S. national security. The U.S. government can’t credibly insist that the Afghans improve their justice system and treatment of detainees if the U.S. military doesn’t first get its own detention house in order. Whether for the sake of international law, U.S. credibility, or merely to improve relations with the Karzai government, upon which U.S. withdrawal from Afghanistan depends, the U.S. military needs to start providing real justice to the thousands of prisoners in its custody.

#### Judicial action is key to international credibility and restoring the rule of law

Hecht, 05 (Daryl, Judge for the Iowa Court of Appeals, 50 S.D. L. REV. 78, lexis)
Americans proclaim with some justification that liberty and human rights are among the crown jewels of their national identity. Claiming the status of human rights watchdogs around the globe, representatives of the United States government commonly criticize human rights failures of other nations. If such criticism is to be taken seriously and carry force abroad when well-founded, the United States government must heed its own admonitions. It should accord due process not only to all persons detained within its borders but also to those it imprisons offshore at locations under the exclusive control of the United States. Affirmation by federal courts of the liberty interests of alien prisoners imprisoned on Guantanamo would give important symbolic assurance to citizens of the United States, foreign nationals, friends, and foes that liberty is a cherished universal human right that does not persist or perish according to technicalities such as geographic boundaries. As they clarify the nature and extent of process due the Guantanamo prisoners, federal courts will consider the Eisentrager Court's concerns about the prospect that thorough judicial review might disrupt war efforts. [288](https://www.lexis.com/research/retrieve?_m=938acabc8d208f2c7d5fa60db492ee72&docnum=98&_fmtstr=FULL&_startdoc=51&wchp=dGLbVzb-zSkAt&_md5=eeae0c139818f7b3acae88f6aed6f150&focBudTerms=supreme%20court%20should%20w/30%20guantanamo%20and%20deference%20and%20date%3E2001&focBudSel=all#n288) The realities [\*111] of war may justify reasonable restriction of the process available to prisoners of war during times of armed conflict and justify some judicial deference allowing the executive to conduct military campaigns with a minimum of distraction. However, the risk that the war effort will be disrupted by judicial or administrative review of the grounds for detention are diminished in these cases because the prison is distant from the present theaters of war. Modern technology will facilitate the presentation of evidence at remote sites in ways not contemplated by the Court in the Eisentrager era and will render unpersuasive many of the Executive's war-powers arguments against meaningful judicial review. The recent commencement of administrative hearings conducted by the Combatant Status Review Tribunals and the discharge of some of the Guantanamo prisoners are positive developments. It remains to be seen whether federal courts will conclude these administrative tribunals within the Executive branch allow for meaningful review of the prisoners' status. Although passage of the Military Tribunals Act of 2003 would, especially with suggested amendments, alleviate many of the most egregious legal infirmities associated with the ongoing detention of uncharged prisoners, a timely legislative solution to the problem through the action of the political branches of government is unlikely. The best and perhaps only prospect for meaningful protection of the uncharged detainees' rights against indefinite imprisonment lies in the litigation pending in federal courts. The remaining uncharged prisoners have languished too long in prison without charge or access to counsel, and the courts must be vigilant to prevent the continuation of arbitrary detentions in violation of international humanitarian and human rights principles. Alien prisoners ought not be disqualified from fundamental constitutional protections solely as a consequence of the government's choice of an off-shore location for their confinement. If deprivation of aliens' property interests may legally be imposed within the United States only in conformity with due process principles, the liberty interests of aliens held on Guantanamo should receive no less protection against state action. It should be understood that arguments in favor of meaningful review of the status of the Guantanamo prisoners is not an argument for the immediate release of all aliens imprisoned on Guantanamo. The evidence presented in habeas proceedings or in fair administrative tribunal hearings may establish reasonable grounds to believe some petitioners are properly designated and detained as enemy combatants. Under international humanitarian law, they may be detained during the conflict, but it seems evident that the GPW did not contemplate perpetual imprisonment without charge during an interminable war. [289](https://www.lexis.com/research/retrieve?_m=938acabc8d208f2c7d5fa60db492ee72&docnum=98&_fmtstr=FULL&_startdoc=51&wchp=dGLbVzb-zSkAt&_md5=eeae0c139818f7b3acae88f6aed6f150&focBudTerms=supreme%20court%20should%20w/30%20guantanamo%20and%20deference%20and%20date%3E2001&focBudSel=all#n289) The [\*112] evidence offered in a meaningful review process may support war crimes charges against some of the prisoners who will be tried before military commissions under the regulations adopted by the Department of Defense. If the evidence establishes that still other prisoners have, as they allege, been improvidently incarcerated, they should be promptly discharged. In Korematsu v. United States, [290](https://www.lexis.com/research/retrieve?_m=938acabc8d208f2c7d5fa60db492ee72&docnum=98&_fmtstr=FULL&_startdoc=51&wchp=dGLbVzb-zSkAt&_md5=eeae0c139818f7b3acae88f6aed6f150&focBudTerms=supreme%20court%20should%20w/30%20guantanamo%20and%20deference%20and%20date%3E2001&focBudSel=all#n290) the Court deferred during a declared war to the Executive's decision to evacuate persons of Japanese ancestry from locations on the west coast and relocate them in internment camps without the benefit of charges or hearings. That decision has since been widely criticized, and at least one member of the Court later publicly regretted his vote to defer to the military's judgment of necessity. [291](https://www.lexis.com/research/retrieve?_m=938acabc8d208f2c7d5fa60db492ee72&docnum=98&_fmtstr=FULL&_startdoc=51&wchp=dGLbVzb-zSkAt&_md5=eeae0c139818f7b3acae88f6aed6f150&focBudTerms=supreme%20court%20should%20w/30%20guantanamo%20and%20deference%20and%20date%3E2001&focBudSel=all#n291) In 1976, as part of the celebration of the Bicentennial of the Constitution, President Gerald Ford issued a proclamation acknowledging that the internment of the Japanese Americans, many of whom were citizens, during World War II was wrong and calling upon the United States to "resolve that this kind of action shall never again be repeated." [292](https://www.lexis.com/research/retrieve?_m=938acabc8d208f2c7d5fa60db492ee72&docnum=98&_fmtstr=FULL&_startdoc=51&wchp=dGLbVzb-zSkAt&_md5=eeae0c139818f7b3acae88f6aed6f150&focBudTerms=supreme%20court%20should%20w/30%20guantanamo%20and%20deference%20and%20date%3E2001&focBudSel=all#n292) Federal courts now have the opportunity to revisit the appropriate balance between precious civil liberties and measures properly taken in furtherance of national security during times of crisis. As the proper balance is recalibrated to fit the circumstances presented in the Guantanamo litigation, the courts can interrupt the "all too easy slide from a case of genuine military necessity ... to one where the threat is not critical and the power [sought to be exercised is] either dubious or nonexistent." [293](https://www.lexis.com/research/retrieve?_m=938acabc8d208f2c7d5fa60db492ee72&docnum=98&_fmtstr=FULL&_startdoc=51&wchp=dGLbVzb-zSkAt&_md5=eeae0c139818f7b3acae88f6aed6f150&focBudTerms=supreme%20court%20should%20w/30%20guantanamo%20and%20deference%20and%20date%3E2001&focBudSel=all#n293)If the Guantanamo litigation forces meaningful review of the prisoners' status, it will advance the rule of law and model a fundamental principle of international leadership. "If the UnitedStates represents values that others want to follow, it will cost us less to lead." [294](https://www.lexis.com/research/retrieve?_m=938acabc8d208f2c7d5fa60db492ee72&docnum=98&_fmtstr=FULL&_startdoc=51&wchp=dGLbVzb-zSkAt&_md5=eeae0c139818f7b3acae88f6aed6f150&focBudTerms=supreme%20court%20should%20w/30%20guantanamo%20and%20deference%20and%20date%3E2001&focBudSel=all#n294) There is, of course, no doubt that the United States has the military power to ignore the prisoners' liberty interests and continue to hold them indefinitely without charge. But the raw power to maintain the status quo provides no legal justification consistent with reason, fundamental human rights, and principles of limited government for doing so.

#### Only restoring confidence in their judiciary system can make our post-drawdown COIN strategy successful

ICG 10 (International Crisis Group, November 17, “REFORMING AFGHANISTAN’S BROKEN JUDICIARY”, http://www.crisisgroup.org/~/media/Files/asia/south-asia/afghanistan/195%20Reforming%20Afghanistans%20Broken%20Judiciary.ashx)

A substantial course correction is needed to restore the rule of law in Afghanistan. Protecting citizens from crime and abuses of the law is elemental to state legitimacy. Most Afghans do not enjoy such protections and their access to justice institutions is extremely limited. As a result, appeal to the harsh justice of the Taliban has become increasingly prevalent. In those rare instances when Afghans do appeal to the courts for redress, they find uneducated judges on the bench and underpaid prosecutors looking for bribes. Few judicial officials have obtained enough education and experience to efficiently execute their duties to uphold and enforce the law. Endemic problems with communications, transport, infrastructure and lack of electricity mean that it is likely that the Afghan justice system will remain dysfunctional for some time to come. Restoring public confidence in the judiciary is critical to a successful counter-insurgency strategy. The deep-seated corruption and high levels of dysfunction within justice institutions have driven a wedge between the government and the people. The insurgency is likely to widen further if Kabul does not move more swiftly to remove barriers to reform. The first order of business must be to develop a multi-year plan aimed at comprehensive training and education for every judge and prosecutor who enters the system. Pay-and-rank reform must be implemented in the attorney general’s office without further delay. Building human capacity is essential to changing the system. Protecting that capacity, and providing real security for judges, prosecutors and other judicial staff is crucial to sustaining the system as a whole. The international community and the Afghan government need to work together more closely to identify ways to strengthen justice institutions. A key part of any such effort will necessarily involve a comprehensive assessment of the current judicial infrastructure on a province-byprovince basis with a view to scrutinising everything from caseloads to personnel performance. This must be done regularly to ensure that programming and funding for judicial reform remains dynamic and responsive to real needs. More emphasis must be placed on public education about how the system works and where there are challenges. Transparency must be the rule of thumb for both the government and the international community when it comes to publishing information about judicial institutions. Little will change without more public dialogue about how to improve the justice system. The distortions created in the justice system by lack of due process and arbitrary detentions under both Afghan institutions and the U.S. military are highly problematic. Until there is a substantial change in U.S. policy that provides for the transparent application of justice and fair trials for detainees, the insurgency will always be able to challenge the validity of the international community’s claim that it is genuinely interested in the restoration of the rule of law. If the international community is serious about this claim, then more must be done to ensure that the transition from U.S. to Afghan control of detention facilities is smooth, transparent and adheres to international law.

#### Unsuccessful drawdown makes nuclear war inevitable

Cronin 13 (Audrey Kurth Cronin is Professor of Public Policy at George Mason University and author of How Terrorism Ends and Great Power Politics and the Struggle over Austria. Thinking Long on Afghanistan: Could it be Neutralized? Center for Strategic and International Studies The Washington Quarterly • 36:1 pp. 55\_72<http://dx.doi.org/10.1080/0163660X.2013.751650>)

With ISAF withdrawal inevitable, a sea change is already underway: the question is whether the United States will be ahead of the curve or behind it. Under current circumstances, key actions within Afghanistan by any one state are perceived to have a deleterious effect on the interests of other competing states, so the only feasible solution is to discourage all of them from interfering in a neutralized state. As the United States draws down over the next two years, yielding to regional anarchy would be irresponsible. Allowing neighbors to rely on bilateral measures, jockey for relative position, and pursue conflicting national interests without regard for dangerous regional dynamics will result in a repeat of the pattern that has played out in Afghanistan for the past thirty years\_/except this time the outcome could be not just terrorism but nuclear war.

#### Judicial reform and COIN are key to long term stability

The Nation 9 (Nov. 11, 2009, http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/International/11-Nov-2009/UN-body-urges-Karzai-to-fight-corruption)

UNITED NATIONS - The UN General Assembly has urged the government of re-elected Afghan President Hamid Karzai to press ahead with “strengthening of the rule of law and democratic processes, the fight against corruption (and) the acceleration of justice sector reform.” The 192-member assembly made that call Monday night by unanimously adopting a resolution that also declared that Afghanistan’s presidential election “credible” and “legitimate”, despite allegations of widespread fraud that led Karzai’s main challenger Abdullah Abdullah to pull out of the run-off round of the election. But the UN assembly raised no doubts about Karzai’s mandate or his right to continue leading the war-torn country. The resolution welcomed “the efforts of the relevant institutions to address irregularities identified by the electoral institutions in Afghanistan and to ensure a credible and legitimate process in accordance with the Afghan Election Law and in the framework of the Afghan Constitution.” It appealed to the international community to help Afghanistan in countering the challenges of the militants’ attacks that threaten its democratic process and and economic development. Before the assembly approved the resolution, 24 countries, including Pakistan, spoke in the debate on the deteriorating situation in Afghanistan in which they stressed the need for the Afghan Government and the global community to work closely together. Pakistan’s Acting Permanent Representative Amjad Hussain Sial said the core of violence and conflict in Afghanistan emanated from terrorist groups, foreign militants such as Al-Qaeda, and militant Taliban who were not prepared to reconcile and give up fighting. The nexus with drug traders was increasingly discernable. The key to long-term stability in Afghanistan, he said, was reformation of the country’s corrupt governmental systems. Equally important was building the civilian institutions at the central and subnational levels.

#### Instability results in Pakistan collapse, and nuclear war with China and Russia

Morgan 7 - Former member of the British Labour Party Executive Committee & a political psychologist, researcher into Chaos/Complexity Theory (Stephen John, "Better another Taliban Afghanistan, than a Taliban NUCLEAR Pakistan!?", <http://www.electricarticles.com/display.aspx?id=639>)

Although disliked and despised in many quarters, the Taliban could not advance without the support or acquiescence of parts of the population, especially in the south. In particular, the Taliban is drawing on backing from the Pashtun tribes from whom they originate. The southern and eastern areas have been totally out of government control since 2001. Moreover, not only have they not benefited at all from the Allied occupation, but it is increasingly clear that with a few small centres of exception, all of the country outside Kabul has seen little improvement in its circumstances. The conditions for unrest are ripe and the Taliban is filling the vacuum. The Break-Up of Afghanistan? However, the Taliban is unlikely to win much support outside of the powerful Pashtun tribes. Although they make up a majority of the nation, they are concentrated in the south and east. Among the other key minorities, such as Tajiks and Uzbeks, who control the north they have no chance of making new inroads. They will fight the Taliban and fight hard, but their loyalty to the NATO and US forces is tenuous to say the least. The Northern Alliance originally liberated Kabul from the Taliban without Allied ground support. The Northern Alliance are fierce fighters, veterans of the war of liberation against the Soviets and the Afghanistan civil war. Mobilized they count for a much stronger adversary than the NATO and US forces. It is possible that, while they won’t fight for the current government or coalition forces, they will certainly resist any new Taliban rule. They may decide to withdraw to their areas in the north and west of the country. This would leave the Allied forces with few social reserves, excepting a frightened and unstable urban population in Kabul, much like what happened to the Soviets. Squeezed by facing fierce fighting in Helmund and other provinces, and, at the same time, harried by a complementary tactic of Al Qaeda-style urban terrorism in Kabul, sooner or later, a “Saigon-style” evacuation of US and Allied forces could be on the cards. The net result could be the break-up and partition of Afghanistan into a northern and western area and a southern and eastern area, which would include the two key cities of Kandahar and, the capital Kabul. « Pastunistan?» The Taliban themselves, however may decide not to take on the Northern Alliance and fighting may concentrate on creating a border between the two areas, about which the two sides may reach an agreement regardless of US and Allied plans or preferences. The Taliban may claim the name Afghanistan or might opt for “Pashtunistan” – a long-standing, though intermittent demand of the Pashtuns, within Afghanistan and especially along the ungovernable border regions inside Pakistan. It could not be ruled out that the Taliban could be aiming to lead a break away of the Pakistani Pashtuns to form a 30 million strong greater Pashtun state, encompassing some 18 million Pakistani Pashtuns and 12 Afghan Pashtuns. Although the Pashtuns are more closely linked to tribal and clan loyalty, there exists a strong latent embryo of a Pashtun national consciousness and the idea of an independent Pashtunistan state has been raised regularly in the past with regard to the disputed territories common to Afghanistan and Pakistan. The area was cut in two by the “Durand Line”, a totally artificial border between created by British Imperialism in the 19th century. It has been a question bedevilling relations between the Afghanistan and Pakistan throughout their history, and with India before Partition. It has been an untreated, festering wound which has lead to sporadic wars and border clashes between the two countries and occasional upsurges in movements for Pashtun independence.¶ In fact, is this what lies behind the current policy of appeasement President Musharraf of Pakistan towards the Pashtun tribes in along the Frontiers and his armistice with North Waziristan last year? Is he attempting to avoid further alienating Pashtun tribes there and head–off a potential separatist movement in Pakistan, which could develop from the Taliban’s offensive across the border in Afghanistan? Trying to subdue the frontier lands has proven costly and unpopular for Musharraf. In effect, he faces exactly the same problems as the US and Allies in Afghanistan or Iraq. ¶ Indeed, fighting Pashtun tribes has cost him double the number of troops as the US has lost in Iraq. Evidently, he could not win and has settled instead for an attempted political solution. When he agreed the policy of appeasement and virtual self-rule for North Waziristan last year, President Musharraf stated clearly that he is acting first and foremost to protect the interests of Pakistan. While there was outrageous in Kabul, his deal with the Pashtuns is essentially an effort to firewall his country against civil war and disintegration. In his own words, what he fears most is, the « Talibanistation » of the whole Pashtun people, which he warns could inflame the already fierce fundamentalist and other separatist movement across his entire country. He does not want to open the door for any backdraft from the Afghan war to engulf Pakistan. Musharraf faces the nationalist struggle in Kashmir, an insurgency in Balochistan, unrest in the Sindh, and growing terrorist bombings in the main cities. There is also a large Shiite population and clashes between Sunnis and Shias are regular. Moreover, fundamentalist support in his own Armed Forces and Intelligence Services is extremely strong. So much so that analyst consider it likely that the Army and Secret Service is protecting, not only top Taliban leaders, but Bin Laden and the Al Qaeda central leadership thought to be entrenched in the same Pakistani borderlands. For the same reasons, he has not captured or killed Bin Laden and the Al Qaeda leadership. Returning from the frontier provinces with Bin Laden’s severed head would be a trophy that would cost him his own head in Pakistan. At best he takes the occasional risk of giving a nod and a wink to a US incursion, but even then at the peril of the chagrin of the people and his own military and secret service. The Break-Up of Pakistan? Musharraf probably hopes that by giving de facto autonomy to the Taliban and Pashtun leaders now with a virtual free hand for cross border operations into Afghanistan, he will undercut any future upsurge in support for a break-away independent Pashtunistan state or a “Peoples’ War” of the Pashtun populace as a whole, as he himself described it. ¶ However events may prove him sorely wrong. Indeed, his policy could completely backfire upon him. As the war intensifies, he has no guarantees that the current autonomy may yet burgeon into a separatist movement. Appetite comes with eating, as they say. Moreover, should the Taliban fail to re-conquer all of Afghanistan, as looks likely, but captures at least half of the country, then a Taliban Pashtun caliphate could be established which would act as a magnet to separatist Pashtuns in Pakistan. Then, the likely break up of Afghanistan along ethnic lines, could, indeed, lead the way to the break up of Pakistan, as well. Strong centrifugal forces have always bedevilled the stability and unity of Pakistan, and, in the context of the new world situation, the country could be faced with civil wars and popular fundamentalist uprisings, probably including a military-fundamentalist coup d’état. Fundamentalism is deeply rooted in Pakistan society. The fact that in the year following 9/11, the most popular name given to male children born that year was “Osama” (not a Pakistani name) is a small indication of the mood. Given the weakening base of the traditional, secular opposition parties, conditions would be ripe for a coup d’état by the fundamentalist wing of the Army and ISI, leaning on the radicalised masses to take power. Some form of radical, military Islamic regime, where legal powers would shift to Islamic courts and forms of shira law would be likely. Although, even then, this might not take place outside of a protracted crisis of upheaval and civil war conditions, mixing fundamentalist movements with nationalist uprisings and sectarian violence between the Sunni and minority Shia populations. The nightmare that is now Iraq would take on gothic proportions across the continent. The prophesy of an arc of civil war over Lebanon, Palestine and Iraq would spread to south Asia, stretching from Pakistan to Palestine, through Afghanistan into Iraq and up to the Mediterranean coast. Undoubtedly, this would also spill over into India both with regards to the Muslim community and Kashmir. Border clashes, terrorist attacks, sectarian pogroms and insurgency would break out. A new war, and possibly nuclear war, between Pakistan and India could not be ruled out. Atomic Al Qaeda Should Pakistan break down completely, a Taliban-style government with strong Al Qaeda influence is a real possibility. Such deep chaos would, of course, open a "Pandora's box" for the region and the world. With the possibility of unstable clerical and military fundamentalist elements being in control of the Pakistan nuclear arsenal, not only their use against India, but Israel becomes a possibility, as well as the acquisition of nuclear and other deadly weapons secrets by Al Qaeda. Invading Pakistan would not be an option for America. Therefore a nuclear war would now again become a real strategic possibility. This would bring a shift in the tectonic plates of global relations. It could usher in a new Cold War with China and Russia pitted against the US. What is at stake in "the half-forgotten war" in Afghanistan is far greater than that in Iraq. But America's capacities for controlling the situation are extremely restricted. Might it be, in the end, they are also forced to accept President Musharraf's unspoken slogan of «Better another Taliban Afghanistan, than a Taliban NUCLEAR Pakistan!¶

#### Pakistan collapse causes nuclear war- Indian miscalc is likely

Pitt, 9- a New York Times and internationally bestselling author of two books: "War on Iraq: What Team Bush Doesn't Want You to Know" and "The Greatest Sedition Is Silence." (5/8/09, William, “Unstable Pakistan Threatens the World,” http://www.arabamericannews.com/news/index.php?mod=article&cat=commentary&article=2183)

But a suicide bomber in Pakistan rammed a car packed with explosives into a jeep filled with troops today, killing five and wounding as many as 21, including several children who were waiting for a ride to school. Residents of the region where the attack took place are fleeing in terror as gunfire rings out around them, and government forces have been unable to quell the violence. Two regional government officials were beheaded by militants in retaliation for the killing of other militants by government forces. As familiar as this sounds, it did not take place where we have come to expect such terrible events. This, unfortunately, is a whole new ballgame. It is part of another conflict that is brewing, one which puts what is happening in Iraq and Afghanistan in deep shade, and which represents a grave and growing threat to us all. Pakistan is now trembling on the edge of violent chaos, and is doing so with nuclear weapons in its hip pocket, right in the middle of one of the most dangerous neighborhoods in the world. The situation in brief: Pakistan for years has been a nation in turmoil, run by a shaky government supported by a corrupted system, dominated by a blatantly criminal security service, and threatened by a large fundamentalist Islamic population with deep ties to the Taliban in Afghanistan. All this is piled atop an ongoing standoff with neighboring India that has been the center of political gravity in the region for more than half a century. The fact that Pakistan, and India, and Russia, and China all possess nuclear weapons and share the same space means any ongoing or escalating violence over there has the real potential to crack open the very gates of Hell itself. Recently, the Taliban made a military push into the northwest Pakistani region around the Swat Valley. According to a recent Reuters report: The (Pakistani) army deployed troops in Swat in October 2007 and use d artillery and gunship helicopters to reassert control. But insecurity mounted after a civilian government came to power last year and tried to reach a negotiated settlement. A peace accord fell apart in May 2008. After that, hundreds — including soldiers, militants and civilians — died in battles. Militants unleashed a reign of terror, killing and beheading politicians, singers, soldiers and opponents. They banned female education and destroyed nearly 200 girls' schools. About 1,200 people were killed since late 2007 and 250,000 to 500,000 fled, leaving the militants in virtual control. Pakistan offered on February 16 to introduce Islamic law in the Swat valley and neighboring areas in a bid to take the steam out of the insurgency. The militants announced an indefinite cease-fire after the army said it was halting operations in the region. President Asif Ali Zardari signed a regulation imposing sharia in the area last month. But the Taliban refused to give up their guns and pushed into Buner and another district adjacent to Swat, intent on spreading their rule. The United States, already embroiled in a war against Taliban forces in Afghanistan, must now face the possibility that Pakistan could collapse under the mounting threat of Taliban forces there. Military and diplomatic advisers to President Obama, uncertain how best to proceed, now face one of the great nightmare scenarios of our time. "Recent militant gains in Pakistan," reported The New York Times on Monday, "have so alarmed the White House that the national security adviser, Gen. James L. Jones, described the situation as 'one of the very most serious problems we face.'" "Security was deteriorating rapidly," reported The Washington Post on Monday, "particularly in the mountains along the Afghan border that harbor al-Qaeda and the Taliban, intelligence chiefs reported, and there were signs that those groups were working with indigenous extremists in Pakistan's populous Punjabi heartland. The Pakistani government was mired in political bickering. The army, still fixated on its historical adversary India, remained ill-equipped and unwilling to throw its full weight into the counterinsurgency fight. But despite the threat the intelligence conveyed, Obama has only limited options for dealing with it. Anti-American feeling in Pakistan is high, and a U.S. combat presence is prohibited. The United States is fighting Pakistan-based extremists by proxy, through an army over which it has little control, in alliance with a government in which it has little confidence." It is believed Pakistan is currently in possession of between 60 and 100 nuclear weapons. Because Pakistan's stability is threatened by the wide swath of its population that shares ethnic, cultural and religious connections to the fundamentalist Islamic populace of Afghanistan, fears over what could happen to those nuclear weapons if the Pakistani government collapses are very real. "As the insurgency of the Taliban and Al Qaeda spreads in Pakistan," reported the Times last week, "senior American officials say they are increasingly concerned about new vulnerabilities for Pakistan's nuclear arsenal, including the potential for militants to snatch a weapon in transport or to insert sympathizers into laboratories or fuel-production facilities. In public, the administration has only hinted at those concerns, repeating the formulation that the Bush administration used: that it has faith in the Pakistani Army. But that cooperation, according to officials who would not speak for attribution because of the sensitivity surrounding the exchanges between Washington and Islamabad, has been sharply limited when the subject has turned to the vulnerabilities in the Pakistani nuclear infrastructure." "The prospect of turmoil in Pakistan sends shivers up the spines of those U.S. officials charged with keeping tabs on foreign nuclear weapons," reported Time Magazine last month. "Pakistan is thought to possess about 100 — the U.S. isn't sure of the total, and may not know where all of them are. Still, if Pakistan collapses, the U.S. military is primed to enter the country and secure as many of those weapons as it can, according to U.S. officials. Pakistani officials insist their personnel safeguards are stringent, but a sleeper cell could cause big trouble, U.S. officials say." In other words, a shaky Pakistan spells trouble for everyone, especially if America loses the footrace to secure those weapons in the event of the worst-case scenario. If Pakistani militants ever succeed in toppling the government, several very dangerous events could happen at once. Nuclear-armed India could be galvanized into military action of some kind, as could nuclear-armed China or nuclear-armed Russia. If the Pakistani government does fall, and all those Pakistani nukes are not immediately accounted for and secured, the specter (or reality) of loose nukes falling into the hands of terrorist organizations could place the entire world on a collision course with unimaginable disaster. We have all been paying a great deal of attention to Iraq and Afghanistan, and rightly so. The developing situation in Pakistan, however, needs to be placed immediately on the front burner. The Obama administration appears to be gravely serious about addressing the situation. So should we all.

#### Even a limited regional war leads to extinction

Toon et al 7 – Atmospheric and Oceanic Sciences @ University of Colorado – ‘7 [Owen B. Toon, Alan Robock (Professor of Environmental Sciences @ Rutgers University), Richard P. Turco (Professor of Atmospheric and Oceanic Sciences @ UCLA, Charles Bardeen (Professor of Atmospheric and Oceanic Sciences @ University of Colorado), Luke Oman (Professor of of Earth and Planetary Sciences @ Johns Hopkins University), Georgiy L. Stenchikov (Professor of Environmental Sciences @ Rutgers University), “NUCLEAR WAR: Consequences of Regional-Scale Nuclear Conflicts,” Science, 2 March 2007, Vol. 315. no. 5816, pp. 1224 – 1225]

The world may no longer face a serious threat of global nuclear warfare, but regional conflicts continue. Within this milieu, acquiring nuclear weapons has been considered a potent political, military, and social tool (1-3). National ownership of nuclear weapons offers perceived international status and insurance against aggression at a modest financial cost. Against this backdrop, we provide a quantitative assessment of the potential for casualties in a regional-scale nuclear conflict, or a terrorist attack, and the associated environmental impacts (4, 5). Eight nations are known to have nuclear weapons. In addition, North Korea may have a small, but growing, arsenal. Iran appears to be seeking nuclear weapons capability, but it probably needs several years to obtain enough fissionable material. Of great concern, 32 other nations--including Brazil, Argentina, Japan, South Korea, and Taiwan--have sufficient fissionable materials to produce weapons (1, 6). A de facto nuclear arms race has emerged in Asia between China, India, and Pakistan, which could expand to include North Korea, South Korea, Taiwan, and Japan (1). In the Middle East, a nuclear confrontation between Israel and Iran would be fearful. Saudi Arabia and Egypt could also seek nuclear weapons to balance Iran and Israel. Nuclear arms programs in South America, notably in Brazil and Argentina, were ended by several treaties in the 1990s (6). We can hope that these agreements will hold and will serve as a model for other regions, despite Brazil's new, large uranium enrichment facilities. Nuclear arsenals containing 50 or more weapons of low yield [15 kilotons (kt), equivalent to the Hiroshima bomb] are relatively easy to build (1, 6). India and Pakistan, the smallest nuclear powers, probably have such arsenals, although no nuclear state has ever disclosed its inventory of warheads (7). Modern weapons are compact and lightweight and are readily transported (by car, truck, missile, plane, or boat) (8). The basic concepts of weapons design can be found on of the Internet. The only serious obstacle to constructing a bomb is the limited availability of purified fissionable fuels.There are many political, economic, and social factors that could trigger a regional-scale nuclear conflict, plus many scenarios for the conduct of the ensuing war. We assumed (4) that the densest population centers in each country--usually in megacities--are attacked. We did not evaluate specific military targets and related casualties. We considered a nuclear exchange involving 100 weapons of 15-kt yield each, that is, ~0.3% of the total number of existing weapons (4). India and Pakistan, for instance, have previously tested nuclear weapons and are now thought to have between 109 and 172 weapons of unknown yield (9). Fatalities were estimated by means of a standard population database for a number of countries that might be targeted in a regional conflict (see figure, above). For instance, such an exchange between India and Pakistan (10) could produce about 21 million fatalities--about half as many as occurred globally during World War II. The direct effects of thermal radiation and nuclear blasts, as well as gamma-ray and neutron radiation within the first few minutes of the blast, would cause most casualties. Extensive damage to infrastructure, contamination by long-lived radionuclides, and psychological trauma would likely result in the indefinite abandonment of large areas leading to severe economic and social repercussions. Fires ignited by nuclear bursts would release copious amounts of light-absorbing smoke into the upper atmosphere. If 100 small nuclear weapons were detonated within cities, they could generate 1 to 5 million tons of carbonaceous smoke particles (4), darkening the sky and affecting the atmosphere more than major volcanic eruptions like Mt. Pinatubo (1991) or Tambora (1815) (5). Carbonaceous smoke particles are transported by winds throughout the atmosphere but also induce circulations in response to solar heating. Simulations (5) predict that such radiative-dynamical interactions would loft and stabilize the smoke aerosol, which would allow it to persist in the middle and upper atmosphere for a decade. Smoke emissions of 100 low-yield urban explosions in a regional nuclear conflict would generate substantial global-scale climate anomalies, although not as large as in previous "nuclear winter" scenarios for a full-scale war (11, 12). However, indirect effects on surface land temperatures, precipitation rates, and growing season lengths (see figure, below) would be likely to degrade agricultural productivity to an extent that historically has led to famines in Africa, India, and Japan after the 1783-1784 Laki eruption (13) or in the northeastern United States and Europe after the Tambora eruption of 1815 (5). Climatic anomalies could persist for a decade or more because of smoke stabilization, far longer than in previous nuclear winter calculations or after volcanic eruptions. Studies of the consequences of full-scale nuclear war show that indirect effects of the war could cause more casualties than direct ones, perhaps eliminating the majority of the world's population (11, 12). Indirect effects such as damage to transportation, energy, medical, political, and social infrastructure could be limited to the combatant nations in a regional war. However, climate anomalies would threaten the world outside the combat zone. The predicted smoke emissions and fatalities per kiloton of explosive yield are roughly 100 times those expected from estimates for full-scale nuclear attacks with high-yield weapons (4).

#### China war causes extinction- even with a swift victory

Wittner 11 (11/30/11 Dr. Lawrence, Prof of History Emeritus at SUNY Albany, “Is a Nuclear War with China Possible?”)

But what would that "victory" entail? An attack with these Chinese nuclear weapons would immediately slaughter at least 10 million Americans in a great storm of blast and fire, while leaving many more dying horribly of sickness and radiation poisoning. The Chinese death toll in a nuclear war would be far higher. Both nations would be reduced to smoldering, radioactive wastelands. Also, radioactive debris sent aloft by the nuclear explosions would blot out the sun and bring on a "nuclear winter" around the globe -- destroying agriculture, creating worldwide famine, and generating chaos and destruction. Moreover, in another decade the extent of this catastrophe would be far worse. The Chinese government is currently expanding its nuclear arsenal, and by the year 2020 it is [expected](http://www.nukestrat.com/china/Book-35-125.pdf) to more than double its number of nuclear weapons that can hit the United States. The U.S. government, in turn, has [plans](http://www.guardian.co.uk/world/2011/oct/30/nuclear-powers-weapons-spending-report) to spend hundreds of billions of dollars "modernizing" its nuclear weapons and nuclear production facilities over the next decade.

#### Risk of accidental exchange between the US and Russia over external crises is still high and risks extinction

**Barrett et al. 13** (Anthony M. Barrett- Global Catastrophic Risk Institute, Seth D. Baum- Center for Research on Environmental Decisions, Columbia University, Kelly R. Hostetler- Department of Geography, Pennsylvania State University, 2013, “Analyzing and Reducing the Risks of Inadvertent Nuclear War Between the United States and Russia”, http://sethbaum.com/ac/fc\_NuclearWar.pdf)

War involving significant fractions of the U.S. and Russian nuclear arsenals, which are by far the largest of any nations, could have globally catastrophic effects such as severely reducing food production for years, 1,2,3,4,5,6 potentially leading to collapse of modern civilization worldwide and even the extinction of humanity. 7,8,9,10 Nuclear war between the US and Russia could occur by various routes, including accidental or unauthorized launch; deliberate first attack by one nation; and inadvertent attack. In an accidental or unauthorized launch or detonation, system safeguards or procedures to maintain control over nuclear weapons fail in such a way that a nuclear weapon or missile launches or explodes without direction from leaders. In a deliberate first attack, the attacking nation decides to attack based on accurate information about the state of affairs. In an inadvertent attack, the attacking nation mistakenly concludes that it is under attack and launches nuclear weapons in what it believes is a counterattack. 11,12 (Brinkmanship strategies incorporate elements of all of the above, in that they involve deliberate manipulation of the risk of otherwise unauthorized or inadvertent attack as part of coercive threats that “leave something to chance,” i.e., “taking steps that raise the risk that the crisis will go out of control and end in a general nuclear exchange.” 13,14 ) Over the years, nuclear strategy was aimed primarily at minimizing risks of intentional attack through development of deterrence capabilities, though numerous measures were also taken to reduce probabilities of accidents, unauthorized attack, and inadvertent war. 15,16,17 For purposes of deterrence, both U.S. and Soviet/Russian forces have maintained significant capabilities to have some forces survive a first attack by the other side and to launch a subsequent counter-attack. However, concerns about the extreme disruptions that a first attack would cause in the other side’s forces and command-and-control capabilities led to both sides’development of capabilities to detect a first attack and launch a counter-attack before suffering damage from the first attack. 18,19,20 Many people believe that with the end of the Cold War and with improved relations between the United States and Russia, the risk of East-West nuclear war was significantly reduced. 21,22 However, it has also been argued that inadvertent nuclear war between the United States and Russia has continued to present a substantial risk. 23,24,25,26,27,28,29,30,31,32,33 While the United States and Russia are not actively threatening each other with war, they have remained ready to launch nuclear missiles in response to indications of attack. 34,35,36,37,38 False indicators of nuclear attack could be caused in several ways. First, a wide range of events have already been mistakenly interpreted as indicators of attack, including weather phenomena, a faulty computer chip, wild animal activity, and control-room training tapes loaded at the wrong time. 39 Second, terrorist groups or other actors might cause attacks on either the United States or Russia that resemble some kind of nuclear attack by the other nation by actions such as exploding a stolen or improvised nuclear bomb, 40,41,42 especially if such an event occurs during a crisis between the United States and Russia. 43 A variety of nuclear terrorism scenarios are possible. 44 Al Qaeda has sought to obtain or construct nuclear weapons and to use them against the United States. 45,46,47 Other methods could involve attempts to circumvent nuclear weapon launch control safeguards or exploit holes in their security. 48,49 It has long been argued that the probability of inadvertent nuclear war is significantly higher during U.S.-Russian crisis conditions, 50,51,52,53 with the Cuban Missile Crisis being a prime historical example of such a crisis. 54,55,56,57,58 It is possible that U.S.-Russian relations will significantly deteriorate in the future, increasing nuclear tensions. 59 There are a variety of ways for a third party to raise tensions between the United States and Russia, making one or both nations more likely to misinterpret events as attacks. 60,61,62,63

### Contention 2- Geneva Credibility

#### US human rights promotion inevitable- but the double standard created by Guantanamo prevents that promotion from being credible

Hidayat 8/21 (Syarif- editor of the Mi’raj News Agency, 2013, “GITMO PRISON SHOWS THE US HYPOCRISY AND DOUBLE STANDARDS ON HUMAN RIGHTS”, http://mirajnews.com/en/article/opinion/7121-gitmo-prison-shows-the-us-hypocrisy-and-double-standards-on-human-rights.html)

The double standards of the renowned world preacher of human rights and the hypocrisy of US imperialism’s pretense of promoting human rights on the world arena is demonstrated in Washington’s decision to maintain Guantanamo prison and torture camps. President Barack Obama had decided to give $50 million to keep Guantanamo open indefinitely in a gross violation of his election promise. President Obama promised to close Guantanamo as part of his election campaign in 2008. Islamic community leaders in the UK and the US urge Obama to stop force-feeding Gitmo detainees during Ramadan.¶ “Anywhere that human rights are under threat, the United States will proudly stand up, unabashedly, and continue to promote greater freedom, greater openness, and greater opportunity for all people. And that means speaking up when those rights are imperiled. It means providing support and training to those who are risking their lives every day so that their children can enjoy more freedom. It means engaging governments at the highest levels and pushing them to live up to their obligations to do right by their people.” - Secretary of State John Kerry, April 2013.¶ Every year, the U.S. State Department releases a report on the status of human rights in countries around the world. Every year, one country is notably missing from this report — the United States.¶ “Our world is complex and increasingly influenced by non-state actors – brave civil society activists and advocates, but also violent extremists, transnational criminals, and other malevolent actors. In those places where human rights and fundamental freedoms are denied, it is far easier for these negative destabilizing influences to take hold, threatening international stability and our own national security.”¶ “It is in our interest to promote the universal rights of all persons. Governments that respect human rights are more peaceful and more prosperous. They are better neighbors, stronger allies, and better economic partners. Governments that enforce safe workplaces, prohibit exploitative child and forced labor, and educate their citizens create a more level playing field and broader customer base for the global marketplace. Conversely, governments that threaten regional and global peace, from Iran to North Korea, are also egregious human rights abusers, with citizens trapped in the grip of domestic repression, economic deprivation, and international isolation.” ¶ “The United States stands with people and governments that aspire to freedom and democracy, mindful from our own experience that the work of building a more perfect union – a sustainable and durable democracy – will never be complete. As part of this commitment, we advocate around the world for governments to adopt policies and practices that respect human rights regardless of ethnicity, religion, gender, race, sexual orientation, or disability; that allow for and honor the results of free and fair elections; that ensure safe and healthy workplaces; and that respect peaceful protests and other forms of dissent. The United States continues to speak out unequivocally on behalf of the fundamental dignity and equality of all persons.” - Secretary of State John F. Kerry's Preface on the Department of State’s Country Reports on Human Rights Practices for 2012.¶ The international organization Human Rights Watch has said that the US is “hypocritical” when it criticizes other countries for violating human rights, because the situation in the US itself is far from perfect. Deputy Director of the Europe and Central Asia Division of Human Rights Watch Rachel Denber criticized Obama’s administration for not investigating into cases of torture in prisons under Bush the junior and in Guantanamo prison. America’s human rights hypocrisy: The human rights record of the United States was put under an international microscope, as the UN Human Rights Council issued 228 recommendations on how Washington can address violations. America has long been the self appointed global leader on human rights, pointing out the shortcomings of others. But now the tables have turned. According to the United Nations Human Rights Council, incidents of injustice are taking place on US soil.¶ The point was made in Geneva, Switzerland at the Human Rights Council’s first comprehensive review of Washington’s record. The council released a Universal Periodic Review Tuesday, listing 228 recommendations on how the US can do better. “Close Guantanamo and secret detention centers throughout the world, punish those people who torture, disappear and execute detainees arbitrarily,” said Venezuelan delegate German Mundarain Hernan. The US has dismissed many recommendations calling them political provocations by hostile countries.¶ Yet even America’s allies are highlighting grave flaws. France and Ireland are demanding Obama follow through on the promise to close Guantanamo Bay. Britain, Belgium and dozens of others have called on the US to abolish the death penalty. For many, it’s the ultimate hypocrisy. How can a state with roughly 3,000 people on death row lecture the world about humanity? Many say the prime example is Mumia abu Jamal, viewed by some as America’s very own political prisoner.¶ “The United States, the perpetrator of gross human right violations is using human rights as a political football against its enemies. Its enemies are not enemies because they violate human rights necessarily, but because the US wants to change the government in their country,” said Brian Becker, Director of A.N.S.W.E.R Coalition in Washington, DC. The country often criticizing adversaries like Syria, Iran and North Korea for oppressing its citizens, is now faced with defending domestic practices like indefinite detention, poor prison conditions, and racial profiling.¶

#### Applying the conventions to detention policy is key to human rights credibility

Gruber 11 (Aya- Professor of Law, University of Colorado Law School, 1/1, “An Unintended Casualty of the War on Terror”, http://scholarworks.gsu.edu/gsulr/vol27/iss2/12/)

As President Obama inches ever closer to embracing the “twilight zone” model of terrorism law, it would be wise to keep in mind the reputational harm the Bush administration’s war on terror caused the United States. One human rights advocate warned the Obama administration, “The results of the cases [tried in military commissions] will be suspect around the world. It is a tragic mistake to continue them.”200 More than just a source of embarrassment, there are real consequences to America’s sullied international reputation. Our experiments with “alternative” military justice not only affect our high court’s world influence, they operatively prevent the United States from assuming a leadership role in defining and defending international human rights. For example, in 2007, the Chinese government responded to the U.S. State Department’s annual human rights report by stating that America had no standing to comment on others’ human rights violations given its conduct of the war on terror. Specifically, the Chinese characterized the United States as “pointing the finger” at other nations while ignoring its “flagrant record of violating the Geneva Convention.”201 Supreme Court validation of treaty law would no doubt help repair the international reputation of the United States.202 The lesson here is about fear and missed opportunity. Guantánamo stands as a stark reminder of the great importance of international humanitarian law during times of crisis. The Geneva Conventions were the very barrier between terrorism detainees and a government regime singularly committed to national security through any means possible. Unfortunately, when international law mattered most, even the liberal Supreme Court justices avoided cementing its legal status. By contrast, Medellín, a convicted murderer, was apparently afforded the full panoply of constitutional protections, and in all likelihood, his inability to confer with consular officials did not prejudice his case. Much less was at stake, and those on the Supreme Court critical of humanitarian law impediments to waging the war on terror could fashion anti-internationalist rules with little public fanfare or liberal resistance. Consequently, although Hamdan will likely go down in history as evidence of the Court’s willingness to protect individual rights in the face of massive public fear and executive pressure, it also represents a failure to truly support the comprehensive international regime governing war-time detention, a regime in which the United States long ago vowed to participate. But all may not be lost. The Supreme Court might have another chance to rule on the status of the Geneva Conventions, and Medellín leaves some wiggle room on self-execution. If the Supreme Court is once again to be a beacon of judicial light, it must move beyond the xenophobic exceptionalism of the Bricker past and embrace the straightforward and fair principle that signed and ratified treaties are the law of the land.

#### Solves conflict

Burke-White 4 (William W., Lecturer in Public and International Affairs and Senior Special Assistant to the Dean, Woodrow Wilson School of Public and International Affairs, Princeton University The Harvard Environmental Law Review Spring, 2004 LN,[https://www.law.upenn.edu/cf/faculty/wburkewh/workingpapers/17HarvHumRtsJ249(2004).pdf](https://www.law.upenn.edu/cf/faculty/wburkewh/workingpapers/17HarvHumRtsJ249%282004%29.pdf))

This Article presents a strategic--as opposed to ideological or normative--argument that the promotion of human rights should be given a more prominent place in U.S. foreign policy. It does so by suggesting a correlation between the domestic human rights practices of states and their propensity to engage in aggressive international conduct. Among the chief threats to U.S. national security are acts of aggression by other states. Aggressive acts of war may directly endanger the United States, as did the Japanese bombing of Pearl Harbor in 1941, or they may require U.S. military action overseas, as in Kuwait fifty years later. Evidence from the post-Cold War period [\*250] indicates that states that systematically abuse their own citizens' human rights are also those most likely to engage in aggression. To the degree that improvements in various states' human rights records decrease the likelihood of aggressive war, a foreign policy informed by human rights can significantly enhance U.S. and global security.¶ Since 1990, a state's domestic human rights policy appears to be a telling indicator of that state's propensity to engage in international aggression. A central element of U.S. foreign policy has long been the preservation of peace and the prevention of such acts of aggression. n2 If the correlation discussed herein is accurate, it provides U.S. policymakers with a powerful new tool to enhance national security through the promotion of human rights. A strategic linkage between national security and human rights would result in a number of important policy modifications. First, it changes the prioritization of those countries U.S. policymakers have identified as presenting the greatest concern. Second, it alters some of the policy prescriptions for such states. Third, it offers states a means of signaling benign international intent through the improvement of their domestic human rights records. Fourth, it provides a way for a current government to prevent future governments from aggressive international behavior through the institutionalization of human rights protections. Fifth, it addresses the particular threat of human rights abusing states obtaining weapons of mass destruction (WMD). Finally, it offers a mechanism for U.S.-U.N. cooperation on human rights issues.

#### Credibility on detention policy is key to intel cooperation necessary to solve terror and environmental degradation

Wexler 8 (Lesley, Assistant Professor, Florida State University College of Law, “HUMAN RIGHTS IMPACT STATEMENTS: AN IMMIGRATION CASE STUDY,” 22 Geo. Immigr. L.J. 285, Lexis)

Enhancing our reputation for human rights compliance is especially important given current political realities. Many countries hold a declining opinion of the United States.53 The international community would welcome America’s affirmation of the continuing importance of human rights in the wake of many post-September 11th actions such as torture, extraordinary rendition, increased domestic surveillance, and harsher and more frequent detention of immigrants. Moreover, the international community would benefit from the assurance that the concept of “human rights” means more than a justification for regime change.54 American exceptionalism to human rights law angers our allies and complicates efforts to secure their cooperation.55 Not surprisingly, many countries view the United States’ silence about its own human rights failings as hypocritical.56 In particular, the international community strongly criticizes the State Department’s annual human rights reports for omitting an assessment of domestic performance as well as omitting “actions by governments taken at the request of the United States or with the expressed support of the United States . . . .”57 Human rights advocates suggest that U.S. leadership on human rights faces a severe credibility gap - for instance, other countries perceive the United States as a laggard on human rights treaty compliance in regards to migrants58 - but that repudiation of past abuses and momentum for policy changes could restore its leadership.59¶ As many have suggested, good international relations are vital to winning the War on Terror.60 Moreover, international cooperation is essential to address immigration related issues such as human trafficking. A visible commitment to migrants’ human rights might bolster the United States’ credibility when it seeks better treatment for the approximately 2 million American émigrés.61 Other international problems, such as climate change and related environmental issues, also require cooperation and leadership. An increased willingness to participate in global human rights discourse and demonstrate adherence to human rights treaties might enhance our ability to lead and participate in other arenas.

#### Terrorism leads to extinction

Hellman, 08 [Martin E. Hellman, emeritus prof of engineering @ Stanford, “Risk Analysis of Nuclear Deterrence” SPRING 2008 THE BENT OF TAU BETA PI, http://www.nuclearrisk.org/paper.pdf]

The threat of nuclear terrorism looms much larger in the public’s mind than the threat of a full-scale nuclear war, yet this article focuses primarily on the latter. An explanation is therefore in order before proceeding. A terrorist attack involving a nuclear weapon would be a catastrophe of immense proportions: “A 10-kiloton bomb detonated at Grand Central Station on a typical work day would likely kill some half a million people, and inflict over a trillion dollars in direct economic damage. America and its way of life would be changed forever.” [Bunn 2003, pages viii-ix]. The likelihood of such an attack is also significant. Former Secretary of Defense William Perry has estimated the chance of a nuclear terrorist incident within the next decade to be roughly 50 percent [Bunn 2007, page 15]. David Albright, a former weapons inspector in Iraq, estimates those odds at less than one percent, but notes, “We would never accept a situation where the chance of a major nuclear accident like Chernobyl would be anywhere near 1% .... A nuclear terrorism attack is a low-probability event, but we can’t live in a world where it’s anything but extremely low-probability.” [Hegland 2005]. In a survey of 85 national security experts, Senator Richard Lugar found a median estimate of 20 percent for the “probability of an attack involving a nuclear explosion occurring somewhere in the world in the next 10 years,” with 79 percent of the respondents believing “it more likely to be carried out by terrorists” than by a government [Lugar 2005, pp. 14-15]. I support increased efforts to reduce the threat of nuclear terrorism, but that is not inconsistent with the approach of this article. Because terrorism is one of the potential trigger mechanisms for a full-scale nuclear war, the risk analyses proposed herein will include estimating the risk of nuclear terrorism as one component of the overall risk. If that risk, the overall risk, or both are found to be unacceptable, then the proposed remedies would be directed to reduce which- ever risk(s) warrant attention. Similar remarks apply to a number of other threats (e.g., nuclear war between the U.S. and China over Taiwan). his article would be incomplete if it only dealt with the threat of nuclear terrorism and neglected the threat of full- scale nuclear war. If both risks are unacceptable, an effort to reduce only the terrorist component would leave humanity in great peril. In fact, society’s almost total neglect of the threat of full-scale nuclear war makes studying that risk all the more important. The cosT of World War iii The danger associated with nuclear deterrence depends on both the cost of a failure and the failure rate.3 This section explores the cost of a failure of nuclear deterrence, and the next section is concerned with the failure rate. While other definitions are possible, this article defines a failure of deterrence to mean a full-scale exchange of all nuclear weapons available to the U.S. and Russia, an event that will be termed World War III. Approximately 20 million people died as a result of the first World War. World War II’s fatalities were double or triple that number—chaos prevented a more precise deter- mination. In both cases humanity recovered, and the world today bears few scars that attest to the horror of those two wars. Many people therefore implicitly believe that a third World War would be horrible but survivable, an extrapola- tion of the effects of the first two global wars. In that view, World War III, while horrible, is something that humanity may just have to face and from which it will then have to recover. In contrast, some of those most qualified to assess the situation hold a very different view. In a 1961 speech to a joint session of the Philippine Con- gress, General Douglas MacArthur, stated, “Global war has become a Frankenstein to destroy both sides. … If you lose, you are annihilated. If you win, you stand only to lose. No longer does it possess even the chance of the winner of a duel. It contains now only the germs of double suicide.” Former Secretary of Defense Robert McNamara ex- pressed a similar view: “If deterrence fails and conflict develops, the present U.S. and NATO strategy carries with it a high risk that Western civilization will be destroyed” [McNamara 1986, page 6]. More recently, George Shultz, William Perry, Henry Kissinger, and Sam Nunn4 echoed those concerns when they quoted President Reagan’s belief that nuclear weapons were “totally irrational, totally inhu- mane, good for nothing but killing, possibly destructive of life on earth and civilization.” [Shultz 2007] Official studies, while couched in less emotional terms, still convey the horrendous toll that World War III would exact: “The resulting deaths would be far beyond any precedent. Executive branch calculations show a range of U.S. deaths from 35 to 77 percent (i.e., 79-160 million dead) … a change in targeting could kill somewhere between 20 million and 30 million additional people on each side .... These calculations reflect only deaths during the first 30 days. Additional millions would be injured, and many would eventually die from lack of adequate medical care … millions of people might starve or freeze during the follow- ing winter, but it is not possible to estimate how many. … further millions … might eventually die of latent radiation effects.” [OTA 1979, page 8] This OTA report also noted the possibility of serious ecological damage [OTA 1979, page 9], a concern that as- sumed a new potentiality when the TTAPS report [TTAPS 1983] proposed that the ash and dust from so many nearly simultaneous nuclear explosions and their resultant fire- storms could usher in a nuclear winter that might erase homo sapiens from the face of the earth, much as many scientists now believe the K-T Extinction that wiped out the dinosaurs resulted from an impact winter caused by ash and dust from a large asteroid or comet striking Earth. The TTAPS report produced a heated debate, and there is still no scientific consensus on whether a nuclear winter would follow a full-scale nuclear war. Recent work [Robock 2007, Toon 2007] suggests that even a limited nuclear exchange or one between newer nuclear-weapon states, such as India and Pakistan, could have devastating long-lasting climatic consequences due to the large volumes of smoke that would be generated by fires in modern megacities. While it is uncertain how destructive World War III would be, prudence dictates that we apply the same engi- neering conservatism that saved the Golden Gate Bridge from collapsing on its 50th anniversary and assume that preventing World War III is a necessity—not an option

#### Environmental degradation risks extinction

Coyne and Hoekstra 7 (Jerry and Hopi, \*professor in the Department of Ecology and Evolution at the University of Chicago AND Associate Professor in the Department of Organismic and Evolutionary Biology at Harvard University, New Republic, “The Greatest Dying,” 9/24, http://www.truthout.org/article/jerry-coyne-and-hopi-e-hoekstra-the-greatest-dying)

But it isn't just the destruction of the rainforests that should trouble us. Healthy ecosystems the world over provide hidden services like waste disposal, nutrient cycling, soil formation, water purification, and oxygen production. Such services are best rendered by ecosystems that are diverse. Yet, through both intention and accident, humans have introduced exotic species that turn biodiversity into monoculture. Fast-growing zebra mussels, for example, have outcompeted more than 15 species of native mussels in North America's Great Lakes and have damaged harbors and water-treatment plants. Native prairies are becoming dominated by single species (often genetically homogenous) of corn or wheat. Thanks to these developments, soils will erode and become unproductive - which, along with temperature change, will diminish agricultural yields. Meanwhile, with increased pollution and runoff, as well as reduced forest cover, ecosystems will no longer be able to purify water; and a shortage of clean water spells disaster. In many ways, oceans are the most vulnerable areas of all. As overfishing eliminates major predators, while polluted and warming waters kill off phytoplankton, the intricate aquatic food web could collapse from both sides. Fish, on which so many humans depend, will be a fond memory. As phytoplankton vanish, so does the ability of the oceans to absorb carbon dioxide and produce oxygen. (Half of the oxygen we breathe is made by phytoplankton, with the rest coming from land plants.) Species extinction is also imperiling coral reefs - a major problem since these reefs have far more than recreational value: They provide tremendous amounts of food for human populations and buffer coastlines against erosion. In fact, the global value of "hidden" services provided by ecosystems - those services, like waste disposal, that aren't bought and sold in the marketplace - has been estimated to be as much as $50 trillion per year, roughly equal to the gross domestic product of all countries combined. And that doesn't include tangible goods like fish and timber. Life as we know it would be impossible if ecosystems collapsed. Yet that is where we're heading if species extinction continues at its current pace. Extinction also has a huge impact on medicine. Who really cares if, say, a worm in the remote swamps of French Guiana goes extinct? Well, those who suffer from cardiovascular disease. The recent discovery of a rare South American leech has led to the isolation of a powerful enzyme that, unlike other anticoagulants, not only prevents blood from clotting but also dissolves existing clots. And it's not just this one species of worm: Its wriggly relatives have evolved other biomedically valuable proteins, including antistatin (a potential anticancer agent), decorsin and ornatin (platelet aggregation inhibitors), and hirudin (another anticoagulant). Plants, too, are pharmaceutical gold mines. The bark of trees, for example, has given us quinine (the first cure for malaria), taxol (a drug highly effective against ovarian and breast cancer), and aspirin. More than a quarter of the medicines on our pharmacy shelves were originally derived from plants. The sap of the Madagascar periwinkle contains more than 70 useful alkaloids, including vincristine, a powerful anticancer drug that saved the life of one of our friends. Of the roughly 250,000 plant species on Earth, fewer than 5 percent have been screened for pharmaceutical properties. Who knows what life-saving drugs remain to be discovered? Given current extinction rates, it's estimated that we're losing one valuable drug every two years. Our arguments so far have tacitly assumed that species are worth saving only in proportion to their economic value and their effects on our quality of life, an attitude that is strongly ingrained, especially in Americans. That is why conservationists always base their case on an economic calculus. But we biologists know in our hearts that there are deeper and equally compelling reasons to worry about the loss of biodiversity: namely, simple morality and intellectual values that transcend pecuniary interests. What, for example, gives us the right to destroy other creatures? And what could be more thrilling than looking around us, seeing that we are surrounded by our evolutionary cousins, and realizing that we all got here by the same simple process of natural selection? To biologists, and potentially everyone else, apprehending the genetic kinship and common origin of all species is a spiritual experience - not necessarily religious, but spiritual nonetheless, for it stirs the soul. But, whether or not one is moved by such concerns, it is certain that our future is bleak if we do nothing to stem this sixth extinction. We are creating a world in which exotic diseases flourish but natural medicinal cures are lost; a world in which carbon waste accumulates while food sources dwindle; a world of sweltering heat, failing crops, and impure water. In the end, we must accept the possibility that we ourselves are not immune to extinction. Or, if we survive, perhaps only a few of us will remain, scratching out a grubby existence on a devastated planet. Global warming will seem like a secondary problem when humanity finally faces the consequences of what we have done to nature: not just another Great Dying, but perhaps the greatest dying of them all.

### Plan

#### Plan: The United States federal judiciary should restrict the authority of the President of the United States to indefinitely detain without the Third Geneva Conventions Article Five rights.

### Contention 3- Solvency

#### Application of the conventions solves credibility, roadblocks and circumvention

Feldman 13 (Noah, professor of Constitutional and International Law at Harvard, “Obama Can Close Guantanamo: Here’s How,” Bloomberg, May 7, 2013, http://www.bloomberg.com/news/2013-05-07/obama-has-leverage-to-get-his-way-on-guantanamo.html)

To deepen the argument beyond executive power, the president is also in charge of foreign affairs. Keeping the detainees at Guantanamo is very costly to international relations, since most nations see the prison there as a reminder of the era of waterboarding and abuses at the Abu Ghraib prison in Iraq. Surely the president should be able to salvage the U.S.’s reputation without being held hostage by Congress?¶ The answer from Congress would have several elements. First, Congress has the power to enact a law defining who can come into the U.S., and the American public doesn’t want the detainees in the country either for trial or in a new Supermax facility. Second, Congress has the power to declare war and could conceivably assert that this should include the right to tell the president how to treat prisoners. Then there’s the power of the purse: Congress could make things difficult by declining to authorize funds for a sui table new stateside detention facility.¶ Faced with a standoff between two branches, the system allows an orderly answer: turning to the third branch, the courts, to resolve the conflict. Since 2003, the Supreme Court has taken an interest in Guantanamo, deciding on the statutory and constitutional rights extended there, and vetting procedures for detainee hearings and trials. Along the way, it has shown an equal-opportunity willingness to second-guess the executive -- as when President George W. Bush denied hearings to detainees -- and Congress, which passed a law denying habeas corpus to the prisoners.¶ How could the court get involved? The first step would be for the Obama administration to show some of the legal self-confidence it did in justifying drone strikes against U.S. citizens or in ignoring the War Powers Resolution in the Libya military intervention. Likewise, it could assert a right of control over where the detainees should be held. And if the president’s lawyers are worried about Bush-style assertions of plenary executive power (which, for the record, didn’t concern them when it came to drones or Libya), there is a path they could follow that would hew closer to their favored constitutional style.¶ Geneva Conventions¶ The reasoning could look like this: The president’s war power must be exercised pursuant to the laws of war embodied in the Geneva Conventions. And though Guantanamo once conformed to those laws -- as the administration asserted in 2009 -- it no longer does. The conditions are too makeshift to manage the continuing prisoner resistance, and indefinite detention in an indefinite war with no enemy capable of surrendering is pressing on the bounds of lawful POW detention.¶ Congress doesn’t have the authority to force the president to violate the laws of war. Yet by blocking Obama from closing Guantanamo, that is just what Congress is doing. What’s more, he has the inherent authority to ensure that we are complying with our treaty obligations.

#### No executive circumvention

Bradley and Morrison 13 (Curtis, Professor of Law, Duke Law School, and Trevor, Professor of Law, Columbia Law School , “Presidential Power, Historical Practice, And

Legal Constraint” Duke Law Scholarship Repository) http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5451&context=faculty\_scholarship

Insisting on a sharp distinction between the law governing presidential authority that is subject to judicial review and the law that is not also takes for granted a phenomenon that merits attention—that Presidents follow judicial decisions.118 That assumption is generally accurate in the United States today. To take one relatively recent example, despite disagreeing with the Supreme Court’s determination in Hamdan v. Rumsfeld that Common Article 3 of the Geneva Conventions applies to the war on terror, the Bush Administration quickly accepted it.119 But the reason why Presidents abide by court decisions has a connection to the broader issue of the constraining effect of law. An executive obligation to comply with judicial decisions is itself part of the practice-based constitutional law of the United States, so presidential compliance with this obligation may demonstrate that such law can in fact constrain the President. This is true, as we explain further in Part III, even if the effect on presidential behavior is motivated by concerns about external political perceptions rather than an internal sense of fidelity to law (or judicial review).120

#### Our mech is key – empirics are irrelevant

Bradely 10 (Curtis is the William Van Alstyne Professor of Law, Professor of Public Policy Studies, and Senior Associate Dean for Faculty & Research at the Duke University School of Law, “CLEAR STATEMENT RULES AND¶ EXECUTIVE WAR POWERS”, http://www.harvard-jlpp.com/wp-content/uploads/2010/01/bradley.pdf)

The Court’s decision in Boumediene v. Bush4 might seem an¶ aberration in this regard, but it is not. Although the Court in¶ Boumediene did rely on the Constitution in holding that the detainees¶ at Guantanamo have a right to seek habeas corpus review¶ in U.S. courts, it did not impose any specific restrictions¶ on the executive’s detention, treatment, or trial of the detain‐ees.5 In other words, Boumediene was more about preserving a¶ role for the courts than about prohibiting the executive from¶ exercising statutorily conferred authority.

#### Courts effectively shape detention policy- observer effect- this card assumes all your empirics and warrants

Deeks 10/21 (Ashley, Ashbley Deeks served as an attorney-adviser in the Office of the Legal Adviser at the U.S. Department of State. She worked on issues related to the law of armed conflict, including detention, the U.S. relationship with the International Committee of the Red Cross, conventional weapons, and the legal framework for the conflict with al-Qaeda. Courts Can Influence National Security Without Doing a Single Thing <http://www.newrepublic.com/article/115270/courts-influence-national-security-merely-watching>)

While courts rarely intervene directly in national security disputes, they nevertheless play a significant role in shaping Executive branch security policies. Let’s call this the “observer effect.” Physics teaches us that observing a particle alters how it behaves. Through psychology, we know that people act differently when they are aware that someone is watching them. In the national security context, the “observer effect” can be thought of as the impact on Executive policy-setting of pending or probable court consideration of a specific national security policy. The Executive’s awareness of likely judicial oversight over particular national security policies—an awareness that ebbs and flows—plays a significant role as a forcing mechanism. It drives the Executive to alter, disclose, and improve those policies before courts actually review them. Take, for example, U.S. detention policy in Afghanistan. After several detainees held by the United States asked U.S courts to review their detention, the Executive changed its policies to give detainees in Afghanistan a greater ability to appeal their detention—a change made in response to the pending litigation and in an effort to avoid an adverse decision by the court. The Government went on to win the litigation. A year later, the detainees re-filed their case, claiming that new facts had come to light. Just before the government’s brief was due in court, the process repeated itself, with the Obama Administration revealing another rule change that favored the petitioners. Exchanges between detainees and their personal representatives would be considered confidential, creating something akin to the attorney-client privilege. Thus we see the Executive shifting its policies in a more rights-protective direction without a court ordering it to do so.

#### The plan makes it impossible for congress to circumvent the aff

Kundmueller 2002 [Michelle, Journal of Legislation, p. lexis]

This section of this Note, on the legal authority of customary international law vis-a-vis federal legislation, has not been included with the purpose of discovering which position is correct. Rather, the overview of this debate holds a central place in this Note because it demonstrates some of the issues at stake as U.S. courts begin to integrate customary international law into what were previously thought of as purely or primarily domestic issues. Admittedly, the number of cases using customary international law in this manner is still few and primarily based on some enabling federal statute. Nonetheless, these decisions take on a greater importance in light of the debate discussed above. Should theorists such as Paust and Lillich prevail, these early cases, taking the first modern steps in the process of identifying and applying customary international law would become crucial precedent in a law-making process that Congress would be powerless to overturn. On the other hand, the case law about to be analyzed will lie at the mercy of the will of the people and their Congress, should the theories of Kelley and Garland prove prophetic. It is still too early to know which faction will dominate, but this analysis of their theories does survey the potential spectrum of outcomes and the legal and political issues yet to be determined.

#### Plan’s precedent solves rendition

Richards 06 [Nelson, JD Cand @ Berkeley, “The Bricker Amendment and Congress’s Failure to Check the Inflation of the Executive’s Foreign Affairs Powers,” 94 Calif. L. Rev. 175, January, LN//uwyo-ajl]

H. Jefferson Powell has posited that the Supreme Court has all but ceded the creation of a foreign affairs and national security legal framework to the OLC. Indeed, he goes so far as to assert that OLC legal opinions, not Supreme Court opinions, are the first sources the executive branch looks to when researching foreign affairs and national security law. Another set of John Yoo's writings support the validity of Powell's claim: the infamous memos declaring enemy combatants outside the protection of the Geneva Conventions. These, combined with the "Torture Memos," the expanding practice of "extraordinary rendition," and the current Administration's blase response to the Supreme Court's ruling that prisoners held at Guantanamo Bay are entitled to judicial access, have brought peculiar focus to the weight and seriousness of the OLC's legal authority. In the realm of foreign affairs, the Court has written off its obligation, claimed in Marbury, as the authoritative interpreter of the Constitution. While it may have reviewed some of the legal premises put forth in the above-mentioned OLC opinions, it has not curbed the OLC's claim to power over foreign affairs. The Court is more than capable of challenging the President. It has the power to send messages to the President, but it has done so only in two narrow contexts: when U.S. citizens are labeled enemy combatants (Hamdi v. Rumsfeld ) and when prisoners are held in U.S. facilities (Rasul v. Bush). The Hamdi and Rasul decisions, which amount to piecemeal restraints on the President's freedom to act, accord with the Court's general failure to check the executive's use of power abroad.

### Back to rule of law

#### Deterrence doesn’t check India-Pakistan escalation

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July 12, 2010, http://the-diplomat.com/2010/07/12/south-asia%e2%80%99s-nuclear-war-risk/4/?print=yes]

Yet even setting aside the question of nuclear weapons falling into terrorist hands, nuclear competition between India and Pakistan is especially dangerous. Active (and ongoing) political disputes between the two countries have resulted in three past wars as well as numerous proxy conflicts. Pakistani leaders in particular have concluded that their nuclear arsenal has deterred India from again using its conventional forces to attack Pakistani territory. As a result, Pakistan’s implicit nuclear doctrine presumes the possible first use of nuclear weapons. The risks of such tensions are compounded by the physical proximity of the two countries, as well as their reliance on ballistic missiles as delivery vehicles, which means that early warning times might be as little as five to ten minutes. Although it remains unclear whether India or Pakistan have combined its nuclear warheads with their assigned delivery systems, such a precarious stance would increase the risks of both accidental and catalytic war (a nuclear conflict between both governments precipitated by a third party, such as a terrorist group). Throw China into the mix, with Pakistan at risk of viewing its own nuclear programme as increasingly inadequate as India seeks to achieve mutual deterrence with China, and the picture becomes more complicated. And add in the risk of widespread political disorder in either India or Pakistan, which could see a dangerous political adventurism as political leaders look to rally domestic support, and the peculiar challenges posed by the region become clearer. The fact is South Asia is particularly prone to a destabilizing arms race. And perhaps nuclear war.

## 2AC

### War Rhetoric K

#### No single cause of violence

Muro-Ruiz 2 (Diego, London School of Economics, “The Logic of Violence”, Politics, 22(2), p. 116)

Violence is, most of the time, a wilful choice, especially if it is made by an organisation. Individuals present the scholar with a more difficult case to argue for. Scholars of violence have now a wide variety of perspectives they can use – from sociology and political science, to psychology, psychiatry and even biology – and should escape easy judgements. However, the fundamental difficulty for all of us is the absence of a synthetic, general theory able of integrating less complete theories of violent behaviour. In the absence of such a general theory, researchers should bear in mind that violence is a complex and multifaceted phenomenon that resists mono-causal explanations. Future research on violence will have to take in account the variety of approaches, since they each offer some understanding of the logic of violence.

#### Alt doesn’t solve detention- engagement is key

Jenks and Talbot-Jensen 11 (INDEFINITE DETENTION UNDER THE LAWS OF WAR Chris Jenks\* & Eric Talbot Jensen\*\* Lieutenant Colonel, U.S. Army Judge Advocate General's Corps. Presently serving as the Chief of the International Law Branch, Office of The Judge Advocate General, Washington D.C. The views expressed in this Article are those of the author and not The Judge Advocate General's Corps, the U.S. Army, or the Department of Defense. \*\* Visiting Assistant Professor, Fordham Law School. The authors wish to thank Sue Ann Johnson for her exceptional research and editing skills, and the organizers and attendees at both the 3rd Annual National Security Law Jtinior Faculty Workshop at the University of Texas School of Law, where we first discussed the ideas for this article, and the Stanford Law and Policy Review National Defense Symposium, where we first presented the finished product. STANFORD LAW & POLICY REVIEW [Vol. 22:1] Page Lexis)

Those who would deconstruct the law of war as applied to detention stemming from armed conflict with non state actors may achieve victory, but in an academic, and, practically speaking, pyrrhic sense. Arguing that the Geneva Conventions for Prisoners and Civilians do not, on their face, apply to members of al-Qaeda or the Taliban may be correct, and in more than one way. But in so arguing, the deconstructionist approach removes a large portion of intemationally recognized and accepted provisions for regulating detention associated with armed conflict—^the Geneva Conventions—^while leaving the underlying question of how to govern detention unanswered. At some point, even the deconstmctionist must shift to positivism and propose an altemative, an altemative we submit would inevitably resemble that which is already extant in the law of war. Moreover, while there has been discussion about the strained application of the Geneva Conventions and Additional Protocols to states combating transnational terrorism, attempts at a new convention have gained little traction. Our approach is more an attempt at pragmatism than radicalism—there are individuals currently detained, purportedly indefinitely and under the law of war. Yet despite years of such detention, two administrations have provided little if any information on what exactly such detention means, how and by what it is govemed, and if and how it ends. Conflating aspects of intemationally recognized law of war conventions allows for a transparent process that could be promulgated now. Whether for the up to fifty or so individuals currently detained at Guantanamo or for those who may be detained in the future, we posit that the law of war provides a legitimate model for indefinite detention. And, as the Walsh Report recognized,^' the longer detainees are held, the more concern for their individual situations must be given. We therefore analyze the complete protections provided by the law of war and advocate that all of them, over time and to varying degrees, be applied to the detainees in Guantanamo. In this way, detention under the laws of war can provide a humane system of indefinite detention that strikes the right balance between the security of the nation and the rights of individuals

#### the affs introduction of detention to the public consciousness creates effective political movements for change

Cole 12 (David Cole is a Professor of Law, Georgetown University Law Center, “Legal Affairs: Dreyfus, Guantanamo, and the Foundation of the Rule of Law, 29 Touro L. Rev. 43)

Moreover, while district courts exercising habeas corpus jurisdiction initially ruled in favor of the detainees in the large majority of cases they heard, the United States Court of Appeals for the D.C. Circuit has consistently sided with the government on its appeals, and has eased the government's burden to demonstrate that a detainee is lawfully held. n69 The Supreme Court has repeatedly denied petitions for certiorari from these D.C. Circuit decisions. n70 Meanwhile, the Supreme Court's other post-9/11 national security decisions have all been decided in the government's favor. n71 [\*54] The Court rejected two lawsuits seeking damages against Attorney General John Ashcroft for alleged unconstitutional detentions in the roundups that occurred in the wake of 9/11. n72 And the Court rejected a First Amendment challenge to the criminalization of pure speech advocating peace and human rights under the "material support" statute. n73 The Court's record on protecting human rights, in short, while better than in previous crises, is mixed. Moreover, most of the Bush administration's curtailments of its aggressive initiatives enumerated above were not ordered by a court. No court ordered the abandonment of the first torture memo, an end to extraordinary rendition, the suspension of the NSA warrantless wiretapping program, the release of the secret torture memos, or the closure of the CIA's black sites. n74 Approximately 600 men have been released from Guantanamo, but the vast majority was released without a court order, and none have been released under a non-appealable court order. While several district courts have ordered the release of Guantanamo detainees, every time the administration has appealed to the District of Columbia Circuit ("D.C. Circuit"), it has prevailed. n75 No court ordered the administration to abandon the Article II Commander-in-Chief theory of uncheckable executive power. Additionally, as noted above, when the D.C. Circuit ruled that international law did not play any role in constraining the president's detention authority, President Obama in effect objected that the court had granted him too much unchecked authority, and insisted that his actions were bound by international law. What, then, caused the United States, specifically the executive branch, to change course? In my view, they were much the same sorts of forces that worked to vindicate Alfred Dreyfus: not the formal separation of powers, but informal nongovernmental resistance in the name of upholding the rule of law. As in the Dreyfus affair, this resistance took the form of individuals, acting on their own and [\*55] in association with others, speaking out, issuing critical reports, organizing protests, filing lawsuits, and generally challenging perceived abuses of power. n76 As in the Dreyfus affair, the media played a critical role, by disclosing secret rights abuses and writing countless editorials espousing the importance of adhering to the rule of law and the Constitution. Were it not for leaks reported in the media, we would not know about the torture at Abu Ghraib, the torture memo, the NSA warrantless wiretapping program, secret CIA prisons, and extraordinary renditions to torture. In addition, international voices played a major role. Guantanamo, after all, held nationals from forty-two countries, and some of those countries objected strongly to the way their countrymen were treated there. A former United Kingdom Law Lord, Lord Steyn, dubbed Guantanamo a "legal black hole," and 175 members of the Houses of Parliament filed an amicus brief on the Guantanamo detainees' behalf in the Supreme Court. n77 Together, these informal forces are responsible, as much as the formal separation of powers, for reining in the United States' "war on terror" in important ways. What lessons, then, can we draw from the Dreyfus affair and the first post-9/11 decade? The first is that the rule of law and individual rights are all too vulnerable to fear and demagoguery in times of crisis. Designed to constrain short-sighted decision making by insisting on adherence to basic principles of fairness, constitutional rights often seem inconvenient obstacles in a crisis. For Dreyfus and many Arabs and Muslims after 9/11, the law was initially unable to offer much, if any, protection. But both affairs also suggest that the rule of law is more resilient than many cynics might think. Alfred Dreyfus was eventually exonerated. The rule of law recovered in significant measure from its hasty dismissal in the aftermath of the 9/11 terrorist attacks. However, in both instances, the tide turned only because individuals, associations, and nongovernmental organizations [\*56] mobilized behind the cause of justice for the vulnerable. When it comes to the reality of rights protections, much depends on the mobilization of the polity. But as the other "affair" under examination in this conference - the lynching of American Jewish businessman Leo Frank - chillingly demonstrates, popular mobilization can go either way. n78 When, in 1915, Georgia's governor commuted Frank's death sentence for murder to life without imprisonment, based on substantial concerns with the fairness of the trial and the accuracy of the verdict, a mob gathered, abducted Frank from his cell, and lynched him. n79 Popular mobilization does not always take the side of human rights, and it can easily overwhelm legal bulwarks through brute force and terror. Precisely because they help to establish and reinforce a culture of respect for equality and the rule of law, the assessments and reassessments of the "Dreyfus affair" that continue to this day in France are critically important for sustaining contemporary commitments to the rule of law. The fact that the case has become an "affair," a narrative widely known, exhaustively studied, and frequently invoked is crucial, for the history of the "affair" reminds us of what can go wrong when we depart from principles of fairness and justice. Whether the story of the United States' response to 9/11 will similarly become an "affair" from which the United States and others draw lessons about resisting the temptation to sacrifice our fundamental commitments on the backs of the most vulnerable, remains to be seen. As was the case with Dreyfus for many years, the particular lessons to be drawn from the post-9/11 era are a matter of deep contestation. President Bush, Vice-President Cheney, and their supporters have sought to portray their actions as tough, but necessary and reasonable, decisions to recalibrate security and liberty. n80 Others, myself included, have insisted that the principal lesson [\*57] of the first post-9/11 decade is that sacrifices in the rule of law are all too easy to make, generally unnecessary, and come at a great cost to the legitimacy and long-term success of a democracy's struggle against terrorism. The fact that Guantanamo has become one of the world's leading symbols for "lawlessness" suggests that the latter narrative has taken hold, at least in the rest of the world. The struggle over its meaning within the United States, however, continues. n81 At stake is nothing less than the nature of our constitutional culture. Whether, after the next attack, we repeat our mistakes or respond in a more resilient and rights-respecting manner depends ultimately on the lessons we learn as a nation from our recent past. Those who are committed to the protection of civil liberties and the rule of law must continue to work to ensure that the "Guantanamo affair" takes on the character of the "Dreyfus affair" in popular consciousness. At the end of the day, the strength of our legal protections turns on our culture's engaged commitment to the values of the Constitution, the rule of law, and human rights.

#### Perm solves best – combination allows for better explanation of IR --- we have a common language that helps us understand war better

Lake and Jacobs ‘11 – professor of social science and distinguished professor of political science

(David A. Lake is the Jerri-Ann and Gary E. Jacobs Professor of Social Sciences and Distinguished Professor of Political Science at the University of California, San Diego.., **Why "isms" are Evil: Theory, Epistemology and Academic Sects as Impediments to Understanding and Progress**, International Studies Quarterly 55, 465-480, weber.ucsd.edu/~dlake/documents/LakeWhyIsmsareevil.pdf])

Rather than forming sects and debating theology, imagine the contributions that we as scholars could make if we devoted our professional and intellectual energies to studying things that matter. Imagine reorganizing our research and professional associations around problems, not approaches. Imagine as well a graduate ﬁeld seminar not organized around research traditions but topics like Global Climate Change, Growth and Development, Economic and Political Inequality, and Genocide and Political Violence. The seminar discussion could then focus on ‘‘what do we know’’ rather than ‘‘what are the central tenets of this particular sect’’?¶ Likewise, the International Studies Association is divided into relatively autonomous sections, many (but not all) of which are deﬁned by research tradition. Imagine instead sections on these same sorts of substantive topics—not the Scientiﬁc Study of International Processes but a section on War, not Feminist Theory and Gender Studies but Female Political Empowerment. We might then attend panels that focus, say, on what we know about economic inequality and, more important, what we learn from new research.¶ Professional practices are surprisingly robust things. Turning a discipline may be like turning a supertanker. As suggested, there are also individuals and organized interests vested in current professional practices, not least of which are the organizational gatekeepers who set themselves up as enforcers of purity and agenda-setters for the discipline. Institutionalized practices combined with entrenched and powerful elites militate against change.¶ But **much can be done**, I hope, **through the actions of individual scholars**. I no longer teach the ‘‘isms’’ at the introductory level or in ﬁeld seminars for graduate students. With Jeffry Frieden and Kenneth Schultz, I have written an undergraduate textbook that avoids sectarian debates and focuses on substantive topics (Frieden, Lake, and Schultz 2010). A volume I edited with Robert Powell, directed more at ﬁrst-year graduate students, explores this approach at a higher level (Lake and Powell 1999). Both are, I am gratiﬁed, well received, especially by younger scholars just starting their teaching careers. There is, I believe, a growing frustration with the dead hand of the isms and a quest for alternative ways of organizing intellectual inquiry. We can break free of the old order. A ﬁrst step in changing professional practice is to stop replicating that practice in our scholarly lives.¶ In addition, **we should embrace partiality**. That is, we should acknowledge that all current theories are partial and state explicitly their boundary and scope conditions. Modesty in acknowledging such limitations is actually in the self-interest of scholars. A common but too easy criticism to make of another’s work is ‘‘yes, you may explain that’’ **but ‘‘you can’t explain this,’’ where ‘‘this’’ happens to be the critic’s area of specialized knowledge tha**t, in turn, **supports her favored research tradition**. With properly stated boundary and scope conditions, we would know whether the theory was intended to apply to ‘‘this’’ and whether the critic makes a valid observation. Through changes in editorial policy, authors should be required to include a short paragraph on the boundary conditions of their analysis and to state explicitly what their theory cannot explain. Even if editors do not require it, we as individual reviewers can insist on it. More important, the end—deeper knowledge—will hopefully justify the embrace of partiality. **We are all touching different parts of the proverbial elephant**, even while claiming to be holding it in its entirety. **By pooling our knowledge of the different parts, we might then be able to describe the whole animal more effectively**. **We might also then have something constructive to say to policymakers who want to control the elephant.**¶This is not, I want to make clear, a plea for atheoretic or necessarily policy relevant research, although the latter certainly has its place. We need theories to explain real-world patterns, not merely to describe them. And we need basic theory to reveal causes even when they are not amenable to manipulation by policymakers. But we should, as Sil and Katzenstein (2010) argue, embrace analytic eclecticism. A single scholar ought to be able to work on questions of war with theories of rational unitary states, questions of global environmental change with theories of individual norms, and questions of trade policy with theories of sectors pursuing their material interests without fear of **being criticized for inconsistency**.

#### Judicial action promotes public awareness that creates an effective political challenge to oppression

Serrano and Minami, ‘03 (Susan, Project Director, Equal Justice Society; J.D. 1998, William S. Richardson School of Law, University of Hawai', partner, Minami, Lew & Timaki, Asian Law Journal, Korematsu v. United States: A "Constant Caution" in a Time of Crisis, p. Lexis)

Today, a broadly conceived political identity is critical to the defense of civil liberties. In 1942, Japanese Americans stood virtually alone, without allies, and suffered the banishment of their entire race. Forty years later, Japanese Americans, supported by Americans of all colors, were able to extract an apology and redress from a powerful nation. That lesson of the need for political empowerment was made even more obvious after September 11, 2001, when Arab and Muslim American communities, politically isolated and besieged by hostility fueled by ignorance, became targets of violence and discrimination. In the aftermath of September 11, Japanese Americans knew from history that the United States, which turned on them in 1942, could repeat itself in 2001. Therefore, on September 12, 2001, the Japanese American Citizens' League, the oldest Asian American civil rights organization in the country, immediately issued a press release warning against racial discrimination against Arab and Muslim Americans and supporting their  [**[\*49]**](http://www.lexis.com/research/retrieve?_m=bee887063044547ab12532f483726d11&docnum=3&_fmtstr=FULL&_startdoc=1&wchp=dGLbVtz-zSkAk&_md5=f0e31afba24c7755402ea0ead0b3cfb6&focBudTerms=%2522serrano%2522%20and%20%2522minami%2522%20and%20%2522korematsu%2522&focBudSel=all)  civil rights.n60 Other Japanese American individuals and groups have offered their friendship, political support, and solidarity with Arab and Muslim Americans. Japanese Americans also knew from their Redress experience that political power was the strongest antidote. The coram nobis legal teams understood the political dimensions of their cases and adopted a course of litigation that would discredit the Wartime Cases by undermining the legal argument that the Supreme Court had legitimized the World War II exclusion and detention. This impaired (though did not overturn) the value of Korematsu, Hirabayashi, and Yasui as legal precedents for mass imprisonments of any definable racial group without due process. The even larger vision of these cases, however, was the long-term education of the American public. Many still believed (and continue to believe) that there were valid reasons for incarcerating Japanese Americans en masse: the coram nobis cases strongly refuted that notion and boldly illuminated the essentially political nature of the judicial system. In doing so, the coram nobis cases have contributed to the public's education about the frailty of civil rights and the evanescence of justice in our courts. As such, these cases highlight the need for continuing political activism and constant vigilance to protect our civil rights. In today's climate of fear and uncertainty, we must engage ourselves to assure that the vast national security regime does not overwhelm the civil liberties of vulnerable groups. This means exercising our political power, making our dissents heard, publicizing injustices done to our communities as well as to others, and enlisting allies from diverse communities. Concretely, this may mean joining others' struggles in the courts, Congress, schools and union halls; organizing protests against secret arrests, incarcerations, and deportations; building coalitions with other racial communities; writing op-ed essays or letters to politicians; launching media campaigns; donating money; and writing essays and articles.n61 Through these various ways, "our task is to compel our institutions, particularly the courts, to be vigilant, to "protect all.'" n62 The lesson of the Wartime Cases and coram nobis cases taken together is not that the government may target an entire ethnic group in the name of national security; the cases teach us instead that civil rights and liberties are best protected by strongly affirming their place in our national character, especially in times of national crisis. As Fred Korematsu avowed nearly twenty years ago, we must not let our governmental  [**[\*50]**](http://www.lexis.com/research/retrieve?_m=bee887063044547ab12532f483726d11&docnum=3&_fmtstr=FULL&_startdoc=1&wchp=dGLbVtz-zSkAk&_md5=f0e31afba24c7755402ea0ead0b3cfb6&focBudTerms=%2522serrano%2522%20and%20%2522minami%2522%20and%20%2522korematsu%2522&focBudSel=all)  institutions mistreat another racial group in such a manner again. To do this, we must "collectively [turn] the lessons learned, the political and economic capital gained, the alliances forged and the spirit renewed, into many small and some grand advances against continuing harmful discrimination across America."n63 We must become, as Professor Yamamoto has argued, "present-day social actors, agents of justice, because real, hard injustices are occurring all around us every day to Asian Americans and other racial communities and beyond." n64

#### Liberalism is true and promotes peace

Recchia and Doyle 11

[Stefano (Assistant Professor in International Relations at the University of Cambridge) and Michael (Harold Brown Professor of International Affairs, Law and Political Science at Columbia University), “Liberalism in International Relations”, In: Bertrand Badie, Dirk Berg-Schlosser, and Leonardo Morlino, eds., International Encyclopedia of Political Science (Sage, 2011), pp. 1434-1439, RSR]

Relying on new insights from game theory, ¶ scholars during the 1980s and 1990s emphasized ¶ that so-called international regimes, consisting of ¶ agreed-on international norms, rules, and decision-making procedures, can help states effectively coordinate their policies and collaborate in ¶ the production of international public goods, such ¶ as free trade, arms control, and environmental ¶ protection. Especially, if embedded in formal multilateral institutions, such as the World Trade ¶ Organization (WTO) or North American Free ¶ Trade Agreement (NAFT A), regimes crucially ¶ improve the availability of information among ¶ states in a given issue area, thereby promoting ¶ reciprocity and enhancing the reputational costs ¶ of noncompliance. As noted by Robert Keohane, ¶ institutionalized multilateralism also reduces strategic competition over relative gains and thus ¶ further advances international cooperation. ¶ Most international regime theorists accepted ¶ Kenneth Waltz's (1979) neorealist assurription of ¶ states as black boxes-that is, unitary and rational ¶ actors with given interests. Little or no attention ¶ was paid to the impact on international cooperation of domestic political processes and dynamics. ¶ Likewise, regime scholarship largely disregarded ¶ the arguably crucial question of whether prolonged interaction in an institutionalized international setting can fundamentally change states' ¶ interests or preferences over outcomes (as opposed ¶ to preferences over strategies), thus engendering ¶ positive feedback loops of increased overall cooperation. For these reasons, international regime ¶ theory is not, properly speaking, liberal, and the ¶ term neoliberal institutionalism frequently used to ¶ identify it is somewhat misleading. ¶ It is only over the past decade or so that liberal ¶ international relations theorists have begun to systematically study the relationship between domestic politics and institutionalized international cooperation or global governance. This new scholarship ¶ seeks to explain in particular the close interna tional ¶ cooperation among liberal democracies as well as ¶ higher-than-average levels of delegation b)' democracies to complex multilateral bodies, such as the ¶ \ ¶ Liberalism in International Relations 1437 ¶ European Union (EU), North Atlantic Treaty ¶ Organization (NATO), NAFTA, and the WTO ¶ (see, e.g., John Ikenberry, 2001; Helen Milner & ¶ Andrew Moravcsik, 2009). The reasons that make ¶ liberal democracies particularly enthusiastic about ¶ international cooperation are manifold: First, ¶ transnational actors such as nongovernmental ¶ organizations and private corporations thrive in ¶ liberal democracies, and they frequently advocate ¶ increased international cooperation; second, ¶ elected democratic officials rely on delegation to ¶ multilateral bodies such as the WTO or the EU to ¶ commit to a stable policy line and to internationally lock in fragile domestic policies and constitutional arrangements; and finally, powerful liberal ¶ democracies, such as the United States and its ¶ allies, voluntarily bind themselves into complex ¶ global governance arrangements to demonstrate ¶ strategic restraint and create incentives for other ¶ states to cooperate, thereby reducing the costs for ¶ maintaining international order. ¶ Recent scholarship, such as that of Charles ¶ Boehmer and colleagues, has also confirmed the ¶ classical liberal intuition that formal international ¶ institutions, such as the United Nations (UN) or ¶ NATO, independently contribute to peace, especially when they are endowed with sophisticated ¶ administrative structures and information-gathering ¶ capacities. In short, research on global governance ¶ and especially on the relationship between democracy and international cooperation is thriving, and ¶ it usefully complements liberal scholarship on the democratic peace.

### Court CP

#### West/non-west divide bad- Their criticisms of the “West” only reify the metageographic concept that the world can be compartmentalized into neat sections of West and Rest, rhetorics that disparage the West and celebrate the rest end up reinforcing the colonizer’s model of the world.

Lewis and Wigen 97. [Martin W. and Karen E., The Myth of Continents 6-7]

The North-South distinction, like that between the first, second, and third Worlds, is essentially defined in economic terms. Cultural and political matters are more often framed as East versus West: a far older and more important division. Indeed, the notion of a First World is itself deeply rooted in the idea of distinctive Western realm; in many works, the Third World is thus contrasted, not to the First or Second Worlds, but rather simply to the West. When such a scheme is carried to its logical extreme, the world is again divided into two sections: the West and the non-West. As Bernard Cohn remarks, this maneuver entails “a neat ethnocentrism which defines nine-tenths of the people of the world in a single negative term.” While the “west is often contrasted simply with the “rest,” its historical counterpart is of course the “east.” The myth of continents is also implicated in this binary longitudinal division, for the West is conventionally defined as Europe (plus its direct colonial offshoots), while the East in many instances is simply a proxy for Asia- with Africa, in this view, threatening to fall of the map altogether,. The East-West opposition maps a huge array of human attributes onto a stupendously simplified set of geographical coordinates but its staple feature has historically been the linking of the West with reason and progress and the East with spirituality and stagnation. Baseless though it may be, this purported corresponds ultimately forms a central structure of our metageographical mythology

. Like other metageographical concepts, the East-West split is remarkably protean, and on certain occasions a completely different referent system is implicated by these terms: one differentiating eastern from Western Europe. Inevitably, however, these two referents of *East* tend to be conflated, implying that Eastern Europe is somehow Asian in its essence. While one can argue that Russia shares certain characteristics with Central Asia, no criterion of Asianess can reasonably be extended to Slovenia, Bohemia, of Thuringia. Yet the geopolitical category East does precisely this, riding roughshod over previous cultural divisions by giving undue weight to a political grouping that existed on only between 1946 and 1989. The metageographical distinction between the West and the rest of the world is particularly debilitating when married to a key metahistorical concept: the notion that the West is coincident with modernity and that the non-West can enter the modern world only to the extent that it emulates the norms established in Europe and northern North America. In a powerful expose, J. M. Blaut labels these linked constructs “the colonizer’s model of the world” and shows that they rest on a rarely acknowledged substrate of “geographical infusionism: (where progress is seen as flowering endlessly out of the center [Europe] toward the otherwise sterile as flowering endlessly out of the center [Europe] toward the otherwise sterile periphery.) But while Blaut convincingly argues that this is a central geographical myth of the modern age, it is hardly the only one. Ultimately, all received metageographical constructs need to be subjected to similarly sustained geographical and historical scrutiny. Likewise, while Blaut is to be commended for showing that the “colonizer’s model” has often been embraced by Marxists no less than by liberals and conservatives, we would add that similar geohistorical visions of the world are not commonly encountered even in post-Marxist social theory. Like the classical Left, the cultural Left of poststructuralists, postmodernists, and racial environmentalists often perpetuates the West-rest binarism- only in the form of rhetoric that disparages the West and celebrates the rest

#### extinction

Bok, 88 [Sissela, Professor of Philosophy, Brandeis, “Applied Ethics and Ethical Theory,” Ed. David Rosenthal and Fudlou Shehadi]

The same argument can be made for Kant’s other formulations of the Categorical Imperative: “So act as to use humanity, both in your own person and in the person of every other, always at the same time as an end, never simply as a means”; and “So act as if you were always through actions a law-making member in a universal Kingdom of Ends.” No one with a concern for humanity could consistently will to risk eliminating humanity in the person of himself and every other or to risk the death of all members in a universal Kingdom of Ends for the sake of justice. To risk their collective death for the sake of following one’s conscience would be, as Rawls said, “irrational, crazy.” And **to say that one did not intend such a catastrophe, but that one merely failed to stop other persons** from bringing it about **would be** beside the point when the end of the world was at stake. For although it is true that we cannot be held responsible for most of the wrongs that others commit, the Latin maxim presents a case where **we would have to take such a responsibility seriously—perhaps to the point of** deceiving, bribing, even **killing an innocent person, in order that the world not perish.**

### 2AC CIR DA

#### Won’t pass- Rubio and GOP political agenda

WJLA, 10-28 ["Immigration reform: Obama urges Congress again to take action before end of year," ABC7, 10-28-13, http://www.wjla.com/articles/2013/10/immigration-reform-obama-urges-congress-again-to-take-action-before-end-of-year-96071.html#ixzz2jLXwlo2r, accessed 10-31-13, mss]

But in a **blow** to their effort, Sen. Marco Rubio signaled support for the piecemeal approach in the House despite his months of work and vote for the comprehensive Senate bill that would provide a path to citizenship for the 11 million immigrants living here illegally and tighten border security. The Florida Republican - son of Cuban immigrants and a potential presidential candidate in 2016 - had provided crucial support for the bipartisan Senate bill. "Sen. Rubio has always preferred solving immigration reform with piecemeal legislation. The Senate opted to pursue a comprehensive bill, and he joined that effort because he wanted to influence the policy that passed the Senate," Rubio's spokesman, Alex Conant, said Monday in explaining Rubio's backing for limited measures. Since 68 Democrats and Republicans joined together to pass the Senate bill in June, opponents and many conservatives have stepped up their pressure against any immigration legislation, based not only on their principle opposition but their unwillingness to deliver on Obama's top second-term domestic agenda issue. The recent budget fight only inflamed conservative GOP feelings toward Obama. Obama on Monday reiterated his call for Congress to complete action on an immigration overhaul before the end of the year. He said that represented the only way to end the record deportations of immigrants undertaken by his administration, actions he has tried to curtail by allowing young people who immigrated illegally into the United States - so-called Dreamers - to remain in the country under certain conditions. "That's why my top priority has been let's make sure that we comprehensively reform the whole system so that we're not just dealing with Dreamers, we're also dealing with anybody who's here and is undocumented," he said in an interview with Fusion, a cable channel that is a collaboration of ABC News and Univision. Most House Republicans reject a comprehensive approach and many question offering citizenship to people who broke U.S. immigration laws to be in this country. The House Judiciary Committee has moved forward with individual, single-issue immigration bills. Although House Republican leaders say they want to solve the issue, which has become a political drag for the GOP, many rank-and-file House Republicans have shown little inclination to deal with it. With just a few legislative weeks left in the House, it's unclear whether lawmakers will vote on any measure before the year is out.

#### NSA and healthcare thump the DA- and prove Obama can’t use PC

Wilson, 10-29 -- Washington Post chief White House correspondent

[Scott, "Controversies show how Obama’s inattention to detail may hurt his presidential legacy," Washington Post, 10-29-13, www.washingtonpost.com/politics/recent-scandals-show-obamas-inattention-to-detail-may-cripple-his-presidential-legacy/2013/10/29/c389feb0-40a6-11e3-a751-f032898f2dbc\_story.html, accessed 10-31-13, mss]

Controversies show how Obama’s inattention to detail may hurt his presidential legacy

The White House said President Obama didn't know about NSA spying on world leaders. Washington Post chief White House correspondent Scott Wilson weighs in on the strategy of keeping the president out of the loop. Nearly a year into his second term, President Obama has yet to master the management of information within his administration. That failure has left him knowing too little at times about the issues that matter the most to his legacy. Obama, who like many presidents had no executive experience before taking office, has never pretended to care much about the details of governing. He prefers the big speech to congressional arm-twisting, the big reform to incremental change and the big foreign policy ambition to cultivating head-of-state relationships. The approach has its benefits. But it also means that Obama has at times appeared caught unaware as controversies envelop his administration. In the past week, he or his aides have said that Obama had no knowledge of two major issues now threatening his agenda: the problems [facing]~~crippling~~ the Web site of his signature health-care program, and the existence of a decade-long spying program targeting the personal phones of friendly world leaders. In the aftermath, Obama’s broad-stroke view of government and the insular West Wing he runs seem more like liabilities than benefits, raising questions about how much information Obama wants and how he receives it. “Compared to the president I served, this president doesn’t seem to be as relentlessly curious about the processes of government — whether the legislative process or the implementation process or the administrative and bureaucratic process,” said William A. Galston, a senior fellow in governance studies at the Brookings Institution, who was a domestic policy adviser to Bill Clinton. Although Obama never seems to get “stuck” in policy details that can stall out a presidency, Galston said, the “problems start when things go wrong and the president gives every appearance of being blindsided by the flow of events.” “Then people start wondering if he’s in charge, if he’s a strong leader,” he said. In May, Obama said he was unaware of the scope of the Justice Department’s investigation into national security leaks. White House officials said privately at the time that the investigation reached too far in targeting news organizations. That same month, Obama also said he was he was not informed about an inspector general’s report that accused the Internal Revenue Service of singling out conservative political organizations for extra scrutiny. Republicans had for months said the IRS was doing so.

[Matt note: paraphrased for ableist language]

#### Courts shield

Whittington 5 Keith E., Cromwell Professor of Politics – Princeton University, ““Interpose Your Friendly Hand”: Political Supports for the Exercise of Judicial Review by the United States Supreme Court”, American Political Science Review, 99(4), November, p. 585, 591-592

There are some issues that politicians cannot easily handle. For individual legislators, their constituents may be sharply divided on a given issue or overwhelmingly hostile to a policy that the legislator would nonetheless like to see adopted. Party leaders, including presidents and legislative leaders, must similarly sometimes manage deeply divided or cross-pressured coalitions. When faced with such issues, elected officials may actively seek to turn over controversial political questions to the courts so as to circumvent a paralyzed legislature and avoid the political fallout that would come with taking direct action themselves. As Mark Graber (1993) has detailed in cases such as slavery and abortion, elected officials may prefer judicial resolution of disruptive political issues to direct legislative action, especially when the courts are believed to be sympathetic to the politician’s own substantive preferences but even when the attitude of the courts is uncertain or unfavorable (see also, Lovell 2003). Even when politicians do not invite judicial intervention, strategically minded courts will take into account not only the policy preferences of well-positioned policymakers but also the willingness of those potential policymakers to act if doing so means that they must assume responsibility for policy outcomes. For cross-pressured politicians and coalition leaders, shifting blame for controversial decisions to the Court and obscuring their own relationship to those decisions may preserve electoral support and coalition unity without threatening active judicial review (Arnold 1990; Fiorina 1986; Weaver 1986). The conditions for the exercise of judicial review may be relatively favorable when judicial invalidations of legislative policy can be managed to the electoral benefit of most legislators. In the cases considered previously, fractious coalitions produced legislation that presidents and party leaders deplored but were unwilling to block. Divisions within the governing coalition can also prevent legislative action that political leaders want taken, as illustrated in the following case.

#### The public overwhelming supports the aff

Greenwald 9 (Glenn- former Constitutional and civil rights litigator and is the author of three New York Times Bestselling books: two on the Bush administration's executive power and foreign policy abuses, and his latest book, With Liberty and Justice for Some, an indictment of America's two-tiered system of justice. Greenwald was named by The Atlantic as one of the 25 most influential political commentators in the nation. He is the recipient of the first annual I.F. Stone Award for Independent Journalism, and is the winner of the 2010 Online Journalism Association Award for his investigative work on the arrest and oppressive detention of Bradley Manning, citing NYT/CBS Poll, June 18, “Overwhelming majority oppose preventive detention without charges”, http://www.salon.com/2009/06/18/detention/)

 A new NYT/CBS News poll just released today asked a question designed to test support for Obama’s proposal to indefinitely detain Guantanamo detainees without charges — and it found overwhelming opposition to that plan (click to enlarge): The view that detainees should be charged with crimes or released is often depicted as the fringe “Far Left” view. Like so many views that are similarly depicted, it is — in reality — the overwhelming consensus view among Americans (68%). As is so often the case, it is the view depicted as the Serious Centrist position — the U.S. should keep people in cages for as long as it wants without charging them with any crime — that is the fringe view held by only a small minority (24%). While some may express surprise at the outcome of this question, it really shouldn’t be surprising: Americans are taught from childhood that one of the primary distinctions between free countries and tyrannies is that, in the former, the state lacks the power to imprison people without charging and convicting them of a crime. Is it really that surprising that an overwhelming majority of Americans see such charge-free imprisonment as wrong even when it comes to Guantanamo detainees, probably the single most dehumanized group on the planet?

**Passing popular items is key to the agenda**

**Page ‘9** (Polls can affect president's hold on party Updated 7/20/2009 11:44 PM | PRESIDENTIAL APPROVAL TRACKER — By William Couch, Michelle Price and Joshua Hatch, USA TODAY By Susan Page, USA TODAY

Even so, **a president's standing** at the moment is more than a matter of vanity. It **affects his ability to hold the members of his own party and persuade those on the other side to support him**, at least on the occasional issue. "**Approval ratings are absolutely critical for a president achieving his agenda**," says Republican pollster Whit Ayres. For Obama, the timing of his slide in ratings is particularly unhelpful: He's intensified his push to pass health care bills in the House and Senate before Congress leaves on its August recess. He'll press his case at a news conference at 8 p.m. Wednesday. His overall approval rating has dropped 9 percentage points since his inauguration in January, and his disapproval rate has jumped 16 points, to 41%. Trouble at home More people disapprove than approve of Obama on four domestic issues: the economy, taxes, health care and the federal budget deficit. He scores majority approval on handling Iraq, Afghanistan and foreign affairs. The biggest drop has been on his handling of the economy, down 12 points since February; his disapproval is up 19 points. The most erosion has come not from Republicans or independents but among his own Democrats. Support from conservative and moderate Democrats is down by 18 points. Another group in the party's political base — those earning $20,000 to $50,000 a year — had a drop of 15 percentage points, to 47%. That could reflect one reason why moderate Democratic senators and the fiscally conservative Blue Dog Democrats in the House are demanding more cost controls in the health care plan before they'll sign on. "**It's important if a president is trying to accomplish some big stuff legislatively**," **H.W. Brands, a professor at the University of Texas-Austin**, **says of the approval rating.** He was one of several presidential historians who sat down with Obama at a private White House dinner this month. "**Members of Congress are** somewhat **reluctant to tangle with a president who seems to have the backing of the** American **people**." At 55% overall, Obama's approval rating is a tick below that of George W. Bush at six months. It is well above Clinton and Gerald Ford, who was hammered for his pardon of Richard Nixon. At the top of the list is Harry Truman at 82% — buoyed by the end of World War II — followed by Lyndon Johnson, John Kennedy and Dwight Eisenhower. The fact that presidents from the 1950s and 1960s scored better than more recent ones could mean the public's assessments are getting tougher. "Mid-20th-century presidents had higher political capital and more stable political capital than presidents of the last 20 years," says Steven Schier, a political scientist who is studying presidential job approval since modern polling began in the 1930s. He wrote Panorama of a Presidency: How George W. Bush Acquired and Spent His Political Capital. Schier theorizes that the difference in ratings is due to the accelerating speed with which information is disseminated, the declining number of Americans firmly tied to a political party and a growing desire to see quick results. "There's less patience with presidents than there used to be," he says. What's popularity for? Savvy presidents understand that pursuing big policies will cost them popularity, Brands says. "**Presidents have to decide what their popularity is for**," he says. "Lyndon Johnson probably understood best that **political popularity is a wasting asset. You had to use it when you had it."** Johnson was inaugurated after Kennedy's assassination in 1963 and then crushed Republican Barry Goldwater in the 1964 presidential race. **LBJ used his high approval ratings** — **they** didn't fall below 60% for more than two years after his inauguration — and big majorities in the House and Senate **to enact his Great Society programs.**

#### Political capital theory isn’t true -

1. arm twisting fails
2. horse-trading isn’t real
3. Obama perceives it as such
4. He doesn’t try to use it

Kumar 13 (Anita, White House Correspondent for McClatchy Washington Bureau, Formerly worked for the Washington Post, 5/24, "After Failing on Gun Legislation Obama Learning Limits of His Power")

The cheering crowds that helped vault him into a second term in the White House mean little, if anything, back in Washington. A close look at his most recent defeat – a series of proposals intended to curb gun violence – shows that election popularity does not automatically translate into legislative success. Nor do campaign-like efforts to win a vote in Congress. Obama put more effort into the proposals than he has most issues, but he still suffered one of his biggest legislative defeats. The defeat illustrates a key truth – for all their power, presidents rarely succeed in manipulating votes on Capitol Hill. If anything, their abilities to twist arms have grown even more limited in recent years. Strained budgets leave them no extra money or pet projects to offer lawmakers in return for votes. And Obama’s detached personality and short history in Washington make him even less likely to wheel and deal with lawmakers. “There’s not much presidents can do to change votes. It’s mostly a myth,” said George Edwards, a presidential scholar at Texas A&M University. “It’s never been that way and it’s less so now.” His own election victory still fresh in his mind, Obama thought he had a clear path to bend Congress to his will after the horror of a mass shooting at an elementary school in Newtown, Conn., in December. His goal: the first significant new controls on guns in a generation. He tapped Vice President Joe Biden to lead a task force to examine gun laws. Biden spent a month speaking to more than 200 organizations on all sides of the issue, from crime victims to religious leaders, law enforcement organizations to gun manufacturers. Obama unveiled his sweeping package of executive actions and proposed legislation in January. He immediately began trying to sell it. By the standards of a campaign, he did everything right. Obama and Biden gave more than 30 speeches, interviews and online chats, oftentimes with families of gun victims at their side. First lady Michelle Obama made a rare foray into the debate by delivering an emotional speech in her hometown of Chicago. Obama’s political organization, Organizing for Action, held dozens of events, including candlelight vigils, rallies and meetings across the nation pushing the legislation. Obama flew Newtown families to Washington to lobby senators and turned over his radio address for the first time to the parents of a slain child. He did not win support for a proposal to renew a ban on assault weapons or to limit ammunition in clips. But support for greater background checks for gun purchases topped 90 percent in the polls. If it were an election with voters choosing whether to pass background checks, Obama would have won a landslide. But it was not an either-or choice. Congress could choose to do nothing. In March and April, Obama and Biden spoke to nearly 30 senators in 45 meetings or phone calls, according to the White House. The president stressed gun control proposals at a pair of dinners with Republican senators. In the final days before the vote, Obama’s chief of staff, Denis McDonough, visited an undecided Democratic senator, Heidi Heitkamp of North Dakota, but failed to convince her to vote for the background check legislation. New York Mayor Michael Bloomberg, founder of Mayors Against Illegal Guns and one of the nation’s most prominent gun control advocates, said he and Biden divvied up a list of senators to call in the hopes of convincing them that backing the legislation would not hurt them in their next election. “I’m thoroughly convinced that he and the president and this whole administration are committed as they could possibly be to help end the scourge of gun violence,” Bloomberg said. It wasn’t enough. Last month, the Democratic-controlled Senate defeated all significant gun proposals sought by Obama after some lawmakers bristled at being pushed by Obama. Obama, along with gun control advocates, insist they’ll try again, at least for the proposal to expand background checks to private and Internet sales. But the initial defeat underscored the limits of presidential power and suggested Obama faces major challenges for the duration of his presidency. “We actually thought he and the vice president handled this perfectly. They handled this quite deftly,” said Matt Bennett, co-founder of Third Way, a think tank, who served in the Clinton White House. “The gun issues are about as hard as it gets.” “The president worked really hard on this issue,” said Sen. Charles Schumer, D-N.Y. “He put political capital on the line. He made it one of his centerpieces of his State of the Union address and he went all around the country to try and rally support.” So what happened? For one, Obama and his allies often staged events in states that had been sites of mass shootings such as Illinois, Connecticut or Virginia, instead of states where senators were wavering on the issue. For another, his high-profile push may have cost as many votes as it won, given how polarizing modern presidents have become. Sen. John McCain of Arizona, one of four Republicans who voted for expanded background checks, said a better model of leadership would be Obama’s role on the proposed rewrite of the nation’s immigration laws. On that, Obama has expressed support but stayed out of the way to let members of Congress negotiate among themselves. “I think his role has been very appropriate, exactly appropriate,” he said of Obama’s approach on immigration. Finally, Obama might have relied more on personal talks with senators and less on the bully pulpit, presidential scholars said. “As soon as Obama jumps in, it makes it hard for Republicans to get behind it,” said Robert Spitzer, a political scientist at State University of New York at Cortland who has written extensively on gun control. “Obama could have done more on the inside game.” But Dan Gross, president of the Brady Campaign to Prevent Gun Violence, said the importance of public speeches is misunderstood. They aren’t, he said, designed to convince more Americans to favor proposals backed by Obama, but rather to convince them to lobby Congress. If the use of presidential rhetoric is misunderstood, the power of the presidency itself is often overstated. Even Lyndon B. Johnson, whose domineering personality and negotiating skills helped fuel his reputation for helping push through major legislation, benefitted from large Democratic majorities in Congress and broad popular support in the wake of John F. Kennedy’s assassination. There have been instances where presidents have helped get legislation passed, though they are the exception, not the rule. Bill Clinton offered to support Republicans who voted for the North American Free Trade Agreement. George W. Bush pushed through prescription drug coverage in a rare middle-of-the-night vote in the House of Representatives by making last-minute phone calls to lawmakers. But Obama’s effort to lobby or socialize with lawmakers has been sporadic, and some of his recent dinners came after the gun votes were all but locked up. Also, he has little to offer the lawmakers. While Washington was once a place where lawmakers openly traded votes with goodies from the White House – a president’s attendance at an event or a project in their home state – it’s not like that anymore. The practice of offering so-called earmarks – pet projects for lawmakers tucked into appropriations bills – fell out of favor following years of criticism by watchdog groups, constituents and even some lawmakers themselves. And even if it hadn’t, the money for many of those projects has dried up as the economy took a downturn and the government slashed budgets. “There’s not a lot he can give,” said John Burke, a political science professor at the University of Vermont who studies the presidency. Still, some say, Obama should have offered senators appointments to boards or behind-the-scenes assistance with fundraising – items that even senators from conservative states who want to keep their distance from the president might want. But in a recent wide-ranging news conference, Obama pushed back on the notion that he could get Congress to – as he called it – “behave.” “I can urge them to,” he said. “I can put pressure on them. I can, you know, rally the American people. . . . But ultimately they themselves are going to have to say, we want to do the right thing.”

### AT: Econ Impact

#### Even massive economic decline has zero chance of war

Robert Jervis 11, Professor in the Department of Political Science and School of International and Public Affairs at Columbia University, December 2011, “Force in Our Times,” Survival, Vol. 25, No. 4, p. 403-425

Even if war is still seen as evil, the security community could be dissolved if severe conflicts of interest were to arise. Could the more peaceful world generate new interests that would bring the members of the community into sharp disputes? 45 A zero-sum sense of status would be one example, perhaps linked to a steep rise in nationalism. More likely would be a worsening of the current economic difficulties, which could itself produce greater nationalism, undermine democracy and bring back old-fashioned beggar-my-neighbor economic policies. While these dangers are real, it is hard to believe that the conflicts could be great enough to lead the members of the community to contemplate fighting each other. It is not so much that economic interdependence has proceeded to the point where it could not be reversed – states that were more internally interdependent than anything seen internationally have fought bloody civil wars. Rather it is that even if the more extreme versions of free trade and economic liberalism become discredited, it is hard to see how without building on a preexisting high level of political conflict leaders and mass opinion would come to believe that their countries could prosper by impoverishing or even attacking others. Is it possible that problems will not only become severe, but that people will entertain the thought that they have to be solved by war? While a pessimist could note that this argument does not appear as outlandish as it did before the financial crisis, an optimist could reply (correctly, in my view) that the very fact that we have seen such a sharp economic down-turn without anyone suggesting that force of arms is the solution shows that even if bad times bring about greater economic conflict, it will not make war thinkable.

### Deference

#### Checks on the Presidents power solves deterrence better- makes our threats credible

**Waxman 13** (Matthew C- Professor of Law at Columbia Law School; Adjunct Senior Fellow for Law and Foreign Policy, Council on Foreign Relations, “The Constitutional Power to Threaten War”, Forthcoming in Yale Law Journal, vol. 123 (2014), 8/25/2013, PDF)

A second argument, this one advanced by some congressionalists, is that stronger legislative checks on presidential uses of force would improve deterrent and coercive strategies by making them more selective and credible. The most credible U.S. threats, this argument holds, are those that carry formal approval by Congress, which reflects strong public support and willingness to bear the costs of war; requiring express legislative backing to make good on threats might therefore be thought to enhance the potency of threats by encouraging the President to seek congressional authorization before acting.181 A frequently cited instance is President Eisenhower’s request (soon granted) for standing congressional authorization to use force in the Taiwan Straits crises of the mid- and late-1950s – an authorization he claimed at the time was important to bolstering the credibility of U.S. threats to protect Formosa from Chinese aggression.182 (Eisenhower did not go so far as to suggest that congressional authorization ought to be legally required, however.) “It was [Eisenhower’s] seasoned judgment … that a commitment the United States would have much greater impact on allies and enemies alike because it would represent the collective judgment of the President and Congress,” concludes Louis Fisher. “Single-handed actions taken by a President, without the support of Congress and the people, can threaten national prestige and undermine the presidency. Eisenhower’s position was sound then. It is sound now.”183 A critical assumption here is that legal requirements of congressional participation in decisions to use force filters out unpopular uses of force, the threats of which are unlikely to be credible and which, if unsuccessful, undermine the credibility of future U.S. threats. A third view is that legal clarity is important to U.S. coercive and deterrent strategies; that ambiguity as to the President’s powers to use force undermines the credibility of threats. Michael Reisman observed, for example, in 1989: “Lack of clarity in the allocation of competence and the uncertain congressional role will sow uncertainty among those who depend on U.S. effectiveness for security and the maintenance of world order. Some reduction in U.S. credibility and diplomatic effectiveness may result.”184 Such stress on legal clarity is common among lawyers, who usually regard it as important to planning, whereas strategists tend to see possible value in “constructive ambiguity”, or deliberate fudging of drawn lines as a negotiating tactic or for domestic political purposes.185 A critical assumption here is that clarity of constitutional or statutory design with respect to decisions about force exerts significant effects on foreign perceptions of U.S. resolve to make good on threats, if not by affecting the substance of U.S. policy commitments with regard to force then by pointing foreign actors to the appropriate institution or process for reading them.

### 2AC Terror Impact

#### Detention causes terrorism- perpetuates the root cause of extremisim

Combs 12 (Casey- writer for the Diplomatic Courier and freelance associate for the Foreign Policy Association, citing Martin Sheinin, professor of international law and UN Special Rapporteur on human rights and counterterrorism from 2005 to 2011, January 12, “US Counterterrorism Law May “Backfire”: UN”, http://foreignpolicyblogs.com/2012/01/12/new-us-counterterrorism-law-may-backfire-un/)

When the “global war on terror” was waged following 9/11, he said, the possibility of indefinite detention was extended to terrorism, “far beyond genuine situations of international or even non-international armed conflict. And it extends indefinite detention to persons who are not combatants. For instance, persons who are held to have provided substantial support to terrorism would be subject to indefinite detention.” Against that background, Mr. Sheinan suggested several ways in which violating human rights in the course of countering terrorism can “backfire.” Rights violations can “add to causes of terrorism,” he said, “both by perpetuating ‘root causes’ that involve the alienation of communities and by providing ‘triggering causes’ through which bitter individuals make the morally inexcusable decision to turn to methods of terrorism.” Further, “these kinds of legal provisions are always open for bad faith copying by repressive governments that will use them for their own political purposes.” Though such copying was found to be less common than expected, “repressive governments may do so for their own political purposes.” “It is hard to see any practical advantage gained through the NDAA. It is just another form of what I call symbolic legislation, enacted because the legislators want to be seen as being ‘tough’ or as ‘doing something.’ The law is written as just affirming existing powers and practices and hence not providing any meaningful new tools in the combat of terrorism

,” he concluded. With Washington simultaneously fostering democratic transitions across the Middle East and North Africa and gambling on military exits from Iraq and Afghanistan, such “backfires” may well hamper development of the rule of law and respect for human rights when they are needed most.