## 1

#### Text: The United States Congress should establish a National Security Court with sole jurisdiction over cases pursuant to Section 1021 of the National Defense Authorization Act for Fiscal Year 2012.

#### The NSC is the best option solves the stigma of detention while preserving national security.

Kimery, Homeland Security Today's Online Editor and Online Media Division manager, ‘9

[Anthony, draws on 30 years of experience and extensive contacts as he investigates homeland security, counterterrorism and border security, citing Glenn Sulmasy, first permanent commissioned military law professor at the Coast Guard Academy, where he is a Professor of Law teaching international, constitutional, and criminal law, "The Case For A 'National Security Court'", December 3, [www.hstoday.us/blogs/the-kimery-report/blog/the-case-for-a-national-security-court/a9333d82c11cecd35e74c8c0b65c2698.html](http://www.hstoday.us/blogs/the-kimery-report/blog/the-case-for-a-national-security-court/a9333d82c11cecd35e74c8c0b65c2698.html)]

“The administration is now fully aware that this is a vastly complex issue – and one that requires a complex solution,” Sulmasy said.¶ “The President, in an eloquent speech at the National Archives in late May, identified there would be various options to consider for the detainees: diplomatic re-patriation, the use of military commissions, civilian Article III federal courts, and that he was still reviewing what to do with the 75-100 detainees that do not fit neatly in any of these regimes. That is where the National Security Court system provides the best, most pragmatic alternative for those difficult cases, as well as those inevitable future captures in the War on al Qaeda,” Sulmasy said.¶ Sulmasy continued: “Recent reports discuss the possibility of a hybrid court held on military bases within the US. Of course, I am delighted to hear of such ideas and progress. However, the nation needs to go further and create one court system that is best suited for this unique Al Qaeda fighter once captured. Rather than offering options to the detainees of either choosing a military commission or a civilian court, the National Security Court system provides one forum to attain the necessary balance between human rights, due process, and national security."¶ “We have to move forward, and recognize that the two existing paradigms – use of our traditional federal courts or the use of the law of war model (military commissions) – are simply jamming a square peg in a round hole. The administration now has the opportunity to statutorily create a legal system that best serves the needs of the nation, as well as the detainees.”¶ “The key distinction with my system from those now proposed by various commentators and scholars … is that the NSCS must be presumptively adjudicatory – and not used as a means of preventative detention,” Sulmasy said, noting that “the presumption should be to try, and if determined by the Commander-in-Chief and the military that such a trial would be either too risky or not possible, then as an exception such a decision can be made. This distinction is important and vital to ensure we fully support the rule of law, promote the national security, and still garner and maintain international support for our efforts.”

## 2

#### Authority means “authorization” – topical affirmatives must remove the permission to act, not just regulate the President

Hohfeld**,** Yale Law,1919(Wesley, <http://www.hku.hk/philodep/courses/law/HohfeldRights.htm>)

Many examples of legal powers may readily be given. Thus, X, the owner of ordinary personal property "in a tangible object" has the power to extinguish his own legal interest (rights, powers, immunities, etc.) through that totality of operative facts known as abandonment; and-simultaneously and correlatively-to create in other persons privileges and powers relating to the abandoned object,-e. g., the power to acquire title to the latter by appropriating it. Similarly, X has the power to transfer his interest to Y, that is to extinguish his own interest and concomitantly create in Y a new and corresponding interest. So also X has the power to create contractual obligations of various kinds. Agency cases are likewise instructive. By the use of some metaphorical expression such as the Latin, qui facit per alium, facit per se\* the true nature of agency relations is only too frequently obscured. **The creation of an agency relation involves**, inter alia, **the** grant of legal powers **to the so-called agent**, and the creation of correlative liabilities in the principal. That is to say, **one party,** P, **has the power to create agency powers in another party**, A,-for example, the power to convey P's property, the power to impose (so called) contractual obligations on P, the power to discharge a debt owing to P, the power to "receive" title to property so that it shall vest in P, and so forth. In passing, it may be well to observe that **the term "authority,**" so frequently used in agency cases, is very ambiguous and slippery in its connotation. Properly employed in the present connection, the word **seems to be an abstract or qualitative term corresponding to the concrete "authorization," the latter consisting of a particular group of operative facts taking place between the principal and the agent**. **All too often, however, the term in question is so used as** to blend and confuse **these operative facts with the powers and privileges thereby created in the agent. A** careful discrimination **in these particulars would**, it is submitted, **go far toward clearing up certain problems in the law of agency**.

#### Restriction on authority must reduce permission to act

Lobel, 8 - Professor of Law, University of Pittsburgh Law School (Jules, “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War” 392 OHIO STATE LAW JOURNAL [Vol. 69:391, <http://moritzlaw.osu.edu/students/groups/oslj/files/2012/04/69.3.lobel_.pdf>)

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

#### Violation – the plan reviews Obama’s detention policy and rules that some people should be released – he still retains the authority to indefinitely detain, it’s just now subject to new enforcement mechanisms.

#### Prefer our interp –

#### Limits – infinite ways to regulate presidential actions – explodes number of affs by allowing for small changes to reporting mechanisms.

#### It skirts core topic discussions about the presidential authority because the aff focuses on corrections to specific instances of presidential authority without changing the legal structure for that authority – that’s key to every process CP and DAs.

#### Voter for fairness and education.

## 3

#### The aff’s production of risk is used to maintain the stranglehold of expertism that decides the future of government policy. They prop up social inequalities around us and normalize every day violence that occurs around us in the name of market opportunities.

Beck, Professor of Sociology at the Ludwig-Maximilians-University Munich, ‘92

[Ulrich, Risk Society: Towards a New Modernity, Published in association with Theory, Culture & Society, pgs. 44-46, RSR] (We do not endorse the ableist language)

Inequalities in class and risk society can therefore overlap and condition one another: the latter can produce the former. The unequal distribution of social wealth offers impregnable defensive walls and justifications for the production of risks. Here a precise distinction must be made between the cultural and political attention to risks and their actual diffusion. Class societies are societies where, across all the gaps between classes, the main concern is the visible satisfaction of material needs. Here, hunger and surplus or power and weakness confront each other. Misery needs no self-confirmation. It exists. Its directness and visibility correspond to the material evidence of wealth and power. The certainties of class societies are in this sense the certainties of a culture of visibility: emaciated hunger contrasts with plump satiety; palaces with hovels, splendor with rags. These evident qualities of the tangible no longer hold in risk societies. What escapes perceptibility no longer coincides with the unreal, but can instead even possess a higher degree of hazardous reality. Immediate need competes with the known element of risk. The world of visible scarcity or surplus grows dim under the predominance of risks. The race between perceptible wealth and imperceptible risks cannot be won by the latter. The visible cannot compete with the invisible. Paradox decrees that for that very reason the invisible risks win the race. The ignoring of risks that are in any case imperceptible, which always finds its justification in the elimination of tangible need - and in fact actually has that justification (see the Third World!) - is the cultural and political soil on which the risks and hazards grow, bloom and thrive. In the overlap and competition between the problems of class, industrial and market society on one side and those of the risk society on the other, the logic of wealth production always wins, in accordance with the power relationships and standards of relevance - and for that very reason the risk society is ultimately victorious. The tangibility of need suppresses the perception of risks, but only the perception, not their reality or their effects; risks denied grow especially quickly and well. At a certain stage of social production, characterized by the development of the chemical industry, but also by reactor technology, microelectronics, and genetic technology, the predominance of the logic and conflicts of wealth produc- tion, and thus the social invisibility of the risk society, is no proof of its unreality; on the contrary, it is a motor for the origin of the risk society and thus a proof that it is becoming real. This is what the overlapping and amplification of class and risk posi- tions in the Third World teaches; the same can be said, however, of action and thought in the wealthy industrial countries. Protecting economic recovery and growth still enjoys unchallenged first priority. The threatening loss of jobs is played up, in order to keep the loopholes in prescribed emissions regulations wide and their enforcement lax, or to prevent any investigation into certain toxic residues in foodstuffs. No records are kept on entire families of chemicals out of consideration for the economic consequences; they do not exist legally and can be freely circulated for that very reason. The contradiction that fighting environmental risks has itself become a flourishing branch of industry that guarantees many millions of people secure (all too secure) jobs in Germany is passed over in silence. At the same time the instruments of definitional risk 'management' are being sharpened and the relevant axes are being swung. Those who point out risks are defamed as 'alarmists' and risk producers. Their presentation of the hazards is considered 'unproven'. The effects on man and animals they demonstrate are called 'outrageously exaggerated'. More research is required, they say, before one can be sure what the situation is and take the appropriate measures. Only a rapidly growing gross national product could create the prerequisites for improved environmental protection. They invoke trust in science and research. Their rationality has so far found solutions to every problem, the argument goes. Critique of science and anxieties about the future are stigmatized in contrast as 'irra- tionalism'. They are supposed to be the real roots of the evils. Risk belongs to progress as much as a bow-wave belongs to a speeding ship. Risk is no invention of modern times. It is tolerated in many areas of social life. The deaths from traffic accidents, for instance. Every year a middle-sized city in Germany disappears without a trace, so to speak. People have even got used to that. So there is plenty of free space and air for little mini-catastrophes with radioactive material or waste or such (these are in any case extremely unlikely, considering German safety technology). Even the dominance of this interpretation cannot delude us as to its loss of reality. Its victory is a Pyrrhic one. Where it prevails it produces what it denies, the risk society. But there is no consolation in that; on the contrary there is a growing danger. Thus it is also and especially in denial and non-perception that the objec- tive community of a global risk comes into being. Behind the variety of interests, the reality of risk threatens and grows, knowing no social or national differences anymore. Behind the walls of indifference, danger runs wild. Of course, this does not mean that a grand harmony will break out in the face of the growing risks of civilization. Precisely in dealing with risks, a variety of new social differentiations and conflicts emerge. These no longer adhere to the plan of class society. They arise above all from the double face of risks in late industrial society: risks are no longer the dark side of opportunities, they are also market opportunities. As the risk society develops, so does the antagonism between those afflicted by risks and those who profit from them. The social and economic impor- tance of knowledge grows similarly, and with it the power over the media to structure knowledge (science and research) and disseminate it (mass media). The risk society is in this sense also the science, media and infor- mation society. Thus new antagonisms open up between those who produce risk definitions and those who consume them.

#### The alternative is to rethink the risk society – developing alternative frames that reject expertism and future risks is key to prevent the aff from becoming a self-fulfilling prophecy.

Beck, Professor of Sociology at the Ludwig-Maximilians-University Munich, ‘92

[Ulrich, Risk Society: Towards a New Modernity, Published in association with Theory, Culture & Society, pgs.175-176, RSR]

Thus there are fundamentally two options confronting each other in dealing with civilizational risks: removing causes in primary industrialization, or the secondary industrialization of consequences and symptoms, which tends to expand markets. To this point, the second route has been taken almost everywhere. It is cost-intensive, leaves the causes obscure and permits the transformation of mistakes and problems into market booms. The learning process is systematically foreshortened and prevented. The self-origination of the threats of modernization is submerged under the selective consideration and treatment of symptoms. This can be illustrated with the example of the treatment of diseases of civilization, such as diabetes, cancer or heart disease. These illnesses could be fought where they originate: by reducing the stresses of work or the pollution of the environment, or through a healthy way of life and a nutritious diet. Or the symptoms can be alleviated through chemical preparations. The different schools of fighting illness do not of course exclude one another, but one cannot actually speak of a cure through the second method. Nonetheless, we have so far generally opted for the medical and chemical 'solution'. In more and more areas, industry is beginning to profit from its secondary problems, ignoring its own role in their origin. This once again raises alternative decisions for science and its research: either it delivers the appropriate risk definitions and causal interpretations for this in its isolated specialization, or it breaks through this cost-intensive controlling of the symptoms and develops independent, theoretically sound alternative perspectives that demonstrate and illuminate the sources of problems and their elimination in industrial development itself. In the first case science becomes the participant and the legitimating agency for continuing chains of 'objective constraints'; in the second case, it demonstrates starting points and ways to break these chains and thus gain a bit of sovereignty within modernization over modernization. In this sense the risk society is potentially also a self-critical society. Reference points and presuppositions of critique are always being produced there in the form of risks and threats. The critique of risks is not a normative critique of values. Precisely where traditions and hence values have deteriorated, risks come into being. The basis for critique is less the traditions of the past than the threats of the future. What is needed to recognize toxic substances in the air, the water and food, is not so much established values as, rather, expensive measuring instruments and methodological and theoretical knowledge. Determinations of risk thus oddly straddle the distinction between objec- tive and value dimensions. They do not assert moral standards openly, but in the form of a quantitative, theoretical and causal implicit morality. Correspondingly, in the investigation of risks with a generally conventional understanding of science, a kind of 'objectified causal morality’ is being undertaken. Statements on risk are the moral statements of scientized society. All these things - reference points and object of critique, the possibilities of discovering and grounding - are themselv.es produced m the modernization process on a large and a small scale. In this sense, therefore, a detraditionalized and self-critical society also comes into being along with the risk society, at least potentially. The concept of risk is like a probe which permits us over and over again to investigate the entire construction plan, as well as every individual speck of cement in the structure of civilization for potentials of self-endangerment.

## 4

#### Judicial deference on detention high now – solely presidential discretion.

Thomas Eddlem 7/19/13, writer for The New American, “ NDAA Indefinite Detention Without Trial Approved by Appeals Court,” http://www.thenewamerican.com/usnews/constitution/item/16026-ndaa-indefinite-detention-without-trial-approved-by-appeals-court

The U.S. Court of Appeals for the Second District struck down an injunction against indefinite detention of U.S. citizens by the president under the National Defense Authorization Act of 2012 in a July 17 ruling that is a blow to civil liberties protected by the U.S. Constitution. The appellate court ruled:¶ Plaintiffs lack standing to seek preenforcement review of Section 1021 and vacate the permanent injunction. The American citizen plaintiffs lack standing because Section 1021 says nothing at all about the President’s authority to detain American citizens.¶ The Section 1021 of the NDAA allows “detention under the law of war without trial until the end of the hostilities” for “a person who was a part of or substantially supported al-Qaeda, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act or has directly supported such hostilities in aid of such enemy forces.” The court is technically correct in stating that the law does not specifically mention U.S. citizens when it uses the term “person,” but like the vaguely worded “supported such hostilities in aid of such enemy forces,” it appears to be all-encompassing and subject solely to the president's discretionary whims.

#### Reducing court deference breaks the political question doctrine

Lederman 11 (Martin, Professor of Law – Georgetown University Law Center, “War, Terror, and the Federal Courts, Ten Years After 9/11: Conference\*: Association of American Law Schools' Section on Federal Courts Program at the 2012 AALS Annual Meeting in Washington, D.C.,” American University Law Review, June, 61 Am. U.L. Rev. 1253, Lexis)

Number two: Numerous very important, contested, hotly debated topics have arisen in the last ten years, many of them in the Bush Administration, involving for example interrogation techniques, the scope of detention authority, habeas review, military commissions, targeted killings,and the use of force more broadly. On some of these questions, the federal courts - and the Supreme Court in particular - have had quite a lot to say; and on others, not so much, at least in part because of several different federal courts doctrines that prevent the courts from speaking too much about those. You're all familiar with standing limits, political questions, state secrets, etc. We're going to focus particularly on a couple of them, which are immunity doctrines and the weakening of the Bivens n2 and state court sorts of causes of action. We will also discuss the fact that there are many people who think the federal courts have become too involved at supervising and resolving substantive questions involving the political branches, including some of Judge Kavanaugh's colleagues, who have been particularly vocal about that, engaging in what appears to be a form of resistance to the Supreme Court's Boumediene n3 decision. By contrast, many other people think the courts have not been nearly involved enough at resolving some of the unresolved questions about the scope of interrogation and detention and military commissions and the like, that might be lingering from the last administration, or occurring now in the new administration, such as with respect to use of force. So that's the second broad topic - whether the federal courts have been too timid or too aggressive in this area.

#### Setting a precedent against the PQD spills over to climate change cases---litigants are turning to the Courts now and asking them to abrogate the PQD

Tribe, the Carl M. Loeb University Professor, Harvard Law School, ‘10

[Laurence H., Joshua D. Branson, J.D., Harvard Law School and NDT Champion, Northwestern University; and Tristan L. Duncan, Partner, Shook, Hardy & Bacon L.L.P., January 2010, “TOOHOTFORCOURTSTO HANDLE: FUEL TEMPERATURES, GLOBAL WARMING, AND THE POLITICAL QUESTION DOCTRINE,” <http://www.wlf.org/Upload/legalstudies/workingpaper/012910Tribe_WP.pdf>]

Two sets of problems, one manifested at a microcosmic level and the other about as macrocosmic as imaginable, powerfully illustrate these propositions. Not coincidentally, both stem from concerns about temperature and its chemical and climactic effects, concerns playing an increasingly central role in the American policy process. As those concerns have come to the fore, courts have correspondingly warmed to the idea of judicial intervention, drawn by the siren song of making the world a better place and fueled by the incentives for lawyers to convert public concern into private profit. In both the fuel temperature and global warming cases, litigants, at times justifying their circumvention of representative democracy by pointing to the slow pace of policy reform, have turned to the courts. By donning the cloak of adjudication, they have found judges for whom the common law doctrines of unjust enrichment, consumer fraud, and nuisance appear to furnish constitutionally acceptable and pragmatically useful tools with which to manage temperature’s effects. Like the proverbial carpenter armed with a hammer to whom everything looks like a nail, those judges are wrong. For both retail gasoline and global climate, the judicial application of common law principles provides a constitutionally deficient—and structurally unsound—mechanism for remedying temperature’s unwanted effects. ¶ It has been axiomatic throughout our constitutional history that there exist some questions beyond the proper reach of the judiciary. In fact, the political question doctrine originates in no less august a case than Marbury v. Madison, where Chief Justice Marshall stated that “[q]uestions in their nature political, or which are, by the constitution and laws, submitted to the executive, can never be made in this court.”1 Well over a century after that landmark ruling, the Supreme Court, in Baker v. Carr, famously announced six identifying characteristics of such nonjusticiable political questions, which, primarily as a “function of the separation of powers,” courts may not adjudicate.2 Of these six characteristics, the Court recently made clear that two are particularly important: (1) the presence of “a textually demonstrable constitutional commitment of the issue to a coordinate political department;” and (2) “a lack of judicially discoverable and manageable standards for resolving it.”3 ¶ The spectrum of nonjusticiable political questions in a sense spans the poles formed by these two principles. At one pole, the Constitution’s specific textual commitments shield issues expressly reserved to the political branches from judicial interference. At the other pole lie matters not necessarily reserved in so many words to one of the political branches but nonetheless institutionally incapable of coherent and principled resolution by courts acting in a truly judicial capacity; such matters are protected from judicial meddling by the requirement that “judicial action must be governed by standard, by rule” and by the correlative axiom that “law pronounced by the courts must be principled, rational, and based upon reasoned distinctions.”4¶ At a deeper level, however, the two poles collapse into one. The reason emerges if one considers issues that courts are asked to address involving novel problems the Constitution’s framers, farsighted though they were, could not have anticipated with sufficient specificity to entrust their resolution to Congress or to the Executive in haec verba. A perfect exemplar of such problems is the nest of puzzles posed by humaninduced climate change. When matters of that character are taken to court for resolution by judges, what marks them as “political” for purposes of the “political question doctrine” is not some problem-specific language but, rather, the demonstrable intractability of those matters to principled resolution through lawsuits. And one way to understand that intractability is to view it as itself marking the Constitution’s textual, albeit broadly couched, commitment of the questions presented to the processes we denominate “legislative” or “executive”—that is, to the pluralistic processes of legislation and treaty-making rather than to the principle-bound process of judicially resolving what Article III denominates “cases” and “controversies.” In other words, the judicial unmanageability of an issue serves as powerful evidence that the Constitution’s text reserves that issue, even if broadly and implicitly, to the political branches.5¶ It has become commonplace that confusion and controversy have long distinguished the doctrine that determines, as a basic matter of the Constitution’s separation of powers, which questions are “political” in the specific sense of falling outside the constitutional competence of courts and which are properly justiciable despite the “political” issues they may touch. But that the principles in play have yet to be reduced to any generally accepted and readily applied formula cannot mean that courts are simply free to toss the separation of powers to the winds and plunge ahead in blissful disregard of the profoundly important principles that the political question doctrine embodies. Unfortunately, that appears to be just what some courts have done in the two temperature-related cases—one involving hot fuels, the other a hot earth— that inspired this publication. In the first, a court allowed a claim about measuring fuels to proceed despite a constitutional provision specifically reserving the issue to Congress. In the second—a case in which the specific issue could not have been anticipated, much less expressly reserved, but in which the only imaginable solutions clearly lie beyond judicial competence—a court, rather than dismissing the case as it ought to have done, instead summarily dismissed the intractable obstacles to judicial management presented by climate change merely because it was familiar with the underlying cause of action. As this pair of bookend cases demonstrates, the political question doctrine is feeling heat from both directions.

#### That crushes global coordination necessary to solve climate change.

Tribe, the Carl M. Loeb University Professor, Harvard Law School, ‘10

[Laurence H., Joshua D. Branson, J.D., Harvard Law School and NDT Champion, Northwestern University; and Tristan L. Duncan, Partner, Shook, Hardy & Bacon L.L.P., January 2010, “TOOHOTFORCOURTSTO HANDLE: FUEL TEMPERATURES, GLOBAL WARMING, AND THE POLITICAL QUESTION DOCTRINE,” <http://www.wlf.org/Upload/legalstudies/workingpaper/012910Tribe_WP.pdf>]

But that being said, if the Second Circuit was implying that such claims are justiciable in part because they are relatively costless, it was wrong again. In the wake of the recent Copenhagen climate negotiations, America is at a crossroads regarding its energy policy. At Copenhagen, the world—for the first time including both the United States and China—took a tremulous first step towards a comprehensive and truly global solution to climate change.44 By securing a modicum of international consensus—albeit not yet with binding commitments—President Obama laid the foundation for what could eventually be a groundbreaking congressional overhaul of American energy policy, an effort that will undoubtedly be shaped by considerations as obviously political as our energy independence from hostile and unreliable foreign regimes and that will both influence and be influenced by the delicate state of international climate negotiations.45¶ Against this backdrop, courts would be wise to heed the conclusion of one report that what “makes climate change such a difficult policy problem is that decisions made today can have significant, uncertain, and difficult to reverse consequences extending many years into the future."46 This observation is even more salient given that America—and the world—stand at the precipice of major systemic climate reform, if not in the coming year then in the coming decade. It would be disastrous for climate policy if, as at least one commentator has predicted,47 courts were to “beat Congress to the punch” and begin to concoct common law “solutions” to climate change problems before the emergence of a legislative resolution. Not only does judicial action in this field require costly and irreversible technological change on the part of defendants, but the prior existence of an ad hoc mishmash of common law regimes will frustrate legislators’ attempts to design coherent and systematic marketbased solutions.48 Indeed, both emissions trading regimes and carbon taxes seek to harness the fungibility of GHG emissions by creating incentives for reductions to take place where they are most efficient. But if courts were to require reductions of randomly chosen defendants—with no regard for whether they are efficient reducers— they would inhibit the effective operation of legislatively-created, market-based regimes by prematurely and artificially constricting the size of the market. And as one analyst succinctly put it before Congress, “[a]n insufficient number of participants will doom an emissions trading market.”49¶ There is no doubt that the “Copenhagen Accord only begins the battle” against climate change, as diplomats, bureaucrats, and legislators all now begin the lengthy struggle to turn that Accord’s audacious vision into concrete reality.50 But whatever one’s position in the debate between emissions trading and carbon taxes, or even in the debate over the extent or indeed the reality of anthropogenic climate change, one thing is clear: legislators, armed with the best economic and scientific analysis, and with the capability of binding, or at least strongly incentivizing, all involved parties, are the only ones constitutionally entitled to fight that battle. ¶ CONCLUSION ¶ Some prognosticators opine that the political question doctrine has fallen into disrepute and that it no longer constitutes a viable basis upon which to combat unconstitutional judicial overreaching.51 No doubt the standing doctrine could theoretically suffice to prevent some of the most audacious judicial sallies into the political thicket, as it might in the climate change case, where plaintiffs assert only undifferentiated and generalized causal chains from their chosen defendants to their alleged injuries. But when courts lose sight of the important limitations that the political question doctrine independently imposes upon judicial power–even where standing problems are at low ebb, as with the Motor Fuel case–then constitutional governance, and in turn the protection of individual rights and preservation of legal boundaries, suffer. The specter of two leading circuit courts manifestly losing their way in the equally real thicket of political question doctrine underscores the urgency, perhaps through the intervention of the Supreme Court, of restoring the checks and balances of our constitutional system by reinforcing rather than eroding the doctrine’s bulwark against judicial meddling in disputes either expressly entrusted by the Constitution to the political branches or so plainly immune to coherent judicial management as to be implicitly entrusted to political processes. It is not only the climate of the globe that carries profound implications for our future; it is also the climate of the times and its implications for how we govern ourselves.

#### Warming is real, anthropogenic and causes extinction

Flournoy 12 -- Citing Feng Hsu, PhD NASA Scientist @ the Goddard Space Flight Center. Don Flournoy is a PhD and MA from the University of Texas, Former Dean of the University College @ Ohio University, Former Associate Dean @ State University of New York and Case Institute of Technology, Project Manager for University/Industry Experiments for the NASA ACTS Satellite, Currently Professor of Telecommunications @ Scripps College of Communications @ Ohio University (Don, "Solar Power Satellites," January, Springer Briefs in Space Development, Book, p. 10-11

In the Online Journal of Space Communication , Dr. Feng Hsu, a  NASA scientist at Goddard Space Flight Center, a research center in the forefront of science of space and Earth, writes, “The evidence of global warming is alarming,” noting the potential for a catastrophic planetary climate change is real and troubling (Hsu 2010 ) . Hsu and his NASA colleagues were engaged in monitoring and analyzing climate changes on a global scale, through which they received first-hand scientific information and data relating to global warming issues, including the dynamics of polar ice cap melting. After discussing this research with colleagues who were world experts on the subject, he wrote: I now have no doubt global temperatures are rising, and that global warming is a serious problem confronting all of humanity. No matter whether these trends are due to human interference or to the cosmic cycling of our solar system, there are two basic facts that are crystal clear: (a) there is overwhelming scientific evidence showing positive correlations between the level of CO2 concentrations in Earth’s atmosphere with respect to the historical fluctuations of global temperature changes; and (b) the overwhelming majority of the world’s scientific community is in agreement about the risks of a potential catastrophic global climate change. That is, if we humans continue to ignore this problem and do nothing, if we continue dumping huge quantities of greenhouse gases into Earth’s biosphere, humanity will be at dire risk (Hsu 2010 ) . As a technology risk assessment expert, Hsu says he can show with some confidence that the planet will face more risk doing nothing to curb its fossil-based energy addictions than it will in making a fundamental shift in its energy supply. “This,” he writes, “is because the risks of a catastrophic anthropogenic climate change can be potentially the extinction of human species, a risk that is simply too high for us to take any chances” (Hsu 2010 )

## Case

### Solvency

#### Restrictions cause Obama to claim detention power under article 2 – Broadens detention

McAuliff 13 (Michael, Covers Congress and politics for The Huffington Post, “AUMF Repeal Bill Would End Extraordinary War Powers Granted After 9/11”, 6/10/13, <http://www.huffingtonpost.com/2013/06/10/aumf-repeal-bill-war-powers_n_3416689.html>)

But without the AUMF in force, Congress and the administration would have to decide how to deal with prisoners of war in the absence of a specific war. While dozens of captives at Guantanamo are cleared to be released, many are deemed threats to the United States who cannot be tried or let go. "That is the most difficult kernel to pop," said Schiff. "There is still a remaining group of people for whom the evidence is either highly classified or highly problematic because it was a product of torture. And that problem remains to be solved." Simply freeing those Guantanamo detainees is not an option, he said. "There will be a need for continued detention, even after the expiration of the AUMF," Schiff said, citing a World War II precedent for handling prisoners of war. "I don't know that the authority to detain enemy combatants would end with AUMF. But I do think that Guantanamo ought to come to an end, ideally to match up with the expiration of the AUMF in about 18 months," he said. Schiff's effort comes amid the recent revelations of the breadth of the National Security Agency's ability to spy on Americans -- an authority that stems from a separate law also inspired by the 2001 terror attacks, the PATRIOT Act. It also comes as observers on both the left and right have expressed greater suspicion of the executive branch's use of power in targeting reporters, whistleblowers and conservative groups. Schiff, a member of the House Intelligence Committee, said the broader debate provides "context" for his measure, but evaluating the AUMF and the type of force Congress allows the president to use in the war on terror is a separate, if equally difficult, matter. "There's probably a more substantial consensus that the existing AUMF is outdated and probably should be replaced," he said. "There's a lot less consensus about what should come after." Ending the AUMF, he said, would either force Congress to grapple with that question -- and confront the defacto policy of perpetual war -- or allow the president to grow even more powerful. "If we authorize a new and more limited AUMF, we are nonetheless continuing a war footing," Schiff said. "On the other hand, if we don't and the president takes these actions under his Article II power [of the Constitution], then we're broadening the power of the presidency to act unilaterally."

#### The president won’t comply with the plan.

Druck 2012 (Judah A. Druck, B.A., Brandeis University, 2010; J.D. Candidate, Cornell Law School, 2013, “DRONING ON: THE WAR POWERS RESOLUTION AND THE NUMBING EFFECT OF TECHNOLOGY-DRIVEN WARFARE,” Cornell Law Review, Vol. 98:209, http://www.lawschool.cornell.edu/research/cornell-law-review/upload/Druck-final.pdf)

By now, the general pattern concerning presidential treatment of¶ the WPR should be clear: when faced with a situation in which the¶ WPR should, by its own terms, come into play, presidents circumvent¶ its application by proffering questionable legal analyses. Yet, as was¶ frequently the case following the aforementioned presidential actions,¶ those looking to the courts for support were disappointed to learn¶ that the judiciary would be of little help. Indeed, congressional and¶ private litigants have similarly been unsuccessful in their efforts to¶ check potentially illegal presidential action.52¶ The suits arising out of possible WPR violations are well-documented53 and therefore only require a brief review. Generally, when¶ faced with a question concerning the legality of presidential military¶ action, courts have punted the issue using a number of procedural¶ tools to avoid ruling on the merits. For example, when twenty-nine¶ representatives filed suit after President Reagan’s possible WPR violation in El Salvador, the U.S. District Court for the District of Columbia¶ dismissed the suit on political question grounds.54 Similar suits were¶ dismissed for issues involving standing,55 mootness,56 ripeness,57 or¶ nonjusticiability because Congress could better handle fact-finding.58¶ Despite the varying grounds for dismissing WPR suits, a general theme¶ has emerged: absent action taken by Congress itself, the judiciary cannot be counted on to step in to check the President.¶ To be sure, the judiciary’s unwillingness to review cases arising¶ from WPR disputes arguably carries some merit. Two examples illus- trate this point. First, although a serviceperson ordered into combat¶ might have standing to sue, congressional standing is less clear.59 Indeed, debates rage throughout war powers literature concerning¶ whether congressional suits should even be heard on their merits.60¶ And though some courts have held that a member of Congress can¶ have standing when a President acts unilaterally, holding that such¶ unauthorized actions amount to “disenfranchisement,”61 subsequent¶ decisions and commentators have thrown the entire realm of legislative standing into doubt.62 Though the merits of this debate are beyond the scope of this Note, it is sufficient to emphasize that a¶ member of Congress arguably suffers an injury when a President violates the WPR because the presidential action prevents the congressperson from being able to vote (namely, on whether to authorize¶ hostilities),63 thereby amounting to disenfranchisement by¶ “preclu[ding] . . . a specific vote . . . by a presidential violation of¶ law . . . .”64 As such, under the right circumstances, perhaps the standing doctrine should not be as problematic as history seems to indicate¶ when a congressperson attempting to have a say on military action¶ brings a WPR suit.¶ Secondly, and perhaps more importantly, it is arguably unclear¶ what, if any, remedy is available to potential litigants. Unlike a private¶ lawsuit, where a court can impose a simple fine or jail sentence, suits¶ against the executive branch carry a myriad of practical issues. For¶ example, if the remedy is an injunction, issues concerning enforcement arise: Who enforces it and how?65 Or, if a court makes a declaratory judgment stating that the President has acted illegally, it might¶ invite open defiance, thereby creating unprecedented strife among¶ branches. Yet, a number of possible remedies are indeed available.¶ For one, courts could simply start the WPR clock, requiring a Presi- dent to either seek congressional approval or cease all actions within¶ the time remaining (depending on whether the court starts the clock¶ from the beginning or applies it retroactively).66 In doing so, a court¶ would trigger the WPR in the same way that Congress would have had¶ it acted alone. On a similar note, a court could declare the relevant¶ military conflict illegal under the WPR, thereby inviting Congress to¶ begin impeachment proceedings.67 Although both cases require¶ some level of congressional involvement, a court could at least begin¶ the process of providing a suitable remedy. Thus, the more questionable issues of standing and remedies should not (under the right circumstances) prevent a WPR suit from moving forward.

#### That turns the case—takes out modeling

**Marshall 08** – Professor of Law @ University of North Carolina [ William P. Marshall, “Eleven Reasons Why Presidential Power Inevitably Expands and Why It Matters,” Boston University Law Review, Vol. 88, Issue 2 (April 2008), pp. 505-522

As Justice Jackson recognized in Youngstown, **the power of the Presidency** **has** also **been magnified by the nature of media coverage. This coverage,** **which focuses on the President as the** center of national power,66 **has only** **increased since Jackson's day as the dominance of television has increasingly** identified the image of the nation with the image of the particular President holding office. 67 **The effects of this image are substantial**. Because **the** **President is seen as speaking for the nation,** the Presidency is imbued with a unique credibility. **The President thereby holds an immediate and substantial** **advantage in any political confrontation**. 68 Additionally, unlike the Congress or the Court, **the President is uniquely able** to demand the attention of the media **and**, in that way, **can influence the Nation's political agenda** to an extent that no other individual, or institution, can even approximate. Pg. 516

#### Indefinite detention solves terrorism – key to intel, incapacitating terrorists and doesn’t cause recruitment

Meese, Ronald Reagan Distinguished Fellow in Public Policy and chairman of the Center for Legal & Judicial Studies at the Heritage Foundation, ‘12

[Edwin, “Guantanamo Bay prison is necessary”, CNN Opinion, 1-11-12,

<http://www.cnn.com/2012/01/11/opinion/meese-gitmo>, RSR]

Shortly after September 11, it became evident that this war would be different from all previous wars in the sense that we would need to rely more on tactical and strategic intelligence to thwart and defeat the enemy than traditional military might. To defeat al Qaeda and its affiliates, we needed to know what they knew; one of the obvious ways to learn their intentions was through lawful interrogation at a safe detention facility. Guantanamo, used as a detention facility since the Clinton administration, was just such a place. Former detainee recalls time at Gitmo Guantanamo Bay's past and future¶ There have been 779 detainees at Guantanamo. Today, there are only 171. But over the past decade, we have not only kept dangerous terrorists at Guantanamo and thus away from the battlefield, we have learned a great deal from them during long-term, lawful interrogations. Without a safe, secure detention and interrogation facility, we would not have gained the tactical and strategic intelligence needed to degrade and ultimately defeat the enemy.¶ A look at Guantanamo Bay prison¶ It has been said that the mere existence of Guantanamo is a recruiting tool for the enemy. However, recall that there was no Guantanamo detention facility when al Qaeda bombed the World Trade Center in the 1990s or blew up the U.S. embassies in East Africa in 1998 or attacked the USS Cole in 2000. And I suspect that if the Bush administration had brought the Guantanamo detainees not to Cuba but to a detention facility in the United States, that facility would have been the object of their scorn and derision.¶ All things considered, the detention facility at Guantanamo Bay has played an invaluable role in the war against terrorists by keeping them off the battlefield and allowing for lawful interrogations.

#### Congress will backlash. It will functionally bar the Court from exercising its authority.

Vladeck, Professor of Law and Associate Dean for Scholarship @ American University, ‘11

[Stephen, “Why Klein (Still) Matters: Congressional Deception and the War on Terrorism,” Journal of National Security Law, Volume 5]

¶ Six weeks later, Congress enacted the USA PATRIOT Act, which included a series of controversial revisions to immigration, surveillance, and other law enforcement authorities.34 But it would be over four years before Congress would again pass a key counterterrorism initiative, enacting the Detainee Treatment Act of 2005 (DTA)35 after—and largely in response to—the Supreme Court’s grant of certiorari in Hamdan v. Rumsfeld.36 In the five years since, Congress had enacted a handful of additional antiterrorism measures, including the Military Commissions Act (MCA) of 2006,37 as amended in 2009,38 the Protect America Act of 2007,39 and the 2008 amendments40 to the Foreign Intelligence Surveillance Act of 1978, known in shorthand as the FAA.41 And yet, although Congress has spoken in these statutes both to the substantive authority for military commissions and to the scope of the government’s wiretapping and other surveillance powers, it has otherwise left some of the central debates in the war on terrorism completely unaddressed.42 Thus, Congress has not revisited the scope of the AUMF since September 18, 2001, even as substantial questions have been raised about whether the conflict has extended beyond that which Congress could reasonably be said to have authorized a decade ago.43 Nor has Congress intervened, despite repeated requests that it do so, to provide substantive, procedural, or evidentiary rules in the habeas litigation arising out of the military detention of noncitizen terrorism suspects at Guantánamo.44¶ As significantly, at the same time as Congress has left some of these key questions unanswered, it has also attempted to keep courts from answering them. Thus, the DTA and the MCA purported to divest the federal courts of jurisdiction over habeas petitions brought by individuals detained at Guantánamo and elsewhere.45 Moreover, the 2006 MCA precluded any lawsuit seeking collaterally to attack the proceedings of military commissions,46 along with “any other action against the United States or its agents relating to any aspect of the detention, transfer, treatment, trial, or conditions of confinement of an alien who is or was detained by the United States and has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.”47 And although the Supreme Court in Boumediene invalidated the habeas-stripping provision as applied to the Guantánamo detainees,48 the same language has been upheld as applied elsewhere,49 and the more general non-habeas jurisdiction-stripping section has been repeatedly enforced by the federal courts in other cases.50¶ Such legislative efforts to forestall judicial resolution of the merits can also be found in the telecom immunity provisions of the FAA,51 which provided that telecom companies could not be held liable for violations of the Telecommunications Act committed in conjunction with certain governmental surveillance programs.52 Thus, in addition to changing the underlying substantive law going forward, the FAA pretermitted a series of then-pending lawsuits against the telecom companies.53¶ Analogously, Congress has attempted to assert itself in the debate over civilian trials versus military commissions by barring the use of appropriated funds to try individuals held at Guantánamo in civilian courts,54 and by also barring the President from using such funds to transfer detainees into the United States for continuing detention or to other countries, as well.55 Rather than enact specific policies governing criteria for detention, treatment, and trial, Congress’s modus operandi throughout the past decade has been to effectuate policy indirectly by barring (or attempting to bar) other governmental actors from exercising their core authority, be it judicial review or executive discretion.¶ Wasserman views these developments as a period of what Professor Blasi described as “constitutional pathology,” typified by “an unusually serious challenge to one or more of the central norms of the constitutional regime.” Nevertheless, part of how Wasserman defends the “Klein vulnerable” provisions of the MCA and FAA is by concluding that the specific substantive results they effectuate can be achieved by Congress, and so Klein does not stand in the way. But if Redish and Pudelski’s reading of Klein is correct, then the fact that Congress could reach the same substantive results through other means is not dispositive of the validity of these measures. To the contrary, the question is whether any of these initiatives were impermissibly “deceptive,” such that Congress sought to “vest the federal courts with jurisdiction to adjudicate but simultaneously restrict the power of those courts to perform the adjudicatory function in the manner they deem appropriate.”56 pg. 257-259

#### Courts are terrible decision makers for detention – lack the expertise of the executive – means the aff isn’t credible and takes too long.

McCarthy and Velshi, ‘9

[Andrew (Director of the Center for Law & Counterterrorism at the Foundation for the Defense of Democracies) and Alykhan (staff attorney at the Center for Law & Counterterrorism, where he focuses on the international law of armed conflict and the use of force), “We Need a National Security Court”, Submission for AEI, 2009, RSR]

Finally, separation of powers principles must weigh heavily. The fact that the ¶ courts may be the final arbiter of what the Constitution says does not make them the ¶ proper source for resolving matters far removed from their institutional competence.47 Battlefield commanders are in a far better position to judge who should be detained: they ¶ are on the scene; they have the best sense of what is needed to fight effectively; they have ¶ the best sources of information (including from foreign intelligence services who will be ¶ reluctant to continue cooperating with us if they believe what they tell us may be revealed ¶ in U.S. court proceedings); they must have the confidence of our forces (for chain-ofcommand is weakened if subordinates come to believe their commanders will be secondguessed); and – a much missed point – they have no incentive to take prisoners unless ¶ there are strong military reasons for doing so.48 Especially since this is not a situation ¶ where constitutional rights are implicated, there is no reason to believe federal judges are ¶ in a better position to assess the propriety of detention than the executive branch officials ¶ charged with the conduct of the war.

### Democracy/Judicial Globalism

#### Friendly democracies can decipher between good and bad US norms, and authoritarian nations don’t care either way

John O. McGinnis 7, Professor of Law, Northwestern University School of Law. \*\* Ilya Somin \*\* Assistant Professor of Law, George Mason University School of Law. GLOBAL CONSTITUTIONALISM: GLOBAL INFLUENCE ON U.S. JURISPRUDENCE: Should International Law Be Part of Our Law? 59 Stan. L. Rev. 1175

The second benefit to foreigners of distinctive U.S. legal norms is information. The costs and benefits of our norms will be visible for all to see. n268 Particularly in an era of increased empirical social science testing, over time we will be able to analyze and identify the effects of differences in norms between the United States and other nations. n269 Such diversity benefits foreigners as foreign nations can decide to adopt our good norms and avoid our bad ones.¶ The only noteworthy counterargument is the claim that U.S. norms will have more harmful effects than those of raw international law, yet other nations will still copy them. But both parts of this proposition seem doubtful. First, U.S. law emerges from a democratic process that creates a likelihood that it will cause less harm than rules that emerge from the nondemocratic processes [\*1235] that create international law. Second, other democratic nations can use their own political processes to screen out American norms that might cause harm if copied.¶ Of course, many nations remain authoritarian. n270 But our norms are not likely to have much influence on their choice of norms. Authoritarian states are likely to select norms that serve the interests of those in power, regardless of the norms we adopt. It is true that sometimes they might cite our norms as cover for their decisions. But the crucial word here is "cover." They would have adopted the same rules, anyway. The cover may bamboozle some and thus be counted a cost. But this would seem marginal compared to the harm of allowing raw international law to trump domestic law.

#### Plan can’t solve leadership —too many alt causes and institutional barriers

Nossel 2008(Suzanne, Guardian Staff, November 19, "Closing Gitmo is just the beginning", http://www.guardian.co.uk/commentisfree/cifamerica/2008/nov/19/obama-guantanamo-human-rights)

While abuses carried out as part of the fight against terrorism cost the US its position of leadership on human rights issues globally, regaining that status will require more than just bringing counter-terrorism tactics in line with international norms. While the Bush administration hailed democracy and freedom as centrepieces of its foreign policy, in practice it tended to sideline human rights considerations within its important bilateral relationships.¶ To cite just a few examples, disregard for human rights has contributed to a culture of lawlessness in Pakistan's tribal areas. Despite $10-12bn in mostly military US aid to Pakistan since 2001, civilians affected by the current conflict are left defenceless in squalid, disease-infested camps – some of which the UN refugee agency cannot reach – where their frustration with the US-led war effort only grows. As part of its effort to stabilise this strategically vital region, the US must invest in building institutions that support the rule of law and ensuring that approaches to security uphold human rights. In neighbouring Afghanistan, the US needs to take immediate steps to reduce civilian casualties in military operations, and to press for an end to corruption, which is both fuelling the conflict and undermining popular faith in democratic governance.¶ In contemplating political agreements to end the conflict the US must avoid strengthening the hands of the region's most brutal warlords. While human rights will not be the sole consideration governing multi-faceted relationships with foreign governments, the new administration needs to affirm their place on the agenda and work with like-minded voices to press for progress.¶ The US also has work to do in terms of strengthening the international human rights infrastructure. The Bush administration distanced itself from the international human rights community by failing to ratify key treaties and absenting itself from new institutions of human rights enforcement. The next administration must demonstrate in tangible ways that the US is prepared to cooperate with others in building and strengthening mechanisms to protect and advance human rights in the 21st century. Its absence from key forums and debates has created space for spoilers who seek to vitiate existing human rights norms and prevent new ones from taking hold.¶ In 2005 the UN adopted a new norm, the "responsibility to protect", affirming the duty of states to protect their own populations, and the obligation of the international community to step in when they won't do so. But the new norm has flunked its first test in [Darfur](http://www.guardian.co.uk/world/2008/nov/12/sudan), where the government has suborned rampant human rights abuses and the international community has failed to intervene effectively. Working with allies to build broad-based support for rigorous human rights enforcement is a long-term project that needs to start right away. Necessary steps also include re-engaging with the international criminal court, a body that has begun to prove itself as a vital instrument of international accountability for war crimes. ¶ Building US credibility on human rights will be a long-term project requiring a steady hand against the buffeting forces of foreign policy reality. Done right, the wider human rights agenda could make closing Guantánamo look like the easy part.

#### The transition to liberal democratization fails.

Azar Gat, July/August 2009, is a researcher and author on military history, he was the Chair of the Department of Political Science at Tel Aviv University, Foreign Affairs, “Which Way Is History Marching?,”<http://www.foreignaffairs.com/articles/65162/azar-gat-daniel-deudney-and-g-john-ikenberry-and-ronald-inglehar/which-way-is-history-marching?page=show>

UNDILUTED OPTIMISM to the sweeping, blind forces of globalization. A message need not be formulated in universalistic terms to have a broader appea When it comes to the question of how to deal with a nondemocratic superpower China in the international arena, Deudney and Ikenberry, as well as Inglehart and Welzel, exhibit undiluted liberal internationalist optimism. China's free access to the global economy is fueling its massive growth, thereby strengthening the country as a potential rival to the United States -- a problem for the United States not unlike that encountered by the free-trading British Empire when it faced other industrializing great powers in the late nineteenth century. According to Inglehart and Welzel, there is little to worry about, because rapid development will only quicken China's democratization. But it was the United Kingdom's great fortune -- and liberal democracy's -- that its hegemonic status fell into the hands of another liberal democracy, the United States, rather than into those of nondemocratic Germany and Japan, whose future trajectories remained uncertain at best. The liberal democratic countries could have made China's access to the global economy conditional on democratization, but it is doubtful that such a linkage would have been feasible or desirable. After all, China's economic growth has benefited other nations and has made the developed countries -- and the United States in particular -- as dependent on China as China is dependent on them. Furthermore, economic development and interdependence in themselves -- in addition to democracy -- are a major force for peace. Democracies' ability to promote internal democratization in countries much smaller and weaker than China has been very limited, and putting pressure on China could backfire, souring relations with China and diverting its development to a more militant and hostile path. Deudney and Ikenberry suggest that China's admission into the institutions of the liberal international order established after World War II and the Cold War will oblige the country to transform and conform to that order. But large players are unlikely to accept the existing order as it is, and their entrance into the system is as likely to change it as to change them. The Universal Declaration of Human Rights provides a case in point. It was adopted by the United Nations in 1948, in the aftermath of the Nazi horrors and at the high point of liberal hegemony. Yet the UN Commission on Human Rights, and the Human Rights Council that replaced it, has long been dominated by China, Cuba, and Saudi Arabia and has a clear illiberal majority and record. Today, more countries vote with China than with the United States and Europe on human rights issues in the General Assembly of the United Nations. Critics argue that unlike liberalism, nondemocratic capitalist systems have no universal message to offer the world, nothing attractive to sell that people can aspire to, and hence no "soft power" for winning over hearts and minds. But there is a flip side to the universalist coin: many find liberal universalism dogmatic, intrusive, and even oppressive. Resistance to the unipolar world is a reaction not just to the power of the United States but also to the dominance of human rights liberalism. There is a deep and widespread resentment in non-Western societies of being lectured to by the West and of the need to justify themselves according to the standards of a hegemonic liberal morality that preaches individualism to societies that value community as a greater good. Compared to other historical regimes, the global liberal order is in many ways benign, welcoming, and based on mutual prosperity.

#### Democratization doesn’t solve war – history proves.

Kupchan, Professor of International Affairs at Georgetown University, ‘11

[Charles A, April, “Enmity into Amity: How Peace Breaks Out,”

<http://library.fes.de/pdf-files/iez/07977.pdf>]

Second, contrary to conventional wisdom, democracy is not a necessary condition for stable peace. Although liberal democracies appear to be better equipped to fashion zones of peace due to their readiness to institu­tionalize strategic restraint and their more open societies – an attribute that advantages societal integration and narrative/identity change – regime type is a poor predic­tor of the potential for enemies to become friends. The Concert of Europe was divided between two liberalizing countries (Britain and France) and three absolute monar­chies (Russia, Prussia, and Austria), but nevertheless pre­served peace in Europe for almost four decades. Gen-eral Suharto was a repressive leader at home, but after taking power in 1966 he nonetheless guided Indonesia toward peace with Malaysia and played a leading role in the founding of ASEAN. Brazil and Argentina embarked down the path to peace in 1979 – when both countries were ruled by military juntas. These findings indicate that non-democracies can be reliable partners in peace and make clear that the United States, the EU, and de­mocracies around the world should choose enemies and friends on the basis of other states’ foreign policy behav-ior, not the nature of their domestic institutions.

### Soft Power/Legitimacy

#### Legitimacy’s inevitable and not key to heg

Brooks and Wohlforth, 9 (Stephen Brooks and William Wohlforth, both are professors of Government at Dartmouth, “Reshaping the world order: how Washington should reform international institutions,” Foreign Affairs, March-April)

FOR ANALYSTS such as Zbigniew Brzezinski and Henry Kissinger, the key reason for skepticism about the United States' ability to spearhead global institutional change is not a lack of power but a lack of legitimacy. Other states may simply refuse to follow a leader whose legitimacy has been squandered under the Bush administration; in this view, the legitimacy to lead is a fixed resource that can be obtained only under special circumstances. The political scientist G.John Ikenberry argues in After Victory that states have been well positioned to reshape the institutional order only after emerging victorious from some titanic struggle, such as the French Revolution, the Napoleonic Wars, or World War I or II. For the neoconservative Robert Kagan, the legitimacy to lead came naturally to the United States during the Cold War, when it was providing the signal service of balancing the Soviet Union. The implication is that today, in the absence of such salient sources of legitimacy, the wellsprings of support for U.S. leadership have dried up for good. But this view is mistaken. For one thing, it overstates how accepted U.S. leadership was during the Cold War: anyone who recalls the Euromissile crisis of the 1980s, for example, will recognize that mass opposition to U.S. policy (in that case, over stationing intermediaterange nuclear missiles in Europe) is not a recent phenomenon. For another, it understates how dynamic and malleable legitimacy is. Legitimacy is based on the belief that an action, an actor, or a political order is proper, acceptable, or natural. An action - such as the Vietnam War or the invasion of Iraq - may come to be seen as illegitimate without sparking an irreversible crisis of legitimacy for the actor or the order. When the actor concerned has disproportionately more material resources than other states, the sources of its legitimacy can be refreshed repeatedly. After all, this is hardly the first time Americans have worried about a crisis of legitimacy. Tides of skepticism concerning U.S. leadership arguably rose as high or higher after the fall of Saigon in 1975 and during Ronald Reagan's first term, when he called the Soviet Union an "evil empire." Even George W. Bush, a globally unpopular U.S. president with deeply controversial policies,oversaw a marked improvement in relations with France, Germany, and India in recent years - even before the elections of Chancellor Angela Merkel in Germany and President Nicolas Sarkozy in France. Of course, the ability of the United States to weather such crises of legitimacy in the past hardly guarantees that it can lead the system in the future. But there are reasons for optimism. Some of the apparent damage to U.S. legitimacy might merely be the result of the Bush administration's approach to diplomacy and international institutions. Key underlying conditions remain particularly favorable for sustaining and even enhancing U.S. legitimacy in the years ahead. The United States continues to have a far larger share of the human and material resources for shaping global perceptions than any other state, as well as the unrivaled wherewithal to produce public goods that reinforce the benefits of its global role. No other state has any claim to leadership commensurate with Washington's. And largely because of the power position the United States still occupies, there is no prospect of a counterbalancing coalition emerging anytime soon to challenge it. In the end, the legitimacy of a system's leader hinges on whether the system's members see the leader as acceptable or at least preferable to realistic alternatives. Legitimacy is not necessarily about normative approval: one may dislike the United States but think its leadership is natural under the circumstances or the best that can be expected. Moreover, history provides abundant evidence that past leading states - such as Spain, France, and the United Kingdom - were able to revise the international institutions of their day without the special circumstances Ikenberry and Kagan cite. Spainfashioned both normative and positive laws to legitimize its conquest of indigenous Americans in the early seventeenth century; France instituted modern concepts of state borders to meet its needs as Europe's preeminent land power in the eighteenth century; and the United Kingdom fostered rules on piracy, neutral shipping, and colonialism to suit its interests as a developing maritime empire in the nineteenth century. As Wilhelm Grewe documents in his magisterial The Epochs of International Law, these states accomplished such feats partly through the unsubtle use of power: bribes, coercion, and the allure oflucrative long-term cooperation. Less obvious but often more important, the bargaining hands of the leading states were often strengthened by the general perception that they could pursue their interests in even less palatable ways - notably, through the naked use of force. Invariably, too, leading states have had the power to set the international agenda, indirectly affecting the development of new rules by defining the problems they were developed to address. Given its naval primacy and global trading interests, the United Kingdom was able to propel the slave trade to the forefront of the world's agenda for several decades after it had itself abolished slavery at home, in 1833. The bottom line is that the UnitedStates today has the necessary legitimacy to shepherd reform of the international system.

#### The aff is not sufficient – 1AC Vaughn says the rule of law—touted by the United States throughout the world since the end of World War II— has been “steadily undermined . . . since we began the so-called ‘War on Terror. No reason plan solves other aspects of the war on terror. Their Welsh ev confirms it when it cites polls that deal with the overall response to the war on terror. Cites things like the war in Iraq.

#### Soft power fails – persuasion is difficult, the US isn’t trusted and hard power trumps.

Kroenig et. al, ‘10

[Matthew (assistant professor of Government at Georgetown University and a Stanton Nuclear Security Fellow at the Council on Foreign Relations), Melissa McAdam (Ph.D. candidate in political science at the University of California), Steven Weber (professor of political science at the University of California), December 2010, “Taking Soft Power Seriously”, Comparative Strategy, 29: 5, 412 – 431

<http://www.matthewkroenig.com/Kroenig_Taking%20Soft%20Power%20Seriously.pdf>, RSR]

Foreign policy actors have many reasons to experiment with soft power, not merely because its use can be less costly than hard power. But, soft power comes with its own quite striking limitations. Our research suggests that soft power strategies will be unlikely to succeed except under fairly restrictive conditions. It may very well be, then, that the U.S. foreign policy elite is at risk of exaggerating the effectiveness of soft power (rather than underutilizing it) as a tool of foreign policy. After all, international communication is fraught with difﬁculties, persuading people to change ﬁrmly held political views is hard, and individual attitudes are often thought to have an insigniﬁcant role in determining international political outcomes. Soft power, therefore, will probably be considered a niche foreign policy option useful for addressing a small fraction of the problems on Washington’s foreign policy agenda. Analysts who suggest that soft power can easily be substituted for hard power or who maintain that soft power should provide an overarching guide to the formulation of U.S. foreign policy are badly mistaken. It is not conducive to good policy to employ the idea of soft power as a way of arguing against the use of military force, for example.

**Indefinite detention is insufficient—loads of alt causes**

Thomas **Hilde 09**, professor at the University of Maryland School of Public Policy, “Beyond Guantanamo. Restoring U.S. Credibility on Human Rights,” Heinrich Böll Foundation, http://www.boell.org/downloads/hbf\_Beyond\_Guantanamo\_Thomas\_Hilde(2).pdf

The first step required by law is a formal investigation of abuse. The **investigations** by the U.S. Department of Justice **must be legitimate and comprehensive or the U.S. will be faced with investigations by the governments of other countries**, including the NATO allies, who are obligated to do so by international law. However, as Mark Drumbl writes of international accountability for atrocities, “**the accountability process remains narrowly oriented to incarceration** following liberal criminal trials. **It is not a broader process that is yet comfortable with meaningful restorative initiatives, indigenous values, qualified amnesties, reintegrative shaming, the needs of victims, reparations, collective or foreign responsibilities, distributive justice, or pointed questions regarding the structural nature of violence in the international system**… **With pronouncement of sentence comes a rush to closure, absolution for the acquiescent, and the evaporation of collective responsibility.**”42 A clearer legal understanding of the contours and details of the torture regime is necessary before making concrete policy decisions holding into the indefinite future. The point that Drumbl underscores, however, is that **to render account involves much more than litigation.**

#### Hegemony is dead and unsustainable – other nations are already ignoring or challenging the US and fiscal troubles trump.

Kanin and Meyer, ‘12

[David (Adjunct Professor of International Studies at John Hopkins) and Steven (Fellow at the Center for Public Justice), “America’s Outmoded Security Strategy," Current History, January]

One implication of all this is that the United ¶ States cannot sustainably afford the financial costs ¶ of engaging the world as it has in the past. The ¶ amounts that the United States has spent on wars ¶ in Iraq and Afghanistan are so enormous, and have ¶ been handled so poorly, that it is difficult to calculate the exact expenditures. In 2010 the economists Joseph Stiglitz and Linda Bilmes estimated ¶ that the cost of American involvement in Iraq ultimately will exceed $3 trillion. Pentagon officials, ¶ according to USA Today, say the war in Afghanistan has been costing about $10 billion a month.¶ Meanwhile, the US sovereign debt is around $14 ¶ trillion and growing. Americans hold the majority ¶ of this debt, but foreign entities hold a significant ¶ amount of it, including more than $1 trillion held ¶ by China. Although the corrosive effects of this debt ¶ are well known theoretically and intellectually, no ¶ serious effort is being made to come to grips with ¶ it. Since the end of the cold war, US administrations ¶ have remained engaged in the hubristic extension ¶ of American power with little consideration for the ¶ devastating financial costs of the effort.¶ A second implication of US decline is that Washington now lacks the power to dictate how others ¶ must act. When scholars argue that there is no alternative to US hegemony, they ignore an essential ¶ fact: that the emergence of economic and military ¶ rivals already has removed—permanently—America’s ability to dictate global economic and security ¶ structures and norms.¶ There will be no more Dumbarton Oaks diktats; no more US-led global security forums. ¶ Dwight Eisenhower in 1956 turned Britain’s behavior on a dime when he threatened the pound ¶ during the Suez crisis, but American presidents ¶ have lost this ability forever. NATO is an anachronism, a hollowed-out relic of the cold war. It survives not on account of legitimate security needs ¶ but rather as what Otto von Bismarck called a ¶ “sentimental alliance.” ¶ The “unipolar moment” celebrated by the commentator Charles Krauthammer was in fact not ¶ much more than that—a moment. Some of America’s subsequent decline can be understood in ¶ relative terms, as other global actors have gained ¶ wealth, power, and influence. China, India, and ¶ Brazil are most frequently cited as the next great ¶ economic (and perhaps political and military) ¶ powers, but the rapid development of other countries, regions, businesses, terrorist groups, and ¶ proliferating nonstate entities adds significantly to ¶ the relative loss of US power and influence.¶ Certainly, the United States retains some global ¶ fascination because of its “otherness,” but this too ¶ is a wasting asset. People know Americans better now. Some nations have suffered American ¶ bombings, others have witnessed US mistakes first ¶ hand, and even many of America’s friends shake ¶ their heads in disbelief at successive administrations’ nonstrategic and oscillating approaches to ¶ frustrating or dangerous trends. China’s Hu Jintao, ¶ Russia’s Vladimir Putin, and assorted radical Islamists—worlds away in culture and outlook—are ¶ not intimidated by US power.¶ The decline of American power and influence ¶ is not merely relative. It is also absolute, in part ¶ because of the debilitating fiscal mess that the ¶ country has created for itself. Gone forever are the ¶ heady days when the United States could afford ¶ to rebuild a damaged continent or fund a military ¶ budget as large as the rest of the world’s combined.¶ Never again, moreover, can America use its geographic position as a shield against hostile military ¶ powers or intrusion from outside economic forces. ¶ The current state of technology and the interdependence of the global economy simply will not ¶ allow this. The presence of more than 11 million ¶ illegal aliens in the United States testifies to America’s vulnerability to forces beyond its control. The combination of relative and absolute decline has led to a growing propensity among others to push back, or simply to ignore US demands ¶ and “leadership.” This reaction is palpable, for ¶ example, in Pakistan’s reluctance to heed US insistence that it do more to fight the Taliban.

#### Smooth decline now - fighting to maintain power causes conflict.

Quinn, 11

[Adam, Lecturer in International Studies at the University of Birmingham, having previously worked at the University of Leicester and the University of Westminster alongside his graduate studies at the LSE. His chief area of interest is the role of national history and ideology in shaping US grand strategy, “The art of declining politely: Obama’s prudent presidency and the waning of American power”, International Affairs 87:4 (2011) 803–824,

http://www.chathamhouse.org/sites/default/files/87\_4quinn.pdf]

As noted in the opening passages of this article, the narratives of America’s decline and Obama’s restraint are distinct but also crucially connected. Facing this incipient period of decline, America’s leaders may walk one of two paths. Either the nation can come to terms with the reality of the process that is under way and seek to finesse it in the smoothest way possible. Or it can ‘rage against the dying of the light’, refusing to accept the waning of its primacy. President Obama’s approach, defined by restraint and awareness of limits, makes him ideologically and temperamentally well suited to the former course in a way that, to cite one example, his predecessor was not. He is, in short, a good president to inaugurate an era of managed decline. Those who vocally demand that the President act more boldly are not merely criticizing him; in suggesting that he is ‘weak’ and that a ‘tougher’ policy is needed, they implicitly suppose that the resources will be available to support such a course. In doing so they set their faces against the reality of the coming American decline. 97 If the United States can embrace the spirit of managed decline, then this will clear the way for a judicious retrenchment, trimming ambitions in line with the fact that the nation can no longer act on the global stage with the wide latitude once afforded by its superior power. As part of such a project, it can, as those who seek to qualify the decline thesis have suggested, use the significant resources still at its disposal to smooth the edges of its loss of relative power, preserving influence to the maximum extent possible through whatever legacy of norms and institutions is bequeathed by its primacy. The alternative course involves the initiation or escalation of conflictual scenarios for which the United States increasingly lacks the resources to cater: provocation of a military conclusion to the impasse with Iran; deliberate escalation of strategic rivalry with China in East Asia; commitment to continuing the campaign in Afghanistan for another decade; a costly effort to consistently apply principles of military interventionism, regime change and democracy promotion in response to events in North Africa. President Obama does not by any means represent a radical break with the traditions of American foreign policy in the modern era. Examination of his major foreign policy pronouncements reveals that he remains within the mainstream of the American discourse on foreign policy. In his Nobel Peace Prize acceptance speech in December 2009 he made it clear, not for the first time, that he is no pacifist, spelling out his view that ‘the instruments of war do have a role to play in preserving the peace’, and that ‘the United States of America has helped underwrite global security for more than six decades with the blood of our citizens and the strength of our arms’. 98 In his Cairo speech in June the same year, even as he sought distance from his predecessor with the proclamation that ‘no system of government can or should be imposed by one nation on any other’, he also endorsed with only slight qualification the liberal universalist view of civil liberties as transcendent human rights. ‘I … have an unyielding belief that all people yearn for certain things,’ he declared. ‘The ability to speak your mind and have a say in how you are governed; confidence in the rule of law and the equal administration of justice; government that is transparent and doesn’t steal from the people; the freedom to live as you choose. These are not just American ideas.’ 99 His Westminster speech repeated these sentiments. Evidently this is not a president who wishes to break signally with the mainstream, either by advocating a radical shrinking of America’s military strength as a good in itself or by disavowing liberal universalist global visions, as some genuine dissidents from the prevailing foreign policy discourse would wish. 100 No doubt sensibly, given the likely political reaction at home, it is inconceivable that he would explicitly declare his strategy to be one of managed American decline. Nevertheless, this is a president who, within the confines of the mainstream, embraces caution and restraint to the greatest extent that one could hope for without an epochal paradigm shift in the intellectual framework of American foreign policy-making. 101 In contemplating the diminished and diminishing weight of the United States upon the scales of global power, it is important not to conflate the question of what will be with that of what we might prefer. It may well be, as critics of the decline thesis sometimes observe, that the prospect of increased global power for a state such as China should not, on reflection, fill any westerner with glee, whatever reservations one may have held regarding US primacy. It is also important not to be unduly deterministic in projecting the consequences of American decline. It may be a process that unfolds gradually and peacefully, resulting in a new order that functions with peace and stability even in the absence of American primacy. Alternatively, it may result in conflict, if the United States clashes with rising powers as it refuses to relinquish the prerogatives of the hegemon, or continues to be drawn into wars with middle powers or on the periphery in spite of its shrinking capacity to afford them. Which outcome occurs will depend on more than the choices of America alone. But the likelihood that the United States can preserve its prosperity and influence and see its hegemony leave a positive legacy rather than go down thrashing its limbs about destructively will be greatly increased if it has political leaders disposed to minimize conflict and consider American power a scarce resource—in short, leaders who can master the art of declining politely. At present it seems it is fortunate enough to have a president who fits the bill.

#### Hegemonic retrenchment’s key to avoid great power war---maintaining unipolarity’s self-defeating which internal link-turns their offense.

(Conflict is inevitable. It’s only a question of escalation)

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[Nuno, “Unrest Assured: Why Unipolarity is Not Peaceful,” International Security, Winter 2012, Vol. 36, No. 3, p. 9-40]

From the perspective of the overall peacefulness of the international system, then, no U.S. grand strategy is, as in the Goldilocks tale, “just right.”116 In fact, each strategic option available to the unipole produces significant conflict. Whereas offensive and defensive dominance will entangle it in wars against recalcitrant minor powers, disengagement will produce regional wars among minor and major powers. Regardless of U.S. strategy, conflict will abound. Indeed, if my argument is correct, the significant level of conflict the world has experienced over the last two decades will continue for as long as U.S. power remains preponderant.¶ From the narrower perspective of the unipole’s ability to avoid being involved in wars, however, disengagement is the best strategy. A unipolar structure provides no incentives for conflict involving a disengaged unipole. Disengagement would extricate the unipole’s forces from wars against recalcitrant minor powers and decrease systemic pressures for nuclear proliferation. There is, however, a downside. Disengagement would lead to heightened conflict beyond the unipole’s region and increase regional pressures for nuclear proliferation. As regards the unipole’s grand strategy, then, the choice is between a strategy of dominance, which leads to involvement in numerous conflicts, and a strategy of disengagement, which allows conflict between others to fester.¶ In a sense, then, strategies of defensive and offensive dominance are self-defeating. They create incentives for recalcitrant minor powers to bolster their capabilities and present the United States with a tough choice: allowing them to succeed or resorting to war in order to thwart them. This will either drag U.S. forces into numerous conflicts or result in an increasing number of major powers. In any case, U.S. ability to convert power into favorable outcomes peacefully will be constrained.117¶ This last point highlights one of the crucial issues where Wohlforth and I differ—the benefits of the unipole’s power preponderance. Whereas Wohlforth believes that the power preponderance of the United States will lead all states in the system to bandwagon with the unipole, I predict that states engaged in security competition with the unipole’s allies and states for whom the status quo otherwise has lesser value will not accommodate the unipole. To the contrary, these minor powers will become recalcitrant despite U.S. power preponderance, displaying the limited pacifying effects of U.S. power.¶ What, then, is the value of unipolarity for the unipole? What can a unipole do that a great power in bipolarity or multipolarity cannot? My argument hints at the possibility that—at least in the security realm—unipolarity does not give the unipole greater influence over international outcomes.118 If unipolarity provides structural incentives for nuclear proliferation, it may, as Robert Jervis has hinted, “have within it the seeds if not of its own destruction, then at least of its modification.”119 For Jervis, “[t]his raises the question of what would remain of a unipolar system in a proliferated world. The American ability to coerce others would decrease but so would its need to defend friendly powers that would now have their own deterrents. The world would still be unipolar by most measures and considerations, but many countries would be able to protect themselves, perhaps even against the superpower. . . . In any event, the polarity of the system may become less important.”120¶ At the same time, nothing in my argument determines the decline of U.S. power. The level of conflict entailed by the strategies of defensive dominance, offensive dominance, and disengagement may be acceptable to the unipole and have only a marginal effect on its ability to maintain its preeminent position. Whether a unipole will be economically or militarily overstretched is an empirical question that depends on the magnitude of the disparity in power between it and major powers and the magnitude of the conflicts in which it gets involved. Neither of these factors can be addressed a priori, and so a theory of unipolarity must acknowledge the possibility of frequent conflict in a nonetheless durable unipolar system.¶ Finally, my argument points to a “paradox of power preponderance.”121 By putting other states in extreme self-help, a systemic imbalance of power requires the unipole to act in ways that minimize the threat it poses. Only by exercising great restraint can it avoid being involved in wars. If the unipole fails to exercise restraint, other states will develop their capabilities, including nuclear weapons—restraining it all the same.122 Paradoxically, then, more relative power does not necessarily lead to greater influence and a better ability to convert capabilities into favorable outcomes peacefully. In effect, unparalleled relative power requires unequaled self-restraint.

#### Barnett evidence is correlation without causation. Other things like the spread of globalization, presence of nuclear weapons, etc. could also explain the decline.

#### No impact to heg – best data goes neg.

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[Christopher, 9/26/11, Free Riding or Restraint? Examining European Grand Strategy, Comparative Strategy, 30:316–332, EBSCO]

It is perhaps worth noting that there is no evidence to support a direct relationship between the relative level of U.S. activism and international stability. In fact, the limited data we do have suggest the opposite may be true. During the 1990s, the United States cut back on its defense spending fairly substantially. By 1998, the United States was spending $100 billion less on defense in real terms than it had in 1990. 51 To internationalists, defense hawks and believers in hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities,” argued Kristol and Kagan, “doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace.” 52 On the other hand, if the paciﬁc trends were not based upon U.S. hegemony but a strengthening norm against interstate war, one would not have expected an increase in global instability and violence. The verdict from the past two decades is fairly plain: The world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable United States military, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums, no security dilemmas drove insecurity or arms races, and no regional balancing occurred once the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in U.S. capabilities. Most of all, the United States and its allies were no less safe. The incidence and magnitude of global conﬂict declined while the United States cut its military spending under President Clinton, and kept declining as the Bush ramped the spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated. Military spending ﬁgures by themselves are insufﬁcient to disprove a connection between overall U.S. actions and international stability. Once again, one could presumably argue that spending is not the only or even the best indication of hegemony, and that it is instead U.S. foreign political and security commitments that maintain stability. Since neither was signiﬁcantly altered during this period, instability should not have been expected. Alternately, advocates of hegemonic stability could believe that relative rather than absolute spending is decisive in bringing peace. Although the United States cut back on its spending during the 1990s, its relative advantage never wavered. However, even if it is true that either U.S. commitments or relative spending account for global paciﬁc trends, then at the very least stability can evidently be maintained at drastically lower levels of both. In other words, even if one can be allowed to argue in the alternative for a moment and suppose that there is in fact a level of engagement below which the United States cannot drop without increasing international disorder, a rational grand strategist would still recommend cutting back on engagement and spending until that level is determined. Grand strategic decisions are never ﬁnal; continual adjustments can and must be made as time goes on. Basic logic suggests that the United States ought to spend the minimum amount of its blood and treasure while seeking the maximum return on its investment. And if the current era of stability is as stable as many believe it to be, no increase in conﬂict would ever occur irrespective of U.S. spending, which would save untold trillions for an increasingly debt-ridden nation. It is also perhaps worth noting that if opposite trends had unfolded, if other states had reacted to news of cuts in U.S. defense spending with more aggressive or insecure behavior, then internationalists would surely argue that their expectations had been fulﬁlled. If increases in conﬂict would have been interpreted as proof of the wisdom of internationalist strategies, then logical consistency demands that the lack thereof should at least pose a problem. As it stands, the only evidence we have regarding the likely systemic reaction to a more restrained United States suggests that the current peaceful trends are unrelated to U.S. military spending. Evidently the rest of the world can operate quite effectively without the presence of a global policeman. Those who think otherwise base their view on faith alone.