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#### Congress likely to pass a CR and avoid shutdown now - Boehner's tactics are merely to placate conservatives down the road

Yglesias 9/18/13 (Matthew, business/economics correspondent @ Slate, "The Odds of a Government Shutdown Are Falling, Not Rising," http://www.slate.com/blogs/moneybox/2013/09/18/government\_shutdown\_odds\_falling\_not\_rising.html)

But read on to the second graf of the piece and you'll see that the odds are not rising at all. What's happening is that John Boehner is preparing to pass an appropriations bill that also defunds Obamacare that he knows perfectly well stands no chance of passing, and he's hoping that doing this will placate the right wing of the his caucus for when he surrenders.¶ Here they explain:¶ House leaders are hoping the vote on the defunding measure will placate conservatives once the Democratically controlled Senate rejects it. The House, they are betting, would then pass a stopgap spending measure unencumbered by such policy baggage and shift the argument to the debt ceiling, which must be raised by mid-October if the government is to avoid an economically debilitating default.¶ The key thing to remember here is that the House, as a discretionary decision, operates by the "Hastert Rule" in which only bills that are supported by a majority of GOP members can be brought to the floor for a vote. There is no Hastert-compliant appropriations bill that can pass the Senate. But there very likely is majority support in the House for the kind of "clean" funding bill that can also pass the Senate. All that has to happen is for John Boehner to violate the Hastert Rule. And the Hastert Rule isn't actually a rule, it's something Boehner has put aside many times. But it's also a rule he can't flagrantly ignore, lest his caucus get too grumpy and depose him. The operating theory here is that if Boehner has the whole House GOP indulge the maximalist faction by all passing a defuding bill, that creates enough room to move to later violate the Hastert Rule and pass a continuing resolution.¶ If anything is happening to the odds of a shutdown, in other words, they're falling, not rising.

#### Obama fights the plan – strongly supports war powers

Rana 11 (Aziz – Assistant Professor of Law, Cornell Law School, “TEN QUESTIONS: RESPONSES TO THE TEN QUESTIONS”, 2011, 37 Wm. Mitchell L. Rev. 5099, lexis)

Thus, for many legal critics of executive power, the election of Barack Obama as President appeared to herald a new approach to security concerns and even the possibility of a fundamental break from Bush-era policies. These hopes were immediately stoked by Obama's decision before taking office to close the Guantanamo Bay prison. n4 Over two years later, however, not only does Guantanamo remain open, but through a recent executive order Obama has formalized a system of indefinite detention for those held there and also has stated that new military commission trials will begin for Guantanamo detainees. n5 More important, in ways small and large, the new administration remains committed to core elements of the previous constitutional vision of national security. Just as their predecessors, Obama officials continue to defend expansive executive detention and war powers and to promote the centrality of state secrecy to national security.

#### Presidential war power battles expend capital – it’s immediate and forces a trade-off

O’Neil 7 (David – Adjunct Associate Professor of Law, Fordham Law School, “The Political Safeguards of Executive Privilege”, 2007, 60 Vand. L. Rev. 1079, lexis)

a. Conscious Pursuit of Institutional Prerogatives The first such assumption is belied both by first-hand accounts of information battles and by the conclusions of experts who study them. Participants in such battles report that short-term political calculations consistently trump the constitutional interests at stake. One veteran of the first Bush White House, for example, has explained that rational-choice theory predicts what he in fact experienced: The rewards for a consistent and forceful defense of the legal interests of the office of the presidency would be largely abstract, since they would consist primarily of fidelity to a certain theory of the Constitution... . The costs of pursuing a serious defense of the presidency, however, would tend to be immediate and tangible. These costs would include the expenditure of political capital that might have been used for more pressing purposes, [and] the unpleasantness of increased friction with congressional barons and their allies. n182 Louis Fisher, one of the leading defenders of the political branches' competence and authority to interpret the Constitution independently of the courts, n183 acknowledges that politics and "practical considerations" typically override the legal and constitutional principles implicated in information disputes. n184 In his view, although debate about congressional access and executive privilege "usually proceeds in terms of constitutional doctrine, it is the messy political realities of the moment that usually decide the issue." n185 Indeed, Professor Peter Shane, who has extensively studied such conflicts, concludes that their successful resolution in fact depends upon the parties focusing only on short-term political [\*1123] considerations. n186 When the participants "get institutional," Shane observes, non-judicial resolution "becomes vastly more difficult." n187

#### Capital key

Dumain 9/18/13 (Emma, Roll Call, "Will House Democrats Balk at Sequester-Level CR?," http://blogs.rollcall.com/218/will-house-democrats-balk-at-sequester-level-cr/)

What would be helpful for the duration of the political battle over the CR between now and the end of the month, however, is if Obama more frequently took to the “bully pulpit” to blast Republicans and bolster Democrats, the aide said.¶ “The more the better,” he said.

#### Shutdown wrecks the economy

Wu 8/27/13 (Yi, “Government Shutdown 2013: Still a Terrible Idea,” PolicyMic, <http://www.policymic.com/articles/60837/government-shutdown-2013-still-a-terrible-idea>)

Around a third of House Republicans, many Tea Party-backed, sent a letter last week calling on Speaker John Boehner to reject any spending bills that include implementation of the Affordable Care Act, otherwise known as Obamacare. Some Senate Republicans echo their House colleagues in pondering this extreme tactic, which is nothing other than a threat of government shutdown as neither congressional Democrats nor President Obama would ever agree on a budget that abolishes the new health care law. Unleashing this threat would amount to holding a large number of of the federal government's functions, including processing Social Security checks and running the Centers for Disease Control, hostage in order to score partisan points. It would be an irresponsible move inflicting enormous damage to the U.S. economy while providing no benefit whatsoever for the country, and Boehner is rightly disinclined to pursue it. Government shutdowns are deleterious to the economy. Two years ago in February 2011, a similar government shutdown was looming due to a budget impasse, and a research firm estimated that quater's GDP growth would be reduced by 0.2 percentage points if the shutdown lasted a week. After the budget is restored from the hypothetical shutdown, growth would only be "partially recouped," and a longer shutdown would result in deeper slowdowns. Further, the uncertainties resulting from a shutdown would also discourage business. A shutdown was avoided last-minute that year, unlike in 1995 during the Clinton administration where it actually took place for four weeks and resulted in a 0.5 percentage-point dent in GDP growth. Billions of dollars were cut from the budget, but neither Boehner nor the Republicans at the time were reckless enough to demand cancellation of the entire health care reform enacted a year before.

#### Global nuclear war

Harris & Burrows 9 (Mathew, PhD European History @ Cambridge, counselor of the U.S. National Intelligence Council (NIC) and Jennifer, member of the NIC’s Long Range Analysis Unit “Revisiting the Future: Geopolitical Effects of the Financial Crisis” <http://www.ciaonet.org/journals/twq/v32i2/f_0016178_13952.pdf>)

Increased Potential for Global Conflict Of course, the report encompasses more than economics and indeed believes the future is likely to be the result of a number of intersecting and interlocking forces. With so many possible permutations of outcomes, each with ample opportunity for unintended consequences, there is a growing sense of insecurity. Even so, history may be more instructive than ever. While we continue to believe that the Great Depression is not likely to be repeated, the lessons to be drawn from that period include the harmful effects on fledgling democracies and multiethnic societies (think Central Europe in 1920s and 1930s) and on the sustainability of multilateral institutions (think League of Nations in the same period). There is no reason to think that this would not be true in the twenty-first as much as in the twentieth century. For that reason, the ways in which the potential for greater conflict could grow would seem to be even more apt in a constantly volatile economic environment as they would be if change would be steadier. In surveying those risks, the report stressed the likelihood that terrorism and nonproliferation will remain priorities even as resource issues move up on the international agenda. Terrorism’s appeal will decline if economic growth continues in the Middle East and youth unemployment is reduced. For those terrorist groups that remain active in 2025, however, the diffusion of technologies and scientific knowledge will place some of the world’s most dangerous capabilities within their reach. Terrorist groups in 2025 will likely be a combination of descendants of long established groups inheriting organizational structures, command and control processes, and training procedures necessary to conduct sophisticated attacks and newly emergent collections of the angry and disenfranchised that become self-radicalized, particularly in the absence of economic outlets that would become narrower in an economic downturn. The most dangerous casualty of any economically-induced drawdown of U.S. military presence would almost certainly be the Middle East. Although Iran’s acquisition of nuclear weapons is not inevitable, worries about a nuclear-armed Iran could lead states in the region to develop new security arrangements with external powers, acquire additional weapons, and consider pursuing their own nuclear ambitions. It is not clear that the type of stable deterrent relationship that existed between the great powers for most of the Cold War would emerge naturally in the Middle East with a nuclear Iran. Episodes of low intensity conflict and terrorism taking place under a nuclear umbrella could lead to an unintended escalation and broader conflict if clear red lines between those states involved are not well established. The close proximity of potential nuclear rivals combined with underdeveloped surveillance capabilities and mobile dual-capable Iranian missile systems also will produce inherent difficulties in achieving reliable indications and warning of an impending nuclear attack. The lack of strategic depth in neighboring states like Israel, short warning and missile flight times, and uncertainty of Iranian intentions may place more focus on preemption rather than defense, potentially leading to escalating crises. Types of conflict that the world continues to experience, such as over resources, could reemerge, particularly if protectionism grows and there is a resort to neo-mercantilist practices. Perceptions of renewed energy scarcity will drive countries to take actions to assure their future access to energy supplies. In the worst case, this could result in interstate conflicts if government leaders deem assured access to energy resources, for example, to be essential for maintaining domestic stability and the survival of their regime. Even actions short of war, however, will have important geopolitical implications. Maritime security concerns are providing a rationale for naval buildups and modernization efforts, such as China’s and India’s development of blue water naval capabilities. If the fiscal stimulus focus for these countries indeed turns inward, one of the most obvious funding targets may be military. Buildup of regional naval capabilities could lead to increased tensions, rivalries, and counterbalancing moves, but it also will create opportunities for multinational cooperation in protecting critical sea lanes. With water also becoming scarcer in Asia and the Middle East, cooperation to manage changing water resources is likely to be increasingly difficult both within and between states in a more dog-eat-dog world.

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#### The affirmative’s quest for security in an inherently chaotic and insecure world guarantees extinction

**Burke, 07** – Anthony, Ph. D in International Relations and Political Science from the Australian National University, Associate Professor of Politics and International Relations in the University of New South Wales, Political theorist and IR scholar, “Ontologies of War: Violence, Existence and Reason”, [Project](http://www.hopkins-debate.com/pdf/Burke.pdf) MUSE

In this struggle with the lessons of Vietnam, revolutionary resistance, and rapid geopolitical transformation, we are witness to an enduring political and cultural theme: of a craving for order, control and certainty in the face of continual uncertainty. Closely related to this anxiety was the way that Kissinger's thinking -- and that of McNamara and earlier imperialists like the British Governor of Egypt Cromer -- was embedded in instrumental images of technology and the machine: the machine as both a tool of power and an image of social and political order. In his essay 'The Government of Subject Races' Cromer envisaged effective imperial rule -- over numerous societies and billions of human beings -- as best achieved by a central authority working 'to ensure the harmonious working of the different parts of the machine'.60 Kissinger analogously invoked the virtues of 'equilibrium', 'manageability' and 'stability' yet, writing some six decades later, was anxious that technological progress no longer brought untroubled control: the Westernising 'spread of technology and its associated rationality...does not inevitably produce a similar concept of reality'.61 We sense the rational policymaker's frustrated desire: the world is supposed to work like a machine, ordered by a form of power and governmental reason which deploys machines and whose desires and processes are meant to run along ordered, rational lines like a machine. Kissinger's desire was little different from that of Cromer who, wrote Edward Said:...envisions a seat of power in the West and radiating out from it towards the East a great embracing machine, sustaining the central authority yet commanded by it. What the machine's branches feed into it from the East -- human material, material wealth, knowledge, what have you -- is processed by the machine, then converted into more power...the immediate translation of mere Oriental matter into useful substance.62 This desire for order in the shadow of chaos and uncertainty -- the constant war with an intractable and volatile matter -- has deep roots in modern thought, and was a major impetus to the development of technological reason and its supporting theories of knowledge. As Kissinger's claims about the West's Newtonian desire for the 'accurate' gathering and classification of 'data' suggest, modern strategy, foreign policy and Realpolitik have been thrust deep into the apparently stable soil of natural science, in the hope of finding immovable and unchallengeable roots there. …continued…There is a breathtaking, world-creating hubris in this statement -- one that, in many ways, came to characterise western modernity itself, and which is easily recognisable in a generation of modern technocrats like Kissinger. The Fall of Adam was the Judeo-Christian West's primal creation myth, one that marked humankind as flawed and humbled before God, condemned to hardship and ambivalence. Bacon forecast here a return to Eden, but one of man's own making. This truly was the death of God, of putting man into God's place, and no pious appeals to the continuity or guidance of faith could disguise the awesome epistemological violence which now subordinated creation to man. Bacon indeed argued that inventions are 'new creations and imitations of divine works'. As such, there is nothing but good in science: 'the introduction of great inventions is the most distinguished of human actions...inventions are a blessing and a benefit without injuring or afflicting any'.70  And what would be [hu]mankind's 'bread', the rewards of its new 'empire over creation'? If the new method and invention brought modern medicine, social welfare, sanitation, communications, education and comfort, it also enabled the Armenian genocide, the Holocaust and two world wars; napalm, the B52, the hydrogen bomb, the Kalashnikov rifle and military strategy. Indeed some of the 20th Century's most far-reaching inventions -- radar, television, rocketry, computing, communications, jet aircraft, the Internet -- would be the product of drives for national security and militarisation. Even the inventions Bacon thought so marvellous and transformative -- printing, gunpowder and the compass -- brought in their wake upheaval and tragedy: printing, dogma and bureaucracy; gunpowder, the rifle and the artillery battery; navigation, slavery and the genocide of indigenous peoples. In short, the legacy of the new empirical science would be ambivalence as much as certainty; degradation as much as enlightenment; the destruction of nature as much as its utilisation. If Bacon could not reasonably be expected to foresee many of these developments, the idea that scientific and technological progress could be destructive did occur to him. However it was an anxiety he summarily dismissed:...let none be alarmed at the objection of the arts and sciences becoming depraved to malevolent or luxurious purposes and the like, for the same can be said of every worldly good; talent, courage, strength, beauty, riches, light itself...Only let mankind regain their rights over nature, assigned to them by the gift of God, and obtain that power, whose exercise will be governed by right reason and true religion.71   By the mid-Twentieth Century, after the destruction of Hiroshima and Nagasaki, such fears could no longer be so easily wished away, as the physicist and scientific director of the Manhattan Project, J. Robert Oppenheimer recognised. He said in a 1947 lecture: We felt a particularly intimate responsibility for suggesting, for supporting and in the end in large measure achieving the realization of atomic weapons...In some sort of crude sense which no vulgarity, no humor, no over-statement can quite extinguish, the physicists have known sin, and this is a knowledge they cannot lose.72Adam had fallen once more, but into a world which refused to acknowledge its renewed intimacy with contingency and evil. [Hu]man's empire over creation -- his [or her] discovery of the innermost secrets of matter and energy, of the fires that fuelled the stars -- had not 'enhanced human power and dignity' as Bacon claimed, but instead brought destruction and horror. Scientific powers that had been consciously applied in the defence of life and in the hope of its betterment now threatened its total and absolute destruction. This would not prevent a legion of scientists, soldiers and national security policymakers later attempting to apply Bacon's faith in invention and Descartes' faith in mathematics to make of the Bomb a rational weapon. Oppenheimer -- who resolutely opposed the development of the hydrogen bomb -- understood what the strategists could not: that the weapons resisted control, resisted utility, that 'with the release of atomic energy quite revolutionary changes had occurred in the techniques of warfare'.73 Yet Bacon's legacy, one deeply imprinted on the strategists, was his view that truth and utility are 'perfectly identical'.74 In 1947 Oppenheimer had clung to the hope that 'knowledge is good...it seems hard to live any other way than thinking it was better to know something than not to know it; and the more you know, the better'; by 1960 he felt that 'terror attaches to new knowledge. It has an unmooring quality; it finds men unprepared to deal with it.'75 Martin Heidegger questioned this mapping of natural science onto the social world in his essays on technology -- which, as 'machine', has been so crucial to modern strategic and geopolitical thought as an image of perfect function and order and a powerful tool of intervention. He commented that, given that modern technology 'employs exact physical science...the deceptive illusion arises that modern technology is applied physical science'.76 Yet as the essays and speeches of Oppenheimer attest, technology and its relation to science, society and war cannot be reduced to a noiseless series of translations of science for politics, knowledge for force, or force for good.  Instead, Oppenheimer saw a process frustrated by roadblocks and ruptured by irony; in his view there was no smooth, unproblematic translation of scientific truth into social truth, and technology was not its vehicle. Rather his comments raise profound and painful ethical questions that resonate with terror and uncertainty. Yet this has not prevented technology becoming a potent object of desire, not merely as an instrument of power but as a promise and conduit of certainty itself. In the minds of too many rational soldiers, strategists and policymakers, technology brings with it the truth of its enabling science and spreads it over the world. It turns epistemological certainty into political certainty; it turns control over 'facts' into control over the earth.  Heidegger's insights into this phenomena I find especially telling and disturbing -- because they underline the ontological force of the instrumental view of politics. In The Question Concerning Technology, Heidegger's striking argument was that in the modernising West technology is not merely a tool, a 'means to an end'. Rather technology has become a governing image of the modern universe, one that has come to order, limit and define human existence as a 'calculable coherence of forces' and a 'standing reserve' of energy. Heidegger wrote: 'the threat to man does not come in the first instance from the potentially lethal machines and apparatus of technology. The actual threat has already affected man in his essence.'77 This process Heidegger calls 'Enframing' and through it the scientific mind demands that 'nature reports itself in some way or other that is identifiable through calculation and remains orderable as a system of information'. Man is not a being who makes and uses machines as means, choosing and limiting their impact on the world for his ends; rather man has imagined the world as a machine and humanity everywhere becomes trapped within its logic. Man, he writes, 'comes to the very brink of a precipitous fall...where he himself will have to be taken as standing-reserve. Meanwhile Man, precisely as the one so threatened, exalts himself to the posture of lord of the earth.'78 Technological man not only becomes the name for a project of lordship and mastery over the earth, but incorporates humanity within this project as a calculable resource. In strategy, warfare and geopolitics human bodies, actions and aspirations are caught, transformed and perverted by such calculating, enframing reason: human lives are reduced to tools, obstacles, useful or obstinate matter. This tells us much about the enduring power of crude instrumental versions of strategic thought, which relate not merely to the actual use of force but to broader geopolitical strategies that see, as limited war theorists like Robert Osgood did, force as an 'instrument of policy short of war'. It was from within this strategic ontology that figures like the Nobel prize-winning economist Thomas Schelling theorised the strategic role of threats and coercive diplomacy, and spoke of strategy as 'the power to hurt'.79 In the 2006 Lebanon war we can see such thinking in the remark of a U.S. analyst, a former Ambassador to Israel and Syria, who speculated that by targeting civilians and infrastructure Israel aimed 'to create enough pain on the ground so there would be a local political reaction to Hezbollah's adventurism'.80 Similarly a retired Israeli army colonel told the Washington Post that 'Israel is attempting to create a rift between the Lebanese population and Hezbollah supporters by exacting a heavy price from the elite in Beirut. The message is: If you want your air conditioning to work and if you want to be able to fly to Paris for shopping, you must pull your head out of the sand and take action toward shutting down Hezbollah-land.'81Conclusion: Violent Ontologies or Peaceful Choices? I was motivated to begin the larger project from which this essay derives by a number of concerns. I felt that the available critical, interpretive or performative languages of war -- realist and liberal international relations theories, just war theories, and various Clausewitzian derivations of strategy -- failed us, because they either perform or refuse to place under suspicion the underlying political ontologies that I have sought to unmask and question here. Many realists have quite nuanced and critical attitudes to the use of force, but ultimately affirm strategic thought and remain embedded within the existential framework of the nation-state. Both liberal internationalist and just war doctrines seek mainly to improve the accountability of decision-making in security affairs and to limit some of the worst moral enormities of war, but (apart from the more radical versions of cosmopolitanism) they fail to question the ontological claims of political community or strategic theory.82 In the case of a theorist like Jean Bethke Elshtain, just war doctrine is in fact allied to a softer, liberalised form of the Hegelian-Schmittian ontology. She dismisses Kant's Perpetual Peace as 'a fantasy of at-oneness...a world in which differences have all been rubbed off' and in which 'politics, which is the way human beings have devised for dealing with their differences, gets eliminated.'83 She remains a committed liberal democrat and espouses a moral community that stretches beyond the nation-state, which strongly contrasts with Schmitt's hostility to liberalism and his claustrophobic distinction between friend and enemy. However her image of politics -- which at its limits, she implies, requires the resort to war as the only existentially satisfying way of resolving deep-seated conflicts -- reflects much of Schmitt's idea of the political and Hegel's ontology of a fundamentally alienated world of nation-states, in which war is a performance of being. She categorically states that any effort to dismantle security dilemmas 'also requires the dismantling of human beings as we know them'.84 Whilst this would not be true of all just war advocates, I suspect that even as they are so concerned with the ought, moral theories of violence grant too much unquestioned power to the is. The problem here lies with the confidence in being -- of 'human beings as we know them' -- which ultimately fails to escape a Schmittian architecture and thus eternally exacerbates (indeed reifies) antagonisms. Yet we know from the work of Deleuze and especially William Connolly that exchanging an ontology of being for one of becoming, where the boundaries and nature of the self contain new possibilities through agonistic relation to others, provides a less destructive and violent way of acknowledging and dealing with conflict and difference.85 My argument here, whilst normatively sympathetic to Kant's moral demand for the eventual abolition of war, militates against excessive optimism.86 Even as I am arguing that war is not an enduring historical or anthropological feature, or a neutral and rational instrument of policy -- that it is rather the product of hegemonic forms of knowledge about political action and community -- my analysis does suggest some sobering conclusions about its power as an idea and formation. Neither the progressive flow of history nor the pacific tendencies of an international society of republican states will save us. The violent ontologies I have described here in fact dominate the conceptual and policy frameworks of modern republican states and have come, against everything Kant hoped for, to stand in for progress, modernity and reason. Indeed what Heidegger argues, I think with some credibility, is that the enframing world view has come to stand in for being itself. Enframing, argues Heidegger, 'does not simply endanger man in his relationship to himself and to everything that is...it drives out every other possibility of revealing...the rule of Enframing threatens man with the possibility that it could be denied to him to enter into a more original revealing and hence to experience the call of a more primal truth.'87 What I take from Heidegger's argument -- one that I have sought to extend by analysing the militaristic power of modern ontologies of political existence and security -- is a view that the challenge is posed not merely by a few varieties of weapon, government, technology or policy, but by an overarching system of thinking and understanding that lays claim to our entire space of truth and existence. Many of the most destructive features of contemporary modernity -- militarism, repression, coercive diplomacy, covert intervention, geopolitics, economic exploitation and ecological destruction -- derive not merely from particular choices by policymakers based on their particular interests, but from calculative, 'empirical' discourses of scientific and political truth rooted in powerful enlightenment images of being. Confined within such an epistemological and cultural universe, policymakers' choices become necessities, their actions become inevitabilities, and humans suffer and die. Viewed in this light, 'rationality' is the name we give the chain of reasoning which builds one structure of truth on another until a course of action, however violent or dangerous, becomes preordained through that reasoning's very operation and existence. It creates both discursive constraints -- available choices may simply not be seen as credible or legitimate -- and material constraints that derive from the mutually reinforcing cascade of discourses and events which then preordain militarism and violence as necessary policy responses, however ineffective, dysfunctional or chaotic.

#### Vote neg to engage in a critical re-evaluation of securitization – this is the only way to re-engage in the political

**Cheeseman & Bruce, 96** (Graeme Cheeseman, Snr. Lecturer @ New South Wales, and Robert Bruce, 1996, Discourses of Danger & Dread Frontiers, p. 5-9)

This goal is pursued in ways which are still unconventional in the intellectual milieu of international relations in Australia, even though they are gaining influence worldwide as traditional modes of theory and practice are rendered inadequate by global trends that defy comprehension, let alone policy. The inability to give meaning to global changes reflects partly the enclosed, elitist world of profession security analysts and bureaucratic experts, where entry is gained by learning and accepting to speak a particular, exclusionary language. The contributors to this book are familiar with the discourse, but accord no privileged place to its ‘knowledge form as reality’ in debates on defense and security. Indeed, they believe that debate will be furthered only through a long overdue critical re-evaluating of elite perspectives. Pluralistic, democratically-oriented perspectives on Australia’s’ identity are both required and essential if Australia’s thinking on defense and security is to be invigorated. This is not a conventional policy book; nor should it be, in the sense of offering policy-makers and their academic counterparts sets of neat alternative solutions, in familiar language and format, to problems they pose. This expectation is itself a considerable part of the problem to be analyzed. It is, however, a book about policy, one that questions how problems are framed by policy-makers. It challenges the proposition that irreducible bodies of real knowledge on defense and security exist independently of their ‘context in the world’, and it demonstrates how security policy is articulated authoritatively by the elite keepers of that knowledge, experts trained to recognize enduring, universal wisdom. All others, from this perspective, must accept such wisdom to remain outside of the expert domain, tainted by their inability to comply with the ‘rightness’ of the official line. But it is precisely the official line, or at the least its image of the world, that needs to be problematised. If the critic responds directly to the demand for policy alternatives, without addressing this image, he or she is tacitly endorsing it. Before engaging in the policy debate the critics need to reframe the basic terms of reference tradition of democratic dialogue. More immediately, it ignores post-seventeenth century democratic traditions which insist that a good society must have within it some way of critically assessing its knowledge and the decisions based upon that knowledge which impact upon citizens of such a society. This is a tradition with a slightly different connotation in contemporary liberal democracies, which during the Cold War, were proclaimed different and superior to the totalitarian enemy precisely because they were institutional checks and balances upon power. In short, one of the major differences between ‘open societies’ and their (closed) counterparts behind the Iron Curtain was that the former encouraged the critical testing of the knowledge and decisions of the powerful and assessing them against liberal democratic principles. The latter tolerated criticism only on rare and limited occasions. For some, this represented the triumph of rational-scientific methods of inquiry and techniques of falsification. For others, especially since positivism and rationalism have lost much of their allure, it means that for society to become open and liberal, sectors of the population must be independent of the state and free to question its knowledge and power. One must be able to say ‘why’ to power and proclaim ‘no’ to power. Though we do not expect this position to be accepted by every reader, contributors to this book believe that critical dialogue is long overdue in Australia and needs to be listened to. For all its liberal democratic trappings, Australia’s security community continues to invoke closed monological narratives on defense and security. This book also questions the distinctions between policy practice and academic theory that informs conventional accounts of Australian security. One of its major concerns, particularly in chapters 1 and 2, is to illustrate how theory is integral to the practice of security analysis and policy prescription. The book also calls on policy-makers, academics and students of defense and security to think critically about what they are reading, writing and saying; to begin to ask, of their work and study, difficult and searching questions raised in other disciplines; to recognize, no matter how uncomfortable it feels, that what is involved in theory and practice is not the ability to identify a replacement for failed models, but a realization that terms and concepts – state sovereignty, balance of power, security, and so on – are contested and problematic, and that the world is indeterminate, always becoming what is written about it. Critical analysis which shows how particular kinds of theoretical presumptions can effectively exclude vital areas of political life from analysis has direct practical implications for policymakers, academics and citizens who face the daunting task of steering Australia through some potentially choppy international waters over the next few years. There is also much interest in the chapters for those struggling to give meaning to a world where so much that has long been taken for granted now demands imaginative, incisive reappraisal. The contributors, too, have struggled to find meaning, often despairing at the terrible human costs of international violence. This is why readers will find no single, fully formed panacea for the world’s ills in general, or Australia’s security in particular. There are none. Ever chapter, however in its own way, offers something more than is found in orthodox literature, often by exposing ritualistic Cold War defense and security mind-sets that are dressed up as new thinking. Chapters 7 and 9, for example, present alternative ways of engaging in security and defense practice. Others (chapters 3, 4, 5, 6, and 8) seek to alert policymakers, academics and students to alternative theoretical possibilities that might better serve an Australian community pursuing security and prosperity in an uncertain world. All chapters confront the policy community and its counterparts in the academy with a deep awareness of the intellectual and material constraints imposed by dominant traditions of realism, but they avoid dismissive and exclusionary terms which often in the past characterized exchanges between policy-makers and their critics. This is because, as noted earlier, attention needs to be paid to the words and the thought process of those being criticized. A close reading of this kind draws attention to underlying assumptions, showing they need to be recognized and questioned. A sense of doubt (in place of confident certainty) is a necessary prelude to a genuine search for alternative policies. First comes an awareness of the need for new perspectives, then specific polices may follow. As Jim George argues in the following chapter, we need to look not as much at contending policies as they are made for us but challenging ‘the discursive process which gives [favored interpretations of “reality”] their meaning and which direct [Australia’s] policy/analytical/ military responses’. This process is not restricted to the small, official defense and security establishment huddled around the US-Australian War Memorial in Canberra. It also encompasses much of Australia’s academic defense and security community located primarily though not exclusively within the Australian National University and the University College of the University of New South Wales. These discursive processes are examined in detail in subsequent chapters as authors attempt to make sense of a politics of exclusion and closure which exercises disciplinary power over Australia’s security community. They also question the discourse of ‘regional security’, ‘security cooperation’, ‘peacekeeping’ and ‘alliance politics’ that are central to Australia’s official and academic security agenda in the 1990s. This is seen as an important task especially when, as it revealed, the disciplines of International Relations and Strategic Studies are under challenge from critical and theoretical debates ranging across the social sciences and humanities; debates that are nowhere to be found in Australian defense and security studies. The chapters graphically illustrate how Australia’s public policies on defense and security are informed, underpinned, and. This book, then, reflects and underlines the importance of Antonio Gramsci and Edward Said’s ‘critical intellectuals’. The demand, tacit or otherwise, that the policy maker’s frame of reference be accepted as the only basis for discussion and analysis ignores a three thousand year old tradition commonly associated with Socrates and purportedly integral to the Western legitimized by a narrowly-based intellectual enterprise which draws strength from contested concepts of realism and liberalism, which in turn seek legitimacy through policy-making processes. Contributors ask whether Australia’s policy-makers and their academic advisers are unaware of broader intellectual debates. Or resistant to them, or choose not to understand them, and why? To summarize: a central concern of this book is to democratize the defense and security theory/practice process in Australia so that restrictions on debate can be understood and resisted. This is a crucial enterprise in an analytical/ policy environment dominated by particularly rigid variants of realism which have become so powerful and unreflective that they are no longer recognized simply as particular ways of constituting the world, but as descriptions of the real-as reality itself. The consequences of this (silenced) theory-as-practice may be viewed every day in the poignant, distressing monuments to analytical/policy metooism at the Australian (Imperial) War Memorial in Canberra and the many other monuments to young Australians in towns and cities around the country. These are the flesh and blood installments of an insurance policy strategy which, tragically, remains integral to Australian realism, despite claims of a new mature independent identity in the 1990s. This is what unfortunately, continues to be at stake in the potentially deadly debates over defense and security revealed in this book. For this reason alone, it should be regarded as a positive and constructive contribution to debate by those who are the targets of its criticisms.

### 1NC

#### Private military contractor use is decreasing

Schwartz 10 (Moshe – Specialist in Defense Acquisition, CRS Report, “The Department of Defense’s Use of Private Security Contractors in Iraq and Afghanistan: Background, Analysis, and Options for Congress”, 6/22, http://fpc.state.gov/documents/organization/145576.pdf)

According to DOD, from September 2007 to June 2009, the number of armed security contractors increased from 5,481 to a high of 13,232, an increase of 140%. However, from June 2009 to March 2010 the number of armed security contractors has decreased by 2,203, or 17% (see Figure 1 ). 24 DOD officials anticipate that the number of armed contractors in Iraq will continue to decrease, much as the overall number of contractors and troops in Iraq has also decreased.

#### Restricting armed forces results in a shift towards PMC use – circumvents regulation

Michaels 4 (Jon – Law Clerk to the Honorable Guido Calabresi, U.S. Court of Appeals for the Second Circuit; Law Clerk designate, the Honorable David H. Souter, U.S. Supreme Court; J.D., Yale Law School, “ARTICLE: BEYOND ACCOUNTABILITY: THE CONSTITUTIONAL, DEMOCRATIC, AND STRATEGIC PROBLEMS WITH PRIVATIZING WAR”, 2004, 82 Wash. U. L. Q. 1001, lexis)

[\*1008] Military privatization of combat duties, on the other hand, decidedly does. It has the potential to introduce a range of novel constitutional, democratic, and strategic harms that have few, if any, analogues in the context of domestic, commercial outsourcing. Military privatization can be, and perhaps already has been, used by government policymakers under Presidents Bill Clinton and George W. Bush to operate in the shadows of public attention, domestic and international laws, and even to circumvent congressional oversight. For a variety of political and legal reasons, the Executive may at times be constrained in deploying U.S. soldiers. The public's aversion to a military draft, the international community's disdain for American unilateralism, and Congress's reluctance to endorse an administration's hawkish foreign goals may each serve to inhibit, if not totally restrict, the president's ability to use U.S. troops in a given zone of conflict. In such scenarios, resorting to private contractors, dispatched to serve American interests without carrying the apparent symbolic or legal imprimatur of the United States, may be quite tempting. In those instances, it would not necessarily be the cheaper price tag or specialized expertise that makes private contractors desirable. Rather, it might be the status of the actors (as private, non-governmental agents) vis-a-vis public opinion, congressional scrutiny, and international law that entices policymakers to turn to contracting. Indeed, "tactical privatization," as I call it, is motivated at least in part by a desire to alter substantive policy: Private agents would be used to achieve public policy ends that would not otherwise be attainable, were the government confined to relying exclusively on members of the U.S. Armed Forces. Tactical privatization thus stands in contradistinction to what is widely understood to be the conventional privatization agenda, driven by economic goals, that strives for verisimilitude in replicating government responsibilities (only more efficiently). n19 To elude public debate, circumvent Congress's coordinate role in conducting military affairs, and evade Security Council dictates may help an administration achieve short-term, realpolitik ends; but in the process, the structural damage to the vibrancy and authenticity of public deliberation, to the integrity of America's constitutional architecture of separation of powers, and to the legitimacy of collective security may prove irreparable.

#### PMC’s breed resentment and alienate allies

Michaels 4 (Jon – Law Clerk to the Honorable Guido Calabresi, U.S. Court of Appeals for the Second Circuit; Law Clerk designate, the Honorable David H. Souter, U.S. Supreme Court; J.D., Yale Law School, “ARTICLE: BEYOND ACCOUNTABILITY: THE CONSTITUTIONAL, DEMOCRATIC, AND STRATEGIC PROBLEMS WITH PRIVATIZING WAR”, 2004, 82 Wash. U. L. Q. 1001, lexis)

A. Alienating Friends and Foes Alike Contracting out allows the U.S. government to purchase strategic outcomes at a much lower political cost than if the boys and girls of America's volunteer army were dispatched. Indeed, an overseas engagement involving contractors might, accordingly, produce neither an official body count nor much political opposition. n398 But, the security and flexibility the United States gains without expending domestic political capital and/or the lives of servicemen and women may, however, serve to validate the perception that the American agenda is driven by dollars rather than ideals; that decisions are made in private, smoke-filled backrooms rather than openly on the floors of Congress. It also invites concerns that the United States is represented in zones of hostilities by individuals who are not subject to the same standards of legal conduct and ethical restraint that this nation and the international community expects of the U.S. Armed Forces. 1. Allies Among America's allies, when the private cavalry is dispatched instead of the U.S. military, they may think that their particular crisis is outside of core American interests. This suspicion or sense of being slighted can [\*1112] breed resentment and a weakening of ties, a response not altogether lost on American leaders. Congressmen Tom Lantos and Henry Hyde had this precise concern in mind when they questioned the wisdom of contracting out President Karzai's security detail. In a joint statement, they noted: "The presence of commercial vendors [protecting Karzai] would send a message to the Afghan people and to President Karzai's adversaries that we are not serious enough about our commitment to Afghanistan to dispatch U.S. personnel." n399 Other allies too may be dissatisfied by the conduct of military engagements by private troops. No doubt the Bosnians would have preferred to receive the help of DynCorp contractors, without their extracurricular involvement in sex-trafficking operations. Moreover, perhaps pro-American leaders in the Middle East similarly feel betrayed, today, by the conduct of American privateers toward Iraqi prisoners. n400 Leaders who endorse American foreign policy aims, often at great domestic peril, n401 are then placed in an even more difficult situation at home when forced to defend their support in the face of American acts of brutality. n402 Of course, transgressions by American soldiers certainly do occur. But, at least those acts can be reported up the chain of command and, in turn, can be swiftly punished, thus demonstrating the U.S. government's commitment to justice and self-restraint; n403 as we have discussed, comparable firmness with contractors is much more difficult to achieve. n404 [\*1113] 2. Would-Be Allies Let us also not forget that American military personnel are, increasingly, serving as diplomats, humanitarian providers, political consultants, and "liberators." n405 Their conduct on such missions could leave as large of an impression on their hosts as would any tangible project or aid package they deliver. Therefore, if the United States is dispatching private actors, who are not comporting themselves well, the conduct of these privateers will inevitably be imputed to all soldiers, if not all Americans, and the goods and services they provide will be, in the long run, devalued. As P.W. Singer notes, a "key realization of contracting is that a firm becomes an extension of government policy and, when operating in foreign lands, its diplomat on the ground. As such, the firm's reputation can ... implicate the government['s] as well." n406 And, finally, America acts not just as an intervenor or liberator, but also as an occupier. While on the ground, in Kabul or Baghdad, the U.S. personnel must work to win the hearts and minds of the locals. n407 If American contractors were to act in an undignified, or offensive manner, it would only hamper the process of gaining the trust of the people. (Again, this assumes that because of the UCMJ and because of the military's ethos of honor, soldiers are less likely to act inappropriately.)

#### Alliances prevent nuclear war

**Ross, 99** Winter 1998/1999 (Douglas – professor of political science at Simon Fraser University, Canada’s functional isolationism and the future of weapons of mass destruction, International Journal, p. lexis)

Thus, an easily accessible tax base has long been available for spending much more on international security than recent governments have been willing to contemplate. Negotiating the landmines ban, discouraging trade in small arms, promoting the United Nations arms register are all worthwhile, popular activities that polish the national self-image. But they should all be supplements to, not substitutes for, a proportionately equitable commitment of resources to the management and prevention of international conflict – and thus the containment of the WMD threat. Future American governments will not ‘police the world’ alone. For almost fifty years the Soviet threat compelled disproportionate military expenditures and sacrifice by the United States. That world is gone. Only by enmeshing the capabilities of the United States and other leading powers in a co-operative security management regime where the burdens are widely shared does the world community have any plausible hope of avoiding warfare involving nuclear or other WMD.

### 1NC

#### The United States federal government should require Congressional authorization prior to initiating offensive use of non-nuclear military force.

#### No First Use kills deterrence

**Chilcoat 99** (Richard, President – National Defense University, “Strategic Forces and Deterrence: New Realities, New Roles?” Strategic Assuessment, National Defense University, <http://se1.isn.ch:80/serviceengine/FileContent?serviceID=ISN&fileid=A28BAB6C-38EA-B58D-A4F2-10FE0E95174A&lng=en>)

The United States has consistently eschewed an unequivocal policy of “no first use” of nuclear weapons. Under the “Negative Security Assurance” concept, U.S. policy is not to use nuclear weapons unless (1) the state attacking the United States or its allies, or its military forces, is nuclear capable; (2) the state is not a party in good standing under the Nonproliferation Treaty; or (3) the state is engaged in a conflict where it is supported by a nuclear state. Moreover, U.S. officials on several occasions have made it a point **not to exclude nuclear weapons** use in retaliation for use of chemical and biological weapons against the United States, its forces, or allies. This does not mean that a nuclear response is the first line of defense against such an attack or that nuclear weapons use is inevitable, even to destroy biological and chemical facilities and stocks. However, U.S. policy seeks to make clear that no state can plan on using chemical or biological weapons against the United States without taking into account the possibility of a U.S. nuclear response. This **helps to deter use** in a crisis and **plays a role in dissuading states** from pursuing new or improved capabilities. In some cases, ambiguous declaratory policy may be perceived as a lack of U.S. commitment that could be exploited. If opponents are tolerant of cost and risk, greater clarity may be needed for deterrence. However, such declarations can be situation dependent and made privately without compromising a broader policy of calculated ambiguity and flexibility. At the same time, the overall posture of the U.S. must be able to support such a declaratory policy. This includes a defense against chemical and biological weapons. The United States must also be capable of a credible and proportional response, with nuclear weapons if necessary.

#### Nuclear primacy solves multiple extinction scenarios

**Schneider, 08** – Mark Schneider, July 2008. Senior Analyst with the National Institute for Public Policy, Ph.D in history at the University of Southern California and JD from George Washington University, former senior officer in the DoD in positions relating to arms control and nuclear weapons policy. “The Future of the U.S. Nuclear Deterrent,” Comparative Strategy 27.4, Ebsco.

According to the Pentagon's Quadrennial Defense Review, the United States must maintain a “robust nuclear deterrent, which remains a keystone of U.S. national power.”98 The reason should be self evident—without a nuclear deterrent the United States could be destroyed as an industrial civilization and our conventional forces could be defeated by a state with grossly inferior conventional capability but powerful WMD. We cannot afford to ignore existing and growing threats to the very existence of the United States as a national entity. Missile defenses and conventional strike capabilities, while critically important elements of deterrence and national power, simply can't substitute for nuclear deterrence. In light of the emerging “strategic partnership” between Russia and China and their emphasis on nuclear weapons it would be foolish indeed to size U.S. strategic nuclear forces as if the only threat we face is that of rogue states and discard the requirement that the U.S. nuclear deterrent be “second to none.” Ignoring the PRC nuclear threat because of Chinese “no first use” propaganda is just as irresponsible. Absent a nuclear deterrent to their WMD use, rogue states could defeat our forces by the combination of few nuclear EMP weapons and large chemical and biological attacks. The situation would be much worse if they build a more extensive nuclear strike capability as has been reported. Freezing U.S. nuclear forces at the technical level of the Reagan administration will assure that, within two decades, Russia, China, India, and probably others will be technically superior and U.S. deterrence ability against CBW attack will be reduced. United States nuclear forces must be modernized and tailored to enhance deterrence and damage limitation against the rogue WMD threat. WMD capabilities have given otherwise inconsequential states the ability to kill millions of people. The right combination of missile defense and conventional and nuclear strike capabilities provide the best deterrent and damage limiting capability against the rogue state threat. We must not ignore the requirement to provide extended deterrence to our allies. British and French nuclear forces are not large enough, and these nations are not perceived as tough enough, to provide a deterrent for NATO Europe against Russia. In the Far East, there is literally no nuclear deterrent capability against China other than that provided by the United States. Failure to provide a credible deterrent will result in a wave of nuclear proliferation with serious national security implications. When dealing with the rogue states, the issue is not the size of the U.S. nuclear deterrent but the credibility of its use in response to chemical or biological weapons use and its ability to conduct low collateral damage nuclear attacks against WMD capabilities and delivery systems including very hard underground facilities for purposes of damage limitation. We must also have the capability to respond promptly. The United States nuclear guarantee is a major deterrent to proliferation. If we do not honor that guarantee, or devalue it, many more nations will obtain nuclear weapons. If arms control really becomes a substitute for nuclear deterrence and defense, it may very well precipitate the most destructive war in history. Effective verification is essentially impossible, and verification is not a substitute for compliance. Today, arms control has become part of the problem rather than a solution to the problem. The abolition of the in-kind deterrent to CBW use—which deterred CBW use in World War II—is making the world more unsafe almost on a daily basis. The START and Intermediate-Range Nuclear Forces (INF) Treaties prevent or inhibit the development of conventional strike capabilities with enhanced ability to counter WMD. The demise of the ABM Treaty, while very useful, does not completely address the problem of legacy arms control and its constraints upon U.S. conventional capabilities.

### 1NC Interventions

#### Congress will continue to defer to the executive – no change

**Recchia 11** (Stefano Recchia, PhD from Columbia, assistant professor in international relations at the University of Cambridge, “Limited Liability Multilateralism: The American Military, Armed Intervention, and IOs,” 2011, http://academiccommons.columbia.edu/download/fedora\_content/download/ac:140135/CONTENT/Recchia\_columbia\_0054D\_10402.pdf)

Congress rarely has much direct impact on U.S. decision making concerning the international use of force. The American president, as commander in chief, enjoys significant freedom of maneuver in the field of international security; and although the U.S. constitution technically reserves for Congress the ―power to… declare War‖ (Article 1, section 8), presidents since the early years of the republic have repeatedly deployed U.S. troops in combat abroad without congressional authorization.255 Even the 1973 **War Powers resolution**, intended to reassert congressional authority on these matters, **has changed remarkably little**.256 As long as the president of the United States is **committed to an intervention**, Congress is **extremely unlikely** to constrain an administration through binding legislation. Legislators generally aim at ―**blame avoidance**‖ when it comes to the international use of force: they prefer to neither explicitly vote for a military intervention, ceding control entirely to the executive branch, with the additional risk of sharing the blame in case of failure, nor to explicitly vote against an intervention and risk being blamed for the failure of U.S. coercive diplomacy (which, in turn, might make actual military intervention more likely).257 Therefore, Congress largely **limits itself** to adopting ―Sense of the Senate‖ and ―Sense of the House‖ resolutions, which allow it to voice its concerns without formally constraining the president. Congress adopted binding legislation requiring a withdrawal of U.S. troops within a specified time frame only once, during the 1983 Lebanon intervention. On two other occasions, for Vietnam in 1973 and Somalia in 1993, Congress cut off funding for ongoing foreign military operations; yet in both cases it did so only after significant divisions had emerged within the executive branch.258

#### Zero risk of accidents or miscalc

**Quinlan 9** (Sir Michael Quinlan, Former Permanent Under-Secretary of State UK Ministry of Defense, Thinking About Nuclear Weapons: Principles, Problems, Prospects, p. 63-69, The book reflects the author's experience across more than forty years in assessing and forming policy about nuclear weapons, mostly at senior levels close to the centre both of British governmental decision-making and of NATO's development of plans and deployments, with much interaction also with comparable levels of United States activity in the Pentagon and the State department)

There have certainly been, across the decades **since** 19**45, many known accidents** involving nuclear weapons, from transporters skidding off roads to bomber aircraft crashing with or accidentally dropping the weapons they carried (in past days when such carriage was a frequent feature of readiness arrangements it no longer is). A few of these accidents may have released into the nearby environment highly toxic material. **None** however has entailed a nuclear detonation. Some commentators suggest that this reflects bizarrely good fortune amid such massive activity and deployment over so many years. A more rational deduction from the facts of this long experience would however be that the probability of any accident triggering a nuclear explosion is extremely low. It might be further nested that the mechanisms needed to set of such an explosion are technically demanding, and that in a large number of ways the past sixty years have seen extensive improvements in safety arrangements for both the design and the handling of weapons. It is undoubtedly possible to see respects in which, after the cold war, some of the factors bearing upon risk may be new or more adverse; but some are now plainly less so. The years which the world has come through entirely without accidental or unauthorized detonation have included early decades in **which knowledge was sketchier, precautions** were **less developed, and** weapon **designs were less ultra-safe** than they later became, as well as substantial periods in which weapon numbers were larger, deployments immure widespread arid diverse, movements more frequent, and several aspects of doctrine and readiness arrangements more tense. Similar considerations apply to the hypothesis of nuclear war being mistakenly triggered by false alarm. Critics again point to the fact, as it is understood, of numerous occasions when initial steps in alert sequences for US nuclear forces were embarked upon, or at least called for, by indicators mistaken or misconstrued. In none of these instances, it is accepted, did matters get at all near to nuclear launch—extraordinary good fortune again, critics have suggested. But the rival and more **logical inference** from **hundreds of events** stretching over **sixty years** of experience presents itself once more: that the probability of initial misinterpretation leading far towards mistaken launch **is remote**. Precisely because any nuclear weapon processor recognizes the vast gravity of any launch, release sequences have **many steps**, and human decision is **repeatedly interposed** as well as capping the sequences. To convey that because a first step was prompted the world somehow came close to accidental nuclear war is wild hyperbole, rather like asserting, when a tennis champion has lost his opening service game, that he was nearly beaten in straight sets. **History** anyway **scarcely offers any** ready **example** of major war started by accident **even before the nuclear revolution imposed an order-of-magnitude increase of caution**. In was occasion conjectured that nuclear war might be triggered by the real but accidental or unauthorized launch of a strategic nuclear-weapon delivery system in the direction of a potential adversary. No such launch is known to have occurred in over sixty years. The probability of it is therefore very low. But even if it did happen, the further hypothesis of it initiating a general nuclear exchange is far-fetched. It fails to consider the real situation of decision-makers, as pages 63-4 have brought out. The notion that cosmic holocaust might be mistakenly precipitated in this way **belongs to science fiction**.

#### No korea war

**Zhebin 11**—Ph.D. Political Science, head of the Korean Studies Center, RAS IFES (Alexander, Far Eastern Affairs, No. 1, 2011, “The Korean Peninsula: Approaching The Danger Line,” <http://www.eastviewpress.com/Files/FEA_FROM%20THE%20CURRENT%20ISSUE_No.%201_2011_small.pdf>)

The myth of the alleged aggressiveness inherent in the DPRK and its readiness to attack its southern neighbor at any moment prevents to reach this. Meanwhile, serious experts who are well aware of the real correlation of forces on the peninsula and around it agree that the DPRK would hardly dare undertake large-scale offensive operations. First, in contrast to the Korean War, there are **no big powers** at present which would support such action. Russia and China have always come out for resolving all problems on the peninsula by peaceful diplomatic means. At the same time the United States officially declares that in case of aggression it will help its ally. The international situation of the DPRK is complicated by the sanctions imposed on it by the UN Security Council. Their broad interpretation by the United States and its allies and the introduction of additional unilateral sanctions by them have resulted in that even legal foreign trade and foreign economic activity of North Korea meets with serious obstacles. Secondly, western experts and South Korean military officers themselves know full well that South Korea surpasses the DPRK in conventional arms and the armed forces. It should also be taken into account that North Korea has not enough fuel, spare parts and other strategic reserves necessary for large-scale offensive operations. And last but not least: the DPRK has been in a quite complex socio-economic situation for the past 15 years and is faced with an acute food problem. Admittedly, **the** **North Korean leadership is well aware of all these factors**, takes them into account, and will not be the first to begin such action. As to South Korea, it can also hardly begin a full-scale war due to other reasons. First, most **South Koreans do not want to put to risk their economic achievements**, which have been gained at a high price, and their standard of living, which is one of Asia’s highest. Secondly, South Koreans cannot start any major conflict, all the more so, invasion of the North without Washington’s permission. From the time of the Korean War there has been an agreement between the United States and the Republic of Korea according to which the South Korean armed forces, in an event of a large-scale conflict on the peninsula, are placed under the supervision of the American general commanding the U.S. military contingent deployed in the Republic of Korea. Moreover, he automatically receives this right when the third degree of battle readiness is announced.

#### No terror threat

**Walt ‘12** Stephen M. Robert and Renée Belfer professor of international relations at Harvard University, "'America the brittle?'" September 10, Foreign Policy, http://walt.foreignpolicy.com/posts/2012/09/09/inflating\_the\_terrorist\_threat\_again

According to yesterday's New York Times, assorted "senior American officials" are upset that adversaries like al Qaeda, the Taliban, or the Somali pirates are not simply rolling over and dying. Instead, these foes are proving to be "resilient," "adaptable," and "flexible." These same U.S. officials are also worried that the United States isn't demonstrating the same grit, as supposedly revealed by high military suicide rates, increased reports of PTSD, etc. According to Times reporters Thom Shanker and Eric Schmitt, these developments¶ "raise concerns that the United States is losing ground in the New Darwinism of security threats, in which an agile enemy evolves in new ways to blunt America's vast technological prowess with clever homemade bombs and anti-American propaganda that helps supply a steady stream of fighters."¶ Or as Shanker and Schmitt put it (cue the scary music): "Have we become America the brittle?"¶ This sort of pop sociology is not very illuminating, especially when there's no evidence presented to support the various officials' gloomy pronouncements. In fact, the glass looks more than half-full. Let's start by remembering that the Somali pirates and al Qaeda have been doing pretty badly of late. Piracy in the Gulf of Aden is down sharply, Osama bin Laden is dead, and his movement's popularity is lower than ever. Whatever silly dreams he might have had about restoring the caliphate have proven to be just hollow fantasies. And as John Mueller and Mark Stewart showed in an article I linked to a few weeks ago, the actual record of post-9/11 plots against the United States suggests that these supposedly "agile" and "resilient" conspirators are mostly bumbling incompetents. In fact, Lehman Bros. might be the only major world organization that had a worse decade than al Qaeda did.

#### Informal checks are sufficient to address groupthink

**Kennedy 12** [ Copyright (c) 2012 Gould School of Law Southern California Interdisciplinary Law Journal Spring, 2012 Southern California Interdisciplinary Law Journal 21 S. Cal. Interdis. L.J. 633 LENGTH: 23138 words NOTE: THE HIJACKING OF FOREIGN POLICY DECISION MAKING: GROUPTHINK AND PRESIDENTIAL POWER IN THE POST-9/11 WORLD NAME: Brandon Kennedy\* BIO: \* Class of 2012, University of Southern California Gould School of Law; M.A. Regional Studies: Middle East 2009, Harvard Graduate School of Arts and Sciences; B.A. Government 2009, Harvard University.]

Neither the president nor the decision-making group members implement "hybrid" checks; the checks do, however, originate in the executive branch and directly affect the president and the group members. Hybrid checks relate to the bureaucratic machine and typically address the structural faults within the executive branch that can affect the core decision-making group. Although the president and his or her advisers constitute the insiders of the decision-making group, they ultimately belong [\*676] to a larger organization - the executive branch - and thereby become part of the bureaucratic machine. 1. Inter-Agency Process The "inter-agency process" check involves getting approval for, or opinions about, a proposed decision from **other agencies**. n252 The inter-agency process is particularly common for national security and foreign policy decisions. n253 "Occasionally, it will operate at a higher level in principals' committees involving Cabinet-level or sub-Cabinet people and their deputies," thus directly checking the decision-making group members. n254 2. Intra-Agency Process Another similar check is the "intra-agency process," in which the circulation of proposed decisions **within the agency** empowers dissidents and harnesses a diversity of thinking. n255 If nothing else, the process catches errors, or at least increases the odds of avoiding them, given the number of people who must review or approve a document or decision within the agency. n256 3. Agency or Lawyer Culture The culture of a particular agency - the institutional self-awareness of its professionalism - provides another check. n257 "Lawyer culture" - which places high **value on competency** and adherence to rules and laws - resides at the core of agency culture; n258 its "nay-saying" objectivity "is especially important in the small inner circle of presidential decision making to counter the tendency towards groupthink and a vulnerability to sycophancy." n259 [\*677] 4. Public Humiliation A final check in this category is the "public humiliation" check. n260 This check only comes into play when the previous three have failed, and involves the threat to ""go public' by leaking embarrassing information or publicly resigning."

**Groupthink inevitable – intelligence agencies**

Schulhofer 10 (Stephen J., Robert B. McKay Professor of Law, New York University “Secrecy and Democracy: Who Controls Information in the National Security State?, New York University Public Law and Legal Theory Working Papers, Paper 217, http://lsr.nellco.org/nyu\_plltwp/217)

The impetus to over-classify, even when acting from legitimate motives, is heightened by the psychology of response to danger; “the ease with which disasters are imagined need not reflect their actual likelihood.”62 A wealth of experimental evidence suggests that individuals overestimate the likelihood of catastrophic harm and accordingly overreact to it.63 In some settings, individuals may under-react when the risk is low and the potential harm is difficult to deal with.64 But in the secrecy system, the tendency to overestimate risk consistently dominates. For the official charged with the classification decision, the risks of disclosure are always salient – she is specifically charged with assessing them. And responding to those risks is easy: she need only complete a small amount of paperwork. The countervailing harm of too much secrecy, in contrast, is remote, abstract and outside the scope of her assignment. “Groupthink” reinforces this over-classification dynamic.65 To counteract the dangers of groupthink, the intelligence community itself uses a variety of procedures for vetting assessments that bear on operational issues. But there is no comparable process to insure skepticism about decisions to impose secrecy.66 In sum, national security officials face strong incentives and strong psychological pressures to withhold information unnecessarily. Secrecy affords freedom to pursue policies that would be controversial if known, it gives officials the ability to exaggerate or invent justifications for policies that would otherwise lack support, it prevents public awareness of inefficiency and misconduct, it enables government to shape public perceptions of its actions and their justification, and where abuses become known or suspected, secrecy blocks litigation and other authoritative efforts to substantiate them. Review within the executive branch is the first place to turn for a means to counteract these distortions.

### 1NC Warfighting

#### Food shortages won’t cause war

**Allouche 11,** research Fellow – water supply and sanitation @ Institute for Development Studies, frmr professor – MIT

(Jeremy, “The sustainability and resilience of global water and food systems: Political analysis of the interplay between security, resource scarcity, political systems and global trade,” Food Policy, Vol. 36 Supplement 1, p. S3-S8, January)

The question of resource scarcity has led to many debates on whether scarcity (whether of food or water) will lead to conflict and war. The underlining reasoning behind most of these discourses over food and water wars comes from the Malthusian belief that there is an imbalance between the economic availability of natural resources and population growth since while food production grows linearly, population increases exponentially. Following this reasoning, neo-Malthusians claim that finite natural resources place a strict limit on the growth of human population and aggregate consumption; if these limits are exceeded, social breakdown, conflict and wars result. Nonetheless, it seems that most empirical studies do not support any of these neo-Malthusian arguments. Technological change and greater inputs of capital have dramatically increased labour productivity in agriculture. More generally, the neo-Malthusian view has suffered because during the last two centuries humankind has breached many resource barriers that seemed unchallengeable. Lessons from history: alarmist scenarios, resource wars and international relations In a so-called age of uncertainty, a number of alarmist scenarios have linked the increasing use of water resources and food insecurity with wars. The idea of water wars (perhaps more than food wars) is a dominant discourse in the media (see for example Smith, 2009), NGOs (International Alert, 2007) and within international organizations (UNEP, 2007). In 2007, UN Secretary General Ban Ki-moon declared that ‘water scarcity threatens economic and social gains and is a potent fuel for wars and conflict’ (Lewis, 2007). Of course, this type of discourse has an instrumental purpose; security and conflict are here used for raising water/food as key policy priorities at the international level. In the Middle East, presidents, prime ministers and foreign ministers have also used this bellicose rhetoric. Boutrous Boutros-Gali said; ‘the next war in the Middle East will be over water, not politics’ (Boutros Boutros-Gali in Butts, 1997, p. 65). The question is not whether the sharing of transboundary water sparks political tension and alarmist declaration, but rather to what extent water has been a principal factor in international conflicts. The evidence seems quite weak. Whether by president Sadat in Egypt or King Hussein in Jordan, none of these declarations have been followed up by military action. The governance of transboundary water has gained increased attention these last decades. This has a direct impact on the global food system as water allocation agreements determine the amount of water that can used for irrigated agriculture. The likelihood of conflicts over water is an important parameter to consider in assessing the stability, sustainability and resilience of global food systems. None of the various and extensive databases on the causes of war show water as a casus belli. Using the International Crisis Behavior (ICB) data set and supplementary data from the University of Alabama on water conflicts, Hewitt, Wolf and Hammer found only seven disputes where water seems to have been at least a partial cause for conflict (Wolf, 1998, p. 251). In fact, about 80% of the incidents relating to water were limited purely to governmental rhetoric intended for the electorate (Otchet, 2001, p. 18). As shown in The Basins At Risk (BAR) water event database, more than two-thirds of over 1800 water-related ‘events’ fall on the ‘cooperative’ scale (Yoffe et al., 2003). Indeed, if one takes into account a much longer period, the following figures clearly demonstrate this argument. According to studies by the United Nations Food and Agriculture Organization (FAO), organized political bodies signed between the year 805 and 1984 more than 3600 water-related treaties, and approximately 300 treaties dealing with water management or allocations in international basins have been negotiated since 1945 (FAO, 1978 and FAO, 1984). The fear around water wars have been driven by a Malthusian outlook which equates scarcity with violence, conflict and war. There is however no direct correlation between water scarcity and transboundary conflict. Most specialists now tend to agree that the major issue is not scarcity per se but rather the allocation of water resources between the different riparian states (see for example Allouche, 2005, Allouche, 2007 and [Rouyer, 2000] ). Water rich countries have been involved in a number of disputes with other relatively water rich countries (see for example India/Pakistan or Brazil/Argentina). The perception of each state’s estimated water needs really constitutes the core issue in transboundary water relations. Indeed, whether this scarcity exists or not in reality, perceptions of the amount of available water shapes people’s attitude towards the environment (Ohlsson, 1999). In fact, some water experts have argued that scarcity drives the process of co-operation among riparians (Dinar and Dinar, 2005 and Brochmann and Gleditsch, 2006). In terms of international relations, the threat of water wars due to increasing scarcity does not make much sense in the light of the recent historical record. Overall, the water war rationale expects conflict to occur over water, and appears to suggest that violence is a viable means of securing national water supplies, an argument which is highly contestable. The debates over the likely impacts of climate change have again popularised the idea of water wars. The argument runs that climate change will precipitate worsening ecological conditions contributing to resource scarcities, social breakdown, institutional failure, mass migrations and in turn cause greater political instability and conflict (Brauch, 2002 and Pervis and Busby, 2004). In a report for the US Department of Defense, Schwartz and Randall (2003) speculate about the consequences of a worst-case climate change scenario arguing that water shortages will lead to aggressive wars (Schwartz and Randall, 2003, p. 15). Despite growing concern that climate change will lead to instability and violent conflict, the evidence base to substantiate the connections is thin ( [Barnett and Adger, 2007] and Kevane and Gray, 2008).

#### 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

#### State Secrets Privilege protects private and government patent secrets – key to the military superiority

Donohue 10 (Laura – Associate Professor of Law, Georgetown University Law Center, “The Shadow of State Secrets”, 2010, 159 U. Pa. L. Rev. 77, lexis)

In contrast, docket searches demonstrate that, from January 2001 to January 2009, the privilege played a significant role in the executive branch's national security litigation strategy. In one case, the Administration asserted the state secrets privilege some 245 times. n31 More to the point, the government has invoked the state secrets privilege in more than 100 cases, which is more than five times the number of cases previously considered. And it is not just the executive branch that benefitted from the privilege: in scores of additional cases, private industry claimed that the state secrets doctrine applied, with the expectation that the federal government would later intervene to prevent certain documents from being subject to discovery or to stop the suit from moving forward. Beyond these, there are hundreds of cases on which the shadow of the privilege fell. This Article thus focuses on cases working their way through the courts between 2001 and 2009. It begins with disputes related to government contractors, where the threatened and actual invocation of the privilege appears in a broad range of grievances. Breach of contract, patent disputes, trade secrets, fraud, and employment termination cases prove remarkable in their frequency, length, and range of technologies involved. Wrongful death, personal injury, and negligence [\*88] cases extend beyond product liability to include infrastructure and services, as well as an emerging area perhaps best understood as the conduct of war. These corporate cases are distinguished by the tendency of companies to claim that state secrets are at stake early in the dispute and the subsequent role of the United States, if it chooses to become involved and to invoke the privilege, as an intervenor. Close inspection suggests a conservative executive branch that is more likely to step forward when breach of contract, trade secrets, or patent disputes present themselves, and unlikely - once it invokes the privilege - to back down. Where the executive initially decides not to intervene and invoke the privilege, the rapid expansion of the use of contractors appears to be giving birth to a new form of "graymail": should the government initially refuse to support the corporation's state secrets claim, companies deeply embedded in the state may threaten to air legally or politically damaging information. n32 Even when no overt threat is made, the government may worry that certain information will emerge during the course of the trial that would politically compromise the agency or individuals involved. In other cases, the government may be dependent upon a corporation for a key aspect of national defense, thus creating an incentive for the state to protect the company from financial penalties associated with bad behavior. n33

#### No transition wars – rising states will integrate into international institutions- no incentives for aggression

**Ikenberry, 11** – (May/June issue of Foreign Affairs, G. John, PhD, Albert G. Milbank Professor of Politics and International Affairs at Princeton University in the Department of Politics and the Woodrow Wilson School of Public and International Affairs, “The Future of the Liberal World Order,” http://www.foreignaffairs.com/ articles/67730/g-john-ikenberry/the-future-of-the-liberal-world-order?page=show)

But this panicked narrative misses a deeper reality: although the United States' position in the global system is changing, the liberal international order is alive and well. The struggle over international order today is not about fundamental principles. China and other emerging great powers do not want to contest the basic rules and principles of the liberal international order; they wish to gain more authority and leadership within it. Indeed, today's power transition represents not the defeat of the liberal order but its ultimate ascendance. Brazil, China, and India have all become more prosperous and capable by operating inside the existing international order -- benefiting from its rules, practices, and institutions, including the World Trade Organization (WTO) and the newly organized G-20. Their economic success and growing influence are tied to the liberal internationalist organization of world politics, and they have deep interests in preserving that system. In the meantime, alternatives to an open and rule-based order have yet to crystallize. Even though the last decade has brought remarkable upheavals in the global system -- the emergence of new powers, bitter disputes among Western allies over the United States' unipolar ambitions, and a global financial crisis and recession -- the liberal international order has no competitors. On the contrary, the rise of non-Western powers and the growth of economic and security interdependence are creating new constituencies for it. To be sure, as wealth and power become less concentrated in the United States' hands, the country will be less able to shape world politics. But the underlying foundations of the liberal international order will survive and thrive. Indeed, now may be the best time for the United States and its democratic partners to update the liberal order for a new era, ensuring that it continues to provide the benefits of security and prosperity that it has provided since the middle of the twentieth century.

#### Single instances of action do not change international perceptions of the United States.

**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

#### No impact to the transition

**Ikenberry, 08** professor of Politics and International Affairs at Princeton University (John, The Rise of China and the Future of the West Can the Liberal System Survive?, Foreign Affairs, Jan/Feb)

Some observers believe that the American era is coming to an end, as the Western-oriented world order is replaced by one increasingly dominated by the East. The historian Niall Ferguson has written that the bloody twentieth century witnessed "the descent of the West" and "a reorientation of the world" toward the East. Realists go on to note that as China gets more powerful and the United States' position erodes, two things are likely to happen: China will try to use its growing influence to reshape the rules and institutions of the international system to better serve its interests, and other states in the system -- especially the declining hegemon -- will start to see China as a growing security threat. The result of these developments, they predict, will be tension, distrust, and conflict, the typical features of a power transition. In this view, the drama of China's rise will feature an increasingly powerful China and a declining United States locked in an epic battle over the rules and leadership of the international system. And as the world's largest country emerges not from within but outside the established post-World War II international order, it is a drama that will end with the grand ascendance of China and the onset of an Asian-centered world order. That course, however, is not inevitable. The rise of China does not have to trigger a wrenching hegemonic transition. The U.S.-Chinese power transition can be very different from those of the past because China faces an international order that is fundamentally different from those that past rising states confronted. China does not just face the United States; it faces a Western-centered system that is open, integrated, and rule-based, with wide and deep political foundations. The nuclear revolution, meanwhile, has made war among great powers unlikely -- eliminating the major tool that rising powers have used to overturn international systems defended by declining hegemonic states. Today's Western order, in short, is hard to overturn and easy to join. This unusually durable and expansive order is itself the product of farsighted U.S. leadership. After World War II, the United States did not simply establish itself as the leading world power. It led in the creation of universal institutions that not only invitedglobal membershipbut also brought democracies and market societies closer together. It built an order that facilitated the participation and integration of both established great powers and newly independent states. (It is often forgotten that this postwar order was designed in large part to reintegrate the defeated Axis states and the beleaguered Allied states into a unified international system.) Today, China can gain full access to and thrive within this system. And if it does, China will rise, but the Western order -- if managed properly -- will live on.

### SOP 1NC

#### Plan can’t solve separation of powers – too many alt causes –

#### A. Drones

Noonan 13 (Raymond, “Law School prof addresses drone legality”, 2/22, http://yaledailynews.com/blog/2013/02/22/law-school-prof-addresses-drone-legality/)

Hathaway, who directs the Center for Global Legal Challenges at Yale Law School, said drone strikes are difficult to defend legally, though she added that some uses of drones by the American military could be justified under international law. She said the drone strikes in Pakistan could be one such example because Pakistan has probably consented to the strikes, although the country has denied such allegations. Hathaway also warned that the United States’ drone strike policy compromises the government’s separation of powers. “[Drone strikes] make it easier for the president to exercise war-making power without any checks,” she said. “[Drone strikes] threaten to very much upset traditional powers over use of military force.”

#### B. NSA Surveillance

Brito 13 (Jenny, “NSA Scandal: How Leaks Advance Liberty and Resist Tyranny”, 7/18, http://reason.com/archives/2013/06/18/nsa-scandal-how-leaks-advance-liberty-an)

If the secret surveillance itself is any indication, then the separation of powers is not up to the task. According to President Obama, domestic surveillance programs are “under very strict supervision by all three branches of government.” Yet it doesn’t seem very strict when more than half of the Senate couldn’t be bothered to show up last week for a major briefing by the government’s top intelligence officials. “Strict supervision” also doesn’t seem very meaningful when you consider that the FISA Court is a hand-picked non-adversarial specialist court that approved every surveillance request it got last year. Experience suggests that specialist courts tend to get captured by their bar, and in the case of the FISA Court, that means just the government. More to the point, a secret court issuing secret orders based on secret interpretations of the law makes any debate or commentary impossible. Even when there is a will on the part of some lawmakers to carry out oversight, executive branch officials will apparently lie under oath. So if not on the Constitution and its institutions, on what can we rely to keep government power in check?

#### C. Detention

Siegel 12 (Ashley – J.D., Boston University School of Law, “SOME HOLDS BARRED: EXTENDING EXECUTIVE DETENTION HABEAS LAW BEYOND GUANTANAMO BAY”, 2012, 92 B.U.L. Rev. 1405, lexis)

The Supreme Court created a vastly different landscape for alien detainees' rights and habeas petitions through the Boumediene line of cases. Starting with Hamdi, the Supreme Court has demonstrated an unwillingness to place a stamp of approval on the Executive's actions, despite the broad powers traditionally reserved for the Executive with regard to the military. n206 Instead, the Court has recognized the important separation-of-powers issues implicated by the Executive's indefinite detention of prisoners captured in the war on terror and the Court's own important role in preventing the Executive from assuming too much power. n207 The Court embraced its role as protector of the fundamental right of habeas review, recognizing that the Executive could not sidestep compliance with the law by reinventing categories of prisoners or locating them in offshore facilities. n208

#### No impact to SOP- Presidents bypass formal constitutional barriers all the time,

Zasloff, Professor of Law, UCLA School of Law, 2004(Jonathan, “Taking Politics Seriously: A Theory of California's Separation of Powers” 51 UCLA L. Rev. 1079, Copyright (c) 2004 The Regents of the University of California)

Presidents break legislative impasses by "solving" pressing problems with unilateral decrees that often go well beyond their formal constitutional authority; rather than protesting, representatives are relieved that they can evade political responsibility for making hard decisions; subsequent presidents use these precedents to expand their decree power further; the emerging practice may even be codified by later constitutional amendments. Increasingly, the house is reduced to a forum for demagogic posturing, while the president makes tough decisions unilaterally without considering the interests and ideologies represented by the leading political parties in Congress. n226 Will this always happen? Of course not. But it has happened frequently - far too frequently to make confident assertions about the necessity of presidentialism to the preservation of liberal democracy. The crucial question then is, what does this finding mean for the process of American constitutional interpretation? It certainly can't mean that judges should take it upon themselves to create parliamentary government in the United States. But it should give us great pause to adhere to rigid separation of powers formalism. Indeed, while the evidence so far clearly points to the conclusion that parliamentarism is superior to presidentialism, all that is necessary for the argument for judicial deference is that it is no worse. And that is unquestionable. Put another way, even if government completely slides down the slippery slope - if the worst-case scenario occurs - it should not be cause for political concern. And thus, it should not be cause for judicial concern.

#### SoP useless – pres powers too big

**Posner and Vermeule, 10** - \*professor of law at the University of Chicago AND \*\*professor of law at Harvard (Eric and Adrian, The Executive Unbound, p. 17-18)

We begin with the constitutional framework, and with the official constitutional theory of liberal legalism. In this theory lawmaking powers are separated among three different branches-legislature, executive, and judiciary-in order to promote an institutional division of labor and to protect liberty The liberty-protecting function of the separation of powers, Madison suggested, is that the combination of powers in one institution would be "the very definition of tyranny". Mutual checking and monitoring by the branches of government would prevent concentration of power suppress the evils of factionalism, and conduce to better policymaking overall. This theory has collapsed. Its fit with reality is no longer merely imperfect, in the way that all regulative ideals are imperfect; rather it does not even approximate the political terrain it purports to cover. We will proceed to explain this conclusion in three steps. First, we examine the checking function of the separation of powers. Here Madison made two crucial mistakes: first in assuming that the individual ambitions of government officials would cause them to support the power of the institutions they occupy and second in assuming that some invisible-hand mechanism would cause the mutual contest among institutions to produce a socially beneficial system of mutual checks. Nothing in the actual separation-of-powers system, however, guarantees or even generally tends to produce socially beneficial results. In particular, we show that the system will predictably lead to suboptimal checking-to a political regime in which some institutions (such as legislature and judiciary) do too little to check the swelling power of others (such as the executive). Second, we examine the monitoring function of the separation of powers, focusing particularly on legislative and judicial monitoring of the executive. The vastly increased complexity and scale of the executive, since Madison's day ensures that the monitoring function is largely obsolete. In the administrative state, the scope of the executive's responsibility is vast, and legislative and judicial institutions lack the capacity to monitor any important fraction of what the executive does, even where opposing political parties occupy the executive and other branches, and even with the help of "fire alarms"-alerts from interest groups with stakes in particular issues.2 In many of the most important domains, and those most difficult to monitor-those involving intelligence, foreign affairs and national security or highly complex questions of economic policy-legislators and the courts are overmatched, for enduring structural reasons that prevail no matter what the contingent political constellation. We thus reject any strong version of the "congressional dominance" thesis-the idea that Congress, sometimes enlisting the aid of interest groups and the courts, exerts implicit but effective control over executive and administrative behavior.

#### Their claim is political misinformation

**Posner and Vermeule, 9** - \* University of Chicago – Law School AND \*\*Harvard University – Harvard Law School (Eric and Adrian, “Tyrannophobia” 9/15, SSRN)

Tyrannophobia is a central element of American political culture, and has been since the founding. We have offered several claims and hypotheses to illuminate its origins and importance. We suggest that tyrannophobia arises from the interaction between history and the quirks of political psychology, or from the differential costs of information about legal and political checks on the executive; that dictatorship, at least in any strong sense, is not a real possibility in the United States today, due to demographic factors; and that tyrannophobia therefore has little social utility in modern circumstances.

Whatever its possible utility in the past, a question on which we are agnostic, tyrannophobia today is just another misperception of risk, akin to a fear of genetically modified foods. Indeed, in light of the current evidence on the determinants of democratic stability, tyranny should be at the **very bottom of the scale of public concern**. The modern entrepreneurs of tyrannophobia – from George Orwell to George Lucas – ought not be lionized as defenders of the liberal state, but instead shunned, as **purveyors of political misinformation**.

#### If they were right, it would be way too late to solve

**Posner and Vermeule, 7** – \*Kirkland and Ellis Professor of Law at the University of Chicago Law School AND \*\*professor at Harvard Law School (Eric and Adrian, Terror in the Balance: Security, Liberty, and the Courts p. 39)

More generally, Weimar has received too much attention in this setting. Civil libertarians invoke the shadow of Weimar to imply, and occasionally say, that expanding government’s powers during emergencies will produce another Hitler. It will not, in today’s liberal democracies anyway; and if it did, there would be nothing that civil libertarian judges could do about it. Emergencies always pose novel challenges; information about the new post-emergency conditions is at a premium, so the value of historical analogies is low. Weimar was an unconsolidated and institutionally shaky transitional democracy extant some three-quarters of a century ago; its relevance for emergency politics in consolidated modern democracies is not obvious, and we will see evidence that transferring large chunks of power to the executive during emergencies need not, and usually does not, end in dictatorship. The real risk is that civil libertarian panic about the specter of authoritarianism will constrain government’s ability to adopt cost-justified security measures. We return to these points throughout.

# 2NC

## DA

### 2NC Overview

#### Alliances solves nuke war – white

#### More belligerent

#### Turns multilat

#### Turns case – if the President wants to intervene in hostilities – he’ll dispatch PMC’s instead – triggers all your impacts and makes them inevitable

#### PMC use devastates separation of power

Michaels 4 (Jon – Law Clerk to the Honorable Guido Calabresi, U.S. Court of Appeals for the Second Circuit; Law Clerk designate, the Honorable David H. Souter, U.S. Supreme Court; J.D., Yale Law School, “ARTICLE: BEYOND ACCOUNTABILITY: THE CONSTITUTIONAL, DEMOCRATIC, AND STRATEGIC PROBLEMS WITH PRIVATIZING WAR”, 2004, 82 Wash. U. L. Q. 1001, lexis)

What is perhaps worse, the structural harms introduced by decisions to privatize may not substantially lessen even if, or when, combat privatization is undertaken relatively transparently and mainly for more [\*1009] traditional, commercial reasons. Since much of Congress's chief warmaking powers flow from its legal authority over the Armed Forces (especially to authorize armed intervention), even assuming the aims of privatization are purely economic and unconnected to any tactical motives to subvert Congress, constitutional harms do not disappear. In those situations and however inadvertently, privatization would still circumscribe Congress's role in military affairs, thus prompting separation-of-powers concerns not altogether dissimilar to those that would exist were the circumvention intentional. Additionally, and also irrespective of the Executive's motives for privatizing, the introduction onto the battlefield of for-profit contractors, motivated to fight primarily by money and regulated loosely by contract, rather than by the Uniform Code of Military Justice, breeds an array of strategic and psychic harms for the military commanders, for uniformed soldiers in the field, and for Americans at home. Accordingly, privatization of military functions poses a slew of problems too complicated and varied to resolve merely by enhancing accountability, strengthening contract laws, and tightening contract management.

#### PMC’s lose hearts and minds

Schwartz 9 (Moshe Specialist in Defense Acquisition December 14 http://www.fas.org/sgp/crs/natsec/R40764.pdf)

Some analysts believe that DOD strategy and doctrine does not sufficiently address the issue of contractors. These analysts argue that the public backlash following Abu Ghraib and other such incidents, as well wasteful spending, should compel DOD to reexamine the role contractors play in contingency operations and the way DOD integrates contractor support into current strategy and doctrine.47 For example, then Senator Barack Obama stated that “we cannot win a fight for hearts and minds when we outsource critical missions to unaccountable contractors.”48 The Gansler Commission echoed a similar sentiment, finding that segments of the Army have not recognized the important role contractors now have in DOD operations and the ability of contractors to influence the success of a contingency operation.49 Further integrating contractors into doctrine and strategy could help DOD better manage contractors, which in turn may mitigate the negative effects that some contractors have on DOD operations.

#### Bypasses all oversight – leads to worse unilateral policy which means the link turns the case

Michaels 4 (Jon – Law Clerk to the Honorable Guido Calabresi, U.S. Court of Appeals for the Second Circuit; Law Clerk designate, the Honorable David H. Souter, U.S. Supreme Court; J.D., Yale Law School, “ARTICLE: BEYOND ACCOUNTABILITY: THE CONSTITUTIONAL, DEMOCRATIC, AND STRATEGIC PROBLEMS WITH PRIVATIZING WAR”, 2004, 82 Wash. U. L. Q. 1001, lexis)

As will be explored at length in the course of the discussions in subsequent parts of this Article, privatization expands the horizon of executive policymaking discretion in the context of military affairs. Using privateers, whose legal status differentiates them from regular, U.S. soldiers, could help enable the president to bypass congressional oversight and even international collective security arrangements. Indeed, outsourcing may be undertaken to exploit this legal gap between what is the official state policy (say, non-intervention, limited involvement, or limited troop deployment) and what military goals can actually be accomplished through private channels. If contractors operate within these interstices, the president can presumably satisfy national security aims [\*1041] without expending the time and political capital to secure formal approval at home or internationally. First, pursuant to the U.S. Constitution, customary practice, and statutory framework laws such as the War Powers Resolution, the president shares many warmaking powers with Congress. While retaining exclusive jurisdiction over command decisionmaking, the president must nevertheless seek, inter alia, authorization and funding from Congress to deploy U.S. troops into zones of hostility. But, many of Congress's powers over military affairs are keyed to its Article I authority over the Armed Forces per se. Congress can, for instance, regulate the use and number of servicemen and women abroad, curtail funding for operations, and withhold support for a military engagement. Hence, as it stands, the president must often seek congressional approval in some form or another. If the Executive were, however, to deploy private troops in lieu of U.S. soldiers, it might be able to evade much of Congress's oversight jurisdiction - at least temporarily. Without having to seek authorization and funds from the national legislature, the president can more easily engage in unilateral policymaking and dispatch private contractors who are not part of the regular U.S. military. In so doing, objectives can perhaps be achieved more swiftly and with less political wrangling and opposition. This privatization agenda is discussed further in Part III. Second, an additional - and this time constitutionally exogenous - check on presidential discretion comes by way of the United Nations Security Council. In the post-Cold War era, the Security Council has reemerged as a, if not the, legitimate source for the authorization of military intervention in the name of collective security. Without the endorsement of the Security Council, any one nation's decision to intervene in the affairs of another sovereign state is subject to criticism and charges of illegality and illegitimacy. But although the Security Council attempts to regulate the behavior of nation-states and their national militaries, it (like international law more generally) has comparatively less influence over the activities of private agents. n139 If a country were to utilize the services of private contractors, it could bypass a Security Council vote - or possibly evade an already passed resolution prohibiting intervention by member states. Thus, the use of private troops in lieu of the U.S. military may free the Executive from having to depend on the support of the Security Council in order to initiate [\*1042] a foreign deployment. This privatization agenda is explored at greater length in Part V.

#### PMC’s bypass the UN - undermines adherence

Michaels 4 (Jon – Law Clerk to the Honorable Guido Calabresi, U.S. Court of Appeals for the Second Circuit; Law Clerk designate, the Honorable David H. Souter, U.S. Supreme Court; J.D., Yale Law School, “ARTICLE: BEYOND ACCOUNTABILITY: THE CONSTITUTIONAL, DEMOCRATIC, AND STRATEGIC PROBLEMS WITH PRIVATIZING WAR”, 2004, 82 Wash. U. L. Q. 1001, lexis)

Privatization only makes bypassing the U.N. easier and even more insidious than patching together an alternative source of collective authorization. At least with respect to small-scale interventions, where private troops could act in lieu of public soldiers, the United States could nominally remain a good global citizen and nominally recognize the supremacy of the Security Council, while still achieving those desired aims that the Council refuses to endorse. This would allow the United States to avoid the political backlash it felt (vis-a-vis Kosovo and especially Iraq) when it publicly eschewed the Security Council in favor of a more compliant authorizing community. n419 For instance, say the United States or another member proposes a resolution in support of intervening in a small country, perhaps besieged by a humanitarian crisis or laboring [\*1117] under civil war. Such a resolution fails. n420 The United States can abide by the decision not to intervene formally, yet can still make available to the country in question a private American outfit to carry out the objectives that the Council rejected. n421

### Link – 2NC

#### PMC’s are distinct from Armed Forces – lack of regulation will encourage their use

Michaels 4 (Jon – Law Clerk to the Honorable Guido Calabresi, U.S. Court of Appeals for the Second Circuit; Law Clerk designate, the Honorable David H. Souter, U.S. Supreme Court; J.D., Yale Law School, “ARTICLE: BEYOND ACCOUNTABILITY: THE CONSTITUTIONAL, DEMOCRATIC, AND STRATEGIC PROBLEMS WITH PRIVATIZING WAR”, 2004, 82 Wash. U. L. Q. 1001, lexis)

In the military context, non-economic status differentials can emerge as all-important in (rather than incident to) decisions to privatize. Private actors qua private actors may be sought - not because they are situated in a more efficient market or even because they command lower market wages, but because legally, politically, and symbolically they are not soldiers. Military privatization can allow the government to achieve national security and even humanitarian ends that would be more difficult, if not impossible, to accomplish using American soldiers. n136 Perhaps, at [\*1039] various times, a desire, however latent, to avoid instituting a draft, to lessen public awareness, to dilute casualty counts, to bypass congressional troop limitations, and/or to evade international arms embargoes, entice policymakers to outsource because private actors are not regulated, controlled, or even mourned to the same extent that public soldiers are. But, if a decision to outsource does reflect "tactical" aims to circumvent political and legal obstacles associated with the conventional deployment of regular, U.S. troops, an entire set of problems for constitutional principles and democratic virtues - independent of any actual, tangible misdeeds that privateers may perpetrate in a zone of conflict - must be anticipated. It is these structural problems, deeper than just accountability concerns, which command my attention. n137 Indeed, these structural problems are so great in the context of military privatization that even absent any express intent by the Executive to leverage or exploit status differentials between contractors and soldiers, many of the chief constitutional and democratic harms would still arise.

### 2nc military readiness

#### PMC reliance destroys military readiness

Singer 2 (P.W. – Director of the 21st Century Defense Initiative at the Brookings Institution, “Corporate Warriors: The Rise of the Privatized Military Industry and Its Ramifications for International Security”, International Security, Vol. 26, No. 3, Winter 2001/2002 http://www.brookings.edu/~/media/research/files/articles/2002/1/01us%20military%20singer/20020128.pdf)

INCOMPLETE INFORMATION AND MONI TORING DIFFICULTIES. Problems of incomplete information and monitoring generally accompany outsourcing. Yet these are intensified in the military realm because few clients have experience in contracting with security agents. In most cases, there is ei ther little oversight or a lack of clearly defined requirements, or both. Add in the fog of war, and proper mon itoring becomes extremely difficult. Moreover, PMFs are usually autonomous and thus require extraterritorial monitoring. And at times, the actual consumer may not be the contracting party: Some states, for example, pay PMFs to supply personnel on their behalf to international organizations. Another difficulty is the firms' focus on the bottom line: PMFs may be tempted to cut corners to increase their profits. No matter how powerful the client, this risk cannot be 23 completely eliminated. During the Balkans conflict, for example, Brown & Root is alleged to have failed to deliver or severely overcharged the U.S. Army on four out of seven of its contractual obligations. 43 A further manifestation of this monitoring difficulty is the danger that PMFs may not perform their missions to the fullest. PMFs have incentives not only to prolong their contracts but also to avoid taking undue risks that might endanger their own corporate assets. The result may be a protracted conflict, which perhaps could have been avoided if the client had built up its own military forces or more closely monitored its private agent. This was certainly true of mercenaries in the Biafra conflict in the 1970s, and many suspect that this was also the case with PMFs in the Ethiopia-Eritrea conflict in 1997ñ99. In the latter instance, the Ethiopians essentially leased a small but complete air force from the Russian aeronautics firm Sukhoió including a wing of Su-27 jet fighter planes, pilots, and ground staff. Some contend, though, that this private Russian force failed to prosecute the war fullyófor example, by rarely engaging Eritreaís air force, which itself was rumored to have hired Russian and Ukrainian pilots. 44 A CRITICAL LOSS OF CONTROL. As PMFs become increasingly popular, so too does the danger of their clients becoming overly dependent on their services. Reliance on a private firm means that an integral part of one’s strategic success is vulnerable to changes in market costs and incentives. This can result in two potential risks to the security of the client: (1) the agent (the firm) might leave its principal (the client) in the lurch, or (2) the agent might gain dominance over the principal. A PMF may have no compunction about suspending a contract if a situation becomes too risky, in either financial or physical terms. Because they are typically based elsewhere, and in the absence of applicable international laws to enforce compliance, PMFs face no real risk of 24 punishment if they or their employees defect from their contractual obligations. Industry advocates dismiss these claims by noting that firms failing to fulfill the terms of their contracts would sully their reputation, thus hurting their chances of obtaining future contracts. Nevertheless, there are a number of situations in which shorter-term c onsiderations could prevail over long-term market punishment. In game-theoretic terms, each interaction with a private actor is sui generis. Exchanges in the international security market take the form of one-shot games, rather than guaranteed repeated plays. 45 Sierra Leone faced such a situation in 1994, when the type 1 firm that it had hired (the Gurkha Security Guards, made up primarily of Nepalese soldie rs) lost its commander in a rebel ambush. Reports suggest that the commander was la ter cannibalized. The firm decided to break its contract, and its employees fled the country, leaving its client wi thout an effective military option until it was able to hire another firm. 46 The loss of direct control as a result of privatization carries risks even for strong states. For U.S. military commanders, an added worry of terrorist targeting or the potential use of weapons of mass destruction is that their forces are more reliant than ever on the surge capacity of type 3 support firms. The employees of these firms, however, cannot be forced to stay at their posts in the face of these or any other dangers. 47 Because entire functions, such as weapons maintenance and supply, have become completely privatized, the entire military machine would break down if even a modest number of PMF employees chose to leave. In addition to sometimes failing to fulfill thei r contractual obligations, type 1 firms may pose another risk. In weak or failed states, PMFs , which are often the most powerful force on the local scene, may take steps to protect their own interests. Thus early termination of a contract, dissatisfaction with the terms of payment, or di sagreements over specific orders could lead to unpleasant repercussions for a weak client. Ind eed the corporate term "hostile takeover" may 25 well take on new meaning when speaking of the privatized military industry. The precedent does existófrom the condottieri , who took over their client regime s in the Middle Ages to the 1969 Mercenary Revolt in Zaire. More recently, there is continued suspicion that in 1996 Executive Outcomes helped to oust the leader of Sierra Le one, who headed the very regime that had hired it, in favor of another local general with w hom the firmís executives had a better working relationship

#### Collapse of readiness causes global war

**Spencer 00** (Jack, Policy Analyst – Heritage Foundation, The Facts About Military Readiness, 9-15, <http://www.heritage.org/Research/MissileDefense/BG1394.cfm>)

The evidence indicates that the U.S. armed forces are not ready to support America's national security requirements. Moreover, regarding the broader capability to defeat groups of enemies, military readiness has been declining. The National Security Strategy, the U.S. official statement of national security objectives, 3 concludes that the United States "must have the capability to deter and, if deterrence fails, defeat large-scale, cross-border aggression in two distant theaters in overlapping time frames." 4 According to some of the military's highest-ranking officials, however, the United States cannot achieve this goal. Commandant of the Marine Corps General James Jones, former Chief of Naval Operations Admiral Jay Johnson, and Air Force Chief of Staff General Michael Ryan have all expressed serious concerns about their respective services' ability to carry out a two major theater war strategy. 5 Recently retired Generals Anthony Zinni of the U.S. Marine Corps and George Joulwan of the U.S. Army have even questioned America's ability to conduct one major theater war the size of the 1991 Gulf War. 6 Military readiness is vital because declines in America's military readiness signal to the rest of the world that the United States is not prepared to defend its interests. Therefore, potentially hostile nations will be more likely to lash out against American allies and interests, inevitably leading to U.S. involvement in combat. A high state of military readiness is more likely to deter potentially hostile nations from acting aggressively in regions of vital national interest, thereby preserving peace.

## CP

### 2NC DA Overview

#### Probability and turns the case – deterrence is the only explanation for why conflict doesn’t occur – military leaders make decisions based off retaliation.

**Robinson, 01** – President and Director, Sandia National Laboratories, PhD Physics @ FSU, Chair of the Policy Committee of the Strategic Advisory Group for the Commander, US Strategic Command (C. Paul, 3/22. “Pursuing a New Nuclear Weapons Policy for the 21st Century.” http://www.sandia.gov/media/whitepaper/2001-04-Robinson.htm)

Let me then state my most important conclusion directly: I believe nuclear weapons must have an abiding place in the international scene for the foreseeable future. I believe that the world, in fact, would become more dangerous, not less dangerous, were U.S. nuclear weapons to be absent. The most important role for our nuclear weapons is to serve as a “sobering force,” one that can cap the level of destruction of military conflicts and thus force all sides to come to their senses. This is the enduring purpose of U.S. nuclear weapons in the post-Cold War world. I regret that we have not yet captured such thinking in our public statements as to why the U.S. will retain nuclear deterrence as a cornerstone of our defense policy, and urge that we do so in the upcoming Nuclear Posture Review. Nuclear deterrence becomes in my view a “countervailing” force and, in fact, a potent antidote to military aggression on the part of nations. But to succeed in harnessing this power, effective nuclear weapons strategies and policies are necessary ingredients to help shape and maintain a stable and peaceful world.

#### Deterrence stops conflict escalation

Spulak 97 (Robert G., Senior Analyst at Strategic Studies Center at Sandia National Laboratories, “The Case in Favor of US Nuclear Weapons,” Parameters, Spring, p. 106, http://carlisle-www.army.mil/usawc/Parameters/97spring/spulak.htm)

Even those who emphasize other aspects of the historical superpower standoff must include nuclear deterrence high on the list of factors. Nuclear deterrence does not ensure peace, but, short of nuclear war, places a limit on the level of violence. In fact, among great powers the nuclear era has been a most peaceful time. Nuclear weapons appear to have ended the terrible era of ever-more-devastating total war and substituted a relatively less-destructive era of limited war. It was largely the United States' nuclear deterrent that prevented the Soviet Union from realizing the expansionist ambitions it proclaimed to be its obligation as the vanguard of world communism.

#### Empirically proven

Ramberg 5 (Bennett, Policy Analyst at the State Department from 89-90, “Atomic weapons: To what end?; 60 years after Hiroshima,” The International Herald Tribune, 8-6)

Nuclear "deterrence," which, the review says, involves reinforcing the United States' ability to keep adversaries' high-value targets in its sights, has had the **greatest** impact in preventing crises or tamping down conflicts between nuclear-armed states. Mutual nuclear fright tempered Soviet-American actions during the crises in Berlin, in Cuba and in the Middle East in 1973; the same holds true for the 1969 Chinese-Soviet border skirmishes and the 2001-2002 India-Pakistan confrontation after the Kashmir separatist attack on India's Parliament.

#### Always works

Vaidyanatha 00 (G.V., Research Scholar in the Centre for International Politics, Organisation & Disarmament, School of International Studies, Jawaharlal Nehru University, “Conventional War in the Nuclear Age,” Matrix: The E-Journal of International Studies, September, http://members.tripod.com/jnu-matrix/conv-war.html)

But, faced with the threat of nuclear weapons, states are willing to sacrifice of some national interests provided it did not involve threat of the state's survival. Thus, China realising even after having a deterrent capability against United States is not willing to wage a war to annex Taiwan. Soviet Union during the Taiwan Straits crisis of 1957-58 refused to support China. Clearly, Soviet Union did not want to risk the alteration of status quo, as it did not contribute any of its vital security interests. For China, Taiwan is part of unfinished history but trying to rectify it might even risk its present. This is also the reason why Sino-Soviet border remained quite for twenty years after the 1969 clashes. Thus, the presence of nuclear weapons definitely deters nuclear wars but the same may not be true of 'limited wars'. The logic of nuclear weapons is different from the logic of conventional world. Nuclear weapons have only 'deterrence by punishment', that is, the threat and capacity to inflict nuclear punishment. In the conventional world it is deterrence by denial, "the capability to deny territorial gains", which are more important. In general, 'deterrence by punishment' should deter all wars. But when a vital interest of a state is involved the alternative might also involve similar costs. Thus, a conventional conflict may start when a change in status quo involves vital interests. But the threat of escalation almost **always** works to end the war, provided status quo is restored. Thus, even while nuclear weapons helps to reserve status quo, nuclear deterrence is also a condition of the same status quo.

### 2NC CBW

**Nuclear Deterrence prevents CBW**

**Joseph 00** (Robert, Director – Center for Counterproliferation Research, senior scholar at the National Institute for Public Policy, professor – Missouri State University, and formerly Special Envoy for Nuclear Nonproliferation, Congressional Testimony – Senate Foreign Relations Nonproliferation Policy, 3-21)

Therefore, it is essential that the United States acquire the capabilities to deny an enemy the benefits of these weapons. These capabilities - including passive and active defenses as well as improved counterforce means (such as the ability to destroy deep and hardened underground targets and mobile missiles) - offer the best chance to strengthen deterrence, and provide the best hedge against deterrence failure. A further dimension of the WMD threat that undercuts deterrence is the growing ability of adversaries to deliver these weapons against the United States homeland, including against our cities. This is most visible with the North Korean long-range missile program but also includes the potential for unconventional delivery, especially of biological agents. For rogue states, acquiring the capability to strike our population centers denies us the convenience and simplicity of thinking in terms of fighting a purely theater war, and makes essential our development and deployment of new defensive capabilities. In this context, I commend the initiatives undertaken by the Senate to insure that our first responders are trained to deal with chemical and biological incidents, and for the passage of the National Missile Defense Act. I do not want to give the impression that **the threat of punishment** is not unimportant. Although not adequate by itself, such a threat **remains essential for deterrence** of both initial use and follow-on use of WMD by rogue states. Here, conventional superiority alone cannot provide for a credible deterrent. In fact, despite sustained and determined efforts by some to de-legitimize our nuclear weapons and assertions that their utility ended with the Cold War, our **nuclear weapons play a unique and indispensable role in deterring** the use of chemical, biological and nuclear weapons in regional contexts. This is in addition to the hedge our nuclear weapons provide against the strategic uncertainties associated with Russia and China - two states that continue to value and modernize their nuclear forces. From our examination of the real-world case of deterring Iraqi chemical and biological use in Desert Storm, and from our extensive experience in gaming, we have concluded that our nuclear weapons are **the single most important instrument** we have for deterring the use of chemical and biological weapons against us by rogue states. Conventional superiority, which in certain critical ways is perceived as vulnerable, especially if the enemy uses his WMD capabilities early in a conflict, is not enough. Our conventional and nuclear forces must work together to enhance deterrence in a very complex and dangerous environment. In conclusion, preventing proliferation -- and especially the spread of nuclear weapons -- has long been a stated goal of U.S. policy, beginning in the months immediately following the conclusion of World War 11 and continuing to the present. Every Administration, from President Truman forward, has made non-proliferation a central element of American foreign policy. This was evident in the Baruch proposals and in President Eisenhower's Atoms for Peace initiative. It was also apparent in the negotiation of the Nuclear Non-Proliferation Treaty under President Johnson and in the conventions on prohibiting biological and chemical weapons negotiated Nixon and Bush respectively. Presidents Kennedy and Carter were not only eloquent but also passionate in their stated goal of preventing the further spread of nuclear weapons, and President Reagan held the vision of eliminating these weapons altogether.

**Extinction**

**Sandberg et al 8**—Research Fellow at the Future of Humanity Institute at Oxford University. PhD in computation neuroscience, Stockholm—AND—Jason G. Matheny—PhD candidate in Health Policy and Management at Johns Hopkins. special consultant to the Center for Biosecurity at the University of Pittsburgh—AND—Milan M. Ćirković—senior research associate at the Astronomical Observatory of Belgrade. Assistant professor of physics at the University of Novi Sad. (Anders, How can we reduce the risk of human extinction?, 9 September 2008, http://www.thebulletin.org/web-edition/features/how-can-we-reduce-the-risk-of-human-extinction)

The risks from anthropogenic hazards appear at present larger than those from natural ones. Although great progress has been made in reducing the number of nuclear weapons in the world, humanity is still threatened by the possibility of a global thermonuclear war and a resulting nuclear winter. We may face even greater risks from emerging technologies. Advances in synthetic biology might **make it possible** to engineer pathogens capable of extinction-level pandemics. The knowledge, equipment, and materials needed to engineer pathogens are more accessible than those needed to build nuclear weapons. And unlike other weapons, pathogens **are self-replicating, allowing a small arsenal to become exponentially destructive**. Pathogens have been implicated in the extinctions of many wild species. Although most pandemics "fade out" by reducing the density of susceptible populations, pathogens with wide host ranges in multiple species can reach even isolated individuals. The intentional or unintentional release of engineered pathogens with high transmissibility, latency, and lethality might be capable of causing **human extinction**. While such an event seems unlikely today, the likelihood may increase as biotechnologies continue to improve at a rate rivaling Moore's Law.

### 2NC China War

#### Deterrence prevents US-China war

Dunn 7 (Lewis, former Assistant Director of the U.S. Arms Control and Disarmament Agency and served as Ambassador to the 1985 Nuclear Non-Proliferation Treaty Review Conference, “Deterrence Today: Roles, Challenges, and Responses,” Security Studies Center, Summer)

Unlike the case with Russia, a U.S.-China nuclear crisis or even confrontation is not inconceivable. Precipitous action by Taiwan could be one trigger; a decision by Chinese officials to act against Taiwan another. In any such confrontation over Taiwan, it is conceivable that Chinese officials could miscalculate the readiness of the United States to support Taiwan. Chinese officials also could miscalculate their ability to manage the risks of escalation. In that regard, some Chinese experts have stated informally that such an asymmetry of stakes would put the United States at a fundamental disadvantage in any China-Taiwan-U.S. crisis. That is, in their view, given asymmetric stakes, the United States would be reluctant to escalate even after a Chinese limited use of a nuclear weapon.30 The U.S.-China strategic relationship also is characterized by mutual uncertainties about each other’s longer-term strategic intentions in both Washington and Beijing. In Washington, the scope and goals of China’s planned nuclear modernization as well as its readiness to play a constructive role in dealing with pressing non-proliferation problems remain open questions. Beijing’s decision to test an anti-satellite weapon in January, 2007 clearly reinforced those uncertainties. In Beijing, the scope and goals of U.S. deployment of missile defenses and advanced conventional weapons is being closely watched given concerns about a possible U.S. pursuit of a disarming first strike against China’s nuclear arsenal. For their part, China’s experts and officials have signaled that the scope and pace of China’s nuclear modernization is linked to those American deployments. So viewed, China is prepared to do whatever it takes to preserve a limited nuclear deterrent.31 Against this backdrop, the U.S. extended nuclear deterrent has a role to play in lessening the risk of Chinese miscalculation over Taiwan. More broadly, as suggested above, the American presence in Asia and the U.S. nuclear deterrent also is seen by some Japanese and other officials as a reassuring factor in the context of China’s growing military capabilities and political rise in Asia. U.S. officials need to continue to make clear U.S. support for a peaceful resolution of the Taiwan question. U.S. officials need to be prepared to counter Chinese perceptions that an asymmetry of stakes reduces the risks of China of threats or use of force should any confrontation over Taiwan occur. The steps set out above to buttress the U.S.-Japan and U.S.-Korea alliance relationship also provide a broader reassurance vis-à-vis China.

#### Extinction

Lieven 12 (Anatol, Professor in the War Studies Department – King’s College (London), Senior Fellow – New America Foundation (Washington), “Avoiding US-China War,” New York Times, 6-12, http://www.nytimes.com/2012/06/13/opinion/avoiding-a-us-china-war.html)

Relations between the United States and China are on a course that may one day lead to war. This month, Defense Secretary Leon Panetta announced that by 2020, 60 percent of the U.S. Navy will be deployed in the Pacific. Last November, in Australia, President Obama announced the establishment of a U.S. military base in that country, and threw down an ideological gauntlet to China with his statement that the United States will “continue to speak candidly to Beijing about the importance of upholding international norms and respecting the universal human rights of the Chinese people.” The dangers inherent in present developments in American, Chinese and regional policies are set out in “The China Choice: Why America Should Share Power,” an important forthcoming book by the Australian international affairs expert Hugh White. As he writes, “Washington and Beijing are already sliding toward rivalry by default.” To escape this, White makes a strong argument for a “concert of powers” in Asia, as the best — and perhaps only — way that this looming confrontation can be avoided. The economic basis of such a U.S.-China agreement is indeed already in place. The danger of conflict does not stem from a Chinese desire for global leadership. Outside East Asia, Beijing is sticking to a very cautious policy, centered on commercial advantage without military components, in part because Chinese leaders realize that it would take decades and colossal naval expenditure to allow them to mount a global challenge to the United States, and that even then they would almost certainly fail. In East Asia, things are very different. For most of its history, China has dominated the region. When it becomes the largest economy on earth, it will certainly seek to do so. While China cannot build up naval forces to challenge the United States in distant oceans, it would be very surprising if in future it will not be able to generate missile and air forces sufficient to deny the U.S. Navy access to the seas around China. Moreover, China is engaged in territorial disputes with other states in the region over island groups — disputes in which Chinese popular nationalist sentiments have become heavily engaged. With communism dead, the Chinese administration has relied very heavily — and successfully — on nationalism as an ideological support for its rule. The problem is that if clashes erupt over these islands, Beijing may find itself in a position where it cannot compromise without severe damage to its domestic legitimacy — very much the position of the European great powers in 1914. In these disputes, Chinese nationalism collides with other nationalisms — particularly that of Vietnam, which embodies strong historical resentments. The hostility to China of Vietnam and most of the other regional states is at once America’s greatest asset and greatest danger. It means that most of China’s neighbors want the United States to remain militarily present in the region. As White argues, even if the United States were to withdraw, it is highly unlikely that these countries would submit meekly to Chinese hegemony. But if the United States were to commit itself to a military alliance with these countries against China, Washington would risk embroiling America in their territorial disputes. In the event of a military clash between Vietnam and China, Washington would be faced with the choice of either holding aloof and seeing its credibility as an ally destroyed, or fighting China. Neither the United States nor China would “win” the resulting war outright, but they would certainly inflict catastrophic damage on each other and on the world economy. If the conflict escalated into a nuclear exchange, modern civilization would be wrecked. Even a prolonged period of military and strategic rivalry with an economically mighty China will gravely weaken America’s global position. Indeed, U.S. overstretch is already apparent — for example in Washington’s neglect of the crumbling states of Central America.

### 2NC Terror

#### Deterrence prevents nuclear terror attack

Dunn 7 (Lewis, former Assistant Director of the U.S. Arms Control and Disarmament Agency and served as Ambassador to the 1985 Nuclear Non-Proliferation Treaty Review Conference, “Deterrence Today: Roles, Challenges, and Responses,” Security Studies Center, Summer)

Confronted by the threat of terrorist use of nuclear or other weapons of mass destruction, the United States, its friends and allies, and indeed all countries need to bring as many possible responses to bear to counter that threat. Within both the U.S. government and the outside expert community, recognition of this need is generating a renewed interest in the possible role of deterrence of a terrorist nuclear or other WMD attack. For its part, the preceding discussion has focused on the roles and limitations of deterrence. In so doing, it also has identified other influence strategies that might be pursued in complementary approach also aimed at shaping the terrorist WMD cost-benefits calculus. Its starting point is the need to think in terms of the many different individual links, from leaders to aiders and abettors that would be integral parts of any future nuclear terrorist attack by the al-Qaeda-Jihadist movement. Its basic contention is that both deterrence and related influence strategies can contribute to meeting today’s terrorist WMD threat. More specifically, while traditional deterrence by the threat of punishment probably lacks sufficient credibility to shape the calculus of the al-Qaeda-Jihadist leadership, the threat of punishment – legal and extra-legal – may be an important means to influence the aiders and abettors needed for any successful terrorist attack. Deterrence by the threat of punishment also has an important role to play in shaping the calculations of potential state supporters of a nuclear or other WMD attack. By contrast, deterrence by denial of benefits strategies may hold greater promise for influencing the leadership’s calculations as well as those of its operators and planners. Both sets of individuals need to make decisions about where best to allocate scarce resources and in the past have shown a strong tendency to stick with “what works.” Besides, virtually all such deterrence by denial actions should be taken regardless of their potential deterrent impact in order to prevent or reduce the consequences of a WMD terrorist attack. Somewhat differently, a wide range of influence actions offer a complementary approach to shape the calculus of the al-Qaeda-Jihadist leadership about whether the indiscriminate loss of life likely to be caused by a nuclear terrorist attack would serve their overall agenda. Put most starkly, even if that leadership believes that such loss of innocent life is fully justified in their eyes, they still must ask whether it would be smart.

### 2NC Solves Heg

#### Deterrence sustains heg – guarantees no challengers

Spulak 97 (Robert, Senior Analyst at Strategic Studies Center at Sandia National Laboratories, “The Case in Favor of US Nuclear Weapons,” Parameters, Spring, p. 106, http://carlisle-www.army.mil/usawc/Parameters/97spring/spulak.htm)

By virtue of their enormous destructive potential, the possession of nuclear weapons creates a quantum increase in power and influence for the United States. Possession creates a threshold of antagonism which no nation can cross. Global awareness of the existence of this threshold allows the United States to exercise influence **without the threshold ever being approached**. Just as important, the opposite is also true: stigmatizing and minimizing our nuclear weapons can undermine, to some extent, our international status and therefore our ability to influence world events and to protect and promote our interests. This is important because it matters which states exercise power in the world. (Suppose Nazi Germany had won World War II or the Soviet Union had won the Cold War.) The collapse of the Soviet Union leaves the United States as the only major power whose national identity is defined by a set of universal political and economic values.[11] Sustained US power is central to the future of freedom, democracy, open economies, and international order in the world. Some argue that economic strength alone can confer superpower status because economic powers can use trade and economic policies to promote their economic welfare.[12] However, economic power is only one contributor to a nation's overall power. The highest priorities of the United States government are to protect our central security interests. Economic power alone cannot guarantee security; in fact, greater economic interests may extend the boundaries of our security interests, thereby increasing our vulnerability to coercion or adding new opportunities for others to try to influence US foreign policy. The greatest contribution of economic power to security is that economic resources allow for the fielding of a formidable military force. This is why there is a great deal of concern over China's economic growth: not primarily because of China's future ability to trade effectively (although this also may be of great concern), but because of its rapid growth in military spending and the enormous resources potentially available for its military. Even states that could not compete economically have been superpowers (e.g., the Soviet Union). The possession of a robust nuclear arsenal confers real diplomatic advantages on the United States. **It is a vital symbol and part of the substance of our world leadership**. Diplomacy is always performed against the backdrop of military capability. In addition, nuclear weapons, and the threats they imply, can be used explicitly (although not without risk) to protect US interests.[13] For example, during the superpower confrontation caused by the 1973 Arab-Israeli war, increased US alert status, including nuclear forces, and hints of "incalculable consequences" probably helped to deter Soviet intervention in Egypt. (Soviet nuclear capabilities also may have helped to motivate the United States to work to prevent the destruction of the encircled Egyptian Third Army.) There has been widespread speculation that allusions to nuclear use may have deterred Iraq from using chemical weapons in the 1990-91 Gulf War. And, the US carefully refrained for several days from ruling out a nuclear strike against a Libyan underground chemical weapons facility to increase the diplomatic pressure to stop construction. Nuclear weapons make it easier for the United States to cooperate with other nations since they make it difficult for other nations to threaten central US security interests. In the past, it has been very important in international relations to avoid a relative gain by a partner in cooperation lest that relative gain translate into a shift in relative military power that threatens one of the partners. This creates a barrier to cooperation in trade, economic policy, arms control, or other activities that result in absolute economic or other gains. Nuclear weapons lower this barrier to cooperation.

### 2NC Key to Nuke Primacy

#### The plan kills nuclear deterrence – it removes the effect of rapid second strike in the deterrence equation – that leads to war – people wont take our nuclear force seriously if we lose the advantage of quick launch and response – kills credibility of deterrence which undermines primacy – its perceived as a lack of commitment – that’s Chilcoat

### 2NC Perm Do Both

#### 1. The CP is mutually exclusive -

**A. Counterplan is functionally competitive ­– the plan *requires* that all presidential uses of force go through congressional authorization, the counterplan creates a clear exception for nuclear uses of force.**

**B. Counterplan is textually competitive - the addition of a word radically alters the context of a statement, which should be the determiner for textual competition. If we added “not” after “The USFG should” then**

**2. The Permutation links to the net benefit – it removes the possibility of first-use of nuclear weapons.**

# 1NR

### Interventions

Congress will continue to defer to the executive – even legislation in the past has made no impact – Congress WANTS to defer to avoid blame while propping up executive – the plan doesn’t reverse Congressional ideology – that’s Recchia 11

**No cooperation means congress still defers**

**Devins, 09** – Neal, Goodrich Professor of Law and Professor of Government at the College of William and Mary, “Presidential Unilateralism and Political Polarization: Why Today's Congress Lacks the Will and the Way to Stop Presidential Initiatives”, <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1025&context=facpubs>

In highlighting differences between the Watergate-era Congress and the modem Congress, Part III will examine the profound role that political polarization has played in defining today's Congress. Initially, I will call attention to how **political polarization makes it impossible for Democrats and Republicans in Congress to work together**. I will then extend that lesson to the highly partisan impeachment of President Clinton and, more importantly, to the ways in which modem day Presidents have assumed more and more power through unilateral action. Making matters worse (at least if you think Congress should stand as a check to presidential unilateralism), **members of Congress see little personal gain in standing together to assert Congress's institutional prerogatives**. On national security matters, today's Congress-unlike the post-1969 Viet Nam era Congress-sees little benefit in asserting legislative prerogatives. Put another way: **Today's Congress, unlike the Watergate-era, has neither the will nor the way to check presidential initiatives.**

Zero risk of accidents Congress will continue to defer to the executive – even legislation in the past has made no impact – Congress WANTS to defer to avoid blame while propping up executive – the plan doesn’t reverse Congressional ideology – that’s Recchia 11

**Zero risk of miscalculation – there have been hundreds of accidents involving bombs and nuclear weapons have occurred and the impact hasn’t happened even when safety measures were archaic – that’s Quinlan**

**And no Korean war – the DPRK won’t take on offensive operations – no allies will come to its aid – the government is rational in this matter – that’s Zhebin –**

#### No terror threat - hype suggests smart terrorists, but they’re incompetent 0 don’t believe their author hype – that’s Walt

Informal checks are sufficient to address groupthink - growing lawyer culture places a value on rules and competency, as well as beaurecratic rivalries checks back – that’s Kennedy

**No groupthink—executives are fragmented and pluralistic—Congress is far more prone to the phenomenon**

**Posner 7** – \*Kirkland and Ellis Professor of Law at the University of Chicago Law School AND \*\*professor at Harvard Law School (Eric and Adrian, Terror in the Balance: Security, Liberty, and the Courts p. 46-47)

The idea that Congress will, on net, weed out bad policies rests on an institutional comparison. The president is elected by a national constituency on a winner-take-all basis (barring the remote chance that the Electoral College will matter), whereas Congress is a summation of local constituencies and thus affords more voice to political and racial minorities. At the level of political psychology, decisionmaking within the executive is prone to group polarization and other forms of groupthink or irrational panic,51 whereas the internal diversity of legislative deliberation checks these forces. At the level of political structure, Congress contains internal veto gates and chokepoints—consider the committee system and the fi libuster rule—that provide minorities an opportunity to block harmful policies, whereas executive decisionmaking is relatively centralized and unitary. The contrast is drawn too sharply, because in practice **the executive is a they, not an it**. Presidential oversight is incapable of fully unifying executive branch policies, which means that **disagreement flourishes within the executive as well, dampening panic and groupthink** and providing minorities with political redoubts.52 Where a national majority is internally divided, the structure of presidential politics creates chokepoints that can give racial or ideological minorities disproportionate influence, just as the legislative process does. Consider the influence of Arab Americans in Michigan, often a swing state in presidential elections. It is not obvious, then, that statutory authorization **makes any difference at all**. One possibility is that a large national majority dominates both Congress and the presidency and enacts panicky policies, oppresses minorities, or increases security in ways that have ratchet effects that are costly to reverse. If this is the case, a requirement of statutory authorization does not help. Another possibility is that there are internal institutional checks, within both the executive branch and Congress, on the adoption of panicky or oppressive policies and that democratic minorities have real infl uence in both arenas. If this is the case, then a requirement of authorization is not necessary and does no good. Authorization only makes a difference in the unlikely case where the executive is thoroughly panicky, or oppressively majoritarian, while Congress resists the stampede toward bad policies and safeguards the interests of oppressed minorities. Even if that condition obtains, however, the argument for authorization goes wrong by failing to consider both sides of the normative ledger. As for majoritarian oppression, the multiplicity of veto gates within Congress may allow minorities to block harmful discrimination, but it also allows minorities to block policies and laws which, although targeted, are nonetheless good. As for panic and irrationality, if Congress is more deliberative, one result will be to prevent groupthink and slow down stampedes toward bad policies, but another result will be to delay necessary emergency measures and **slow down stampedes toward good policies**. Proponents of the authorization requirement sometimes assume that quick action, even panicky action, **always** produces bad policies. But there is no necessary connection between these two things; expedited action is sometimes good, and panicky crowds can stampede either in the wrong direction or in the right direction. Slowing down the adoption of new policies through congressional oversight retards the adoption not only of bad policies, but also of good policies that need to be adopted quickly if they are to be effective.

**Obama solves groupthink – he’s that good**

**Kennedy, 12** [ Copyright (c) 2012 Gould School of Law Southern California Interdisciplinary Law Journal Spring, 2012 Southern California Interdisciplinary Law Journal 21 S. Cal. Interdis. L.J. 633 LENGTH: 23138 words NOTE: THE HIJACKING OF FOREIGN POLICY DECISION MAKING: GROUPTHINK AND PRESIDENTIAL POWER IN THE POST-9/11 WORLD NAME: Brandon Kennedy\* BIO: \* Class of 2012, University of Southern California Gould School of Law; M.A. Regional Studies: Middle East 2009, Harvard Graduate School of Arts and Sciences; B.A. Government 2009, Harvard University.]

A. Anti-Groupthink Decision-Making Practices The Obama team adopted several decision-making practices that **helped counter** the **groupthink** that had plagued the Bush team. These practices produced a moderate level of cohesiveness, greatly limited structural organizational faults, and reduced threats that could give rise to a provocative situational context. 1. Building Moderate Cohesiveness "Hillary and I were friends before this started ... . We had this very vituperative campaign, but, you know, she is smart and we ought to be able to do something with her." n225 After his election, Obama sought out people to fill the Cabinet and White House staff positions based on each member's experience and the different contributions they could bring to the table. While political ideology was one factor to consider, it was not elevated above other qualities. Above all, Obama seemed to want to succeed by considering all possible options, and the only way to do that was by including people who thought differently from him and who would challenge his thinking. n226 Obama thus set about to build a team that would work well together, but whose members would also engage in critical thinking and evaluate all possible options when making decisions. Obama sought to strike this balance by including both friends and political allies, such as David Axelrod and Rahm Emanuel, and also outsiders and even former rivals. n227 For example, in a somewhat controversial move, Obama chose to keep Bush's Secretary of Defense, Robert Gates, citing the importance of continuity and expertise. n228 Obama also wished to heal the wounds inflicted [\*671] during a bitter nomination campaign and appoint a strong Secretary of State, so he offered Hillary Clinton the post. n229 For the position of CIA Director, Obama chose Leon Panetta, who, as an outsider, would help improve the Agency's image, which had been severely tarnished due to controversial pre-Iraq War intelligence, interrogation techniques, and its domestic spying program. n230 Thus, the manner in which Obama built his decision-making group laid the foundation for avoiding groupthink. 2. Roles of Critical Evaluator Assigned to Each Member Joe, I want you to say exactly what you think. And I want you to ask the toughest questions you can think of. And the reason is ... because I think the American people ... and our troops are best served by a vigorous debate on these kinds of life-or-death issues. n231 Obama used these words to encourage Vice President Joe Biden to be an aggressive contrarian in national security team meetings regarding strategy for Afghanistan. n232 And, at a September 13, 2009, national security meeting, Obama told his team "We need to come to this with a spirit of challenging our assumptions ... . Don't bite your tongue. Everybody needs to say what's on their mind." n233 In statements such as these, Obama sought to ensure that each member of his team contributed independently and critically to any decision making. 3. Leader's Impartiality at the Outset When assessing the Afghanistan War, Obama told his national security team, "We have no good options here," n234 therefore establishing that he would not accept only a single solution from only an individual high-ranking member. n235 Obama preferred to have a full range of options comprehensively discussed in order for him to remain impartial. n236 In making decisions, Obama critically questioned all proposals and did not state his preference for a specific policy until the group had fully explored all options. n237 [\*672] 4. Consultation with Trusted Outsiders "Mr. President, I shared the [troop surge] option with the chiefs before I came over." General James Cartwright, Vice Chairman of the Joint Chiefs of Staff, uttered these words to Obama at a national security meeting on November 23, 2009. n238 Throughout the Afghanistan strategy review of 2009, trusted associates in each member's unit of the executive branch consulted each other and reported back to the primary decision-making national security team. n239 As Janis postulates, **this seems to have helped the group avoid groupthink** because they were consistently seeking opinions from outside of the decision-making group. 5. Consultation with Outside Experts "I know you don't want to work full-time in government," Obama told Bruce Riedel, a national security expert at the Brookings Institution, "but here's a proposition. Will you come into government for 60 days, work in the [National Security Council], do a strategic review of Afghanistan and Pakistan?" n240 This kind of consultation with non-governmental experts took place as well. For example, just as a troubled corporation might hire outside consultants, General Stanley McChrystal's Afghanistan strategy review included bringing outside experts into a war zone to assess the situation. n241 The idea behind this review team came in part from General David Petraeus's 2007 playbook for Iraq (when the largely successful troop surge took place). n242 The review team consisted of "an experienced group [\*673] of analysts who were willing to challenge the assumptions of high-ranking generals." n243 6."Second Chance" Meeting for Expression of Doubts "Why are we having another meeting about this? I thought this was finished Wednesday. Why do we keep having these meetings after we have all agreed?" n244 Although expressing slight exasperation, Obama proceeded with a "last chance" meeting before deciding to send 30,000 additional troops to Afghanistan. n245 This meeting served as a final opportunity for group members (especially Pentagon officials, in this instance) to share residual doubts and to rethink the entire issue before making a definitive choice. n246

### Warfighting

**Single instances of action don't change perceptions of the US - that's Fettweis. This is especially true in the context of war powers- it will take far more than one policy to overcome long lasting memories of US detention, drone, and surveillance programs**

**Prefer our evidence – it cites scholarly studies on the influence of credibility, their evidence is just pundits speculating about US action**

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

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**

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

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

**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.

**Credibility theory is incoherent — empirically denied**

Jonathan **Mercer 8/28**, 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** **U**nited **S**tates **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.

#### 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

#### State Secrets Privilege protects private and government patent secrets – key to the military superiority

Donohue 10 (Laura – Associate Professor of Law, Georgetown University Law Center, “The Shadow of State Secrets”, 2010, 159 U. Pa. L. Rev. 77, lexis)

In contrast, docket searches demonstrate that, from January 2001 to January 2009, the privilege played a significant role in the executive branch's national security litigation strategy. In one case, the Administration asserted the state secrets privilege some 245 times. n31 More to the point, the government has invoked the state secrets privilege in more than 100 cases, which is more than five times the number of cases previously considered. And it is not just the executive branch that benefitted from the privilege: in scores of additional cases, private industry claimed that the state secrets doctrine applied, with the expectation that the federal government would later intervene to prevent certain documents from being subject to discovery or to stop the suit from moving forward. Beyond these, there are hundreds of cases on which the shadow of the privilege fell. This Article thus focuses on cases working their way through the courts between 2001 and 2009. It begins with disputes related to government contractors, where the threatened and actual invocation of the privilege appears in a broad range of grievances. Breach of contract, patent disputes, trade secrets, fraud, and employment termination cases prove remarkable in their frequency, length, and range of technologies involved. Wrongful death, personal injury, and negligence [\*88] cases extend beyond product liability to include infrastructure and services, as well as an emerging area perhaps best understood as the conduct of war. These corporate cases are distinguished by the tendency of companies to claim that state secrets are at stake early in the dispute and the subsequent role of the United States, if it chooses to become involved and to invoke the privilege, as an intervenor. Close inspection suggests a conservative executive branch that is more likely to step forward when breach of contract, trade secrets, or patent disputes present themselves, and unlikely - once it invokes the privilege - to back down. Where the executive initially decides not to intervene and invoke the privilege, the rapid expansion of the use of contractors appears to be giving birth to a new form of "graymail": should the government initially refuse to support the corporation's state secrets claim, companies deeply embedded in the state may threaten to air legally or politically damaging information. n32 Even when no overt threat is made, the government may worry that certain information will emerge during the course of the trial that would politically compromise the agency or individuals involved. In other cases, the government may be dependent upon a corporation for a key aspect of national defense, thus creating an incentive for the state to protect the company from financial penalties associated with bad behavior. n33

**No US-China war – economics**

**Shor 12** (Francis, Professor of History – Wayne State, “Declining US Hegemony and Rising Chinese Power: A Formula for Conflict?”, Perspectives on Global Development and Technology, 11(1), pp. 157-167)

While the United States no longer dominates the global economy as it did during the first two decades after WWII, it still is the leading economic power in the world. However, over the last few decades China, with all its internal contradictions, has made enormous leaps until it now occupies the number two spot. In fact, the IMF recently projected that the Chinese economy would become the world's largest in 2016. In manufacturing China has displaced the US in so many areas, including becoming the number one producer of steel and exporter of four-fifths of all of the textile products in the world and two-thirds of the world's copy machines, DVD players, and microwaves ovens. Yet, a significant portion of this manufacturing is still owned by foreign companies, including U.S. firms like General Motors. [5] On the other hand, China is also the **largest holder of U.S. foreign reserves**, **e.g. treasury bonds**. This may be one of the reasons **mitigating full-blown conflict** with the U.S. now, since China has such a large stake in the U.S. economy, both as a holder of bonds and as the leading exporter of goods to the U.S. Nonetheless, "the U.S. has blocked several large scale Chinese investments and buyouts of oil companies, technology firms, and other enterprises." [6] In effect, there are still clear nation-centric responses to China's rising economic power, especially as an expression of the U.S. governing elite's ideological commitment to national security.

**No war – China abides by international law and keeps a low profile**

**Haixia 12** (Qi, Lecturer at Department of International Relations – Tsinghua University, “Football Game Rather Than Boxing Match: China–US Intensifying Rivalry Does not Amount to Cold War,” Chinese Journal of International Politics, 5(2), Summer, p. 105-127, http://cjip.oxfordjournals.org/content/5/2/105.full)

Keeping Low Profile China's strategy of **keeping low profile** constitutes the political foundation of the superficial friendship between the United States and China. After 1989, in the face of sanctions and blockades from the West, Deng Xiaoping told Chinese policy makers: ‘In short, my views about the international situation can be summed up in three sentences. First, we should observe the situation coolly. Second, we should hold our ground. Third, we should act camly. Don’t be impatient; it is no good to be impatient. We should be calm, calm and again calm, and quietly immerse ourselves in practical work to accomplish something – something for China.’48 Deng Xiaoping's counterstrategy was later summed up as ‘keeping a low profile’. It was in 1995 that then Chinese Foreign Minister Qian Qichen first introduced this principle of Chinese policy to the world.49 In 1998, President Jiang Zemin summarized the policy as ‘observe calmly, cope with affairs calmly, never seek leadership, hide brightness and cherish obscurity, get some things done.’50 The white paper on China's Peaceful Development issued in 2011 notes that, ‘As a responsible member of the international community, China abides by international law and the generally recognized principles governing international relations, and eagerly fulfills its international responsibility. China has actively participated in reforming international systems, formulating international rules and addressing global issues. It supports the development of other developing countries, and works to **safeguard world peace and stability**.’51

### SOP

**Separation of Powers – Alt Caus – Drones – 2NC**

**Drones undermine separation of powers – fundamental issue**

**Huffman 13** (Jim – Dean Emeritus, Lewis & Clark Law School, “Drone policy isn’t the only area where Obama has stretched his authority”, 2/7, http://dailycaller.com/2013/02/07/drone-policy-isnt-the-only-area-where-obama-has-stretched-his-authority/)

On Wednesday, The New York Times proclaimed that the dispute over President Obama’s authority to order the killing of American citizens believed to be engaged in terrorism against the United States “**goes to the fundamental nature of our democracy**, to the relationship among the branches of government and to their responsibility to the public.” On Thursday the paper argued that “Mr. Obama has stretched executive power” in claiming this authority. Good for the editorial board of the reliably pro-Obama New York Times. Meanwhile, the American Civil Liberties Union and the Center for Constitutional Rights have filed a lawsuit claiming that the drone killings of U.S. citizens Anwar al-Awlaki, Samir Khan and 16-year-old Abdulrahman al-Awlaki violated the constitutional guarantee of due process. Surely the ACLU and CRC have this one right. Even madmen who shoot school children in cold blood are presumed innocent until proven guilty, unless, of course, they kill themselves and preempt due process. The Times, ACLU, CRC and members of Congress are **raising the right questions**. Even if we accept that the president’s powers are at their greatest in matters of foreign affairs and national security, it is reasonable to suggest that **drone strikes** on American citizens go too far, and that the Constitution doesn’t allow the fundamental principles of liberty and the **separation of powers to be balanced away** — without explanation — **at the sole discretion of the president.**

**Drones undermine SOP – there’s no accountability**

**Friedersdorf 11** (Conor , “The Risks of Obama's Immoral Drone War”, 10/20, http://www.theatlantic.com/politics/archive/2011/10/the-risks-of-obamas-immoral-drone-war/247107/)

When we undercut these safeguards, we accept some share of responsibility for the excesses that result. Bear that in mind as you read Jane Mayer's description of the new way that America kills its foreign enemies, along with an unknowable number of innocents that add up to hundreds at minimum. "The U.S. government runs two **drone programs**. The military's version, which is publicly acknowledged, operates in the recognized war zones of Afghanistan and Iraq, and targets enemies of U.S. troops stationed there. As such, it is an extension of conventional warfare," she writes. "The C.I.A.'s program is aimed at terror suspects around the world, including in countries where U.S. troops are not based. It was initiated by the Bush Administration and, according to Juan Zarate, a counterterrorism adviser in the Bush White House, Obama has left in place virtually all the key personnel. The program is classified as covert, and the intelligence agency declines to provide any information to the public about where it operates, how it selects targets, who is in charge, or how many people have been killed." Put another way, this **single** C.I.A. program **weakens the separation of powers**, the Bill of Rights, and the accountability of America's leaders to its citizenry. It **weakens the separation of powers** by diluting Congress' role in declaring war and shaping foreign policy, as the executive branch operates in any country it sees fit; it weakens the Bill of Rights insofar as it has targeted and will continue to target American citizens for assassination without any due process; and it diminishes the degree to which government is accountable to voters in three ways. 1) It vests substantial power in an opaque bureaucratic agency whose leadership is **unaccountable** to voters; 2) insofar as it **diminishes the Congressional role** in foreign policy, it also lessens the people's influence, especially as exercised through the House of Representatives; 3) by operating in secrecy, it prevents voters from having enough information to judge even the behavior of the president, who has an incentive to hide not just acts that are sensitive for national security reasons, but behavior that would hurt or inconvenience him politically.

**Separation of Powers – Alt Caus – NSA – 2NC**

**NSA surveillance allows unchecked executive power – devastates separation of powers**

**Levy 6** (Robert A. – senior fellow in constitutional studies at the Cato Institute, “Wartime Executive Power and the NSA’s Surveillance Authority II”, 2/28, http://www.cato.org/publications/congressional-testimony/wartime-executive-power-nsas-surveillance-authority-ii)

4. Response: The animating sentiment at the time of the founding was **fear of executive power**. Against that backdrop, it is remarkable that the President now claims that our founding documents authorize him to wield **unilateral wartime powers** with virtually no safeguards. He asserts, in effect, that his actions are presumptively and irrebuttably legal, **without judicial review**, despite a contrary statute. Nor were separation of powers concerns alleviated when the administration briefed the Gang of Eight — especially when the members were not given complete and timely information, they were not allowed to take notes or consult aides, they were prohibited from discussing it afterward with others, and the briefings were operational not legal. Indeed, the National Security Act of 1947 states that “The President shall ensure that the congressional intelligence committees are kept fully and currently informed of the intelligence activities of the United States.” 50 USC §413(a)(1). The enactment of FISA in 1978 was intended, in part, to curb the abuses of Projects Minaret and Shamrock. But FISA used velvet gloves. Essentially, it legalized some conduct that had previously been illegal — for example, NSA **surveillance of U.S. persons** in the United States without probable cause that a crime had been (or was about to be) committed. Now the administration contends that FISA, because it still requires a warrant (albeit under liberalized standards), did not go far enough. Perhaps so. But most presidents, when they think a law is outdated or ineffective or otherwise ill-advised, ask Congress to amend or repeal the law. President Bush, on the other hand, basically repealed FISA by himself, by ignoring its provisions. He argues that Article II of the Constitution gives him all the authority he needs. But section 3 of that article obligates him to “take Care that the Laws be faithfully executed.” FISA is one of those laws — duly enacted by Congress, signed by a previous president, and later by President Bush when he signed the PATRIOT Act, which amended several FISA provisions that he now finds unacceptable. The President cannot, on one hand, agree to FISA amendments, then, on the other hand, insist that FISA’s provisions, as amended, are an abuse of his constitutional authority.

**They're moving towards a resolution**

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However, the removal of President Musharraf from power in a landslide election on September 6, 2008 marks the beginning of Asif Ali Zardari’s second rise to power and a new era of Pakistani leadership. 166 At the time of this Note’s writing, Zardari has yet to state his official policy toward India and resolving the Kashmir conflict, but Haider Mullick, War on Terror political analyst, **is optimistic**.167 Mullick argues that the interdependence of the two nations will be enough to continue the march toward a **peaceful resolution**, replacing Pakistan’s old policy of “flexing military muscle.”168 The current trend and commitment toward a peaceful resolution reasonably indicates that a successful resolution can be reached sooner rather than later.

**-- No India/Pakistan war –**

**A) Deterrence**

**Giorgio et al 10** (Maia Juel, Tina Søndergaard Madsen, Jakob Wigersma, Mark Westh, “Nuclear Deterrence in South Asia: An Assessment of Deterrence and Stability in the Indian – Pakistan Conflict,” Global Studies, Autumn, http://dspace.ruc.dk/bitstream/1800/6041/1/Project%20GS-BA%2c%20Autumn%202010.pdf)

To what extent has nuclear deterrence enhanced stability in the India-Pakistan conflict? Recalling the logical structure of the paper, we here wish to reconcile the three analyses and offer a coherent synthesis of the results in relation to the research question. In order to gather the threads it is beneficial to shortly reflect upon the main results of the three analyses. Firstly, the aim with the thesis was to explore if there is nuclear deterrence between India and Pakistan, based upon Waltz three requirements. After having undertaken this analysis, we can conclude that Waltz’s requirements for effective nuclear deterrence are in fact fulfilled in both countries. Thus, from a neorealist perspective, is it then possible to deduce that stability reigns between India and Pakistan as a result of nuclear deterrence? Taking a point of departure in neorealist assumptions and nuclear deterrence theory, there is indeed stability between India and Pakistan, as no major war has taken place between the countries, and more importantly, **nuclear war has been avoided**. Nuclear deterrence has thus been successful in creating stability on a higher structural level.