## 1AC

### 1AC 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.¶

#### Lack of human rights application to detention policy limits SCOTUS influence and US human rights leadership

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.

#### Court application of customary international law is key to international credibility- forcing congressional clarification is key

Kundmueller 2 (Michelle University of Notre Dame, Candidate for J.D. and M.A. in Political Theory 2004, , 28 J. Legis. 359, p. lexis)

This Note has attempted to demonstrate some of the difficulties of applying customary international law in U.S. courts. At every level, there are unanswered questions. Many of these issues, like how "general" a practice or its acceptance must be in order to constitute customary international law, can only be given imprecise answers. Not only are these general problems inherent in all legal questions involving line-drawing in the defining of customary international law, but there is a virtual war being waged over where that line should be drawn and by whom. This issue, in turn, raises questions of constitutional importance, the gravity of which it is almost impossible to overstate. Practical concerns about the balance of powers, no less than theoretical misgivings over undermining our government's consent based authority and legitimacy, demand our attention as the possibility of directly incorporating customary international law, perhaps even when in direct contravention of federal statute, comes closer to becoming a reality.¶ Current cases do not present any of these possibilities as realities. They do, however, contain the beginnings of what could become fundamental structural changes in customary--and hence, United States--law should the judicial system prove dominant in determining customary international law. Current cases show U.S. courts, on a fairly modest level, defining, determining, and applying customary international law. The cases have yet to produce a real showdown between domestic, either constitutional or congressional, and customary law. To date, congressional and executive actions and statements have been taken as one type of evidence in determining the content of customary international law, but they have not served as dispositive or controlling in the face of overwhelming evidence that customary international law as a whole dictates a contrary outcome.¶ This, of course, is the real issue. What happens when the will of the people or a dictate of the Constitution conflicts directly with customary international law? No doubt, our courts will do their best to interpret creatively so as to avoid such a conflict, but, eventually, the conflict will come, and a decision will be made. The conflict is inevitable due to the nature of modern customary international law. No longer delegated to issues traditionally understood as exterior, modern customary international law is beginning to define relationships between governments and their citizens and amongst citizens. [\*378] ¶ The conclusions of this Note are three. First, there is an impending constitutional crisis, with the potential to alter the fundamental structure of our laws and the legal authority (if not the power) of the American people. Second, in this eminent struggle, Congress ought to take the lead, controlling through legislation the authority of customary international law in domestic matters and thus circumventing the potential conflict between international and domestic law by upholding the supremacy of U.S. law in domestic matters. The courts will by necessity play a crucial role, for they must concur that this role belongs to the legislature and that federal law is supreme. Third, U.S. courts must, in their role as interpreters of customary international law, hold ever present in their determinations the recognized definition of customary law, which encompasses both a custom and a convention element: the practice of nations ought not be ignored. By this means, they will be surer of applying customary international law as it exists, rather than as courts and commentators wish it to be.

#### US key to global international law frameworks

Schulz 9 (William F. Schulz 9 is Senior Fellow, Center for American Progress, "The Future of Human Rights: Restoring America’s Leadership," [www.policyarchive.org/handle/10207/bitstreams/10918.pdf](http://www.policyarchive.org/handle/10207/bitstreams/10918.pdf))

What has been far more problematic over the last few years than random disparities between domestic and international interpretations of human rights law has been a fundamental disparagement of the authority of the international community itself. Such depreciation started early: in 2000 Condoleezza Rice, then foreign policy advisor to candidate George W. Bush, wrote in Foreign Affairs magazine, “Foreign policy in a Republican administration…will proceed from the firm ground of the national interest, not from the interests of an illusory international community [emphasis added].” Over the past seven years the U.S. has repeatedly demonstrated its contempt for that allegedly chimerical community by doing such things as “unsigning” the Rome statute of the International Criminal Court (ICC); declaring the Geneva Conventions inapplicable to prisoners at Guantanamo Bay and other so-called “unlawful combatants;” ignoring UN findings and resolutions in the run-up to the Iraq War; or refusing to stand for election to the UN Human Rights Council. The consequences have been devastating for the reputations both of the U.S., which has seen its favorability ratings drop precipitously around the world,5 and, paradoxically, of human rights themselves. The U.S. has long prided itself on being a champion of human rights and with much good reason. We would have had no Universal Declaration of Human Rights had it not been for Eleanor and Franklin Roosevelt; the U.S. pushed hard for the civil rights provisions of the Helsinki Accords, thereby contributing to the eventual liberation of Eastern Europe; the U.S. judicial system with its wide array of due process protections has been a model emulated by newly emerging countries around the world; U.S. diplomats have frequently intervened on behalf of political dissidents; the Kosovo War was spearheaded by an American commitment to prevent ethnic cleansing; and the annual State Department human rights reports have long been an invaluable resource to the cause of human rights. The current U.S. administration’s commitment to battling HIV/AIDS in Africa and its outspokenness on Darfur are consistent with this tradition. But for the most powerful nation in the world, long looked to as a model of human rights virtue, to undermine the international system itself—the very framework upon which human rights are predicated—is to cause immeasurable damage to the struggle for liberty. Backtracking on our commitments to international treaties and norms in the name of defending human rights is not just ironic. One of the consequences of the Iraq War with its latter-day human rights rationale and of the “War on Terror” with its oft-stated goals of defending freedom and the rule of law is that human rights themselves have come to be identified with America’s worldwide ambitions. For human rights to be conflated with, fairly or not, in the words of the critic David Rieff, “the official ideology of American empire,”6 only exacerbates the customary suspicion in which human rights have been held by some in the developing world who see them as a guise for the imposition of Western values. The truth is that if human rights and the U.S.’s pursuit of them are discredited, American interests are put in peril. Reserving the option to torture prisoners, denying them habeas corpus, sending them into “black site” prisons—all this makes it harder to defend America against the charge of hypocrisy; the claim that we are carrying out a war in defense of the rule of law by abandoning that very rule. Such a charge hands fodder for recruitment to our adversaries and makes the world less safe for Americans. No country can claim protection for its own citizens overseas (be they soldiers taken as prisoners, nationals charged with crimes, or corporations faced with extortion) if it fails to respect international norms at home. . Nor can the U.S. offer effective objection to the human rights violations of others if it is guilty of those same violations itself or has shunned cooperation with international allies. No nation, no matter how powerful, can successfully pursue improvements in human rights around the world independent of the international community. Unilateral sanctions imposed upon a country to protest human rights abuses will inevitably fail if they lack the support of others

#### The creation of an international standard for detention in accordance with humanitarian law solves multiple inevitable conflict scenarios- specifically climate change instability

Hilde 9 (Thomas C. Hilde is a professor at the university of Maryland school of Public Policy where he teaches seminars in ethics and policy and international environmental and development law and politics, 2009, “Beyond Guantánamo Restoring U.S. Credibility on Human Rights”, <http://www.lb.boell.org/downloads/Beyond_Guantanamo.pdf>) \*text amended after pasting troubles (g=>G)

There is also a difference in the legal treatment of captured “enemy combatants” and ordinary prisoners of war. While trying to prevent future killings, security agencies worried that existing instruments were insufficient to fulfill this task. to solve the dilemma, the former us administration tried to formulate a third category of law, aside from existing civil law and martial law with its respective international conventions. The military commissions, external detention camps like Guantánamo or Abu Ghraib and the euphemistically described “enhanced interrogation methods” are the practical results of that political approach. Former government officials argue that this policy prevented the country from another attack like the one the nation suffered on 9/11/2001. Even if this were true, however, this policy never solved the dilemma in asymmetrical wars of how to prosecute “enemy combatants” in accordance with humanitarian international law. Moreover, “enhanced interrogation methods” not only harmed human rights credibility and undermined the integrity of liberal democracies; the officially decreed use of torture in Abu Ghraib, Guantánamo and possibly other places in the early years of the Iraq war also led to counterproductive results. it played directly into the hands of extremist islamic recruiters, making their job much easier. As President Barack Obama said, “the existence of Guantánamo likely created more terrorists around the world than it ever detained.” The new us administration inherited this dilemma. closing down Guantánamo alone will not solve it. Even worse, conflicts in Afghanistan and Pakistan as well as with pirates off the east African coast continue to require the capture of combatants in asymmetric constellations. In the years ahead, an increase in new or outbreak of existing conflicts is to be expected. Climate change as a threat multiplier will contribute to the fight over resource access through food and water scarcities, natural disasters, and migration. Religion will continue to be misused as a pretext in conflicts about social injustice in the course of globalization. in other words, there is an urgent need for international legal arrangements to help provide security to citizens and prosecute those engaged in terrorism, while at the same time respecting the rule of law and thus the integrity of liberal democracies. As Thomas Hilde rightly explains, Guantánamo is not an American problem alone. Europeans also failed to live up to their own human rights standards. investigative committees of various institutions revealed that european governments did not oppose the us policy choices for treating “enemy combatants” in the “global War On terror.” they either quietly allowed secret activities of the CIA on European soil or made use of information gained through “harsh interrogations,”

#### Absent cooperation- climate change instability escalates

**Werz & Conley 12** - Senior Fellow @American Progress where his work as member of the National Security Team focuses on the nexus of climate change, migration, and security and emerging democracies & Research Associate for National Security and International Policy @ the Center for American Progress [Michael Werz & Laura Conley, “Climate Change, Migration, and Conflict: Addressing complex crisis scenarios in the 21st Century,” Center for American Progress, January 2012]

The costs and consequences of climate change on our world will define the 21st century. Even if nations across our planet were to take immediate steps to rein in carbon emissions—an unlikely prospect—a warmer climate is inevitable. As the U.N. Intergovernmental Panel on Climate Change, or IPCC, noted in 2007, human-created “warming of the climate system is unequivocal, as is now evident from observations of increases in global average air and ocean temperatures, widespread melting of snow and ice and rising global average sea level.”1¶ As these ill effects progress they will have serious implications for U.S. national security interests as well as global stability—extending from the sustainability of coastal military installations to the stability of nations that lack the resources, good governance, and resiliency needed to respond to the many adverse consequences of climate change. And as these effects accelerate, the stress will impact human migration and conflict around the world.¶ It is difficult to fully understand the detailed causes of migration and economic and political instability, but the growing evidence of links between climate change, migration, and conflict raise plenty of reasons for concern. This is why it’s time to start thinking about new and comprehensive answers to multifaceted crisis scenarios brought on or worsened by global climate change. As Achim Steiner, executive director of the U.N. Environment Program, argues, “The question we must continuously ask ourselves in the face of scientific complexity and uncertainty, but also growing evidence of climate change, is at what point precaution, common sense or prudent risk management demands action.”2 In the coming decades climate change will increasingly threaten humanity’s shared interests and collective security in many parts of the world, disproportionately affecting the globe’s least developed countries. Climate change will pose challenging social, political, and strategic questions for the many different multinational, regional, national, and nonprofit organizations dedicated to improving the human condition worldwide. Organizations as different as Amnesty International, the U.S. Agency for International Development, the World Bank, the International Rescue Committee, and the World Health Organization will all have to tackle directly the myriad effects of climate change.¶ Climate change also poses distinct challenges to U.S. national security. Recent intelligence reports and war games, including some conducted by the U.S. Department of Defense, conclude that over the next two or three decades, vulnerable regions (particularly sub-Saharan Africa, the Middle East, South and Southeast Asia) will face the prospect of food shortages, water crises, and catastrophic flooding driven by climate change. These developments could demand U.S., European, and international humanitarian relief or military responses, often the delivery vehicle for aid in crisis situations.¶ This report provides the foundation and overview for a series of papers focusing on the particular challenges posed by the cumulative effects of climate change, migration, and conflict in some of our world’s most complex environments. In the papers following this report, we plan to outline the effects of this nexus in northwest Africa, in India and Bangladesh, in the Andean region of South America, and in China. In this paper we detail that nexus across our planet and offer wide ranging recommendations about how the United States, its allies in the global community, and the community at large can deal with the coming climate-driven crises with comprehensive sustainable security solutions encompassing national security, diplomacy, and economic, social, and environmental development. ¶ Here, we briefly summarize our arguments and our conclusions.¶ The nexus¶ The Arab Spring can be at least partly credited to climate change. Rising food prices and efforts by authoritarian regimes to crush political protests were linked first to food and then to political repression—two important motivators in the Arab makeover this past year.¶ To be sure, longstanding economic and social distress and lack of opportunity for so many Arab youth in the Middle East and across North Africa only needed a spark to ignite revolutions across the region. But environmental degradation and the movement of people from rural areas to already overcrowded cities alongside rising food prices enabled the cumulative effects of long-term economic and political failures to sweep across borders with remarkable agility. It does not require much foresight to acknowledge that other effects of climate change will add to the pressure in the decades to come. In particular the cumulative overlays of climate change with human migration driven by environmental crises, political conflict caused by this migration, and competition for more scarce resources will add new dimensions of complexity to existing and future crisis scenarios. It is thus critical to understand how governments plan to answer and prioritize these new threats from climate change, migration, and conflict.¶ Climate change¶ Climate change alone poses a daunting challenge. No matter what steps the global community takes to mitigate carbon emissions, a warmer climate is inevitable. The effects are already being felt today and will intensify as climate change worsens. All of the world’s regions and nations will experience some of the effects of this transformational challenge.¶ Here’s just one case in point: African states are likely to be the most vulnerable to multiple stresses, with up to 250 million people projected to suffer from water and food insecurity and, in low-lying areas, a rising sea level.3 As little as 1 percent of Africa’s land is located in low-lying coastal zones but this land supports 12 percent of its urban population.4¶ Furthermore, a majority of people in Africa live in lower altitudes—including the Sahel, the area just south of the Sahara—where the worst effects of water scarcity, hotter temperatures, and longer dry seasons are expected to occur.5 These developments may well be exacerbated by the lack of state and regional capacity to manage the effects of climate change. These same dynamics haunt many nations in Asia and the Americas, too, and the implications for developed countries such as the United States and much of Europe will be profound.¶ Migration¶ Migration adds another layer of complexity to the scenario. In the 21st century the world could see substantial numbers of climate migrants—people displaced by either the slow or sudden onset of the effects of climate change. The United Nations’ recent Human Development Report stated that, worldwide, there are already an estimated 700 million internal migrants—those leaving their homes within their own countries—a number that includes people whose migration isrelated to climate change and environmental factors. Overall migration across national borders is already at approximately 214 million people worldwide,6 with estimates of up to 20 million displaced in 2008 alone because of a rising sea level, desertification, and flooding.7¶ One expert, Oli Brown of the International Institute for Sustainable Development, predicts a tenfold increase in the current number of internally displaced persons and international refugees by 2050.8 It is important to acknowledge that there is no consensus on this estimate. In fact there is major disagreement among experts about how to identify climate as a causal factor in internal and international migration. But even though the root causes of human mobility are not always easy to decipher, the policy challenges posed by that movement are real. A 2009 report by the International Organization for Migration produced in cooperation with the United Nations University and the Climate Change, Environment and Migration Alliance cites numbers that range from “200 million to 1 billion migrants from climate change alone, by 2050,”9 arguing that “environmental drivers of migration are often coupled with economic, social and developmental factors that can accelerate and to a certain extent mask the impact of climate change.”¶ The report also notes that “migration can result from different environmental factors, among them gradual environmental degradation (including desertification, soil and coastal erosion) and natural disasters (such as earthquakes, floods or tropical storms).”10 (See box on page 15 for a more detailed definition of climate migrants.) Clearly, then, climate change is expected to aggravate many existing migratory pressures around the world. Indeed associated extreme weather events resulting in drought, floods, and disease are projected to increase the number of sudden humanitarian crises and disasters in areas least able to cope, such as those already mired in poverty or prone to conflict.11¶ Conflict¶ This final layer is the most unpredictable, both within nations and transnationally, and will force the United States and the international community to confront climate and migration challenges within an increasingly unstructured local or regional security environment. In contrast to the great power conflicts and the associated proxy wars that marked most of the 20th century, the immediate post- Cold War decades witnessed a diffusion of national security interests and threats. U.S. national security policy is increasingly integrating thinking about nonstate actors and nontraditional sources of conflict and instability, for example in the fight against Al Qaeda and its affiliated groups.¶ Climate change is among these newly visible issues sparking conflict. But because the direct link between conflict and climate change is unclear, awareness of the indirect links has yet to lead to substantial and sustained action to address its security implications. Still the potential for the changing climate to induce conflict or exacerbate existing instability in some of the world’s most vulnerable regions is now recognized in national security circles in the United States, although research gaps still exists in many places.¶ The climate-conflict nexus was highlighted with particular effect by the current U.S. administration’s security-planning reviews over the past two years, as well as the Center for Naval Analysis, which termed climate change a “threat multiplier,” indicating that it can exacerbate existing stresses and insecurity.12 The Pentagon’s latest Quadrennial Defense Review also recognized climate change as an “accelerant of instability or conflict,” highlighting the operational challenges that will confront U.S. and partner militaries amid a rising sea level, growing extreme weather events, and other anticipated effects of climate change.13 The U.S. Department of Defense has even voiced concern for American military installations that may be threatened by a rising sea level.14¶ There is also well-developed international analysis on these points. The United Kingdom’s 2010 Defense Review, for example, referenced the security aspects of climate change as an evolving challenge for militaries and policymakers. Additionally, in 2010, the Nigerian government referred to climate change as the “greatest environmental and humanitarian challenge facing the country this century,” demonstrating that climate change is no longer seen as solely scientific or environmental, but increasingly as a social and political issue cutting across all aspects of human development.15¶ As these three threads—climate change, migration, and conflict—interact more intensely, the consequences will be far-reaching and occasionally counterintuitive. It is impossible to predict the outcome of the Arab Spring movement, for example, but the blossoming of democracy in some countries and the demand for it in others is partly an unexpected result of the consequences of climate change on global food prices. On the other hand, the interplay of these factors will drive complex crisis situations in which domestic policy, international policy, humanitarian assistance, and security converge in new ways.¶ Areas of concern¶ Several regional hotspots frequently come up in the international debate on climate change, migration, and conflict. Climate migrants in northwest Africa, for example, are causing communities across the region to respond in different ways, often to the detriment of regional and international security concerns. Political and social instability in the region plays into the hands of organizations such as Al Qaeda in the Islamic Maghreb. And recent developments in Libya, especially the large number of weapons looted from depots after strongman Moammar Qaddafi’s regime fell— which still remain unaccounted for—are a threat to stability across North Africa. Effective solutions need not address all of these issues simultaneously but must recognize the layers of relationships among them. And these solutions must also recognize that these variables will not always intersect in predictable ways. While some migrants may flee floodplains, for example, others may migrate to them in search of greater opportunities in coastal urban areas.16¶ Bangladesh, already well known for its disastrous floods, faces rising waters in the future due to climate-driven glacial meltdowns in neighboring India. The effects can hardly be over. In December 2008 the National Defense University in Washington, D.C., ran an exercise that explored the impact of a flood that sent hundreds of thousands of refugees into neighboring India. The result: the exercise predicted a new wave of migration would touch off religious conflicts, encourage the spread of contagious diseases, and cause vast damage to infrastructure. India itself is not in a position to absorb climate-induced pressures—never mind foreign climate migrants. The country will contribute 22 percent of global population growth and have close to 1.6 billion inhabitants by 2050, causing demographic developments that are sure to spark waves of internal migration across the country.¶ Then there’s the Andean region of South America, where melting glaciers and snowcaps will drive climate, migration, and security concerns. The average rate of glacial melting has doubled over the past few years, according to the World Glacier Monitoring Service.17 Besides Peru, which faces the gravest consequences in Latin America, a number of other Andean countries will be massively affected, including Bolivia, Ecuador, and Colombia. This development will put water security, agricultural production, and power generation at risk—all factors that could prompt people to leave their homes and migrate. The IPCC report argues that the region is especially vulnerable because of its fragile ecosystem.18¶ Finally, China is now in its fourth decade of ever-growing internal migration, some of it driven in recent years by environmental change. Today, across its vast territory, China continues to experience the full spectrum of climate change related consequences that have the potential to continue to encourage such migration. The Center for a New American Security recently found that the consequences of climate change and continued internal migration in China include “water stress; increased droughts, flooding, or other severe events; increased coastal erosion and saltwater inundation; glacial melt in the Himala as that could affect hundreds of millions; and shifting agricultural zones”—all of which will affect food supplies. 19 Pg. 1-7

#### Effective international institutions solve disease spread- also puts a cap of warfare

Deudney and Ikenberry 9 (Daniel and John, Professor of Political Science at Johns Hopkins University and Professor of Politics and International Affairs at Princeton, "The Myth of Autocratic Revivial: Why Liberal Democracy Will PRevail," Foreign AFfairs, Jan/Feb, Vol. 88, Issue 1, EBSCO))

TWO decades of post-Cold War liberal triumph, U.S. foreign policy is being challenged by the return of an old antiliberal vision. According to this vision, the world is not marching toward universal liberal democracy and "the end of history." Rather, it is polarizing into different camps and entering an era of rivalry between Western liberal states and dangerous autocracies, most notably China and Russia. Unlike the autocracies that failed so spectacularly in the twentieth century, today's autocracies are said to be not only compatible with capitalist success but also representative of a rival form of capitalism. And their presence in the international system supposedly foreshadows growing competition and conflict and is dangerously undermining the prospect of global cooperation. Several recent developments seem to support this emerging view. Democratic transitions have stalled and reversed. In China, the Communist Party dictatorship has weathered domestic challenges while presiding over decades of rapid economic growth and capitalist modernization. Rising oil prices have empowered autocratic regimes. In Russia, Vladimir Putin's government rolled back democratic gains and became increasingly autocratic. At the same time, relations between Russia and the West have deteriorated from the near amity of the early post-Cold War era, and China and the West remain divided over Taiwan, human rights, and oil access. Meanwhile, much less powerful autocratic states, such as Venezuela and Iran, are destabilizing their regions. There even appear to be signs that these autocratic states are making common cause against the liberal Western states, with nascent alliances such as the Shanghai Cooperation Organization. The United Nations, and particularly the Security Council, has returned to the paralysis of the Cold War. In this view, the liberal West faces a bleak future. The new prophets of autocratic revival draw important foreign policy implications from their thesis. One of the most forceful exponents of this new view, Robert Kagan, insists that it is time for the United States and the other liberal democracies to abandon their expectations of global convergence and cooperation. Instead, they should strengthen ties among themselves, perhaps even through a formal "league of democracies," and gird themselves for increasing rivalry and conflict with the resurgent autocracies. Containment rather than engagement, military rivalry rather than arms control, balance of power rather than concert of power — these should be, according to such theorists, the guideposts for U.S. foreign policy. Fortunately, this new conventional wisdom about autocratic revival is as much an exaggeration of a few years of headlines as was the proclamation of the end of history at the end of the Cold War. The proposition that autocracies have achieved a new lease on life and are emerging today as a viable alternative within the global capitalist system is wrong. Just as important, the policies promoted by the autocratic revivalists are unlikely to be successful and, if anything, would be counterproductive — driving autocracies away from the liberal system and thereby creating a self-fulfilling prophecy. Although today's autocracies may be more competent and more adept at accommodating capitalism than their predecessors were, they are nonetheless fundamentally constrained by deep-seated incapacities that promise to limit their viability over the long run. Ultimately, autocracies will move toward liberalism. The success of regimes such as those in China and Russia is not a refutation of the liberal vision; the recent success of autocratic states has depended on their access to the international liberal order, and they remain dependent on its success. Furthermore, the relentless imperatives of rising global interdependence create powerful and growing incentives for states to engage in international cooperation regardless of regime type. The resilience of autocracies calls not for abandoning or retreating from liberal internationalism but rather for refining and strengthening it. If liberal democratic states react to revived autocracies solely with policies of containment, arms competition, and exclusive bloc building, as neoconservatives advise, the result is likely to be a strengthening and encouragement of illiberal tendencies in these countries. In contrast, cooperatively tackling common global problems — such as climate change, energy security, and disease — will increase the stakes that autocratic regimes have in the liberal order. Western states must also find ways to accommodate rising states — whether autocratic or democratic — and integrate them into the governance of international institutions. Given the powerful logic that connects modernization and liberalization, autocratic regimes face strong incentives to liberalize. The more accommodating and appealing the liberal path is, the more quickly and easily the world's current illiberal powers will choose the path of political reform. NOT ONLY do the autocratic revival theorists posit an alternative form of capitalism, but they also envision renewed international rivalries. According to Kagan's version of the argument, the twenty-first century will look much like the nineteenth century. There will be a combination of great-power rivalries and a growing ideological and geopolitical divide between autocracies and democracies. Rivalry among great powers, independent of regime type, will be an increasingly salient feature of world politics, according to this view. Rising powers — most notably China, India, Japan, and Russia — will aspire to improve their international positions and establish hegemony within their regions. As the power of these states grows, their definition of their national interest will expand, placing them on a collision course with one another. Because their envisioned spheres of influence overlap, these rising states will come into increasing conflict and competition. In East Asia, China's rise will come at Japan's expense; China and India will be rivals for leadership in Southeast Asia; and Russia's attempt to reestablish its imperial sphere of influence will put it on a collision course with both China and Europe. In Kagan's view, this emerging great-power struggle will be exacerbated by several factors. All of the rising great powers have well-developed senses of grievance based on their historical experiences over the last two centuries of decline in the face of encroachment by European imperialism and by one another. China's aspirations and view of itself are heavily shaped by the historical experience of its decline from the Middle Kingdom's hegemony in East Asia to the "century of humiliation," defined by predation by the Europeans and then by Japan in the 1930s and 1940s. Russia's narrative of grievance centers on the sudden loss of its centuries-old domination of eastern Europe, Ukraine, and Central Asia with the end of the Cold War. Another factor that will exacerbate the supposed coming great-power competition is the prospect of a nineteenth-century-style scramble for raw materials and markets. Tightening global oil supplies and voraciously rising demand presage a future of cutthroat mercantilist competition among the great powers. It is in combination with these factors that the regime divergence between autocracies and democracies will become increasingly dangerous. If all the states in the world were democracies, there would still be competition, but a world riven by a democratic-autocratic divergence promises to be even more conflictual. There are even signs of the emergence of an "autocrats international" in the Shanghai Cooperation Organization, made up of China, Russia, and the poorer and weaker Central Asian dictatorships. Overall, the autocratic revivalists paint the picture of an international system marked by rising levels of conflict and competition, a picture quite unlike the "end of history" vision of growing convergence and cooperation. This bleak outlook is based on an exaggeration of recent developments and ignores powerful countervailing factors and forces. Indeed, contrary to what the revivalists describe, the most striking features of the contemporary international landscape are the intensification of economic globalization, thickening institutions, and shared problems of interdependence. The overall structure of the international system today is quite unlike that of the nineteenth century. Compared to older orders, the contemporary liberal-centered international order provides a set of constraints and opportunities — of pushes and pulls — that reduce the likelihood of severe conflict while creating strong imperatives for cooperative problem solving. Those invoking the nineteenth century as a model for the twenty-first also fail to acknowledge the extent to which war as a path to conflict resolution and great-power expansion has become largely obsolete. Most important, nuclear weapons have transformed great-power war from a routine feature of international politics into an exercise in national suicide. With all of the great powers possessing nuclear weapons and ample means to rapidly expand their deterrent forces, warfare among these states has truly become an option of last resort. The prospect of such great losses has instilled in the great powers a level of caution and restraint that effectively precludes major revisionist efforts. Furthermore, the diffusion of small arms and the near universality of nationalism have severely limited the ability of great powers to conquer and occupy territory inhabited by resisting populations (as Algeria, Vietnam, Afghanistan, and now Iraq have demonstrated). Unlike during the days of empire building in the nineteenth century, states today cannot translate great asymmetries of power into effective territorial control; at most, they can hope for loose hegemonic relationships that require them to give something in return. Also unlike in the nineteenth century, today the density of trade, investment, and production networks across international borders raises even more the costs of war. A Chinese invasion of Taiwan, to take one of the most plausible cases of a future interstate war, would pose for the Chinese communist regime daunting economic costs, both domestic and international. Taken together, these changes in the economy of violence mean that the international system is far more primed for peace than the autocratic revivalists acknowledge. The autocratic revival thesis neglects other key features of the international system as well. In the nineteenth century, rising states faced an international environment in which they could reasonably expect to translate their growing clout into geopolitical changes that would benefit themselves. But in the twenty-first century, the status quo is much more difficult to overturn. Simple comparisons between China and the United States with regard to aggregate economic size and capability do not reflect the fact that the United States does not stand alone but rather is the head of a coalition of liberal capitalist states in Europe and East Asia whose aggregate assets far exceed those of China or even of a coalition of autocratic states. Moreover, potentially revisionist autocratic states, most notably China and Russia, are already substantial players and stakeholders in an ensemble of global institutions that make up the status quo, not least the UN Security Council (in which they have permanent seats and veto power). Many other global institutions, such as the International Monetary Fund and the World Bank, are configured in such a way that rising states can increase their voice only by buying into the institutions. The pathway to modernity for rising states is not outside and against the status quo but rather inside and through the flexible and accommodating institutions of the liberal international order. The fact that these autocracies are capitalist has profound implications for the nature of their international interests that point toward integration and accommodation in the future. The domestic viability of these regimes hinges on their ability to sustain high economic growth rates, which in turn is crucially dependent on international trade and investment; today's autocracies may be illiberal, but they remain fundamentally dependent on a liberal international capitalist system. It is not surprising that China made major domestic changes in order to join the WTO or that Russia is seeking to do so now. The dependence of autocratic capitalist states on foreign trade and investment means that they have a fundamental interest in maintaining an open, rule-based economic system. (Although these autocratic states do pursue bilateral trade and investment deals, particularly in energy and raw materials, this does not obviate their more basic dependence on and commitment to the WTO order.) In the case of China, because of its extensive dependence on industrial exports, the WTO may act as a vital bulwark against protectionist tendencies in importing states. Given their position in this system, which so serves their interests, the autocratic states are unlikely to become champions of an alternative global or regional economic order, let alone spoilers intent on seriously damaging the existing one. The prospects for revisionist behavior on the part of the capitalist autocracies are further reduced by the large and growing social networks across international borders. Not only have these states joined the world economy, but their people — particularly upwardly mobile and educated elites — have increasingly joined the world community. In large and growing numbers, citizens of autocratic capitalist states are participating in a sprawling array of transnational educational, business, and avocational networks. As individuals are socialized into the values and orientations of these networks, stark: "us versus them" cleavages become more difficult to generate and sustain. As the Harvard political scientist Alastair Iain Johnston has argued, China's ruling elite has also been socialized, as its foreign policy establishment has internalized the norms and practices of the international diplomatic community. China, far from cultivating causes for territorial dispute with its neighbors, has instead sought to resolve numerous historically inherited border conflicts, acting like a satisfied status quo state. These social and diplomatic processes and developments suggest that there are strong tendencies toward normalization operating here. Finally, there is an emerging set of global problems stemming from industrialism and economic globalization that will create common interests across states regardless of regime type. Autocratic China is as dependent on imported oil as are democratic Europe, India, Japan, and the United States, suggesting an alignment of interests against petroleum-exporting autocracies, such as Iran and Russia. These states share a common interest in price stability and supply security that could form the basis for a revitalization of the International Energy Agency, the consumer association created during the oil turmoil of the 1970s. The emergence of global warming and climate change as significant problems also suggests possibilities for alignments and cooperative ventures cutting across the autocratic-democratic divide. Like the United States, China is not only a major contributor to greenhouse gas accumulation but also likely to be a major victim of climate-induced desertification and coastal flooding. Its rapid industrialization and consequent pollution means that China, like other developed countries, will increasingly need to import technologies and innovative solutions for environmental management. Resource scarcity and environmental deterioration pose global threats that no state will be able to solve alone, thus placing a further premium on political integration and cooperative institution building. Analogies between the nineteenth century and the twenty-first are based on a severe mischaracterization of the actual conditions of the new era. The declining utility of war, the thickening of international transactions and institutions, and emerging resource and environmental interdependencies together undercut scenarios of international conflict and instability based on autocratic-democratic rivalry and autocratic revisionism. In fact, the conditions of the twenty-first century point to the renewed value of international integration and cooperation. THE PROPHETS of autocratic revival propose a foreign policy for the United States and the other liberal democracies organized around the assumption that great-power rivalry and the autocratic-democratic divide will dominate in the coming decades. They advocate a foreign policy of confrontation, containment, and exclusion, and they advise liberal states to diminish their support for global cooperation and institution building. This foreign policy, were it to be implemented, would be a recipe for retreat and would risk creating a self-fulfilling prophecy. Instead, the underlying realities of the new era — and the incentives that all states face — underscore the need for a retooled and reinvigorated liberal internationalist program. A new liberal internationalism of consensus building and problem solving must take into account the circumstances and sensitivities of rising states while affirming the record of success and continuing relevance of the liberal democratic project. A successful foreign policy must start with an acknowledgment of the historically inherited vulnerabilities and grievances of the rising great powers and autocratic states. Autocratic government is partially appealing because it addresses the problems of ethnic separatism and territorial fragmentation that confront many contemporary states. For China, emerging from a long period of national humiliation and foreign encroachment, the territorial viability of the state hinges on the successful maintenance of control over the outlying regions of Manchuria, Taiwan, Tibet, and Xinjiang, which are occupied by restive ethnic groups seeking independence or autonomy. Similarly, Russia, shorn of much of its historical empire by the breakaway of the non-Russian republics at the end of the Cold War, presides over a vast territorial domain whose outlying areas are also inhabited by potentially secessionist peoples. For both China and Russia, nationalism and an ironhanded central state are appealing solutions to these centrifugal forces and important sources of legitimacy for the current regimes. As long as China and Russia view democratic opening and the norms of the liberal international system as threats to their territorial integrity, there will be severe upper limits on their willingness to be accommodating or to integrate themselves further into this system. In these circumstances, the foreign policy of the United States and the liberal democracies should be not to exacerbate these grievances and vulnerabilities but rather to mollify and ameliorate them. A successful foreign policy should also seek to integrate, rather than exclude, autocratic and rising great powers. Proposals to "draw up the gates" of the democratic world and exclude nondemocratic states — with measures such as the expulsion of Russia from the G-8 (the group of highly industrialized states) — promise to worsen relations and reinforce authoritarian rule. Instead, the United States and the other liberal democracies should seek to further integrate these states into existing international institutions by increasing their stakeholder roles within them. Proposals such as a "concert of democracies" should be configured to deepen cooperation among democratic states and reinforce global institutions rather than to confront nondemocratic states. The United States and the other democratic nations should take the initiative in solving global resource and environmental problems and produce global frameworks for problem solving that draw in nondemocratic states along the way. The democratic states should orient themselves to pragmatically address real and shared problems rather than focusing on ideological differences. Looking for alignments based on interests rather than regime type will further foreclose the unlikely coalescence of an antiliberal autocratic bloc. The foreign policy of the liberal states should continue to be based on the broad assumption that there is ultimately one path to modernity — and that it is essentially liberal in character. The liberal vision allows for considerable diversity based on historical experience and national difference. But autocratic capitalism is not an alternative model; it is only a way station on this path. How long states take in traversing this path will be shaped by many factors, some beyond the control of the liberal states. But a foreign policy appropriately calibrated to the real constraints and opportunities of the twenty-first century will facilitate this progression. Liberal states should not assume that history has ended, but they can still be certain that it is on their side. War as a path to conflict resolution and great-power expansion has become largely obsolete. Emerging global problems will create common interests across states regardless of regime type.

#### Credible human rights frameworks solve conflict escalation

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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.

### 1AC Afghanistan

#### Afghanistan will implement indefinite detention policies- their judiciary is modeled on the United States

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.

Indefinite detention erodes faith in the rule of law and ruins the Afghan judiciary

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- perception of hypocrisy replicates indefinite detention**

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.

#### Strong Afghan judiciary key to post-drawdown strategy

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.

#### That’s 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.

#### Post-drawdown Afghan state collapse leads to nuclear war

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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.

#### Multiple scenarios for escalation of Afghanistan conflict

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Neither President Barack Obama nor the Republicans competing to run against him are eager to talk about the war in Afghanistan. The electorate certainly doesn’t want to hear about it. Defense analysts are acting like it ended when Iraq did. Even more amazing is that most analysts and policymakers seem to believe that, one way or another, it doesn’t actually matter very much that it didn’t. In fact, the war is only now entering its culminating phase, indicated by the willingness of both US and Taliban officials to talk openly about negotiations, something parties to a conflict do only when they see more benefit to stopping a war than continuing it. That means the war’s ultimate outcome is likely to be decided by the decisions, battles, and bargaining of the next year or so. And its outcome will have huge implications for the future of US national security. In turn, that means the collective decision to ignore the war and its consequences is foolish at best, dangerous at worst. While Americans have lost interest in the war, the war may still have an interest in America. Now is the time, more than ten years into the effort, to remind ourselves what is at stake in Afghanistan and why the United States must secure lasting stability in South Asia. It was, of course, al-Qaeda’s attack on the US homeland that triggered the intervention in Afghanistan, but wars, once started, always involve broader considerations than those present at the firing of the first shot. The war in Afghanistan now affects all of America’s interests across South Asia: Pakistan’s stability and the security of its nuclear weapons, NATO’s credibility, relations with Iran and Russia, transnational drug-trafficking networks, and more. America leaves the job in Afghanistan unfinished at its peril. The chorus of voices in the Washington policy establishment calling for withdrawal is growing louder. In response to this pressure, President Obama has pledged to withdraw the surge of thirty thousand US troops by September 2012—faster than US military commanders have recommended—and fully transition leadership for the country’s security to the Afghans in 2013. These decisions mirror the anxieties of the electorate: fifty-six percent of Americans surveyed recently by the Pew Research Center said that the US should remove its troops as soon as possible. But it is not too late for Obama (who, after all, campaigned in 2008 on the importance of Afghanistan, portraying it as “the good war” in comparison to Iraq) to reformulate US strategy and goals in South Asia and explain to the American people and the world why an ongoing commitment to stabilizing Afghanistan and the region, however unpopular, is nonetheless necessary. The Afghanistan Study Group, a collection of scholars and former policymakers critical of the current intervention, argued in 2010 that al-Qaeda is no longer in Afghanistan and is unlikely to return, even if Afghanistan reverts to chaos or Taliban rule. It argued that three things would have to happen for al-Qaeda to reestablish a safe haven and threaten the United States: “1) the Taliban must seize control of a substantial portion of the country, 2) Al Qaeda must relocate there in strength, and 3) it must build facilities in this new ‘safe haven’ that will allow it to plan and train more effectively than it can today.” Because all three are unlikely to happen, the Study Group argued, al-Qaeda almost certainly will not reestablish a presence in Afghanistan in a way that threatens US security. In fact, none of those three steps are necessary for al-Qaeda to regain its safe haven and threaten America. The group could return to Afghanistan even if the Taliban do not take back control of the country. It could—and probably would—find safe haven there if Afghanistan relapsed into chaos or civil war. Militant groups, including al-Qaeda offshoots, have gravitated toward other failed states, like Somalia and Yemen, but Afghanistan remains especially tempting, given the network’s familiarity with the terrain and local connections. Nor does al-Qaeda, which was never numerically overwhelming, need to return to Afghanistan “in strength” to be a threat. Terrorist operations, including the attacks of 2001, are typically planned and carried out by very few people. Al-Qaeda’s resilience, therefore, means that stabilizing Afghanistan is, in fact, necessary even for the most basic US war aims. The international community should not withdraw until there is an Afghan government and Afghan security forces with the will and capacity to deny safe haven without international help. Setting aside the possibility of al-Qaeda’s reemergence, the United States has other important interests in the region as well—notably preventing the Taliban from gaining enough power to destabilize neighboring Pakistan, which, for all its recent defiance, is officially a longstanding American ally. (It signed two mutual defense treaties with the United States in the 1950s, and President Bush designated it a major non-NATO ally in 2004.) State failure in Pakistan brokered by the Taliban could mean regional chaos and a possible loss of control of its nuclear weapons. Preventing such a catastrophe is clearly a vital national interest of the United States and cannot be accomplished with a few drones. Alarmingly, Pakistan is edging toward civil war. A collection of militant Islamist groups, including al-Qaeda, Tehrik-e Taliban Pakistan (TTP), and Tehrik-e Nafaz-e Shariat-e Mohammadi (TNSM), among others, are fighting an insurgency that has escalated dramatically since 2007 across Khyber Pakhtunkhwa, the Federally Administered Tribal Areas, and Baluchistan. According to the Brookings Institution’s Pakistan Index, insurgents, militants, and terrorists now regularly launch more than one hundred and fifty attacks per month on Pakistani government, military, and infrastructure targets. In a so far feckless and ineffectual response, Pakistan has deployed nearly one hundred thousand regular army soldiers to its western provinces. At least three thousand soldiers have been killed in combat since 2007, as militants have been able to seize control of whole towns and districts. Tens of thousands of Pakistani civilians and militants—the distinction between them in these areas is not always clear—have been killed in daily terror and counterterror operations. The two insurgencies in Afghanistan and Pakistan are linked. Defeating the Afghan Taliban would give the United States and Pakistan momentum in the fight against the Pakistani Taliban. A Taliban takeover in Afghanistan, on the other hand, will give new strength to the Pakistani insurgency, which would gain an ally in Kabul, safe haven to train and arm and from which to launch attacks into Pakistan, and a huge morale boost in seeing their compatriots win power in a neighboring country. Pakistan’s collapse or fall to the Taliban is (at present) unlikely, but the implications of that scenario are so dire that they cannot be ignored. Even short of a collapse, increasing chaos and instability in Pakistan could give cover for terrorists to increase the intensity and scope of their operations, perhaps even to achieve the cherished goal of stealing a nuclear weapon. Although our war there has at times seemed remote, Afghanistan itself occupies crucial geography. Situated between Iran and Pakistan, bordering China, and within reach of Russia and India, it sits on a crossroads of Asia’s great powers. This is why it has, since the nineteenth century, been home to the so-called Great Game—in which the US should continue to be a player. Two other players, Russia and Iran, are aggressive powers seeking to establish hegemony over their neighbors. Iran is seeking to build nuclear weapons, has an elite military organization (the Quds Force) seeking to export its Islamic Revolution, and uses the terror group Hezbollah as a proxy to bully neighboring countries and threaten Israel. Russia under Vladimir Putin is seeking to reestablish its sphere of influence over its near abroad, in pursuit of which it (probably) cyber-attacked Estonia in 2007, invaded Georgia in 2008, and has continued efforts to subvert Ukraine. Iran owned much of Afghan territory centuries ago, and continues to share a similar language, culture, and religion with much of the country. It maintains extensive ties with the Taliban, Afghan warlords, and opposition politicians who might replace the corrupt but Western-oriented Karzai government. Building a stable government in Kabul will be a small step in the larger campaign to limit Tehran’s influence. Russia remains heavily involved in the Central Asian republics. It has worked to oust the United States from the air base at Manas, Kyrgyzstan. It remains interested in the huge energy reserves in Kazakhstan and Turkmenistan. Russia may be wary of significant involvement in Afghanistan proper, unwilling to repeat the Soviet Union’s epic blunder there. But a US withdrawal from Afghanistan followed by Kabul’s collapse would likely embolden Russia to assert its influence more aggressively elsewhere in Central Asia or Eastern Europe, especially in the Ukraine. A US departure from Afghanistan will also continue to resonate for years to come in the strength and purpose of NATO. Every American president since Harry Truman has affirmed the centrality of the Atlantic Alliance to US national security. The war in Afghanistan under the NATO-led International Security Assistance Force (ISAF), the Alliance’s first out-of-area operation in its sixty-year history, was going poorly until the US troop surge. Even with the limited success that followed, allies have complained that the burden in Afghanistan has been distributed unevenly. Some, like the British, Canadians, and Poles, are fighting a shooting war in Kandahar and Helmand, while others, like the Lithuanians and Germans, are doing peacekeeping in Ghor and Kunduz. The poor command and control—split between four regional centers—left decisionmaking slow and poorly coordinated for much of the war. ISAF’s strategy was only clarified in 2008 and 2009, when Generals David McKiernan and Stanley McChrystal finally developed a more coherent campaign plan with counterinsurgency-appropriate rules of engagement. A bad end in Afghanistan could have dire consequences for the Atlantic Alliance, leaving the organization’s future, and especially its credibility as a deterrent to Russia, in question. It would not be irrational for a Russian observer of the war in Afghanistan to conclude that if NATO cannot make tough decisions, field effective fighting forces, or distribute burdens evenly, it cannot defend Europe. The United States and Europe must prevent that outcome by salvaging a credible result to its operations in Afghanistan—one that both persuades Russia that NATO is still a fighting alliance and preserves the organization as a pillar of US national security. For some critics, organizing US grand strategy around the possible appearance of Russian tanks across the Fulda Gap is the perfect example of generals continuing to fight the last war. For them, the primary threat to US national security comes from terrorists, insurgency, state failure, ecological disaster, infectious pandemic disease, cyber attacks, transnational crime, piracy, and gangs. But if that view of the world is right, it is all the more reason to remain engaged in Afghanistan, because it is the epicenter of the new, asymmetric, transnational threats to the US and allied national security. Even those who deny al-Qaeda could regain safe haven in Afghanistan cannot deny how much power, and capacity for damage, the drug lords have acquired there. In some years they have controlled wealth equivalent to fifty percent of Afghanistan’s GDP and produced in excess of ninety percent of the world’s heroin. Today, their products feed Europe’s endemic heroin problem, and the wealth this trade generates has done much to undermine nine years of work building a new and legitimate government in Kabul. In their quest for market share, the drug lords will expand wherever there is demand for their product or potential to grow a secure supply, almost certainly starting in Pakistan, where the trade was centered in the 1980s. Where the drug lords go, state failure, along with its accompanying chaos and asymmetric threats, will follow, as the violence and anarchy currently wracking parts of Mexico suggest. Imagine the Federally Administered Tribal Areas as a failed narco-state with the profits funding the revival of al-Qaeda or its many terror offshoots. South Asia’s narcotics-smuggling cartels are dangerously close to seizing control of an entire state and using it to undermine law, order, and stability across an entire region. The poppy and heroin kingpins are fabulously wealthy and powerful; they oppose US interests, weaken US allies, and are headquartered in Afghanistan. Defeating them is a vital interest of the United States.

#### Limited Indo-Pak war causes 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).

### 1AC Solvency

#### No Case Law on detention means there is no executive restraint in the squo

Steven Vladeck (Professor of Law, American University Washington College of Law) February 29, 2012 “THE DUE PROCESS GUARANTEE ACT : BANNING INDEFINITE DETENTION OF AMERICANS” Hearing Before the Senate Committee on the Judiciary, http://www.judiciary.senate.gov/pdf/12-2-29VladeckTestimony.pdf

Much more can — and has been — said about this case law. For present purposes, though, it suffice s to note that there is exceedingly little precedent bearing on the government’s power to subject individuals arrested inside the United States to military detention . The only opinion still in force — that of the Fourth Circuit in Padilla — turned on exceedingly narrow facts, and has been questioned even by the jurist who wrote it. 22 Thus, although the Feinstein Amendment to the NDAA preserved the status quo with regard to domestic military detention under the AUMF, the only thing that is clear about that pre-NDAA case law is its lack of certainty . 23

#### Clear statement requirement restricts executive power and preserves our ability to try and convict terrorists

Steven Vladeck (Professor of Law, American University Washington College of Law) February 29, 2012 “THE DUE PROCESS GUARANTEE ACT : BANNING INDEFINITE DETENTION OF AMERICANS” Hearing Before the Senate Committee on the Judiciary, http://www.judiciary.senate.gov/pdf/12-2-29VladeckTestimony.pdf

My third (and final) point is that , although some might believe that such an expanded clear statement rule would unnecessarily circumscribe the government’s present authority to detain terrorism suspects arrested within the territorial United States, there are myriad existing authorities that would unquestionably satisfy such a clear statement rule For example, all federal criminal statutes would necessarily satisfy a clear statement rule, since each expressly provides authority for imprisonment, 33 and the Bail Reform Act of 1984 expressly authorizes pre - trial detention in appropriate cases. 34 Given the Supreme Court’s jurisprudence holding that presentment of a putative defendant before a neutral magistrate need only take place within 48 hours of an arrest undertaken without prior judicial process , 35 the government thereby has a combination of short - and long - term detention authority for any individual arrested within the United States on suspicion of terrorism - related offenses. In addition, there is also the possibility that the government might validly obtain a federal material witness warrant to detain individuals who may have information material to ongoing terrorism investigations even when there is not enough evidence to support an indictment against those suspects. 36 For non - citizens within the United States, the government has express authority to detain for immigration violations pending deportation , 37 along with the specific power conferred by section 412 of the USA PATRIOT Act 38 to detain non - citizen terrorism suspects for seven days before charging them with a criminal or immigration offense or releasing them. 39 To be sure, some of these authorities are controversial, and may, in at least some of their applications, raise distinct constituti onal questions. For present purposes, though, they serve as powerful testament to Congress’s ability to expressly authorize domestic detention when it chooses to do so . Finally, lest this point go unmentioned , even in cases in which extant law does not provide express authorization for domestic military detention , and subject to relevant constitutional considerations, Congress can provide clear authorization to supplement these existing authorities . The purpose of clear statement rules is not to chill le gislative initiative, but rather to ensure that Congress proceeds deliberately in the face of the constitutional concerns noted above, and to prevent the Executive Branch from seizing on statutory ambiguity to claim powers on the homefront that Congress never specifically intended to confer

#### Only a ruling on indefinite detention allows the civilian courts to step in.

Sarah Erickson-Muschko (J.D., Georgetown University Law Center) June 2013 “Beyond Individual Status: The Clear Statement Rule and the Scope of the AUMF Detention Authority in the United States” 101 Geo. L.J. 1399, Lexis

III. EXISTING SCHOLARSHIP ON THE CLEAR STATEMENT RULE: THE FOCUS ON INDIVIDUAL STATUS

Many scholars have advanced arguments regarding the application of a clear statement principle to the AUMF. 133 Two specific arguments have been made [\*1419] about the applicability of a clear statement principle in the context of U.S. territory, both of which focus on the status of the individual as the triggering factor. Professors Richard Fallon and Daniel Meltzer argue that a clear statement principle applies when U.S. citizens are detained on U.S. territory. 134 This argument is based on statutory grounds, namely the theory that the Non-Detention Act triggers the clear statement requirement. 135 This argument is perfectly sound in that respect. However, it is incomplete in that it does not address the constitutional grounds for imposing a clear statement rule: the Due Process Clause of the Fifth Amendment, which applies to all persons, including noncitizens. 136 Reading the AUMF and the NDAA 2012 together to allow for the indefinite military detention without trial of individuals arrested on U.S. territory would be inconsistent with the constitutional prohibition on depriving a person of liberty without due process of law. Professors Curtis Bradley and Jack Goldsmith offer the most comprehensive constitutionally based argument for when and how to apply a clear statement principle. Their position is that courts should apply a clear statement requirement "when the President takes actions under the AUMF that restrict the liberty of noncombatants in the United States," but not when such actions only restrict the liberty of combatants. 137 Looking to the three World-War-II-era decisions discussed in Part II, they conclude that Endo and Duncan stand for the proposition that liberty interests trump the President's commander-in-chief authority when the President's actions are unsupported by historical practice in other wars and affect the constitutional rights of U.S. citizens who are not combatants. 138 In this context, "the canon protecting constitutional liberties prevails." 139 In contrast, the authors point to Quirin to show that "the Court did not demand a clear statement before concluding that the U.S. citizen enemy combatant in that case could be subject to a military commission trial in the United States even though neither the authorization to use force nor the authorization for military commissions specifically mentioned U.S. citizens." 140 In such a case, the authors contend that a clear statement requirement protecting civil liberties is not required because "the presidential action involves a traditional wartime function exercised by the President against an acknowledged enemy combatant or enemy [\*1420] nation." 141 In this context, "the President's Article II powers are at their height, and the relevant liberty interests (and thus the need for a liberty-protecting clear statement requirement) are reduced (or nonexistent)." 142 Despite its level of detail, Bradley and Goldsmith's clear statement principle will likely never be of much help to courts construing the AUMF. By basing their clear statement requirement on the distinction between combatants and noncombatants, they fail to resolve the key interpretive question: namely, how to construe the AUMF to avoid grave constitutional concerns where an individual's status as an enemy combatant is in dispute. Their interpretation accommodates a broad reading of Quirin. However, in Quirin, nobody disputed that the detainees were in fact unlawful enemy combatants under long-standing law-of-war principles. In contrast, a court reviewing the classification of an individual as an "enemy combatant" under the AUMF and NDAA 2012 must determine what it means to be "part of" or provide "substantial[] support[]" to al-Qaeda or an "associated force[]" or otherwise to commit a "belligerent act." 143 The question of how to construe these terms lies at the core of detainee litigation, 144 and the provisions in the NDAA 2012 failed to clarify their meaning. Bradley and Goldsmith acknowledge that the AUMF is silent on the point of "what institutions or procedures are appropriate for determining whether a person captured and detained on U.S. soil is in fact an enemy combatant." 145 However, they fail to address how this ambiguity impacts the application of their clear statement principle. Their framework is therefore of no real help to courts that must first determine whether an individual was properly deemed to be an "enemy combatant" before determining whether the clear statement rule applies to the AUMF. The clear statement rule thus fails to fulfill its core purpose of resolving statutory ambiguity in a manner that avoids serious constitutional questions. In addition to failing to resolve the due process questions surrounding the [\*1421] "enemy combatant" determination, Bradley and Goldsmith's argument does not resolve the core separation of powers concern: namely, whether, and if so under what conditions, it is constitutionally permissible for the President to apply martial law in place of the criminal justice system on U.S. territory despite the absence of any compelling need to do so. In short, their argument assumes that such an application of law-of-war principles on U.S. territory, outside of the battlefield context, would be a legitimate exercise of the President's war powers in the context of counterterrorism. This is hard to square with the Milligan Court's powerful statements to the contrary. 146 IV. MOVING BEYOND INDIVIDUAL STATUS: THE CONSTITUTION APPLIES IN THE UNITED STATES This Note argues that the clear statement principle applies to the AUMF detention authority whenever it is invoked to detain individuals arrested within the United States--at least where the enemy combatant question is in dispute. The principal trigger for application of the clear statement principle should not be an individual's status but rather the presumption that constitutional rights and restraints apply on U.S. territory. Courts therefore should dispense with the enemy combatant inquiry under these circumstances. This Note posits that such a construction is required to preserve the constitutionality of the AUMF. This constitutional default rule presumes that Congress has not delegated power to the executive branch to circumvent due process protections wholesale, and that it has not altered the traditional boundaries between military and civilian power on U.S. territory. Any departure from this baseline at least requires a clear manifestation of congressional intent. As evinced by the divisions in Congress over passage of the detention provisions in the NDAA 2012, there is no consensus as to the breadth of the detention power afforded to the executive branch under the AUMF. Courts should therefore not presume that the statute authorizes application of martial law to circumvent otherwise applicable constitutional restraints and due process rights. By making the jurisdictional question--civilian versus military--the trigger for the clear statement principle, the judiciary would properly place the impetus on Congress to clearly define and narrowly circumscribe the conditions under which the executive may use military jurisdiction to detain individuals on U.S. territory. This is the only way to ensure that our nation's political representatives have adequately deliberated and reached a consensus with respect to delegating powers to the executive branch where such delegation would have the consequence of displacing, in a wholesale fashion, constitutional protections. For all its controversy, § 412 of the USA PATRIOT Act of 2001 provides an example of where Congress has provided for executive detention under circumstances that are arguably sufficiently detailed to satisfy a clear statement [\*1422] requirement. 147 Absent this level of clarity, where the President purports to use the AUMF to detain militarily on U.S. territory, courts must presume that constitutional rights and restraints apply and are not displaced by martial law. A. DUE PROCESS CONCERNS One of the most basic rights accorded by the Constitution is the fundamental right to be free from deprivations of liberty absent due process of law. The AUMF must be read with the gravity of this fundamental right in mind. As the Court made clear in Endo, where fundamental due process rights are at stake, ambiguous wartime statutes are to be construed to allow for "the greatest possible accommodation of the liberties of the citizen." 148 Courts "must assume, when asked to find implied powers in a grant of legislative or executive authority, that the law makers intended to place no greater restraint on the citizen than was clearly and unmistakably indicated by the language they used." 149 This includes statutes that would otherwise "exceed the boundaries between military and civilian power, in which our people have always believed, which responsible military and executive officers had heeded, and which had become part of our political philosophy and institutions . . . ." 150 B. THE SUSPENSION CLAUSE The Suspension Clause lends further constitutional support to applying a clear statement requirement to the AUMF detention authority on U.S. territory. The Suspension Clause gives Congress the emergency power to suspend the writ of habeas corpus "when in Cases of Rebellion or Invasion the public Safety may require it." 151 As Fallon and Meltzer observe, this Clause--and the limited circumstances in which it may be invoked--suggest, or even explicitly affirm, "the presumptive rule that when the civilian courts remain capable of dealing with threats posed by citizens, those courts must be permitted to function." 152 To interpret the AUMF as congressional authorization to displace the civilian system and apply military jurisdiction on U.S. territory would "render that [\*1423] emergency power essentially redundant." 153 The Suspension Clause also underscores that the right to be free from the arbitrary deprivation of physical liberty is one of the most central rights that the Constitution was intended to protect. C. THE LACK OF MILITARY NECESSITY The lack of military necessity for applying law-of-war principles on U.S. territory further supports the construction of the AUMF to avoid displacing civilian law with law of war in the domestic context. The Supreme Court long ago declared that martial law may not be applied on U.S. territory when civilian law is functioning and "the courts are open and their process unobstructed." 154 Instead, "[t]he necessity [for martial law] must be actual and present; the invasion real, such as effectually closes the courts and deposes the civil administration." 155 In the absence of such necessity, "[w]hen peace prevails, and the authority of the government is undisputed, there is no difficulty of preserving the safeguards of liberty . . . ." 156 The past ten years have shown that there is no need to stretch law-of-war principles in the AUMF to reach U.S. territory. The exigencies associated with an active battlefield, which were critical to the Hamdi plurality's interpretation of the AUMF, 157 are simply not present in the United States. Instead, "American law enforcement agencies . . . continue to operate within the United States. These agencies have a powerful set of legal tools, adapted to the criminal process, to deploy within the United States against . . . suspected [terrorists], and the civilian courts remain open to impose criminal punishment." 158 Indeed, for more than a decade since the 9/11 attacks, domestic law enforcement agencies have carried the responsibility for domestic counterterrorism and have successfully thwarted several terrorism plots. 159 Civilian courts have adjudicated the prosecution of suspected terrorists captured on U.S. territory under [\*1424] federal laws. 160 The experience of the past decade shows that the civilian system is up to the task, and there is no military exigency that justifies curtailing constitutional protections and applying military authority in the domestic context. 161 Accordingly, the circumstances that the Supreme Court found to justify the use of the military authority under the AUMF to capture and indefinitely detain Hamdi, who was found armed on the active battlefield in Afghanistan, do not extend to persons captured on U.S. territory. The manner in which the government handled the Padilla and al-Marri cases further demonstrates the lack of military necessity. In both cases, the government abandoned its position that national security imperatives demanded that they continue to be held in military custody; both were transferred to federal custody and ultimately convicted of federal crimes carrying lengthy prison terms. 162 The Supreme Court's precedent in Quirin neither requires, nor can it be fairly read to justify, a different conclusion. First, the issue of indefinite military detention without trial was not before the Court in that case. Second, the status of the Nazis in Quirin as enemy combatants was undisputed, in contrast to that of individuals who are "part of" or "substantially support" al-Qaeda or "associated forces." 163 Third, the Court in Quirin went "out of its way to say that the Court's holding was extremely limited," encompassing only the precise factual circumstances before it. 164 Finally, Quirin itself is shaky precedent, as evidenced by the Court's own subsequent statements and as elaborated in numerous scholarly commentaries on the case. 165 As Katyal and Tribe observe: Quirin plainly fits the criteria typically offered for judicial confinement or reconsideration: It was a decision rendered under extreme time pressure, with respect to which there are virtually no reliance interests at stake, and where the statute itself has constitutional dimensions suggesting that its construction should be guided by relevant developments in constitutional law. 166 [\*1425] This case therefore should not be read as foreclosing the application of a clear statement principle to the AUMF as applied on U.S. territory where an individual's status as an enemy combatant is in dispute. CONCLUSION The AUMF is ambiguous: it does not specify whether it reaches individuals captured on U.S. territory, and Congress declined to resolve this question when it enacted § 1021 of the NDAA 2012. If a future administration invokes the AUMF as authority to capture and hold persons on U.S. territory in indefinite military detention, it will be left to the courts to determine whether this is constitutional. Courts should resolve this question by applying a clear statement requirement. This Note has argued that the trigger for this clear statement requirement is not the individual's status but rather the presumption that constitutional rights and restraints apply on U.S territory. Courts should apply this default presumption regardless of an individual's citizenship status, and it should apply even where the government claims that the individual is an "enemy combatant," at least where that determination is subject to dispute. This Note has argued that this method of statutory interpretation is constitutionally required. "[B]y extending to all 'persons' within the Constitution's reach such guarantees as . . . due process of law, the Constitution constrains how our government may conduct itself in bringing terrorists to justice." 167 If these constraints are to remain meaningful, these guarantees require, at the very least, that courts presume that constitutional guarantees prevail where congressional intent is unclear. The past ten years have shown that our criminal justice system is capable of thwarting terrorist attacks and bringing terrorists to justice while still preserving the safeguards of liberty that are fundamental to our system of justice. "[T]hese safeguards need, and should receive, the watchful care of those [e]ntrusted with the guardianship of the Constitution and laws." 168

### Plan Text

**The federal judiciary of the United States should apply a clear statement principle that restricts the President of the United States authority to indefinitely detain individuals.**

## 2AC

### T-Restrictions Not Prohibition

#### We meet-

#### 1) post-plan detention is no longer indefinite since detainees have trails- which effectively prohibits that war power

#### 2) Ruling on the AUMF is a restriction

#### Elsea 13 (Detention of U.S. Persons as Enemy Belligerents Jennifer K. Elsea Legislative Attorney July 25, 2013 www.fas.org/sgp/crs/natsec/R42337.pdf)

The detainee provisions passed as part of the National Defense Authorization Act for FY2012 (2012 NDAA; P.L. 112-81), affirm that the Authorization for Use of Military Force (AUMF)1 in response to the terrorist attacks of September 11, 2001, authorize the detention of persons captured in connection with hostilities. The act provides for the first time a statutory definition of covered persons whose detention is authorized pursuant to the AUMF.2 During consideration of the detention provision, much of the debate focused on the applicability of this detention authority to U.S. citizens and other persons within the United States.3 Congress ultimately adopted a Senate amendment to clarify that the provision is not intended to affect any existing law or authorities relating to the detention of U.S. citizens or lawful resident aliens, or any other persons captured or arrested in the United States.4 This report analyzes the existing law and authority to detain, as “enemy combatants,”5 U.S. persons, which, for the purpose of this report means persons who are generally understood to be subject to U.S. territorial jurisdiction or otherwise entitled to constitutional protections; that is, American citizens, resident aliens, and other persons within the United States.

#### Counter-interpretation- treaty-based regulations constitute a restriction/regulations are restrictions

Barron 8 (Professor of Law, Harvard Law School, Harvard Law Review, January 2008, Retrieved 6/1/2013, Lexis/Nexis)

2. Armed Conflict Against Terrorist Organizations and Preexisting Framework Statutes. - Beyond this general executive trend, certain central features of the current military conflict against al Qaeda help to create the conditions for constitutional battles over the legal status of statutory (and treaty-based) limitations that apply to the war on terrorism. Important in this regard is the fact that in most traditional wars, the Executive has perhaps had less reason to feel unduly constrained [\*713] by extant statutory and treaty-based regulations on his treatment of the enemy, in part because many such restrictions (such as those in multilateral treaties) have, at least nominally, merely put the nation on common ground with its enemies with respect to the methods of battle and the treatment of prisoners.

### Credibility

#### Massive increase in drone usage now

Bengali and Cloud ’13 (Shashank Bengali and David S. Cloud, Los Angeles Times, “U.S. drone strikes up sharply in Afghanistan”, <http://articles.latimes.com/2013/feb/21/world/la-fg-afghanistan-drones-20130222>, February 21, 2013)

The U.S. military launched 506 strikes from unmanned aircraft in Afghanistan last year, according to Pentagon data, a 72% increase from 2011 and a sign that American commanders may begin to rely more heavily on remote-controlled air power to kill Taliban insurgents as they reduce the number of troops on the ground. Though drone strikes represented a fraction of all U.S. air attacks in Afghanistan last year, their use is on the rise even as American troops have pulled back from ground and air operations and pushed Afghan soldiers and police into the lead. In 2011, drone strikes accounted for 5% of U.S. air attacks in Afghanistan; in 2012, the figure rose to 12%. Military spokesmen in Kabul and at the Pentagon declined to explain the increase. But officers familiar with the operation said it was due in part to the growing number of armed Reaper and Predator drones in Afghanistan and better availability of live video feeds beamed directly to troops on the ground. The increase has coincided with a shift by the Obama administration toward a new strategy in Afghanistan that relies on a smaller military footprint to go after the Taliban and remaining Al Qaeda fighters. The use of armed drones is likely to accelerate as most of the 66,000 U.S. troops in the country are due to withdraw by the end of 2014. The remotely piloted long-range aircraft, which kill targets with virtually no risk to American lives, carry an unmistakable attraction for military commanders. "With fewer troops, and even with fewer manned aircraft flying overhead, it's harder to get traditional support in combat missions," said Joshua Foust, a Washington-based analyst who has advised the U.S. military in Afghanistan. "Drones provide a good way to do that without importing a bunch of pilots and the support infrastructure they'd need to remain based there." The strategy isn't without risk: Drone strikes can kill civilians, as underscored by the Sept. 23 incident that claimed Bacha Zarina's life. After Marine Gen. John R. Allen, the former coalition commander, issued an order limiting airstrikes in populated areas last year, U.S. and NATO forces reduced civilian casualties in air attacks by 42% in 2012, according to United Nations figures. But after an airstrike this month that reportedly killed 10 civilians in addition to four Taliban leaders, Afghan President Hamid Karzai banned his forces from requesting coalition airstrikes in residential areas, a decree that also would apply to drones. Defenders of drones say they are more accurate and less prone to causing civilian casualties than manned aircraft, because they can watch a potential target longer and often use smaller munitions.

#### But public backlash solves status quo strikes and the link

Benjamin and Mir ’13 (Medea Benjamin and Noor Mir, Medea Benjamin is author of Drone Warfare: Killing by Remote Control. Noor Mir is the Drone Campaign Coordinator at CODEPINK, “Finally, the Backlash Against Drones Takes Flight”, http://original.antiwar.com/mbenjamin/2013/03/25/finally-the-backlash-against-drones-takes-flight/, March 26, 2013)

Rand Paul’s marathon 13-hour filibuster was not the end of the conversation on drones. Suddenly, drones are everywhere, and so is the backlash. Efforts to counter drones at home and abroad are growing in the courts, at places of worship, outside air force bases, inside the UN, at state legislatures, inside Congress–and having an effect on policy. April marks the national month of uprising against drone warfare. Activists in upstate New York are converging on the Hancock Air National Guard Base where Predator drones are operated. In San Diego, they will take on Predator-maker General Atomics at both its headquarters and the home of the CEO. In D.C., a coalition of national and local organizations are coming together to say no to drones at the White House. And all across the nation—including New York City, New Paltz, Chicago, Tucson and Dayton—activists are planning picket lines, workshops and sit-ins to protest the covert wars. The word has even spread to Islamabad, Pakistan, where activists are planning a vigil to honor victims. There has been an unprecedented surge of activity in cities, counties and state legislatures across the country aimed at regulating domestic surveillance drones. After a raucous city council hearing in Seattle in February, the Mayor agreed to terminate its drones program and return the city’s two drones to the manufacturer. Also in February, the city of Charlottesville, VA passed a 2-year moratorium and other restrictions on drone use, and other local bills are pending in cities from Buffalo to Ft. Wayne. Simultaneously, bills have been proliferating on the state level. In Florida, a pending bill will require the police to get a warrant to use drones in an investigation; a Virginia statewide moratorium on drones passed both houses and awaits the governor’s signature, and similar legislation in pending in at least 13 other state legislatures. Responding to the international outcry against drone warfare, the United Nations’ special rapporteur on counterterrorism and human rights, Ben Emmerson, is conducting an in-depth investigation of 25 drone attacks and will release his report in the Spring. Meanwhile, on March 15, having returned from a visit to Pakistan to meet drone victims and government officials, Emmerson condemned the U.S. drone program in Pakistan, as “it involves the use of force on the territory of another State without its consent and is therefore a violation of Pakistan’s sovereignty.” Leaders in the faith-based community broke their silence and began mobilizing against the nomination of John Brennan, with over 100 leaders urging the Senate to reject Brennan. And in an astounding development, The National Black Church Initiative (NBCI), a faith-based coalition of 34,000 churches comprised of 15 denominations and 15.7 million African Americans, issued a scathing statement about Obama’s drone policy, calling it “evil”, “monstrous” and “immoral.” The group’s president, Rev. Anthony Evans, exhorted other black leaders to speak out, saying “If the church does not speak against this immoral policy we will lose our moral voice, our soul, and our right to represent and preach the gospel of Jesus Christ.” In the past four years the Congressional committees that are supposed to exercise oversight over the drones have been mum. Finally, in February and March, the House Judiciary Committee and the Senate Judiciary Committee held their first public hearings, and the Constitution Subcommittee will hold a hearing on April 16 on the “constitutional and statutory authority for targeted killings, the scope of the battlefield and who can be targeted as a combatant.” Too little, too late, but at least Congress is feeling some pressure to exercise its authority. The specter of tens of thousands of drones here at home when the FAA opens up US airspace to drones by 2015 has spurred new left/rightalliances. Liberal Democratic Senator Ron Wyden joined Tea Party’s Rand Paul during his filibuster. The first bipartisan national legislation was introduced by Rep. Ted Poe, R-Texas, and Rep. Zoe Lofgren, D-Calif., saying drones used by law enforcement must be focused exclusively on criminal wrongdoing and subject to judicial approval, and prohibiting the arming of drones. Similar left-right coalitions have formed at the local level. And speaking of strange bedfellows, NRA president David Keene joined The Nation’s legal affairs correspondent David Cole in an op-ed lambasting the administration for the cloak of secrecy that undermines the system of checks and balances. While trying to get redress in the courts for the killing of American citizens by drones in Yemen, the ACLU has been stymied by the Orwellian US government refusal to even acknowledge that the drone program exists. But on March 15, in an important victory for transparency, theD.C. Court of Appeals rejected the CIA’s absurd claims that it “cannot confirm or deny” possessing information about the government’s use of drones for targeted killing, and sent the case back to a federal judge. Most Democrats have been all too willing to let President Obama carry on with his lethal drones, but on March 11, Congresswoman Barbara Lee and seven colleagues issued a letter to President Obama calling on him to publicly disclose the legal basis for drone killings, echoing a call that emerged in the Senate during the John Brennan hearing. The letter also requested a report to Congress with details about limiting civilian casualties by signature drone strikes, compensating innocent victims, and restructuring the drone program “within the framework of international law.” There have even been signs of discontent within the military. Former Defense Secretary Leon Panetta had approved a ludicrous high-level military medal that honored military personnel far from the battlefield, like drone pilots, due to their “extraordinary direct impacts on combat operations.” Moreover, it ranked above the Bronze Star, a medal awarded to troops for heroic acts performed in combat. Following intense backlash from the military and veteran community, as well as a push from a group of bipartisan senators, new Defense Secretary Senator Chuck Hagel decided to review the criteria for this new “Distinguished Warfare” medal. Remote-control warfare is bad enough, but what is being developed is warfare by “killer robots” that don’t even have a human in the loop. Acampaign against fully autonomous warfare will be launched this April at the UK’s House of Commons by human rights organizations, Nobel laureates and academics, many of whom were involved in the successful campaign to ban landmines. The goal of the campaign is to ban killer robots before they are used in battle. Throughout the US–and the world–people are beginning to wake up to the danger of spy and killer drones. Their actions are already having an impact in forcing the Administration to share memos with Congress, reduce the number of strikes and begin a process of taking drones out of the hands of the CIA.

### Warfighting DA

#### Credible studies disprove detainees engage in terrorism post release-

Pitter 5/1 (Laura- counterterrorism advisor at Human Rights Watch, 2013, “How to Close Guantanamo”, http://www.foreignpolicy.com/articles/2013/05/01/how\_to\_close\_guantanamo?page=0,1)

Yes, there is some risk that detainees released from Guantanamo may engage in terrorism. The government has stated that some of the detainees released from Guantanamo have already been involved in terrorism, though the number is disputed and the government refuses to publicly release the information on which it is basing those claims. The director of national intelligence claims (though these claims have been discredited) that about 16 percent of the approximately 600 people released from the facility over the past 12 years are confirmed, and 11 percent are suspected, of having engaged in terrorism after their release. Independent, credible analyses of those figures by researchers at the New America Foundation indicate the number is more like 6 percent, or 1 in 17. Even if the Pentagon figures were true, clearly the vast majority of people released from Guantanamo have not engaged in terrorism; in fact, it's well below the estimated 60 percent U.S. recidivism rate for criminal convictions overall. There are many people in the world who may commit crimes in the future, but the United States has not locked them up indefinitely. The bottom line is that the administration needs to assume some risk that those released may become involved in terrorism -- even though that risk is objectively low. But even on a purely moral level, the fear that someone may engage in terrorist or criminal behavior in the future is not a legitimate basis for prolonged indefinite detention. Furthermore, the decision about whether to release a detainee should be made on an individual basis, not based on the behavior of other detainees.

#### Seriously the risk of this DA is 5 thousandths of a percent

Eppinger 13 (Monica-Assistant Professor, Saint Louis University School of Law and Department of Sociology and Anthropology; J.D., Yale Law School; Ph.D. Anthropology, University of California Berkeley, Winter, “REALITY CHECK: DETENTION IN THE WAR ON TERROR”, Catholic University Law Review-Lexis)

Second, serious consideration should be given to the low rates of recidivism by those held in preventive detention in Afghanistan. In 2010, Vice Admiral Harward, U.S./ISAF commander of detainee operations in Afghanistan, said that of a detainee population numbering over 3,000 in all the years of conflict in Afghanistan, he had documented only seventeen cases in which those released from preventive detention returned to the battlefield. 219 That is a recidivism rate of roughly one-half of one percent. Reasons for that astonishingly low rate of battlefield recapture need to be investigated and analyzed. Is the low rate because of treatment or training that took place during detention? Is it related to community guarantees extracted at the time of release? Is it because too many were detained in the first place, including wrong place/wrong time non-combatants? Or is the figure a result of under-reporting, understandably missing, in the fog of war, released detainees who did return to the battlefield? Reasons for the low rate of recidivism or, in the case of the wrongly detained, first-time fighting by released detainees should be carefully analyzed and lessons extracted for future conduct.

#### Guantanamo doesn’t provide intel to stop terror but it does increase the chances of it

Greenberg 7 (Karen- Director of the Center on National Security and permanent member of the Council on Foreign Relations while Research for this article was contributed by Center on Law and Security Research Fellow Francesca Laguardia, February, “8 Reasons to Close GUANTANAMO NOW”, lexis)

#5 It undermines intelligence efforts¶ Despite the tens of thousands of hours of interrogation that have taken place at Guantanamo, very little worthwhile intelligence has been extracted. What information is left is now five years old, and it is doubtful that any Guantanamo prisoner has knowledge of a ticking bomb or a current plot.¶ And while the government maintains that detainees can provide a primer on jihad networks and al-Qaeda's strategic goals, at this point, the information is likely out of date. Besides, what can be extracted from individuals who, for the most part, were the wrong people to imprison in the first place.¶ According to a report by Seton Hall School of Law, 86 percent of detainees were arrested by Pakistan or the Northern Alliance and "handed over to the United States at a time when the United States offered large bounties for capture of suspected enemies."¶ Moreover, Guantanamo's very existence has alienated potential inside sources of information. Two years ago, at a Center on Law and Security conference in Florence, Italy, two of Europe's leading terrorism magistrates pointed out that attempts to infiltrate terrorist cells had become much more difficult in the wake of rising public anger over Guantanamo.¶ ¶ #6 It creates new enemies¶ Guantanamo has fomented that which it was created to combat -- anti-American extremism and jihad. Guantanamo is just the public face of a global network of "ghost prisons." According to Human Rights First (formerly the Lawyers' Committee for Human Rights), the United States has acknowledged 20 detention centers in Afghanistan, in addition to the bases at Bagram and Kandahar; as a prison near the Afghan border in Kohat, Pakistan; and the al Jafr prison in Jordan. This suggests that Guantanamo may have been a smokescreen for more inhumane, less legal incarceration and interrogation practices elsewhere.¶ According to Armando Spataro, a senior Italian prosecutor known for his work on global terrorism, Guantanamo and the U.S. renditions policy "is extremely damaging to all our efforts to integrate our Muslim communities." Muslims around the world are asking why there is so little international opposition to the U.S. policy of imprisonment without due process. The collateral damage of Guantanamo -- the incarceration of nearly 800 individuals who are denied legal rights, who regularly report being abused and who face a lifetime of imprisonment -- is incalculable. It breeds new angers and resentments, and thus new enemies.

#### Detention can only hurt counter-terrorism operations, it also hurts democracy and human rights promotion

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.

#### Processing detainees is guaranteed to result in the conviction of those who are guilty, and avoids breeding terrorism

Eviatar 13 (DAPHNE- Senior Counsel Associated with Human Rights First's Law & Security Program, March 12, “The 9/11 Hearings at Guantanamo Bay Have Been a Fiasco”, http://www.usnews.com/debate-club/should-al-qaeda-spokesperson-sulaiman-abu-ghaith-be-prosecuted-in-federal-court/the-911-hearings-at-guantanamo-bay-have-been-a-fiasco)

Since the 9/11 attacks, nearly 500 suspects—including 67 captured abroad—have been convicted in U.S. federal courts on terrorism-related charges. Many are serving life sentences. Alternatively, the Guantanamo Bay military commissions have convicted only seven people. Three of those have been released and two convictions have been reversed on appeal. Those rulings from a Washington, D.C. court of appeals call into question the legitimacy of any future prosecutions at Guantanamo for "material support" for terrorism or "conspiracy" to kill Americans—Abu Ghaith's alleged crime. In federal court, there is no question those charges could land him in prison for life.¶ U.S. national security is far better served by fair and serious prosecutions of alleged terrorists than by their indefinite detention on an offshore military base in contravention of the most basic principles of the U.S. Constitution and international law. Indefinite detention—or an illegitimate military commission trial—only breeds more enemies and more terrorism. That does us all an injustice.

#### No WMD terror- recruitment/lethality tradeoff

Shapiro, 13 – Princeton University politics and international affairs professor

[Jacob N., Ph.D. Political Science, Association for Analytic Learning about Islam and Muslim Societies faculty fellow, Center for Economic Research in Pakistan research fellow, Princeton University Empirical Studies of Conflict Project co-director, Council on Foreign Relations member, World Politics associate editor, "The Business Habits of Highly Effective Terrorists," Foreign Affairs, 8-14-13, www.foreignaffairs.com/articles/139817/jacob-n-shapiro/the-business-habits-of-highly-effective-terrorists?page=show, accessed 8-18-13, mss]

In addition to being a ruthless jihadist, Ayman al-Zawahiri long ago earned a reputation for being a terrible boss. When he took over al Qaeda in 2011, senior U.S. intelligence officials were already pointing out his penchant for micro-management. (In one instance in the 1990s, he reached out to operatives in Yemen to castigate them for buying a new fax machine when their old one was working just fine.) Reports that last week’s terror alert was triggered when Zawahiri reached out to Nasir al-Wuhayshi, his second-in-command and the leader of al Qaeda in the Arabian Peninsula -- a communication that Washington predictably managed to intercept -- only hardened the impression that he lacks the savvy to run a global terror organization. But few of Zawahiri’s many critics have paused to consider what the task of leading a terror organization actually entails. It is true that Zawahiri’s management style has made his organization vulnerable to foreign intelligence agencies and provoked disgruntlement among the terrorist rank and file, not to mention drawing last week’s drone strikes. But it is equally true that Zawahiri had few other options. Given that terrorists are, by definition, engaged in criminal activity, you would think that they would place a premium on secrecy. But historically, many terrorist groups have been meticulous record keepers. Members of the Red Brigades, an Italian terrorist group active in the 1970s and early 1980s, report having spent more time accounting for their activities than actually training or preparing attacks. From 2005 through at least 2010, senior leaders of al Qaeda in Iraq kept spreadsheets detailing salary payments to hundreds of fighters, among many other forms of written records. And when the former military al Qaeda military commander Mohammed Atef had a dispute with Midhat Mursi al-Sayid Umar, an explosives expert for the Egyptian Islamic Jihad, in the 1990s, one of his complaints was that Umar failed to turn in his receipts for a trip he took with his family. Such bureaucracy makes terrorists vulnerable to their enemies. But terrorists do it anyway. In part, that is because large-scale terror plots and extended terror campaigns require so much coordination that they cannot be carried out without detailed communication among the relevant actors and written records to help leaders track what is going on. Gerry Bradley, a former terrorist with the Provisional Irish Republican Army, for example, describes in his memoir how he required his subordinates in Belfast in 1973 to provide daily reports on their proposed operations so that he could ensure that the activities of subunits did not conflict. Several leaders of the Kenyan Mau Mau insurgency report that, as their movement grew in the early 1950s, they needed to start maintaining written accounting records and fighter registries to monitor their finances and personnel. But the deeper part of the answer is that the managers of terrorist organizations face the same basic challenges as the managers of any large organization. What is true for Walmart is true for al Qaeda: Managers need to keep tabs on what their people are doing and devote resources to motivate their underlings to pursue the organization’s aims. In fact, terrorist managers face a much tougher challenge. Whereas most businesses have the blunt goal of maximizing profits, terrorists’ aims are more precisely calibrated: An attack that is too violent can be just as damaging to the cause as an attack that is not violent enough. Al Qaeda in Iraq learned this lesson in Anbar Province in 2006, when the local population turned against them, partly in response to the group’s violence against civilians who disagreed with it. Terrorist leaders also face a stubborn human resources problem: Their talent pool is inherently unstable. Terrorists are obliged to seek out recruits who are predisposed to violence -- that is to say, young men with a chip on their shoulder. Unsurprisingly, these recruits are not usually disposed to following orders or recognizing authority figures. Terrorist managers can craft meticulous long-term strategies, but those are of little use if the people tasked with carrying them out want to make a name for themselves right now. Terrorist managers are also obliged to place a premium on bureaucratic control, because they lack other channels to discipline the ranks. When Walmart managers want to deal with an unruly employee or a supplier who is defaulting on a contract, they can turn to formal legal procedures. Terrorists have no such option. David Ervine, a deceased Irish Unionist politician and onetime bomb maker for the Ulster Volunteer Force (UVF), neatly described this dilemma to me in 2006. “We had some very heinous and counterproductive activities being carried out that the leadership didn’t punish because they had to maintain the hearts and minds within the organization,” he said, referring to a period in the late 1980s when he and the other leaders had made a strategic calculation that the Unionist cause was best served by focusing on nonviolent political competition. In Ervine’s (admittedly self-interested) telling, the UVF’s senior leaders would have ceased violence much earlier than the eventual 1994 cease-fire, but they could not do so because the rank and file would have turned on them. For terrorist managers, the only way to combat those “counterproductive activities” is to keep a tight rein on the organization. Recruiting only the most zealous will not do the trick, because, as the alleged chief of the Palestinian group Black September wrote in his memoir, “diehard extremists are either imbeciles or traitors.” So someone in Zawahiri’s position has his hands full: To pull off a major attack, [they need]~~he needs~~ to coordinate among multiple terrorists, track what his operatives are doing regardless of their intentions, and motivate them to follow orders against their own maverick instincts. Fortunately for the rest of us, the things terrorists do to achieve these tasks **sow the seeds of their undoing**. Placing calls, sending e-mails, keeping spreadsheets, and having members request reimbursements all create opportunities for intelligence agencies to learn what terrorists are up to and then disrupt them. In that way, Zawahiri’s failures are not just a reflection of his personal weaknesses but a case study in the inherent limits that all terror groups face. That is good news, of course, for potential terror targets: As long as our intelligence and law enforcement agencies remain vigilant, **there is no way terrorist** organization**s** **will ever rise above the level of** the **tolerable nuisance**, which is what they have been for the last decade. But for aspiring terror managers, it is a dispiriting reminder that **there is no escape from the red tape that** ultimately **dooms their cause**.

[Matt note: gender-modified]

### Politics

#### Aff is popular- new GOP strategy

McLaughlin 8/9 (Seth- Washington Times Staff Writer, 2013, “Rand Paul: GOP can grow base by opposing indefinite detention”, http://www.washingtontimes.com/news/2013/aug/9/rand-paul-gop-can-grow-base-opposing-indefinite-de/)

Sen. Rand Paul says that one of the ways he can bring more minority and younger voters into the party is to push back against indefinite detention.¶ Speaking with Bloomberg Businessweek, Mr. Paul, a likely 2016 presidential candidate, said this week that young blacks and Hispanics have a sense of justice and often mistrust government.¶ “So one of the big issues that I’ve fought here is getting rid of the provision called indefinite detention,” the Kentucky Republican said. “This is the idea that an American citizen could be accused of a crime, held indefinitely without charge, and actually sent from America to Guantanamo Bay and kept forever. I think there is something in that message of justice and a right to a trial by jury and a right to a lawyer that resonate beyond the traditional Republican Party and will help us to grow the Republican Party with the youth.”¶ Mr. Paul has argued that his libertarian brand of politics can help the GOP reach out to young voters and minorities who have supported Democrats in recent elections

#### 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.

#### Economic collapse is inevitable for several reasons- expert predictions

Investment bank over-loaning, billionaires dumping stocks, global recessions spillover now

**Shjarback 9-13**-13 [Jeff, M.B.A. from Pfeiffer University, Award winning internet marketing consultant specializing in SEO Search Engine Optimization, “Is A Financial Collapse Imminent For U.S. Economy?” http://wallstreetsectorselector.com/2013/09/is-a-financial-collapse-imminent-for-u-s-economy/]

The American government and economy is in rather dire circumstances due to an overwhelming series of decisions which are shaping our entire country for the next few decades and likely beyond. As we take a look at the overall track record of our economy, we find that a financial collapse is more than just likely – it may be highly imminent. But why? Why is our government, as massive and established as it is, finding itself in a downward trajectory with little to stop it? Since 1776, we have continuously built up efforts towards being a global powerhouse, and circa-1944 around the close of World War II, we arguably achieved it. Reinstating Israel. Destroying the Nazis. Rebuilding Japan. The United States became the heartfelt center of our entire world. However, politics continued and finances became less stable, causing inflation to rise to astounding rates. Our financial collapse could be quite imminent and three core trends lead us to this theory. Billionaires Dumping Their Stocks A financial collapse would undoubtedly consist of billionaires unloading their stocks in droves. Unfortunately, this is already occurring. On the surface, the stock market (NYSEARCA:DIA) is surfacing from an ugly few years. Numbers are steadily rising, and the stability in the stock market is starting to be set once again. But this trickle-down effect applies in the market. Arguably, the greatest stock investor is Warren Buffet. For better or worse, millions follow his steps because he is so unbelievably successful, and billionaire stock investors follow his investment moves. So when Warren Buffet sells $19 million worth of stock in Johnson & Johnson (NYSE:JNJ) and 21% of his overall stock in consumer spending, others follow suit with the same general strategies. Billionaire, John Paulson, also unloaded 14 million shares in JPMorgan Chase (NYSE:JPM), as reported at Money News. The World is Suffering Financially The overall predictions state that the stock market may witness a 90% overall collapse. Though many are aghast at the numbers, those who predicted this have been notoriously accurate in the past. Robert Weidemer, PHD is open about this prediction. His acclaimed team predicted the sub prime mortgage crisis and consumer spending collapse a few years earlier. When the financial system collapses, other countries will follow suit with their own level of disaster. Unfortunately, again, this is already occurring at alarming rates. Greece has been essentially bankrupt for close to five years running. According to Simon Black of the Economic Collapse Blog, the situation is dire in the country. ‘There are roughly 11 million people in this country. 3.4 million of them are employed, of which roughly one third work for the government.’ These unemployment rates are shocking. Italy is no better off. The country’s unemployment rate is currently 12.2%, the highest in 35 years. Furthermore, Italy witnesses 134 retail closings each and every day. Doing the math, one can calculate close to 1,000 employees are becoming not-so-much employed every single day. Investment Bank Over-Loaning and Over-Spending This specific situation is astonishingly convoluted, and would take a series of books and essays and documentaries to even scratch the surface. But in its purest form, the investment banking companies are simply spending money they do not have. Due to excessive loan expenditures in the last decade plus, banks found they were not earning the income back. This, of course, caused the massive mortgage crisis that almost ended the country financially, however, the banks are not out of the situation yet. They still spend more than what is being brought in, and their overall closing of the doors for loans is destroying small business. Furthermore, Jim Willie, popular economist, is reporting that Deutsche Bank is on the brink of a full collapse. Considering their magnitude in the financial sphere, this could send momentous shockwaves throughout the economy. There is a light at the end of the tunnel, if we take serious steps immediately to rectify the situation. However, with each passing day, the light closes and we are further left in the dark emptiness of financial ruin if we continue on this path.

#### PC theory is wrong – winners win

Hirsh 13 – National Journal chief correspondent, citing various political scientists

[Michael, former Newsweek senior correspondent, "There’s No Such Thing as Political Capital," National Journal, 2-9-13, www.nationaljournal.com/magazine/there-s-no-such-thing-as-political-capital-20130207, accessed 2-8-13, mss]

The idea of political capital—or mandates, or momentum—is so poorly defined that presidents and pundits often get itwrong. On Tuesday, in his State of the Union address, President Obama will do what every president does this time of year. For about 60 minutes, he will lay out a sprawling and ambitious wish list highlighted by gun control and immigration reform, climate change and debt reduction. In response, the pundits will do what they always do this time of year: They will talk about how unrealistic most of the proposals are, discussions often informed by sagacious reckonings of how much “political capital” Obama possesses to push his program through. Most of **this** talk **will have** no bearing on what actually happens over the next four years. Consider this: Three months ago, just before the November election, if someone had talked seriously about Obama having enough political capital to oversee passage of both immigration reform and gun-control legislation at the beginning of his second term—even after winning the election by 4 percentage points and 5 million votes (the actual final tally)—this person would have been called crazy and stripped of his pundit’s license. (It doesn’t exist, but it ought to.) In his first term, in a starkly polarized country, the president had been so frustrated by GOP resistance that he finally issued a limited executive order last August permitting immigrants who entered the country illegally as children to work without fear of deportation for at least two years. Obama didn’t dare to even bring up gun control, a Democratic “third rail” that has cost the party elections and that actually might have been even less popular on the right than the president’s health care law. And yet, for reasons that have very little to do with Obama’s personal prestige or popularity—variously put in terms of a “mandate” or “political capital”—chances are fair that both will now happen. What changed? In the case of gun control, of course, it wasn’t the election. It was the horror of the 20 first-graders who were slaughtered in Newtown, Conn., in mid-December. The sickening reality of little girls and boys riddled with bullets from a high-capacity assault weapon seemed to precipitate a sudden tipping point in the national conscience. One thing changed after another. Wayne LaPierre of the National Rifle Association marginalized himself with poorly chosen comments soon after the massacre. The pro-gun lobby, once a phalanx of opposition, began to fissure into reasonables and crazies. Former Rep. Gabrielle Giffords, D-Ariz., who was shot in the head two years ago and is still struggling to speak and walk, started a PAC with her husband to appeal to the moderate middle of gun owners. Then she gave riveting and poignant testimony to the Senate, challenging lawmakers: “Be bold.” As a result, momentum has appeared to build around some kind of a plan to curtail sales of the most dangerous weapons and ammunition and the way people are permitted to buy them. It’s impossible to say now whether such a bill will pass and, if it does, whether it will make anything more than cosmetic changes to gun laws. But one thing is clear: The **political tectonics** have **shift**ed **dramatically** in very little time. Whole new possibilities exist now that didn’t a few weeks ago. Meanwhile, the Republican members of the Senate’s so-called Gang of Eight are pushing hard for a new spirit of compromise on immigration reform, a sharp change after an election year in which the GOP standard-bearer declared he would make life so miserable for the 11 million illegal immigrants in the U.S. that they would “self-deport.” But this turnaround has very little to do with Obama’s personal influence—his political mandate, as it were. It has almost entirely to do with just two numbers: 71 and 27. That’s 71 percent for Obama, 27 percent for Mitt Romney, the breakdown of the Hispanic vote in the 2012 presidential election. Obama drove home his advantage by giving a speech on immigration reform on Jan. 29 at a Hispanic-dominated high school in Nevada, a swing state he won by a surprising 8 percentage points in November. But the movement on immigration has mainly come out of the Republican Party’s recent introspection, and the realization by its more thoughtful members, such as Sen. Marco Rubio of Florida and Gov. Bobby Jindal of Louisiana, that without such a shift the party may be facing demographic death in a country where the 2010 census showed, for the first time, that white births have fallen into the minority. It’s got nothing to do with Obama’s political capital or, indeed, Obama at all. The point is not that “political capital” is a meaningless term. Often it is a synonym for “mandate” or “momentum” in the aftermath of a decisive election—and just about every politician ever elected has tried to claim more of a mandate than he actually has. Certainly, Obama can say that because he was elected and Romney wasn’t, he has a better claim on the country’s mood and direction. Many pundits still defend political capital as a useful metaphor at least. “It’s an unquantifiable but meaningful concept,” says Norman Ornstein of the American Enterprise Institute. “You can’t really look at a president and say he’s got 37 ounces of political capital. But the fact is, it’s a concept that matters, if you have popularity and some momentum on your side.” The real problem is that the idea of political capital—or mandates, or momentum—is so poorly defined that presidents and pundits often get it wrong. “Presidents usually over-estimate it,” says George Edwards, a presidential scholar at Texas A&M University. “The best kind of political capital—some sense of an electoral mandate to do something—is very rare. It almost never happens. In 1964, maybe. And to some degree in 1980.” For that reason, **political capital** is a concept that **misleads** far more than it enlightens. **It is** **distortionary**. It conveys the idea that we know more than we really do about the ever-elusive concept of political power, and it discounts the way unforeseen events can suddenly change everything. Instead, it suggests, erroneously, that a political figure has a concrete amount of political capital to invest, just as someone might have real investment capital—that a particular leader can bank his gains, and the size of his account determines what he can do at any given moment in history. Naturally, any president has practical and electoral limits. Does he have a majority in both chambers of Congress and a cohesive coalition behind him? Obama has neither at present. And unless a surge in the economy—at the moment, still stuck—or some other great victory gives him more momentum, it is inevitable that the closer Obama gets to the 2014 election, the less he will be able to get done. Going into the midterms, Republicans will increasingly avoid any concessions that make him (and the Democrats) stronger. But the abrupt emergence of the immigration and gun-control issues illustrates how suddenly shifts in mood can occur and how political interests can align in new ways just as suddenly. Indeed, the pseudo-concept of political capital masks a larger truth about Washington that is kindergarten simple: You just don’t know what you can do until you try. Or as Ornstein himself once wrote years ago, “**Winning wins.”** In theory, and in practice, depending on Obama’s handling of any particular issue, even in a polarized time, he could still deliver on a lot of his second-term goals, depending on his skill and the breaks. Unforeseen catalysts can appear, like Newtown. Epiphanies can dawn, such as when many Republican Party leaders suddenly woke up in panic to the huge disparity in the Hispanic vote. Some **political scientists** **who study** the elusive calculus of **how to pass legislation** and run successful presidencies **say** that **political capital is**, at best, **an empty concept**, and that **almost nothing in** the **academic literature** successfully quantifies or even defines it. “It can refer to a very abstract thing, like a president’s popularity, but there’s no mechanism there. That makes it kind of useless,” says Richard Bensel, a government professor at Cornell University. Even Ornstein concedes that the calculus is far more complex than the term suggests. **Winning** on one issue often **changes the** **calculation** for the next issue; there is never any known amount of capital. “The idea here is, if an issue comes up where **the conventional wisdom is that president is not going to get what he wants**, and [they]he gets it, then each time that happens, it changes the calculus of the other actors” Ornstein says. “If they think he’s going to win, they may change positions to get on the winning side. **It’s a bandwagon effect**.” ALL THE WAY WITH LBJ Sometimes, a clever practitioner of power can get more done just because [they’re]he’s aggressive and knows the hallways of Congress well. Texas A&M’s Edwards is right to say that the outcome of the 1964 election, Lyndon Johnson’s landslide victory over Barry Goldwater, was one of the few that conveyed a mandate. But one of the main reasons for that mandate (in addition to Goldwater’s ineptitude as a candidate) was President Johnson’s masterful use of power leading up to that election, and his ability to get far more done than anyone thought possible, given his limited political capital. In the newest volume in his exhaustive study of LBJ, The Passage of Power, historian Robert Caro recalls Johnson getting cautionary advice after he assumed the presidency from the assassinated John F. Kennedy in late 1963. Don’t focus on a long-stalled civil-rights bill, advisers told him, because it might jeopardize Southern lawmakers’ support for a tax cut and appropriations bills the president needed. “One of the wise, practical people around the table [said that] the presidency has only a certain amount of coinage to expend, and you oughtn’t to expend it on this,” Caro writes. (Coinage, of course, was what political capital was called in those days.) Johnson replied, “Well, what the hell’s the presidency for?” Johnson didn’t worry about coinage, and he got the Civil Rights Act enacted, along with much else: Medicare, a tax cut, antipoverty programs. He appeared to understand not just the ways of Congress but also the way to maximize the momentum he possessed in the lingering mood of national grief and determination by picking the right issues, as Caro records. “Momentum is not a mysterious mistress,” LBJ said. “It is a controllable fact of political life.” Johnson had the skill and wherewithal to realize that, at that moment of history, he could have unlimited coinage if he handled the politics right. He did. (At least until Vietnam, that is.)

#### No impact to econ collapse; recession proves.

Thomas P.M. Barnett, senior managing director of Enterra Solutions LLC, “The New Rules: Security Remains Stable Amid Financial Crisis,” 8/25/2009, http://www.aprodex.com/the-new-rules--security-remains-stable-amid-financial-crisis-398-bl.aspx

When the global financial crisis struck roughly a year ago, the blogosphere was ablaze with all sorts of scary predictions of, and commentary regarding, ensuing conflict and wars -- a rerun of the Great Depression leading to world war, as it were. Now, as global economic news brightens and recovery -- surprisingly led by China and emerging markets -- is the talk of the day, it's interesting to look back over the past year and realize how globalization's first truly worldwide recession has had virtually no impact whatsoever on the international security landscape. None of the more than three-dozen ongoing conflicts listed by GlobalSecurity.org can be clearly attributed to the global recession. Indeed, the last new entry (civil conflict between Hamas and Fatah in the Palestine) predates the economic crisis by a year, and three quarters of the chronic struggles began in the last century. Ditto for the 15 low-intensity conflicts listed by Wikipedia (where the latest entry is the Mexican "drug war" begun in 2006). Certainly, the Russia-Georgia conflict last August was specifically timed, but by most accounts the opening ceremony of the Beijing Olympics was the most important external trigger (followed by the U.S. presidential campaign) for that sudden spike in an almost two-decade long struggle between Georgia and its two breakaway regions. Looking over the various databases, then, we see a most familiar picture: the usual mix of civil conflicts, insurgencies, and liberation-themed terrorist movements. Besides the recent Russia-Georgia dust-up, the only two potential state-on-state wars (North v. South Korea, Israel v. Iran) are both tied to one side acquiring a nuclear weapon capacity -- a process wholly unrelated to global economic trends. And with the United States effectively tied down by its two ongoing major interventions (Iraq and Afghanistan-bleeding-into-Pakistan), our involvement elsewhere around the planet has been quite modest, both leading up to and following the onset of the economic crisis: e.g., the usual counter-drug efforts in Latin America, the usual military exercises with allies across Asia, mixing it up with pirates off Somalia's coast). Everywhere else we find serious instability we pretty much let it burn, occasionally pressing the Chinese -- unsuccessfully -- to do something. Our new Africa Command, for example, hasn't led us to anything beyond advising and training local forces. So, to sum up: \* No significant uptick in mass violence or unrest (remember the smattering of urban riots last year in places like Greece, Moldova and Latvia?); \* The usual frequency maintained in civil conflicts (in all the usual places); \* Not a single state-on-state war directly caused (and no great-power-on-great-power crises even triggered); \* No great improvement or disruption in great-power cooperation regarding the emergence of new nuclear powers (despite all that diplomacy); \* A modest scaling back of international policing efforts by the system's acknowledged Leviathan power (inevitable given the strain); and \* No serious efforts by any rising great power to challenge that Leviathan or supplant its role. (The worst things we can cite are Moscow's occasional deployments of strategic assets to the Western hemisphere and its weak efforts to outbid the United States on basing rights in Kyrgyzstan; but the best include China and India stepping up their aid and investments in Afghanistan and Iraq.) Sure, we've finally seen global defense spending surpass the previous world record set in the late 1980s, but even that's likely to wane given the stress on public budgets created by all this unprecedented "stimulus" spending. If anything, the friendly cooperation on such stimulus packaging was the most notable great-power dynamic caused by the crisis. Can we say that the world has suffered a distinct shift to political radicalism as a result of the economic crisis? Indeed, no. The world's major economies remain governed by center-left or center-right political factions that remain decidedly friendly to both markets and trade. In the short run, there were attempts across the board to insulate economies from immediate damage (in effect, as much protectionism as allowed under current trade rules), but there was no great slide into "trade wars." Instead, the World Trade Organization is functioning as it was designed to function, and regional efforts toward free-trade agreements have not slowed. Can we say Islamic radicalism was inflamed by the economic crisis? If it was, that shift was clearly overwhelmed by the Islamic world's growing disenchantment with the brutality displayed by violent extremist groups such as al-Qaida. And looking forward, austere economic times are just as likely to breed connecting evangelicalism as disconnecting fundamentalism. At the end of the day, the economic crisis did not prove to be sufficiently frightening to provoke major economies into establishing global regulatory schemes, even as it has sparked a spirited -- and much needed, as I argued last week -- discussion of the continuing viability of the U.S. dollar as the world's primary reserve currency. Naturally, plenty of experts and pundits have attached great significance to this debate, seeing in it the beginning of "economic warfare" and the like between "fading" America and "rising" China. And yet, in a world of globally integrated production chains and interconnected financial markets, such "diverging interests" hardly constitute signposts for wars up ahead. Frankly, I don't welcome a world in which America's fiscal profligacy goes undisciplined, so bring it on -- please! Add it all up and it's fair to say that this global financial crisis has proven the great resilience of America's post-World War II international liberal trade order.

#### 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.

#### Rule of Law deficits spurred from failed detention policies fuels authoritarian crackdowns in Russia---destroys US-Russia engagement.

Sarah E. Mendelson 9 is director, Human Rights and Security Initiative, CSIS. "U.S.-Russian Relations and the Democracy and Rule of Law Deficit" tcf.org/assets/downloads/tcf-russiarelations.pdf, DOA: 7-23-13, y2k

Since the collapse of the Soviet Union in 1991, every U.S. administration has considered Russia’s political trajectory a national security concern.1 Based on campaign statements and President Barack Obama’s early personnel choices, this perspective likely will affect policy toward Russia in some way for the foreseeable future.2 While the Obama administration plans to cooperate with Moscow on a number of issues, it will find that Russia’s current deficit in the areas of democracy and the rule of law complicate the relationship and may, in some cases, undermine attempts at engagement. The organizers of the Century Foundation Russia Working Group have labeled this policy problem “coping with creeping authoritarianism.” Results from nearly a dozen large, random sample surveys in Russia since 2001 that examine the views and experiences of literally thousands of Russians, combined with other research and newspaper reporting, all suggest the current democracy and rule of law deficit is rather stark.3 The deficit does not diminish the importance of Russia in international affairs, nor is it meant to suggest the situation is unique to Russia. The internal conditions of many states have negative international security implications. As Europeans repeatedly pointed out during the administration of George W. Bush, U.S. departures from the rule of law made the United States increasingly problematic as a global partner, whether through the use of force in Iraq or the manner in which the United States pursued and handled terrorist suspects. In fact, coping with authoritarian trends in Russia (and elsewhere) will involve changes in U.S. policies that have, on the surface, nothing to do with Russia. Bush administration counterterrorism policies that authorized torture, indefinite detention of terrorist suspects, and the rendering of detainees to secret prisons and Guantánamo have had numerous negative unintended consequences for U.S. national security, including serving as a recruitment tool for al Qaeda and insurgents in Iraq.4 Less often recognized, these policies also have undercut whatever leverage the United States had, as well as limited the effectiveness of American decision-makers, to push back on authoritarian policies adopted by, among others, the Putin administration. At its worst, American departures from the rule of law may have enabled abuse inside Russia. These departures certainly left human rights defenders isolated.5 Repairing the damage to U.S. soft power and reversing the departure from human rights norms that characterized the Bush administration’s counterterrorism policies will provide the Obama administration strategic and moral authority and improve the ability of the United States to work with allies. It also can have positive consequences for Obama’s Russia policy. The changes that need to be made in U.S. counterterrorism policies, however politically sensitive, are somewhat more straightforward than the adjustments that must be made to respond to the complex issues concerning Russia. The Obama administration must determine how best to engage Russian leaders and the population on issues of importance to the United States, given Russia’s poor governance structures, the stark drop in oil prices, Russia’s continued aspirations for great power status, and the rather serious resentment by Russians concerning American dominance and prior policies. The policy puzzle, therefore, is how to do all this without, at the same time, sacrificing our values and undercutting (yet again) U.S. soft power.

#### Relations key to solve extinction- accesses every impact

TAYLOR ‘8 - Atlantic correspondent living in Moscow

(Jeffrey, Medvedev Spoils the Party, http://www.theatlantic.com/doc/200811u/medvedev-obama/2)

Like it or not, the United States cannot solve crucial global problems without Russian participation. Russia commands the largest landmass on earth; possesses vast reserves of oil, natural gas, and other natural resources; owns huge stockpiles of weapons and plutonium; and still wields a potent brain trust. Given its influence in Iran and North Korea, to say nothing of its potential as a spoiler of international equilibrium elsewhere, Russia is one country with which the United States would do well to reestablish a strong working relationship—a strategic partnership, even—regardless of its feelings about the current Kremlin government. The need to do so trumps expanding NATO or pursuing “full-spectrum dominance.” Once the world financial crisis passes, we will find ourselves returning to worries about resource depletion, environmental degradation, and global warming – the greatest challenges facing humanity. No country can confront these problems alone. For the United States, Russia may just prove the “indispensable nation” with which to face a volatile future arm in arm.

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### Politics

#### Courts Thump the DA- abortion, recess, overturning old decisions.

AP 10/7- (“Campaign contributions, recess appointments slated for Supreme Court”, http://www.foxnews.com/politics/2013/10/06/campaign-contributions-recess-appointments-slated-for-supreme-court/)

The Supreme Court is opening for business in the midst of a partial government shutdown. The justices take the bench Monday for the start of their new term with important cases about campaign contributions, housing discrimination, government-sanctioned prayer and the president's recess appointments already on tap. Abortion, contraceptive coverage under the new health care law and cellphone privacy also may find their way onto the court's calendar. [marked] The court announced it will operate normally at least through the end of this week. The justices are hearing six arguments, including a challenge to limits on campaign contributions. The new term may be short on the sort of high-profile battles over health care and gay marriage that marked the past two years. But several cases ask the court to overrule prior decisions -- bold action in an institution that relies on the power of precedent.

### Case- Circumvention

#### There ev is nothing more than presidential posturing- Obama would comply with the aff

Green 11 (Craig, Prof of Law at Temple Unviersity , Northwestern University Law Review, Vol 105, No 3"Ending the Korematsu Era: An Early View From the War on Terror Cases")

Jackson’s hard-nosed analysis may seem intellectually bracing, but it understates the real-world power of judicial precedent to shape what is po- litically possible.306 Although presidential speeches occasionally declare a willingness to disobey Supreme Court rulings, actual disobedience of this sort is rare and would carry grave political consequences.307 Even President Bush’s losses in the GWOT cases did not spur serious consideration of noncompliance despite broad support from a Republican Congress.308 Likewise, from the perspective of strengthening presidential power, Kore- matsu-era decisions emboldened President Bush in his twenty-first-century choices about Guantánamo and military commissions.309 Thus, the modern historical record shows that judicial precedent can both expand and restrict the political sphere of presidential action.¶ The operative influence of judicial precedent is even stronger than a court-focused record might suggest, as the past sixty years have witnessed a massive bureaucratization and legalization of all levels of executive gov- ernment.310 From the White House Counsel, to the Pentagon, to other enti- ties addressing intelligence and national security issues, lawyers now occupy such high-level governmental posts that almost no significant policy is determined without multiple layers of legal review.311 And these execu- tive lawyers are predominantly trained to think—whatever else they may believe—that Supreme Court precedent is authoritative and binding.312

#### Your ev is about past presidential decision making- doesn’t apply

Stephen I. Vladeck 9, Professor of Law and Associate Dean for Scholarship at American University Washington College of Law, senior editor of the peer-reviewed Journal of National Security Law and Policy, Supreme Court Fellow at the Constitution Project, and fellow at the Center on National Security at Fordham University School of Law, JD from Yale Law School, 3-1-2009, “The Long War, the Federal Courts, and the Necessity / Legality Paradox,” http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1002&context=facsch\_bkrev

Moreover, even if one believes that suspensions are unreviewable, there is a critical difference between the Suspension Clause and the issue here: at least with regard to the former, there is a colorable claim that the Constitution itself ousts the courts from reviewing whether there is a “Case[ ] of Rebellion or Invasion [where] the public Safety may require” suspension––and even then, only for the duration of the suspension.179 In contrast, Jackson’s argument sounds purely in pragmatism—courts should not review whether military necessity exists because such review will lead either to the courts affirming an unlawful policy, or to the potential that the political branches will simply ignore a judicial decision invalidating such a policy.180 Like Jackson before him, Wittes seems to believe that the threat to liberty posed by judicial deference in that situation pales in comparison to the threat posed by judicial review. ¶ The problem is that such a belief is based on a series of assumptions that Wittes does not attempt to prove. First, he assumes that the executive branch would ignore a judicial decision invalidating action that might be justified by military necessity.181 While Jackson may arguably have had credible reason to fear such conduct (given his experience with both the Gold Clause Cases182 and the “switch in time”),183 a lot has changed in the past six-and-a-half decades, to the point where I, at least, cannot imagine a contemporary President possessing the political capital to squarely refuse to comply with a Supreme Court decision. But perhaps I am naïve.184