# 1NC

### Off 1

#### Interpretation –restrictions must directly prohibit activities currently under the president’s war powers authority – this excludes regulation or oversight

#### Restriction is a prohibition

Northglenn 11 (City of Northglenn Zoning Ordinance, “Rules of Construction – Definitions”, http://www.northglenn.org/municode/ch11/content\_11-5.html)

Section 11-5-3. Restrictions. As used in this Chapter 11 of the Municipal Code, the **term "restriction**" shall mean a prohibitive regulation. Any use, activity, operation, building, structure or thing which is the subject of a restriction is prohibited, and no such use, activity, operation, building, structure or thing shall be **authorized by any permit or license**.

#### B. Vote Neg – The courts they create don’t mean people stop being detained

#### 1. Limits – Oversight of authority allows a litany of new affs in each area

#### 2. Ground – Restriction ground is the locus of neg prep – their interpretation jacks all core disads

### Off 2

#### Obama will hold off a vote on Iran sanctions now---PC’s key---failure destroys regional and global U.S. power and cred

Leverett 1/20 (Flynt Leverett, professor at Pennsylvania State University’s School of International Affairs and is a Visiting Scholar at Peking University’s School of International Studies, and Hillary Mann Leverett, Senior Professorial Lecturer at the American University in Washington, DC and a Visiting Scholar at Peking University in Beijing, 1/20/14, “Iran, Syria and the Tragicomedy of U.S. Foreign Policy,” http://goingtotehran.com/iran-syria-and-the-tragicomedy-of-u-s-foreign-policy)

Regarding President Obama’s ongoing struggle with the Senate over Iran policy, Hillary cautions against premature claims of “victory” for the Obama administration’s efforts to avert new sanctions legislation while the Joint Plan of Action is being implemented. She points out that “the foes of the Iran nuclear deal, of any kind of peace and conflict resolution in the Middle East writ large, are still very strong and formidable. For example, the annual AIPAC policy conference—a gathering here in Washington of over 10,000 people from all over the country, where they come to lobby congressmen and senators, especially on the Iran issue—that will be taking place in very early March. There’s still a lot that can be pushed and played here.” To be sure, President Obama and Secretary of State John Kerry “have put a lot of political capital on the line.” No other administration has so openly staked out its opposition to a piece of legislation or policy initiative favored by AIPAC and backed by a bipartisan majority on Capitol Hill since the 1980s, when the Reagan administration successfully defended its decision to sell AWACs planes to Saudi Arabia. But, Hillary notes, if the pro-Israel lobby is able to secure a vote on the new sanctions bill, and to sustain the promised veto of said bill by President Obama, “that would be such a dramatic blow to President Obama, and not just on his foreign policy agenda, but it would be devastating to his domestic agenda.” So Obama “has a tremendous amount to lose, and by no means is the fight anywhere near over.” Of course, to say that Obama has put a lot of political capital on the line over the sanctions issue begs the question of whether he is really prepared to spend the far larger amounts of capital that will be required to close a final nuclear deal with Tehran. As Hillary points out, if Obama were “really trying to lead this country on a much more constructive, positive trajectory after failed wars and invasions in Iraq and Afghanistan and Libya—Libya entirely on President Obama’s watch—[he] would be doing a lot more, rather than just giving these lukewarm talks, basically trying to continue to kiss up to major pro-Israel constituencies, and then trying to bring in some of political favors” on Capitol Hill. Compare Obama’s handling of Iran and other Middle East challenges to President Nixon’s orchestration of the American opening to China—including Nixon’s willingness to “break the crockery” of the pro-Taiwan lobby—and the inadequacy of Obama’s approach become glaringly apparent. And that, Hillary underscores, is why we wrote our book, Going to Tehran—because “we think it’s absolutely essential for President Obama to do what Nixon did and go to Tehran, as Nixon went to China,” for “the Middle East is the make-or-break point for the United States, not just in our foreign affairs but in our global economic power and what we’re able to do here at home. If we can’t get what we’re doing in the Middle East on a much better, more positive trajectory, not only will we see the loss of our power, credibility, and prestige in the Middle East, but we will see it globally.”

#### It’s a war powers fight that Obama wins – but failure commits us to Israeli strikes

**Merry 1/1** (Robert W. Merry, political editor of the National Interest, is the author of books on American history and foreign policy, “Obama may buck the Israel lobby on Iran”, 2014, Washington Times, factiva)

Presidential press secretary Jay Carney uttered 10 words the other day that represent a major presidential challenge to the American Israel lobby and its friends on Capitol Hill. Referring to Senate legislation designed to force President Obama to expand economic sanctions on Iran under conditions the president opposes, Mr. Carney said: “If it were to pass, the president would veto it.” For years, there has been an assumption in Washington that you can’t buck the powerful Israel lobby, particularly the American Israel Public Affairs Committee, or AIPAC, whose positions are nearly identical with the stated aims of Israeli Prime Minister Benjamin Netanyahu. Mr. Netanyahu doesn’t like Mr. Obama’s recent overture to Iran, and neither does AIPAC. The result is the Senate legislation, which is similar to a measure already passed by the House. With the veto threat, Mr. Obama has announced that he is prepared to buck the Israel lobby — and may even welcome the opportunity. It isn’t fair to suggest that everyone who thinks Mr. Obama’s overtures to Iran are ill-conceived or counterproductive is simply following the Israeli lobby’s talking points, but Israel’s supporters in this country are a major reason for the viability of the sanctions legislation the president is threatening to veto. It is nearly impossible to avoid the conclusion that the Senate legislation is designed to sabotage Mr. Obama’s delicate negotiations with Iran (with the involvement also of the five permanent members of the U.N. Security Council and Germany) over Iran’s nuclear program. The aim is to get Iran to forswear any acquisition of nuclear weapons in exchange for the reduction or elimination of current sanctions. Iran insists it has a right to enrich uranium at very small amounts, for peaceful purposes, and Mr. Obama seems willing to accept that Iranian position in the interest of a comprehensive agreement. However, the Senate measure, sponsored by Sens. Robert Menendez, New Jersey Democrat; Charles E. Schumer, New York Democrat; and Mark Kirk, Illinois Republican, would impose potent new sanctions if the final agreement accords Iran the right of peaceful enrichment. That probably would destroy Mr. Obama’s ability to reach an agreement. Iranian President Hasan Rouhani already is under pressure from his country’s hard-liners to abandon his own willingness to seek a deal. The Menendez-Schumer-Kirk measure would undercut him and put the hard-liners back in control. Further, the legislation contains language that would commit the United States to military action on behalf of Israel if Israel initiates action against Iran. This language is cleverly worded, suggesting U.S. action should be triggered only if Israel acted in its “legitimate self-defense” and acknowledging “the law of the United States and the constitutional responsibility of Congress to authorize the use of military force,” but the language is stunning in its brazenness and represents, in the view of Andrew Sullivan, the prominent blogger, “an appalling new low in the Israeli government’s grip on the U.S. Congress.” While noting the language would seem to be nonbinding, Mr. Sullivan adds that “it’s basically endorsing the principle of handing over American foreign policy on a matter as grave as war and peace to a foreign government, acting against international law, thousands of miles away.” That brings us back to Mr. Obama’s veto threat. The American people have made clear through polls and abundant expression (especially during Mr. Obama’s flirtation earlier this year with military action against Bashar Assad’s Syrian regime) that they are sick and weary of American military adventures in the Middle East. They don’t think the Iraq and Afghanistan wars have been worth the price, and they don’t want their country to engage in any other such wars. That’s what the brewing confrontation between Mr. Obama and the Israel lobby comes down to — war and peace. Mr. Obama’s delicate negotiations with Iran, whatever their outcome, are designed to avert another U.S. war in the Middle East. The Menendez-Schumer-Kirk initiative is designed to kill that effort and cedes to Israel America’s war-making decision in matters involving Iran, which further increases the prospects for war. It’s not even an argument about whether the United States should come to Israel’s aid if our ally is under attack, but whether the decision to do so and when that might be necessary should be made in Jerusalem or Washington.

#### The plan’s a perceived loss – it saps capital and causes defections

Loomis 7 --- Department of Government at Georgetown

(3/2/2007, Dr. Andrew J. Loomis is a Visiting Fellow at the Center for a New American Security, “Leveraging legitimacy in the crafting of U.S. foreign policy,” pg 35-36, <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.

#### Causes Israel strikes

Perr 12/24 (Jon Perr 12/24/13, B.A. in Political Science from Rutgers University; technology marketing consultant based in Portland, Oregon, has long been active in Democratic politics and public policy as an organizer and advisor in California and Massachusetts. His past roles include field staffer for Gary Hart for President (1984), organizer of Silicon Valley tech executives backing President Clinton's call for national education standards (1997), recruiter of tech executives for Al Gore's and John Kerry's presidential campaigns, and co-coordinator of MassTech for Robert Reich (2002). (Jon, “Senate sanctions bill could let Israel take U.S. to war against Iran” Daily Kos, [http://www.dailykos.com/story/2013/12/24/1265184/-Senate-sanctions-bill-could-let-Israel-take-U-S-to-war-against-Iran#](http://www.dailykos.com/story/2013/12/24/1265184/-Senate-sanctions-bill-could-let-Israel-take-U-S-to-war-against-Iran))

As 2013 draws to close, the negotiations over the Iranian nuclear program have entered a delicate stage. But in 2014, the tensions will escalate dramatically as a bipartisan group of Senators brings a new Iran sanctions bill to the floor for a vote. As many others have warned, that promise of new measures against Tehran will almost certainly blow up the interim deal reached by the Obama administration and its UN/EU partners in Geneva. But Congress' highly unusual intervention into the President's domain of foreign policy doesn't just make the prospect of an American conflict with Iran more likely. As it turns out, the Nuclear Weapon Free Iran Act essentially empowers Israel to decide whether the United States will go to war against Tehran.¶ On their own, the tough new sanctions imposed automatically if a final deal isn't completed in six months pose a daunting enough challenge for President Obama and Secretary of State Kerry. But it is the legislation's commitment to support an Israeli preventive strike against Iranian nuclear facilities that almost ensures the U.S. and Iran will come to blows. As Section 2b, part 5 of the draft mandates:¶ If the Government of Israel is compelled to take military action in legitimate self-defense against Iran's nuclear weapon program, the United States Government should stand with Israel and provide, in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic, military, and economic support to the Government of Israel in its defense of its territory, people, and existence.¶ Now, the legislation being pushed by Senators Mark Kirk (R-IL), Chuck Schumer (D-NY) and Robert Menendez (D-NJ) does not automatically give the President an authorization to use force should Israel attack the Iranians. (The draft language above explicitly states that the U.S. government must act "in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force.") But there should be little doubt that an AUMF would be forthcoming from Congressmen on both sides of the aisle. As Lindsey Graham, who with Menendez co-sponsored a similar, non-binding "stand with Israel" resolution in March told a Christians United for Israel (CUFI) conference in July:¶ "If nothing changes in Iran, come September, October, I will present a resolution that will authorize the use of military force to prevent Iran from developing a nuclear bomb."¶ Graham would have plenty of company from the hardest of hard liners in his party. In August 2012, Romney national security adviser and pardoned Iran-Contra architect Elliott Abrams called for a war authorization in the pages of the Weekly Standard. And just two weeks ago, Norman Podhoretz used his Wall Street Journal op-ed to urge the Obama administration to "strike Iran now" to avoid "the nuclear war sure to come."¶ But at the end of the day, the lack of an explicit AUMF in the Nuclear Weapon Free Iran Act doesn't mean its supporters aren't giving Prime Minister Benjamin Netanyahu de facto carte blanche to hit Iranian nuclear facilities. The ensuing Iranian retaliation against to Israeli and American interests would almost certainly trigger the commitment of U.S. forces anyway.¶ Even if the Israelis alone launched a strike against Iran's atomic sites, Tehran will almost certainly hit back against U.S. targets in the Straits of Hormuz, in the region, possibly in Europe and even potentially in the American homeland. Israel would face certain retaliation from Hezbollah rockets launched from Lebanon and Hamas missiles raining down from Gaza.¶ That's why former Bush Defense Secretary Bob Gates and CIA head Michael Hayden raising the alarms about the "disastrous" impact of the supposedly surgical strikes against the Ayatollah's nuclear infrastructure. As the New York Times reported in March 2012, "A classified war simulation held this month to assess the repercussions of an Israeli attack on Iran forecasts that the strike would lead to a wider regional war, which could draw in the United States and leave hundreds of Americans dead, according to American officials." And that September, a bipartisan group of U.S. foreign policy leaders including Brent Scowcroft, retired Admiral William Fallon, former Republican Senator (now Obama Pentagon chief) Chuck Hagel, retired General Anthony Zinni and former Ambassador Thomas Pickering concluded that American attacks with the objective of "ensuring that Iran never acquires a nuclear bomb" would "need to conduct a significantly expanded air and sea war over a prolonged period of time, likely several years." (Accomplishing regime change, the authors noted, would mean an occupation of Iran requiring a "commitment of resources and personnel greater than what the U.S. has expended over the past 10 years in the Iraq and Afghanistan wars combined.") The anticipated blowback?¶ Serious costs to U.S. interests would also be felt over the longer term, we believe, with problematic consequences for global and regional stability, including economic stability. A dynamic of escalation, action, and counteraction could produce serious unintended consequences that would significantly increase all of these costs and lead, potentially, to all-out regional war.

#### Impact is nuclear war

**Reuveny** **10** (Rafael – professor in the School of Public and Environmental affairs at Indiana University, Unilateral strike on Iran could trigger world depression, p. http://www.indiana.edu/~spea/news/speaking\_out/reuveny\_on\_unilateral\_strike\_Iran.shtml)

A unilateral Israeli strike on Iran’s nuclear facilities would likely have dire consequences, including a regional war, global economic collapse and a major power clash. For an Israeli campaign to succeed, it must be quick and decisive. This requires an attack that would be so overwhelming that Iran would not dare to respond in full force. Such an outcome is extremely unlikely since the locations of some of Iran’s nuclear facilities are not fully known and known facilities are buried deep underground. All of these widely spread facilities are shielded by elaborate air defense systems constructed not only by the Iranians, but also the Chinese and, likely, the Russians as well. By now, Iran has also built redundant command and control systems and nuclear facilities, developed early-warning systems, acquired ballistic and cruise missiles and upgraded and enlarged its armed forces. Because Iran is well-prepared, a single, conventional Israeli strike — or even numerous strikes — could not destroy all of its capabilities, giving Iran time to respond. A regional war Unlike Iraq, whose nuclear program Israel destroyed in 1981, Iran has a second-strike capability comprised of a coalition of Iranian, Syrian, Lebanese, Hezbollah, Hamas, and, perhaps, Turkish forces. Internal pressure might compel Jordan, Egypt, and the Palestinian Authority to join the assault, turning a bad situation into a regional war. During the 1973 Arab-Israeli War, at the apex of its power, Israel was saved from defeat by President Nixon’s shipment of weapons and planes. Today, Israel’s numerical inferiority is greater, and it faces more determined and better-equipped opponents. Despite Israel’s touted defense systems, Iranian coalition missiles, armed forces, and terrorist attacks would likely wreak havoc on its enemy, leading to a prolonged tit-for-tat. In the absence of massive U.S. assistance, Israel’s military resources may quickly dwindle, forcing it to use its alleged nuclear weapons, as it had reportedly almost done in 1973. An Israeli nuclear attack would likely destroy most of Iran’s capabilities, but a crippled Iran and its coalition could still attack neighboring oil facilities, unleash global terrorism, plant mines in the Persian Gulf and impair maritime trade in the Mediterranean, Red Sea and Indian Ocean. Middle Eastern oil shipments would likely slow to a trickle as production declines due to the war and insurance companies decide to drop their risky Middle Eastern clients. Iran and Venezuela would likely stop selling oil to the United States and Europe. The world economy would head into a tailspin; international acrimony would rise; and Iraqi and Afghani citizens might fully turn on the United States, immediately requiring the deployment of more American troops. Russia, China, Venezuela, and maybe Brazil and Turkey — all of which essentially support Iran — could be tempted to form an alliance and openly challenge the U.S. hegemony. Replaying Nixon’s nightmare Russia and China might rearm their injured Iranian protege overnight, just as Nixon rearmed Israel, and threaten to intervene, just as the U.S.S.R. threatened to join Egypt and Syria in 1973. President Obama’s response would likely put U.S. forces on nuclear alert, replaying Nixon’s nightmarish scenario. Iran may well feel duty-bound to respond to a unilateral attack by its Israeli archenemy, but it knows that it could not take on the United States head-to-head. In contrast, if the United States leads the attack, Iran’s response would likely be muted. If Iran chooses to absorb an American-led strike, its allies would likely protest and send weapons, but would probably not risk using force. While no one has a crystal ball, leaders should be risk-averse when choosing war as a foreign policy tool. If attacking Iran is deemed necessary, Israel must wait for an American green light. A unilateral Israeli strike could ultimately spark World War III.

### Off 3

#### The United States federal judiciary should rule that the President of the United States lacks authority to detain individuals indefinitely pursuant to P.L. 107-40. The ruling should rule that such individuals must be tried expediently or released.

#### Judicial restrictions solve and the executive complies

Bradley and Morrison 13 (Curtis and Trevor, Prof of Law @ Duke + Prof of Law @ Columbia, "PRESIDENTIAL POWER, HISTORICAL PRACTICE, AND ¶ LEGAL CONSTRAINT," http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5451&context=faculty\_scholarship)

Insisting on a sharp distinction between the law governing presidential authority that is subject to judicial review and the law that is not also ¶ takes for granted a phenomenon that merits attention—that Presidents ¶ follow judicial decisions.118 That assumption is generally accurate in the ¶ United States today. To take one relatively recent example, despite disagreeing with the Supreme Court’s determination in Hamdan v. Rumsfeld ¶ that Common Article 3 of the Geneva Conventions applies to the war on ¶ terror, the Bush Administration quickly accepted it.119 But the reason why ¶ Presidents abide by court decisions has a connection to the broader issue¶ of the constraining effect of law. An executive obligation to comply with ¶ judicial decisions is itself part of the practice-based constitutional law of the ¶ United States, so presidential compliance with this obligation may ¶ demonstrate that such law can in fact constrain the President. This is ¶ true, as we explain further in Part III, even if the effect on presidential ¶ behavior is motivated by concerns about external political perceptions ¶ rather than an internal sense of fidelity to law (or judicial review).120¶ A final complication is that, with respect to issues of presidential ¶ power, there are few situations in which the prospect of judicial review is ¶ actually zero. If the Supreme Court can decide Bush v. Gore121 and the war ¶ on terror cases, it can decide a lot.122 Areas of presidential power that ¶ typically see little judicial involvement might become areas of greater ¶ involvement under certain conditions. Moreover, the likelihood of ¶ judicial review is probably affected by the extent to which courts perceive ¶ the President to be stretching traditional legal understandings. As a ¶ result, it might be more accurate to describe the constitutional law of ¶ presidential power as judicially underenforced, rather than unenforceable. Even outside the separation of powers area, there is an extensive ¶ literature on the legal status of underenforced constitutional norms. For ¶ a variety of reasons, including justiciability limitations, immunity ¶ doctrines, and judicial deference to coordinate institutions, it has long ¶ been understood that the Constitution is not fully enforced by the courts. ¶ Nevertheless, courts and scholars commonly accept that judicially ¶ underenforced constitutional norms retain the status of law beyond the ¶ extent of judicial enforcement.123

#### Their mechanism is uniquely bad

Vladeck 9 [STEPHEN I.VLADECK, Associate Professor, American University Washington College of Law; “THE CASE AGAINST NATIONAL SECURITY COURTS”; 3/31/2009; http://willamette.edu/wucl/resources/journals/review/pdf/Volume%2045/WLR45-3\_Vladeck.pdf]

By far the more controversial—and comprehensive—set of proposals for a national security court concern criminal prosecutions of suspected terrorists. Along with the white paper by McCarthy and Velshi (relied upon by Mukasey), articles by Commander Glenn Sulmasy and Professor Amos Guiora have expressly called for prosecutions by hybrid courts as the best way forward for incapacitating terrorism suspects, and as vastly preferable to trials either in Article III courtrooms or in military commissions under the MCA.40 Unlike preventive detention, where there are fewer established norms from which the proposals can (and do) deviate, the proposals for a national security court for criminal prosecutions are replete with departures from the traditional criminal process. These distinctions generally run along two axes: the nature of the evidence that may be introduced (both by the government and by the detainee), and the means by which that evidence is reviewed (including the prospect that certain secret evidence be withheld from the detainee). Most proposals therefore start with perceived constraints of the Article III process, including: the right to confront witnesses under the Sixth Amendment’s Confrontation Clause; the exclusion of hearsay evidence and evidence obtained through coercion; the right to selfrepresentation; and the right to a trial by a jury of the defendant’s peers.41 Emphasizing these constraints, proponents of national security courts suggest that the Article III courts simply are not in a position to adequately handle such cases, and that any attempt to do so risks long-term damage to the civilian criminal justice system as a whole.42 A national security court, in contrast, would be marked by relaxed evidentiary rules, including the ability to introduce hearsay testimony and perhaps even evidence that is produced by governmental coercion.43 As importantly, the government would also be able, under most proposals, to use classified information as evidence without fully disclosing such to the defendant. Otherwise, as McCarthy and Velshi describe in their proposal: [[“]][P]eople who commit mass murder, who face the death penalty or life imprisonment, and who are devoted members of a movement whose animating purpose is to damage the United States, are certain to be relatively unconcerned about violating court orders (or, for that matter, about being hauled into court at all). Our congenial rules of access to attorneys, paralegals, investigators and visitors make it a very simple matter for accused terrorists to transmit what they learn in discovery to their confederates—and we know that they do so.44[[”]] Similarly, but in somewhat more detail, Professor Guiora also proposes that national security courts have the ability to consider classified information without disclosure to the defendant: [[“]][I]ntelligence information would be presented in camera by the prosecutor and a representative of the intelligence services who would be subject to rigorous cross-examination by the court. The judges who would sit on the domestic terror courts would be trained in understanding intelligence information. In addition, the bench would be expected to fulfill a “double role”—that of factfinder and defense counsel alike. As the latter will be barred from attending the hearings when intelligence information is submitted, the domestic terror courts would have to proactively engage the prosecutor. The burden on the court would be enormously significant because the defendant, who would not be present, would not have counsel representing him with respect to the submission of intelligence information into the record.45[[”]] In the process, these proposals bemoan as hopelessly inadequate the provisions of the Classified Information Procedures Act (CIPA),46 which prescribe procedures for the use of classified information in criminal proceedings. The criticisms rest on two separate grounds: First, proponents of national security courts view CIPA as too constraining substantively—as too greatly infringing upon the government’s ability to use secret evidence in the abstract. Second, the proposals also view CIPA as an insufficient protection for the government’s interest in keeping classified information classified—as insufficiently protecting against the disclosure of such information by the defendant.

### Off 4

#### Congressional action undermines the state secrete privilege – ends court deference and spills over

Windsor 12 (Lindsay – J.D. candidate and Master of Security Studies candidate at Georgetown University, “IS THE STATE SECRETS PRIVILEGE IN THE CONSTITUTION? THE BASIS OF THE STATE SECRETS PRIVILEGE IN INHERENT EXECUTIVE POWERS & WHY COURT-IMPLEMENTED SAFEGUARDS ARE CONSTITUTIONAL AND PRUDENT”, 2012, 43 Geo. J. Int'l L. 897, lexis)

In contrast to the acknowledged roles of both Congress and the President in foreign affairs matters, the Constitution does not grant the judiciary branch any authority over foreign affairs, and the courts have traditionally been "hesitant to intrude" upon matters of foreign policy and national security. n153 The Supreme Court "has recognized the generally accepted view that foreign policy [is] the province and responsibility of the Executive." n154 Hence, "courts traditionally have been reluctant to intrude upon the authority of the Executive in military and national security affairs." n155 This hesitation and reluctance stem from the limited institutional competence of the judiciary in foreign affairs. As the Court wrote in Boumediene v. Bush, "Unlike the President and some designated Members of Congress, neither the Members of this Court nor most federal judges begin the day with briefings that may describe new and serious threats to our Nation and its people." n156 Echoing the "sole organ" [\*920] scheme of Curtiss-Wright, the Court later wrote that in foreign affairs matters, "The Judiciary is not suited to [make] determinations that would . . . undermine the Government's ability to speak with one voice in this area." n157 A court should, therefore, give great deference to the Executive's invocation of the state secrets privilege because it inherently involves matters of national security. Nonetheless, deciding cases or controversies before the Court is within its field of expertise. n158 Such cases include separation of powers controversies between federal branches and enforcing checks on executive power. n159 Though a court could not amend the substance of the state secrets privilege, it could amend the procedure for its invocation in one of two ways: pursuant to congressional authorization or by interpreting its own rules of procedure. First, if Congress enacts specific legislation under its Article I powers requiring the President to follow certain procedures in invoking the privilege, then a court could enforce that procedure in a case before it. Second, the Court could reinterpret the procedural requirements for the privilege. The Reynolds Court specifically wrote a court should not always "insist[] upon an examination of the evidence, even by the judge alone, in chambers." n160 But in national security cases implicating core civil liberties, the Court could find that plaintiffs' necessity routinely requires different procedures to satisfy the Court that national security matters are at stake. n16

#### Secrecy is key to the US nuclear deterrent

Green 97 (Tracey – Associate with McNair Law Firm, J.D. – University of South Carolina, “Providing for the Common Defense versus Promoting the General Welfare: the Conflicts Between National Security and National Environmental Policy”, South Carolina Environmental Law Journal, Fall, 6 S.C Envtl. L.J. 137, lexis)

The deployment of nuclear weapons, however, is a DoD action for which secrecy is crucial and, thus, is classified by Executive Order. n59 According to the American policy of deterrence through mutually assured destruction (MAD), nuclear weapons are essential to an effective deterrent. n60 If DoD disclosed the location of these weapons, disclosure would reduce or destroy the deterrent. An adversary could destroy all nuclear weapons with an initial strike, leaving the country exposed to nuclear terror. n61 Additionally, terrorists would know where to strike to obtain material for nuclear blackmail. In short, secrecy regarding nuclear weapons has enormous implications for national security. While the armed services must consider the environmental effects of maintaining nuclear weapons, they cannot release any information regarding the storage of these weapons.

#### Escalates to global nuclear war

**Caves 10** (John P. Jr., Senior Research Fellow in the Center for the Study of Weapons of Mass Destruction – National Defense University, “Avoiding a Crisis of Confidence in the U.S. Nuclear Deterrent”, Strategic Forum, No. 252, http://www.ndu.edu/inss/docUploaded/SF%20252\_John%20Caves.pdf)

Perceptions of a compromised U.S. nuclear deterrent as described above would have profound policy implications, particu­larly if they emerge at a time when a nuclear-armed great power is pursuing a more aggressive strategy toward U.S. allies and partners in its region in a bid to enhance its regional and global clout.

■ A dangerous period of vulnerability would open for the United States and those nations that depend on U.S. protection while the United States attempted to rectify the problems with its nuclear forces. As it would take more than a decade for the United States to produce new nuclear weapons, ensuing events could preclude a return to anything like the status quo ante.

■ The assertive, nuclear-armed great power, and other major adversaries, could be willing to challenge U.S. interests more directly in the expectation that the United States would be less prepared to threaten or deliver a military response that could lead to direct conflict. They will want to keep the United States from reclaiming its earlier power position.

■ Allies and partners who have relied upon explicit or implicit assurances of U.S. nuclear protection as a foundation of their security could lose faith in those assur­ances. They could compensate by accom­modating U.S. rivals, especially in the short term, or acquiring their own nuclear deter­rents, which in most cases could be accom­plished only over the mid- to long term. A more nuclear world would likely ensue over a period of years.

■ Important U.S. interests could be com­promised or abandoned, or a major war could occur as adversaries and/or the United States miscalculate new boundaries of deterrence and provocation. At worst, war could lead to state-on-state employment of weapons of mass destruction (WMD) on a scale far more catastrophic than what nuclear-armed terror­ists alone could inflict.

### 1NC Modeling Frontline

#### No bioweapons

Leitenberg 6 (Milton, Senior research scholar at the University of Maryland, Trained as a Scientist and Moved into the Field of Arms Control in 1966, First American Recruited to Work at the Stockholm International Peace Research Institute, Affiliated with the Swedish Institute of International Affairs and the Center for International Studies Peace Program at Cornell University, Senior Fellow at CISSM, http://www.commondreams.org/views06/0217-27.htm)

So what substantiates the alarm and the massive federal spending on bioterrorism? There are two main sources of bioterrorism threats: first, from **countries developing bioweapons**, and second, from terrorist groups that might **buy**, **steal** or **manufacture** them. The first threat is **declining**. U.S. intelligence estimates say the number of countries that conduct offensive bioweapons programs has fallen in the last 15 years from **13 to nine**, as South Africa, Libya, Iraq and Cuba were dropped. There is no publicly available evidence that even the most hostile of the nine remaining countries — Syria and Iran — are ramping up their programs. And, despite the fear that a hostile nation could help terrorists get biological weapons, **no country** has ever done so — even nations known to have trained terrorists. It's more difficult to assess the risk of terrorists using bioweapons, especially because the perpetrators of the anthrax mailings have not been identified. If the perpetrators did not have access to assistance, materials or knowledge derived from the U.S. biodefense program, but had developed such sophistication independently, that would change our view of what a terrorist group might be capable of. So far, however, the **history** of terrorist experimentation with bioweapons has shown that **killing large numbers** of people isn't as easy as we've been led to believe. Followers of Bhagwan Shree Rajneesh succeeded in culturing and distributing salmonella in Oregon in 1984, sickening 751 people. Aum Shinrikyo failed in its attempts to obtain, produce and disperse anthrax and botulinum toxin between 1990 and 1994. Al Qaeda tried to develop bioweapons from 1997 until the U.S. invasion of Afghanistan in 2001, but declassified documents found by U.S. forces outside Kandahar indicate the group never obtained the necessary pathogens. At a conference in Tokyo this week, bioterrorism experts called for new programs to counter the possibility that terrorists could genetically engineer new pathogens. Yet three of the **leading scientists** in the field have said there is no likelihood at this time that a terrorist group could perform such a feat. The real problem is that a decade of widely broadcast discussion of what it takes to produce a bioweapon has provided terrorists with at least a rough roadmap. Until now, no terrorist group has had professionals with the skills to exploit the information — but the publicity may make it easier in the future. There is no military or strategic justification for imputing to real-world terrorist groups capabilities that they do not possess. Yet no risk analysis was conducted before the $33 billion was spent. Some scientists and politicians privately acknowledge that the threat of bioterror attacks is **exaggerated**, but they argue that spending on bioterrorism prevention and response would be inadequate without it. But the persistent hype is not benign. It is almost certainly the single major factor in provoking interest in bioweapons among terrorist groups. Bin Laden's deputy, the Egyptian doctor Ayman Zawahiri, wrote on a captured floppy disk that "we only became aware of (bioweapons) when the enemy drew our attention to them by repeatedly expressing concerns that they can be produced simply with easily available materials." We are creating our worst nightmare.

#### The plan destroys LOAC which turns the advantage

Bialke 4 (Lt. Colonel, MA & JD-University of North Dakota, LLM-University of Iowa, “Al-Qaeda & Taliban Unlawful Combatant Detainees, Unlawful Belligerency, and the International Laws of Armed Conflict,” 55 A.F. L. Rev. 1, Lexis)

U.S. International Obligations & Responsibilities and the International Rule of Law

The U.S. is in compliance with its international obligations and responsibilities. Al-Qaeda and Taliban combatants willfully engaged in unlawful belligerency en masse in violation of LOAC. Taliban combatants en masse willfully failed to meet the four criteria of lawful belligerency. Al-Qaeda combatants are stateless hostes humani generis, and also en masse willfully failed to meet the four criteria. As a matter of international law, both the Taliban and al-Qaeda are unlawful combatants. The U.S. has no requirement under international law to bestow POW status to such enemy al-Qaeda and Taliban unlawful combatants upon capture. No requirement exists to hold individual Geneva Convention art. 5 POW status tribunals to reaffirm gratuitously the unlawful combatant status of either the Taliban or al-Qaeda, nor, upon capture, their lack of POW status. The U.S. is treating humanely, beyond what is required by international standards, all al-Qaeda and Taliban unlawful combatant detainees interned at Guantanamo Bay. In accordance with customary international law, the U.S. is authorized to continue to hold these detainees until the end of armed conflict. At present, however, Taliban remnants and al-Qaeda remain a viable military threat against the national security interests of the U.S. and its allies. Unfortunately, the international armed conflict against al-Qaeda is highly likely to be long and sustained. The U.S. and its allies, through their militaries and other instruments of national power, in the exercise of their inherent right of collective self-defense, may continue to use armed force until the threat posed by al-Qaeda and its affiliates no longer exists. Al-Qaeda should not be underestimated in the wake of continuing international progress in the Global War against Terrorism. Considering al-Qaeda's declared hegemonic theocratic-political ideology, and the proven terrorist capabilities it continues to possess, al-Qaeda remains a clear and present danger to the national security interests of the U.S. and its allies. Nevertheless, the U.S. has no desire to, and will not, hold any unlawful [\*82] combatant indefinitely. When individual detainees no longer pose a significant security threat to the international community, no longer possess any intelligence value, and are not facing criminal charges, the U.S. will release them. However, an unlawful combatant detainee accused of war crimes may be tried before a U.S. military commission. n83 Beginning in November 2001, the U.S. has spent over two and one half years updating its military commission procedures; and developing a military commission system that is just, in complete compliance with contemporary U.S. and international law, and one that is consistent with U.S. national security interests and its ongoing war efforts against al-Qaeda. If convicted in such a U.S. military commission, the detainee may be further confined to serve the term of imprisonment adjudged by the military commission. However, adherence to the international Rule of Law is at the crux of this entire matter. As an influential member in the international community and full supporter of the international Rule of Law, U.S. actions in regards to al-Qaeda and Taliban detainees could not be anything less than what is noted above. The U.S. and every nation in the world have the cardinal international duty, indeed the moral imperative, to encourage compliance with, and to discourage violations of international humanitarian law and LOAC regardless of domestic or international political objections and criticisms, ensuing controversies, or the difficulties of doing so. Casually affording Geneva Convention III POW status with its greater privileges and attendant implicit legitimacy to either al-Qaeda or the Taliban would turn a blind eye to this foundational duty. n84 To grant POW status to al-Qaeda or Taliban detainees [\*83] would be to acknowledge that they are privileged combatants, and convey that they and these groups have a right to associate together and wage war in the manner that they do. It would be incorrect, irresponsible, and unwise for the U.S. to afford POW status to captured members of al-Qaeda and the Taliban as they are not entitled to, and are undeserving of this status. n85 International terrorists, and civilian-dressed combatants of a collapsed state ruled by a de facto government that willfully provides the terrorists safe haven, have never before been granted POW status upon capture in an international armed conflict. For a permanent member of the United Nations Security Council, who also is the world's premier military superpower and its leading global economic power, to do so would set a highly injudicious international legal precedent inconsistent with the Rule of Law and the long-term interests of the international community. It would recklessly foster future abuses in armed conflict by undermining directly long-standing rules of war crafted carefully to protect noncombatants [\*84] by deterring combatants in armed conflicts from pretending to be protected civilians and hiding among them. All nations and their armed forces are subject to LOAC. Combatants in armed conflict who blatantly disregard these laws are outside of them and do not, upon capture at the discretion of the capturing party, receive several of their benefits. LOAC is only effective, and civilians protected in armed conflict, when the parties to a conflict comport their belligerency to such laws, and enforce consistently strict compliance with all the provisions of such laws. Parties to a conflict are significantly more likely to observe such laws if they have both affirmative incentives for complying with them and if appreciable negative consequences follow when such laws are disregarded or violated. Designating captured members of al-Qaeda or the Taliban as POWs would consequently place protected civilians and other noncombatants into much greater peril during future armed conflicts, because unlawful combatants would no longer experience sufficient negative consequences from endangering protected noncombatants by egregiously violating international law and customs. This eventuality is not attractive. A carte blanche designation of Geneva Convention III POW status by the U.S. to Taliban and al-Qaeda unlawful combatants certainly would be politically expedient internationally. By letting captured Taliban and al-Qaeda reap and enjoy every benefit of POW status, the U.S. would mollify temporarily some U.S. detractors. But, such U.S. action would be wrong. Just as protected noncombatant civilians have borne the consequences of the Taliban and al-Qaeda's previous perfidies and patent violations of international law, protected noncombatant civilians would also then be relegated to shoulder and suffer all the concomitant burdens and costs of the Taliban and al-Qaeda being accorded POW status. Shortsighted action to placate U.S. critics and dissentients momentarily would lastingly reward, rather than penalize, all unlawful combatants who contravene international humanitarian law and LOAC intentionally, continually, and abhorrently. LOAC should never be utilized, construed, or developed in such a way that would benefit terrorists and rogue states that provide aegis to terrorists, or in such a way that would otherwise serve the ends of terrorism. The negative prices that combatants who engage in armed conflict without meeting the requirements of lawful belligerency pay, that hostes humani generis pay, and that rogue states pay for unlawfully hosting or otherwise willfully supporting hostes humani generis, must remain high. Endorsing captured al-Qaeda, the Taliban, or other agents of global terror as POWs would be inapposite, as it may be viewed as symbolically elevating their international status. It would be tantamount to bestowing tacit international recognition and credibility to their reprehensible objectives, appalling atrocities, and insidious terrorist tactics. n86 [\*85] The U.S. does not take lightly its international role, influence, obligations, and responsibilities. Classifying al-Qaeda or the Taliban captured enemy combatants as POWs under Geneva Convention III would have broad, and most undesirable ramifications. It would erode significantly a combatant's considerable, at times primary, incentive to comply with LOAC and thereby would increase substantially and unnecessarily the risks to civilians and other protected noncombatants in future armed conflicts. n87 Ultimately, woefully undercutting customary LOAC and international humanitarian law by granting POW status arbitrarily to unworthy, unlawful combatants would simply lead to an added loss of international respect for, and future observance of, long-established international armed conflict norms, customs, and laws. This would be unacceptable.

#### Their internal link author says militaries undermine the Aff and it’s about institutions

Weeks 6—Gregory, Professor and Chair, Department of Political Science and Public Administration, UNC Charlotte; <http://clas-pages.uncc.edu/gregory-weeks/files/2012/04/WeeksG_2006JTWSarticle.pdf-http://clas-pages.uncc.edu/gregory-weeks/files/2012/04/WeeksG_2006JTWSarticle.pdf>

CONCLUSION For civil-military relations to become more democratic in Latin America, it is obviously vital for civilian defense institutions to become stronger. When both civilians and officers view those institutions as legitimate, then the civil-military relationship will become increasingly predictable and differences can be mediated without overt conflict. Defense institutions provide a structure through which civilians and officers can accept each other's expertise and gradually leam that enmity is not always inevitable. This is an especially difficult process in Latin America, where civil-military discord has historically been the norm. The military's historic skepticism of civilian policy makers has, in most countries, solidified the notion that civilians are incapable of handling national defense, while civilians view the armed forces with a suspicion bom of military intervention and dictatorship. Therefore, the task of "civilianizing" those institutions is formidable. Beginning in the 1990s, the United States developed a defense policy toward Latin America that, for the first time, emphasized the need for greater civilian expertise and oversight in the region, especially in terms of building more democratic civil-military institutions, which had been sorely lacking in the region. The terrorist attacks of 11 September 2001, however, reoriented U.S. defense policy toward encouraging Latin American militaries to become more involved in intelligence gathering, border patrol and domestic law enforcement, roles that civilians had painstakingly been trying to wrest away from military control. These competing policy goals thus send mixed messages about the real priorities of the U.S. govemment. Although U.S. policy makers remain focused primarily on the Andean region, it is clear that they view terrorism as a threat in every Latin American country. Furthermore, the main proposed tactic for combating terrorism is increased use of the armed forces in each country, whether it is border patrol, intelligence gathering, fighting guerrillas, or taking over a variety of national police duties. By militarizing policy and emphasizing a largely military response, anti-terrorist initiatives have the strong potential for undermining the stated policy goal of democratizing civil-military institutions in the region. These institutions, which already suffer from a lack of historical effectiveness, have only begun to assert themselves, and these efforts will suffer as a result of a renewed military emphasis on perceived threats to national security.

#### CMR is resilient

**Hooker 3**(Richard National War College Army Staff, Winter, “Soldiers of the State,” Parameters,

http://findarticles.com/p/articles/mi\_m0IBR/is\_4\_33/ai\_111852934/print)

In American academe today the dominant view of civil-military relations is sternly critical of the military, asserting that civilian control of the military is dangerously eroded. (1) Though **tension clearly exists in the relationship, the current critique is largely inaccurate and badly overwrought.** Far from overstepping its bounds**, America's military operates comfortably within constitutional notions of separated powers, participating appropriately in defense and national security policymaking with due deference to the principle of civilian control.** Indeed, **an active and vigorous role by the military in the policy process is and always has been essential to the common defense.**

#### Plan causes drone shift

RT, 13 (5/3, “US targeted drone killings used as alternative to Guantanamo Bay - Bush lawyer.” http://rt.com/usa/obama-using-drones-avoid-gitmo-747/)

A lawyer who was influential in the United States’ adoption of unmanned aircraft has spoken out against the Obama administration for what he perceives as using drones as an alternative to capturing suspects and sending them to Guantanamo Bay prison camp. John Bellinger, the Bush administration attorney who drafted the initial legal specifications regarding drone killings after the September 11, 2001 terrorist attacks, said that Bush’s successor has abused the framework, skirting international law for political points. “This government has decided that instead of detaining members of Al-Qaeda [at Guantanamo Bay prison camp in Cuba] they are going to kill them,” Bellinger told a conference at the Bipartisan Policy Center, as quoted by The Guardian. Earlier this week Obama promised to reignite efforts to close Guantanamo Bay, where prisoners have gone on a hunger strike to protest human rights violations and wrongful incarcerations. They were his first in-depth remarks on the subject since 2009, when Obama had just recently been elected to office after campaigning on a promise to close the facility. But international law is equally suspect of drone strikes. Almost 5,000 people are thought to have been killed by roughly 300 US attacks in four countries, according to The Guardian. Bellinger maintained that the government has justified strikes throughout Pakistan and Yemen by using the 'War on Terror' as an excuse. “We are about the only country in the world that thinks we are in an armed conflict with Al-Qaeda,” he said. “We really need to get on top of this and explain to our allies why it is legal and why it is permissible under international law." “These drone strikes are causing us great damage in the world, but on the other hand if you are the president and you do nothing to stop another 9/11 then you also have a problem,” he added. Of the 166 detainees at Guantanamo Bay, 86 have been cleared for release by a commission made up of officials from the Department of Homeland Security, Joint Chiefs of Staff and other influential government divisions. White House officials have justified the use of unmanned aircraft by saying the US is at war with Al-Qaeda and that those targeted in drone attacks were planning attacks on America. In the future, experts say, future countries could use the same rationale to explain their own attacks. “Countries under attack are the ones that get to decide whether or not they are at war,” said Philip Zelikow, a member of the White House Intelligence Advisory Board. While the conversation around drones is certainly a sign of things to come, Hina Shamsi of the American Civil Liberties Union encouraged Americans to think about the human rights issues posed by the new technology. It could be another long process, if the Guantanamo Bay handling is any indication. “The use of this technology is spreading and we have to think about what we would say if other countries used drones for targeted killing programs,” Shamsi said. “Few things are more likely to undermine our legitimacy than the perception that we are not abiding by the rule of law or are indifferent to civilian casualties.”

#### Drone prolif leads to war

Michael J. Boyle 13, Assistant Professor, Political Science – La Salle, International Affairs 89: 1 (2013) 1–29

An important, but overlooked, strategic consequence of the Obama administration’s embrace of drones is that it has generated a new and dangerous arms race for this technology. At present, the use of lethal drones is seen as acceptable to US policy-makers because no other state possesses the ability to make highly sophisticated drones with the range, surveillance capability and lethality of those currently manufactured by the United States. Yet the rest of the world is not far behind. At least 76 countries have acquired UAV technology, including Russia, China, Pakistan and India.120 China is reported to have at least 25 separate drone systems currently in development.121 At present, there are 680 drone programmes in the world, an increase of over 400 since 2005.122 Many states and non-state actors hostile to the United States have begun to dabble in drone technology. Iran has created its own drone, dubbed the ‘Ambassador of Death’, which has a range of up to 600 miles.123 Iran has also allegedly supplied the Assad regime in Syria with drone technology.124 Hezbollah launched an Iranian-made drone into Israeli territory, where it was shot down by the Israeli air force in October 2012.125 A global arms race for drone technology is already under way. According to one estimate, global spending on drones is likely to be more than US$94 billion by 2021.126 One factor that is facilitating the spread of drones (particularly non-lethal drones) is their cost relative to other military purchases. The top-of-the line Predator or Reaper model costs approximately US$10.5 million each, compared to the US$150 million price tag of a single F-22 fighter jet.127 At that price, drone technology is already within the reach of most developed militaries, many of which will seek to buy drones from the US or another supplier. With demand growing, a number of states, including China and Israel, have begun the aggressive selling of drones, including attack drones, and Russia may also be moving into this market.128 Because of concerns that export restrictions are harming US competitiveness in the drones market, the Pentagon has granted approval for drone exports to 66 governments and is currently being lobbied to authorize sales to even more.129 The Obama administration has already authorized the sale of drones to the UK and Italy, but Pakistan, the UAE and Saudi Arabia have been refused drone technology by congressional restrictions.130 It is only a matter of time before another supplier steps in to offer the drone technology to countries prohibited by export controls from buying US drones. According to a study by the Teal Group, the US will account for 62 per cent of research and development spending and 55 per cent of procurement spending on drones by 2022.131 As the market expands, with new buyers and sellers, America’s ability to control the sale of drone technology will be diminished. It is likely that the US will retain a substantial qualitative advantage in drone technology for some time, but even that will fade as more suppliers offer drones that can match US capabilities. The emergence of this arms race for drones raises at least five long-term strategic consequences, not all of which are favourable to the United States over the long term. First, it is now obvious that other states will use drones in ways that are inconsistent with US interests. One reason why the US has been so keen to use drone technology in Pakistan and Yemen is that at present it retains a substantial advantage in high-quality attack drones. Many of the other states now capable of employing drones of near-equivalent technology—for example, the UK and Israel—are considered allies. But this situation is quickly changing as other leading geopolitical players, such as Russia and China, are beginning rapidly to develop and deploy drones for their own purposes. While its own technology still lags behind that of the US, Russia has spent huge sums on purchasing drones and has recently sought to buy the Israeli-made Eitan drone capable of surveillance and firing air-to-surface missiles.132 China has begun to develop UAVs for reconnaissance and combat and has several new drones capable of long-range surveillance and attack under development.133 China is also planning to use unmanned surveillance drones to allow it to monitor the disputed East China Sea Islands, which are currently under dispute with Japan and Taiwan.134 Both Russia and China will pursue this technology and develop their own drone suppliers which will sell to the highest bidder, presumably with fewer export controls than those imposed by the US Congress. Once both governments have equivalent or near-equivalent levels of drone technology to the United States, they will be similarly tempted to use it for surveillance or attack in the way the US has done. Thus, through its own over-reliance on drones in places such as Pakistan and Yemen, the US may be hastening the arrival of a world where its qualitative advantages in drone technology are eclipsed and where this technology will be used and sold by rival Great Powers whose interests do not mirror its own. A second consequence of the spread of drones is that many of the traditional concepts which have underwritten stability in the international system will be radically reshaped by drone technology. For example, much of the stability among the Great Powers in the international system is driven by deterrence, specifically nuclear deterrence.135 Deterrence operates with informal rules of the game and tacit bargains that govern what states, particularly those holding nuclear weapons, may and may not do to one another.136 While it is widely understood that nuclear-capable states will conduct aerial surveillance and spy on one another, overt military confrontations between nuclear powers are rare because they are assumed to be costly and prone to escalation. One open question is whether these states will exercise the same level of restraint with drone surveillance, which is unmanned, low cost, and possibly deniable. States may be more willing to engage in drone overflights which test the resolve of their rivals, or engage in ‘salami tactics’ to see what kind of drone-led incursion, if any, will motivate a response.137 This may have been Hezbollah’s logic in sending a drone into Israeli airspace in October 2012, possibly to relay information on Israel’s nuclear capabilities.138 After the incursion, both Hezbollah and Iran boasted that the drone incident demonstrated their military capabilities.139 One could imagine two rival states—for example, India and Pakistan—deploying drones to test each other’s capability and resolve, with untold consequences if such a probe were misinterpreted by the other as an attack. As drones get physically smaller and more precise, and as they develop a greater flying range, the temptation to use them to spy on a rival’s nuclear programme or military installations might prove too strong to resist. If this were to happen, drones might gradually erode the deterrent relationships that exist between nuclear powers, thus magnifying the risks of a spiral of conflict between them. Another dimension of this problem has to do with the risk of accident. Drones are prone to accidents and crashes. By July 2010, the US Air Force had identified approximately 79 drone accidents.140 Recently released documents have revealed that there have been a number of drone accidents and crashes in the Seychelles and Djibouti, some of which happened in close proximity to civilian airports.141 The rapid proliferation of drones worldwide will involve a risk of accident to civilian aircraft, possibly producing an international incident if such an accident were to involve an aircraft affiliated to a state hostile to the owner of the drone. Most of the drone accidents may be innocuous, but some will carry strategic risks. In December 2011, a CIA drone designed for nuclear surveillance crashed in Iran, revealing the existence of the spying programme and leaving sensitive technology in the hands of the Iranian government.142 The expansion of drone technology raises the possibility that some of these surveillance drones will be interpreted as attack drones, or that an accident or crash will spiral out of control and lead to an armed confrontation.143 An accident would be even more dangerous if the US were to pursue its plans for nuclear-powered drones, which can spread radioactive material like a dirty bomb if they crash.144 Third, lethal drones create the possibility that the norms on the use of force will erode, creating a much more dangerous world and pushing the international system back towards the rule of the jungle. To some extent, this world is already being ushered in by the United States, which has set a dangerous precedent that a state may simply kill foreign citizens considered a threat without a declaration of war. Even John Brennan has recognized that the US is ‘establishing a precedent that other nations may follow’.145 Given this precedent, there is nothing to stop other states from following the American lead and using drone strikes to eliminate potential threats. Those ‘threats’ need not be terrorists, but could be others— dissidents, spies, even journalists—whose behaviour threatens a government. One danger is that drone use might undermine the normative prohibition on the assassination of leaders and government officials that most (but not all) states currently respect. A greater danger, however, is that the US will have normalized murder as a tool of statecraft and created a world where states can increasingly take vengeance on individuals outside their borders without the niceties of extradition, due process or trial.146 As some of its critics have noted, the Obama administration may have created a world where states will find it easier to kill terrorists rather than capture them and deal with all of the legal and evidentiary difficulties associated with giving them a fair trial.147 Fourth, there is a distinct danger that the world will divide into two camps: developed states in possession of drone technology, and weak states and rebel movements that lack them. States with recurring separatist or insurgent problems may begin to police their restive territories through drone strikes, essentially containing the problem in a fixed geographical region and engaging in a largely punitive policy against them. One could easily imagine that China, for example, might resort to drone strikes in Uighur provinces in order to keep potential threats from emerging, or that Russia could use drones to strike at separatist movements in Chechnya or elsewhere. Such behaviour would not necessarily be confined to authoritarian governments; it is equally possible that Israel might use drones to police Gaza and the West Bank, thus reducing the vulnerability of Israeli soldiers to Palestinian attacks on the ground. The extent to which Israel might be willing to use drones in combat and surveillance was revealed in its November 2012 attack on Gaza. Israel allegedly used a drone to assassinate the Hamas leader Ahmed Jabari and employed a number of armed drones for strikes in a way that was described as ‘unprecedented’ by senior Israeli officials.148 It is not hard to imagine Israel concluding that drones over Gaza were the best way to deal with the problem of Hamas, even if their use left the Palestinian population subject to constant, unnerving surveillance. All of the consequences of such a sharp division between the haves and have-nots with drone technology is hard to assess, but one possibility is that governments with secessionist movements might be less willing to negotiate and grant concessions if drones allowed them to police their internal enemies with ruthless efficiency and ‘manage’ the problem at low cost. The result might be a situation where such conflicts are contained but not resolved, while citizens in developed states grow increasingly indifferent to the suffering of those making secessionist or even national liberation claims, including just ones, upon them. Finally, drones have the capacity to strengthen the surveillance capacity of both democracies and authoritarian regimes, with significant consequences for civil liberties. In the UK, BAE Systems is adapting military-designed drones for a range of civilian policing tasks including ‘monitoring antisocial motorists, protesters, agricultural thieves and fly-tippers’.149 Such drones are also envisioned as monitoring Britain’s shores for illegal immigration and drug smuggling. In the United States, the Federal Aviation Administration (FAA) issued 61 permits for domestic drone use between November 2006 and June 2011, mainly to local and state police, but also to federal agencies and even universities.150 According to one FAA estimate, the US will have 30,000 drones patrolling the skies by 2022.151 Similarly, the European Commission will spend US$260 million on Eurosur, a new programme that will use drones to patrol the Mediterranean coast.152 The risk that drones will turn democracies into ‘surveillance states’ is well known, but the risks for authoritarian regimes may be even more severe. Authoritarian states, particularly those that face serious internal opposition, may tap into drone technology now available to monitor and ruthlessly punish their opponents. In semi-authoritarian Russia, for example, drones have already been employed to monitor pro-democracy protesters.153 One could only imagine what a truly murderous authoritarian regime—such as Bashar al-Assad’s Syria—would do with its own fleet of drones. The expansion of drone technology may make the strong even stronger, thus tilting the balance of power in authoritarian regimes even more decisively towards those who wield the coercive instruments of power and against those who dare to challenge them.

#### Brazilian prolif won’t spillover – their evidence is just about them getting nukes

#### No prolif

Hymans 12—Jacques E. C. Hymans is Associate Professor of IR at USC [April 16, 2012, “North Korea's Lessons for (Not) Building an Atomic Bomb,” *Foreign Affairs*, http://www.foreignaffairs.com/articles/137408/jacques-e-c-hymans/north-koreas-lessons-for-not-building-an-atomic-bomb?page=show]

Washington's miscalculation is not just a product of the difficulties of seeing inside the Hermit Kingdom. It is also a result of the broader tendency to overestimate the pace of global proliferation. For decades, Very Serious People have predicted that strategic weapons are about to spread to every corner of the earth. Such warnings have routinely proved wrong -- for instance, the intelligence assessments that led to the 2003 invasion of Iraq -- but they continue to be issued. In reality, despite the diffusion of the relevant technology and the knowledge for building nuclear weapons, the world has been experiencing a great proliferation slowdown. Nuclear weapons programs around the world are taking much longer to get off the ground -- and their failure rate is much higher -- than they did during the first 25 years of the nuclear age.

As I explain in my article "Botching the Bomb" in the upcoming issue of Foreign Affairs, the key reason for the great proliferation slowdown is the absence of strong cultures of scientific professionalism in most of the recent crop of would-be nuclear states, which in turn is a consequence of their poorly built political institutions. In such dysfunctional states, the quality of technical workmanship is low, there is little coordination across different technical teams, and technical mistakes lead not to productive learning but instead to finger-pointing and recrimination. These problems are debilitating, and they cannot be fixed simply by bringing in more imported parts through illicit supply networks. In short, as a struggling proliferator, North Korea has a lot of company.

#### The plan gets circumvented

Fatovic, 9 – Director of Graduate Studies for Political Science at Florida International University (Clement, *Outside the Law: Emergency and Executive Power.* pp 1-5.)

But the problem for any legal order is that law aims at fixity in a world beset by flux. The greatest challenge to legally established order comes not from the resistance of particular groups or individuals who object to any of its substantive aims but from the unruliness of the world itself. The stability, predictability, and regularity sought by law eventually runs up against the unavoidable instability, unpredictability, and irregularity of the world. Events constantly threaten to disrupt and destabilize the artificial order established by law. Emergencies-sudden and extreme occurrences such as the devastating terrorist attacks of September 11, an overwhelming natural disaster like Hurricane Katrina, a pandemic outbreak of avian flu, a catastrophic economic collapse, or a severe food shortage, to name just a few-dramatize the limitations of the law in dealing with unexpected and incalculable contingencies. Designed for the ordinary and the normal, law cannot always provide for such extraordinary occurrences in spite of its aspiration to comprehensiveness. When such events arise, the responsibility for formulating a response usually falls to the executive. The executive has a unique relationship to the law and the order that it seeks, especially in a liberal constitutional system committed to the rule of law. Not only is the executive the authority most directly responsible for enforcing the law and maintaining order in ordinary circumstances, it is also the authority most immediately responsible for restoring order in extraordinary circumstances. But while the executive is expected to uphold and follow the law in normal times, emergencies sometimes compel the executive to exceed the strict letter of the law. Given the unique and irrepressible nature of emergencies, the law often provides little effective guidance, leaving executives to their own devices. Executives possess special resources and characteristics that enable them to formulate responses more rapidly, flexibly, and decisively than can legislatures, courts, and bureaucracies. Even where the law seeks to anticipate and provide for emergencies by specifying the kinds of actions that public officials are permitted or required to take, emergencies create unique opportunities for the executive to exercise an extraordinary degree of discretion. And when the law seems to be inadequate to the situation at hand, executives often claim that it [is] necessary to go beyond its dictates by consolidating those powers ordinarily exercised by other branches of government or even by expanding the range of powers ordinarily permitted. But in seeking to bring order to the chaos that emergencies instigate, executives who take such action also bring attention to the deficiencies of the law in maintaining order, often with serious consequences for the rule of law. The kind of extralegal action that executives are frequently called upon to take in response to emergencies is deeply problematic for liberal constitutionalism, which gives pride of place to the rule of law, both in its self-definition and in its standard mode of operation. If emergencies test the limits of those general and prospective rules that are designed to make governmental action limited and predictable, that is because emergencies are largely unpredictable and potentially limitless.1 Yet the rule of law, which has enjoyed a distinguished position in constitutional thought going back to Aristotle, has always sought to place limits on what government may do by substituting the arbitrariness and unpredictability of extemporary decrees with the impartiality and regularity of impersonal rules promulgated in advance. The protection of individual freedom within liberal constitutionalism has come to be unimaginable where government does not operate according to general and determinate rules.2 The rule of law has achieved primacy within liberal constitutionalism because it is considered vital to the protection of individual freedom. As Max Weber famously explained of the modern bureaucratic state, legitimacy in the liberal state is not based on habitual obedience to traditions or customs sanctified by time or on personal devotion to a charismatic individual endowed with superhuman gifts but on belief in the legality of a state that is functionally competent in administering highly impersonal but "rational rules." 3 In fact, its entire history and aim can be summed up as an attempt to curtail the kind of discretionary action associated with the arbitrary "rule of men"-by making government itself subject to the law. The apparent primacy of law in liberal constitutionalism has led some critics to question its capacity to deal with emergencies. Foremost among these critics is German political and constitutional theorist Carl Schmitt, who concluded that liberalism is incapable of dealing with the "exception" or "a case of extreme peril" that poses "a danger to the existence of the state" without resorting to measures that contradict and undermine its commitments to the rule of law, the separation of powers, the preservation of civil liberties, and other core values.4 In Schmitt's view, liberalism is wedded to a "normativistic" approach that seeks to regulate life according to strictly codified legal and moral rules that not only obscure the "decisionistic" basis of all law but also deny the role of personal decision-making in the interpretation, enforcement, and application of law. 5 Because legitimacy in a liberal constitutional order is based largely on adherence to formal legal procedures that restrict the kinds of actions governments are permitted to take, actions that have not been specified or authorized in advance are simply ruled out. According to Schmitt, the liberal demand that governmental action always be controllable is based on the naive belief that the world is thoroughly calculable. 6 If it expects regularity and predictability in government, it is because it understands the world in those terms, making it oblivious to the problems of contingency. Not only does this belief that the world is subject to a rational and predictable order make it difficult for liberalism to justify actions that stand outside that order, it also makes it difficult for liberalism even to acknowledge emergencies when they do arise. But Schmitt's critique goes even further than this. When liberal constitutionalism does acknowledge the exception, its commitment to the rule of law forces it to choose between potential suicide if it adheres strictly to its legalistic ideals and undeniable hypocrisy if ignores those ideals? Either way, the argument goes, emergencies expose the inherent shortcomings and weaknesses of liberalism. It is undeniable that the rule of law occupies a privileged position within liberal constitutionalism, but it is a mistake to identify liberal constitutionalism with an excessively legalistic orientation that renders it incapable of dealing effectively with emergencies. Schmitt is correct in pointing out that liberal normativism seeks to render government action as impersonal and predictable as possible in normal circumstances, but the history of liberal 'I· constitutional thought leading up to the American Founding reveals that its main proponents recognized the need to supplement the rule of law with a personal element in cases of emergency. The political writings of John Locke, David Hume, William Blackstone, and those Founders who advocated a strong presidency indicate that many early liberal constitutionalists were highly attuned to the limitations of law in dealing with events that disrupt the regular order. They were well aware that rigid adherence to the formalities of law, both in responding to emergencies and in constraining the official who formulates the response, could undermine important substantive aims and values, thereby sacrificing the ends for the means. Their reflections on the chronic instability and irregularity of politics reveal an appreciation for the inescapable-albeit temporary-need for the sort of discretionary action that the law ordinarily seeks to circumscribe. As Locke explained in his classic formulation, that "it is impossible to foresee, and so by laws to provide for, all Accidents and Necessities, that may concern the publick means that the formal powers of the executive specified in law must be supplemented with "prerogative," the "Power to act according to discretion, for the publick good, without the prescription of the Law, and sometimes even against it." 8 Unlike the powers of the Hobbesian sovereign, which are effectively absolute and unlimited, the exercise of prerogative is, in principle, limited in scope and duration to cases of emergency. The power to act outside and even against the law does not mean that the executive is "above the law”—morally or politically unaccountable—but it does mean that executive power is ultimately irreducible to law.

#### No LA prolif

**Trinkunas, Naval Post-Graduate School, 2011**

(Harold, “Latin America: Nuclear Capabilities, Intentions and Threat Perceptions”, 9-1, <http://digitalcommons.fiu.edu/cgi/viewcontent.cgi?article=1040&context=whemsac>, ldg)

Overall, the probability of further nuclear proliferation in Latin America is low because the combination of both capability and intention to develop nuclear forces is not found in any of the possible proliferators. The two countries that have the capability to pursue such a program, Argentina and Brazil, gave up the pursuit of nuclear weapons two decades ago, and they are not likely to resume this path given their historical experience and the geopolitical threat environment. Venezuela, whose intentions in the nuclear arena are suspected by some, lacks all indigenous capability to pursue nuclear weapons development at this time. Even with the assistance of outside powers, the likelihood that it could put such a system in place undetected within the next ten to twenty years is almost nil. While Argentina, Brazil and Venezuela have been on friendly terms during the past decade, there is no indication that they have any interest in helping Venezuela obtain nuclear weapons. Moreover, the possibility that non-State actors (such as the private sector or organized crime) within Argentina and Brazil might form part of such a network without State knowledge, as has been detected in the former Soviet Union states and demonstrated by the A. Q. Khan network, is lower than in many other regions of the world because of two decades of nuclear mutual confidence-building and mutual inspection through permanent bi-national agency, Agência Brasileiro-Argentina de Contabilidade e Côntrole de Materiais Nucleares (ABACC). This agency monitors all nuclear stockpiles and facilities in these two countries, and it would be likely to detect theft of nuclear technology or materials. For the foreseeable future, Argentina and Brazil are unlikely to resume efforts to acquire nuclear weapons without some revolutionary change in the international system that would lead them to perceive an existential threat to the state. The initial rationale for abandoning the pursuit of nuclear weapons in Argentina and Brazil was to safeguard democracy. Nuclear development had been heavily influenced by the military in both countries, and civilian leaders of the newly democratic states stripped the armed forces of control of nuclear programs in the 1980s. These programs, some of which had the potential to lead to nuclear weapons, had been shrouded in secrecy and were unaccountable both under civilian governments and military dictatorships.3 The developing security community in the Southern Cone, taking the form of UNASUR in its latest evolution, means that any territorial defense or deterrence rationales for nuclear weapons acquisition have faded. The resolution of all territorial disputes between the major regional powers (Argentina, Brazil, Chile), and ongoing mutual confidence building measures, limit the possibility that new conflict dynamics will lead States in the region to seek nuclear weapons. Of the two powers with indigenous nuclear technology industries, Brazil‟s constitution bans the development of nuclear weapons, and both Argentina and Brazil are committed to sophisticated nuclear safeguards through the ABACC. 4

### 1NC Legitimacy Frontline

#### Single instances of action do not change perception

**Fettweis** **8** (Christopher – professor of political science at Tulane, Credibility and the War on Terror, Political Science Quarterly, Winter)

Since Vietnam, scholars have been generally unable to identify cases in which high credibility helped the United States achieve its goals. The shortterm aftermath of the Cuban Missile Crisis, for example, did not include a string of Soviet reversals, or the kind of benign bandwagoning with the West that deterrence theorists would have expected. In fact, the perceived reversal in Cuba seemed to harden Soviet resolve. As the crisis was drawing to a close, Soviet diplomat Vasily Kuznetsov angrily told his counterpart, "You Americans will never be able to do this to us again."37 Kissinger commented in his memoirs that "the Soviet Union thereupon launched itself on a determined, systematic, and long-term program of expanding all categories of its military power .... The 1962 Cuban crisis was thus a historic turning point-but not for the reason some Americans complacently supposed."38 The reassertion of the credibility of the United States, which was done at the brink of nuclear war, had few long-lasting benefits. The Soviets seemed to learn the wrong lesson. There is actually scant evidence that other states ever learn the right lessons. Cold War history contains little reason to believe that the credibility of the superpowers had very much effect on their ability to influence others. Over the last decade, a series of major scholarly studies have cast further doubt upon the fundamental assumption of interdependence across foreign policy actions. Employing methods borrowed from social psychology rather than the economics-based models commonly employed by deterrence theorists, Jonathan Mercer argued that threats are far more independent than is commonly believed and, therefore, that reputations are not likely to be formed on the basis of individual actions.39 While policymakers may feel that their decisions send messages about their basic dispositions to others, most of the evidence from social psychology suggests otherwise. Groups tend to interpret the actions of their rivals as situational, dependent upon the constraints of place and time. Therefore, they are not likely to form lasting impressions of irresolution from single, independent events. Mercer argued that the interdependence assumption had been accepted on faith, and rarely put to a coherent test; when it was, it almost inevitably failed.40

#### Immigration detention is an alt cause – your evidence concedes and doesn’t differentiate

#### Hegemony isn’t true – data’s on our side

Fettweis 11 (Christopher J., Department of Political Science, Tulane University, “Free Riding or Restraint? Examining European Grand Strategy”, 9/26, Comparative Strategy, 30:316–332, Ebsco)

It is perhaps worth noting that there is no evidence to support a direct relationship between the relative level of U.S. activism and international stability. In fact, the limited data we do have suggest the opposite may be true. During the 1990s, the United States cut back on its defense spending fairly substantially. By 1998, the United States was spending $100 billion less on defense in real terms than it had in 1990.51 To internationalists, defense hawks and believers in hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities,” argued Kristol and Kagan, “doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace.”52 On the other hand, if the pacific trends were not based upon U.S. hegemony but a strengthening norm against interstate war, one would not have expected an increase in global instability and violence. The verdict from the past two decades is fairly plain: The world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable United States military, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums, no security dilemmas drove insecurity or arms races, and no regional balancing occurred once the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in U.S. capabilities. Most of all, the United States and its allies were no less safe. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and kept declining as the Bush Administration ramped the spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated. Military spending figures by themselves are insufficient to disprove a connection between overall U.S. actions and international stability. Once again, one could presumably argue that spending is not the only or even the best indication of hegemony, and that it is instead U.S. foreign political and security commitments that maintain stability. Since neither was significantly altered during this period, instability should not have been expected. Alternately, advocates of hegemonic stability could believe that relative rather than absolute spending is decisive in bringing peace. Although the United States cut back on its spending during the 1990s, its relative advantage never wavered. However, even if it is true that either U.S. commitments or relative spending account for global pacific trends, then at the very least stability can evidently be maintained at drastically lower levels of both. In other words, even if one can be allowed to argue in the alternative for a moment and suppose that there is in fact a level of engagement below which the United States cannot drop without increasing international disorder, a rational grand strategist would still recommend cutting back on engagement and spending until that level is determined. Grand strategic decisions are never final; continual adjustments can and must be made as time goes on. Basic logic suggests that the United States ought to spend the minimum amount of its blood and treasure while seeking the maximum return on its investment. And if the current era of stability is as stable as many believe it to be, no increase in conflict would ever occur irrespective of U.S. spending, which would save untold trillions for an increasingly debt-ridden nation. It is also perhaps worth noting that if opposite trends had unfolded, if other states had reacted to news of cuts in U.S. defense spending with more aggressive or insecure behavior, then internationalists would surely argue that their expectations had been fulfilled. If increases in conflict would have been interpreted as proof of the wisdom of internationalist strategies, then logical consistency demands that the lack thereof should at least pose a problem. As it stands, the only evidence we have regarding the likely systemic reaction to a more restrained United States suggests that the current peaceful trends are unrelated to U.S. military spending. Evidently the rest of the world can operate quite effectively without the presence of a global policeman. Those who think otherwise base their view on faith alone.

#### No disease can cause human extinction – they either kill their hosts too quickly or aren’t lethal

**Posner 05** (Richard A, judge on the U.S. Court of Appeals, Seventh Circuit, and senior lecturer at the University of Chicago Law School, Winter. “Catastrophe: the dozen most significant catastrophic risks and what we can do about them.” http://findarticles.com/p/articles/mi\_kmske/is\_3\_11/ai\_n29167514/pg\_2?tag=content;col1)

Yet the fact that Homo sapiens has managed to survive every disease to assail it in the 200,000 years or so of its existence is a source of genuine comfort, at least if the focus is on extinction events. There have been enormously destructive plagues, such as the Black Death, smallpox, and now AIDS, but none has come close to destroying the entire human race. There is a biological reason. Natural selection favors germs of limited lethality; they are fitter in an evolutionary sense because their genes are more likely to be spread if the germs do not kill their hosts too quickly. The AIDS virus is an example of a lethal virus, wholly natural, that by lying dormant yet infectious in its host for years maximizes its spread. Yet there is no danger that AIDS will destroy the entire human race. The likelihood of a natural pandemic that would cause the extiinction of the human race is probably even less today than in the past (except in prehistoric times, when people lived in small, scattered bands, which would have limited the spread of disease), despite wider human contacts that make it more difficult to localize an infectious disease. The reason is improvements in medical science. But the comfort is a small one. Pandemics can still impose enormous losses and resist prevention and cure: the lesson of the AIDS pandemic. And there is always a lust time.

#### USA can’t solve agreements.

Schreurs ’12 [Miranda A. Schreurs, Director of the Environmental Policy Research Centre, Free University of Berlin, "Breaking the impasse in the international climate negotiations: The potential of green technologies," Energy Policy 48, September 2012, pp. 5-12, Elsevier]

The Durban outcome has kept the international negotiation process alive, but does not reﬂect the urgency of the problem at hand. That no post-Kyoto agreement is expected to enter into force until 2020 and the content of the agreement still needs to be developed also raises the question of whether the international community will be able to put a break on rising greenhouse gas emissions, let alone reduce them on the order that will be necessary to stay within the 1.5 to 2.0 degree Centrigrade temperature goal. The general scientiﬁc consensus is that if the rise in greenhouse gases is not halted by 2020 and then reduced on the order of 50% below 1990 levels by 2050, then it will be next to impossible to maintain the rise in greenhouse gases to within the 2 degrees Centigrade range. One very major challenge to the future agreement is the domestic political situation in the United States, which makes passage of national climate legislation, let alone ratiﬁcation of a global climate agreement highly unlikely in the near future. Already in Cancun, Japan made it clear that it opposes a second phase for the Kyoto Protocol. Yoshito Sengoku, Japan’s Chief Cabinet Secretary, announced that Japan would ‘‘sternly oppose debate for extending the Kyoto Protocol into a second phase which is unfair and ineffective.’’ (United Press International (UPI), 2010; MOFA, 2010). With its rapidly rising greenhouse gas emissions tied to the extraction of oil from tar sands in Alberta, Canada has pulled out of the agreement. Also problematic is the resistance of many developing countries to the establishment of binding emission reduction targets and timetables. India strongly pushed the perspective of per capita equity arguing that it should not be held captive by a problem largely caused by other countries. With its low per capita greenhouse gas emission levels as a result of high levels of poverty, India will be reluctant to accept commitments that could affect its economic growth perspectives.

#### No mechanism to solve warming – even if we do emissions shortcuts it’s inevitable – their evidence is about Europe

#### No impact to warming

Taylor 117/27/2011 [James Taylor, senior fellow for environment policy at The Heartland Institute and managing editor of Environment & Climate News “New NASA Data Blow Gaping Hole In Global Warming Alarmism,” http://www.forbes.com/sites/jamestaylor/2011/07/27/new-nasa-data-blow-gaping-hold-in-global-warming-alarmism/]

NASA satellite data from the years 2000 through 2011 show the Earth’s atmosphere is allowing far more heat to be released into space than alarmist computer models have predicted, reports a new study in the peer-reviewed science journal Remote Sensing. The study indicates far less future global warming will occur than United Nations computer models have predicted, and supports prior studies indicating increases in atmospheric carbon dioxide trap far less heat than alarmists have claimed. Study co-author Dr. Roy Spencer, a principal research scientist at the University of Alabama in Huntsville and U.S. Science Team Leader for the Advanced Microwave Scanning Radiometer flying on NASA’s Aqua satellite, reports that real-world data from NASA’s Terra satellite contradict multiple assumptions fed into alarmist computer models. “The satellite observations suggest there is much more energy lost to space during and after warming than the climate models show,” Spencer said in a July 26 University of Alabama press release. “There is a huge discrepancy between the data and the forecasts that is especially big over the oceans.” In addition to finding that far less heat is being trapped than alarmist computer models have predicted, the NASA satellite data show the atmosphere begins shedding heat into space long before United Nations computer models predicted. The new findings are extremely important and should dramatically alter the global warming debate. Scientists on all sides of the global warming debate are in general agreement about how much heat is being directly trapped by human emissions of carbon dioxide (the answer is “not much”). However, the single most important issue in the global warming debate is whether carbon dioxide emissions will indirectly trap far more heat by causing large increases in atmospheric humidity and cirrus clouds. Alarmist computer models assume human carbon dioxide emissions indirectly cause substantial increases in atmospheric humidity and cirrus clouds (each of which are very effective at trapping heat), but real-world data have long shown that carbon dioxide emissions are not causing as much atmospheric humidity and cirrus clouds as the alarmist computer models have predicted. The new NASA Terra satellite data are consistent with long-term NOAA and NASA data indicating atmospheric humidity and cirrus clouds are not increasing in the manner predicted by alarmist computer models. The Terra satellite data also support data collected by NASA’s ERBS satellite showing far more longwave radiation (and thus, heat) escaped into space between 1985 and 1999 than alarmist computer models had predicted. Together, the NASA ERBS and Terra satellite data show that for 25 years and counting, carbon dioxide emissions have directly and indirectly trapped far less heat than alarmist computer models have predicted. In short, the central premise of alarmist global warming theory is that carbon dioxide emissions should be directly and indirectly trapping a certain amount of heat in the earth’s atmosphere and preventing it from escaping into space. Real-world measurements, however, show far less heat is being trapped in the earth’s atmosphere than the alarmist computer models predict, and far more heat is escaping into space than the alarmist computer models predict. When objective NASA satellite data, reported in a peer-reviewed scientific journal, show a “huge discrepancy” between alarmist climate models and real-world facts, climate scientists, the media and our elected officials would be wise to take notice. Whether or not they do so will tell us a great deal about how honest the purveyors of global warming alarmism truly are.

#### No extinction from climate change

NIPCC 11 – the Nongovernmental International Panel on Climate Change, an international panel of nongovernment scientists and scholars, March 8, 2011, “Surviving the Unprecedented Climate Change of the IPCC,” online: http://www.nipccreport.org/articles/2011/mar/8mar2011a5.html

In a paper published in Systematics and Biodiversity, Willis et al. (2010) consider the IPCC (2007) "predicted climatic changes for the next century" -- i.e., their contentions that "global temperatures will increase by 2-4°C and possibly beyond, sea levels will rise (~1 m ± 0.5 m), and atmospheric CO2 will increase by up to 1000 ppm" -- noting that it is "widely suggested that the magnitude and rate of these changes will result in many plants and animals going extinct," citing studies that suggest that "within the next century, over 35% of some biota will have gone extinct (Thomas et al., 2004; Solomon et al., 2007) and there will be extensive die-back of the tropical rainforest due to climate change (e.g. Huntingford et al., 2008)."¶ On the other hand, they indicate that some biologists and climatologists have pointed out that "many of the predicted increases in climate have happened before, in terms of both magnitude and rate of change (e.g. Royer, 2008; Zachos et al., 2008), and yet biotic communities have remained remarkably resilient (Mayle and Power, 2008) and in some cases thrived (Svenning and Condit, 2008)." But they report that those who mention these things are often "placed in the 'climate-change denier' category," although the purpose for pointing out these facts is simply to present "a sound scientific basis for understanding biotic responses to the magnitudes and rates of climate change predicted for the future through using the vast data resource that we can exploit in fossil records."¶ Going on to do just that, Willis et al. focus on "intervals in time in the fossil record when atmospheric CO2 concentrations increased up to 1200 ppm, temperatures in mid- to high-latitudes increased by greater than 4°C within 60 years, and sea levels rose by up to 3 m higher than present," describing studies of past biotic responses that indicate "the scale and impact of the magnitude and rate of such climate changes on biodiversity." And what emerges from those studies, as they describe it, "is evidence for rapid community turnover, migrations, development of novel ecosystems and thresholds from one stable ecosystem state to another." And, most importantly in this regard, they report "there is very little evidence for broad-scale extinctions due to a warming world."¶ In concluding, the Norwegian, Swedish and UK researchers say that "based on such evidence we urge some caution in assuming broad-scale extinctions of species will occur due solely to climate changes of the magnitude and rate predicted for the next century," reiterating that "the fossil record indicates remarkable biotic resilience to wide amplitude fluctuations in climate."

#### Guantanamo Bay devastates credibility – outweighs the aff

Katulis, 9 (Brian, Senior Fellow at the Center for American Progress, “Democracy Promotion in the Middle East and the Obama Administration”, A Century Foundation Report, http://tcf.org/publications/pdfs/pb681/Katulis.pdf)

Actions speak louder than words. In addition to changing how it talks about democracy and freedom, the United States must take tangible steps to regain its credibility in a process that one analyst calls “decontamination” from the negative practices associated with the Bush administration’s approach. 10 To reshape perceptions in the Middle East, the United States—including not only the Obama administration, but also members of Congress and representatives of the justice system—should find a solution to the policy question of thousands of detainees and prisoners under U.S. military control in Iraq; it should also continue its work in closing the Guantanamo detention camp and secret prison facilities run by the CIA, as well as abandon the practice of remanding terror suspects to countries with poor human rights records. The detention of tens of thousands of individuals, many of whom are from the Middle East, outside a transparent international framework for the rule of law reduces American credibility on democratic reform and opens it up to charges of hypocrisy, with critics of U.S. policy pointing out human rights and rule of law abuses justified in the name of fighting the war on terror. As a matter of values and principles, the United States should work with other countries to develop a sustainable and viable justice system that deals with these detainees. More broadly, the United States should take steps to restore habeas corpus and bring wiretap surveillance efforts back into the framework of the rule of law in the United States. Sending the signal that the United States is cleaning up its act on these fronts is a necessary step for reviving U.S. credibility on democracy promotion in the Middle East. Without some progress on these measures, anything else that the new administration tries to do on democracy promotion—whether it is political party building or civil society support, or any of the other traditional programs in the U.S. toolbox—will likely yield few results because of the substantial credibility gap. The new administration needs to send a clear message that the United States intends to practice what it preaches by adhering to the legal obligations it assumed in the International Covenant on Civil and Political Rights, the Convention against Torture, and other human rights treaties. Strengthening the legal framework for rule of law will require not only action on the part of the Obama administration but also engagement by leaders in the U.S. Congress. How the United States reintroduces itself to the world—keeping its national security policy in line with the highest human rights standards—will set the framework for how U.S. actions on the democracy promotion front are perceived throughout the Middle East. In addition to taking these steps to restore America’s image and credibility in the region, the new administration should look to enhance existing partnerships and build new ones. Given views about the United States in the Middle East, rather than go it alone, Washington should seek to develop joint efforts with other countries working to advance democracy in the Middle East, such as members of the European Union and Japan, and with multilateral institutions, such as the United Nations Development Program and the World Bank. The United States is not the only outside actor working to advance decent governance and democracy in the Middle East, and developing more strongly coordinated approaches to advancing democracy in the region will be necessary to meet the daunting challenges. Limited partnerships and coordination already exist on some fronts, particularly between some U.S. and European nongovernmental organizations, but expanding these collaborative efforts will help reframe perceptions of U.S. efforts to advance democracy in the Middle East.

#### Capability outweighs credibility — US actions appear irrational, so countries don’t interpret our signals

Chapman 13 (Steve Chapman 9/5/13, columnist and editorial writer for the Chicago Tribune, “War in Syria: The Endless Quest for Credibility,” http://reason.com/archives/2013/09/05/war-in-syria-the-endless-quest-for-credi)

The United States boasts the most powerful military on Earth. We have 1.4 million active-duty personnel, thousands of tanks, ships and planes, and 5,000 nuclear warheads. We spend more on defense than the next 13 countries combined. Yet we are told we have to bomb Syria to preserve our credibility in world affairs.¶ Really? You'd think it would be every other country that would need to confirm its seriousness. Since 1991, notes University of Chicago security scholar John Mearsheimer, the U.S. has been at war in two out of every three years. If we haven't secured our reputation by now, it's hard to imagine we ever could.¶ On the surface, American credibility resembles a mammoth fortress, impervious to anything an enemy could inflict. But to crusading internationalists, both liberal and conservative, it's a house of cards: The tiniest wrong move, and it collapses.¶ In a sense, though, they're right. The U.S. government doesn't have to impress the rest of the world with its willingness to defend against actual attacks or direct threats. But it does have to continually persuade everyone that we will lavish blood and treasure for purposes that are irrelevant to our security.¶ Syria illustrates the problem. Most governments don't fight unless they are attacked or have dreams of conquest and expansion. War is often expensive and debilitating even for the winners, and it's usually catastrophic for losers. Most leaders do their best to avoid it.¶ So even though the Syrian government is a vicious, repressive dictatorship with a serious grudge against Israel, it has mostly steered clear of military conflict. Not since 1982 has it dared to challenge Israel on the battlefield. When Israeli warplanes vaporized a Syrian nuclear reactor in 2007, Bashar al-Assad did nothing. The risks of responding were too dire.¶ But the U.S. never faces such sobering considerations. We are more secure than any country in the history of the world. What almost all of our recent military interventions have in common is that they involved countries that had not attacked us: Libya, Iraq, Serbia, Haiti, Somalia, Panama, Grenada and North Vietnam.¶ With the notable exception of the Afghanistan invasion, we don't fight wars of necessity. We fight wars of choice.¶ That's why we have such an insatiable hunger for credibility. In our case, it connotes an undisputed commitment to go into harm's way even when -- especially when -- we have no compelling need to do so. But it's a sale we can never quite close.¶ Using force in Iraq or Libya provides no guarantee we'll do the same in Syria or Iran or Lower Slobbovia. Because we always have the option of staying out, there's no way to make everyone totally believe we'll jump into the next crisis.¶ The parallel claim of Washington hawks is that we have to punish Assad for using nerve gas, because otherwise Iran will conclude it can acquire nuclear weapons. Again, our credibility is at stake. But how could the Tehran regime draw any certain conclusions based on what happens in Syria?¶ Two American presidents let a troublesome Saddam Hussein stay in power, but a third one decided to take him out. George W. Bush tolerated Moammar Gadhafi, but Barack Obama didn't. Ronald Reagan let us be chased out of Lebanon, only to turn around and invade Grenada. If you've seen one U.S. intervention, you've seen one.¶ What should be plain to Iran is that Washington sees nuclear proliferation as a unique threat to its security, which Syria's chemical weapons are not. Just because we might let Assad get away with gassing his people doesn't mean we will let Iran acquire weapons of mass destruction that would be used only against other countries. Heck, we not only let Saddam get away with using chemical weapons against Iran -- we took his side.¶ Figuring out the U.S. government's future impulses is hard even for Americans. There's no real rhyme or reason. But because we're so powerful, other governments can ill afford to be wrong. What foreigners have to keep in the front of their minds is not our inclination to act but our capacity to act -- which remains unparalleled whatever we do in Syria.¶ Credibility is overrated. Sure, it's possible for hostile governments to watch us squabble over Syria and conclude that they can safely do things we regard as dangerous. But there are graveyards full of people who made that bet.

#### No impact — allies won’t abandon us and adversaries can’t exploit it

Walt 11 (Stephen M. Walt, 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.

#### Credibility theory is incoherent — empirically denied

Mercer 8/28 (Jonathan Mercer, 2013, associate professor of political science at the University of Washington in Seattle and a Fellow at the Center for International Studies at the London School of Economics. Bad Reputation, 28 August 2013, www.foreignaffairs.com/articles/139376/jonathan-mercer/bad-reputation)

Even if Assad were so simpleminded, the administration’s critics are wrong to suggest that the president should have acted sooner to protect U.S. credibility. After the red line was first crossed, Obama could have taken the United States to war to prevent Assad from concluding that an irresolute Obama would not respond to any further attacks -- a perception on Syria’s part that seems to have now made a U.S. military response all but certain. But going to war to prevent a possible misperception that might later cause a war is, to paraphrase Bismarck, like committing suicide out of fear that others might later wrongly think one is dead. It is also possible that the United States did not factor into Assad’s calculations. A few months before the United States invaded Iraq, Saddam Hussein’s primary concerns were avoiding a Shia rebellion and deterring Iran. Shortsighted, yes, but also a good reminder that although the United States is at the center of the universe for Americans, it is not for everyone else. Assad has a regime to protect and he will commit any crime to win the war. Finally, it is possible that Assad never doubted Obama’s resolve -- he just expects that he can survive any American response. After all, if overthrowing Assad were easy, it would already have been done.

#### The aff results in shipping enemy combatants overseas – makes us look worse

Umansky, 5 – senior editor at ProPublica (Eric, 6/17. “Closing Guantanamo prison may not be the best option.” http://onlineathens.com/stories/061805/opi\_20050618001.shtml)

Closing the U.S. prison at Guantanamo Bay has suddenly become a hot topic. Since Sen. Joseph R. Biden Jr., D-Del., broached the idea, the notion has been gaining steam. Last weekend, Sen. Mel Martinez, R-Fla., added the first Republican voice to the chorus, and there were Senate hearings Wednesday on detainee issues. Even President Bush seems to be hinting that he's game. Asked during a television interview whether Gitmo should be shut, the president said, "We're exploring all alternatives as to how best to do the main objective, which is to protect America." Gitmo has come to represent the lack of accountability and the extralegal aspects of the war on terrorism. Shuttering it would be a grand gesture. The symbolism would be important and could help improve the U.S. image. But if that is all that is done, a closure risks obscuring a more important issue and could even be counterproductive: If the U.S. is to really regain its standing as a defender of human rights, it needs to do more than mothball a single jail; it needs to change its policies. If the prison were to close, what would happen to the detainees? Most of them were judged by former commanders at Guantanamo to be merely Taliban foot soldiers. Some, presumably, would simply be released. Others might face military tribunals, and some would most likely be shipped off, to be held by other countries. The last two possibilities are not a welcome scenario from either a moral or public relations perspective. Consider the tribunals. Heavily stacked against defendants, they've been condemned by such groups as the American Bar Association and military defense lawyers, who actually sued the government over the lack of prisoners' rights. Shipping terror suspects to other countries, even their own countries, could be worse. The U.S. has been practicing a form of this: "extraordinary rendition," in which prisoners are picked up in one locale - "snatched" in CIA parlance - and find themselves incarcerated elsewhere, in countries such as Syria or Uzbekistan. A United States military boat patrols in front of Camp Delta in this 2002 file photo, in Guantanamo Bay, Cuba. The legal process in such cases isn't just flawed, it doesn't exist. Detainees get no trials or hearings before a judge. The U.S. gets pro forma promises that prisoners won't be tortured, but there is no known monitoring. And Uzbekistan, for instance, has gained some renown for reports of political prisoners being boiled alive. Rendition hasn't generated the headlines or the level of outrage as Guantanamo Bay. But stories from rendered detainees have made it out, and they do little for the U.S. image. One Australian citizen who was rendered to Egypt was reportedly hung from a wall and given electric shock. In something of a reprieve, he was transferred to Guantanamo Bay. He arrived without most of his fingernails. There's also a perverse possibility intrinsic in **closing Gitmo**: It **could end up making the U.S. less accountable. With the visible symbol of unfair treatment swept away, pressure for wider change might dissipate**. It's important to remember that Gitmo is only one of a group of U.S. prisons around the globe set up to hold "enemy combatants" captured in the war on terrorism. Far less is known about the other jails, which are reportedly run by the CIA. There's one at Bagram Air Base in Afghanistan, called the Salt Pits. As The New York Times reported, two detainees have been killed at Bagram. More obscure is the reported facility at a base in Diego Garcia in the Indian Ocean. Unlike at Guantanamo Bay, no reporters have been allowed to visit these jails.

#### Snowden tanked US credibility

Parisella 13 (John Parisella is a contributing blogger to AQ Online. He is the former Québec delegate general in New York and currently an invited professor at University of Montréal’s International Relations Center, The Americas Quarterly, June 27, 2013, "The Effect of Edward Snowden-A Canadian Perspective", http://www.americasquarterly.org/content/effect-edward-snowden-canadian-perspective)

To some, former CIA and National Security Administration (NSA) employee Edward Snowden is seen as a classic whistleblower, who divulged government secrets that contradict the U.S. Constitution and its 4th amendment. Many who espouse his view—on both the left and right—have applauded his courage and regard him as a hero. To others—especially within the U.S. political class—he is now considered a charged felon, who has willingly pursued a plan to embarrass his government, and in so doing, has breached matters of national security and made the United States less safe. His weekend flight from Hong Kong to Russia may lead some to go as far as to label him a “traitor”. Which is it—hero, felon or traitor? It is too early to answer this. But the longer the situation drags on, the more damage it will inflict on the reputation of the United States on the world stage. The 4th amendment of the U.S. Constitution sets guidelines to protect individual privacy. Even in matters of national security, we are told that due process must be followed. NSA programs, including the ones covering telephone records as well as internet activity that Snowden denounced, must be subjected to safeguards that protect the right to privacy. President Barack Obama has since justified these NSA programs as the necessary balance between privacy and security in this post-9-11 world. While his administration has been careful in its choice of vocabulary, it has decided to charge Snowden with contravening the Espionage Act. The spectacle of the strongest power on earth chasing Snowden around the globe is not reassuring to those who believe in the value of U.S. diplomacy, U.S. intelligence capacity or U.S. military might. The ease with which Snowden accessed sensitive material and subjected his government to this embarrassing game of “cat and mouse” is also not comforting to those who count on U.S. intelligence forces to keep them safe. Clearly, at the outset, the initial effect of Snowden’s action was to spark a legitimate debate about privacy, security and the importance of the 4th amendment. Libertarian politicians like Rand Paul did not condemn Snowden outright. Snowden also has significant support in progressive circles. Others, like influential Democratic Senator Diane Feinstein and Republican Congressman Mike Rogers—normally on opposite sides, argued that maintaining national security and keeping America safe requires measures that could affect some privacy issues. Together, however, they have vehemently condemned Snowden’s actions .The flight to Russia may have deviated what was becoming a necessary debate in a democracy from matters of substance to theatrics. Snowden detractors refer to another famous whistleblower incident: that of Daniel Ellsberg and the release of the Pentagon papers, which gradually led to the questioning of the Vietnam War. Unlike Snowden, they argue, Ellsberg stayed in the U.S. and faced the justice system. In contrast, Snowden’s behavior, which has been backed by some advocacy journalists such as Glen Greenwald of The Guardian and Wikileaks, seems set on evading the U.S. justice system. The polemics around Snowden’s whereabouts seem to confuse the nature of the conversation America should be having at this time in its history. In the meantime, The United States’ image is not improving around the world. Its government seems hesitant and vulnerable. The ‘soft power’ strengths of the U.S. are being questioned. Countries such as China and Russia, with poor human rights records, are openly defying the wishes of the world’s oldest and strongest democracy, and its rule of law. At the end of the day, the privacy versus security debate is rapidly becoming a secondary issue, and this entire episode is turning into a zero-sum game for the United States where no individual or principle wins the day. And this may well be the unintended consequence of Edward Snowden’s actions.

# 2NC Round 2

## DA

### Impact – 2NC

#### Strikes trigger biological warfare and draw in Russia and China

Morgan 9 (Dennis Ray Morgan, Hankuk University of Foreign Studies, Yongin Campus - South Korea, Futures, Volume 41, Issue 10, December 2009, Pages 683-693)

This scenario has gained even more plausibility since a January 2007 Sunday Times report [13] of an Israeli intelligence leak that Israel was considering a strike against Iran, using low-yield bunker busting nukes to destroy Iran’s supposedly secret underground nuclear facilities. In Moore’s scenario, non-nuclear neighboring countries would then respond with conventional rockets and chemical, biological and radiological weapons. Israel then would retaliate with nuclear strikes on several countries, including a pre-emptive strike against Pakistan, who then retaliates with an attack not only on Israel butpre-emptively striking India as well. Israel then initiates the ‘‘Samson option’’ with attacks on other Muslim countries, Russia, and possibly the ‘‘anti-Semitic’’ cities of Europe. At that point, all-out nuclear war ensues as the U.S. retaliates with nuclear attacks on Russia and possibly on China as well.11

#### Turns terror

Brookes, National security affairs senior fellow, 07

(Peter, 4-2-07, “Iran Emboldened: Tehran Seeks to Dominate Middle East Politics”, DOA: 10-10-13, <http://www.heritage.org/research/commentary/2007/04/iran-emboldened-tehran-seeks-to-dominate-middle-east-politics>, llc)

According to the U.S. State Department, Iran continues to be the world's most active state sponsor of terrorism. At the request of senior Iranian leadership, Iran's Ministry of Intelligence and Security (MOIS) and Islamic Revolutionary Guard Corps (IRGC) support Palestinian terrorist groups such as Hamas, Palestinian Islamic Jihad, the al Aqsa Martyrs Brigade and the Popular Front for the Liberation of Palestine-General Command with funding, training and weapons. Hezbollah - a Lebanese Shiite terrorist group - is a particular favorite. In fact, Iran established Hezbollah to parry Israel's 1982 invasion of Lebanon. Tehran may fund Hezbollah to the tune of $100 million per year. Last summer, Tehran's military support for Hezbollah was evident. Iran likely gave Hezbollah the green light to ambush an Israeli patrol and kidnap soldiers, which ultimately kicked off the monthlong conflict. In the ensuing days, Hezbollah indiscriminately fired as many as 10,000 Iran-supplied rockets and missiles into Israel. In addition, many were stunned when a C-802 cruise missile struck an Israeli naval vessel off the coast of Lebanon. While the shooter was never identified, the Chinese C-802 is in Iran's inventory. It could have been fired by either Hezbollah or the IRGC. Today, Hezbollah, with Iranian and Syrian support, is threatening to topple Lebanon's democratically elected government unless it is given additional cabinet seats - potentially giving it veto power over Beirut's decisions. Iran would love to add Lebanon to Syria as a client state in its effort to form an arc of Iranian influence across the region. Iran has made a number of not-so-veiled threats that it would deploy its irregular forces and terrorist allies against the U.S. and American interests, if necessary. This is likely not an idle threat. American blood is already on the hands of Iran and its terrorist proxies as a result of the 1983 Beirut Marine barracks attack and the 1996 Khobar Towers bombing in Saudi Arabia, and in Iraq today. It is almost without question that Tehran sees its ability to hold U.S. interests at risk across the globe - including in the U.S. - as leverage against American military action over its nuclear program or meddling in Iraq. Perhaps the most frightening scenario is that Iran might transfer weapons of mass destruction capability to a terrorist ally. While this is risky behavior, it is a possibility. Iran could transfer nuclear capability to a Hezbollah-dominated government in Lebanon, or a Hamas-led Palestinian Authority, significantly increasing the threat to Israeli security. Osama bin Laden has not been shy about his desire for WMD or al-Qaida's readiness to use them. The insurgency's recent use of chlorine gas in Iraq is evidence of a terrorist group's willingness to employ WMD.

#### Failed deal turns credibility which jacks norms and decimates allied coop

**Leverett, 11/10/13 -** senior fellow at the New America Foundation in Washington, D.C. and a professor at the Pennsylvania State University School of International Affairs(Flynt, “Nuclear Negotiations and America’s Moment of Truth About Iran” <http://www.campaigniran.org/casmii/?q=node/13358>)

America’s Iran policy is at a crossroads. Washington can abandon its counterproductive insistence on Middle Eastern hegemony, negotiate a nuclear deal grounded in the Nuclear Non-Proliferation Treaty (NPT), and get serious about working with Tehran to broker a settlement to the Syrian conflict. In the process, the United States would greatly improve its ability to shape important outcomes there. Alternatively, America can continue on its present path, leading ultimately to strategic irrelevance in one of the world’s most vital regions—with negative implications for its standing in Asia as well. U.S. policy is at this juncture because the costs of Washington’s post-Cold War drive to dominate the Middle East have risen perilously high. President Obama’s self-inflicted debacle over his plan to attack Syria after chemical weapons were used there in August showed that America can no longer credibly threaten the effective use of force to impose its preferences in the region. While Obama still insists “all options are on the table” for Iran, the reality is that, if Washington is to deal efficaciously with the nuclear issue, it will be through diplomacy. In this context, last month’s Geneva meeting between Iran and the P5+1 brought America’s political class to a strategic and political moment of truth. Can American elites turn away from a self-damaging quest for Middle Eastern hegemony by coming to terms with an independent regional power? Or are they so enthralled with an increasingly surreal notion of America as hegemon that, to preserve U.S. “leadership,” they will pursue a course further eviscerating its strategic position? The proposal for resolving the nuclear issue that Iran’s foreign minister, Javad Zarif, presented in Geneva seeks answers to these questions. It operationalizes the approach advocated by Hassan Rohani and other Iranian leaders for over a decade: greater transparency on Iran’s nuclear activities in return for recognizing its rights as a sovereign NPT signatory—especially to enrich uranium under international safeguards—and removal of sanctions. For years, the Bush and Obama administrations rejected this approach. Now Obama must at least consider it. The Iranian package provides greater transparency on Tehran’s nuclear activities in two crucial respects. First, it gives greater visibility on the conduct of Iran’s nuclear program. Iran has reportedly offered to comply voluntarily for some months with the Additional Protocol (AP) to the NPT—which it has signed but not yet ratified and which authorizes more proactive and intrusive inspections—to encourage diplomatic progress. Tehran would ratify the AP—thereby committing to its permanent implementation—as part of a final deal. Second, the package aims to validate Iran’s declarations that its enrichment infrastructure is not meant to produce weapons-grade fissile material. Iran would stop enriching at the near-20 percent level of fissile-isotope purity needed to fuel the Tehran Research Reactor and cap enrichment at levels suitable for fueling power reactors. Similarly, Iran is open to capping the number of centrifuges it would install—at least for some years—at its enrichment sites in Natanz and Fordo. Based on conversations with Iranian officials and political figures in New York in September (during Rohani and Zarif’s visit to the UN General Assembly) and in Tehran last month, it is also possible to identify items that the Iranian proposal almost certainly does not include. Supreme Leader Ayatollah Seyed Ali Khamenei has reportedly given President Rohani and his diplomats flexibility in negotiating a settlement—but he has also directed that they not compromise Iran’s sovereignty. Thus, the Islamic Republic will not acquiesce to American (and Israeli) demands to suspend enrichment, shut its enrichment site at Fordo, stop a heavy-water reactor under construction at Arak, and ship its current enriched uranium stockpile abroad. On one level, the Iranian package is crafted to resolve the nuclear issue based on the NPT, within a year. Iran’s nuclear rights would be respected; transparency measures would reduce the proliferation risks of its enrichment activities below what Washington tolerates elsewhere. On another level, though, the package means to test America’s willingness and capability to resolve the issue on this basis. It tests this not just for Tehran’s edification, but also for that of other P5+1 states, especially China and Russia, and of rising powers like India and South Korea. America can fail the Iranian test in two ways. First, the Obama administration—reflecting America’s political class more broadly—may prove unwilling to acknowledge Iran’s nuclear rights in a straightforward way, insisting on terms for a deal that effectively suborn these rights and violate Iranian sovereignty. There are powerful constituencies—e.g., the Israel lobby, neoconservative Republicans, their Democratic “fellow travelers,” and U.S.-based Iran “experts”—that oppose any deal recognizing Iran’s nuclear rights. They understand that acknowledging these rights would also mean accepting the Islamic Republic as an enduring entity representing legitimate national interests; to do so, America would have to abandon its post-Cold War pretensions to Middle Eastern hegemony. Those pretensions have proven dangerously corrosive of America’s ability to accomplish important objectives in the Middle East, and of its global standing. Just witness the profoundly self-damaging consequences of America’s invasion and occupation of Iraq, and how badly the “global war on terror” has eviscerated the perceived legitimacy of American purposes in the Muslim world. But, as the drama over Obama’s call for military action against Syria indicates, America’s political class remains deeply attached to imperial pretense—even as the American public turns away from it. If Washington could accept the Islamic Republic as a legitimate regional power, it could work with Tehran and others on a political solution to the Syrian conflict. Instead, Washington reiterates hubristic demands that President Bashar al-Assad step down before a political process starts, and relies on a Saudi-funded “Syrian opposition” increasingly dominated by al-Qa’ida-like extremists. If Obama does not conclude a deal recognizing Iran’s nuclear rights, it will confirm suspicions already held by many Iranian elites—including Ayatollah Khamenei—and in Beijing and Moscow about America’s real agenda vis-à-vis the Islamic Republic. It will become undeniably clear that U.S. opposition to indigenous Iranian enrichment is not motivated by proliferation concerns, but by determination to preserve American hegemony—and Israeli military dominance—in the Middle East. If this is so, why should China, Russia, or rising Asian powers continue trying to help Washington—e.g., by accommodating U.S. demands to limit their own commercial interactions with Iran—obtain an outcome it does not actually want?

#### Turns case – sets a precedent to delegate authority – draws us into war

**Richman 13** (Sheldon, Counterpunch, “AIPAC's Stranglehold Congress Must Not Cede Its War Power to Israel”, <http://www.counterpunch.org/2013/12/27/congress-must-not-cede-its-war-power-to-israel/>)

The American people should know that pending right now in Congress is a bipartisan bill that would virtually commit the United States to go to war against Iran if Israel attacks the Islamic Republic. “The bill outsources any decision about resort to military action to the government of Israel,” Columbia University Iran expert Gary Sick wrote to Sen. Chuck Schumer (D-NY) in protest, one of the bill’s principal sponsors. The mind boggles at the thought that Congress would let a foreign government decide when America goes to war, so here is the language (PDF): If the government of Israel is compelled to take military action in legitimate self-defense against Iran’s nuclear weapon program, the United States Government should stand with Israel and provide, in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic, military and economic support to the Government of Israel in its defense of its territory, people and existence. This section is legally nonbinding, but given the clout of the bill’s chief supporter outside of Congress — the American-Israel Public Affairs Committee (AIPAC [PDF]), leader of the pro-Israel lobby — that is a mere formality. Since AIPAC wants this bill passed, it follows that so does the government of Israeli Prime Minister Benjamin Netanyahu, who opposes American negotiations with Iran and has repeatedly threatened to attack the Islamic Republic. Against all evidence, Netanyahu insists the purpose of Iran’s nuclear program is to build a weapon with which to attack Israel. Iran says its facilities, which are routinely inspected, are for peaceful civilian purposes: the generation of electricity and the production of medical isotopes. The bill, whose other principal sponsors are Sen. Robert Menendez (D-NJ) and Sen. Mark Kirk (R-IL), has a total of 26 Senate cosponsors. If it passes when the Senate reconvenes in January, it could provoke a historic conflict between Congress and President Obama, whose administration is engaged in negotiations with Iran at this time. Aside from declaring that the U.S. government should assist Israel if it attacks Iran, the bill would also impose new economic sanctions on the Iranian people. Obama has asked the Senate not to impose additional sanctions while his administration and five other governments are negotiating with Iran on a permanent settlement of the nuclear issue. A six-month interim agreement is now in form

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ce, one provision of which prohibits new sanctions on Iran. “The [Menendez-Schumer-Kirk] bill allows Obama to waive the new sanctions during the current talks by certifying every 30 days that Iran is complying with the Geneva deal and negotiating in good faith on a final agreement,” Ali Gharib writes at Foreign Policy magazine. That would effectively give Congress the power to undermine negotiations. As Iran’s foreign minister, Javad Zarif, told Time magazine, if Congress imposes new sanctions, even if they are delayed for six months, “The entire deal is dead. We do not like to negotiate under duress.” Clearly, the bill is designed to destroy the talks with Iran, which is bending over backward to demonstrate that its nuclear program has no military aims.

### U – A2: U Overwhelms – General

#### Quotes one guy who is just like theres no timeframe and pc key

Jackson 1/30 – David, USA Today

senators who have backed new sanctions said they will hold off in the wake of Obama's warning that the penalties could scuttle ongoing talks over Iran's nuclear program.

#### PC frames this debate – it’s the reason Reid has backed off and momentum has slowed down

Johnson 1/30 (Luke – Huffington Post, “Iran Sanctions Bill 'On Ice' As Momentum Fades In Senate “, 2014, http://www.huffingtonpost.com/2014/01/30/iran-sanctions-bill\_n\_4696197.html)

Another Senate Democratic leadership aide wouldn't go so far as to call the legislation dead, but conceded, "Its forward momentum has been stopped and even reversed." Both aides requested anonymity in order to speak candidly. The bipartisan bill had been gaining steam over the past two months, picking up a whopping 58 cosponsors -- including 15 Democrats. The measure would boost sanctions on Iran unless it agrees to halt all of its uranium enrichment. But the White House has been pushing back hard against any congressional action on Iran sanctions, warning it could thwart a delicate deal in place between Iran and six world powers. Under that six-month deal, Iran would scale back its uranium enrichment in exchange for sanctions relief. Iranian leaders have already warned that any new sanctions would sink the deal, which would leave the U.S. with few options for resolving concerns with Iran apart from going to war. The White House pressure has paid off. Reid has refused to bring the bill up for a vote, and during Tuesday's State of the Union, Obama made it clear he would veto the measure if it even made it to his desk. Since then, at least three Democratic cosponsors of the bill have walked back their support for taking it up. Several senators acknowledged Thursday that the bill isn't going anywhere, at least not anytime soon. "We want to give the administration the time it needs to negotiate," said Sen. Michael Bennet (D-Colo.), a cosponsor of the bill and the chairman of the Democratic Senatorial Campaign Committee. Asked if his Democratic colleagues are prepared to hold off on pushing the bill amid international negotiations with Iran, he said, "That's my sense." "There's no time frame," said Sen. Ben Cardin (D-Md.), a cosponsor of the bill. "That's up to the majority leader, he's the one who schedules votes ... I've always been comfortable with the fact that our first preference is a negotiated agreement." "Do I think it's going to be brought up? No," said Sen. Carl Levin (D-Mich.). "And I hope it isn't brought up." Republican proponents of the bill conceded the White House has won this round, but said that's a bad thing. "The pressure from the administration has made people, particularly Harry Reid, who's the key guy, back off of it," said Sen. John McCain (R-Ariz.).

#### Reid isn’t key – there are ways to bring it up for a vote – and they’re already close to a veto proof majority – proves every ounce of PC is key

Sargent 1/18 (Greg, An Odd Silence Among Senate Dems on Iran")

We’re very close now to the 60 votes it needs to pass. The Dem leadership has no plans to bring it to the floor, but there are other procedural ways proponents could try to force a vote. And if the numbers in favor of the bill continue to mount, it could increase pressure on Harry Reid to move it forward. Yes, the president could veto it if it did pass. But we’re actually not all that far away from a veto-proof majority. And in any case, having such a bill pass and get vetoed by the president is presumably not what most Democrats want to see happen.

#### Twenty one Dems are in the air so personal leverage matters

**Kampeas 1/22** (Ron – JTA's Washington bureau chief, responsible for coordinating coverage in the U.S. capital and analyzing political developments that affect the Jewish world , Jewish Telegraph Agency, “Doing the math on Dems and the Iran sanctions bill”

<http://www.jta.org/2014/01/22/news-opinion/politics/doing-the-math-on-dems-and-the-iran-sanctions-bill>

I count 19 members of the Senate Democratic caucus opposed to a vote, versus 15 who might be assumed to support one, with 21 not accounted for. Here’s how I got there. There are 16 Democrats out of the 59 Senators co-sponsoring the bill, including lead sponsor Sen. Robert Menendez (D-N.J.). (On Dec. 19, when the bill was launched, 15 Democrats signed on; Sen. Michael Bennet of Colorado is the sole Democrat to have signed onto the bill since Congress returned to work this month.) Subtract from those 16 Sen. Richard Blumenthal (D-Conn.), who now opposes advancing the bill while talks are underway between Iran and the major powers. The White House and sympathetic Democrats say the bill could scuttle the talks; backers of the bill say new sanctions would enhance the U.S. hand in the talks. So that’s 15 one might assume still back advancing the bill. As Sargent notes, there are 10 committee chairs who signed a letter opposing the bill. In addition to those, there are another nine senators who in recent weeks have told interlocutors they oppose advancing the bill for now: There are Murray and Warren, plus Blumenthal. There are another four listed in this Huffington Post roundup. Sen. Bernard Sanders, the Vermont independent who caucuses with Democrats, is listed here. And I’ve heard from Rhode Island Jewish officials that Sen. Jack Reed (D-R.I.) is opposed to advancing the bill now. The White House is competing hard with backers of the bill, including leading pro-Israel groups, for the remaining 21 members of the Democratic caucus. Among them are key players in states with substantial Jewish communities, like Sen. Harry Reid (D-Nev.), the majority leader; Sen. Dick Durbin (D-Ill.), the assistant majority leader; and Sen. Sherrod Brown (D-Ohio.).

### 2NC Link Wall

#### We post-date Obama retains political capital on foreign policy

**Ziaberi 1/24**­ (Kourosh – interview with Kaveh Afrasiabi, the author of several books on Iran’s foreign policy and a former advisor of Center for Strategic Research , “Congress New Sanctions Bill Scuttles the Geneva Deal” Iran Review, <http://www.iranreview.org/content/Documents/Congress-New-Sanctions-Bill-Scuttles-the-Geneva-Deal.htm>)

Q: Can we interpret the conflicts and disputes between the White House and the Congress as a power struggle which has manifested itself in the nuclear standoff? Is it that the complexity of the decision-making hierarchy in the United States has resulted in a conflict between the government and the two chambers of the Congress?

A: Well, certainly this can be viewed from many different angles, such as the ‘checks’ and balance’ and Congressional role in foreign policy, not to mention traditional party politics. Since the Clinton Administration, Congress has organically inserted itself in the Iran policy and even more so during the “Obama era,” as a result of which White House’s moves on Iran are subject to intense congressional scrutiny. But, given Secretary John Kerry’s long tenure in the Senate, compared to the first Obama administration, I would say that the second Obama administration has a greater sway on Congress’s foreign policy input, otherwise the Geneva deal would not have survived the criticisms.

#### Obama’s push for indefinite detention drains political capital – massive controversy

Parvaz 11 (D. – special projects editor at Al Jazeera, “US lawmakers legalise indefinite detention”, 12/6, http://www.aljazeera.com/indepth/features/2011/12/201112773810926474.html

Where Obama stands Under pressure from the White House, Congress tweaked the bill on Monday, altering it to say that the military cannot interfere with FBI and other civilian investigations and interrogations. The revisions also allow the president to sign a waiver moving a terror suspect from military to civilian prison. For weeks, the White House has been expressing concern over the bill. A November 17 statement from the Executive Office of the President rejects codification of such detention authority and reads that in its current form, the provisions, "disrupt the Executive branch's ability to enforce the law" while "inject[ing] legal uncertainty and ambiguity that may only complicate the military's operations and detention practices". President Barack Obama had earlier threatened a veto of the bill. Aziz Rana provides background and context for the controversial provisions here. But Aziz Rana, a professor of Constitutional law at Cornell University, said the Obama administration's approval of the assassination of terrorist suspect Anwar al-Awlaki, (US citizen killed in Yemen via US drone strikes) - points to strong similarities between how it operates and what Congress is trying to codify. "The Obama administration's critique interestingly, is not therefore the civil libertarian critique," said Rana. "The administration's critique is that this unnecessarily infringes on the Executive branch's ability to carry on the global war on terror - in other words, Congress is micromanaging through codification. So it's really an inter-branch battle." He said that the distinction is one of either having a codified, set-in-stone basis for long-standing emergency practices that are quite coercive or simply giving greater leeway to the Executive branch to make up policies as it goes along. "We can rightly be suspicious of the extent to which the Obama administration will actually use a veto and expend political capital in the context of an upcoming election on these sorts of issues," said Rana. If it ain’t broke… Indeed, the chief argument against codifying these provisions and giving the military a role in domestic terrorist investigation is that the system works just fine as it is.

## Modeling

### 2NC Bioweapons

#### No likelihood of acquisition – cites empirics and the last noted bioterror attack – since then measures have been put up to secure every major source—that’s Leitenbeg.

#### Prefer our ev – theirs inflates the threat

Reynolds 5—Senior Fellow at the Cato Institute. Formerly Director of Economic Research at the Hudson Institute. AB in economics from UCLA. (Alan, The Fear Industry, 6 May 2007, http://www.cato.org/pub\_display.php?pub\_id=8234)

Neither gentleman has been at all apologetic about his role in grossly exaggerating the likely risks of biological terrorism. Mr. Wolfowitz once claimed Iraq had enough ricin to kill a million people, enough botulism to kill tens of millions and enough anthrax "to kill hundreds of millions." Terrorists throughout the world have managed to kill only five people with anthrax, one with ricin and zero with botulism or aflatoxin (added to the list by former Secretary of State Colin Powell). This not because terrorists don't want to kill people, but because killing is much easier to accomplish with bombs, guns and crashing airplanes. Even today, however, bureaucrats and politicians still remain easily persuaded to assign a higher priority (and bigger budgets) to extremely unlikely risks than to mundane but palpable threats to health and safety. I wrote a series of columns about the formidable obstacles to effectively delivering biological weapons, often quoting Mr. Wolfowitz or the CIA as examples of extreme gullibility or deception. I revealed many holes in the WMD fable before the Iraq invasion in, "The economics of war," "Hazy WMD definitions" and "The duct tape economy." Those were followed by "Intelligence without brains" in June 2003, "The CIA and WMD" in June 2004, "WMD Doomsday distractions" in April 2005 and "The cost of war in retrospect" in March 2006. Those columns can be found by sifting through archives under my bio at cato.org. The legacy of the 2002 WMD hoax lives on today in "Operation Bioshield" and other federal programs for doling out tax dollars to the multibillion-dollar fear industry. The fear industry begins by hiring lobbyists and subsidizing academics who, in turn, persuade journalists to write scary stories about hypothetical weapons. This science fiction game is not played for fun. It is played for money. It involves what Dale Rose of the University of California at San Francisco described as, "A cottage industry of risk analysts, disaster preparedness experts, psychologists, and others [who] have produced an array of theoretical work and conceptual grids around the issue of low probability, high consequence events." In response to pressure from academic centers whose main mission was to hype bioterrorism (including the infamously erroneous "Dark Winter" scenario of mid-2001), President Bush warned of "the use of the smallpox virus as a weapon of terror" in December 2002. The administration then spent hundreds of millions of dollars on smallpox vaccine for first responders and the military, but both groups (notably, physicians) shunned the risky shots. That was the most costly fiasco of its type since the swine flu vaccination program of 1976, which killed more people than swine flu did. Continuing the tradition, the U.S. government just contracted with Sanofi Pasteur to produce $100 million worth of avian flu vaccine -- of dubious effectiveness against avian flu acquired from birds, much less from any hypothetical pandemic strain that leaps to humans. Whether or not these programs save even one life per $100 million spent is irrelevant. The point is the millions spent. After most federal loot from research grants and vaccine stockpiles has been received, the mission is accomplished and the fear industry moves on to greener pastures. The scare stories about Danger A disappear, replaced with new stories about Danger B, then C and so on. The most reliable cash cow for the fear industry has been the five deaths from inhaling anthrax in October 2001. For those in the business of providing high-cost solutions to minuscule risks, this has been an endless bonanza. A recent news item provides a typical tip for fear investors: "Emergent BioSolutions of Rockville (Md.) said the U.S. government planned to order as many as 22.75 million doses of its anthrax vaccine." The government has spent at least $877 million on anthrax vaccine so far, or $175.4 million per death from anthrax. Sensing that sum may be pressing the limits, the fear industry is busily assembling new threats to scare up some more cash. The Health and Human Services Department reportedly plans to up its spending by more than $100 million on additional anthrax and smallpox vaccines. And it plans to spend more than $100 million to deal with radiation poisoning -- not even on this luxury list until former Russian spy Alexander Litvinenko was assassinated. Compared with anthrax vaccine, $100 million per death sounds cheap, even if he wasn't an American. But they did say "more than" $100 million, didn't they? The plan also "listed as a near-term priority the development of antibiotics for threats such as the plague or tularemia." Sure, why not? There was one unconfirmed case of plague in Texas in 1956. And in the summer of 2000, an outbreak of tularemia from lawn mowing in Martha's Vineyard resulted in one fatality. Whenever you hear the word "bioterrorism" in connection with large sums of federal money, just remember "WMD." Bioterrorism is just a different word for the same old WMD story retold in purely hypothetical terms, without even pretending someone actually has such agents or knows how to kill more than five people with them.

#### If they win everything it’s still survivable.

Posner 5—Senior Lecturer, U Chicago Law. Judge on the US Court of Appeals 7th Circuit. AB from Yale and LLB from Harvard. (Richard, Catastrophe, http://goliath.ecnext.com/coms2/gi\_0199-4150331/Catastrophe-the-dozen-most-significant.html)

Yet the fact that Homo sapiens has managed to survive every disease to assail it in the 200,000 years or so of its existence is a source of genuine comfort, at least if the focus is on extinction events. There have been enormously destructive plagues, such as the Black Death, smallpox, and now AIDS, but none has come close to destroying the entire human race. There is a biological reason. Natural selection favors germs of limited lethality; they are fitter in an evolutionary sense because their genes are more likely to be spread if the germs do not kill their hosts too quickly. The AIDS virus is an example of a lethal virus, wholly natural, that by lying dormant yet infectious in its host for years maximizes its spread. Yet there is no danger that AIDS will destroy the entire human race. The likelihood of a natural pandemic that would cause the extinction of the human race is probably even less today than in the past (except in prehistoric times, when people lived in small, scattered bands, which would have limited the spread of disease), despite wider human contacts that make it more difficult to localize an infectious disease.

### 2NC Turns

#### Detention restrictions increases rendition and drone strikes—comparatively worse and turns cred

**Goldsmith, 12** (Law Prof-Harvard, 6/29, Proxy Detention in Somalia, and the Detention-Drone Tradeoff, 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. The main response to this argument – especially as it applies to the detention-drone tradeoff – has been to deny any such tradeoff on the ground that there are no terrorists outside of Afghanistan (a) whom the United States is in a position to capture on the ground (as opposed to kill from the sky), and (b) whom the USG would like to detain and interrogate. Dan Klaidman’s book provides some counter-evidence, but I will save my analysis of that for a review I am writing. Here I would like to point to an important story by Eli Lake that reveals that the “United States soldiers have been hunting down al Qaeda affiliates in Somalia”; that U.S. military and CIA advisers work closely with the Puntland Security Force in Somalia, in part to redress piracy threats but mainly to redress threats from al-Shabab; that the Americans have since 2009 captured and brought to the Bosaso Central Prison sixteen people (unclear how many are pirates and how many are al-Shabab); and that American interrogators are involved in questioning al-Shabab suspects. The thrust of Lake’s story is that the conditions of detention at the Bosaso Central Prison are atrocious. But the story is also important for showing that that the United States is involved outside of Afghanistan in capturing members of terrorists organizations that threaten the United States, and does have a national security need to incapacitate and interrogate them. It does not follow, of course, that the USG can or should be in the business of detaining every al-Shabab suspect currently detained in the Bosaso Central Prison. But the Lake story does show that the alternatives to U.S. detention are invariably worse from a human rights perspective. It portends (along with last month’s WPR Report and related DOD press release) that our creeping involvement on the ground in places like Somalia and Yemen mean that the USG will in fact be in a position to capture higher-level terrorists in al Qaeda affiliates. And that in turn suggests that the factual premise underlying the denial of a detention-drone tradeoff will become harder and harder to defend.

### 2NC Proliferation

#### Prolif is slow and stable—their ev is hysteria.

Mueller 9—John Mueller is a professor of political science and Woody Hayes Chair of National Security Studies at the Mershon Center at Ohio State University [October 23, 2009, “The Rise of Nuclear Alarmism,” *Foreign Policy*, http://www.foreignpolicy.com/articles/2009/10/23/the\_rise\_of\_nuclear\_alarmism?page=full]

We have also endured decades of hysteria over the potential for nuclear proliferation, even though the proliferation that has actually taken place has been both modest and substantially inconsequential. When the quintessential rogue state, communist China, obtained them in 1964, CIA Director John McCone sternly proclaimed that nuclear war was "almost inevitable." But far from engaging in the "nuclear blackmail" expected at the time by almost everyone (except Johnson, then working at the State Department), China built its weapons quietly and has never made a nuclear threat.

Still, the proliferation fixation continues to flourish. For more than a decade, U.S. policy obsessed over the possibility that Saddam Hussein's pathetic and technologically dysfunctional regime in Iraq could in time obtain nuclear weapons (it took the more advanced Pakistan 28 years), which it might then suicidally lob, or threaten to lob, at somebody. To prevent this imagined and highly unlikely calamity, a war has been waged that has probably resulted in more deaths than were suffered at Hiroshima and Nagasaki combined.

Today, alarm is focused on the even more pathetic regime in North Korea, which has now tested devices that if detonated in the middle of New York's Central Park would be unable to destroy buildings on its periphery. There is even more hysteria about Iran, which has repeatedly insisted that it has no intention of developing the weapons. If that regime changes its mind or is lying, it is likely to find that, except for stoking the national ego for a while, the bombs are substantially valueless, a very considerable waste of money and effort, and "absolute" primarily in their irrelevance.

As for the rest of the world, the nuclear age is clearly on the wane. Although it may not be entirely fair to characterize disarmament as an effort to cure a fever by destroying the thermometer, the analogy is instructive when it is reversed: When a fever subsides, the instrument designed to measure it loses its usefulness and is often soon misplaced. Thus far the former contestants in the Cold War have reduced their nuclear warheads by more than 50,000 to around 18,000. Other countries, like France, have also substantially cut their nuclear arsenals, while China and others have maintained them in far lower numbers than expected.

Total nuclear disarmament hardly seems to be in the offing -- nuclear metaphysicians still have their skill sets in order. But a continued decline seems likely, and experience suggests that formal disarmament agreements are scarcely necessary in all this -- though they may help the signatories obtain Nobel Peace Prizes. With the demise of fears of another major war, many of the fantastically impressive, if useless, arms that struck such deep anxiety into so many for so long are quietly being allowed to rust in peace.

# 1NR

### 2NC Proliferation

#### No widespread prolif—

Proliferating states have dysfunctional management of nuclear programs due to weak political institutions. The quality of technical workmanship is low; there is no coordination among technical teams, and mistakes cause finger pointing and delays—that’s Hymans.

#### Prefer our evidence—

First—it takes into account globalization which has spread nuclear know-how and tech. Prolif has still slowed proving the problems listed above can’t be fixed.

Second—people have been predicting a prolif breakout for 50 years and it has never manifested—prefer empirics which are objective and untainted by ideology.

Third – no prolif – latin America specific – they don’t have the capabilities – 1NC

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## 1NR

### A2: Perm – Do Both (Politics)

#### Perm still links

#### A) Congress gets the blame – they’re the target of perception

CSM 97 (Christian Science Monitor, Robert Marquand, Staff writer. “Why America Puts Its Supreme Court On Lofty Pedestal.” Lexis.)

Today this holds true even more. In one sense, the reason is obvious: With divided government and partisan sniping in Washington, when politicians must create a TV image and constantly raise funds, the scholarly-looking justices seem a refreshing alternative. They come out in black robes from behind red silk curtains, and everyone stands. They ask incisive questions. They disappear. It looks like competence personified. And there's some truth to it. The members of the court don't need to campaign for office every few years. They were selected for life. They don't need speech writers or have to check the polls. The current justices, unlike earlier courts, generally write their own opinions. They are free to dissent, and their rulings are not tied to interest-group pressure. Moreover, as an institution, the court is uniquely constituted. It is not one targetable political persona, as is a single chief executive. Yet it is smaller than a Congress of 535 people. Congress is covered by TV four times as much as the court is. The White House is covered eight times as much, says Lee Epstein of Washington University in St. Louis. The court stands out now because it is not part of Washington's political swamp. The carefully cultivated aloofness of the Supreme Court is, in the Washington scene, almost countercultural in nature. The court's warts don't show. "People don't see the court infighting; it seems more harmonious and less political," says one court-watcher. "With Congress and the White House, we see the blood-letting on the street." Importantly, say scholars, current justices benefit from courageous stands the court took in cases like Brown school desegregation, and the Roe abortion-rights case - when the majority was fragile and the justices felt under great pressure. Those decisions are a main reason the court image is so buffed today.

#### No political cover

Toner 90 (Robin, Staff – NYT, New York Times, 6-28, Lexis)

Flag burning has tormented Congress since the Supreme Court handed down its first decision on the matter last year. Much of that torment has to do with the constant tension in this country between the commitment to freedom of expression and the anger at ''the obnoxious and offensive people'' who often exercise it most fully, as Representative Barney Frank, Democrat of Massachusetts, puts it. A burning flag is one of the most gripping visual images, communicating in an instant an ugly rejection of the values most Americans embrace. Any politician can imagine its use in a campaign commercial. ''I can see it now,'' said Senator Bob Kerrey, the Nebraska Democrat who is one of the strongest voices against the amendment, '' 'Bob Kerrey votes for gun control, and he won't vote to protect the flag.' It's a great 30-second spot.'' It fits neatly with the new politics of values, used so effectively by George Bush against Michael S. Dukakis in the 1988 Presidential campaign. Mr. Bush continues to appeal to those values and symbols. Today, he received a replica of the Iwo Jima Memorial at a Rose Garden ceremony and urged Congress to pass an amendment on flag burning by the Fourth of July. ''Amending the Constitution to protect the flag is not a matter of partisan politics,'' said Mr. Bush. ''It's an American issue.'' And now Congress is approaching one of those moments when there is **little political cover**. The Supreme Court has acted, and the President has spoken. It is now up to the lawmakers in the middle

#### Perm can’t avoid

Franklin 95 (Charles H., Professor of Political Science – University of Wisconsin, Madison, Contemplating Courts)

Very few people have direct contact with the Supreme Court and its decisions. Journalists may cover the Court, and lawyers may read some of its decisions, but the vast majority of Americans encounter the Supreme Court indirectly, through the media or perhaps conversation. How much the media cover the Court and how much attention they devote to decisions therefore determine to a significant extent what the citizenry knows about the Court. One of the peculiearites of the Supreme Court as an institution is that it is highly episodic and mostly private. Except on the days when it hears oral argument and the days when it hands down a decision, there is literally nothing to watch. The justices meet in private and they talk to themselves in private. Political scientists tell us this is a crucial time of negotiation and decisionmaking (Baum 1992; Murphy 1994) but because it is private, it is invisible to the media. In contrast, even before it takes a vote, Congress holds hearings, committee and subcomittee meetings, and floor debates; and party leaders and other members make statements, visit the White House, and appear on television interview shows. In comparison to the Supreme Court, Congress is a **veritable hotbed of activity**. The President is even more visible. Given these differences in institutional structure and practice, it is not surprising to find that the Supreme Court is much less frequently covered in the media. The consequence of this is nonethess important. As one of the three branches of the federal government, the Court is co-equal with the President and the Congress. Yet it is far from co-equal in visibility and hence in knowledge the citizens have about it and its decisions.

### A2: Rollback – General – 2NC

#### Courts solve – err Neg – selection bias – and, this links to the Aff

Baum 3 (Lawrence, Professor of Political Science – Ohio State, “The Supreme Court in American Politics”, Annual Review of Political Science, 6(1), p. 172)

Yet both this impression and what it suggests about the Court are misleading in two respects. First, the early research overstated the Court’s implementation failures. For one thing, scholars emphasized failures more than successes. Was it more remarkable that so many schools maintained religious exercises prohibited by the Court or that so many others eliminated exercises that had strong public support? The absence of desegregation in the Deep South in the decade after Brown was noteworthy, but so was the gradual elimination of school segregation in the border states. Moreover, this research reflected a strong selection bias in that scholars were attracted to the study of decisions that had run into visible implementation problems. Later research that avoided this bias indicates that, at least at the federal level, judges and administrators respond more favorably to Supreme Court decisions in general than the early research suggested (Johnson 1987, Songer et al. 1994, Stidham & Carp 1982, Songer 1987, Songer & Sheehan 1990, Spriggs 1997; see Canon & Johnson 1999). Second, the early research typically treated implementation of Supreme Court decisions as a unique phenomenon. Scholarship on imperfect hierarchy elsewhere in government (e.g., Kaufman 1960, Pressman & Wildavsky 1973) and in work organizations (e.g., Mechanic 1962, Crozier 1964) had little impact on the judicial research. As a consequence, judicial scholars seldom considered whether noncompliance with Supreme Court decisions resulted chiefly from universal imperfections in implementation rather than special weaknesses of courts. The first possibility has become even more credible with the accumulation of research on policy implementation (e.g., Lipsky 1980, Wilson 1989, Brehm & Gates 1997).

#### Many barriers to Congressional roll-back

Shipan 97 (Charles R., Assistant Professor of Political Science – University of Iowa, Designing Judicial Review, p. 9)

In the final stage of the policy process, political actors may attempt to overcome court actions—for example, Congress may write a law that overturns a court decision. However, members of Congress will not want to rely on such actions as the only means of dealing with the courts. To begin with, Congress is not always successful in its attempts to overturn court decisions. Part of any lack of success undoubtedly stems from the inherent difficulties involved in passing legislation. For example, even when a majority in Congress prefers to overturn a court decision, this majority may be so hampered by institutional features of Congress that it is unable to achieve its goals (Marks 1988). Another contributing factor is that members of Congress often defer to judicial judgments. This norm of congressional deference to the courts is especially strong for the Judiciary Committee (Miller 1990, 1992). An additional factor is that most members of Congress are often just plain unaware of court decisions, especially if the decision was issued by a lower court (Katzmann 1988, 1992)

#### Congress will fall in line

**Devins 6** (Neal, Professor of Law and Government – College of William & Mary,  May, 90 Minn. L. Rev. 1337, Lexis)

[\*1361]  That the Roberts Court need not worry about jurisdiction-stripping legislation is important, but ultimately does not answer the question of whether the Court should fear Congress. Congress, after all, can slap the courts down in other ways. [132](http://www.lexis.com/research/retrieve?_m=4f4be9901ca853c7bdcbd97bc82eda2f&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAB&_md5=9fc665c44d8df004f229f74a4b1ff081&focBudTerms=&focBudSel=all#n132) Nevertheless, changes in Congress over the past twenty years suggest that the Roberts Court has less reason to fear Congress than did the Warren or Burger Courts. As detailed in Part II, **today's lawmakers are less engaged in constitutional matters and less interested in asserting their prerogative to independently interpret the Constitution**. Correspondingly, lawmakers place relatively more emphasis on expressing their opinions than on advancing their policy preferences. Consequently, even though the Rehnquist Court invalidated more federal statutes than any other Supreme Court, **Congress did not see the Court's federalism revival as a fundamental challenge to congressional power**. [133](http://www.lexis.com/research/retrieve?_m=4f4be9901ca853c7bdcbd97bc82eda2f&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAB&_md5=9fc665c44d8df004f229f74a4b1ff081&focBudTerms=&focBudSel=all#n133) Lawmakers, instead, preferred to appeal to their base by speaking out on divisive social issues - launching rhetorical attacks against lower federal courts and state courts. Let me close on a cautionary note: the past may not be prologue. Widespread accusations of judicial activism may chip away at the Court's "reservoir of support." [134](http://www.lexis.com/research/retrieve?_m=4f4be9901ca853c7bdcbd97bc82eda2f&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAB&_md5=9fc665c44d8df004f229f74a4b1ff081&focBudTerms=&focBudSel=all" \l "n134" \t "_self) That is the intent of social conservatives who see the current round of court-stripping proposals as a way to transform the electorate - so that a majority of voters will be comfortable with jurisdiction-stripping and other attacks on judicial independence. [135](http://www.lexis.com/research/retrieve?_m=4f4be9901ca853c7bdcbd97bc82eda2f&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAB&_md5=9fc665c44d8df004f229f74a4b1ff081&focBudTerms=&focBudSel=all" \l "n135" \t "_self) More significant, there is some reason to think that this campaign is changing voter attitudes. A September 2005 poll, for example, suggests that a majority of Americans think that ""judicial activism' has reached the crisis stage, and that judges who ignore voters' values should be impeached." [136](http://www.lexis.com/research/retrieve?_m=4f4be9901ca853c7bdcbd97bc82eda2f&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAB&_md5=9fc665c44d8df004f229f74a4b1ff081&focBudTerms=&focBudSel=all" \l "n136" \t "_self) Time will tell whether  [\*1362]  this poll reflects changing voter attitudes. In the meantime, the Roberts Court should recognize that **today's Congress is all bark and no bite**. Court-bashing is a rhetorical move, a political strategy that emphasizes defeat and "harnesses the energy that such defeat stokes" among social - especially religious - conservatives. [137](http://www.lexis.com/research/retrieve?_m=4f4be9901ca853c7bdcbd97bc82eda2f&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAB&_md5=9fc665c44d8df004f229f74a4b1ff081&focBudTerms=&focBudSel=all#n137)

### Avoids Politics – 2NC

#### Our link is about Obama LOSING A WAR PWOERS FIGHT – that’s 1NC cx – no link

#### Courts are politically independent

Stephenson 99 (Donald Grier Jr., Professor of Government – Franklin and Marshall College and Ph.D. – Princeton University, Campaigns and the Court, p. 231-232)

Additionally, practically every stage of the decision-making process and every step in the way the Court conducts its business set the judicial function apart from the legislative and executive functions. The justices seem not just different but aloof, even mysterious. One journalist has called the Court “at once one of the most open and one of the least accessible of the major institutions of government. It is open because the public has access to nearly all legal documents that are filed and to the oral argument of cases. Yet the decisions themselves emerge from a deliberative process cloaked in secrecy. Leaks prior to official announcements of decisions are so rare that they make headlines when they occur. “The very idea of cooking up opinions in conclave, begets suspicions that something passes which fears the public ear,” Thomas Jefferson protested to Justice William Johnson. The Court’s penchant for secrecy may even occasionally fuel the “paranoid style in American politics,” which “evokes the qualities of heated exaggeration, suspiciousness, and conspiratorial fantasy”. And the Supreme Court’s aversion to televised or broadcasted proceedings and to still photography in the courtroom makes even its most public activity seem set apart. “The only groups who don’t appear on television,” observes journalist Fred Graham, “are the Supreme Court and the Mafia.

#### Avoids politics

Caldeira 92 (Gregory, Professor of Political Science – Ohio State University, “The Etiology of Public Support for the Supreme Court”, American Journal of Political Science, 36(3), p. 646-647)

Table 3 presents the relationships between our measure of diffuse support and the indicators of trust and of personal satisfaction. Overall, the 10 variables in Table 3 can account for less than 5% of the variation in diffuse support for the Court—not an impressive showing. Of these indicators, only trust in people reaches statistical significance in the multivariate analysis. The more citizens express trust in people, the greater the degree of support they accord to the Supreme Court. Neither trust in local government nor trust in the federal government showed any appreciable connection to diffuse support for the Supreme Court. Similarly, there is no measurable relationship between the confidence the sample bestows upon our national institutions and the degree of diffuse support it lends the Court. Moreover, we have regressed diffuse support for the Supreme Court on indicators of confidence in 12 institutions,t4 and the resulting equation explains only about 8% of the variance. Perhaps at one time, back in the 1960s, Americans saw the Supreme Court and other national political institutions as peas in the same pod, but our best evidence, based upon a wide range of indicators, suggests that this is no longer true. Furthermore, the public does not seem to condition diffuse support for the Court upon personal satisfaction or optimism.

### Solves Signal – 2NC

#### Violates the Geneva Convention

Jordan Paust 08, the Mike & Teresa Baker Law Center Professor at the University of Houston, a former U.S. Army JAG officer and member of the faculty of the Judge Advocate General’s School, 10/23/08, “The Case Against a National Security Court,”

http://jurist.law.pitt.edu/forumy/2008/10/case-against-national-security-court.php

During an actual armed conflict to which the laws of war apply, a national security court would have to comply with the customary and treaty-based requirements set forth in common Article 3 of the 1949 Geneva Conventions which, as noted in my book Beyond the Law, are absolute and minimum requirements applicable with respect to any person detained during either an internal or an international armed conflict. These mandate that a court be “regularly constituted” and afford “all the judicial guarantees” of due process that are reflected in customary international law – which include, at a minimum, those mirrored in Article 14 of the International Covenant on Civil and Political Rights (ICCPR). ¶ The Supreme Court aptly affirmed in Hamdan v. Rumsfeld that the “core meaning” of the phrase “regularly constituted” has been authoritatively set forth in general commentary by the International Committee of the Red Cross and excludes “‘all special tribunals’” and requires that courts be “‘established ... [and] already in force in a country.’” While concurring in Hamdan, Justice Kennedy noted that there is little doubt that the phrase relates to “standards deliberated upon and chosen in advance.” As Hamdan recognized, a court (1) must not be a “special” tribunal, and (2) must already be in existence. A special national security court simply could not meet the first test and, if otherwise proper, could only operate prospectively with respect to incidents arising after its creation.

#### NSC doesn’t solve—it perpetuates the squo

Thomas Hilde 9, professor at the University of Maryland School of Public Policy, “Beyond Guantanamo. Restoring U.S. Credibility on Human Rights,” Heinrich Böll Foundation, http://www.boell.org/downloads/hbf\_Beyond\_Guantanamo\_Thomas\_Hilde(2).pdf

This approach suggests that a national security court would have adequate means by which to judge not the actions of detainees, as with regular courts, but the risk of detainees engaging in harmful actions, even absent evidence. Such an approach appears to deny the notion of due process. It is also difficult to see how this approach would not generate the problem it ostensibly seeks to prevent; that is, the creation of enemies through detention policy. A 2008 document signed by 27 legal scholars opposes “any effort to extend the status quo by establishing either (1) a comprehensive system of long-term “preventive” detention without trial for suspected terrorists, or (2) a specialized national security court to make “preventive” detention determinations and ultimately to try terrorism suspects….” for the basic reason that, despite “dressed up procedures, these proposals would make some of the most notorious aspects of the current failed system permanent.” The authors add that perhaps “most fundamental is the fact that the supporters of these proposals typically fail to make clear who should be detained, much less how such individuals, once designated, can prove they are no longer a threat. Without a reasonably precise definition, not only is arbitrary and indefinite detention possible, it is nearly inevitable.”33 Some of the authors, however, conclude that evidence on the part of the government that a detainee has “engaged in belligerent acts or has directly participated in hostilities against the United States” may be the exceptional case justifying “continued detention.”34 Again, however, this distinction remains fluid enough as to be an arbitrary judgment by government officials.

#### NSC bypasses the 6th amendment and evidence rules.

Rittgers 9 [David Rittgers is an attorney and decorated former Army Special Forces officer who served three tours in Afghanistan and is now a legal policy analyst at the Cato Institute; “National Security Court: Reinventing the Wheel, Poorly”; 9/21/2009; <http://www.cato.org/publications/commentary/national-security-court-reinventing-wheel-poorly>]

In Sulmasy’s proposed “national security court,” suspected terrorists would be tried in front of a panel of three federal judges, violating their Sixth Amendment right to a jury trial. Defendants would be detained, tried, and imprisoned on military bases, a practice out of step with a federal statutory bar to the military’s direct participation in domestic law enforcement. The Bush administration kept its military commissions more palatable for the public by keeping American citizens and aliens detained in the United States out of Guantanamo. Sulmasy proposes that we bring Gitmo home and open its doors to citizens and non-citizens alike. Sulmasy does endeavor to solve one perceived problem with the military commissions that military lawyers have expressed to me: few courts-martial deal with contested felony charges, so most military lawyers have little courtroom experience. We are now entrusting them with the biggest trials of our time. Sulmasy proposes to fix this by using veteran federal prosecutors instead. The catch? The defense counsel would be those same military lawyers he says are not up to the task of prosecuting the case, unless the defendant could afford his own attorney with a high-level security clearance. Sulmasy also reduces the core protections of defendants by barring the use of the exclusionary rule, the doctrine that bars evidence collected illegally or otherwise in violation of the law. Without the prospect of excluding evidence collected in ways barred by federal courts, there is no incentive for law enforcement officers to follow any rules. Looking for terrorists? No warrant? No problem. Sulmasy attempts to allay fears of lost civil liberties by claiming that this court’s jurisdiction is limited to “international terrorists” such as al Qaeda and their ilk. In this, he falls into the trap that Benjamin Wittes, another proponent of national security courts, warns us of: “a slippery slope in which what they approve for Khalid Sheikh Mohammed today the government will use for someone like Jose Padilla tomorrow, a minor drug offender next week, and a political dissenter five years from now.” Sulmasy makes the leap from Khalid Sheikh Mohammed (a non-citizen terrorist organizer) to Padilla (a citizen terrorist operative) immediately, leaving the rest of the downhill slide to broader jurisdiction to an aggressive prosecutor’s argument or a subsequent change in the court’s authorizing statute. After all, with an increasingly connected world, the definition of “international terrorist” is an elastic term. Would someone have to have orders from abroad to be “international”? If so, then Jose Padilla, alleged “dirty bomb” plotter, certainly qualifies. What about two American citizens who traveled overseas to help suicide bombers planning to infiltrate Iraq and attack American troops? What about a native-born American citizen who met with like-minded extremists in Canada and sent surveillance videos of potential targets to a radical in London? Federal courts dealt with all of the above. No special court needed. The transition to prosecuting drug charges in a national security court is no great leap either. We already have a federal narco-terrorism statute, a long-standing “war on drugs,” and a government ad campaign telling us that buying drugs supports terrorism financing. For all of the courage that Sulmasy exercises in giving a specialized court extraordinary power, he shies away from letting terrorists lose when they unleash a tirade in the courtroom. While he claims that it is necessary to close sessions of court so that “hearings do not become propaganda tools for the enemy,” this is part and parcel of letting civil society defeat violent extremists in the marketplace of ideas. The disgruntled student who drove through the center of the University of North Carolina and wounded nine had such an outburst (which you probably wouldn’t know about unless you read it here) and is now serving a minimum of 26 years in a state prison. At his sentencing, Shoe Bomber Richard Reid slandered the court and declared that he was at war with the United States. Federal District Judge William Young told Reid, “You are not a soldier in any war. You are a terrorist. To give you that reference, to call you a soldier gives you far too much stature.” Reid received three life sentences plus 110 years, which ended the debate rather firmly. Sulmasy tries to work up the reader with potential legal fallout from the Boumediene decision, alarming us with the prospect of civilian courts requiring soldiers and Marines on the battlefield to get a search warrant before they enter an al Qaeda safehouse. The Supreme Court has held that the Fourth Amendment protection against unreasonable searches and seizures does not have any extraterritorial application, so this simply doesn’t hold water.

#### Process becomes politicized — means it’s not credible and super visible

David Cole 8, Professor of Law, Georgetown University Law Center, David Keene, Chairman, American Conservative Union, 6/23/08, “A Critiuqe of ‘National Security Courts’,” http://www.constitutionproject.org/pdf/Critique\_of\_the\_National\_Security\_Courts.pdf

In addition, these proposals are alarmingly short on details with respect to the selection of judges for these national security courts. Although there is a history of creating specialized federal courts to handle particular substantive areas of the law (e.g., taxation; patents), unlike tax and patent law, there is simply no highly specialized expertise that would form relevant selection criteria for the judges. Establishing a specialized court solely for prosecutions of alleged terrorists might also create a highly politicized process for nominating and confirming the judges, focusing solely on whether the nominee had sufficient “tough on terrorism” credentials — hardly a criterion that lends itself to the appearance of fairness and impartiality.

#### These violations are perceived — NSC breaks ILaw

Jordan Paust 8, the Mike & Teresa Baker Law Center Professor at the University of Houston, a former U.S. Army JAG officer and member of the faculty of the Judge Advocate General’s School, 10/23/08, “The Case Against a National Security Court,”

It is likely that some will propose the creation of a special court in order to facilitate convictions that would not be possible in a regular federal district court, especially through use of “evidence obtained through coercion” as part of what John Yoo and President Bush have admitted was a “common, unifying” plan or “program” of coercive interrogation that most know involves several manifest violations of customary and treaty-based international law and that can form the basis for criminal prosecution of (1) direct perpetrators, including those who authorized or ordered coercive interrogation; (2) leaders who were also or merely derelict in duty; (3) those who participated in a “joint criminal enterprise;” and (4) those who aided and abetted coercive interrogation or who were otherwise complicit (through memos or elsewise) in denials of rights under the laws of war, other violations of the laws of war, and violations of other international criminal law such as violations of the Convention Against Torture and customary prohibitions of secret detention. Quite clearly, lack of an intent to commit a crime would not obviate such forms of criminal responsibility and orders or authorizations will not lessen criminal responsibility for conduct that is manifestly unlawful. For example, an aider and abettor need only be aware that his or her conduct would or does assist that of a direct perpetrator. It is pertinent in this regard that there are reports that during multiple sessions in the White House beginning in 2002 Condoleezza Rice, Dick Cheney, George Tenet, Donald Rumsfeld, John Ashcroft, and others viewed simulations of and/or discussed and/or approved use of waterboarding, the “cold cell,” use of dogs to instill intense fear in detainees, and stripping naked, among other patently illegal tactics that were to be used as part of the admitted program of coercive interrogation.¶ Perpetuating illegality with a national security court would not serve our traditional values and the best interests of the United States, especially as we seek to regain our honor and international stature during a new Administration committed to the rule of law.

### Your 1AC ev concedes we solve

#### Court action key your cred internal

Knowles 9 (Robert, Acting Assistant Professor, New York University School of Law, "Article: American Hegemony and the Foreign Affairs Constitution," 41 Ariz. St. L.J. 87, Spring, lexis)

Moreover, the post-Cold War world has provoked a crisis in realism. n9 The United States is a global hegemon. It is unrivaled in its ability to deploy force throughout the globe, and it provides "public goods" for the world - such as the protection of sea lanes - in exchange for broad acceptance of [\*91] U.S. leadership. n10 Although realism predicts counter-balancing, no great power or coalition has yet emerged to challenge America's predominance. And despite a new round of predictions about American decline, the U.S. is still projected to have by far the largest economy and the largest military for decades. n11 Political scientists have struggled to define this American-led system, but courts and scholars of constitutional law have largely ignored it. n12 Instead, most debates about special deference have simply accepted outmoded classic realist assumptions that became conventional wisdom in the 1930s and 40s.¶ This Article offers a new model for assessing appropriate judicial deference in foreign affairs that takes account of American-led order. By maintaining consistent interpretation of U.S. and international law over time and providing virtual representation for other nations and non-citizens, U.S. courts bestow legitimacy on the acts of the political branches, provide public goods for the world, and increase America's soft power - all of which assist in maintaining the stability and legitimacy of the American-led hegemonic order.¶ This "hegemonic" model substantially eliminates the problematic deference gap between foreign and domestic cases and enables courts to appropriately balance foreign affairs needs against other separation-of-powers goals by "domesticating" foreign affairs deference. The hegemonic model also has explanatory and predictive value. In four recent cases addressing habeas claims by alleged enemy combatants, the Supreme Court rejected special deference. n13 It refused to defer to the executive branch [\*92] interpretations of foreign affairs statutes and international law, and even asserted military exigencies. The hegemonic model justifies this recent rejection of special deference and explains why it could augur increased judicial involvement in foreign affairs.

#### It’s the literal ending of indefinite detention without charge or trial that sends the signal – your 1AC evidence

Chaffee 9 – David, JD. Advocacy Counsel at Human Rights First

[42 Case W. Res. J. Int'l L. 187, “Dismantling Guantanamo: Facing the Challenges of Continued Detention and Repatriation: The Cost Of Indefinitely Kicking The Can: Why Continued "Prolonged" Detention Is No Solution To Guantanamo”]cs

The most oft cited reasons by current and former government officials for closing Guantanamo is the damage that Guantanamo detention policies have had on the reputation of the U.S. and on U.S. counterinsurgency and counterterrorism efforts. Intelligence experts, diplomats, military leaders, former Secretaries of Defense, and former Secretaries of State all recognize that the Guantanamo legacy has hurt our relationships with our allies and our counterinsurgency and counterterrorism efforts. 12 In January, Dennis Blair, then the nominee for Director of National Intelligence testified, "I agree with the President that the detention center at Guantanamo has become a damaging symbol to the world and that it must be closed. It is a [\*190] rallying cry for terrorist recruitment and harmful to our national security, so closing it is important for our national security." 13 If the administration continues to indefinitely detain Guantanamo detainees without trial or charge, it risks prolonging the legacy of flawed and illegal detention policies that Guantanamo has come to symbolize. One week before the President's National Archive speech, three retired senior military leaders wrote the President stating that attempting to establish a system of indefinite detention without trial would perpetuate "the harmful symbolism of Guantanamo, undermining our counterterrorism efforts and squandering an opportunity to demonstrate the strength of the American system of justice." 14 The letter goes on to state: The Guantanamo detentions have shown that assessments of dangerousness based not on overt acts, as in a criminal trial, but on association are unreliable and will inevitably lead to costly mistakes. This is precisely why national security preventive detention schemes have proven a dismal failure in other countries. The potential gains from such schemes are simply not great enough to warrant departure from hundreds of years of western criminal justice traditions. 15 The military leaders recognize the disagreeable company that the U.S. keeps when engaging in indefinite detention without trial. U.S. allies in Europe have implemented no comparable long term detention scheme in armed conflict or administrative preventive detention outside of the deportation context. 16 The governments of countries in Egypt, Malaysia, Zimbabwe, and Kenya have authorized indefinite or successive detention schemes in the name of fighting threats from terrorists or insurgents and all those schemes have resulted in violations of fundamental due process norms. 17 In response to this criticism, such governments have cited Guantanamo Bay detention policies to justify repressive schemes of prolonged [\*191] detention without trial-schemes that the U.S. criticizes as authorized arbitrary detention. 18 Indefinite detention regimes aimed at preventing security risks are known to foster human rights abuses and to create perverse incentives against bringing criminal charges against prisoners. That is why the U.S. has been consistently critical of governments that detain indefinitely without charge, including regimes that involve successive review or unrestrained renewable time limits. 19 If the Obama administration continues to pursue a detention regime for former Guantanamo detainees that permits indefinite detention without charge, it will impact detention policies of governments throughout the world and will likely embolden other governments to circumvent the protections guaranteed in criminal trials by citing security concerns. The world is watching to see whether the Obama administration fulfills its promise to close Guantanamo, but also to see how it faces the difficult questions that must be confronted to truly resolve the detainee cases and not simply move them elsewhere. If the handling of the former Guantanamo detainees falls short of the standards that U.S. allies expect, those allies are likely to have continuing concerns about cooperating with the U.S. in joint detention operations. Moreover, if our European allies perceive that the process afforded some of the Guantanamo detainees falls short of international standards, they will be less likely to continue to offer their much needed assistance in relocating other detainees. When the Council for the EU expressed support for receiving Guantanamo detainees it did so with the explicit understanding that the underlying policy issues would be addressed in a manner consistent with international law, presumably as that law is understood not just by the U.S. but also by EU member states. 20 In his speech in May, the President spoke of continued detention at Guantanamo as a system to "hold individuals to keep them from carrying out an act of war . . . ." 21 But the continued indefinite detention of Guanta [\*192] namo detainees under the auspices of a law of war framework is in stark contrast to past examples of U.S. armed conflict detention or current detention policies in Iraq or Afghanistan. In previous conflicts, the U.S. afforded prisoners the procedures proscribed in the Geneva Conventions 22 and U.S. military regulation 23 at the point of capture and it released or transferred the prisoners promptly upon the end of the conflict. 24 The prisoners currently held at Guantanamo were afforded no review at the point of capture, and many were held for over two years before any process was provided. As Lawrence Wilkerson, Colin Powell's chief of staff recently wrote, "no meaningful attempt at discrimination was made in-country by competent officials, civilian or military, as to who we were transporting to Cuba for detention and interrogation." 25 That many of the Guantanamo detainees were denied process at the point of capture and that they have already been detained for such an extended period of time increases the importance of ensuring that the cases are dealt with in a manner that is consistent with the approach of our allies and with American traditions of justice. A policy that involves continued indefinite detention without charge falls short of what is needed to repair the damage inflicted on U.S. diplomatic power and ability to champion human rights abroad.

#### Better IL to judicial independence and YOUR latin America internal – your 1AC evidence

Weeks 6—Gregory, Professor and Chair, Department of Political Science and Public Administration, UNC Charlotte

[<http://clas-pages.uncc.edu/gregory-weeks/files/2012/04/WeeksG_2006JTWSarticle.pdf>]ab

There is a growing literature on judicial reform in Latin America, which emphasizes the need for greater access, efficiency, transparency, and independence.38 For democratic civil-military relations [CMR], the most important factor is judicial independence. The judicial branch is the main civilian source of accountability for members of the armed forces who have committed crimes against civilians. At the same time, it provides due process to the accused, thus ensuring that they receive a fair trial and maintaining the military's faith in the system. To serve in that role, judges must be independent from outside pressure. It is also necessary for those same soldiers to view the courts as fair and impartial. When the process becomes routinized, then the institution can be considered fully effective. Measuring the effectiveness of the courts is perhaps the most straightforward. In a study of judicial reform in Latin America, William Prillaman argues that independence can be measured by tracking the willingness of courts to rule against the government.39 However, for cases involving members of the military, independence also means ruling against the military leadership. Have soldiers been tried, convicted, and imprisoned for crimes they have committed? Even further, were judges successful in that regard even in the face of military resistance? Especially in the context of countries emerging from authoritarian rule (and even more so when the dictatorship was highly repressive) judges can be harassed, threatened, or even killed, or the civilian government may accept military demands to be left alone, fearing the political (or perhaps even personal) consequences. With some exceptions, judicial systems in Latin American countries have not been successful in addressing crimes committed by the armed forces (or the police). Even in some countries—such as Guatemala-where judges have periodically been able to overcome military pressure, court cases have been accompanied by violence or the threat of it. The worst records have been in Central America and the Andean region, whereas in the southern cone notable advances have been made. Especially in Colombia, but also in Ecuador and Peru, intimidation means that many cases are never investigated and judges are reluctant to hear them. Amnesties blocked civilian courts to a significant degree in Brazil, Chile, and Uruguay. In both Argentina and (surprisingly) Chile, the process of routinization is further advanced than elsewhere, so that when officers are called to testify there is less civil-military conflict than in the past, but this remains exceptional in the region. At the 2004 defense meetings in Ecuador, the Mexican Defense Minister spoke of the Mexican military's more "pro-active" stance in the fighting terrorism, which will certainly raise questions about jurisdiction if officers are implicated in abuses. Apart from interaction on the basis of extradition requests (most prominently in the case of Colombia) the judiciary is not a central issue for U.S. defense policy and it is not raised in the 2000 or 2002 National Security Strategy except for the goal of teaching respect for human rights in U.S. military training programs. Nonetheless, the United States Agency for International Development does provide funding for training and judicial development in general.'"' There are two important ways in which U.S. defense policy affects the judiciary, First, support for the regimes that commit serious abuses almost certainly contributes to a general sense of impunity. This was, of course, particularly true when dictatorships were the norm in the region Second, the militarization of areas deemed havens for terrorism (especially drug traffickers) has increased the number of human rights abuses and, in several countries, has increased pressure on judges not to prosecute (especially in Colombia). Another dilemma for civilian governments in Latin America is the scope of military justice in Latin America. In many countries, civilians can be brought before military courts for a broad range of offenses and officers can often find protection from prosecution by civilian courts. Reform has been slow and uneven."' The Staff Judge Advocate's Office of the United States Southern Command has created programs for military justice, such as in Colombia and Venezuela in 1998."^ The main goal for Colombia was to institutionalize the protection of human rights in military courts, whereas the Venezuelan military wished to reform its system of courts martial. Renewed emphasis on antiterrorism and internal security, however, raises the risk that military judges will try more civilians, who will not enjoy the same rights and privileges as they would in civilian courts. Given the debate over terrorist suspects being held in the United States, Latin American armed forces can easily claim that military courts are more appropriate in the context of the war against terrorism. They can also claim that, given national security concerns, the military should not be held accountable to any courts other than its own. The same arguments were often made during the Cold War. Finally, just as with the legislative branch, the emphasis on military intelligence gathering as an element of anti-terrorist policy reinforces the military's perceived need for secrecy and a minimum of civilian oversight. Even before the attacks on the United States, analysts were noting the "heightened tension between demands for secrecy and the desire for enhanced civil liberties.'"43 A return to Cold War-era notions of national security and secrecy represents an obstacle to the development of an effective judicial branch. In particular, the call for regional sharing of intelligence raises legitimate questions about precisely which judicial bodies would have authority to act in defense of civil liberties. Although leaders—both civilian and military—of numerous Latin American countries have indicated approval of the general idea (and southern cone countries have even broached the issue of a regional military) no specifics have yet been forthcoming. The primary historical parallel would be Operation Condor, the multinational (Argentina, Bolivia, Brazil, Chile, Paraguay, and Uruguay) intelligence system created in 1975 as a way to consolidate anti-communist dictatorships and eliminate political enemies. Although transitions to civilian rule have long taken place, judiciaries remain ill-equipped to confront what would become complex issues of jurisdiction, human rights, and the role military courts. CONCLUSION For civil-military relations [CMR] to become more democratic in Latin America, it is obviously vital for civilian defense institutions to become stronger. When both civilians and officers view those institutions as legitimate, then the civil-military relationship will become increasingly predictable and differences can be mediated without overt conflict. Defense institutions provide a structure through which civilians and officers can accept each other's expertise and gradually learn that enmity is not always inevitable. This is an especially difficult process in Latin America, where civil-military discord has historically been the norm. The military's historic skepticism of civilian policy makers has, in most countries, solidified the notion that civilians are incapable of handling national defense, while civilians view the armed forces with a suspicion born of military intervention and dictatorship. Therefore, the task of "civilianizing" those institutions is formidable. Beginning in the 1990s, the United States developed a defense policy toward Latin America that, for the first time, emphasized the need for greater civilian expertise and oversight in the region, especially in terms of building more democratic civil-military institutions, which had been sorely lacking in the region. The terrorist attacks of 11 September 2001, however, reoriented U.S. defense policy toward encouraging Latin American militaries to become more involved in intelligence gathering, border patrol and domestic law enforcement, roles that civilians had painstakingly been trying to wrest away from military control. These competing policy goals thus send mixed messages about the real priorities of the U.S. government. Although U.S. policy makers remain focused primarily on the Andean region, it is clear that they view terrorism as a threat in every Latin American country. Furthermore, the main proposed tactic for combating terrorism is increased use of the armed forces in each country, whether it is border patrol, intelligence gathering, fighting guerrillas, or taking over a variety of national police duties. By militarizing policy and emphasizing a largely military response, anti-terrorist initiatives have the strong potential for undermining the stated policy goal of democratizing civil-military institutions [CMR] in the region. These institutions, which already suffer from a lack of historical effectiveness, have only begun to assert themselves, and these efforts will suffer as a result of a renewed military emphasis on perceived threats to national security.

### A2: Only Congress can do the Plan

#### Lunday says congress establishes lower courts – thanks for the civics lesson – counterplan achieves the same effect via a different mechanism – make them prove a link differential and that the NSC is necessary rather than sufficient – it’s not there

### No Nuke Terror

FLOW

#### No risk of nuclear terrorism---too many obstacles

John J. Mearsheimer 14, R. Wendell Harrison Distinguished Service Professor of Political Science at the University of Chicago, “America Unhinged”, January 2, nationalinterest.org/article/america-unhinged-9639?page=show

Am I overlooking the obvious threat that strikes fear into the hearts of so many Americans, which is terrorism? Not at all. Sure, the United States has a terrorism problem. But it is a minor threat. There is no question we fell victim to a spectacular attack on September 11, but it did not cripple the United States in any meaningful way and another attack of that magnitude is highly unlikely in the foreseeable future. Indeed, there has not been a single instance over the past twelve years of a terrorist organization exploding a primitive bomb on American soil, much less striking a major blow. Terrorism—most of it arising from domestic groups—was a much bigger problem in the United States during the 1970s than it has been since the Twin Towers were toppled.¶ What about the possibility that a terrorist group might obtain a nuclear weapon? Such an occurrence would be a game changer, but the chances of that happening are virtually nil. No nuclear-armed state is going to supply terrorists with a nuclear weapon because it would have no control over how the recipients might use that weapon. Political turmoil in a nuclear-armed state could in theory allow terrorists to grab a loose nuclear weapon, but the United States already has detailed plans to deal with that highly unlikely contingency.¶ Terrorists might also try to acquire fissile material and build their own bomb.

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But that scenario is extremely unlikely as well: there are significant obstacles to getting enough material and even bigger obstacles to building a bomb and then delivering it. More generally, virtually every country has a profound interest in making sure no terrorist group acquires a nuclear weapon, because they cannot be sure they will not be the target of a nuclear attack, either by the terrorists or another country the terrorists strike. Nuclear terrorism, in short, is not a serious threat. And to the extent that we should worry about it, the main remedy is to encourage and help other states to place nuclear materials in highly secure custody.

### A2: Congress Blocks

#### Court can and should – better internal to your impact

LA Times 12 ("America's detainee problem," http://articles.latimes.com/2012/sep/23/opinion/la-ed-detention-20120923)

In a conventional war, enemy soldiers can be captured and held as prisoners of war until the end of combat. In the criminal justice system, an arrest for a violent crime will lead to a charge, followed by a guilty plea or jury trial. But some individuals imprisoned in the war on terror declared after the 9/11 attacks face the worst of both worlds: detention without trial but without the consolation that they will be freed and returned to their families in a tolerable period of time.¶ Someone who lived in that twilight world for a decade was Adnan Farhan Abdul Latif, a Yemeni who was captured near the Afghanistan-Pakistan border in 2001 and held at Guantanamo Bay on suspicion of involvement with Al Qaeda or other enemy forces. (Latif insisted he was on a journey to seek medical care.) Latif was found dead in his cell this month. Although no cause of death was announced, Latif's lawyer said his client had repeatedly attempted suicide and had engaged in hunger strikes. Whatever the precise cause, Latif's lawyer said, "his death was caused by his detention." Latif had been at Guantanamo for a decade without trial.¶ According to the Center for Constitutional Rights, of 167 men now confined at Guantanamo — down from a peak of nearly 800 in 2005 — 86, including 55 from Yemen, have been cleared for release yet remain at the facility. Forty-six inmates have been designated for indefinite detention because, according to the government, they can be neither tried nor safely released. Even inmates facing military commission trials — including self-proclaimed 9/11 architect Khalid Shaikh Mohammed — may not be released even if they are acquitted.¶ In 2008 the Supreme Court ruled that even if they didn't receive a trial, inmates at Guantanamo had a constitutional right to challenge their confinement by petitioning for a writ of habeas corpus. But the federal appeals court in Washington, D.C., which has jurisdiction over such cases, has gutted that decision by extending excessive deference to the decisions of the government. Indeed, at the request of the Obama administration, it reversed an order by a federal trial judge that Latif be released. (The administration had appealed the decision despite the fact that, according to Latif's lawyer, his client was cleared for transfer three times by the military and a fourth by a task force established by the Obama administration.)¶ Although the number of prisoners at Guantanamo has dwindled, the number of detainees could rise again under legislation passed by Congress last year. The 2012 National Defense Authorization Act purports to be a reaffirmation of the Authorization of Military Force passed by Congress to target the perpetrators of the 9/11 attacks. In fact, its reach is broader, authorizing military detention of individuals who belong to or support not only Al Qaeda but "associated forces." Such individuals can be put on trial or detained without trial until "the end of the hostilities."¶ Could that include U.S. citizens? The act says it doesn't alter existing law relating to the detention of citizens or lawful resident aliens, but that existing law is itself unclear. In signing the legislation, Obama promised that he would "not authorize the indefinite military detention without trial of American citizens." But that promise wouldn't be binding on a future administration. Last week a federal judge in New York issued an injunction against the law in a case brought by journalists and activists who said they feared they might be prosecuted for exercising their 1st Amendment rights.¶ To ensure that U.S. citizens aren't subjected to indefinite detention, Obama should press Congress to pass the Due Process Guarantee Act introduced by Sen. Dianne Feinstein (D-Calif.), which would clarify that a declaration of war or authorization to use military force "shall not authorize the detention without charge or trial of a citizen or lawful permanent resident of the United States apprehended in the United States, unless an act of Congress expressly authorizes such detention."¶ As for foreign detainees, the administration needs to make more of an effort to arrange the repatriation or resettlement of individuals no longer considered a threat. (That would probably mean lifting the blanket ban on transfers to Yemen.) It also should reconsider the decision that § Marked 21:17 § 46 prisoners can't be put on trial. As we have observed before, holding suspects indefinitely without a trial offends American notions of due process. Finally, the Supreme Court must take advantage of an appropriate case to reinvigorate its 2008 holding that inmates at Guantanamo challenging their detention are entitled to a fair hearing in a federal court. Such a reaffirmation would come too late for Adnan Latif, but it could release others from the cruel limbo of indefinite detention.