# 1NC

## 1

#### Restrictions are prohibitions

Jean Schiedler-Brown 12, Attorney, Jean Schiedler-Brown & Associates, Appellant Brief of Randall Kinchloe v. States Dept of Health, Washington, The Court of Appeals of the State of Washington, Division 1, http://www.courts.wa.gov/content/Briefs/A01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation. ¶ Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as; ¶ A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb. ¶ In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment. ¶ Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

#### The plan doesn’t prohibit indefinite detention

#### Limits- justifies tiny affs that don’t alter the SQ

#### Ground- all core link ground is to actually limiting the presidents authority

#### Precision- only our interpretation defines “restrictions on authority”- that’s key to adequate preparation and policy analysis

#### F/x T- it is not in itself a prohibition- mixes burdens and causes unpredictable steps

## 2

#### The President of the United States should issue an Executive Order committing the executive branch to Solicitor General Representation and advance consultation with the Office of Legal Counsel over decisions regarding indefinite detention. The Department of Justice officials involved should counsel for detainees to be tried by an existing Article III court, a military court martial, or be released within a reasonable, specified time period. The Executive Order should also require written publication of Office of Legal Counsel opinions.

#### Executive pre-commitment to DOJ advice solves the aff- avoids ptx and flex

Pillard 5 JD from Harvard, Faculty Director of Supreme Court Institute at Georgetown University Law Center, former Deputy Assistant Attorney General in the DOJ, February, Cornelia T., Michigan Law Review, 103.4, “The Unfulfilled Promise of the Constitution in Executive Hands”, 103 Mich. L. Rev. 676-758, <http://scholarship.law.georgetown.edu/facpub/189/>

V. ENABLING EXECUTIVE CONSTITUTIONALISM¶ The courts indisputably do not and cannot fully assure our enjoyment of our constitutional rights, and it is equally clear that the federal executive has an independent constitutional duty to fulfill the Constitution's promise. Executive constitutionalism seems ripe with promise. Yet, it is striking how limited and court-centered the executive's normative and institutional approaches to constitutional questions remain.¶ One conceivable way to avoid the pitfalls of court-centric executive lawyering on one hand and constitutional decisions warped by political expedience on the other would be to make the Solicitor General and Office of Legal Counsel - or perhaps the entire Department of Justice - as structurally independent as an independent counsel or independent agency.207 Making the SG and OLC independent in order to insulate them from politics presumably would alleviate the "majoritarian difficulty" resulting from their service to elected clients. Promoting fuller independence in that sense does not, however, appear to be clearly normatively attractive, constitutionally permissible, nor particularly feasible. In all the criticism of our current constitutionalism, there is little call for an SG or OLC that would act, in effect, as a fully insulated and jurisprudentially autonomous constitutional court within the executive branch, operating with even less transparency and accountability than the Supreme Court. Moreover, as a practical matter it would be complex and problematic to increase the independence of the SG and OLC. The federal government faces Article II obstacles to formally insulating executive lawyers from politics and institutional pressures, and the president and his administration likely would be less amenable to guidance from such unaccountable lawyers.208¶ The challenge, rather, is to draw forth from the executive a constitutional consciousness and practice that helps the government actively to seek to fulfill the commitments of the Constitution and its Bill of Rights, interpreted by the executive as guiding principles for government. Adjustments to executive branch constitutional process and culture should be favored if they encourage the executive to use its experience and capacities to fulfill its distinctive role in effectuating constitutional guarantees. There is transformative potential in measures that break ingrained executive branch habits of looking to the Constitution only as it is mediated through the courts, and of reflexively seeking, where there is no clear doctrinal answer, to minimize constitutional constraint. It is difficult fully to imagine what kinds of changes would best prompt executive lawyers and officials to pick up constitutional analysis where the courts leave off, and to rely on the Constitution as an affirmative, guiding mandate for government action; what follows are not worked-out proposals, but are meant to be merely suggestive.¶ A. Correcting the Bias Against Constitutional Constraint¶ As we have seen, the SG's and OLC's default interpretive approach to individual rights and other forms of constitutional constraints on government is to follow what clear judicial precedents there are and, where precedents are not squarely to the contrary, to favor interpretations that minimize constitutional rights or other constitutional obligations on federal actors. Those court-centered and narrowly self-serving executive traditions produce a systematic skew against individual rights.¶ 1. Encourage Express Presidential Articulation of Commitment to Constitutional Rights¶ To the extent that a president articulates his own rights-protective constitutional vision with any specificity, he ameliorates the tension his constitutional lawyers otherwise face between advancing individual rights and serving their boss's presumed interest in maximum governing flexibility. Case or controversy requirements and restrictions against courts issuing advisory opinions do not, of course, apply to the executive's internal constitutional decisionmaking, and presidents can better serve individual rights to the extent that they expressly stake out their constitutional commitments in general and in advance of any concrete controversy."° When the president takes a stand for advancing abortion rights, property rights, disability rights, "charitable choice," a right to bear arms, or full remediation of race and sex discrimination, he signals to his lawyers that they should, in those areas, set aside their default bias in favor of preserving executive prerogative, even if it requires extra executive effort or restraint to do so.¶ If presented in a concrete setting with a choice between interpreting and applying the Constitution in fully rights-protective ways or sparing themselves the effort where Supreme Court precedent can be read not to require it, government officials typically default to the latter course without considering whether they might thereby be giving short shrift to a constitutional duty. A president's stated commitment to protection of particular rights, however, flips the default position with respect to those rights, acting as a spur to executive-branch lawyers and other personnel to work to give effect to constitutional rights even where, for a range of institutional reasons, the courts would not. A president is thus uniquely situated to facilitate full executive-branch constitutional compliance by precommitting himself to a rights-protective constitutional vision, and thereby making clear that respect for constitutional rights is part of the executive's interest, not counter to it.

## 3

#### Immigration reform will pass, but it will be close and a fight---PC is key

Raul Reyes 12/30 is an attorney in New York City. “Commentary: Factors aligning for immigration reform in 2014,” 12-30-13, <http://www.thetowntalk.com/article/20131230/OPINION/312300002/Commentary-Factors-aligning-immigration-reform-2014>, DOA: 1-1-14, y2k

For supporters of immigration reform, 2013 was a roller coaster of hope and frustration. In February, President Obama declared in his State of the Union address that “the time has come to pass comprehensive immigration reform.” In June, theSenate passed a sweeping immigration overhaulwith bipartisan support. Then despite backing frombusiness, faith and labor leaders, the bill stalled in the House against a backdrop of record levels of deportations. Yet immigration reform is the issue that will not die, and there are reasons to be optimistic about it still becoming reality. For starters, the just-passed budget deal shows that Congress is not completely dysfunctional. Although the agreement itself is not historic, it is remarkable because it broke through the gridlock that has lately paralyzed our government. That means there will be more time in January to tackle immigration. Meanwhile, House Speaker John Boehner has begun to push back against the far-right wing of his party. He has criticized conservative interest groups, saying, “They’re using our members and they’re using the American people for their own goals. This is ridiculous.” Earlier this month, Boehner also hired a new top aide to work on immigration issues. Boehner, who says he supports reform, might finally be ready to assert his leadership and get back to governance. Second, Jeh Johnson’s confirmation as secretary of the Department of Homeland Security is an opportunity for the Obama administration to turn a fresh page at the department. “I do not believe that deportation quotas or numeric goals are a good idea,” he wrote in a letter to Sen. Dick Durbin, D-Ill. Johnson has defended the Senate immigration bill. He has spoken about the importance of policy transparency, which has too often been lacking at DHS. His background in national security suggests that he could prioritize protecting the USA from terrorists, rather than deporting undocumented immigrants. Finally, look at the grass-roots activism surrounding immigration reform. Only a few years ago, it was considered brave for immigrants to “come out” publicly as undocumented. Now they are leading marches, rallies and prayer vigils nationwide. They have formed human chains to block buses deporting undocumented immigrants,shut down congressional offices with sit-ins and fasted in front of the White House. Collectively, these activists have turned immigration reform from an issue into a full-fledged movement. None of this means immigration reform will be an easy lift in 2014. Already, conservative lawmakers point to the troubled rollout of the Affordable Care Act as evidence that the government cannot tackle huge problems. But Obama has said that he is open to a piecemeal approach on immigration. Bob Dane of the Federation for American Immigration Reform, which opposes any “amnesty,” admits that “the ground is very fertile” for a bill. And clear majorities of Americans continue to support reform that includes a path to citizenship for the undocumented. Taken together, these factors show that a “path to yes” on immigration is still possible. Optimism is always welcome around the holidays. So don’t give up yet on immigration reform —it may be down, but it’s not out.

#### The plan cost capital- restrictions force Obama to defend his policies

Kriner, Boston University Assistant Political Science Professor, 2010,

(Douglas, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, 12-1, Pg. 68, PAS) Accessed on Google Books 8-12-13

While congressional support leaves the president’s reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expand energy and effort defending his international agenda. ¶ Political capital spent shoring up support for a president’s foreign policies is capital that is unavailable for his future policy initiatives. ¶ Moreover, any weakening in the president’s political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races.59 indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War.60 ¶ In addition to boding ill for the president’s perceived political capital and reputation, such partisan losses in Congress only further imperil his programmatic agenda, both international and domestic. Scholars have long noted that President Lyndon Johnson’s dream of a Great Society also perished in the rice paddies of Vietnam. Lacking both the requisite funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, many of President Bush’s highest second-term domestic priorities, such as Social Security and immigration reform, failed perhaps in large part because the administration had to expand so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq.61 ¶

#### Immigration reform is key to trade

Kent 3/8 3 ideas for immigration reform, Mar. 8, 2013, Muhtar Kent is chairman and CEO of The Coca-Cola Co,

http://www.guampdn.com/article/20130308/OPINION02/303080318/3-ideas-immigration-reform

That's one reason I support immigration reform. As a first-generation American, I know firsthand the blessings of living in this country. As a business leader, I also know we need to make it easier for committed, highly skilled people to make their lives and livelihoods here. Immigration is an essential part of the growth calculus for this great country.¶ Nearly half of Fortune 500 companies were started by immigrants or their children. Last year, three-quarters of patents coming out of our 10 top research universities were granted to immigrants.¶ As Washington grapples with much-needed immigration reform, my hope is that our leaders focus on creating a modern system with rational laws and regulations, strong border controls, greater opportunities for skilled foreign-born professionals and a clear way forward for undocumented workers -- a potential route to U.S. citizenship that bears all the rights, responsibilities and obligations of that coveted status.¶ A half-century ago, a young chemist came to this country from his native Cuba with little more than $40 and an American college degree. In time, Roberto Goizueta would become chairman of The Coca-Cola Co., creating thousands of new jobs and billions of dollars of shareholder value. Today, we should do everything we can to welcome and retain young people like Roberto.¶ As we do, we should remember that immigration is not just an American issue. On the contrary, it is a global issue. But the U.S. clearly has a leadership opportunity to promote immigration reform beyond our own borders. For the sake of our economy and the global economy, this leadership cannot come fast enough.¶ At Coca-Cola, for instance, we operate as a local business in 200-plus countries, hiring, manufacturing and distributing locally. And yet we struggle with the often byzantine processes involved in moving our leaders and their families across borders.¶ The cost to our business, our people and global business everywhere is immediate -- and acute. For those countries erecting barriers, however, the cost is even greater as they fail to gain the talent and know-how of experienced workers.¶ Free ideas, free people¶ The problem, at its core, is protectionism. Though it might be appealing to think a nation can protect its citizens from competition, the healthiest and most dynamic national economies tend to be those that embrace free ideas, free trade and free people.¶ Just as international policymakers are moving toward cross-border bank regulations, intellectual property protections and reductions in trade barriers, they also should strive for multilateral solutions to reduce harmful, even immobilizing friction in the labor market.¶ Let me suggest three ways in which government, business and civil society can work together to address global immigration reform immediately.¶ •First, we should encourage the organizers of the G-20 summit to include this in their agenda in September.¶ •Second, we should ask the United Nations to include immigration reform as an amendment to the Millennium Development Goals.¶ •And third, we should call on the World Trade Organization to work with both to advance this issue during the next global trade talks.¶ With the right set of immigration and visa reforms, we can help usher in a new era of American opportunity and economic vitality, while giving the global economy a boost.

#### Collapse goes nuclear

Panzer 8 Michael J. Panzner, Faculty – New York Institute of Finance. Specializes in Global Capital Markets. MA Columbia, Financial Armageddon: Protect Your Future from Economic Collapse, Revised and Updated Edition [Paperback], p. 137-138

Continuing calls for curbs on the flow of finance and trade will inspire the United States and other nations to spew forth protectionist legislation like the notorious Smoot-Hawley bill. Introduced at the start of the Great Depression, it triggered a series of tit-for-tat economic responses, which many commentators believe helped turn a serious economic downturn into a prolonged and devastating global disaster. But if history is any guide, those lessons will have been long forgotten during the next collapse. Eventually, fed by a mood of desperation and growing public anger, restrictions on trade, finance, investment, and immigration will almost certainly intensify. Authorities and ordinary citizens will likely scrutinize the cross-border movement of Americans and outsiders alike, and lawmakers may even call for a general crackdown on nonessential travel. Meanwhile, many nations will make transporting or sending funds to other countries exceedingly difficult. As desperate officials try to limit the fallout from decades of ill-conceived, corrupt, and reckless policies, they will introduce controls on foreign exchange. Foreign individuals and companies seeking to acquire certain American infrastructure assets, or trying to buy property and other assets on the cheap thanks to a rapidly depreciating dollar, will be stymied by limits on investment by noncitizens. Those efforts will cause spasms to ripple across economies and markets, disrupting global payment, settlement, and clearing mechanisms. All of this will, of course, continue to undermine business confidence and consumer spending. In a world of lockouts and lockdowns, any link that transmits systemic financial pressures across markets through arbitrage or portfolio-based risk management, or that allows diseases to be easily spread from one country to the next by tourists and wildlife, or that otherwise facilitates unwelcome exchanges of any kind will be viewed with suspicion and dealt with accordingly. The rise in isolationism and protectionism will bring about ever more heated arguments and dangerous confrontations over shared sources of oil, gas, and other key commodities as well as factors of production that must, out of necessity, be acquired from less-than-friendly nations. Whether involving raw materials used in strategic industries or basic necessities such as food, water, and energy, efforts to secure adequate supplies will take increasing precedence in a world where demand seems constantly out of kilter with supply. Disputes over the misuse, overuse, and pollution of the environment and natural resources will become more commonplace. Around the world, such tensions will give rise to full-scale military encounters, often with minimal provocation. In some instances, economic conditions will serve as a convenient pretext for conflicts that stem from cultural and religious differences. Alternatively, nations may look to divert attention away from domestic problems by channeling frustration and populist sentiment toward other countries and cultures. Enabled by cheap technology and the waning threat of American retribution, terrorist groups will likely boost the frequency and scale of their horrifying attacks, bringing the threat of random violence to a whole new level. Turbulent conditions will encourage aggressive saber rattling and interdictions by rogue nations running amok. Age-old clashes will also take on a new, more heated sense of urgency. China will likely assume an increasingly belligerent posture toward Taiwan, while Iran may embark on overt colonization of its neighbors in the Mideast. Israel, for its part, may look to draw a dwindling list of allies from around the world into a growing number of conflicts. Some observers, like John Mearsheimer, a political scientist at the University of Chicago, have even speculated that an “intense confrontation” between the United States and China is “inevitable” at some point. More than a few disputes will turn out to be almost wholly ideological. Growing cultural and religious differences will be transformed from wars of words to battles soaked in blood. Long-simmering resentments could also degenerate quickly, spurring the basest of human instincts and triggering genocidal acts. Terrorists employing biological or nuclear weapons will vie with conventional forces using jets, cruise missiles, and bunker-busting bombs to cause widespread destruction. Many will interpret stepped-up conflicts between Muslims and Western societies as the beginnings of a new world war.

## 4

#### Obama is prioritizing capture over drone strikes now

David Corn 13, Washington Bureau Chief at Mother Jones, 5/23/13, “Obama's Counterterrorism Speech: A Pivot Point on Drones and More?,” http://www.motherjones.com/mojo/2013/05/obama-speech-drones-civil-liberties

So Obama's speech Thursday on counterterrorism policies—which follows his administration's acknowledgment yesterday that it had killed four Americans (including Anwar al-Awlaki, an Al Qaeda leader in Yemen)—is a big deal, for with this address, Obama is self-restricting his use of drones and shifting control of them from the CIA to the military. And the president has approved making public the rules governing drone strikes.¶ The New York Times received the customary pre-speech leak and reported:¶ A new classified policy guidance signed by Mr. Obama will sharply curtail the instances when unmanned aircraft can be used to attack in places that are not overt war zones, countries like Pakistan, Yemen and Somalia. The rules will impose the same standard for strikes on foreign enemies now used only for American citizens deemed to be terrorists.¶ Lethal force will be used only against targets who pose "a continuing, imminent threat to Americans" and cannot feasibly be captured, Attorney General Eric H. Holder Jr. said in a letter to Congress, suggesting that threats to a partner like Afghanistan or Yemen alone would not be enough to justify being targeted.¶ These moves may not satisfy civil-liberties-minded critics on sthe right and the left. Obama is not declaring an end to indefinite detention or announcing the closing of Gitmo—though he is echoing his State of the Union vow to revive efforts to shut down that prison. Still, these moves would be unimaginable in the Bush years. Bush and Cheney essentially believed the commander in chief had unchallenged power during wartime, and the United States, as they saw it, remained at war against terrorism. Yet here is Obama subjecting the drone program to a more restrictive set of rules—and doing so publicly. This is very un-Cheney-like. (How soon before the ex-veep arises from his undisclosed location to accuse Obama of placing the nation at risk yet again?)¶ Despite Obama's embrace of certain Bush-Cheney practices and his robust use of drones, the president has tried since taking office to shift US foreign policy from a fixation on terrorism. During his first days in office, he shied away from using the "war on terrorism" phrase. And his national security advisers have long talked of Obama's desire to reorient US foreign policy toward challenges in the Pacific region. By handing responsibility for drone strikes to the military, Obama is helping CIA chief John Brennan, who would like to see his agency move out of the paramilitary business and devote more resources to its traditional tasks of intelligence gathering and analysis.¶ With this speech, Obama is not renouncing his administration's claim that it possesses the authority to kill an American overseas without full due process. The target, as Holder noted in that letter to Congress, must be a senior operational leader of Al Qaeda or an associated group who poses an "imminent threat of violent attack against the United States" and who cannot be captured, and Holder stated that foreign suspects now can only be targeted if they pose "a continuing, imminent threat to Americans." (Certainly, there will be debates over the meaning of "imminent," especially given that the Obama administration has previously used an elastic definition of imminence.) And Obama is not declaring an end to the dicey practice of indefinite detention or a conclusion to the fight against terrorism.

#### Detention closure increases drones use- undermines counter terrorism

Goldsmith 12 Proxy Detention in Somalia, and the Detention-Drone Tradeoff, Jack Goldsmith, Henry L. Shattuck Professor at Harvard Law School, served as Assistant Attorney General, Office of Legal Counsel from 2003–2004, and Special Counsel to the Department of Defense from 2002–2003, member of the Hoover Institution Task Force on National Security and Law, June 29, 2012, http://www.lawfareblog.com/2012/06/proxy-detention-in-somalia-and-the-detention-drone-tradeoff/

There has been speculation about the effect of the Obama administration’s pinched detention policy – i.e. no new detainees brought to GTMO, and no new detainees to Parwan (Afghanistan) from outside Afghanistan – on its other counterterrorism policies. I have long believed there must be some tradeoff between narrowing U.S. detention capabilities and other counterterrorism options, at least implicitly, and not necessarily for the better. As I wrote three years ago, in response to news reports that the Obama administration’s cutback on USG detentions resulted in more USG drone strikes and more outsourcing of rendition, detention, and interrogation:¶ There are at least two problems with this general approach to incapacitating terrorists. First, it is not ideal for security. Sometimes it would be more useful for the United States to capture and interrogate a terrorist (if possible) than to kill him with a Predator drone. Often the United States could get better information if it, rather than another country, detained and interrogated a terrorist suspect. Detentions at Guantanamo are more secure than detentions in Bagram or in third countries.The second problem is that terrorist suspects often end up in less favorable places. Detainees in Bagram have fewer rights than prisoners at Guantanamo, and many in Middle East and South Asian prisons have fewer yet. Likewise, most detainees would rather be in one of these detention facilities than be killed by a Predator drone. We congratulate ourselves when we raise legal standards for detainees, but in many respects all we are really doing is driving the terrorist incapacitation problem out of sight, to a place where terrorist suspects are treated worse.

#### Unchecked drone usage causes great power war and hotspot escalation

Dowd 13 (Alan W. Dowd, widely published writer on national defense, foreign policy, and international security including contributions to Parameters, Policy Review, The Journal of Diplomacy and International Relations, World Politics Review, American Outlook, The Baltimore Sun, The Washington Times, The National Post, The Wall Street Journal Europe, The Jerusalem Post, and The Financial Times Deutschland, Winter-Spring 2013, “Drone Wars: Risks and Warnings,” Parameters, <http://www.strategicstudiesinstitute.army.mil/pubs/parameters/Issues/WinterSpring_2013/1_Article_Dowd.pdf>)

If these geo-political consequences of remote-control war do not get ¶ our attention, then the looming geo-strategic consequences should. If ¶ we make the argument that UCAV pilots are in the battlespace, then we are effectively saying that the battlespace is the entire earth. If that is the ¶ case, the unintended consequences could be dramatic.¶ First, if the battlespace is the entire earth, the enemy would seem to ¶ have the right to wage war on those places where UCAV operators are based. ¶ That’s a sobering thought, one few policymakers have contemplated.¶ Second, power-projecting nations are following America’s lead and ¶ developing their own drones to target their distant enemies by remote. ¶ An estimated 75 countries have drone programs underway.45 Many of ¶ these nations are less discriminating in employing military force than ¶ the United States—and less skillful. Indeed, drones may usher in a new ¶ age of accidental wars. If the best drones deployed by the best military ¶ crash more than any other aircraft in America’s fleet, imagine the accident rate for mediocre drones deployed by mediocre militaries. And then ¶ imagine the international incidents this could trigger between, say, India and Pakistan; North and South Korea; Russia and the Baltics or Poland ¶ or Georgia; China and any number of its wary neighbors.¶ China has at least one dozen drones on the drawing board or in production, and has announced plans to dot its coastline with 11 drone bases ¶ in the next two years.46 The Pentagon’s recent reports on Chinese military power detail “acquisition and development of longer-range UAVs ¶ and UCAVs . . . for long-range reconnaissance and strike”; development ¶ of UCAVs to enable “a greater capacity for military preemption”; and ¶ interest in “converting retired fighter aircraft into unmanned combat ¶ aerial vehicles.”47 At a 2011 air show, Beijing showcased one of its newest drones by playing a video demonstrating a pilotless plane tracking a US ¶ aircraft carrier near Taiwan and relaying targeting information.48¶ Equally worrisome, the proliferation of drones could enable nonpower-projecting nations—and nonnations, for that matter—to join the ¶ ranks of power-projecting nations. Drones are a cheap alternative to ¶ long-range, long-endurance warplanes. Yet despite their low cost, drones ¶ can pack a punch. And owing to their size and range, they can conceal ¶ their home address far more effectively than the typical, nonstealthy ¶ manned warplane. Recall that the possibility of surprise attack by drones ¶ was cited to justify the war against Saddam Hussein’s Iraq.49¶ Of course, cutting-edge UCAVs have not fallen into undeterrable ¶ hands. But if history is any guide, they will. Such is the nature of proliferation. Even if the spread of UCAV technology does not harm the ¶ United States in a direct way, it is unlikely that opposing swarms of ¶ semiautonomous, pilotless warplanes roaming about the earth, striking at will, veering off course, crashing here and there, and sometimes ¶ simply failing to respond to their remote-control pilots will do much to ¶ promote a liberal global order.¶ It would be ironic if the promise of risk-free warpresented by drones ¶ spawned a new era of danger for the United States and its allies.

## Blowback

#### Ending detention doesn’t solve soft power

Nemish 9, Mark C. Nemish, Major, U.S. Air Force, AIR COMMAND AND STAFF COLLEGE¶ AIR UNIVERSITY¶ To Close or Not to Close: Guantanamo Bay, April 2009, <http://dtlweb.au.af.mil///exlibris/dtl/d3_1/apache_media/L2V4bGlicmlzL2R0bC9kM18xL2FwYWNoZV9tZWRpYS8zMzgzOA==.pdf>

Another popular argument for leaving Guantanamo Bay open is that merely closing the ¶ prison will not guarantee a change in world opinion. Most likely, criticism will follow ¶ Guantanamo Bay to its next home of record. While many claim detainee abuse and poor living ¶ conditions, the fact is that these same people are going to believe these conditions will exist ¶ anywhere. Former Vice President Cheney offered, “My own personal view is that those who are¶ most urgently advocating that we shut down Guantanamo Bay probably don’t agree with our ¶ policies anyway.”40 Senator Lindsey Graham also stated, “I would like every terrorist wannabe ¶ to understand that if you take up arms against us or coalition members, you do so at your own ¶ peril, because a couple of things await you, death or injury on the battlefield, or detention and ¶ accountability.”41¶ These are solid perspectives surrounding the need to keep the prison open. ¶ People that hated it before will hate it as long as Guantanamo Bay or its successor exists.¶ Moreover, by virtue of the isolated nature of Guantanamo Bay, it serves as a warning sign for ¶ those considering terrorist action against us. Housing the detainees in the U.S. may seem like a ¶ moral victory to human rights activists, but it will place suspected terrorists on the soil of the ¶ very country they intend to harm. The image of the U.S. will not change overnight with the ¶ closing of Guantanamo Bay.

#### Soft power alone fails- insufficient influence

Kennedy 8 Soft power is on the up. But it can always be outmuscled, Paul Kennedy, The Guardian, Monday 17 November 2008, professor of history and director of international security studies at Yale University, http://www.guardian.co.uk/commentisfree/2008/nov/18/usa-obama-economy-military

Yet there has always been one feature to "soft power" that has made it less substantive than military capacity or economic resilience: you can lose it or gain it - or even regain it - very swiftly indeed. The Bush administration has been a spectacular example of how the US could rapidly destroy its attractiveness once it appeared bent on unilateralist, heavyhanded, neoconservative actions, and didn't seem to care about world opinion. Little wonder, then, that outside the US there was such jubilation when Barack Obama was decisively voted in. Phew! The nightmare is over. And soft power will prevail again.¶ Before the world begins to think Obama can walk on water, we ought perhaps to reflect on what the recovery of US attractiveness and soft power cannot do. Here, alas, we have to return to the horrid world of "hard" power: economic reality and geopolitical reality.¶ Soft power cannot pay for foreign oil and gas, imported cars, electronic goods, kitchenware and children's toys. Soft power cannot staunch General Motors' global disintegration, just as it could not stop the collapse of Lehman Brothers. Soft power seems to have very little influence over the wildly fluctuating exchange value of the dollar: when the trade deficit worsens, so does the greenback; and when hedge funds pull back monies from Brazil and Canada the dollar rises, like a cork on the tide, at least for a while. If Asia's appetite for Boeing's planes falls away, no amount of Obama charm will stop that. More important still, if Asia decides it is too risky to continue buying American treasury bonds - and Ben Bernanke and Henry Paulson are planning to put an awful lot more of them out on the market during the coming months - then White House glamour will count for little.¶ There is more. American soft power cannot handle the longer term secular shifts in the world's economic balances, any more than could the replacement of a rather disturbing Disraeli with a somewhat nicer Gladstone stop the diminution of Victorian Britain's relative global influence.¶ The international financial system is no longer as it was at Bretton Woods, when only one country could recreate the world's trading and currency systems. There is a larger lesson from the recent desperate efforts by central bankers - in Britain, Germany, the European Bank, Japan, Switzerland - to shore up a few crucial banks, country by country. The lesson is that the US followed, reluctantly. It did not lead.¶ The same trend is evident at the IMF, yet another American institution slipping away from its founder's half-century dominance. How the world turns. We have come back to a multipolar system, whether US neocons or liberal imperialists like it or not.¶ The same is true on the military-strategic playing fields. How exactly, one wonders, would revamped US soft power be applied to counter the assertiveness of an increasingly nationalistic Russia, smarting at its imperial collapse and intent on balancing the influence of the world hegemon? We may not like Vladimir Putin but, judging from domestic opinion polls, he is even more popular among Russians than Obama is among Americans. What can Hollywood and democratic peace theory do to missiles installed in Kaliningrad?¶ What can the president-elect's undoubted charms do in the face of China and India's remarkable maritime expansion, with their silent submarines, long-range rocketry and satellite capacity? The probable answer is not much. No wonder they are keeping the lights on late in the night in the China Maritime Studies Centre at the Naval War College in Rhode Island. To those folks, soft power doesn't count for much. To them, it is the old story of covenants without swords.¶ The sweeping election of Obama has generated extraordinary goodwill; who, apart from the most purblind, has not been excited? But such positivity must be tempered by the realisation that he comes into office during one of the most difficult and troubled periods in modern history; that he is to run a country far less dominant, relatively, than at the time of Wilson, Truman and Kennedy; and that, while his international attractiveness is strong, great nations cannot survive on soft power alone.

#### Released detainees go back to terrorism

Hains 11 [William M. received his Juris Doctor from the J. Reuben Clark Law School, Brigham Young University, in April 2011. He currently serves as a law clerk for the Honorable J. Frederic Voros Jr. on the Utah Court of Appeals Brigham Young University Law Review 2011 B.Y.U.L. Rev. 2283 Lexis Nexis, Accessed 5/21/2013 DMW

[\*2287] Two events occurred in late 2010 that provided the catalyst for Congress to take a more aggressive approach: the return of a verdict in the case of U.S. embassy bomber Ahmed Khalfan Ghailani, and the release of a report from the Director of National Intelligence (DNI) on recidivism rates among detainees released to other countries.¶ On November 17, 2010, a jury returned a verdict on the first Guantanamo Bay detainee prosecution in federal courts. n18 The jury found Ghailani guilty of one count of conspiracy to destroy government property; he was acquitted of the remaining 284 counts. n19 Key testimony that may have proved dispositive was found inadmissible because it had been obtained by coercive interrogation techniques. n20 The Justice Department and supporters of civilian trials for suspected terrorists hailed the guilty verdict as a victory for the Administration and a sign of the potential for further successful criminal prosecutions. n21 Critics saw it differently. They feared that the verdict came too close to letting a Guantanamo Bay detainee free on U.S. soil. n22¶ Three weeks after the Ghailani verdict, the DNI released a report at the request of Congress which provided further fodder for the Administration's critics. The report declared that twenty-five percent of detainees released to other countries were suspected or confirmed to have "reengaged in terrorist or insurgent activities after transfer." n23 Furthermore, the report predicted that future releases [\*2288] would also result in at least some degree of recidivism. n24 When the report was released, it was instantly used as a talking point for critics of the Administration's detention policies. n25

#### Not a recruiting tool- AQ doesn’t care

McNeal 11 [Gregory McNeal, Associate Professor of Law, Pepperdine University School of Law; "PREVENTIVE DETENTION: THE STATUS QUO BIAS AND COUNTERTERRORISM DETENTION," Summer, 2011, 101 J. Crim. L. & Criminology 855, lexis]cd

The main argument made by think tanks in support of preventive detention and in opposition to the notion that Guantanamo serves as a recruiting tool is that Guantanamo is rarely mentioned in the messages delivered by top al Qaeda leaders. Assuming that the list of collected statements and interviews from top al Qaeda leaders are representative of al Qaeda's recruiting propaganda, n43 those past statements reveal that top al Qaeda officials rarely mention preventive detention or Guantanamo. n44 Moreover, even in the messages where Guantanamo is referenced, it is incorrectly conflated with Abu Ghraib n45 (though this does not necessarily preclude the fact that preventive detention may act as a recruiting tool) and when mentioned it is mentioned very briefly. For example, Dr. Ayman al-Zawahiri, one of al Qaeda's top strategists, gave a twelve-page statement entitled "Nine Years After the Start of the Crusader Campaign" with four pages devoted to Pakistan, two pages to Afghanistan, nearly two to Egypt, two to Palestinians, and two to al Qaeda's prospects for victory. n46 In this [\*867] same statement, only a single sentence mentioned how the Koran was desecrated in Guantanamo, Iraq, and elsewhere. n47 In fact, a keyword search of all the messages by top al Qaeda leaders yielded only seven mentions of Guantanamo, while there are numerous more mentions of words like Israel/Israeli/Israelis (ninety-eight mentions), Jew/Jews (ninety-four mentions), Zionist(s) (ninety-four mentions), and other words that focus on the overall Zionist-Crusader conspiracy narrative against Muslims. n48¶ The think tank message has not penetrated as deeply into media depictions of preventive detention as the opposition message has. In fact there are few sources directly arguing that preventive detention is not a recruiting tool. The only colorable argument could be that there will be no less recruiting by al Qaeda once Guantanamo is closed, n49 which suggests that Guantanamo exclusively cannot be a major recruiting tool for al Qaeda if the next detention facility and its complete absence of civil liberties violations, would be denounced by al Qaeda in the same manner. This notion reinforces the idea that a change from the status quo is unlikely if the new policy will face the same critiques as the status quo policies.

#### Detainees offer essential intelligence for the WOT

Hardy 7 [Colleen E. Bachelor of Science, Juris Doctor George Mason University, The War on Terror and the Detention of Unlawful Enemy Combatants: An Examination of Rights and Processes Granted to United States Citizen Unlawful Enemy Combatants and Guantanamo Bay Detainees A dissertation submitted in partial fulfillment of the requirements for the degree of Doctor of Philosophy at George Mason University, Online, Accessed 8/14/2013 DMW]

A report released by the Department of Defense in July, 2006 stated they have gathered a plethora of intelligence from the detainees at Guantanamo Bay and the information has prevented terrorist attacks and saved lives.1895 For example, detainees have provided intelligence concerning the organization structure of al Qaeda (and other terrorist groups), al Qaeda’s pursuit of weapons of mass destruction and terrorist skill sets, including general and specialized operative training.1896 The report stated the information provided by the detainees continues to be an essential tool to defeat violate extremist groups like al Qaeda and its supporters.1897 The report also listed future steps the DoD is planning on taking to make the living environment more suitable for long­ term detention. For example, the DoD will expand communal living environments, increase the opportunity for exercise and group activities, enhance the medical facilities, and finally, increase mail privileges and access to foreign language materials.1898¶ In December, 2006, Director o f the Joint Intelligence Group at Guantanamo Bay, Paul Rester, stated about one-third of the detainees are still being interrogated.1899 However, he noted the military allows the detainees to skip scheduled interrogation sessions.1900 Some detainees participate in the sessions to leave their cells and those who cooperate have been granted special privileges. For example, some have been allowed to eat sandwiches from Subway restaurant on the base and watch movies or sporting events.1901

#### No terrorist threat---comprehensive data proves

Zakaria 13 Fareed Zakaria, leading journalists at TIME and CNN, "The Future of the Terrorist Threat to America," 5-10-13, globalpublicsquare.blogs.cnn.com/2013/05/10/the-future-of-the-terrorist-threat-to-america/ DOA: 7-20-13, y2k

We are now a little more than three weeks from the Marathon day bombings in Boston, a good time to ask ourselves, what did it tell us about the future of terrorism? What is the nature of the threat we face – and are we prepared for it? First, Boston was not the kind of attack that we have worried about and planned for in the last decades. Al Qaeda, the group that planned and directed the embassy bombings in Kenya and Tanzania, then the attack of the American destroyer, USS Cole, and then the World Trade Center, was an organized, well-financed group with deep roots in a few countries, strategic leaders, clever planners, and fanatical supporters. That group is a shadow of its former self, battered by ten years in which Western and allied governments have attacked its leaders, tracked its money, and followed its trail. Perhaps most important, as it practiced terrorism in more countries, it lost any political support or sympathy it had in the Muslim world. Indeed, before Osama bin Laden died, he wrote about al Qaeda's reduced fortunes. “He was very aware that the al Qaeda brand was in deep trouble,” terrorism analyst Peter Bergen notes. “He was advising other groups not to adopt the al Qaeda brand because it would be bad for fundraising, would attract a lot of negative attention.” But while al Qaeda central is in deep trouble, it has become a franchise operation, with a number of groups around the world latching onto its cause (though mostly not its name, even though some relish the notoriety and attention that it gives them). But there is a vigorous debate over whether these groups – al-Shabaab in Somalia, Ganda Koy and Ansar Dine in Mali and Ansar al-Sharia in Yemen – are more local thugs than global terrorists. In my reading of them, local concerns seem paramount. Even the Taliban, after all, does not have global terrorist ambitions, but instead has always focused on its desire to control Afghanistan. Americans often forget that though we went to war in Afghanistan, no Afghan was involved in 9/11, nor in any other major terrorist plot against Americans and Europeans. The former CIA counter terrorism chief Robert Grenier says about what is happening in North Africa that we must be “very, very careful lest we internationalize what is fundamentally a local security concern.” Turning local thugs into global terrorists could well prove to be a self-fulfilling prophecy. A third point to remember is that al Qaeda was not crippled by magic but through the hard work of counter-terrorism by many governments across many regions. However, as we fight terrorism we have to keep in mind two factors. One is to think hard about collateral damage when we target a bad guy with a drone. As Bergen also noted, there is always a temptation to keep using a tactic if it has worked in the past. Yet in 2010, there were 122 drone strikes. Are there 122 al Qaeda leaders in the world? Or are we using these for anyone we suspect is a bad guy? What is the collateral damage of this expanded use in a country like Pakistan, where anti-Americanism is now at fever pitch? General Stanley McChrystal, who ran hundreds of special missions to kill terrorists in Iraq and Afghanistan, has said that if we use our asymmetrical weapons – drones – indiscriminately in foreign countries, we should not be surprised if people start responding using their own asymmetrical weapon (the suicide bombers) indiscriminately in our country. Fourth, the Boston bombings have reminded us that the war on terror is one that has to be fought at home as well. But they highlight the challenge; how to find the next group of misfits, who have no background with terrorists, who might get radicalized over the internet, and who go from talking radicalism one day to plotting terror the next? We cannot identify every one of these prospective terrorists no matter how well we do. However, people in law enforcement agencies across the United States will tell you that the best intelligence about potential terrorists comes from their communities, which often means in these times, Muslim communities. So we need eyes on the ground, friendly relations with imams and other leaders, and outreach to all parts of the communities. We might take a cue here from Europe. Historically, assimilation has worked better in America, but as I wrote recently, European countries are dealing with a much more complex, larger problem. The lesson from Europe seems to be: Embrace Muslim communities. This may sound too soft, but it is a proven method. In fact, just a few weeks ago, a Canadian plot to attack trains was thwarted with just this sort of intelligence provided by the local Muslim community. The war on terror began as a grand enterprise involving major war. It seems to have evolved into police work. That is a measure of progress. And one final point – just some facts. The National Counterterrorism Center released its annual report last June. It showed that attacks worldwide had dropped by 12 percent from 2010 and were down 29 percent from 2007. The Global Terrorism Index, also released last year, systematically ranks countries by levels of terrorist incidents. Over the ten year period it analyzed, 2002-2011, the region least likely to suffer from a terrorist attack was North America. The fact is that the most comprehensive studies show that terrorism was declining in the United States even in 2001 and it dropped even more sharply after 9/11. The historian John Mueller has pointed out that more Americans die in their bathtubs every year than are killed by terrorists. The emotions generated by terrorist attacks are raw and intense. But it is essential moving forward that we are still able to have a rational discussion, grounded in facts, if we are to have any chance of keeping the country safe in the future.

#### Russia is stable and the impact is empirically denied

Zavinovsky 12 (2-7-12-[ Konstantin Zavinovsky is editor of "Geopolitics" magazine and researcher at the Institute of Advanced Studies in Geopolitics and Auxiliary Sciences (ISAG) "Political And Economic Stability In Russia Will Attract Foreign Investment" Claims Institute; ROME, February 7, 2012 /PRNewswire/ -- <http://www.prnewswire.com/news-releases/political-and-economic-stability-in-russia-will-attract-foreign-investment-claims-institute-138864439.html>]

Konstantin Zavinovsky of the Institute of Advanced Studies in Geopolitics and Auxiliary Sciences, has said that relative economic growth in Russia in recent years has improved the quality of life in Russia, and the prospect of foreign direct investment into the country. Zavinovsky said: "The Russian economy in the last decade has seen a steady growth. After the economic crisis in the late 90s, starting from 2000 GDP per capita in Russia increased steadily rising from about $ 7600 in 2000 to nearly $ 17000 in 2011. This means that the index more than doubled in 10 years. The growth was interrupted only for a year because of the 2008 financial crisis which produced a slight decline in GDP per capita in 2009. But already next year, in 2010, this index started to grow and almost reached pre-crisis level. According to the forecasts of the International Monetary Fund (IMF) the index will grow steadily over the next year to nearly $ 22000 in 2016. We should add that in the same period inflation in the country declined from 20.78% in 2000 to 8.8% in 2011 (6.1%, according to the Russian Ministry of Finance - Minfin) and according to the forecast of the IMF inflation in Russia is to diminish in future and will reach 6.64% in 2014 (4.5%, according to Minfin). "With the rise of income the quality of life of Russian citizens in recent years has improved considerably. And thus the image of Russians in the world has also changed. For example, in Italy 10 years ago the Russians were seen as a backward people, rather poor and far away from European civilization, now the Russians have become a symbol of wealth and economic well-being. Russian customers are very appreciated in Italy both by small traders on the narrow streets of Rome, Florence andVenice and by the great Italian fashion designers such as Salvatore Ferragamo, who believes Russians to be "customers number one in Europe". Precisely for this reason at the end of last year the Michele Norsa CEO announced that "over the next five years we expect to double sales volume in Russia, where the growth will be +20% annually over the past 24 months". Dirk Bikkemberg also stated that Russian clients are the target of extreme importance because thanks to them flagship store in Milan, considered by many as a loss, not only got in balance with the accounts but also opened 47 new stores in 2011. Italian newspapers say that due to purchases of Russian clients sales of the Italian outlets in contrast to the general crisis. The most important Italian financial newspaper Il Sole 24 Ore suggested making investments in the Russian ruble bacause Russia has a high economic growth and its national debt is very low. The tourism industry that made Italy famous also makes plans with a focus on the Russian customers. The examples are numerous and cover many sectors, while news of this kind are discussed widely in the Italian press. This shows that currently the Italian business world has confidence in the Russian market and is ready to invest in it. "So in only 10 years, Russia managed to change her image in Italy (in Europe and the world). Today it appears as a stable country, a country with an economic growth and with many investment opportunities. This change wasn't an easy one and required great efforts from the Russian government in 2000 when Russia was economically weak - in 2000 GDP was almost half of that of 1992. Today Russia's GDP is nearly 7 times bigger than that of 2000 and amounts to nearly 2 trillion dollars. According to IMF, this figure is expected to rise and in 2016 GDP will amount to 3 trillion. The increase of Russia's prestige in the eyes of the Europeans and the strong economic growth were possible thanks to political and economic stability of the country which was a merit of politicians who led Russia in recent years. The political destabilization of Russia would lead to distrust of the future of the Russian market and foreign capitals would flee from the country. So Russia should continue to move in the same direction of political stability if it wants to preserve and enhance the economic well-being and thus to remain an attractive country for foreign investment."

#### No Russia war---no motive or capability

Betts 13 Richard is the Arnold A. Saltzman Professor of War and Peace Studies @ Columbia. “The Lost Logic of Deterrence,” Foreign Affairs, March/April, Vol. 92, Issue 2, Online

These continuities with the Cold War would make sense only between intense adversaries. Washington and Moscow remain in an adversarial relationship, but not an intense one. If the Cold War is really over, and the West really won, then continuing implicit deterrence does less to protect against a negligible threat from Russia than to feed suspicions that aggravate political friction. In contrast to during the Cold War, it is now hard to make the case that Russia is more a threat to NATO than the reverse. First, the East-West balance of military capabilities, which at the height of the Cold War was favorable to the Warsaw Pact or at best even, has not only shifted to NATO's advantage; it has become utterly lopsided. Russia is now a lonely fraction of what the old Warsaw Pact was. It not only lost its old eastern European allies; those allies are now arrayed on the other side, as members of NATO. By every significant measure of power -- military spending, men under arms, population, economic strength, control of territory -- NATO enjoys massive advantages over Russia. The only capability that keeps Russia militarily potent is its nuclear arsenal. There is no plausible way, however, that Moscow's nuclear weapons could be used for aggression, except as a backstop for a conventional offensive -- for which NATO's capabilities are now far greater.¶ Russia's intentions constitute no more of a threat than its capabilities. Although Moscow's ruling elites push distasteful policies, there is no plausible way they could think a military attack on the West would serve their interests. During the twentieth century, there were intense territorial conflicts between the two sides and a titanic struggle between them over whose ideology would dominate the world. Vladimir Putin's Russia is authoritarian, but unlike the Soviet Union, it is not the vanguard of a globe-spanning revolutionary ideal.

## Judiciary

#### Restrictions undermine the executive- tanks heg

Zeisberg 4 Mariah Zeisberg, PhD in Politics from Princeton, Postdoc Research Associate at the Political Theory Project of Brown University; “INTERBRANCH CONFLICT AND CONSTITUTIONAL MAINTENANCE: THE CASE OF WAR POWERS”; June 2004; [www.brown.edu/Research/ppw/files/Zeisberg%20Ch5.doc](http://www.brown.edu/Research/ppw/files/Zeisberg%20Ch5.doc)

The first significant argument of pro-Presidency insularists is that flexibility is a prime value in the conduct of foreign affairs, and especially war. Implicit in this argument is the recognition that the executive is functionally superior to Congress in achieving flexibility and swiftness in war operations, a recognition I share. The Constitution cannot be meant to curtail the very flexibility that may be necessary to preserve the nation; and yet, according to the insularists, any general norm which would include Congress in decision-making about going to war could only undermine that flexibility. Writing on the War Powers Act, Eugene Rostow predicts that it would, “put the Presidency in a straightjacket of a rigid code, and prevent new categories of action from emerging, in response to the necessities of a tense and unstable world.” In fact, Rostow believes, “[t]he centralization of authority in the president is particularly crucial in matters of national defense, war, and foreign policy, where a unitary executive can evaluate threats, consider policy choices, and mobilize national resources with a speed and energy that is far superior to any other branch.” Pro-presidency insularists are fond of quoting Hamilton, who argued that “[o]f all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand.” This need for flexibility, some insularists argue, is especially acute given modern conditions, where devastating wars can develop quickly. Today, “many foreign states have the power to attack U.S. forces - and some even the U.S. mainland - almost instantly,” and in such a world it is impracticable to require the President to seek advance authorization for hostilities. Such a requirement would simply be too risky to U.S. security. We furthermore face a nuclear age, and the system of deterrence that operates to contain that threat requires that a single person be capable of responding to nuclear attack with nuclear weapons immediately. Rostow writes, “the requirement for advance authorization would collapse the system of deterrence, making preemptive strikes by our enemies more likely.” Hence, “modern conditions” require the President to “act quickly, and often alone.” While this does not mean that Congress has no role to play in moments of crisis, it does mean that Congress should understand its role largely in terms of cooperating with the President to support his negotiations and decisions regarding relationships with foreign powers. Rostow writes, “Congress should be able to act effectively both before and after moments of crisis or potential crisis. It may join the President in seeking to deter crisis by publicly defining national policy in advance, through the sanctioning of treaties or other legislative declarations. Equally, Congress may participate formally in policymaking after the event through legislative authorization of sustained combat, either by means of a declaration of war, or through legislative action having more limited legal and political consequences. Either of these devices, or both in combination, should be available in situations where cooperation between the two branches is indicated at many points along an arc ranging from pure diplomacy at one end to a declaration of war at the other.” In other words, for Congress to understand itself as having any justifiable role in challenging executive security determinations, especially at moments of crisis, would be to undermine the strength that the executive requires in order to protect the nation. Conflict in this domain represents political degradation.

#### The impact is leadership and every global crisis

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THIS BOOK is intended to help readers better understand the national security issues facing the United States today and offer the general outline of a strategy for dealing with them. National security policy—both making it and debating it — is harder today because the issues that are involved are more numerous and varied. The problem of the day can change at a moment's notice. Yesterday, it might have been proliferation; today, terrorism; tomorrow, hostile regional powers. Threats are also more likely to be intertwined—proliferators use the same networks as narco-traffickers, narco-traffickers support terrorists, and terrorists align themselves with regional powers. Yet, as worrisome as these immediate concerns may be, the long-term challenges are even harder to deal with, and the stakes are higher. Whereas the main Cold War threat — the Soviet Union — was brittle, most of the potential adversaries and challengers America now faces are resilient. In at least one dimension where the Soviets were weak (economic efficiency, public morale, or leadership), the new threats are strong. They are going to be with us for a long time. As a result, we need to reconsider how we think about national security. The most important task for U.S. national security today is simply to retain the strategic advantage. This term, from the world of military doctrine, refers to the overall ability of a nation to control, or at least influence, the course of events.1 When you hold the strategic advantage, situations unfold in your favor, and each round ends so that you are in an advantageous position for the next. When you do not hold the strategic advantage, they do not. As national goals go, “keeping the strategic advantage” may not have the idealistic ring of “making the world safe for democracy” and does not sound as decisively macho as “maintaining American hegemony.” But keeping the strategic advantage is critical, because it is essential for just about everything else America hopes to achieve — promoting freedom, protecting the homeland, defending its values, preserving peace, and so on. The Changing Threat If one needs proof of this new, dynamic environment, consider the recent record. A search of the media during the past fifteen years suggests that there were at least a dozen or so events that were considered at one time or another the most pressing national security problem facing the United States — and thus the organizing concept for U.S. national security. What is most interesting is how varied and different the issues were, and how many different sets of players they involved — and how each was replaced in turn by a different issue and a cast of characters that seemed, at least for the moment, even more pressing. They included, roughly in chronological order, • regional conflicts — like Desert Storm — involving the threat of war between conventional armies; • stabilizing “failed states” like Somalia, where government broke down in toto; • staying economically competitive with Japan; • integrating Russia into the international community after the fall of communism and controlling the nuclear weapons it inherited from the Soviet Union; • dealing with “rogue states,” unruly nations like North Korea that engage in trafficking and proliferation as a matter of national policy; • combating international crime, like the scandal involving the Bank of Credit and Commerce International, or imports of illegal drugs; • strengthening international institutions for trade as countries in Asia, Eastern Europe, and Latin America adopted market economies; • responding to ethnic conflicts and civil wars triggered by the reemergence of culture as a political force in the “clash of civilizations”; • providing relief to millions of people affected by natural catastrophes like earthquakes, tsunamis, typhoons, droughts, and the spread of HIV/AIDS and malaria; • combating terrorism driven by sectarian or religious extremism; • grassroots activism on a global scale, ranging from the campaign to ban land mines to antiglobalization hoodlums and environmentalist crazies; • border security and illegal immigration; • the worldwide ripple effects of currency fluctuations and the collapse of confidence in complex financial securities; and • for at least one fleeting moment, the safety of toys imported from China. There is some overlap in this list, and one might want to group some of the events differently or add others. The important point, however, is that when you look at these problems and how they evolved during the past fifteen years, you do not see a single lesson or organizing principle on which to base U.S. strategy. Another way to see the dynamic nature of today's national security challenges is to consider the annual threat briefing the U.S. intelligence community has given Congress during the past decade. These briefings are essentially a snapshot of what U.S. officials worry most about. If one briefing is a snapshot, then several put together back to back provide a movie, showing how views have evolved.2 Figure 1 summarizes these assessments for every other year between 1996 and 2006. It shows when a particular threat first appeared, its rise and fall in the rankings, and in some cases how it fell off the chart completely. So, in 1995, when the public briefing first became a regular affair, the threat at the very top of the list was North Korea. This likely reflected the crisis that had occurred the preceding year, when Pyongyang seemed determined to develop nuclear weapons, Bill Clinton's administration seemed ready to use military action to prevent this, and the affair was defused by an agreement brokered by Jimmy Carter. Russia and China ranked high as threats in the early years, but by the end of the decade they sometimes did not even make the list. Proliferation has always been high in the listings, although the particular countries of greatest concern have varied. Terrorism made its first appearance in 1998, rose to first place after the September 11, 2001, terrorist attacks, and remains there today. The Balkans appeared and disappeared in the middle to late 1990s. A few of the entries today seem quaint and overstated. Catastrophic threats to information systems like an “electronic Pearl Harbor” and the “Y2K problem” entered the list in 1998 but disappeared after 2001. (Apparently, after people saw an airliner crash into a Manhattan skyscraper, the possible loss of their Quicken files seemed a lot less urgent.) Iraq first appeared in the briefing as a regional threat in 1997 and was still high on the list a decade later—though, of course, the Iraqi problem in the early years (suspected weapons of mass destruction) was very different from the later one (an insurgency and internationalized civil war). All this is why the United States needs agility. It not only must be able to refocus its resources repeatedly; it needs to do this faster than an adversary can focus its own resources.

#### CMR collapse inev

Davidson 13 Janine Davidson is assistant professor at George Mason University’s Graduate School of Public Policy. From 2009-2012 she served as the Deputy Assistant Secretary of Defense, Plans in the Pentagon, Presidential Studies Quarterly, March 2013, " Civil-Military Friction and Presidential Decision Making: Explaining the Broken Dialogue", Vol. 43, No. 1, Ebsco

A perennial source of tension in the broken planning dialogue is the issue of resource requirements or force size. From Kennedy’s search for options in the Cuban Missile Crisis, to Rumsfeld’s ideas about a leaner, faster invasion force in Iraq, or President Obama’s haggling with the military over numbers of “boots on the ground” in Afghanistan, it seems civilians and the military are often out of synch when it comes to just how much force is required to “win.” In these cases, presidents often have more limited objectives in mind and cannot understand why the military cannot provide smaller force packages for smaller, more limited operations. Presidents have a number of issues weighing on them that drive their predilection for small deployments and limited mission objectives. The ﬁrst is a desire to limit the bloodshed. The more troops in harm’s way, they assume, the more risk for casualties and body bags. As an elected ofﬁcial, presidents are also sensitive to public opinion and the desire to avoid large expensive and bloody wars “on their watch.” Presidents also are trying to avoid a nasty political ﬁght over war powers with the Congress, which would clearly be triggered by a large buildup and deployment of forces requiring large appropriations of funds. Thus, in the up-front haggling over force size, presidents prefer a smaller footprint so as not to alarm Congress and the public, be overtly provocative, or be accused of overstretch. From the military’s perspective, as Brigadier General Hix explains, this is again just a simple matter of physics; or as the cliché goes, “amateurs discuss strategy; professionals talk logistics.” From the logistician and planner’s points of view, terms like “limited” or “surgical” are fraught with risk. Images of small units of troops on the ground handing rice to starving Somalis or perhaps conducting a targeted raid in the Federally Administered Tribal Areas of Pakistan, is not as easy as it looks on CNN. According to Hix, “civilians who want a small footprint mistakenly think this will limit the bloodshed— but as soon as American troops are deployed someplace, they become a target.”13

#### Their impact claims are hype

Feaver and Kohn 5 [Peter Feaver, professor of Political Science and Public Policy and the director of the Triangle Institute for Security Studies at Duke University, and Richard H. Kohn, Professor of History at the University of North Carolina, 2005, “The Gap: Soldiers, Civilians, and Their Mutual Misunderstanding,” in American Defense Policy, 2005 edition, ed. Paul J. Bolt, Damon V. Coletta, Collins G. Shackelford, p. 339]

**Concerns about a** troublesome **divide between the armed forces and** the **society** they serve **are hardly new** and in fact **go back to the beginning of the Republic**. Writing in the 1950s, Samuel Huntington argued that the divide could best be bridged by civilian society tolerating, if not embracing, the conservative values that animate military culture. Huntington also suggested that politicians allow the armed forces a substantial degree of cultural autonomy. Countering this argument, the sociologist Morris Janowitz argued that in a democracy, military culture necessarily adapts to changes in civilian society, adjusting to the needs and dictates of its civilian masters.2 The end of the Cold War and the extraordinary changes in American foreign and defense policy that resulted have revived the debate. The **contemporary heirs** of Janowitz **see the all volunteer military as drifting too far away from the norms of American society, thereby posing problems for civilian control. They make tour principal assertions. First, the military has grown out of step ideologically with the public,** showing itself to be inordinately right-wing politically, and much more religious (and fundamentalist) than America as a whole, having a strong and almost exclusive identification with the Republican Party. Second, **the military has become increasingly alienated from,** disgusted with, **and sometimes even explicitly hostile to, civilian culture. Third, the armed forces have resisted change**, particularly the integration of women and homosexuals into their ranks, and have generally proved reluctant to carry out constabulary missions. Fourth, civilian control and military effectiveness will both suffer as the military—seeking ways to operate without effective civilian oversight and alienated from the society around it—loses the respect and support of that society. By contrast, the heirs of Huntington argue that a degenerate civilian culture has strayed so far from traditional values that it intends to eradicate healthy and functional civil-military differences, particularly in the areas of gender, sexual orientation, and discipline. This camp, too, makes four key claims. First, its members assert that the military is divorced in values from a political and cultural elite that is itself alienated from the general public. Second, it believes this civilian elite to be ignorant of, and even hostile to, the armed forces—eager to employ the military as a laboratory for social change, even at the cost of crippling its warfighting capacity. Third, it discounts the specter of eroding civilian control because it sees a military so thoroughly inculcated with an ethos of subordination that there is now too much civilian control, the effect of which has been to stifle the military's ability to function effectively Fourth, because support for the military among the general public remains sturdy, any gap in values is inconsequential. The problem, if anything, is with the civilian elite. The debate has been lively (and inside the Beltway, sometimes quite vicious), but it **has rested on** very thin evidence—(tunneling anecdotes and claims and counterclaims about the nature of civilian and military attitudes. Absent has been a body of systematic data exploring opinions, values, perspectives, and attitudes inside the military compared with those held by civilian elites and the general public. Our project provides some answers.

#### No impact biowep

Dove, 12 – PhD in Microbiology, science journalist and former Adjunct Professor at New York University (Alan, 1/24. “Who’s Afraid of the Big, Bad Bioterrorist?” http://alandove.com/content/2012/01/whos-afraid-of-the-big-bad-bioterrorist/)

The second problem is much more serious. Eliminating the toxins, we’re left with a list of infectious bacteria and viruses. With a single exception, these organisms are probably near-useless as weapons, and history proves it.¶ There have been at least three well-documented military-style deployments of infectious agents from the list, plus one deployment of an agent that’s not on the list. I’m focusing entirely on the modern era, by the way. There are historical reports of armies catapulting plague-ridden corpses over city walls and conquistadors trying to inoculate blankets with Variola (smallpox), but it’s not clear those “attacks” were effective. Those diseases tended to spread like, well, plagues, so there’s no telling whether the targets really caught the diseases from the bodies and blankets, or simply picked them up through casual contact with their enemies.¶ Of the four modern biowarfare incidents, two have been fatal. The first was the 1979 Sverdlovsk anthrax incident, which killed an estimated 100 people. In that case, a Soviet-built biological weapons lab accidentally released a large plume of weaponized Bacillus anthracis (anthrax) over a major city. Soviet authorities tried to blame the resulting fatalities on “bad meat,” but in the 1990s Western investigators were finally able to piece together the real story. The second fatal incident also involved anthrax from a government-run lab: the 2001 “Amerithrax” attacks. That time, a rogue employee (or perhaps employees) of the government’s main bioweapons lab sent weaponized, powdered anthrax through the US postal service. Five people died.¶ That gives us a grand total of around 105 deaths, entirely from agents that were grown and weaponized in officially-sanctioned and funded bioweapons research labs. Remember that.¶ Terrorist groups have also deployed biological weapons twice, and these cases are very instructive. The first was the 1984 Rajneeshee bioterror attack, in which members of a cult in Oregon inoculated restaurant salad bars with Salmonella bacteria (an agent that’s not on the “select” list). 751 people got sick, but nobody died. Public health authorities handled it as a conventional foodborne Salmonella outbreak, identified the sources and contained them. Nobody even would have known it was a deliberate attack if a member of the cult hadn’t come forward afterward with a confession. Lesson: our existing public health infrastructure was entirely adequate to respond to a major bioterrorist attack.¶ The second genuine bioterrorist attack took place in 1993. Members of the Aum Shinrikyo cult successfully isolated and grew a large stock of anthrax bacteria, then sprayed it as an aerosol from the roof of a building in downtown Tokyo. The cult was well-financed, and had many highly educated members, so this release over the world’s largest city really represented a worst-case scenario.¶ Nobody got sick or died. From the cult’s perspective, it was a complete and utter failure. Again, the only reason we even found out about it was a post-hoc confession. Aum members later demonstrated their lab skills by producing Sarin nerve gas, with far deadlier results. Lesson: one of the top “select agents” is extremely hard to grow and deploy even for relatively skilled non-state groups. It’s a really crappy bioterrorist weapon.¶ Taken together, these events point to an uncomfortable but inevitable conclusion: our biodefense industry is a far greater threat to us than any actual bioterrorists.

## Solv

#### Court no longer modeled worldwide

Liptak, Sept 17, 2008

(Adam, New York Times, U.S. Court Is Now Guiding Fewer Nations, <http://www.nytimes.com/2008/09/18/us/18legal.html?pagewanted=all&_r=0>)

WASHINGTON — Judges around the world have long looked to the decisions of the United States Supreme Court for guidance, citing and often following them in hundreds of their own rulings since the Second World War. But now American legal influence is waning. Even as a debate continues in the court over whether its decisions should ever cite foreign law, a diminishing number of foreign courts seem to pay attention to the writings of American justices.¶ “One of our great exports used to be constitutional law,” said Anne-Marie Slaughter, the dean of the Woodrow Wilson School of Public and International Affairs at Princeton. “We are losing one of the greatest bully pulpits we have ever had.”From 1990 through 2002, for instance, the Canadian Supreme Court cited decisions of the United States Supreme Court about a dozen times a year, an analysis by The New York Times found. In the six years since, the annual citation rate has fallen by half, to about six.¶ Australian state supreme courts cited American decisions 208 times in 1995, according to a recent study by Russell Smyth, an Australian economist. By 2005, the number had fallen to 72.¶ The story is similar around the globe, legal experts say, particularly in cases involving human rights. These days, foreign courts in developed democracies often cite the rulings of the European Court of Human Rights in cases concerning equality, liberty and prohibitions against cruel treatment, said Harold Hongju Koh, the dean of the Yale Law School. In those areas, Dean Koh said, “they tend not to look to the rulings of the U.S. Supreme Court.”¶ The rise of new and sophisticated constitutional courts elsewhere is one reason for the Supreme Court’s fading influence, legal experts said. The new courts are, moreover, generally more liberal than the Rehnquist and Roberts courts and for that reason more inclined to cite one another.¶ Another reason is the diminished reputation of the United States in some parts of the world, which experts here and abroad said is in part a consequence of the Bush administration’s unpopularity around the world. Foreign courts are less apt to justify their decisions with citations to cases from a nation unpopular with their domestic audience.“ It’s not surprising, given our foreign policy in the last decade or so, that American influence should be declining,” said Thomas Ginsburg, who teaches comparative and international law at the University of Chicago.

#### Courts will defer

Posner and Vermeule 10professor of law at the University of Chicago AND \*\*professor of law at Harvard Eric and Adrian, The Executive Unbound, p. 52-54

THE COURTS¶ We now turn from Congress to the courts, the other main hope of liberal legalism. In both economic and security crises, courts are marginal participants. Here two Schmittian themes are relevant: that courts come too late to the crisis to make a real difference in many cases, and that courts have pragmatic and political incentives to defer to the executive, whatever the nominal standard of review. The largest problem, underlying these mechanisms, is that courts possess legal authority but not robust political legitimacy. Legality and legitimacy diverge in crisis conditions, and the divergence causes courts to assume a restrained role. We take up these points in turn.¶ The Timing of Review¶ A basic feature of judicial review in most Anglo-American legal systems is that courts rely upon the initiative of private parties to bring suits, which the courts then adjudicate as “cases and controversies” rather than as abstract legal questions. This means that there is always a time lag, of greater or lesser duration, between the adoption of controversial government measures and the issuance of judicial opinions on their legal validity ensures that courts are less likely to set precedents while crises are hot, precedents that will be warped by the emotions of the day or by the political power of aroused majorities.70¶ Delayed review has severe costs, however. For one thing, courts often face a fait accompli. Although it is sometimes possible to strangle new programs in the crib, once those measures are up and running, it is all the more difficult for courts to order that they be abolished. This may be because new measures create new constituencies or otherwise entrench themselves, creating a ratchet effect, but the simpler hypothesis is just that officials and the public believe that the measures have worked well enough. Most simply, returning to the pre-emergency status quo by judicial order seems unthinkable; doing so would just re-create the conditions that led the legislature and executive to take emergency measures in the first place.¶ For another thing, even if courts could overturn or restrict emergency measures, by the time their review occurs, those measures will by their nature already have worked, or not. If they have worked, or at least if there is a widespread sense that the crisis has passed, then the legislators and public may not much care whether the courts invalidate the emergency measures after the fact. By the time the courts issue a final pronouncement on any constitutional challenges to the EESA, the program will either have increased liquidity and stabilized financial markets, or not. In either case, the legal challenges will interest constitutional lawyers, but will lack practical significance.¶ Intensity of Review¶ Another dimension of review is intensity rather than timing. At the level of constitutional law, the overall record is that courts tend to defer heavily to the executive in times of crisis, only reasserting themselves once the public sense of imminent threat has passed. As we will discuss in chapter 3, federal courts deciding administrative cases after 9/11 have tended to defer to the government’s assertion of security interests, although more large number work is necessary to understand the precise contours of the phenomenon. Schmitt occasionally argued that the administrative state would actually increase the power of judges, insofar as liberal legislatures would attempt to compensate for broad delegations to the executive by creating broad rights of judicial review; consider the Administrative Procedure Act (APA), which postdates Schmitt’s claim. It is entirely consistent with the broader tenor of Schmitt’s thought, however, to observe that the very political forces that constrain legislatures to enact broad delegations in times of crisis also hamper judges, including judges applying APA-style review. While their nominal power of review may be vast, the judges cannot exercise it to the full in times of crisis.¶ Legality and Legitimacy¶ At a higher level of abstraction, the basic problem underlying judicial review of emergency measures is the divergence between the courts’ legal powers and their political legitimacy in times of perceived crisis. As Schmitt pointed out, emergency measures can be “exceptional” in the sense that although illegal, or of dubious legality, they may nonetheless be politically legitimate, if they respond to the public’s sense of the necessities of the situation.71 Domesticating this point and applying it to the practical operation of the administrative state, courts reviewing emergency measures may be on strong legal ground, but will tend to lack the political legitimacy needed to invalidate emergency legislation or the executive’s emergency regulations. Anticipating this, courts pull in their horns.¶ When the public sense of crisis passes, legality and legitimacy will once again pull in tandem; courts then have more freedom to invalidate emergency measures, but it is less important whether or not they do so, as the emergency measure will in large part have already worked, or not. The precedents set after the sense of crisis has passed may be calmer and more deliberative, and thus of higher epistemic quality—this is the claim of the common lawyers, which resembles an application of the Madisonian vision to the courts—but the public will not take much notice of those precedents, and they will have little sticking power when the next crisis rolls around.¶

# 2NC

## CP

#### No mass death from chemical weapons

Easterbrook 3 Gregg, Senior Fellow – New Republic, “We’re All Gonna Die!”, Wired Magazine, July, http://www.wired.com/wired/archive/11.07/doomsday.html?pg=1&topic=&topic\_set=

2. Chemical weapons! Spooky-sounding, sure. And dangerous. But bombs and bullets are dangerous, too. In actual use, chemical weapons have proven no more deadly, pound for pound, than conventional explosives. In World War I, the British and German armies expended 1 ton of chemical agents per enemy fatality. Are modern nerve agents like sarin superdeadly in a way World War I mustard gas was not? When the Aum Shinrikyo cult attacked Tokyo's subway system with that substance in 1995 - the subway being an enclosed area, ideal for chemicals - **12 people** died. That was 12 too many, but a conventional bomb the same size as the cult's canisters, detonated on a packed subway, would have killed more. During this winter's duct tape scare, I heard a Washington, DC, radio talk-show host sternly lecture listeners to flee if "a huge cloud of poison gas" were slowly floating across the city. Noxious clouds of death may float across movie screens, but no military in the real world can create them. Wind **rapidly disperses** nerve agents, and sunlight **breaks** **them down**. Outdoors, a severe chemical attack likely would be **confined to a few** city **blocks**.

## DA

#### Recent raids prove

Sorcher, National Journal National Security Correspondent, 2013,

(Sara, "Obama Is Changing the Way He Fights the War on Terrorism", National Journal, 10-7, PAS) [www.nationaljournal.com/national-security/obama-is-changing-the-way-he-fights-the-war-on-terrorism-20131007](http://www.nationaljournal.com/national-security/obama-is-changing-the-way-he-fights-the-war-on-terrorism-20131007) 10-10-13

In a risky operation this weekend, Navy SEALs stormed a villa in a seaside Somalian town, searching for Ikrima, a top commander from al-Shabab, the Qaida offshoot responsible for an attack in a Kenyan mall that killed dozens of people just weeks ago. When the troops came under intense gunfire, they retreated, reportedly because their target was impossible to capture. Meanwhile, in Tripoli, Libya, special forces whisked away Abu Anas al-Libi, the Qaida operative wanted in connection with the 1998 bombings of American embassies in Tanzania and Kenya, to an unnamed location in U.S. custody for questioning.¶ The two raids this weekend, both with the unusual goal of trying to capture terrorists, may be a harbinger of a different style in Obama's war on terrorism, which has largely centered on deploying drones to kill targets away from conventional battlefields. "We are going to see more of this," says Rep. Adam Schiff, D-Calif., a senior member of the House Intelligence Committee. The surgical operations reflect the Obama administration's "change in policy" to minimize civilian casualties when taking out extremists, Schiff says. It also reflects the White House's desire to move away from a counterterrorism strategy reliant on drones toward one more focused on capturing, interrogating, and prosecuting suspects—a strategy, Schiff says, that "makes use of our proven capability of bringing to justice people who have committed acts of terrorism."¶ Even Republicans are taking note. "I think it's encouraging that capture is back on the table," says Rep. Mac Thornberry, the Texan who chairs the House Armed Services subcommittee that oversees counterterrorism programs.¶ Despite the administration's insistence it prefers capturing suspects whenever feasible, the numbers tell a different story: Only a handful of accused militants have been brought to the U.S. for trial; by contrast, the CIA and military have reportedly killed roughly 3,000 people in Pakistan, Somalia, and Yemen. Obama has pressed on with the drone war despite criticisms that the strikes unintentionally kill civilians and fuel anti-Americanism—and that suspects are slain without due process, a chance to surrender under fire, or relinquishing intelligence through interrogations.¶ The twin raids are a sign that Obama is trying to change course, after strong hints from the president and his team that policy changes were coming. In May, Obama spoke out against the appeal of drone strikes—which he said presidents may be tempted to view as a terrorism "cure-all." After broadly interpreting executive authority to expand the scope of the covert drone war throughout his presidency, Obama in his second term is clearly trying to set a precedent for limiting presidential power on this front. "Beyond Afghanistan, we must define our effort not as a boundless 'global war on terror' but rather as a series of persistent, targeted efforts to dismantle specific networks of violent extremists that threaten America," Obama said at the National Defense University in May. So Obama formally inked the "playbook," a secret set of processes and standards dictating the rules of drone strikes.

#### Detention restrictions cause a shift to drone strikes

Wittes 11, Benjamin Wittes is a Senior Fellow in Governance Studies at the Brookings Institution, where he is the Research Director in Public Law, and Co-Director of the Harvard Law School - Brookings Project on Law and Security. Detention and Denial [electronic resource] : The Case for Candor after Guantanamo. Washington : Brookings Institution Press, 2011., ebook, accessed via Wayne State online library, pg 28-29

That is the equilibrium toward which we have drifted, and it ¶ should surprise nobody, for it is an entirely foreseeable consequence of the incentive structure that we have created. Imagine ¶ for a moment that you had described the direction of our legal ¶ policy choices to a devotee of the law and economics movement—¶ a field based on the central insight that legal rules create behavioral incentives. Imagine telling, say, Richard Posner that we ¶ would suddenly make detention difficult and refuse for years to ¶ create a stable regime of known, clear rules. Imagine also that you ¶ had then asked this platonic Posner to identify the consequences. ¶ He probably would have replied that detention would grow less ¶ visible. We would release some people precipitously. We would ¶ rely on proxies more. We probably would kill some people that ¶ we might have captured before. Rarely does life comport with ¶ theory as well as detention policy has conformed to the predictions that law and economics would suggest. As the real Richard ¶ Posner wrote of the original decision to judicialize Guantánamo ¶ proceedings, it “seems like a sensible, ‘practical’ decision, but may ¶ not be. . . . [T]he decision may just encourage the government to ¶ hold more detainees abroad, say, in Afghanistan or Iraq, . . . and ¶ what would be gained by that?”8¶ None of what has happened was hard to predict. Water finds a ¶ path to the sea. Dam a river and it will flow around the dam. This ¶ metaphor, something of a cliché in discussing campaign finance ¶ law and attempts to regulate money in politics, applies with equal ¶ force in counterterrorism operations. The reason is simple, and ¶ we ignore it at considerable risk of intellectual blindness: The call ¶ to prevent terrorist events is so compelling politically that just as ¶ gravity operates on water, it will operate on politicians and other ¶ officials responsible for security. It will operate so strongly that ¶ new restrictions in one area will merely shift government energies ¶ to other areas. Encumber the use of one power, and authorities ¶ will just use another; throw a wrench in that one, and they’ll ¶ move on to something else. If prosecutions in federal court are ¶ too hard, you create incentives to use military commissions. If the ¶ commissions are too generous to the accused, detention without ¶ trial will see greater use. Make it too tough to use a particular ¶ form of detention and the government will shift to others. Make ¶ detention broadly problematic and you promote the use of proxies less fastidious than we are and the use of drones.¶ The government interests at stake are so powerful that the ¶ executive will deploy every lawful option available and will show ¶ enormous creativity in expanding the field of options—both by ¶ making novel legal arguments and by developing tactical innovations. The attempt to force counterterrorism operations to ¶ take place through conventional means of law enforcement will ¶ impede it and channel it to some degree. For the most part, however, it will redirect it to less visible, less attractive, and more ¶ violent exercises of government power.

#### Plan spurs shift towards drones- their ev does neg

Chesney 11

(Robert, Charles I. Francis Professor in Law, University of Texas School of Law, “ARTICLE: WHO MAY BE HELD? MILITARY DETENTION THROUGH THE HABEAS LENS”, Boston College Law Review, 52 B.C. L. Rev 769, Lexis)

The convergence thesis describes one manner in which law might respond to the cross-cutting pressures associated with the asymmetric warfare phenomenon—i.e., the pressure to reduce false positives (targeting, capture, or detention of the wrong individual) while also ensuring an adequate capacity to neutralize the non-state actors in question. One must bear in mind, however, that detention itself is not the only system of government action that can satisfy that latter interest. Other options exist, including the use of lethal force; the use of rendition to place individuals in detention at the hands of some other state; the use of persuasion to induce some other state to take custody of an individual through its own means; and perhaps also the use of various forms of surveillance to establish a sort of constructive, loose control over a person (though for persons located outside the United States it is unlikely that surveillance could be much more than episodic, and thus any resulting element of “control” may be quite weak).210¶ From the point of view of the individual involved, all but the last of these options are likely to be far worse experiences than U.S.-administered detention. In addition, all but the last are also likely to be far less useful for purposes of intelligence-gathering from the point of view of the U.S. government.211 Nonetheless, these alternatives may grow attractive to the government in circumstances where the detention alternative becomes unduly restricted, yet the pressure for intervention remains. The situation is rather like squeezing a balloon: the result is not to shrink the balloon, but instead to displace the pressure from one side to another, causing the balloon to distend along the unconstrained side. So too here: when one of these coercive powers becomes constrained in new, more restrictive ways, the displaced pressure to incapacitate may simply find expression through one of the alternative mechanisms. On this view **it is no surprise that lethal drone strikes have increased dramatically over the past two years**, that the Obama administration has refused to foreswear rendition, that in Iraq we have largely (though not entirely) outsourced our detention operations to the Iraqis, and that we now are progressing along the same path in Afghanistan.212¶ Decisions regarding the calibration of a detention system—the¶ management of the convergence process, if you will—thus take place in the shadow of this balloon-squeezing phenomenon. A thorough policy review would take this into account, as should any formal lawmaking process. For the moment, however, our formal law-making process is not directed at the detention-scope question. Instead, clarification and development with respect to the substantive grounds for detention takes place through the lens of habeas corpus litigation.

#### US government won’t react to backlash

Benjamin Wittes, editor in chief of Lawfare and a Senior Fellow in Governance Studies at the Brookings Institution. He is the author of several books and a member of the Hoover Institution's Task Force on National Security and Law, 2/27/13, In Defense of the Administration on Targeted Killing of Americans, www.lawfareblog.com/2013/02/in-defense-of-the-administration-on-targeted-killing-of-americans/

This view has currency among European allies, among advocacy groups, and in the legal academy. **Unfortunately for its proponents, it has no currency among the three branches of government** of the United States. The courts and the executive branch have both taken the opposite view, and the Congress passed a broad authorization for the use of force and despite many opportunities, has never revisited that document to impose limitations by geography or to preclude force on the basis of co-belligerency—much less to clarify that the AUMF does not, any longer, authorize the use of military force at all. Congress has been repeatedly briefed on U.S. targeting decisions, including those involving U.S. persons.[5] It was therefore surely empowered to either use the power of the purse to prohibit such action or to modify the AUMF in a way that undermined the President’s legal reasoning. Not only has it taken neither of these steps, but Congress has also funded the relevant programs. Moreover, as I noted above, Congress’s recent reaffirmation of the AUMF in the 2012 NDAA with respect to detention, once again. contains no geographical limitation There is, in other words, a consensus among the branches of government on the point that the United States is engaged in an armed conflict that involves co-belligerent forces and follows the enemy to the new territorial ground it stakes out. It is a consensus that rejects the particular view of the law advanced by numerous critics. And it is a consensus on which the executive branch is entitled to rely in formulating its legal views.

#### Empirics prove norm setting is effective- gives diplomatic leverage

Micah Zenko 13, CFR Douglas Dillon Fellow in the Center for Preventive Action, PhD in Political Science from Brandeis University, “Reforming U.S. Drone Strike Policies,” CFR Special Report 65, January 2013

History shows that how states adopt and use new military capabilities is often influenced by how other states have—or have not—used them in the past. Furthermore, norms can deter states from acquiring new technologies.72 Norms—sometimes but not always codified as legal regimes—have dissuaded states from deploying blinding lasers and landmines, as well as chemical, biological, and nuclear weapons.¶ A well-articulated and internationally supported normative framework, bolstered by a strong U.S. example, can shape armed drone proliferation and employment in the coming decades. Such norms would not hinder U.S. freedom of action; rather, they would internationalize already-necessary domestic policy reforms and, of course, they would be acceptable only insofar as the limitations placed reciprocally on U.S. drones furthered U.S. objectives. And even if hostile states do not accept norms regulating drone use, the existence of an international normative framework, and U.S. compliance with that framework, would preserve Washington’s ability to apply diplomatic pressure. Models for developing such a framework would be based in existing international laws that emphasize the principles of necessity, proportionality, and distinction—to which the United States claims to adhere for its drone strikes—and should be informed by comparable efforts in the realms of cyber and space.¶ In short, a world characterized by the proliferation of armed drones—used with little transparency or constraint—would undermine core U.S. interests, such as preventing armed conflict, promoting human rights, and strengthening international legal regimes. It would be a world in which targeted killings occur with impunity against anyone deemed an “enemy” by states or nonstate actors, without accountability for legal justification, civilian casualties, and proportionality. Perhaps more troubling, it would be a world where such lethal force no longer heeds the borders of sovereign states. Because of drones’ inherent advantages over other weapons platforms, states and nonstate actors would be much more likely to use lethal force against the United States and its allies.

#### Conflict is probable

Taylor Wettach 12/3 is analyst @ Global Risk Insights, “China’s Air-Defense Zone Ratchets Up Risk for Trade and Investment,” 12-3-13, <http://www.financialsense.com/contributors/global-risk-insights/china-s-air-defense-zone-ratchets-up-risk-for-trade-and-investment>, DOA: 1-2-14, y2k

With the announcement of China’s Air-Defense Identification Zone (ADIZ) and the following rise in tensions in the East China Sea, economic—and global—catastrophe may be just a shot away. Beijing’s November 23rd announcement of its Air-Defense Identification Zone (ADIZ) added a stormy sky to the East China Sea’s already rough waters. This move came after more than a year of escalating tensions between Japan and China over the uninhabited Senkaku/Daioyu Islands. China’s growing power and assertiveness has increased concerns in Tokyo about Beijing’s regional intentions and the adequacy of Japan’s security, while stoking nationalistic politics in both capitals. Amidst the Asia-Pacific’s shifting geopolitical environment, the East China Sea presents a major source of political risk which could, at the minimum, cause increased damage to bilateral and regional trade and investment and, at worst, lead to an armed clash that not only includes Asia’s largest economies but also the world’s largest: Japan’s defense treaty ally, the United States. Sino-Japanese tensions in the East China Sea have built steadily since September 2010, when Japan seized a Chinese trawler and its crew after it collided with two coast guard vessels near the Senkaku/Daioyu Islands. In September 2012, the Japanese government bought three of the five islands it did not already own to block nationalist Tokyo Governor Shintaro Ishihara from using public money to buy the privately owned islands. This move had the inadvertent effect of angering China, triggering widespread protests and attacks on Japanese business. China has since responded with incursions of surveillance vessels, patrol aircraft, and, recently, an unmanned drone around the Senkaku/Daioyu Islands. Japan’s threat to shoot down the next Chinese drone drew the response that such a move would be considered an act of war. The Senkaku-Diaoyu dispute has disrupted bilateral trade and investment between Japan and China, and the recent increase in tensions driven by the China’s new ADIZ could increase this economic damage. During the flare-up beginning in September 2012, Japanese investment fell a third from the previous year and Japanese sales to China slumped 11%. Japanese consumers goods were most affected, with the market share of Japanese cars briefly falling from around 20% to 8%. Local sales of Japanese manufacturing subsidiaries in China fell around 25% year-over-year in the first quarter of 2013. Ultimately, Japan’s total trade with China dropped 10.8% to $147.3 billion in H1 of 2013, marking the first drop in four years since 2009 after the fall of Lehman Brothers. While Japanese investment into China subsequently recovered with a 6.3% increase in the January-October period, Chinese investment into Japan fell 37.3%. Further disruption of bilateral trade and investment between Japan and China is a likely immediate outcome of China’s new ADIZ. However, by ratcheting-up regional tensions, this could lead to even more dire and expansive results. The ADIZ encompasses territory claimed by both Taiwan and South Korea, and could similarly damage the economic (and political) relationship between China and these actors. Moreover, the ADIZ increases the risk of an accidental clash. This potential outcome is supported by a Japanese Maritime Self-Defense Force (MSDF) report that a Chinese frigate locked its firing radar on the Japanese destroyer Yudachi on January 30, 2013. Trapped by their own nationalist rhetoric and domestic political pressure, China and Japan would struggle to deescalate the conflict. In turn, the ADIZ increases the potential for the United States to get drawn into conflict with China through its commitment to defend the Japan-controlled Senkaku/ Dioayu Islands. This would not only be a disaster for the China and the United States but also for the global economy. The escalating crisis in the East China Sea represents a political risk of the highest order, one in which the multiplicity of actors, the projectionary nature of international politics, the nationalist drive of domestic politics, and the grand strategic framework in which the competition is to be played out all combine to create a powerfully negative inertia. While the immediate economic challenge is pressing in itself, the potential outcome of conflict involving the world’s top three economies—and potentially others—would have repercussions far beyond the actors themselves. Without resolution of the dispute in the East China Sea, economic—and global—catastrophe may be just a shot away.

#### Draws in the US and goes nuclear

John Blaxland 13, Senior Fellow at the Strategic and Defence Studies Centre, the Australian National University, and Rikki Kersten, Professor of modern Japanese political history in the School of International, Political and Strategic Studies at the College of Asia and the Pacific, the Australian National University, 2/13/13, “Escalating territorial tension in East Asia echoes Europe’s descent into world war,” http://www.eastasiaforum.org/2013/02/13/escalating-territorial-tension-in-east-asia-echoes-europes-descent-into-world-war/

The recent activation of Chinese weapons radars aimed at Japanese military platforms around the Senkaku/Diaoyu Islands is the latest in a series of incidents in which China has asserted its power and authority at the expense of its neighbours. The radars cue supersonic missile systems and give those on the receiving end only a split second to respond. With Japanese law empowering local military commanders with increased discretion to respond (thanks to North Korea’s earlier provocations), such incidents could easily escalate. In an era of well-established UN-related adjudication bodies like the International Court of Justice (ICJ), how has it come to this? These incidents disconcertingly echo past events. In the early years of the 20th century, most pundits considered a major war between the great powers a remote possibility. Several incidents prior to 1914 were handled locally or successfully defused by diplomats from countries with alliances that appeared to guarantee the peace. After all, never before had the world been so interconnected — thanks to advanced communications technology and burgeoning trade. But alliance ties and perceived national interests meant that once a major war was triggered there was little hope of avoiding the conflict. Germany’s dissatisfaction with the constraints under which it operated arguably was a principal cause of war in 1914. Similarly, Japan’s dissatisfaction helped trigger massive conflict a generation later. A century on, many of the same observations can be made in East Asia. China’s rise is coupled with a disturbing surge in jingoism across East and Southeast Asia. China resents the territorial resolution of World War II, in which the United States handed responsibility for the Senkaku/Diaoyu islands to Japan while large chunks of the South China Sea were claimed and occupied by countries that emerged in Southeast Asia’s post-colonial order. Oil and gas reserves are attractive reasons for China to assert itself, but challenging the US place in East Asian waters is the main objective. China resents American ‘re-balancing ‘as an attempt at ‘containment’, even though US dependence on Chinese trade and finance makes that notion implausible. China is pushing the boundaries of the accepted post-Second World War order championed by the United States and embodied by the UN. China’s rapid rise and long-held grievances mean its powerbrokers are reluctant to use institutions like the ICJ. But China’s assertiveness is driving regional states closer into the arms of the United States. Intimidation and assertive maritime acts have been carried out, ostensibly by elements not linked to China’s armed forces. China’s white-painted Chinese Maritime Services and Fisheries Law Enforcement Command vessels operating in the South China Sea and around the Senkaku/Diaoyu islands have evoked strong reactions. But Japan’s recent allegation that China used active radars is a significant escalation. Assuming it happened, this latest move could trigger a stronger reaction from Japan. China looks increasingly as if it is not prepared to abide by UN-related conventions. International law has been established mostly by powers China sees as having exploited it during its ‘century of humiliation’. Yet arguably, it is in the defence of these international institutions that the peaceful rise of China is most likely to be assured. China’s refusal to submit to such mechanisms as the ICJ increases the prospect of conflict. For the moment, Japan’s conservative prime minister will need to exercise great skill and restraint in managing domestic fear and resentment over China’s assertiveness and the military’s hair-trigger defence powers. A near-term escalation cannot be ruled out. After all, Japan recognises that China is not yet ready to inflict a major military defeat on Japan without resorting to nuclear weapons and without triggering a damaging response from the United States. And Japan does not want to enter into such a conflict without strong US support, at least akin to the discreet support given to Britain in the Falklands War in 1982. Consequently, Japan may see an escalation sooner rather than later as being in its interests, particularly if China appears the aggressor. China’s domestic environment has nurtured jingoism. The Chinese state has built up the public’s appetite for vengeance against Japan by manipulating films and history textbooks. On the other hand, Chinese authorities recognise that the peaceful rise advocated by Deng Xiaoping is not yet complete (militarily at least). In the meantime it is prudent to exercise some restraint to avoid an overwhelming and catastrophic response. If the 1914–18 war taught us anything, it is that the outcome of wars is rarely as proponents conceived at the outset.

## Case

#### NSA snooping kills legitimacy, perceptions of accountability

Francesca Bessey, December 31, 2013, 11 Ways America Was Still Backwards In 2013, Annenberg Digital News, http://www.neontommy.com/news/2013/12/11-ways-america-was-still-backwards-2013

After NSA defector Ed Snowden revealed that the government has access to data from phone companies, most major internet companies and basically every inch of your digitized private life, the National Security Agency actually had the nerve to suggest that it's allowed to do all of that stuff. In a hearing before the U.S. Senate Judiciary Committee earlier this month, NSA Director Keith Alexander argued against imposing limits on government surveillance programs and also noted that the NSA has top level accountability procedures.¶ To be clear, limitless surveillance... is limitless surveillance. What Alexander is arguing is akin to suggesting that the government has the right to watch you at all times, no matter who you're with and what you're doing, and regardless of whether or not they have probable cause. Not only is this alarmingly creepy, it's also in violation of several constitutionally guaranteed rights. As for accountability, what good is accountability when it's internal, that is, only to the same folks who are perpetrating these actions in the first place? There's got to be hundreds of dystopian novels out there regarding a surveillance-related demise. And here we are... (ellipses in original)

#### Legitimacy inevitable and irrelevant—not key to cooperation

Brooks and Wohlforth 09

Stephen G. Brooks is Associate Professor of Government at Dartmouth College. William C. Wohlforth is Daniel Webster Professor of Government and Chair of the Department of Government at Dartmouth College, Foreign Affairs, March/April 2009, "Reshaping the World Order", http://www.dartmouth.edu/~govt/faculty/BrooksWohlforth-FA2009.pdf

THE LEGITIMACY TO LEAD?

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. Spain fashioned 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 of lucrative 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 aªecting 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 United States today has the necessary legitimacy to shepherd reform of the international system.

**Strength is the most important facet of hegemony**

Persaud 4 Associate Professor of International Relations, American University, School of International Service, Randolph, Shades of American Hegemony: The Primitive, the Enlightened, and the Benevolent, 19 Conn. J. Int'l L. 263

The third key characteristic of primitive hegemony is the reliance on the threat and/or use of coercion, and more specifically military force, to achieve goals. In military terms, the U.S. has, for all practical purposes, achieved 'Full Spectrum Dominance,' and has a stated goal of unchallengeable military supremacy. David Mosler and Bob Catley note that: U.S. conventional forces . . . have the capacity to fight and win wars in most regions of the world and at all levels of intensity. Because of their size and quality, they are superior to any other national forces. Since U.S. forces have the capacity to win MTWs [major-theatre wars], the United States can use force in order to achieve decisive victories and achieve its other objectives. n3 [\*265] Full Spectrum Dominance is the overarching vision of U.S. military preparedness. n4 The Joint Vision 2020 report defines it as "the ability of US forces, operating unilaterally or in combination with multinational and interagency partners, to defeat any adversary and control any situation across the full range of military operations." n5 Full spectrum dominance is in part tied to the ever expanding economic interests of the United States in the wider world. Joint Vision 2020 specifically notes that "transportation, communications, and information technology will continue to evolve and foster expanded economic ties." n6 The global economic interests of the United States then is one element of the "strategic context" informing Full Spectrum Dominance. The fourth characteristic of primitive hegemony is that multilateralism, international law, and more broadly, international institutions are generally seen as obstacles to American global objectives, except in those circumstances where the United States is able to have effective veto power over what transpires. The military aspect of this position is clearly articulated in the Joint Vision 2020 report. Thus it states that: The complexity of future operations also requires that, in addition to operating jointly, our forces have the capability to participate effectively as one element of a unified national effort. This integrated approach brings to bear all the tools of statecraft to achieve our national objectives unilaterally when necessary, while making optimum use of the skills and resources provided by multinational military forces, regional and international organizations, non-governmental organizations, and private voluntary organizations ... n7 The American (and British) invasion and occupation of Iraq seems to be a textbook case for the Joint Vision strategy as described above. The U.S. carried out the invasion without U.N. Security Council authorization. It has since been attempting to make use of "the skills and resources provided by multinational military forces." In an extraordinarily candid expression of primitive hegemony, Richard Perle, then Chair of the Defense Policy Board, triumphantly pronounced the United Nations dead, and thanked God for that. n8 The fifth feature of primitive hegemony is actually more of a principle. The principle is that strength is more important than legitimacy, and by implication that when strength is applied in the form of coercion, there will be followers, or at a minimum the will of adversaries may be broken. In geostrategic terms this is based on the notion of positional advantage. n9 Positional advantage, in part, is a strategic [\*266] concept that advocates the diffusion of United States military capability all over the world. In addition to the obvious advantage of being able to rapidly respond to actual conflict theatres world wide, positional advantage is also intended to forge compliant behavior on account of the proximity and preponderance of American military power. Here is what the Joint Vision 2020 report says on that subject: In a conflict, this ability to attain positional advantage allows the commander to employ decisive combat power that will compel an adversary to react from a position of disadvantage, or quit. In other situations, it allows the force to occupy key positions to shape the course of events and minimize hostilities or react decisively if hostilities erupt. And in peacetime, it constitutes a credible capability that influences potential adversaries while reassuring friends and allies. Beyond the actual physical presence of the force, dominant maneuver creates an impact in the minds of opponents and others in the operational area. n10 The geostrategic implications of the United States invasion and occupation of Iraq may be usefully understood in this broader framework of dominant maneuver and positional advantage. Thus, there is a very high likelihood that the United States may use Iraq as a new strategic base from which to operationalize the core principles consistent with these geostrategic and geopolitical concepts. I am inclined to believe that Syria, Iran, and Saudi Arabia among others, will soon feel the weight of positional advantage. The implications for the Palestinian/Israeli conflict should not be ruled out. Finally, I think positional advantage will also be brought to bear on the general economic architecture of that region. Apart from imposing U.S. style free market capitalism on the region, (a 15% flat tax in Iraq being a good indicator of that policy) O.P.E.C. may very well be a target. This would be entirely consistent with primitive hegemony, since it would have enormous implications for the United States economy, and the U.S. energy industry in particular.

#### Intel sharing is sustainable

NYT 13, 1/30, “Drone Strike Prompts Suit, Raising Fears for U.S. Allies”

The issue is more complex than drone-strike foes suggest, the current and former officials said, and is based on decades of cooperation rather than a shadowy pact for the United States to do the world’s dirty work. The arrangements for intensive intelligence sharing by Western allies go back to World War II, said Richard Aldrich, professor of international security at the University of Warwick, when the United States, Canada, Britain, Australia and New Zealand agreed to continue to collaborate. “There’s a very high volume of intelligence shared, some of which is collected automatically, so it’s impossible to track what every piece is potentially used for,” said Mr. Aldrich, who is also the author of a history of the Government Communications Headquarters, the British signal-intelligence agency. Britain’s history and expertise in South Asia means that the intelligence it gathers in Pakistan, Afghanistan and the tribal areas in between is in high demand, Mr. Aldrich said. The arrangement has been focused recently by a chill in relations between the United States and Pakistan, and by the shared war in Afghanistan. Other nations, too, intercept communications in the region that are shared broadly with the United States, he said. In Afghanistan, for example, German and Dutch forces run aggressive electronic interception operations, he said, because their rules on collaborating with local interpreters are less stringent than those of the United States. A spokesman for the coalition forces in Afghanistan, Lt. Col. Lester Carroll, declined to give details about intelligence sharing, saying agreements were classified. But he confirmed that American military forces “do share information with other U.S. government organizations on a need-to-know basis.” Few argue against the notion that European nations, many of which have been attacked by terrorists, have benefited from the drone killing, however controversial, of many of the most hardened Islamic extremist leaders.

#### Allies won’t abandon us

Stephen M. Walt 11, the Robert and Renée Belfer professor of international relations at Harvard University, December 5, 2011, “Does the U.S. still need to reassure its allies?,” online: <http://walt.foreignpolicy.com/posts/2011/12/05/us_credibility_is_not_our_problem>

A perennial preoccupation of U.S. diplomacy has been the perceived need to reassure allies of our reliability. Throughout the Cold War, U.S. leaders worried that any loss of credibility might cause dominoes to fall, lead key allies to "bandwagon" with the Soviet Union, or result in some form of "Finlandization." Such concerns justified fighting so-called "**credibility wars**" (including Vietnam), where the main concern was not the direct stakes of the contest but rather the need to retain a reputation for resolve and capability. Similar fears also led the United States to deploy thousands of nuclear weapons in Europe, as a supposed counter to Soviet missiles targeted against our NATO allies. The possibility that key allies would abandon us was almost always exaggerated, but U.S. leaders remain overly sensitive to the possibility. So Vice President Joe Biden has been out on the road this past week, telling various U.S. allies that "the United States isn't going anywhere." (He wasn't suggesting we're stuck in a rut, of course, but saying that the imminent withdrawal from Iraq doesn't mean a retreat to isolationism or anything like that.) There's nothing really wrong with offering up this sort of comforting rhetoric, but I've never really understood why U.S. leaders were so worried about the credibility of our commitments to others. For starters, given our remarkably secure geopolitical position, whether U.S. pledges are credible is first and foremost **a problem for those who are dependent on U.S. help**. We should therefore take our allies' occasional hints about realignment or neutrality with some skepticism; they have every incentive to try to make us worry about it, but in most cases little incentive to actually do it.

#### Framing issue- even if some ought to be released there are still threats being held at Gitmo

McAulliff 6/10/2013 [Michael, Huffington Post, AUMF Repeal Bill Would End Extraordinary War Powers Granted After 9/11 http://www.huffingtonpost.com/2013/06/10/aumf-repeal-bill-war-powers\_n\_3416689.html Accessed 8/3/2013 DMW]

The questions around the AUMF are indeed difficult. In addition to being used to answer for indefinite detention and the targeted killings of Americans overseas, Congress has used the measure as a basis to pass laws expressly permitting the military to detain Americans without trial. The Obama administration has declared it will not hold U.S. citizens under that authority, but reserves the right to detain the 166 captives at Guantanamo.¶ 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 o 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.

#### The plan destroys the war on terror—undermines intel gathering and crisis response

Carafano, 7

(PhD & Assistant Director of the Kathryn and Shelby Cullom Davis Institute for International Studies, “The War on Terrorism: Habeas Corpus On and Off the Battlefield,” 7/5, http://www.heritage.org/research/reports/2007/07/the-war-on-terrorism-habeas-corpus-on-and-off-the-battlefield)

Impeding the Effectiveness of Military Operations

Soldiers have a number of equally compelling responsibilities in war: accomplishing the mission, safeguarding innocents, and protecting their fellow soldiers. These tasks are difficult enough. Soldiers should not be required to provide to unlawful combatants, in the same manner and to the same extent as would be expected of a civil court, the full array of civil protections afforded to U.S. citizens by the Constitution and created by judges since the 1960s. For example, it is highly unrealistic to expect soldiers during active operations to collect evidence and insure the integrity of the chain of custody for that evidence. American soldiers would effectively face a Hobson's choice: on one hand, win the war, bring fellow soldiers home, and safeguard innocents; or, on the other hand, meet novel legal standards that might result in prematurely releasing war criminals who will go back to the battlefield. Crippling Intelligence Gathering **Gaining timely, actionable information is the most powerful weapon in uncovering and thwarting terrorist plots. Requiring the armed forces to place detainees under a civilian legal process will severely restrict their access to detainees and, in turn, cripple their capacity to obtain intelligence through legitimate, lawful interrogation**. Military authorities are giving Gitmo detainees treatment that is as good as or better than that typically afforded to U.S.-held POWs. The only real difference is that Gitmo detainees may be interrogated for more than name, rank, and serial number. Unnecessary Burdens Changing the legal framework governing unlawful combatants is simply unnecessary. The military is already meeting its obligations to deal justly with individuals in its custody. Since the inception of the Geneva Conventions, no country has ever given automatic habeas corpus rights to POWs. Furthermore, such action is not required by the U.S. Constitution. The Supreme Court ruled in 2004 that, at most, some detainees were covered by a statutory privilege to habeas corpus. The Court concluded, in other words, that Congress had implicitly conferred habeas corpus rights to certain individuals. However, the Military Commissions Act of 2006 repealed that privilege and, so far, Congress has not acted to restore it. The Department of Defense already operates two tribunals that safeguard the legal rights of detainees. The Combatant Status Review Tribunal (CSRT) uses a formal process to determine whether detainees meet the criteria to be designated as enemy combatants. Tribunals known as Administrative Review Boards (ARB) ensure that enemy combatants are not held any longer than necessary. Both processes operate within the confines of traditional law-of-war tribunals and are also subject to the appeals process and judicial review. In addition, Congress has established a process under the Military Commissions Act to allow the military to try any non-U.S. detainees for war crimes they are alleged to have committed. Conclusion Imposing U.S. civil procedures over the conduct of armed conflict **will damage national security and make combat more dangerous for soldiers and civilians alike.** The drive to do so is based on erroneous views about the Constitution, the United States' image abroad, and the realities of war. U.S. military legal processes are on par with or exceed the best legal practices in the world. While meeting the needs of national security, the system respects individuals' rights and offers unlawful enemy combatants a fundamentally fair process that is based on that afforded to America's own military men and women. Having proven itself in past conflicts, **the current legal framework can continue to do so in a prolonged war against terrorism.**

#### Gathering effective intelligence outweighs any turns—it’s the only way to prevent future attacks

Yoo, 4

(Law Prof, UC-Berkeley “War, Responsibility, and the Age of Terrorism,” http://works.bepress.com/cgi/viewcontent.cgi?article=1015&context=johnyoo)

Third, the nature of warfare against such unconventional enemies may well be different from the set-piece battlefield matches between nation-states. **Gathering intelligence**, from both electronic and human sources, about the future plans of terrorist groups **may be the only way to prevent** September 11-style **attacks** from occurring again. Covert action by the Central Intelligence Agency or unconventional measures by special forces may prove to be the **most effective tool for acting on that intelligence**. Similarly, the least dangerous means for preventing rogue nations from acquiring WMD may depend on **secret intelligence gathering** and covert action, rather than open military intervention. A **public revelation of the means of gathering intelligence, or the discussion of the nature of covert actions** taken to forestall the threat by terrorist organizations or rogue nations, **could render the use of force ineffectual or sources of information useless**. Suppose, for example, that American intelligence agencies detected through intercepted phone calls that a terrorist group had built headquarters and training facilities in Yemen. A public discussion in Congress about a resolution to use force against Yemeni territory and how Yemen was identified could tip-off the group, allowing terrorists to disperse and to prevent further interception of their communications.

#### No accidental Russia war

Ball 5 Desmond, Professor – Strategic Defence Studies Centre at Australian National University, “The Probabilities of ‘On the Beach’ Assessing Armageddon Scenarios in the 21st Century, May, <http://www.manningclark.org.au/papers/se05_ball.html>

The prospects of a nuclear war between the US and Russia must now be deemed fairly remote. There are now no geostrategic issues that warrant nuclear competition and no inclination in either Washington or Moscow to provoke such issues. US and Russian strategic forces have been taken off day-to-day alert and their ICBMs 'de-targeted', greatly reducing the possibilities of war by accident, inadvertence or miscalculation. On the other hand, while the US-Russia strategic competition is in abeyance, there are several aspects of current US nuclear weapons policy which are profoundly disturbing. In December 2001 President George W. Bush officially announced that the US was withdrawing from the Anti-Ballistic Missile (ABM) Treaty of 1972, one of the mainstays of strategic nuclear arms control during the Cold War, with effect from June 2002, and was proceeding to develop and deploy an extensive range of both theatre missile defence (TMD) and national missile defence (NMD) systems. The first anti-missile missile in the NMD system, designed initially to defend against limited missile attacks from China and North Korea, was installed at Fort Greely in Alaska in July 2004. The initial system, consisting of 16 interceptor missiles at Fort Greely and four at Vandenberg Air Force in California, is expected to be operational by the end of 2005. The Bush Administration is also considering withdrawal from the Comprehensive Test Ban Treaty (CTBT) and resuming nuclear testing. (The last US nuclear test was on 23 September 1992). In particular, some key Administration officials believe that testing is necessary to develop a 'new generation' of nuclear weapons, including low-yield, 'bunker-busting', earth-penetrating weapons specifically designed to destroy very hard and deeply buried targets (such as underground command and control centres and leadership bunkers).

#### Review hamstring the executive- undermines national security

Andrew McCarthy 9, Director of the Center for Law & Counterterrorism at the Foundation for the Defense of Democracies. From 1985 through 2003, he was a federal prosecutor at the U.S. Attorney’s Office for the Southern District of New York, and was the lead prosecutor in the seditious conspiracy trial against Sheikh Omar Abdel Rahman and eleven others, described subsequently. AND Alykhan Velshi, a staff attorney at the Center for Law & Counterterrorism, where he focuses on the international law of armed conflict and the use of force, 8/20/09, “Outsourcing American Law,” AEI Working Paper, http://www.aei.org/files/2009/08/20/20090820-Chapter6.pdf

Empirically, judicial demands on executive branch procedural compliance, if unchecked, become steadily more demanding over time. The executive naturally responds by being more internally exacting to avoid problems. Progressively, executive compliance, initially framed and understood as a reasonably modest set of burdens to promote the integrity of judicial proceedings, becomes instead a consuming priority and expenditure, which, if permitted in the context of warfare, would inevitably detract from the military mission that is the bedrock of our national security. ¶ In the fore here, plainly, are such matters as discovery and confrontation rights. If the courts were given final authority, while hostilities are ongoing, to second-guess the executive’s decision to detain a combatant by scrutinizing reports that summarize the basis for detention, it is only a short leap to the court’s asking follow-up questions or determining that testimony, perhaps subject to cross-examination, is appropriate. Are we to make combat personnel available for these proceedings? Shall we take them away from the battle we have sent them to fight so they can justify to the satisfaction of a judge the capture of an alien enemy combatant that has already been approved by military commanders? Given the fog and anxiety of war, shall we expect them to render events as we would an FBI agent describing the circumstances of a domestic arrest? ¶ Nor is that the end of the intractable national security problems. What if capture was effected by our allies rather than our own forces (as was the case, for example, with the jihadist who was the subject of the Hamdi case)? Shall we try to compel affidavits or testimony from members of, say, the Northern Alliance? What kinds of strains will be put on our essential wartime alliances if they are freighted with requests to participate in American legal proceedings, and possibly compromise intelligence methods and sources – all for the purpose of providing heightened due process to the very terrorists who were making war on those allies? ¶ These are lines that Congress must draw. Leaving them for the courts themselves to sort out would place us on a path toward full-blown civilian trials for alien enemy combatants – the very outcome the creation of a new system was intended to avoid.

#### Judicial restrictions spill over and guts broader executive war powers

Green 9 Craig, Associate Professor, Temple Law School; University Fellowship, Princeton History Department; J.D., Yale Law School, “Ending the Korematsu Era: A Modern Approach,” http://works.bepress.com/cgi/viewcontent.cgi?article=1002&context=roger\_craig\_green

Another lesson from sixty years of wartime cases concerns the role of precedent itself in guiding presidential action. Two viewpoints merit special notice, with each having roots in opinions by Justice Jackson. On one hand is his explanation in Korematsu that courts must not approve illegal executive action: A military order, however unconstitutional, is not apt to last longer than the military emergency. . . . But once a judicial opinion . . . show[s] that the Constitution sanctions such an order, the Court for all time has validated the principle of racial discrimination in criminal procedure and of transplanting American citizens. The principle then lies about like a loaded weapon, ready for the hand of any authority that can bring forward a plausible claim of an urgent need. Every repetition imbeds that principle more deeply in our law and thinking and expands it to new purposes. . . . A military commander may overstep the bounds of constitutionality, and it is an incident. But if we review and approve, that passing incident becomes the doctrine of the Constitution. There it has a generative power of its own, and all that it creates will be in its own image.270 This “loaded weapon” idea is orthodox in analysis of Korematsu as a racist morality play. The passage is cited as evidence that Supreme Court precedents really matter, and that tragically racist errors retain their menacing power throughout the decades.271 Students are reminded that Korematsu has never been directly overruled, thereby inviting imagination that Korematsu itself is a loaded weapon just waiting for a President to grasp and fire.272 This conventional approach is incomplete. As we have seen, the first and decisive precedent supporting World War II’s racist policies was not Korematsu but Hirabayashi; thus, Jackson himself helped to “load” the doctrinal “weapon” over which he worried just a year later.273 Jackson’s willingness to eviscerate Hirabayashi in Korematsu only exemplifies (as if anyone could doubt it) that no Supreme Court decision can fiat a legal principle “for all time.”274 Past cases can be overruled, disfavored, ignored, or reinterpreted if the Court finds reason to do so, and this is effectively what has happened to Korematsu and Hirabayashi themselves in the wake of Brown, the civil rights era, and other modern history.275 Korematsu was a direct “repetition” of Hirabayshi’s racism for “expand[ed]” purposes, yet it only launched these two cases farther toward their current pariah status.276 A second perspective on war-power precedents is Jackson’s Youngstown concurrence, which rejected President Truman’s effort to seize steel mills and maintain output for the Korean War.277 Jackson’s opinion ends with selfreferential pessimism about judicial authority itself: I have no illusion that any decision by this Court can keep power in the hands of Congress if it is not wise and timely in meeting its problems. . . . If not good law, there was worldly wisdom in the maxim attributed to Napoleon that “The tools belong to the man who can use them.” We may say that power to legislate for emergencies belongs in the hands of Congress, but only Congress itself can prevent power from slipping through its fingers.278 This “no illusion” realism about presidential authority views judicial limitations on the President as contingent on Congress’s political wisdom and responsiveness — without any bold talk about precedents as “loaded weapons” or stalwart shields. On the contrary, if taken seriously, Jackson’s opinion almost suggests that judicial decisions about presidential wartime activities are epiphenomenal: When Congress asserts its institutional prerogatives and uses them wisely, the executive might be restrained, but the Court cannot do much to swing that political balance of power. Jackson’s hardnosed analysis may seem intellectually bracing, but it understates the real-world power **of judicial precedent to shape what is politically possible**.279 Although Presidents occasionally assert their willingness to disobey Supreme Court rulings, actual disobedience of this sort is vanishingly rare and would carry grave political consequences.280 Even President Bush’s repeated losses in the GWOT did not spur serious consideration of noncompliance, despite strong and obvious support from a Republican Congress.281 Likewise, from the perspective of strengthening presidential power, Korematsu-era precedents clearly emboldened President Bush in his twenty-first-century choices about Guantanamo and military commissions.282 The modern historical record thus shows that judicial precedent can both expand and limit the operative sphere of presidential action. Indeed, the influence of judicial precedent is stronger than a court-focused record might suggest. The past sixty years have witnessed a massive bureaucratization and legalization of all levels of executive government.283 From the White House Counsel, to the Pentagon, to other entities addressing intelligence and national security issues, lawyers have risen to such high levels of governmental administration that almost no significant policy is determined without multiple layers of internal legal review.284 And these executive lawyers are predominantly trained to think — whatever else they may believe — that Supreme Court precedent is authoritative and binding.285 Some middle ground seems therefore necessary between the “loaded weapon” and “no illusion” theories of precedent. Although Supreme Court decisions almost certainly influence the scope of presidential war powers, such practical influence is neither inexorable nor timeless. A more accurate theory of war-power precedents will help explain why it matters that American case law includes a reservoir of Korematsu-era decisions supporting excessive executive war power, and will also suggest how lawyers, judges, and scholars might eviscerate such rulings’ force. Korematsu is the kind of iconic negative precedent that few modern lawyers would cite for its legal holding. Yet even as Korematsu’s negative valence is beyond cavil, the breadth and scope of that negativity are not clear. Everyone knows that Korematsu is wrong, yet like other legal icons — Marbury, Dred Scott, Lochner, Erie, and Brown — its operative meaning is debatable. Just as Korematsu was once an authoritative precedent and is now discredited, this Article has sought to revise Korematsu’s cultural meaning even further, transforming it from an isolated and irrelevant precedent about racial oppression to a broadly illuminating case about how courts supervise presidential war powers.

#### Judicial restrictions tanks heg- slow and rigid

Blomquist 10 Robert, Professor of Law, Valparaiso University School of Law, THE JURISPRUDENCE OF AMERICAN NATIONAL SECURITY PRESIPRUDENCE, 44 Val. U.L. Rev. 881

Supreme Court Justices--along with legal advocates--need to conceptualize and prioritize big theoretical matters of institutional design and form and function in the American national security tripartite constitutional system. By way of an excellent introduction to these vital issues of legal theory, the Justices should pull down from the library shelf of the sumptuous Supreme Court Library in Washington, D.C. (or more likely have a clerk do this chore) the old chestnut, The Legal Process: Basic Problems in the Making and Application of Law by the late Harvard University law professors Henry M. Hart and Albert M. Sacks. n7 Among the rich insights on institutional design coupled with form and function in the American legal system that are germane to the Court's interpretation of national security law-making and decision-making by the President are several pertinent points. First, "Hart and Sacks' intellectual starting point was the interconnectedness of human beings, and the usefulness of law in helping us coexist peacefully together." n8 By implication, therefore, the Court should be mindful of the unique [\*883] constitutional role played by the POTUS in preserving peace and should prevent imprudent judicial actions that would undermine American national security. Second, Hart and Sacks, continuing their broad insights of social theory, noted that legal communities establish "institutionalized[] procedures for the settlement of questions of group concern" n9 and regularize "different procedures and personnel of different qualifications . . . appropriate for deciding different kinds of questions" n10 because "every modern society differentiates among social questions, accepting one mode of decision for one kind and other modes for others-e.g., courts for 'judicial' decisions and legislatures for 'legislative' decisions" n11 and, extending their conceptualization, an executive for "executive" decisions. n12 Third, Professors Hart and Sacks made seminal theoretical distinctions between rules, standards, principles, and policies. n13 While all four are part of "legal arrangements [\*884] in an organized society," n14 and all four of these arrangements are potentially relevant in judicial review of presidential national security decisions, principles and policies n15 are of special concern because of the sprawling, inchoate, and rapidly changing nature of national security threats and the imperative of hyper-energy in the Executive branch in responding to these threats. n16¶ The Justices should also consult Professor Robert S. Summers's masterful elaboration and amplification of the Hart and Sacks project on enhancing a flourishing legal system: the 2006 opus, Form and Function in a Legal System: A General Study. n17 The most important points that [\*885] Summers makes that are relevant to judicial review of American national security presiprudence are three key considerations. First, a "conception of the overall form of the whole of a functional [legal] unit is needed to serve the founding purpose of defining, specifying, and organizing the makeup of such a unit so that it can be brought into being and can fulfill its own distinctive role" n18 in synergy with other legal units to serve overarching sovereign purposes for a polity. The American constitutional system of national security law and policy should be appreciated for its genius in making the POTUS the national security sentinel with vast, but not unlimited, powers to protect the Nation from hostile, potentially catastrophic, threats. Second, "a conception of the overall form of the whole is needed for the purpose of organizing the internal unity of relations between various formal features of a functional [legal] unit and between each formal feature and the complementary components of the whole unit." n19 Thus, Supreme Court Justices should have a thick understanding of the form of national security decision-making conceived by the Founders to center in the POTUS; the ways the POTUS and Congress historically organized the processing of national security through institutions like the National Security Council and the House and Senate intelligence committees; and the ways the POTUS has structured national security process through such specific legal forms as Presidential Directives, National Security Decision Directives, National Security Presidential Decision Directives, Presidential Decision Directives, and National Security Policy Directives in classified, secret documents along with typically public Executive Orders. n20 Third, according to Summers, "a conception of the overall form of the whole functional [legal] unit is needed to organize further the mode of operation and the instrumental capacity of the [legal] unit." n21 So, the Supreme Court should be aware that tinkering with national security decisions of the POTUS--unless clearly necessary to counterbalance an indubitable violation of the text of the Constitution--may lead to unforeseen negative second-order consequences in the ability of the POTUS (with or without the help of Congress) to preserve, protect, and defend the Nation. n22¶ [\*886] B. Geopolitical Strategic Considerations Bearing on Judicial Interpretation¶ Before the United States Supreme Court Justices form an opinion on the legality of national security decisions by the POTUS, they should immerse themselves in judicially-noticeable facts concerning what national security expert, Bruce Berkowitz, in the subtitle of his recent book, calls the "challengers, competitors, and threats to America's future." n23 Not that the Justices need to become experts in national security affairs, n24 but every Supreme Court Justice should be aware of the following five basic national security facts and conceptions before sitting in judgment on presiprudential national security determinations.¶ (1) "National security policy . . . is harder today because the issues that are involved are more numerous and varied. The problem of the day can change at a moment's notice." n25 While "[y]esterday, it might have been proliferation; today, terrorism; tomorrow, hostile regional powers" n26, the twenty-first century reality is that "[t]hreats are also more likely to be intertwined--proliferators use the same networks as narco-traffickers, narco-traffickers support terrorists, and terrorists align themselves with regional powers." n27¶ (2) "Yet, as worrisome as these immediate concerns may be, the long-term challenges are even harder to deal with, and the stakes are higher. Whereas the main Cold War threat--the Soviet Union--was brittle, most of the potential adversaries and challengers America now faces are resilient." n28¶ (3) "The most important task for U.S. national security today is simply to retain the strategic advantage. This term, from the world of military doctrine, refers to the overall ability of a nation to control, or at least influence, the course of events." n29 Importantly, "[w]hen you hold [\*887] the strategic advantage, situations unfold in your favor, and each round ends so that you are in an advantageous position for the next. When you do not hold the strategic advantage, they do not." n30¶ (4) While "keeping the strategic advantage may not have the idealistic ring of making the world safe for democracy and does not sound as decisively macho as maintaining American hegemony," n31 maintaining the American "strategic advantage is critical, because it is essential for just about everything else America hopes to achieve--promoting freedom, protecting the homeland, defending its values, preserving peace, and so on." n32¶ (5) The United States requires national security "agility." n33 It not only needs "to refocus its resources repeatedly; it needs to do this faster than an adversary can focus its own resources." n34¶ [\*888] As further serious preparation for engaging in the jurisprudence of American national security presiprudence in hotly contested cases and controversies that may end up on their docket, our Supreme Court Justices should understand that, as Walter Russell Mead pointed out in an important essay a few years ago, n35 the average American can be understood as a Jacksonian pragmatist on national security issues. n36 "Americans are determined to keep the world at a distance, while not isolating ourselves from it completely. If we need to take action abroad, we want to do it on our terms." n37 Thus, recent social science survey data paints "a picture of a country whose practical people take a practical approach to knowledge about national security. Americans do not bother with the details most of the time because, for most Americans, the details do not matter most the time." n38 Indeed, since the American people "do know the outlines of the big picture and what we need to worry about [in national security affairs] so we know when we need to pay greater attention and what is at stake. This is the kind of knowledge suited to a Jacksonian." n39¶ Turning to how the Supreme Court should view and interpret American presidential measures to oversee national security law and policy, our Justices should consider a number of important points. First, given the robust text, tradition, intellectual history, and evolution of the institution of the POTUS as the American national security sentinel, n40 and the unprecedented dangers to the United States national security after 9/11, n41 national security presiprudence should be accorded wide latitude by the Court in the adjustment (and tradeoffs) of trading liberty and security. n42 Second, Justices should be aware that different presidents [\*889] institute changes in national security presiprudence given their unique perspective and knowledge of threats to the Nation. n43 Third, Justices should be restrained in second-guessing the POTUS and his subordinate national security experts concerning both the existence and duration of national security emergencies and necessary measures to rectify them. "During emergencies, the institutional advantages of the executive are enhanced", n44 moreover, "[b]ecause of the importance of secrecy, speed, and flexibility, courts, which are slow, open, and rigid, have less to contribute to the formulation of national policy than they do during normal times." n45 Fourth, Supreme Court Justices, of course, should not give the POTUS a blank check--even during times of claimed national emergency; but, how much deference to be accorded by the Court is "always a hard question" and should be a function of "the scale and type of the emergency." n46 Fifth, the Court should be extraordinarily deferential to the POTUS and his executive subordinates regarding questions of executive determinations of the international laws of war and military tactics. As cogently explained by Professors Eric Posner and Adrian Vermeule, n47 "the United States should comply with the laws of war in its battle against Al Qaeda"--and I would argue, other lawless terrorist groups like the Taliban--"only to the extent these laws are beneficial to the United States, taking into account the likely response of [\*890] other states and of al Qaeda and other terrorist organizations," n48 as determined by the POTUS and his national security executive subordinates.

# 1NR

#### Collapse of global trade causes global nuclear---CONCEDD internal link that CIR will devastate global trade that your defense doesn’t assume---leads to tit-for-tat responses escalate---causes terrorism, ethnic conflict, China war, and Iran/Israel conflict.

#### Turns the aff---

#### A. Trade is key to heg---solves legitimacy because we’ll attract other nations through economic leadership

O’Driscoll and Fitzgerald 2 Dr. Gerald P. and Sara J., Former Director of the Center for International Trade and Economics at the Heritage Foundation and Policy Analyst at the Center for International Trade and Economics at the Heritage Foundation, “Trade Promotes Prosperity and Security,” December 18, http://www.heritage.org/Research/TradeandForeignAid/BG1617.cfm

It is fitting that economic freedom be included as part of the national security strategy. A strong economy undergirds a strong national defense, and the strong U.S. economy is one source of the military strength of the United States. The national security strategy also argues, however, that the economic strength of other friendly countries will enhance U.S. security. Economic freedom sustains economic growth and wealth creation. Free markets foster the spirit of entrepreneurship and innovation that creates new products and jobs. This creative economic process in turn generates higher incomes, savings and wealth creation, and economic development in nations.

#### B. Trade solves terror

Hassanien 8 Mohamed, Assistant Professor of Law at Cairo University, “International Law Fights Terrorism in the Muslim World: A Middle Eastern Perspective,” spring, *Denver Journal of International Law and Policy*

Trade and investment barriers are pervasive, and exports other than oil remain puny...It is now clear that Americans live in a dangerous world - and that the primary danger at present emanates from the economic and political failures of the Muslim world... Those failures breed the despair on which violent Islamic extremism feeds; no comprehensive campaign against terrorism can leave them unaddressed... The national security dimension of trade policy is once again plainly visible... It's true that scrapping protectionist policies, by itself, will not guarantee economic revitalization. But the fact is that integration into the larger world economy has been central to every developing country success story of recent times. Exposing the economy to foreign competition and capital acts as a catalyst for more systemic reforms. And over the longer term, such far-flung examples as Chile, Mexico, Taiwan, and South Korea demonstrate the interconnectedness of globalization, economic dynamism, and eventual democratization. Meanwhile,...the West can do more to facilitate Muslim countries' participation in global commerce... President Bush has made it amply clear that fighting terrorism is the overriding priority of his administration. To wage that fight with maximum effectiveness, he will need to convince Congress and the nation that promoting world trade will help to defeat the destroyers of the World Trade Center. [150](http://www.lexis.com/research/retrieve?_m=c30ad58dec848135ddec5ee2f08052a9&docnum=13&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzz-zSkAB&_md5=81e8a097a87bf4983a61424ef88322cb&focBudTerms=%22free%20trade%22%20w/20%20%28interdependence%20or%20globalization%20or%20mercantilism%29%20w/20%20%28war%20or%20%22military%20conflict%22%29&focBudSel=all" \l "n150" \t "_self) Establishing free trade in this area would increase job opportunities, economic growth, cut poverty and enhance the rule of law in the Middle East; development in the Middle East should be a major component of U.S. foreign policy. [151](http://www.lexis.com/research/retrieve?_m=c30ad58dec848135ddec5ee2f08052a9&docnum=13&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzz-zSkAB&_md5=81e8a097a87bf4983a61424ef88322cb&focBudTerms=%22free%20trade%22%20w/20%20%28interdependence%20or%20globalization%20or%20mercantilism%29%20w/20%20%28war%20or%20%22military%20conflict%22%29&focBudSel=all" \l "n151" \t "_self) Economic development in the Middle East is the most effective means of maintaining peace and increasing normalization, thereby breaking the cycle of mistrust, violence, and instability that plagues the Middle East. A positive cycle of economic expansion would enhance the region's political stability, which would [\*242] then foster economic growth by bolstering investor confidence. Economic opportunities are enormous in the Middle East. [152](http://www.lexis.com/research/retrieve?_m=c30ad58dec848135ddec5ee2f08052a9&docnum=13&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzz-zSkAB&_md5=81e8a097a87bf4983a61424ef88322cb&focBudTerms=%22free%20trade%22%20w/20%20%28interdependence%20or%20globalization%20or%20mercantilism%29%20w/20%20%28war%20or%20%22military%20conflict%22%29&focBudSel=all" \l "n152" \t "_self) Furthermore, "the Middle East is situated in a strategic global position featuring many dynamic trade and investment opportunities." [153](http://www.lexis.com/research/retrieve?_m=c30ad58dec848135ddec5ee2f08052a9&docnum=13&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzz-zSkAB&_md5=81e8a097a87bf4983a61424ef88322cb&focBudTerms=%22free%20trade%22%20w/20%20%28interdependence%20or%20globalization%20or%20mercantilism%29%20w/20%20%28war%20or%20%22military%20conflict%22%29&focBudSel=all" \l "n153" \t "_self) It has been argued that political and economic stability can be created if the U.S. and Middle Eastern countries make certain conditions conducive to the following economic measures: [154](http://www.lexis.com/research/retrieve?_m=c30ad58dec848135ddec5ee2f08052a9&docnum=13&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzz-zSkAB&_md5=81e8a097a87bf4983a61424ef88322cb&focBudTerms=%22free%20trade%22%20w/20%20%28interdependence%20or%20globalization%20or%20mercantilism%29%20w/20%20%28war%20or%20%22military%20conflict%22%29&focBudSel=all" \l "n154" \t "_self) (1) Increased foreign private investment (2) Increased free trade agreements between the U.S. and Middle Eastern countries.

#### Turns Russia

Lo 9 - Dr Bobo Lo is Senior Research Fellow at the Centre for European Reform (CER) in London, Russia’s crisis – what it means for regime stability and Moscow’s relations with the world, http://relooney.fatcow.com/SI\_FAO/Russia\_7.pdf

There is no doubt that the global financial crisis has had a tremendous physical and psychological impact on Russia. In August 2008, following its military successes in Georgia, there appeared to be no limit to Moscow’s self-confidence. The mantra, ‘Russia is back’, was reiterated ad nauseam, while the West fretted about a new Cold War and the difficulties of managing an ever more assertive ‘partner’. Russia became the centre of attention, if often for the wrong reasons, and its resurgence as a global great power was seen as part of a ‘new world order’. Fast forward to today and the transformation in Russia’s fortunes is striking. The extraordinary developments of the past six months have undermined many assumptions. While the advanced industrialised economies of the West are suffering considerably from the global recession, it is Russia that has arguably been the **greatest casualty**. Internationally, it has become a largely peripheral presence, while domestically there has been a **radical shift in mood**. Russia’s once buoyant economy has suffered **major shocks** and the seemingly unassailable regime of Prime Minister Vladimir Putin has become the subject of **feverish speculation about its viability and even survival.** Russian policy-makers have lost their swagger. Putin continues to inveigh against the failings of the ‘AngloSaxon’ economic model and to **blame America for the global financial crisis**, most recently at the 2009 World Economic Forum in Davos. But these days the climate in Moscow is one of mounting anxiety. The illusion of near-invincibility has given way to an acute sense of vulnerability and a renewed awareness of Russia’s dependence on the outside world. This policy brief addresses two questions. The first is the impact of the global financial crisis on regime stability and on Putinism itself – the Russian leader’s brand of semi- or ‘soft’ authoritarianism. Putin has consistently argued that Russia’s current problems a re largely a function of the wider global malaise, and that its economic fundamentals are sound. But critics point to deep-seated weaknesses: rampant corruption, dysfunctional governance, flimsy rule of law, over-dependence on the energy sector, and the absence of structural reform. Our purpose here is not to debate the merits of Putin’s economic policy, but to assess the capacity of his regime to pre serve its authority and legitimacy in the face of deteriorating socio-economic conditions. On a more personal level, what does the future hold for Putin himself? Given the improbability of an early economic recovery, will the Russian population fall out of love with this still highly popular figure ?1 If so, will such disenchantment translate into moves to replace him, either within the ruling elite or as part of a more general movement akin to Ukraine’s Orange Revolution?

#### We also read evidence on case that says stability now because of economy---plan kills it.

#### Turns CMR---their Munson evidence in the 1ac says that decline and economic pressure kills it---that was the DOD budget cut argument on case.

## Uniqueness

#### Immigration reform will pass, but it’s going to be a fight---Boehner is pushing back against the Tea Party, new DHS security confirmation reduces concerns over national security, and no more gridlock after the bipartisan budget agreement---PC solves your argument because it ensures pathway to citizenship

#### Will pass – both sides are closing in on the details

=Opposition is dwindling

Rodriguez, National Hispanic Christian Leadership Conference, and Gittelson, National Hispanic Christian Leadership Conference, 12-31, 2013,

(Samuel and Robert, "A New Year's Message of Hope for Immigration Reform", ImmigrationProf Blog, PAS) lawprofessors.typepad.com/immigration/2013/12/a-new-years-message-of-hope-for-immigration-reform.html 12-31-13

True, immigration reform advocates are currently quite frustrated that immigration reform did not reach the President’s desk in 2013. We share in that frustration. And yet, we look at this issue as the glass being half full. 2013 brought us passage of a comprehensive immigration reform bill in the Senate. That was no small achievement. Furthermore, we are convinced that the House is poised to move on this issue. The stars are about to align.¶ The other day, we were having a meeting with one of the Republican members of House Leadership. As our discussion turned to immigration - and because he understood that we have been meeting with many House Republicans about this issue - he asked us how many of his members are for immigration reform? He wanted an outside opinion. We told him what we are quite certain is the truth. We told him that if the House voted on the type of legislation that has been envisioned and articulated by Judiciary Chairman Bob Goodlatte, that he would have a majority of the majority that would vote for the bills.¶ It is important to note the specific distinction that we explained to him. The Goodlatte plan would offer the undocumented a pathway to legalization, and the opportunity to pursue citizenship through our previously established legal channels, but would differ from the Senate plan, in that it would not offer a specific and separate pathway to citizenship.¶ Is that a difference without a distinction? No. The Goodlatte plan, while not yet introduced by any Republican member, envisions an opportunity for many, perhaps even a majority of the undocumented to eventually attain citizenship. However, and by his own admission, this new plan would not necessarily cover all of the undocumented population. His plan would be meant to thread the difficult needle that represents the dividing line between “amnesty,” and the “Rule of Law.”¶ We note that Congressman Steve Stockman, one of the few House Republicans opposed to any type of change to immigration law, recently tried to put together a coalition to sign a letter addressed to Speaker Boehner arguing against any type of immigration reform. Our understanding is that he was only able to receive 18 signatures for his letter. Another prominent Republican Committee Chairman involved with the debate over immigration reform recently speculated to us that perhaps as many as 60, but at the most 80 Republicans would oppose the type of immigration reform as proposed by Chairman Goodlatte. While that is a lot of no votes, it is certainly well short of a majority of the majority – the imaginary dividing line as specified by the “Hastert” rule preferred by Speaker Boehner to pass immigration reform.¶ The recent Budget agreement that passed both the House and the Senate has many of the progressive immigration reform advocates speculating that Congress might now be willing to come together in a Kumbaya moment to start to pass the President’s Agenda. They couldn’t be more wrong. There are any number of issues that House Republicans can and will unite behind that will stand in stark disagreement with President Obama’s Agenda for this Congress. Republicans are almost universally united against Obamacare, the President’s Climate Change and Energy Agenda’s, and the President’s new willingness to stand down on sanctions against Iran. The fact that the President just hired Washington insider John Podesta in an effort to shore up his Energy and Climate Change legislative strategies will mean that the House will certainly have its work cut out for itself opposing the parts of the President’s agenda that they disagree with, well into next year.¶ So where does that leave immigration reform? In our opinion, immigration reform is in pretty good shape. It is one of the few issues in which common ground actually does, in fact, exist. I would caution my fellow immigration advocates, (first the advocates on our side – the right – but particularly our progressive friends on the opposite side of the aisle), to continue to work on this issue diligently, but agreeably. Actions that “demand” immediate immigration reform, or seek to shut down offices occupied by Republican members, does not create an affable or affirmative work environment. In fact, it gets otherwise agreeable members to back away in their willingness to proceed on this issue. We know this, because we have heard it directly from the members, and have seen how these tactics affected members on this issue going back to 2010.¶ We now have an opportunity to have both sides of the aisle, and both Houses in Congress, work together to forge an immigration solution that can work effectively for years, even decades to come. We would say that to date, the House has bipartisan agreement on well over 90% of the issues surrounding the discussion about the most effective, fair, and moral ways in which our Nation can solve this crisis. Therefore, we urge all Americans, regardless of political ideology, to work together to solve this complex but resolvable problem. We believe that a bipartisan solution is at hand. We should hold our elected officials accountable to work together to get this issue fixed, once and for all. Our national security demands it. Our economy depends on it. Our faith compels it. Finally, we cannot forget that there are multi-millions of families praying for the opportunity to live in dignity, in safety, and for the ability to emerge out of the shadows of society, and to pursue their own American dreams.

#### Their mid-term argument goes negative---proves why push in the first quarter is KEY

Tijerino, President and CEO of the Hispanic Heritage Foundation, 1-6, 2014,

(Jose Antonio, "Immigration Reform Is Counting on House Republicans More Than Ever in 2014", Huffington Post, PAS) [www.huffingtonpost.com/jose-antonio-tijerino/immigration-reform-house-republicans\_b\_4533410.html?utm\_hp\_ref=politics&ir=Politics](http://www.huffingtonpost.com/jose-antonio-tijerino/immigration-reform-house-republicans_b_4533410.html?utm_hp_ref=politics&ir=Politics) 1-6-14

Fast forward to 2014 ... and the internal Republican debate over immigration reform rages on. Except now it's Senator Marco Rubio who has been treated like an outsider inside his own party after leading the Gang of Eight to pass a Senate immigration reform bill early last summer.¶ So the question as we start a fresh new year is which courageous Republicans in the House will step up and champion immigration reform in 2014 at great political risk in doing the right thing for America?¶ Well, over two dozen Republican Congressional Members have publicly supported immigration reform over the past year, so that's a start. And doing quick math, it will take 218 votes to pass a bill in the House, and if about 200 Democrats support the effort, which they will, you only need the couple dozen Republicans I just mentioned to make history and help their party by mending the fractured relationship with Latinos and Asians, who represent an attractive voting bloc going forward. Yes, it's doable. As we begin 2014 we should do so with great optimism, especially if at this point both sides of Congress work together to present House Speaker John Boehner with a bill he can get behind, as he did with the budget bill a month ago when he acted like a man thinking about his legacy as he winds down a bumpy tenure as leader. The time is now -- ahorra -- to get something done. If it doesn't happen in by first quarter, members will be in election cycle, and it will not happen. We are counting on the leadership of certain Republicans to pass immigration reform.

## Thumper

#### Their thumper is not conclusive---doesn’t say HC and unemployment will be sufficient to kill PC---means issue specific uniqueness outweighs---especially when 1nc ev assumes health care.

#### Unemployment doesn’t drain capital

Jamelle Bouie 12-28, The Daily Beast, Republicans’ Unemployment Shame, <http://www.thedailybeast.com/articles/2013/12/28/republicans-unemployment-shame.html>

The prospects for fixing the lapse are mixed. Most Republicans are opposed to extending benefits, and argue that the program increases dependency, despite research that the opposite is true; with some form of support guaranteed, unemployed workers are more likely to stay in the workforce and continue their search for a job. With that said, there are Republicans in the Senate—like Dean Heller of Nevada—who support a short-term extension of three months. And House Speaker John Boehner has signaled his willingness to consider an extension, provided it’s offset with further cuts to spending. The problem is that Congress has just passed an agreement that maintains most sequester cuts, and congressional Democrats are unlikely to sign on to another round of deficit reduction, just as Republicans are loath to consider new spending. If the long-term unemployed have anything on their side, it’s that extending benefits is popular with the public, with 55 percent in favor and 33 percent opposed, according to a recent survey (PDF) commissioned by the National Employment Law Project. Likewise, Public Policy Polling—a Democratic firm—found that in four GOP swing districts, large bipartisan majorities supported an extension. In some areas, in fact, local news outlets are hitting Republicans hard for their resistance to renewing emergency unemployment insurance. There’s a chance that this pressure will work to move a few GOP lawmakers to the “yes” camp, providing votes to help the unemployed. But, as we saw throughout 2013, you’re almost certain to lose if you bet on Republicans to do the right thing.

#### Increased insurance rates preserves PC

Arnie Parnes 12/31 is White House correspondent @The Hill, “Five things Obama must do to avoid lame-duck status,” 12-31-13, <http://thehill.com/homenews/administration/194158-five-things-obama-must-do-to-avoid-lame-duck-status>, DOA: 1-1-14, y2k

Unless Obama and the White House can get the president’s signature healthcare law humming smoothly, it will pull the president’s and the Democratic Party’s approval ratings underwater in 2014. “The biggest weight on the class of ‘14 is the success of Obamacare,” said one former senior administration official. “I’m sure there are Democrats up for reelection who are lighting candles into the New Year with the hope that it all goes well in 2014 or it’ll be like 2013 never left.” White House confidence is bolstered by the surge of people who have enrolled in the law in recent days. More than 1.1 million people have now enrolled, and while that is lower than what the administration had hoped for, it makes reaching the 7 million enrollees projected by the Congressional Budget Office more realistic. The hope is that the New Year will amount to a fresh start for Democrats, and that Obama will be able to tout the number of people newly insured under the law.

#### Passes despite health care

Samuelsohn, Politico Senior Policy Reporter, 12-30, 2013,

(Darren, "2014: The year to 'go small'", Politico, PAS) [www.politico.com/story/2013/12/obamacare-clouds-future-for-big-legislation-101565.html](http://www.politico.com/story/2013/12/obamacare-clouds-future-for-big-legislation-101565.html)

Even with Obamacare, Republican strategist Ron Bonjean said Congress and the White House have a chance to reach agreement on parts of an immigration reform package. Obama cited the budget agreement when he suggested more breakthroughs were possible even as he deals with the health law’s fallout on agenda.¶ “It’s probably too early to declare an outbreak of bipartisanship,” Obama said at his end-of-the-year news conference. “But it’s also fair to say that we’re not condemned to endless gridlock. There are areas where we can work together.”¶ Former Sen. Byron Dorgan (D-N.D.) said immigration is the only item that he thinks “has a real chance” in 2014 as Republicans try to patch up relations with Hispanic voters before the next election. “Even that issue has a steep, uphill climb in this climate and in this Congress,” he said.

## Intrinsicness

#### DA is intrinsic---links and internal links prove that logical policymakers can’t pass both due to political implications of the plan---evaluating political costs to affirmatives are key to core neg ground and timely education on congressional agenda---independently, intrinsicness guts every DA because intervening actors solve the impact---also means no impact to case advantages.

## Gitmo Now Thumper

#### Their evidence is really not conclusive---says that Obama might push for Guantanamo closure.

#### Immigration is on the top of the docket

Parnes, The Hill Staff Writer, 1-5, 2014,

(Amie, "Obama looks to re-launch second term", The Hill PAS) thehill.com/homenews/administration/194384-obama-looks-to-re-launch-second-term 1-6-14

President Obama returns to Washington on Sunday hoping to build momentum for a thick agenda that didn't go very far during the first year of his second term. ¶ The president will have has hands full: Right off the bat, he'll be faced with questions about the rollout of ObamaCare and a major address on the NSA in the middle of January.¶ He’ll also be making a big push to extend federal unemployment benefits as the White House seeks to make income inequality a major issue in this year’s midterm elections.¶ After a rocky 2013 that saw his poll numbers sag, Obama will look to re-launch his second term during a State of the Union address later this month that will set the tone for the midterm elections.¶ White House officials acknowledge there’s much to do on the heels of the president’s two-week vacation in Hawaii.¶ The president's advisers hope comprehensive immigration reform, perhaps Obama’s number one goal of his second term, can still be in play in 2014.¶ “It remains a top, top, top priority,” a White House official said.

#### The opposite is true---Obama pushed for EXECUTIVE flexibility on releasing---plan causes massive backlash and drains capital EVEN if it’s popular

Providence Journal 1/7 “Challenge at Guantanamo,” <http://www.providencejournal.com/opinion/editorials/20140107-challenge-at-guantanamo.ece> DOA: 1-7-14, y2k

Under a budget compromise affecting the defense bill, Congress has relaxed restrictions on the Obama administration’s ability to transfer terrorist suspects from the U.S. prison at Guantanamo Bay, Cuba. While the executive branch needs some leeway to make such very complicated decisions, transfers out of Guantanamo are always worrying. At least one in six of those released have returned to terrorism. Of 603 Guantanamo prisoners released as of September, 100 are confirmed “Guantanamo recidivists” and 74 more are suspected. The head of Ansar al Sharia, a group suspected of being an al-Qaida affiliate in Libya, is a former Guantanamo detainee. After subtracting two more released recently, 158 prisoners remain at the U.S. base. Those who remain are, of course, the most hardcore of the incorrigibles. President Obama promised to close Guantanamo quickly after first taking office in 2009, but hit a stone wall in Congress. Members of both parties have constituents who are understandably wary of closing the prison, especially if that means transferring some detainees to prisons in America. As we have learned from our experience in Iraq and Afghanistan, al-Qaida specializes in bloody raids to release its brethren in prisons there. Dozens of American Islamists (from immigrant families of Arabic origin or recruited to Islam) have traveled to Syria to fight in al-Qaida units, leading some to worry about home-grown attacks to free detainees from American prisons. We have long favored eventually closing Guantanamo and, like the president, questioned the morality of holding people perpetually without some form of trial. But closing it has turned into a challenge, since it must be done carefully, without strengthening terrorism and threatening America’s interests.

#### This proves our link---Obama will BACKLASH to transfer

AFP 12/26 “Obama signs bipartisan budget deal and Guantanamo transfer bills into law,” <http://www.rawstory.com/rs/2013/12/26/obama-signs-bipartisan-budget-deal-and-guantanamo-transfer-bills-into-law/>, doa: 1-8-14, y2k

President Barack Obama Thursday signed into law the compromise US budget bill recently negotiated by feuding lawmakers and a massive defense bill that takes a step toward ultimate closure of Guantanamo. After signing the legislation while vacationing in Hawaii with his family, Obama praised the National Defense Authorization Act for allowing accelerated repatriation of detainees from the US naval facility at Guantanamo Bay, Cuba. “I am encouraged that this act provides the executive greater flexibility to transfer Guantanamo detainees abroad, and look forward to working with the Congress to take the additional steps needed to close the facility,” Obama said in a statement. The new law still forbids transfer of Guantanamo detainees to the United States, a restriction Obama opposes.

## Court

#### Thesis of IBC is still true---Obama has to defend his authority

#### Court decisions are controversial and make Obama look weak – forces Obama to spend political capital in legislative gridlock

Sullivan, Washington Post National Politics Correspondent, 2013,

(Sean, "Why the Supreme Court’s Voting Rights Act decision puts Obama in a tough spot", Washington Post, 6-26, PAS) [www.washingtonpost.com/blogs/the-fix/wp/2013/06/26/why-the-supreme-courts-voting-rights-act-decision-puts-obama-in-a-tough-spot/](http://www.washingtonpost.com/blogs/the-fix/wp/2013/06/26/why-the-supreme-courts-voting-rights-act-decision-puts-obama-in-a-tough-spot/) 9-17-13

The disapproval was swift and unequivocal.¶ “I am deeply disappointed with the Supreme Court’s decision today,” President Obama said in a statement Tuesday of the court’s 5-4 ruling that a key provision in the 1965 Voting Rights Act is unconstitutional.¶ What’s less clear is how Obama will proceed. He will be expected by opponents of the decision to lead the charge to remedy it. But he can’t do anything major without the compliance of a gridlocked Congress. Together, these realities put the president in an unenviable position.¶ The court’s ruling puts the future of the Voting Rights Act squarely in the hands of Congress. Section 4 has determined which areas across the country must submit to to extra oversight before election laws can be changed there. Essentially, areas with a history of racial discrimination were required to seek pre-clearance before rewriting laws.¶ But the formula in Section 4 is outdated, the court ruled. A new one can be put in place, but that task falls to Congress.¶ Yes, the same Congress which has been seized by gridlock in recent years and has struggled to reach consensus on major issues time and again. For his part, Obama called on lawmakers to act to ensure “equal access to the polls.”¶ “While today’s decision is a setback, it doesn’t represent the end of our efforts to end voting discrimination,” the president said. “I am calling on Congress to pass legislation to ensure every American has equal access to the polls. My administration will continue to do everything in its power to ensure a fair and equal voting process.”¶ This is not the first time Obama has weighed in on voting rights. Far from it. For example, he mentioned it in his second inaugural address. The president has demonstrated that he is invested in the issue. And as the nation’s first black president, Obama has and will receive extra pressure from minority groups to speak up on issues like the Voting Rights Act.¶ There are actions Obama can take, but like most things, sweeping changes require Congress signing off.¶ While it’s too early to write off Congress’ chances of getting a deal done on a new formula, nothing in the way the body has conducted business in recent years suggests that it’s in the immediate offing. And the expected Republican resistance to Democratic proposals means the odds are even longer. That means Obama could be expected to ramp up pressure through speeches, appearances across the country and other levers his power affords him.¶ But Obama can’t be everywhere at once. He has to pick and choose the issues he will put substantial political capital behind.¶ With no other major asks of Congress, applying pressure on lawmakers would be a tall task. A CNN/ORC poll shows the public is split on the necessity of the Voting Rights Act. It’s an even taller one considering the president is also hoping to get a sweeping immigration bill done. And he hasn’t given up hopes of striking a long-term deficit reduction deal. Gun control is another issue advocates of tighter restrictions on firearms are hopeful the president will revisit.¶ In addition, Obama has been beset by a flurry of controversies over his administration’s surveillance efforts, the IRS’s singling out of conservative groups and the Justice Department’s scrutiny of journalists.¶ In short, the timing of the court’s decision could hardly be worse for the president.¶ Senate Majority Leader Harry Reid (D-Nev.) promised that the Senate will act. And Democrats have signaled that they intend to press the argument that voting rights are under siege by Republicans.¶ But we have seen this movie before. And expecting the Democratic-led Senate and the Republican-led House to come to an accord on any big issue is a pipe dream these days.¶ What it all means is that the list of things Obama wants, will be expected to speak out for but nonetheless may not get could have grown by one item Tuesday.

#### Controversial decisions spark Congress and media response

Greenwald, Former Constitutional Law and Civil Rights Litigator, 2006,

(Glenn, "Will Hamdan have any effect on the Bush Presidency?", Unclaimed Territory, 6-30, PAS) glenngreenwald.blogspot.com/2006/06/will-hamdan-have-any-effect-on-bush.html 9-16-13

Additionally, court opinions historically have a political impact as well as legal effects. Despite the concerted, destructive attacks on the credibility of the Supreme Court by the likes of Mark Levin and Rush Limbaugh, who hate and wage war on any institution (such as the media) which dares to challenge the Powers of the President, Americans still retain a respect for the Supreme Court as an important and credible institution. The Court's proclamation that the President has been acting beyond his legal and constitutional authority strengthens that argument as a political matter.¶ It is also likely to further galvanize those in Congress and the media who have been gradually taking a stand against the Administration. A Supreme Court ruling that is this decisive, on an issue this significant, is virtually never confined to the legal realm, but almost always has impact, often profound impact, in the political realm as well.

Large risk of a link – perceptions of presidential power are always perceived

Pildes 12 [Richard H., Sudler Family Professor of Constitutional Law, NYU School of Law and Co-Director, NYU Cen- ter on Law and Security Law of the President, NEW YORK UNIVERSITY SCHOOL OF LAW¶ PUBLIC LAW & LEGAL THEORY RESEARCH PAPER SERIES WORKING PAPER NO. 12-13, http://ssrn.com/abstract=2012024 Pg.27-8 Accessed 6/11/2013 DMW]

Their framework relies upon a sharp separation of law and politics (or public opinion or public reactions).79 In arguing that the effective con- straints of politics and public opinion substitute for the ineffective ones of law, their approach suffers from one substantial blind spot: law (and the perception of legality) is not hermetically sealed off from politics and pub- lic opinion. That is, as a sociological reality within American political cul- ture, at least, perceptions of whether presidents are complying with law are not utterly divorced from political and public responses to presidential ac- tion. To the contrary, perceptions about lawful authority — about whether the President is following the law or not — are inextricably intertwined with political and public responses to presidential action. Even as a prag- matic matter of hardheaded realism, we cannot separate law (an irrelevant non-constraint) from political and public responses to assertions of presi- dential authority (the so-called “real” constraints). To begin, it is no great insight to recall that law is constitutive of the very processes of political struggle that Posner and Vermeule make central to their account.80 The public offices within which political competition is organized are them- selves, of course, defined by law. “The President” is a legal creation, as are the requirements that presidents take office on a certain date and serve a fixed term of four years (with no recognized recall or vote of confidence procedure that could remove them from office). Similarly, presidents rec- ognize that valid legislation requires approval of both the House and Sen- ate; that presidential vetoes can validly be overridden by two-thirds majori- ties; that presidential appointees must be nominated, appointed, and confirmed according to processes the Constitution and statutes lay out; and that the military is subordinate to civilian authorities. “Politics” takes place within a widely accepted structure of legal rules that constitute the political process and the roles and powers of public officials who engage in that process. These rules might be so taken for granted (except, per- haps, in revolutionary contexts) that it is easy to miss the extent to which they constrain and routinely command compliance.

#### Their evidence is just about structural political factor---still cause backlash from Congresss---their Rosenberg evidence on the CP.

## Loser’s Lose

#### Losers lose – perception matters

Andrew Loomis 7 is Visiting Fellow at the Center for a New American Security, and Department of Government at Georgetown “Leveraging legitimacy in the crafting of U.S. foreign policy”, March 2, 2007, pg 36-37, [http://citation.allacademic.com//meta/p\_mla\_apa\_research\_citation/1/7/9/4/8/pages179487/p179487-36.php](http://citation.allacademic.com/meta/p_mla_apa_research_citation/1/7/9/4/8/pages179487/p179487-36.php)

Declining political authority encourages defection. American political analyst Norman Ornstein writes of the domestic context,

In a system where a President has limited formal power, perception matters. The reputation for success—the belief by other political actors that even when he looks down, a president will find a way to pull out a victory—is the most valuable resource a chief executive can have. Conversely, the widespread belief that the Oval Office occupant is on the defensive, on the wane or without the ability to win under adversity can lead to disaster, as individual lawmakers calculate who will be on the winning side and negotiate accordingly. In simple terms, winners win and losers lose more often than not. Failure begets failure. In short, a president experiencing declining amounts of political capital has diminished capacity to advance his goals. As a result, political allies perceive a decreasing benefit in publicly tying themselves to the president, and an increasing benefit in allying with rising centers of authority. A president’s incapacity and his record of success are interlocked and reinforce each other. Incapacity leads to political failure, which reinforces perceptions of incapacity. This feedback loop accelerates decay both in leadership capacity and defection by key allies The central point of this review of the presidential literature is that the sources of presidential influence—and thus their prospects for enjoying success in pursuing preferred foreign policies—go beyond the structural factors imbued by the Constitution. Presidential authority is affected by ideational resources in the form of public perceptions of legitimacy. The public offers and rescinds its support in accordance with normative trends and historical patterns, non-material sources of power that affects the character of U.S. policy, foreign and domestic.

#### That kills immigration

Ken Walsh 13 covers the White House and politics for U.S. News. He writes the daily blog, "Ken Walsh's Washington," for usnews.com, and "The Presidency" column for the U.S. News Weekly. He is the author of the new book "Prisoners of the White House: The Isolation of America's Presidents and the Crisis of Leadership." Ken Walsh can be reached at kwalsh@usnews.com and followed on Facebook and Twitter. “Obama Strengthened for Now,” 10-18-13, <http://www.usnews.com/news/blogs/Ken-Walshs-Washington/2013/10/18/obama-strengthened-for-now>, DOA: 10-19-13, y2k

President Obama emerges from his budget victory this week with a stronger hand as he heads into the next round of political fights in Washington. What's helping Obama in particular is the new perception that he is willing to stick to his guns. He demonstrated the ability to take a tough stand against his adversaries even when he was under enormous pressure to cave in. And this image of resolve is expected to help him in future showdowns with the Republicans regarding immigration, farm legislation, climate change regulations, health care and economic policy. Up to now, many legislators considered Obama a weak bargainer and a vacillating leader; now they have clear evidence that he isn't a pushover, Democratic strategists say. After accepting a congressional deal that ended Washington's embarrassing economic crisis for now, and largely on his own terms, Obama blamed the mess on Republican conservatives allied with the tea party. He said they stubbornly forced a partial government shutdown and threatened to allow a government default unless Obama weakened his signature health care law, known as Obamacare. Using his presidential bully pulpit to good effect, Obama declined to give in, and blasted the GOP day after day. In the end, the Republicans blinked. "To say we as Republicans left a lot on the table would be one of the biggest understatements in American political history," said Sen. Lindsey Graham, R-S.C., on Twitter. On Thursday, Obama acknowledged what many opinion polls have shown in the past few weeks when he said, "The American people are completely fed up with Washington." And Republicans get most of the blame, according to the polls. Only 13 percent of Americans approve of the job Republicans are doing in Congress and 24 percent approve of the job Democrats are doing, according to the latest survey by Zogby Analytics. But Obama's resolve will soon be tested again, because this week's deal accepted by the House, Senate and Obama was only a temporary fix. It funds the government through Jan. 15 and raises the debt ceiling until Feb. 7. Democrats still want to hike taxes on the rich and on major corporations and limit spending cuts. Republicans don't want to raise taxes and they seek deeper cuts in spending in an effort to reduce the federal deficit and slash federal power. Hard-line GOP legislators are still looking for every opportunity to gut or weaken Obama's health care law. These disagreements will persist, and they are same divisions that caused the 16-day government shutdown and nearly resulted in a failure by Congress to raise the debt ceiling.

#### Link turns the case

Kriner, Boston University Assistant Political Science Professor, 2010,

(Douglas, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, 12-1, Pg. 69, PAS) Accessed on Google Books 8-12-13

A growing game-theoretic literature within international relations suggest that these very same congressional actions can, however unintentionally, also raise or lower the military costs for the president of pursuing his preferred policy course. ¶ High-profile congressional support for or opposition to the president’s military policies does more than shape real and anticipated public opinion and affect the president’s levels of political capital in Washington. It also sends important signals of American resolve or disunity to foreign actors. Target state leaders conduct their own cost-benefit analyses when plotting their military policy courses, and they may incorporate congressional signals into these calculations.

## PC Key

#### PC key---prefer it because it post-dates

AP 1/7 “Obama begins a renewed political push for immigration reform in 2014” <http://www.pbs.org/newshour/rundown/2014/01/president-obama-congress-push-for-immigration-reform-one-final-time.html?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+TheRundownNewsBlog+(The+Rundown+News+Blo>, doa: 1-8-14, Y2K

WASHINGTON -- His agenda tattered by last year's confrontations and missteps, President Barack Obama begins 2014 clinging to the hope of winning a lasting legislative achievement: an overhaul of immigration laws. It will require a deft and careful use of his powers, combining a public campaign in the face of protests over his administration's record number of deportations with quiet, behind-the-scenes outreach to Congress, something seen by lawmakers and immigration advocates as a major White House weakness. In recent weeks, both Obama and House Speaker John Boehner, R-Ohio, have sent signals that raised expectations among overhaul supporters that 2014 could still yield the first comprehensive change in immigration laws in nearly three decades. If successful, it would fulfill an Obama promise many Latinos say is overdue. The Senate last year passed a bipartisan bill that was comprehensive in scope that addressed border security, provided enforcement measures and offered a path to citizenship for 11 million immigrants in the United States illegally. House leaders, pressed by tea party conservatives, demanded a more limited and piecemeal approach. Indicating a possible opening, Obama has stopped insisting the House pass the Senate version. And two days after calling Boehner to wish him happy birthday in November, Obama made it clear he could accept the House's bill-by-bill approach, with one caveat: In the end, "we're going to have to do it all." Boehner, for his part, in December hired Rebecca Tallent, a former top aide to Sen. John McCain and most recently the director of a bipartisan think tank's immigration task force. Even opponents of a broad immigration overhaul saw Tallent's selection as a sign legislation had suddenly become more likely. Boehner also fed speculation he would ignore tea party pressure, bluntly brushing back their criticism of December's modest budget agreement.

#### Doesn’t assume things like the new budget agreement

## Decision

#### Fiating the timeframe of when the decision gets released is a voting issue---this is a NEW specification in the 2AC that causes moving target---normal means for the implementation means decision gets released NOW which causes interbranch fight and losers lose link---immediacy is key to every neg ground because otherwise the aff spikes out of our link---EVEN if they win the interpretation, they still put the case on the DOCKET, which still creates a perception of ruling and Obama will intervene---al-awluaqi EMPIRICALLY proves that the DOJ and executive will push the court to dismiss the case---that’s also circumvention ev on case.

## Resiliency

#### Resiliency argument doesn’t assume the immigration reform---repeating the benefits of market is not possible because of restrictions

#### Global trade is on the brink of collapse- US leadership is key

Lincicome 12 Scott, trade attorney, “Is Missing American Trade Leadership Beginning to Bear Protectionist Fruit? Hint: Kinda Looks Like It,” June 12, http://lincicome.blogspot.com/2012/06/is-missing-american-trade-leadership.html

Over the past few years, I and several other US trade-watchers have lamented the United States' dwindling leadership on global trade and economic issues and warned of that trend's troubling potential ramifications. It appears that at least one of our breathless predictions may finally be coming true. Starting in mid-2009 - when it became depressingly clear that the Obama administration viewed trade in mostly political terms and thus would not be advancing a robust, proactive free trade agenda - we free traders expressed grave concern that US recalcitrance could harm not only US companies and workers, but also the entire global free trade system. As I explained in a 2009 oped urging the President to adopt a robust pro-trade agenda (as outlined in this contemporary Cato Institute paper): Since the 1940s, the US has led the charge to remove international barriers to goods, services and investment. The result: a global trade explosion that has enriched American families, spurred innovation, enhanced our security and helped millions escape poverty. Every US president since Herbert Hoover has championed free trade because of its proven benefits.... Because of today's rules-based multilateral trading system and the interdependence of global markets, US fecklessness on trade shouldn't lead to devastating protectionism akin to the Smoot-Hawley-induced tariff wars of the 1930s. But it's still a problem. In 2008, global trade contracted for the first time since 1982, and protectionist pressures abound. The WTO's Doha Round is comatose, even though an ambitious deal could inject US$2 trillion into the reeling global economy. Considering the US has steered every major trade initiative in modern history, any chance for significant progress on trade will disappear without strong American leadership - in word and deed. Since that time, the President has clearly not taken free traders' advice. The WTO's Doha Round is dead, despite a pretty good opportunity to force the issue back in late 2010. The Obama administration took three years to implement already-dusty FTAs with Korea, Panama and Colombia and actually insisted on watering the deals down with new protectionist provisions in order to finally agree to move them. And while countries around the world are signing new trade agreements left and right, we've signed exactly zero and have eschewed important new participants and demanded absurd domestic protectionism in the one agreement that we are negotiating (the TPP). Meanwhile, on the home front the President has publicly championed mercantilism, as his minions quietly pursued myriad efforts to restrict import competition and consumer freedom, embraced competitive devaluation and maintained WTO-illegal policies (while publicly denouncing protectionism, of course). Pretty stark when you lay it all out like that, huh? Despite this depressing state of affairs, it did not appear that the United States' diversion from its long free trade legacy had resulted in a tangible increase in global protectionism (although the death of Doha certainly isn't a good thing). Unfortunately, a new blog post from the FT's Alan Beattie indicates that those chickens may finally be coming home to roost: One of the very few bright spots in governments’ generally grim recent performance of managing the world economy has been that trade protectionism, rampant during the Great Depression, has been relatively absent. That may no longer be the case. The WTO, fairly sanguine about the use of trade barriers over the past few years, warns today that things are getting worrying. The EU made a similar point yesterday. And this monitoring service has been pointing out for a long time that a lot of the new forms of protectionism aren’t counted under the traditional categories, thanks to gaping holes in international trade law. After glancing at the bi-partisan protectionism on display in the 2012 US presidential campaign, Beattie concludes that, on the global trade stage, "things are looking scarier than they have for a while." I'm certainly inclined to agree, and one need only look South to Brazil's frighteningly rapid transition from once-burgeoning free trade star to economically-stagnant, unabashed protectionist to see a scary example of why. And while I agree with Beattie that the world still isn't likely to descend into a 1930s-style trade war - we can thank the WTO and the proliferation of free market economics for that - the rising specter of global protectionism is undoubtedly distressing. And, of course, it has risen just as America's free trade leadership has faded away. Now, as we all know, correlation does not necessarily mean causation, and it's frankly impossible to know just how much the dearth of US trade leadership has actually affected global trade policies. But I think it's pretty safe to say that it certainly hasn't helped matters. Just ask yourself this: how can the US admonish Brazil or any other country about its distressing mercantilism when the President is himself routinely preaching - and his administration is busy implementing - similar policies? How can we decry the global "currency wars" when we're discretely advocating a similar strategy? How can we push back against nations' increasing use of market-distorting subsidies or regulatory protectionism when we're.... I think you get the idea. As I've frequently noted here, it was a Democrat - Secretary of State Cordell Hull - who over 70 years ago began a global free trade movement that until very recently had been led - in word and deed - by Republican and Democratic administrations alike. And while the distressing recent spike in global protectionism may not have been caused by a lack of American trade leadership, it is very, very likely not going to recede until the United States regains its long-held place at the front of the trade liberalization pack.

#### Trade inevitable- US leadership ensures multilateralism that solves all impacts- the alternative is regionalism that causes global war

**Panitchpakdi 4**—Supachai Panitchpakdi is the UN Conference on Trade and Development General, “American Leadership and the World Trade Organization: What is the Alternative?”, 26 February 2004, <http://www.wto.org/english/news_e/spsp_e/spsp22_>

e.htm Accessed date: 8-27-12 y2k

I can sum up my message today in three sentences: The United States, more than any single country, created the world trading system. The US has never had more riding on the strength of that system. And US leadership — especially in the current Doha trade talks — is indispensable to the system's success. It is true that as the WTO's importance to the world economy increases, so too does the challenge of making it work: there are more countries, more issues, trade is in the spot light as never before. But the fiction that there is an alternative to the WTO — or to US leadership — is both naïve and dangerous. Naïve because it fails to recognize that multilateralism has become more — not less — important to advancing US interests. Dangerous because it risks undermining the very objectives the US seeks — freer trade, stronger rules, a more open and secure world economy. The Doha Round is a crucial test. The core issues — services, agriculture, and industrial tariffs — are obviously directly relevant to the US. America is highly competitive in services — the fastest growing sector of the world economy, and where the scope for liberalization is greatest. In agriculture too the US is competitive across many commodities — but sky-high global barriers and subsidies impede and distort agricultural trade. Industrial tariffs also offer scope for further liberalization — especially in certain markets and sectors. But what is at stake in these talks is more than the economic benefits that would flow from a successful deal. The real issue is the relevance of the multilateral trading system. Its expanded rules, broader membership, and binding dispute mechanism means that the new WTO — created less than ten years ago — is pivotal to international economic relations. But this means that the costs of failure are also higher — with ramifications that can be felt more widely. Advancing the Doha agenda would confirm the WTO as the focal point for global trade negotiations, and as the key forum for international economic cooperation. The credibility of the institution would be greatly enhanced. But if the Doha negotiations stumble, doubts may grow, not just about the WTO's effectiveness, but about the future of multilateralism in trade. This should be a major concern to the US for two reasons: First, the US is now integrated with the world economy as never before. A quarter of US GDP is tied to international trade, up from 10 per cent in 1970 — the largest such increase of any developed economy over this period. A third of US growth since 1990 has been generated by trade. And America's trade is increasingly global in scope — 37 per cent with Canada and Mexico, 23 per cent with Europe, 27 per cent with Asia. Last year alone, exports to China rose by almost 30 per cent. The US has also grown more reliant on the rules of the multilateral system to keep world markets open. Not only has it initiated more WTO dispute proceedings than any other country — some 75 since 1995 — according to USTR it has also won or successfully settled most of the cases it has brought. The point is this: even the US cannot achieve prosperity on its own; it is increasingly dependent on international trade, and the rules-based economic order that underpins it. As the biggest economy, largest trader and one of the most open markets in the world, it is axiomatic that the US has the greatest interest in widening and deepening the multilateral system. Furthermore, expanding international trade through the WTO generates increased global prosperity, in turn creating yet more opportunities for the US economy. The second point is that strengthening the world trading system is essential to America's wider global objectives. Fighting terrorism, reducing poverty, improving health, integrating China and other countries in the global economy — all of these issues are linked, in one way or another, to world trade. This is not to say that trade is the answer to all America's economic concerns; only that meaningful solutions are inconceivable without it. The world trading system is the linchpin of today's global order — underpinning its security as well as its prosperity. A successful WTO is an example of how multilateralism can work. Conversely, if it weakens or fails, much else could fail with it. This is something which the US — at the epicentre of a more interdependent world — cannot afford to ignore. These priorities must continue to guide US policy — as they have done since the Second World War. America has been the main driving force behind eight rounds of multilateral trade negotiations, including the successful conclusion of the Uruguay Round and the creation of the WTO. The US — together with the EU — was instrumental in launching the latest Doha Round two years ago. Likewise, the recent initiative, spearheaded by Ambassador Zoellick, to re-energize the negotiations and move them towards a successful conclusion is yet another example of how essential the US is to the multilateral process — signalling that the US remains committed to further liberalization, that the Round is moving, and that other countries have a tangible reason to get on board. The reality is this: when the US leads the system can move forward; when it withdraws, the system drifts. The fact that US leadership is essential, does not mean it is easy. As WTO rules have expanded, so too has as the complexity of the issues the WTO deals with — everything from agriculture and accounting, to tariffs and telecommunication. The WTO is also exerting huge gravitational pull on countries to join — and participate actively — in the system. The WTO now has 146 Members — up from just 23 in 1947 — and this could easily rise to 170 or more within a decade. Emerging powers like China, Brazil, and India rightly demand a greater say in an institution in which they have a growing stake. So too do a rising number of voices outside the system as well. More and more people recognize that the WTO matters. More non-state actors — businesses, unions, environmentalists, development NGOs — want the multilateral system to reflect their causes and concerns. A decade ago, few people had even heard of the GATT. Today the WTO is front page news. A more visible WTO has inevitably become a more politicized WTO. The sound and fury surrounding the WTO's recent Ministerial Meeting in Cancun — let alone Seattle — underline how challenging managing the WTO can be. But these challenges can be exaggerated. They exist precisely because so many countries have embraced a common vision. Countries the world over have turned to open trade — and a rules-based system — as the key to their growth and development. They agreed to the Doha Round because they believed their interests lay in freer trade, stronger rules, a more effective WTO. Even in Cancun the great debate was whether the multilateral trading system was moving fast and far enough — not whether it should be rolled back. Indeed, it is critically important that we draw the right conclusions from Cancun — which are only now becoming clearer. The disappointment was that ministers were unable to reach agreement. The achievement was that they exposed the risks of failure, highlighted the need for North-South collaboration, and — after a period of introspection — acknowledged the inescapable logic of negotiation. Cancun showed that, if the challenges have increased, it is because the stakes are higher. The bigger challenge to American leadership comes from inside — not outside — the United States. In America's current debate about trade, jobs and globalization we have heard a lot about the costs of liberalization. We need to hear more about the opportunities. We need to be reminded of the advantages of America's openness and its trade with the world — about the economic growth tied to exports; the inflation-fighting role of imports, the innovative stimulus of global competition. We need to explain that freer trade works precisely because it involves positive change — better products, better job opportunities, better ways of doing things, better standards of living. While it is true that change can be threatening for people and societies, it is equally true that the vulnerable are not helped by resisting change — by putting up barriers and shutting out competition. They are helped by training, education, new and better opportunities that — with the right support policies — can flow from a globalized economy. The fact is that for every job in the US threatened by imports there is a growing number of high-paid, high skill jobs created by exports. Exports supported 7 million workers a decade ago; that number is approaching around 12 million today. And these new jobs — in aerospace, finance, information technology — pay 10 per cent more than the average American wage. We especially need to inject some clarity — and facts — into the current debate over the outsourcing of services jobs. Over the next decade, the US is projected to create an average of more than 2 million new services jobs a year — compared to roughly 200,000 services jobs that will be outsourced. I am well aware that this issue is the source of much anxiety in America today. Many Americans worry about the potential job losses that might arise from foreign competition in services sectors. But it’s worth remembering that concerns about the impact of foreign competition are not new. Many of the reservations people are expressing today are echoes of what we heard in the 1970s and 1980s. But people at that time didn’t fully appreciate the power of American ingenuity. Remarkable advances in technology and productivity laid the foundation for unprecedented job creation in the 1990s and there is no reason to doubt that this country, which has shown time and again such remarkable potential for competing in the global economy, will not soon embark again on such a burst of job-creation. America's openness to service-sector trade — combined with the high skills of its workforce — will lead to more growth, stronger industries, and a shift towards higher value-added, higher-paying employment. Conversely, closing the door to service trade is a strategy for killing jobs, not saving them. Americans have never run from a challenge and have never been defeatist in the face of strong competition. Part of this challenge is to create the conditions for global growth and job creation here and around the world. I believe Americans realize what is at stake. The process of opening to global trade can be disruptive, but they recognize that the US economy cannot grow and prosper any other way. They recognize the importance of finding global solutions to shared global problems. Besides, what is the alternative to the WTO Some argue that the world's only superpower need not be tied down by the constraints of the multilateral system. They claim that US sovereignty is compromised by international rules, and that multilateral institutions limit rather than expand US influence. Americans should be deeply sceptical about these claims. Almost none of the trade issues facing the US today are any easier to solve unilaterally, bilaterally or regionally. The reality is probably just the opposite. What sense does it make — for example — to negotiate e-commerce rules bilaterally Who would be interested in disciplining agricultural subsidies in a regional agreement but not globally How can bilateral deals — even dozens of them — come close to matching the economic impact of agreeing to global free trade among 146 countries Bilateral and regional deals can sometimes be a complement to the multilateral system, but they can never be a substitute. There is a bigger danger. By treating some countries preferentially, bilateral and regional deals exclude others — fragmenting global trade and distorting the world economy. Instead of liberalizing trade — and widening growth — they carve it up. Worse, they have a domino effect: bilateral deals inevitably beget more bilateral deals, as countries left outside are forced to seek their own preferential arrangements, or risk further marginalization. This is precisely what we see happening today. There are already over two hundred bilateral and regional agreements in existence, and each month we hear of a new or expanded deal. There is a basic contradiction in the assumption that bilateral approaches serve to strengthen the multilateral, rules-based system. Even when intended to spur free trade, they can ultimately risk undermining it. This is in no one's interest, least of all the United States. America led in the creation of the multilateral system after 1945 precisely to avoid a return to hostile blocs — blocs that had done so much to fuel interwar instability and conflict. America's vision, in the words of Cordell Hull, was that “enduring peace and the welfare of nations was indissolubly connected with the friendliness, fairness and freedom of world trade”. Trade would bind nations together, making another war unthinkable. Non-discriminatory rules would prevent a return to preferential deals and closed alliances. A network of multilateral initiatives and organizations — the Marshal Plan, the IMF, the World Bank, and the GATT, now the WTO — would provide the institutional bedrock for the international rule of law, not power. Underpinning all this was the idea that freedom — free trade, free democracies, the free exchange of ideas — was essential to peace and prosperity, a more just world. It is a vision that has emerged pre-eminent a half century later. Trade has expanded twenty-fold since 1950. Millions in Asia, Latin America, and Africa are being lifted out of poverty, and millions more have new hope for the future. All the great powers — the US, Europe, Japan, India, China and soon Russia — are part of a rules-based multilateral trading system, greatly increasing the chances for world prosperity and peace. There is a growing realization that — in our interdependent world — sovereignty is constrained, not by multilateral rules, but by the absence of rules. All of these were America’s objectives. The US needs to be both clearer about the magnitude of what it has achieved, and more realistic about what it is trying to — and can — accomplish. Multilateralism can be slow, messy, and tortuous. But it is also indispensable to managing an increasingly integrated global economy. Multilateralism is based on the belief that all countries — even powerful countries like the United States — are made stronger and more secure through international co-operation and rules, and by working to strengthen one another from within a system, not outside of it. Multilateralism's greatest ideal is the ideal of negotiation, compromise, consensus, not coercion. As Churchill said of democracy, it is the worst possible system except for all the others. I do not believe America's long-term economic interests have changed. Nor do I believe that America's vision for a just international order has become blurred. If anything, the American vision has been sharpened since the terrorist attacks on New York and Washington; sharpened by the realization that there is now a new struggle globally between the forces of openness and modernity, and the forces of separatism and reaction. More than ever, America's interests lie in an open world economy resting on the foundation of a strong, rules-based multilateral system. More and more, America's growth and security are tied to the growth and security of the world economy as a whole. American leadership today is more — not less — important to our increasingly interconnected planet. A recent successful, and much needed, example is the multilateral agreement on intellectual property rights and access to medicines for poor countries, in which the US played a pivotal role. It would be a tragic mistake if the Doha Round, which offers the world a once-in-a-generation opportunity to eliminate trade distortions, to strengthen trade rules, and open markets across the world, were allowed to founder. We need courage and the collective political will to ensure a balanced and equitable outcome. What is the alternative It is a fragmented world, with greater conflict and uncertainty. A world of the past, not the future — one that America turned away from after 1945, and that we should reject just as decisively today. America must lead. The multilateral trading system is too important to fail. The world depends on it. So does America.

## Afghanistan

#### Empirics disprove

#### Their warrant is pakistan

Dasgupta 13 (Sunil Dasgupta is Director of the University of Maryland Baltimore County Political Science Program at the Universities at Shady Grove and non-resident Senior Fellow at the Brookings Institution, East Asia Forum, February 25, 2013, "How will India respond to civil war in Pakistan?", <http://www.eastasiaforum.org/2013/02/25/how-will-india-respond-to-civil-war-in-pakistan/> Date Accessed: 9/30/13) TM

As it is, India and Pakistan have gone down to the nuclear edge four times — in 1986, 1990, 1999 and 2001–02. In each case, India responded in a manner that did not escalate the conflict. Any incursion into Pakistan was extremely limited. An Indian intervention in a civil war in Pakistan would be subject to the same limitations — at least so long as the Pakistani army maintains its integrity.¶ Given the new US–India ties, the most important factor in determining the possibility and nature of Indian intervention in a possible Pakistani civil war is Washington. If the United States is able to get Kabul and Islamabad to work together against the Taliban, as it is trying to do now, then India is likely to continue its current policy or try to preserve some influence in Afghanistan, especially working with elements of the Northern Alliance.¶ India and Afghanistan already have a strategic partnership agreement in place that creates the framework for their bilateral relationship to grow, but the degree of actual cooperation will depend on how Pakistan and the Taliban react. If Indian interests in Afghanistan come under attack, New Delhi might have to pull back. The Indian government has been quite clear about not sending troops to Afghanistan.¶ If the United States shifts its policy to where it has to choose Kabul over Islamabad, in effect reviving the demand for an independent Pashtunistan, India is likely to be much more supportive of US and Afghan goals. The policy shift, however, carries the risk of a full-fledged proxy war with Pakistan in Afghanistan, but should not involve the prospect of a direct Indian intervention in Pakistan itself.¶ India is not likely to initiate an intervention that causes the Pakistani state to fail. Bill Keller of the New York Times has described Pakistani president Asif Ail Zardari as overseeing ‘a ruinous kleptocracy that is spiraling deeper into economic crisis’. But in contrast to predictions of an unravelling nation, British journalist-scholar Anatol Lieven argues that the Pakistani state is likely to continue muddling through its many problems, unable to resolve them but equally predisposed against civil war and consequent state collapse. Lieven finds that the strong bonds of family, clan, tribe and the nature of South Asian Islam prevent modernist movements — propounded by the government or by the radicals — from taking control of the entire country.¶ Lieven’s analysis is more persuasive than the widespread view that Pakistan is about to fail as a state. The formal institutions of the Pakistani state are surprisingly robust given the structural conditions in which they operate. Indian political leaders recognise Pakistan’s resilience. Given the bad choices in Pakistan, they would rather not have anything to do with it. If there is going to be a civil war, why not wait for the two sides to exhaust themselves before thinking about intervening? The 1971 war demonstrated India’s willingness to exploit conditions inside Pakistan, but to break from tradition requires strong, countervailing logic, and those elements do not yet exist. Given the current conditions and those in the foreseeable future, India is likely to sit out a Pakistani civil war while covertly coordinating policy with the United States.

#### No Afghan impact

Collins and Wohlforth 4 Kathleen, Professor of Political Science – Notre Dame and William, Professor of Government – Dartmouth, “Defying ‘Great Game’ Expectations”, Strategic Asia 2003-4: Fragility and Crisis, p. 312-313

Conclusion The popular great game lens for analyzing Central Asia fails to capture the declared interests of the great powers as well as the best reading of their objective interests in security and economic growth. Perhaps more importantly, it fails to explain their actual behavior on the ground, as well the specific reactions of the Central Asian states themselves. Naturally, there are competitive elements in great power relations. Each country’s policymaking community has slightly different preferences for tackling the challenges presented in the region, and the more influence they have the more able they are to shape events in concordance with those preferences. But these clashing preferences concern the means to serve ends that all the great powers share. To be sure, policy-makers in each capital would prefer that their own national firms or their own government’s budget be the beneficiaries of any economic rents that emerge from the exploitation and transshipment of the region’s natural resources. But the scale of these rents is marginal even for Russia’s oil-fueled budget. And for taxable profits to be created, the projects must make sense economically—something that is determined more by markets and firms than governments. Does it matter? The great game is an arresting metaphor that serves to draw people’s attention to an oft-neglected region. The problem is the great-game lens can distort realities on the ground, and therefore bias analysis and policy. For when great powers are locked in a competitive fight, the issues at hand matter less than their implication for the relative power of contending states. Power itself becomes the issue—one that tends to be nonnegotiable. Viewing an essential positive-sum relationship through zero sum conceptual lenses will result in missed opportunities for cooperation that leaves all players—not least the people who live in the region—poorer and more insecure. While cautious realism must remain the watchword concerning an impoverished and potentially unstable region comprised of fragile and authoritarian states, our analysis yields at least conditional and relative optimism. Given the confluence of their chief strategic interests, the major powers are in a better position to serve as a stabilizing force than analogies to the Great Game or the Cold War would suggest. It is important to stress that the region’s response to the profoundly destabilizing shock of coordinated terror attacks was increased cooperation between local governments and China and Russia, and—multipolar rhetoric notwithstanding—between both of them and the United States. If this trend is nurtured and if the initial signals about potential SCO-CSTO-NATO cooperation are pursued, another destabilizing shock might generate more rather than less cooperation among the major powers. Uzbekistan, Kyrgyzstan, Tajikistan, and Kazakhstan are clearly on a trajectory that portends longer-term cooperation with each of the great powers. As military and economic security interests become more entwined, there are sound reasons to conclude that “great game” politics will not shape Central Asia’s future in the same competitive and destabilizing way as they have controlled its past. To the contrary, mutual interests in Central Asia may reinforce the broader positive developments in the great powers’ relations that have taken place since September 11, as well as reinforce regional and domestic stability in Central Asia.

**ONE, it’s resilient**

**Rodrik ‘9** Dani Rodrik, Rafiq Hariri Professor of International Political Economy at the John F. Kennedy School of Government, Harvard University. “The Myth of Rising Protectionism”. 2009. http://relooney.fatcow.com/0\_New\_5973.pdf

**The reality is that the international trade regime has passed its greatest test since the Great Depression with flying colors. Trade economists who complain about minor instances of protectionism sound like a child whining about a damaged toy in the wake of an earthquake that killed thousands. Three things explain this remarkable resilience : ideas, politics , and institutions** . **Economists have been extraordinarily successful in conveying their message to policymakers** – even if ordinary people still regard imports with considerable suspicion. **Nothing reflects this better than how “protection” and “protectionists” have become terms of derision**. After all, governments are generally expected to provide protection to its citizens. But **if you say that you favor protection from imports , you are painted into a corner with** Reed **Smoot and** Willis C. **Hawley**, authors of the infamous 1930 US tariff bill. But **economists’ ideas would not have gone very far without significant changes in the underlying configuration of political interests in favor of open trade. For every worker and firm affected adversely by import competition, there is one or more worker and firm expecting to reap the benefits of access to markets abroad. The latter have become increasingly vocal and powerful, often represented by large multinational corporations**. In his latest book, Paul Blustein recounts how a former Indian trade minister once asked his American counterpart to bring him a picture of an American farmer: “I have never actually seen one,” the minister quipped. “I have only seen US conglomerates masquerading as farmers.” But **the relative docility of rank-and-file workers on trade issues must ultimately be attributed to** something else altogether: **the safety nets erected by the welfare state. Modern industrial societies now have a wide array of social protections** – unemployment compensation, adjustment assistance, and other labor-market tools, as well as health insurance and family support – **that mitigate demand for cruder forms of protection**. The welfare state is the flip side of the open economy. **If the world has not fallen off the protectionist precipice during the crisis, as it did during the 1930’s, much of the credit must go the social programs** that conservatives and market fundamentalists would like to see scrapped. The battle against trade protection has been won – so far. But, before we relax, let’s remember that we still have not addressed the central challenge the world economy will face as the crisis eases: the inevitable clash between China’s need to produce an ever-growing quantity of manufactured goods and America’s need to maintain a smaller current-account deficit. Unfortunately, there is little to suggest that policymakers are yet ready to confront this genuine threat.