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#### A. Restrictions are prohibitions on action --- the plan increases executive power by removing the AUMF that is currently a limit on authority

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

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation.

Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as;

A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment.

Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

#### B. Voting Issue for limits and ground – regulations allow for oversight and weak restrictions that expand the research burden and skirt negative ground contingent on prohibiting the president’s authority to wage war

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Civil society is not neutral – the site of deliberation they invigorate presupposes equal access to the political which privileges masculinity in politics, hiding women from politics maintaining hierarchy and oppression

Fraser 90 (Nancy, PhD, Professor of Political and Social Science and professor of philosophy at The New School in New York City, “Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy,” http://api.ning.com/files/hRwSaOzKhGD-wGyDZuJeNffJvQrETo9IizI7bNRisAQ\_/RethinkingthePublicSphere.pdf)

Now, let me juxtapose to this sketch of Habermas's account an alternative account that I shall piece together from some recent revisionist historiography. Briefly, scholars like Joan Landes, Mary Ryan, and Geoff Eley contend that Habermas's account idealizes the liberal public sphere. They argue that, despite the rhetoric of publicity and accessibility, that official public sphere rested on, indeed was importantly constituted by, a number of significant exclusions. For Landes, the key axis of exclusion is gender; she argues that the ethos of the new republican public sphere in France was constructed in deliberate opposition to that of a more woman- friendly salon culture that the republicans stigmatized as "artificial," "effeminate," and "aristocratic." Consequently, a new, austere style of public speech and behavior was promoted, a style deemed "rational," "virtuous," and "manly." In this way, masculinist gender constructs were built into the very conception of the republican public sphere, as was a logic that led, at the height of Jacobin rule, to the formal exclusion from political life of women.4 Here the republicans drew on classical traditions that cast femininity and publicity as oxymorons; the depth of such traditions can be gauged in the etymological connection between "public" and "pubic," a graphic trace of the fact that in the ancient world possession of a penis was a requirement for speaking in public. (A similar link is preserved, incidentally, in the etymological connection between "testimony" and "testicle.")5 Extending Landes's argument, Geoff Eley contends that exclusionary operations were essential to liberal public spheres not only in France but also in England and Germany, and that in all these countries gender exclusions were linked to other exclusions rooted in processes of class formation. In all these countries, he claims, the soil that nourished the liberal public sphere was "civil society," the emerging new congeries of voluntary associations that sprung up in what came to be known as "the age of societies." But this network of clubs and associations-philanthropic, civic, professional, and cultural-was anything but accessible to everyone. On the contrary, it was the arena, the training ground, and eventually the power base of a stratum of bourgeois men, who were coming to see themselves as a "universal class" and preparing to assert their fitness to govern. Thus, the elaboration of a distinctive culture of civil society and of an associated public sphere was implicated in the process of bourgeois class formation; its practices and ethos were markers of "distinction" in Pierre Bourdieu's sense,6 ways of defining an emergent elite, setting it off from the older aristocratic elites it was intent on displacing, on the one hand, and from the various popular and plebeian strata it aspired to rule, on the other. This process of distinction, more- over, helps explain the exacerbation of sexism characteristic of the liberal public sphere; new gender norms enjoining feminine domesticity and a sharp separation of public and private spheres functioned as key signifiers of bourgeois difference from both higher and lower social strata. It is a measure of the eventual success of this bourgeois project that these norms later became hegemonic, sometimes imposed on, sometimes embraced by, broader segments of society.7 Now, there is a remarkable irony here, one that Habermas's account of the rise of the public sphere fails fully to appreciate.8 A discourse of publicity touting accessibility, rationality, and the suspension of status hierarchies is itself deployed as a strategy of distinction. Of course, in and of itself, this irony does not fatally compromise the discourse of publicity; that discourse can be, indeed has been, differently deployed in different circumstances and contexts. Nevertheless, it does suggest that the relationship between publicity and status is more complex than Habermas intimates, that declaring a deliberative arena to be a space where extant status distinctions are bracketed and neutralized is not sufficient to make it so. Moreover, the problem is not only that Habermas idealizes the liberal public sphere but also that he fails to examine other, nonliberal, non-bourgeois, competing public spheres. Or rather, it is precisely because he fails to examine these other public spheres that he ends up idealizing the liberal public sphere.9 Mary Ryan documents the variety of ways in which nineteenth century North American women of various classes and ethnicities constructed access routes to public political life, even despite their exclusion from the official public sphere. In the case of elite bourgeois women, this involved building a counter-civil society of alternative woman-only voluntary associations, including philanthropic and moral reform societies; in some respects, these associations aped the all-male societies built by these women's fathers and grandfathers; yet in other respects the women were innovating, since they creatively used the here- tofore quintessentially "private" idioms of domesticity and motherhood precisely as springboards for public activity. Meanwhile, for some less privileged women, access to public life came through participation in supporting roles in male-dominated working class protest activities. Still other women found public outlets in street protests and parades. Finally, women's rights advocates publicly contested both women's exclusion from the official public sphere and the privatization of gender politics.'0 Ryan's study shows that, even in the absence of formal political incorporation through suffrage, there were a variety of ways of accessing public life and a multiplicity of public arenas. Thus, the view that women were excluded from the public sphere turns out to be ideological; it rests on a class- and gender-biased notion of publicity, one which accepts at face value the bourgeois public's claim to be the public. In fact, the historiography of Ryan and others demonstrates that the bourgeois public was never the public. On the contrary, virtually contemporaneous with the bourgeois public there arose a host of competing counterpublics, including nationalist publics, popular peasant publics, elite women's publics, and working class publics. Thus, there were competing publics from the start, not just from the late nineteenth and twentieth centuries, as Habermas implies." Moreover, not only were there were always a plurality of competing publics but the relations between bourgeois publics and other publics were always conflictual. Virtually from the beginning, counterpublics contested the exclusionary norms of the bourgeois public, elaborating alternative styles of political behavior and alternative norms of public speech. Bourgeois publics, in turn, excoriated these alternatives and deliberately sought to block broader participation. As Eley puts it, "the emergence of a bourgeois public was never defined solely by the struggle against absolutism and traditional authority, but..addressed the problem of popular containment as well. The public sphere was always constituted by conflict."12 In general, this revisionist historiography suggests a much darker view of the bourgeois public sphere than the one that emerges from Habermas's study. The exclusions and conflicts that appeared as accidental trappings from his perspective, in the revisionists' view become constitutive. The result is a gestalt switch that alters the very meaning of the public sphere. We can no longer assume that the bourgeois conception of the public sphere was simply an unrealized utopian ideal; it was also a masculinist ideological notion that functioned to legitimate an emergent form of class rule. Therefore, Eley draws a Gramscian moral from the story: the official bourgeois public sphere is the institutional vehicle for a major historical transformation in the nature of political domination. This is the shift from a repressive mode of domination to a hegemonic one, from rule based primarily on acquiescence to superior force to rule based primarily on consent supplemented with some measure of repression.13 The important point is that this new mode of political domination, like the older one, secures the ability of one stratum of society to rule the rest. The official public sphere, then, was-indeed, is-the prime institutional site for the construction of the consent that defines the new, hegemonic mode of domination.14

#### ---Reject the affirmative --- Only a strategy of feminist separatism can challenge mankind’s drive towards global destruction.

Weedon 1999 \*only reading blue

Chris, the Chair of the Centre for Critical and Cultural Theory at Cardiff University, Feminism, theory, and the politics of difference, p. 90-93

In the order of reason which has governed Western thought since the rise of Ancient Greek philosophy, feminine otherness is denied and reconstituted as a male-defined otherness. This results in the denial of subjectivity to potentially non-male-defined women. A maternal feminine subjectivity, were it to be realized, would enable women to step outside of patriarchal definitions of the feminine and become subjects in their own right. Whereas the unconscious in Freud and Lacan lays claim to fixed universal status, for Irigaray its actual form and content is a product of history. Thus, however patriarchal the symbolic order may be in Lacan, it is open to change. The question is how this change might be brought about. For Irigaray, the key to change is the development of a female imaginary. This can only be achieved under patriarchy in a fragmented way, as what she terms the excess that is realized in margins of the dominant culture. The move towards a female imaginary would also entail the transformation of the symbolic, since the relationship between the two is one of mutual shaping. This would enable women to assume subjectivity in their own right. Although, for Irigaray, the imaginary and the symbolic are both historical and changeable, this does not mean that, after thousands of years of repression and exclusion, change is easy. In a move not unlike that of ecofeminists, Irigaray suggests that the symbolic order, men and masculinity are shaped by patriarchy in ways which are immensely problematic not just for women but also for the future of the planet. The apparently objective, gender-neutral discourses of science and philosophy — the discourses of a male subject — have led to the threat of global nuclear destruction. In An Ethics of Sexual Difference (1993; original 1984), Irigaray suggests that the patriarchal male subject is himself shaped by the loss of the maternal feminine which motivates a desire for mastery: Man's self-affect depends on the woman who has given him being and birth, who has born/e him, enveloped him, warmed him, fed him. Love of self would seemingly take the form of a long return to and through the other. A unique female other, who is forever lost and must be sought in many others, an infinite number of others. The distance for this return can be conquered by the transcendence of God. The (female) other who is sought and cherished may be assimilated to the unique god. The (female) other is mingled or confused with God or the gods. (Irigaray 1993: 60-1; original 1984) Irigaray takes this theme further in Thinking the Difference: For a Peaceful Revolution (1994; original 1989) when she suggests that the desire for godlike mastery and transcendence has dire consequences for the world: Huge amounts of capital are allocated to the development of death machines in order to ensure peace, we are told. This warlike method of organising society is not self-evident. It has its m origin in patriarchy. It has a sex. But the age of technology has given weapons of war a power that exceeds the conflicts and risks taken among patriarchs. Women, children, all living things, including elemental matter, are drawn into the maelstrom. And death and destruction cannot be associated solely with war. They are part of the physical and mental aggression to which we are constantly subjected. What we need is an overall cultural transformation. Mankind [le peuple des homines] wages war everywhere all the time with a perfectly clear conscience. Mankind is traditionally carnivorous, sometimes cannibalistic. So men must eat to kill, must increase their domination of nature in order to live or to survive, must seek on the most distant stars what no longer exists here, must defend by any means the small patch of land they are exploiting here or over there. Men always go further, exploit further, seize more, without really knowing where they are going. Men seek what they think they need without considering who they are and how their identity is defined by what they do. To overcome this ignorance, I think that mankind needs those who are persons in their own right to help them understand and find their limits. Only women can play this role. Women are not genuinely responsible subjects in the patriarchal community. That is why it may be possible for them to interpret this culture in which they have less involvement and fewer interests than do men, and of which they are not themselves products to the point where they have been blinded by it. Given their relative exclusion from society, women may, from their outside perspective, reflect back a more objective image of society than can men. (Irigaray 1994: 4—5; original 1989) The destructive force of the patriarchal symbolic order makes all the more pressing Irigaray's project of creating a female imaginary and symbolic, specific to women, which might in its turn transform the male-defined symbolic order in the West, in which women figure only as lesser men. In this process, separatism becomes a strategy in the struggle for a nonpatriarchal society in which sexual difference is both voiced and valued: Let women tacitly go on strike, avoid men long enough to learn to defend their desire notably by their speech, let them discover the love of other women protected from that imperious choice of men which puts them in a position of rival goods, let them forge a social status which demands recognition, let them earn their living in order to leave behind their condition of prostitute — these are certainly indispensable steps in their effort to escape their proletarianization on the trade market. But if their goal is to reverse the existing order - even if that were possible - history would simply repeat itself and return to phallocratism, where neither women's sex, their imaginary, nor their language can exist. (1994: 106; original 1989)

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#### Text: The federal judiciary should substantially increase judicial restrictions on the war powers authority of the President of the United States by requiring that people detained indefinitely receive either civilian trials or be released.

#### It solves---Judicial centralization over detention is already happening and has been supported by the Supreme Court

Goldsmith-prof law Harvard-9

Long-Term Terrorist Detention and Our National Security Court

<http://www.brookings.edu/research/papers/2009/02/09-detention-goldsmith>

Very few people thought this system was a good idea, and since the summer of 2004 the de facto “national security court” supervising detention has become centralized and institutionalized in two ways. First, after Rasul federal courts spontaneously determined that all habeas cases from Guantánamo should be brought to the federal district court of the District of Columbia, subject to appellate review in the D.C. Circuit.20 Justice Anthony Kennedy confirmed the appropriateness of this judicial centralization of habeas review in 2008 in his opinion in Boumediene v. Bush.21 Following Boumediene, the federal court of the District of Columbia placed Judge Thomas F. Hogan in charge of coordinating and managing the Guantánamo Bay cases; of ruling on procedural issues common to these cases; and of identifying substantive issues that are common to all.22 The second centralizing and institutionalizing move came from Congress, which in 2006 required all appeals from Combatant Status Review Tribunal determinations go to the United States Court of Appeals for the District of Columbia Circuit, and provided minimal statutory guidance on both the substance and procedure for review. In effect, then, we already have a thinly institutionalized “national security court” in the federal courts of the District of Columbia. This national security court possesses, and is further developing, some of the virtues that national security court proponents have long argued for. It is relatively centralized, it contains a limited number of judges under the procedural supervision of a single judge, it has seen many different terrorism detention cases already, and it deals with them much more efficiently than the decentralized system. The court has been developing, and will continue to develop, specialized expertise in the issues before it. It has also been developing, and will continue to develop, relatively coherent substantive and procedural doctrines and rules to deal with these cases—coherent, that is, in terms of learning from the run of cases and in treating like cases alike, especially as compared to a system

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#### Fast Track fight is on the top of the agenda-Strong push from Obama is key-Failure collapses global trade momentum

Good-Farm Policy-12/31/13

The FarmPolicy.com News Summary

HEADLINE: Farm Bill; Ag Economy; and, Biofuels- Tuesday

And with respect to trade, the Chicago Tribune editorial board[18] noted yesterday that, 'President Barack Obama wants the power to negotiate free-trade treaties on a fast track. With Trade Promotion Authority, he would have a good chance of clinching huge trade pacts now being hammered out with Europe and Asia. Yet Congress may not give him that authority — for all the wrong reasons.' The Tribune opinion item stated that, 'Within months the White House hopes to finish talks on a proposed Trans-Pacific Partnership with a group of Asia-Pacific nations. Talks with the European Union on the planned Transatlantic Trade and Investment Partnership are progressing too. Those deals would eliminate barriers and promote economic activity between the U.S. and key allies. The upside is huge: Billions of dollars in new business would be generated if these pacts come to pass. 'Yet given the special interests that oppose free trade, neither deal stands much of a chance in Congress without TPA. Consider farm tariffs, one of the most frustrating roadblocks to any free-trade pact with Europe or Asia. The agriculture lobby here and abroad has long succeeded in imposing some of the least competitive public policies of any industry. Although farm protectionism hurts the vast majority of the world's citizens, standing up to clout-heavy constituencies such as U.S. sugar magnates requires extraordinary political courage. TPA is essential for overcoming the inevitable fight against vested interests that are determined to advance themselves at the expense of the nation's good. 'Federal lawmakers and the president have to make their case with much more gusto than we have seen so far. Congress could OK a Trade Promotion Authority bill in the first few months of 2014. But that won't happen without leadership on Capitol Hill and, especially, from the White House. Now's the time.'

#### Congressional debate over the plan tanks agenda

Kriner, 10

(Douglas, Assistant professor of poly sci at Boston University, “After the

Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec

1, 2010)

While congressional support leaves the president’s reserve of political capital intact,¶ congressional criticism saps energy from other initiatives on the home front by forcing the¶ president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president’s foreign policies is capital that is unavailable for his future policy initiatives . Moreover, any weakening in the president’s political clout may have¶ immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races.59¶ Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid¶ immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest¶ casualty rates in the Iraq War. 60 In addition to boding ill for the president’s perceived political capital¶ and reputation, such partisan losses in Congress only further imperil his programmatic¶ agenda, both international and domestic. Scholars have long noted that President Lyndon¶ Johnson’s dream of a Great Society also perished in the rice paddies of Vietnam. Lacking the requisite¶ funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson¶ gradually let his domestic goals slip away as he hunkered down in an effort first to win and¶ then to end the Vietnam War. In the same way, many of President Bush’s highest second-term¶ domestic proprieties, such as Social Security and immigration reform, failed perhaps in large part because¶ the administration had to expend so much energy and effort waging a rear-guard action¶ against congressional critics of the war in Iraq.61 When making their cost-benefit calculations,¶ presidents surely consider these wider political costs of congressional opposition to their¶ military policies. If congressional opposition in the military arena stands to derail other¶ elements of his agenda, all else being equal, the president will be more likely to judge the benefits¶ of military action insufficient to its costs than if Congress stood behind him in the¶ international arena.

#### Free trade prevents multiple scenarios for world war and WMD Terrorism

Panzner 2008

Michael, faculty at the New York Institute of Finance, 25-year veteran of the global stock, bond, and currency markets who has worked in New York and London for HSBC, Soros Funds, ABN Amro, Dresdner Bank, and JPMorgan Chase “Financial Armageddon: Protect Your Future from Economic Collapse,” pg. 136-138

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

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#### Interrogation is key to combat terrorism-non-criminal detention is key

**Blum, DHS attorney advisor, 2008**

(Stephanie, The Necessary Evil of Preventive Detention in the War on Terror: A Plan for a More Moderate and Sustainable Solution, 54-5, ldg)

According to the Bush administration, individuals may be significant intelligence assets, and criminal charges with the ensuing rights to counsel and right to exculpatory material would greatly halt and disrupt interrogation. Under the criminal justice system, once in custody, a defendant must be warned of his rights to counsel and against self-incrimination.10 Furthermore, a defendant in a criminal proceeding is constitutionally entitled to obtain potentially exculpatory information in the possession of the government.11 As Yoo explains, introducing a lawyer immediately after capture of an enemy combatant would disrupt interrogation as any competent defense counsel would tell his client to remain silent.12 According to former White House counsel Alberto Gonzales (later the attorney general), "[t]he stream of intelligence would quickly dry up if the enemy combatants were allowed contact with outsiders during the course of an ongoing debriefing."13 He added that such a result would be "an intolerable cost" and not required by the Con¬stitution.14 Rosenzweig and Carafano discuss how "isolation" is one of the "most successful means of productive interrogation."15 Judge Posner describes how a "detainee who feels isolated and has no access to a lawyer can more easily be pressured to provide information sought by the government."16 In fact, Khalid Sheikh Mohammed (KSM), the mastermind behind 9/11, initially demanded an attorney upon arrest and stated that he would see his captors in court.17 As explained subsequently, KSM was not provided an attorney and, according to the administration, has provided substantial intelligence that has stopped specific terrorist plots. Therefore, one purpose for a preventive-detention regime is to interrogate a terrorist suspect in isolation who may prove to be a valuable intelligence asset before criminal charges and the ensuing rights to counsel accrue. This concern about Miranda protections interfering with needed inter-rogation is not just theoretical. As explained by FBI agent Coleen Rowley, Zacarias Moussaoui (the twentieth hijacker) was in custody on 9/11 due to an immigration violation. Because he had requested a lawyer, however, the FBI was prevented from questioning him when in theory he could have possessed further information about coconspirators or a second wave of attacks.18 The situation of Padilla is particularly enlightening on this issue of interrogation as a rationale for preventive detention. Yoo describes Padilla as "an intelligence prize."19 Based on information from other captured al Qaeda operatives (discussed subsequently), the administration had intelligence that Padilla, who was arrested at O'Hare International Airport in 2002, had just come from Pakistan where he had met with high-level al Qaeda operatives with plans to detonate a radioactive bomb in a large U.S. city. Yet, upon arrest, while he had approximately $10,000 and a cell phone with al Qaeda operatives' phone numbers on it, he did not have any of the bomb-making equipment or plans on him, and he did not have the expertise to construct such a weapon himself. There were obvious questions that needed to be answered: Where would Padilla, who had an extensive violent criminal record as a juvenile, get the money, supplies, and expertise to build such a bomb? Where would he get the radioactive material? Were there sleeper al Qaeda cells in the United States?20 Although Padilla's attorney argues that Padilla could have been charged with conspiracy or levying war,21 the Justice Department did not think that it could detain Padilla very long in the criminal justice system based on the amount of evidence it had, or that Padilla would likely reveal his al Qaeda contacts if he knew he was going to be released in a matter of months.22 In a June 2004 press release, former deputy attorney general James Comey stated, Had we tried to make a case against Jose Padilla through our criminal justice system, something that I as the United States attorney in New York could not do at that time without jeopardizing intelligence sources, he would very likely have followed his lawyer's advice and said nothing, which would have been his constitutional right. He would likely have ended up a free man, with our only hope being to try to follow him 24 hours a day, seven days a week and hope—pray,—that we didn't lose him.23

#### Plan leads to other countries taking the intel lead-damages speed and accuracy of intelligence

**Anderson, American University law professor, 2009**

(Kenneth, “Security Issues Like Squeezing Jello? Reversion to the Mean? Jack Goldsmith on the Effects of Security Alternatives”, 5-31,http://opiniojuris.org/2009/05/31/security-issues-like-squeezing-jello-reversion-to-the-mean-jack-goldsmith-on-the-effects-of-security-alternatives/, ldg)

I think Jack is right that the administration – any administration – tends to strive for a certain equilibrium, as it is confronted with a flow of threats that the public discounts to near-zero but which it does not see itself quite so able to do, however much it might want to. However, as the op-ed also notes, and I agree, these methods are not completely equivalent or compensating. That is so not just with regards to third party costs, but also with respect to security as such. Intelligence gathering, by all accounts not very effective to begin with, has become much more difficult. This is not compensation, it is a seemingly permanent downward shift in the security mean. Besides the consequences that Jack identifies, I would add that the current move to semi-compensating policies means two things. First, intelligence is likely to be increasingly outsourced to foreign intelligence services. That can provide valuable information, but it will be increasingly uncorroborated and subject to filtering by those services. That is not good. Second, in a somewhat unrelated matter, I would guess that future conflicts, where not fought by Predator, will be increasingly outsourced to proxy forces. In the focus on intelligence and security, I think this second point has not received sufficient attention. The United States has a long familiarity with proxy forces as a form of deniability, among other things – Ronald Reagan, for example, faced with many limitations placed by Congress on his uses of force, found proxy forces an essential element of his foreign policy, in Central America particularly. The domestic risks that policy can entail are illustrated by the Iran-Contra contra-temps; on the other hand, Reagan was reasonably successful in pursuing his administration’s anti-Communist and anti-Soviet policy aims in Salvador and Nicaragua, among other places, by proxy forces. But I would be quite surprised if proxy war were not today under active discussion for places like Somalia (where we have already undertaken measures close to it) and other places. More precisely, I would surprised if it were not an active discussion among the New Liberal Realists of the Obama administration, whatever the transnationalists say or think. In any case, whether those last two speculations prove true or not, the tendency of the administration to seek compensating policies seems likely at a minimum to complicate the issues of Guantanamo, Bagram, and other matters besides.

#### Plan sends a signal of weakness that galvanizes terrorism

**McCarthy et al., FDD Center for Law and Counterterrorism director, 2009**

(Andrew, “We Need a National Security Court”, <http://www.defenddemocracy.org/stuff/uploads/documents/national_security_court.pdf>, ldg)

3. Terrorism prosecutions create the conditions for more terrorism. The treatment of a national security problem as a criminal justice issue has consequences that imperil Americans. To begin with, there are the obvious numerical and motivational results. As noted above, the justice system is simply incapable, given its finite resources, of meaningfully countering the threat posed by international terrorism. Of equal salience, prosecution in the justice system actually increases the threat because of what it conveys to our enemies. Nothing galvanizes an opposition, nothing spurs its recruiting, like the combination of successful attacks and a conceit that the adversary will react weakly. (Hence, bin Laden’s well-known allusion to people’s instinctive attraction to the “strong horse” rather than the “weak horse,” and his frequent citation to the U.S. military pullout from Lebanon after Hezbollah’s 1983 attack on the marine barracks, and from Somalia after the 1993 “Black Hawk Down” incident). For militants willing to immolate themselves in suicide-bombing and hijacking operations, mere prosecution is a provocatively weak response. Put succinctly, where they are the sole or principal response to terrorism, trials in the criminal justice system inevitably cause more terrorism: they leave too many militants in place and they encourage the notion that the nation may be attacked with relative impunity.

#### And, Nuclear terrorism attacks escalate and cause extinction.

**Morgan, Hankuk University of Foreign Studies, 2009**

(Dennis, World on fire: two scenarios of the destruction of human civilization and possible extinction of the human race Futures, Volume 41, Issue 10, December, ldg)

In a remarkable website on nuclear war, Carol Moore asks the question “Is Nuclear War Inevitable??” In Section , Moore points out what most terrorists obviously already know about the nuclear tensions between powerful countries. No doubt, they’ve figured out that the best way to escalate these tensions into nuclear war is to set off a nuclear exchange. As Moore points out, all that militant terrorists would have to do is get their hands on one small nuclear bomb and explode it on either Moscow or Israel. Because of the Russian “dead hand” system, “where regional nuclear commanders would be given full powers should Moscow be destroyed,” it is likely that any attack would be blamed on the United States” Israeli leaders and Zionist supporters have, likewise, stated for years that if Israel were to suffer a nuclear attack, whether from terrorists or a nation state, it would retaliate with the suicidal “Samson option” against all major Muslim cities in the Middle East. Furthermore, the Israeli Samson option would also include attacks on Russia and even “anti-Semitic” European cities In that case, of course, Russia would retaliate, and the U.S. would then retaliate against Russia. China would probably be involved as well, as thousands, if not tens of thousands, of nuclear warheads, many of them much more powerful than those used at Hiroshima and Nagasaki, would rain upon most of the major cities in the Northern Hemisphere. Afterwards, for years to come, massive radioactive clouds would drift throughout the Earth in the nuclear fallout, bringing death or else radiation disease that would be genetically transmitted to future generations in a nuclear winter that could last as long as a 100 years, taking a savage toll upon the environment and fragile ecosphere as well. And what many people fail to realize is what a precarious, hair-trigger basis the nuclear web rests on. Any accident, mistaken communication, false signal or “lone wolf’ act of sabotage or treason could, in a matter of a few minutes, unleash the use of nuclear weapons, and once a weapon is used, then the likelihood of a rapid escalation of nuclear attacks is quite high while the likelihood of a limited nuclear war is actually less probable since each country would act under the “use them or lose them” strategy and psychology; restraint by one power would be interpreted as a weakness by the other, which could be exploited as a window of opportunity to “win” the war. In other words, once Pandora's Box is opened, it will spread quickly, as it will be the signal for permission for anyone to use them. Moore compares swift nuclear escalation to a room full of people embarrassed to cough. Once one does, however, “everyone else feels free to do so. The bottom line is that as long as large nation states use internal and external war to keep their disparate factions glued together and to satisfy elites’ needs for power and plunder, these nations will attempt to obtain, keep, and inevitably use nuclear weapons. And as long as large nations oppress groups who seek self-determination, some of those groups will look for any means to fight their oppressors” In other words, as long as war and aggression are backed up by the implicit threat of nuclear arms, it is only a matter of time before the escalation of violent conflict leads to the actual use of nuclear weapons, and once even just one is used, it is very likely that many, if not all, will be used, leading to horrific scenarios of global death and the destruction of much of human civilization while condemning a mutant human remnant, if there is such a remnant, to a life of unimaginable misery and suffering in a nuclear winter. In “Scenarios,” Moore summarizes the various ways a nuclear war could begin: Such a war could start through a reaction to terrorist attacks, or through the need to protect against overwhelming military opposition, or through the use of small battle field tactical nuclear weapons meant to destroy hardened targets. It might quickly move on to the use of strategic nuclear weapons delivered by short-range or inter-continental missiles or long-range bombers. These could deliver high altitude bursts whose electromagnetic pulse knocks out electrical circuits for hundreds of square miles. Or they could deliver nuclear bombs to destroy nuclear and/or non-nuclear military facilities, nuclear power plants, important industrial sites and cities. Or it could skip all those steps and start through the accidental or reckless use of strategic weapons

#### Terrorists have means and motive now-expertise and materials are widespread and multiple attempts prove.

**Jaspal, Quaid-i-Azam University IR professor, 2012**

(Zafar, “Nuclear/Radiological Terrorism: Myth or Reality?”, Journal of Political Studies, <http://pu.edu.pk/images/journal/pols/pdf-files/Nuclear%20Radiological%20terrorism%20Jaspa_Vol_19_Issue_1_2012.pdf>, ldg)

The misperception, miscalculation and above all ignorance of the ruling elite about security puzzles are perilous for the national security of a state. Indeed, in an age of transnational terrorism and unprecedented dissemination of dual-use nuclear technology, ignoring nuclear terrorism threat is an imprudent policy choice. The incapability of terrorist organizations to engineer fissile material does not eliminate completely the possibility of nuclear terrorism. At the same time, the absence of an example or precedent of a nuclear/ radiological terrorism does not qualify the assertion that the nuclear/radiological terrorism ought to be remained a myth.x Farsighted rationality obligates that one should not miscalculate transnational terrorist groups — whose behavior suggests that they have a death wish — of acquiring nuclear, radiological, chemical and biological material producing capabilities. In addition, one could be sensible about the published information that huge amount of nuclear material is spread around the globe. According to estimate it is enough to build more than 120,000 Hiroshima-sized nuclear bombs (Fissile Material Working Group, 2010, April 1). The alarming fact is that a few storage sites of nuclear/radiological materials are inadequately secured and continue to be accumulated in unstable regions (Sambaiew, 2010, February). Attempts at stealing fissile material had already been discovered (Din & Zhiwei, 2003: 18). Numerous evidences confirm that terrorist groups had aspired to acquire fissile material for their terrorist acts. Late Osama bin Laden, the founder of al Qaeda stated that acquiring nuclear weapons was a“religious duty” (Yusufzai, 1999, January 11). The IAEA also reported that “al-Qaeda was actively seeking an atomic bomb.” Jamal Ahmad al-Fadl, a dissenter of Al Qaeda, in his trial testimony had “revealed his extensive but unsuccessful efforts to acquire enriched uranium for al-Qaeda” (Allison, 2010, January: 11). On November 9, 2001, Osama bin Laden claimed that “we have chemical and nuclear weapons as a deterrent and if America used them against us we reserve the right to use them (Mir, 2001, November 10).” On May 28, 2010, Sultan Bashiruddin Mahmood, a Pakistani nuclear scientist confessed that he met Osama bin Laden. He claimed that “I met Osama bin Laden before 9/11 not to give him nuclear know-how, but to seek funds for establishing a technical college in Kabul (Syed, 2010, May 29).” He was arrested in 2003 and after extensive interrogation by American and Pakistani intelligence agencies he was released (Syed, 2010, May 29). Agreed, Mr. Mahmood did not share nuclear know-how with Al Qaeda, but his meeting with Osama establishes the fact that the terrorist organization was in contact with nuclear scientists. Second, the terrorist group has sympathizers in the nuclear scientific bureaucracies. It also authenticates bin Laden’s Deputy Ayman Zawahiri’s claim which he made in December 2001: “If you have $30 million, go to the black market in the central Asia, contact any disgruntled Soviet scientist and a lot of dozens of smart briefcase bombs are available (Allison, 2010, January: 2).” The covert meetings between nuclear scientists and al Qaeda members could not be interpreted as idle threats and thereby the threat of nuclear/radiological terrorism is real. The 33Defense Secretary Robert Gates admitted in 2008 that “what keeps every senior government leader awake at night is the thought of a terrorist ending up with a weapon of mass destruction, especially nuclear (Mueller, 2011, August 2).” Indeed, the nuclear deterrence strategy cannot deter the transnational terrorist syndicate from nuclear/radiological terrorist attacks. Daniel Whiteneck pointed out: “Evidence suggests, for example, that al Qaeda might not only use WMD simply to demonstrate the magnitude of its capability but that it might actually welcome the escalation of a strong U.S. response, especially if it included catalytic effects on governments and societies in the Muslim world. An adversary that prefers escalation regardless of the consequences cannot be deterred” (Whiteneck, 2005, Summer: 187)

#### Court proceedings lead to compromising intelligence AND freezes future cooperation

**Friedman et al., National Strategy Forum president and chair, 2009**

(Richard, “Trying Terrorists in Article III Courts Challenges and Lessons Learned”, July, <http://prawfsblawg.blogs.com/files/trying-terrorists-art-iii-report-final.pdf>, ldg)

There was substantial agreement among the workshop participants that the government faces unique foreign relations and intelligence issues when using classified and sensitive evidence obtained through foreign liaison relations for terrorism trials in a public Article III court. Some discussants agreed that these issues were partly legal and partly political, and that all of these issues have the potential to threaten either successful prosecution or important intelligence relations. The following is a brief account of many discussants’ concerns with the foreign relations and intelligence challenges of trying terrorists in Article III courts. First, the disclosure of evidence in some terrorism trials may force a decision about whether to expose important intelligence gathering priorities, methods, and sources. This exposure may lead to conflicting interests between U.S. intelligence and law enforcement agencies; the risk of conflict is no less substantial when using sensitive evidence as opposed to classified evidence.17 In addition, it is not always clear at the outset which intelligence information will be valuable in the future, meaning that intelligence agencies are resistant to disclosing any intelligence information unless its secrecy can be adequately safeguarded and its use will result in meaningful benefits to the government. Second, the use of classified and sensitive evidence obtained from the intelligence arm of a foreign government can pose an obstacle to future cooperation between the United States and the foreign government. Intelligence information is often shared between governments with the express understanding that such cooperation will remain secret. In terrorism trials, the prosecution may face the dilemma of either (i) turning over the evidence of foreign cooperation and thereby undermining the trust of the foreign government, (ii) proceeding with litigation on a more restricted set of evidence, or, in some rare cases, (iii) withdrawing some charges against the defendant. Third, where a secret informant only cooperates with U.S. intelligence under assurances that she will never be identified or have to testify in an American courtroom, prosecutors and intelligence officials may be faced with losing a valuable intelligence source for the purpose of prosecuting a single (or a small group of) terrorist suspect(s). The higher value the informant, the less likely the intelligence service will agree to such disclosure, meaning that the prosecution may be forced to proceed on significantly less evidence. This problem also arises where the source is a foreign intelligence agent barred from testifying in an American courtroom by her own government. A few discussants argued, however, that these were merely practical barriers for the prosecution that can be, and in past cases have been, overcome, for example, by renegotiating with an intelligence source or engaging in diplomacy with a foreign government on a case-bycase basis. Some discussants urged that criminal prosecutors often handle issues pertaining to reluctant and secret witnesses, meaning that prosecutors can continue to do so in terrorism trials. However, other discussants disagreed, asserting that the national security, intelligence, and foreign relations implications of handling secret witnesses in terrorism trials are different and more complex than secrecy considerations typically at issue in traditional criminal trials.

#### Intelligence cooperation solves WMD use

**Yoo, Berkley law professor, 2004**

(John, “War, Responsibility, and the Age of Terrorism”, UC-Berkeley Public Law and Legal Theory Research Paper Series, <http://works.bepress.com/cgi/viewcontent.cgi?article=1015&context=johnyoo>, ldg)

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

#### Credible US intelligence security measures are crucial to intelligence sharing

**McGill, Norwich School of Graduate and Continuing Studies in Diplomacy, 2012**

(Anna-Katherine, “Challenges to International Counterterrorism Intelligence Sharing”, Summer, <http://globalsecuritystudies.com/McGill%20Intel%20Share.pdf>, ldg)

It is clear that diplomacy will continue to be a key component in US counterterrorism coalition building. Intelligence sharing, as a by-product of these efforts, will likely improve for as long as trust is maintained or improved and compromises are made in the greater interest of combating the shared threat of terrorism. However, the US is also likely to face continuing foreseeable challenges from the ever expanding breadth of its international allies, its increasing dependence on its counterterrorism coalitions, and unpredictable setbacks to international trust like WikiLeaks. There are ways, however, to allay the impact of these challenges if not overcome them all together. With regards to traditional allies the United States must continue to negotiate a close working relationship with its NATO, EU, and 5 EYES partners. Great strides have been made but future disagreements on policy, tactics, and strategy for the war on terrorism are inevitable. The best way to prepare for such future issues is to continue to foster a positive collaborative relationship with these nations so that mutual trust will prevent arguments from threatening the survival of the alliance. This means that the US must carefully manage its international position. It cannot exploit legal loopholes like exporting suspects to other nations for questionable interrogations; it cannot bully its friends nor act unilaterally against their wishes; and it must hold itself to high moral standards befitting a liberal democracy. For new and non-traditional allies, Reveron states that “the long-term challenge for policymakers will be to convert these short-term tactical relationships into meaningful alliances while protecting against counterintelligence threats” (467). Traditional alliances have to start somewhere and over time these new relationships can turn in to tried and tested cooperation. In order to further develop these relationships the US should attempt to iron out policy differences in other arenas rather than turn a blind eye to them and continue providing technical and material support to their development of effective intelligence programs. The US should not however hold CT cooperation supreme over other critical issues such as nuclear and conventional arms proliferation and human rights violations. Nations like Iran and Syria may be helpful in the short term and for limited purposes but this does not negate their less desirable practices. Finally, the US will also need to look inward to prevent more classified information leaks. The US needs to be more critical in the issuance of security clearances, employ digital monitoring of who is downloading information and in what amount to prevent mass dumps, and give greater importance to curtailing the “insider threat” of US citizens leaking information overall. Improving intelligence security will help to mitigate the blowback from WikiLeaks and will go a long way to advancing US credibility and trust building.

#### Intelligence sharing is key to NATO effectiveness-solves war

**Ara et al., London School of Economics MS and USNA lieutenant, 2011**

(Martin, “Help A Brother Out: A Case Study In Multinational Intelligence Sharing, Nato Sof”, December, <http://www.dtic.mil/dtic/tr/fulltext/u2/a556078.pdf>, ldg)

\*Note: SOF = Special Operation Forces

NATO’s essential purpose is to safeguard the freedom and security of all its members via political and military means in accordance with the North Atlantic Treaty and the principles of the United Nations Charter.3 “There is a common perspective among a variety of defense and security establishments around the world that the nature of the current and future security environment we face presents complex and irregular challenges that are not readily apparent and are difficult to anticipate.”4 SOF is being singled out and recognized as a key component of the North Atlantic Treaty Organization (NATO) alliance in the fight against contemporary and future threats, because SOF is “ideally suited to [the] ambiguous and dynamic irregular environment” facing NATO.5 SOF has traditionally been considered a national asset. NATO had no history of utilizing SOF in the Alliance when NATO nations first assumed responsibility for the conflicts in the Balkans. However the lessons learned during those conflicts were not applied due to a lack of a central NATO SOF entity until the NATO Riga summit of 2006. On December 22, 2006, Admiral William McRaven was appointed Director of the NATO SOF Coordination Center (NSCC) and ordered to start the transformation process. Three years later, on March 1, 2010, the NATO SOF Headquarters (NSHQ) was formally established as a three-star headquarters within the Alliance in Mons, Belgium.6 According to its mission statement, the purpose of NSHQ is twofold. First, it must optimize the employment of SOF by the Alliance. NSHQ further describes this as “the intention to make the employment of SOF as perfect, efficient, and effective as possible, so as to deliver to the Alliance a highly agile Special Operations capability across the range of military operations.”7 Second, it must provide a command capability when so directed by Supreme Allied Commander Europe (SACEUR). NSHQ further describes this as “the ability to deploy a robust C4I capability and enablers for the support and employment of SOF in NATO operations.”8 To be able to carry out successful special operations in support of the current and future operating environments, the Alliance needs adequate interoperability, command and control, and intelligence structures. Even amongst the closest allies, challenges in intelligence sharing remain. During the early years of Operation Iraqi Freedom, British operators were denied access to intelligence fused by the U.S. that the British had gathered themselves. The issue became so contentious that it had to be raised by British and Australian Prime Ministers with the U.S. President to be resolved.9 Having realized that intelligence sharing is always a compromise between the need to share and the need to protect (even with the best-designed organizations, much less a large, multinational, bureaucratic organization), the NSHQ has developed an innovative approach to solving its intelligence deficiencies. It has created its own organic intelligence collection, analysis, and exploitation capability. It has also acquired its own equipment and created a robust NATO SOF training facility and training program to supplement intelligence flow to NATO SOF forces.! B. BACKGROUND Special operations often test the limits of both equipment and personnel. This extremity introduces a significant degree of uncertainty or “fog of war.” Success in special operations dictates that the uncertainty associated with the enemy, weather, and terrain must be minimized through access to best available intelligence.10 Most special operations conducted nationally benefit from access to the best national intelligence available. However, because of classification issues, special operations by international coalitions often lack access to the best available intelligence. This absence increases the likelihood of operational failure and further risks the personal safety of the operators. NATO (and many of the individual member states) foresees a future threat environment shaped by unconventional threats such as transnational crime, terrorist attacks, and the proliferation of weapons of mass destruction.11 There are so many similarities in threats projected by the NATO member states and by official NATO strategy it is easy to conclude that a common enemy exists: transnational problems require transnational solutions. The complexities in the international order and the “significant challenges to the intelligence system [that] arise in targeting groups such as al-Qaeda due to their networked and volatile structure”12 make multinational intelligence sharing requisite. There is much to gain from multinational cooperation. The expected continued decline in military budgets and limited SOF human resources make burden-sharing and proper division of labor even more appropriate. C. PURPOSE AND SCOPE Intelligence is a decisive factor, sometimes the decisive factor, in special operations. As such, the NSHQ’s ultimate success will rely on its ability to solve some of the perennial problems related to intelligence sharing within coalitions. The newly established NSHQ in Mons, Belgium serves as an excellent testing ground to analyze SOF intelligence sharing issues within a coalition. NSHQ is attempting to streamline and optimize the intelligence available to NATO SOF units.

#### NATO prevents global nuclear war

**Brzezinski, John Hopkins American foreign policy professor, 2009**

(Zbigniew, “An Agenda for NATO”, Foreign Affairs, September/October, ebsco, ldg)

And yet, it is fair to ask: Is NATO living up to its extraordinary potential? NATO today is without a doubt the most powerful military and political alliance in the world. Its 28 members come from the globe’s two most productive, technologically advanced, socially modern, economically prosperous, and politically democratic regions. Its member states’ 900 million people account for only 13 percent of the world’s population but 45 percent of global GDP. NATO’s potential is not primarily military. Although NATO is a collective-security alliance, its actual military power comes predominantly from the United States, and that reality is not likely to change anytime soon. NATO’s real power derives from the fact that it combines the United States’ military capabilities and economic power with Europe’s collective political and economic weight (and occasionally some limited European military forces). Together, that combination makes NATO globally significant. It must therefore remain sensitive to the importance of safeguarding the geopolitical bond between the United States and Europe as it addresses new tasks. The basic challenge that NATO now confronts is that there are historically unprecedented risks to global security. Today’s world is threatened neither by the militant fanaticism of a territorially rapacious nationalist state nor by the coercive aspiration of a globally pretentious ideology embraced by an expansive imperial power. The paradox of our time is that the world, increasingly connected and economically interdependent for the first time in its entire history, is experiencing intensifying popular unrest made all the more menacing by the growing accessibility of weapons of mass destruction - not just to states but also, potentially, to extremist religious and political movements. Yet there is no effective global security mechanism for coping with the growing threat of violent political chaos stemming from humanity’s recent political awakening. The three great political contests of the twentieth century (the two world wars and the Cold War) accelerated the political awakening of mankind, which was initially unleashed in Europe by the French Revolution. Within a century of that revolution, spontaneous populist political activism had spread from Europe to East Asia. On their return home after World Wars I and II, the South Asians and the North Africans who had been conscripted by the British and French imperial armies propagated a new awareness of anticolonial nationalist and religious political identity among hitherto passive and pliant populations. The spread of literacy during the twentieth century and the wide-ranging impact of radio, television, and the Internet accelerated and intensified this mass global political awakening. In its early stages, such new political awareness tends to be expressed as a fanatical embrace of the most extreme ethnic or fundamentalist religious passions, with beliefs and resentments universalized in Manichaean categories. Unfortunately, in significant parts of the developing world, bitter memories of European colonialism and of more recent U.S. intrusion have given such newly aroused passions a distinctively anti-Western cast. Today, the most acute example of this phenomenon is found in an area that stretches from Egypt to India. This area, inhabited by more than 500 million politically and religiously aroused peoples, is where NATO is becoming more deeply embroiled. Additionally complicating is the fact that the dramatic rise of China and India and the quick recovery of Japan within the last 50 years have signaled that the global center of political and economic gravity is shifting away from the North Atlantic toward Asia and the Pacific. And of the currently leading global powers—the United States, the EU, China, Japan, Russia, and India—at least two, or perhaps even three, are revisionist in their orientation. Whether they are “rising peacefully” (a self-confident China), truculently (an imperially nostalgic Russia) or boastfully (an assertive India, despite its internal multiethnic and religious vulnerabilities), they all desire a change in the global pecking order. The future conduct of and relationship among these three still relatively cautious revisionist powers will further intensify the strategic uncertainty. Visible on the horizon but not as powerful are the emerging regional rebels, with some of them defiantly reaching for nuclear weapons. North Korea has openly flouted the international community by producing (apparently successfully) its own nuclear weapons - and also by profiting from their dissemination. At some point, its unpredictability could precipitate the first use of nuclear weapons in anger since 1945. Iran, in contrast, has proclaimed that its nuclear program is entirely for peaceful purposes but so far has been unwilling to consider consensual arrangements with the international community that would provide credible assurances regarding these intentions. In nuclear-armed Pakistan, an extremist anti-Western religious movement is threatening the country’s political stability.

#### Restricting detention policies means we massively ramp up targeted killings and extradite prisoners- turns case

**Goldsmith, Harvard law professor, 2009**

(Jack, “The Shell Game on Detainees and Interrogation”, 5-31, <http://www.washingtonpost.com/wp-dyn/content/article/2009/05/29/AR2009052902989.html>, ldg)

The cat-and-mouse game does not end there. As detentions at Bagram and traditional renditions have come under increasing legal and political scrutiny, the Bush and Obama administrations have relied more on other tactics. They have secured foreign intelligence services to do all the work -- capture, incarceration and interrogation -- for all but the highest-level detainees. And they have increasingly employed targeted killings, a tactic that eliminates the need to interrogate or incarcerate terrorists but at the cost of killing or maiming suspected terrorists and innocent civilians alike without notice or due process. There are at least two problems with this general approach to incapacitating terrorists. First, it is not ideal for security. Sometimes it would be more useful for the United States to capture and interrogate a terrorist (if possible) than to kill him with a Predator drone. Often the United States could get better information if it, rather than another country, detained and interrogated a terrorist suspect. Detentions at Guantanamo are more secure than detentions in Bagram or in third countries. The second problem is that terrorist suspects often end up in less favorable places. Detainees in Bagram have fewer rights than prisoners at Guantanamo, and many in Middle East and South Asian prisons have fewer yet. Likewise, most detainees would rather be in one of these detention facilities than be killed by a Predator drone. We congratulate ourselves when we raise legal standards for detainees, but in many respects all we are really doing is driving the terrorist incapacitation problem out of sight, to a place where terrorist suspects are treated worse. It is tempting to say that we should end this pattern and raise standards everywhere. Perhaps we should extend habeas corpus globally, eliminate targeted killing and cease cooperating with intelligence services from countries that have poor human rights records. This sentiment, however, is unrealistic. The imperative to stop the terrorists is not going away. The government will find and exploit legal loopholes to ensure it can keep up our defenses. This approach to detention policy reflects a sharp disjunction between the public's view of the terrorist threat and the government's. After nearly eight years without a follow-up attack, the public (or at least an influential sliver) is growing doubtful about the threat of terrorism and skeptical about using the lower-than-normal standards of wartime justice. The government, however, sees the terrorist threat every day and is under enormous pressure to keep the country safe. When one of its approaches to terrorist incapacitation becomes too costly legally or politically, it shifts to others that raise fewer legal and political problems. This doesn't increase our safety or help the terrorists. But it does make us feel better about ourselves.

### 1NC Case

#### Utilitarian consequences first

**Issac 2**—Professor of Political Science at Indiana-Bloomington, Director of the Center for the Study of Democracy and Public Life, PhD from Yale (Jeffery C., Dissent Magazine, Vol. 49, Iss. 2, “Ends, Means, and Politics,” p. Proquest)

As a result, the most important political questions are simply not asked. It is assumed that U.S. military intervention is an act of "aggression," but no consideration is given to the aggression to which intervention is a response. The status quo ante in Afghanistan is not, as peace activists would have it, peace, but rather terrorist violence abetted by a regime--the Taliban--that rose to power through brutality and repression. This requires us to ask a question that most "peace" activists would prefer not to ask: What should be done to respond to the violence of a Saddam Hussein, or a Milosevic, or a Taliban regime? What means are likely to stop violence and bring criminals to justice? Calls for diplomacy and international law are well intended and important; they implicate a decent and civilized ethic of global order. But they are also vague and empty, because they are not accompanied by any account of how diplomacy or international law can work effectively to address the problem at hand. The campus left offers no such account. To do so would require it to contemplate tragic choices in which moral goodness is of limited utility. Here what matters is not purity of intention but the intelligent exercise of power. Power is not a dirty word or an unfortunate feature of the world. It is the core of politics. Power is the ability to effect outcomes in the world. Politics, in large part, involves contests over the distribution and use of power. To accomplish anything in the political world, one must attend to the means that are necessary to bring it about. And to develop such means is to develop, and to exercise, power. To say this is not to say that power is beyond morality. It is to say that power is not reducible to morality. As writers such as Niccolo Machiavelli, Max Weber, Reinhold Niebuhr, and Hannah Arendt have taught, an unyielding concern with moral goodness undercuts political responsibility. The concern may be morally laudable, reflecting a kind of personal integrity, but it suffers from three fatal flaws: (1) It fails to see that the purity of one's intention does not ensure the achievement of what one intends. Abjuring violence or refusing to make common cause with morally compromised parties may seem like the right thing; but if such tactics entail impotence, then it is hard to view them as serving any moral good beyond the clean conscience of their supporters; (2) it fails to see that in a world of real violence and injustice, moral purity is not simply a form of powerlessness; it is often a form of complicity in injustice. This is why, from the standpoint of politics--as opposed to religion--pacifism is always a potentially immoral stand. In categorically repudiating violence, it refuses in principle to oppose certain violent injustices with any effect; and (3) it fails to see that politics is as much about unintended consequences as it is about intentions; it is the effects of action, rather than the motives of action, that is most significant. Just as the alignment with "good" may engender impotence, it is often the pursuit of "good" that generates evil. This is the lesson of communism in the twentieth century: it is not enough that one's goals be sincere or idealistic; it is equally important, always, to ask about the effects of pursuing these goals and to judge these effects in pragmatic and historically contextualized ways. Moral absolutism inhibits this judgment. It alienates those who are not true believers. It promotes arrogance. And it undermines political effectiveness.

#### Existential risks first – key to develop political responses

Bostrom 02, Professor of Philosophy at Oxford University and Director of the Future of Humanity Institute, ’2 (Nick, March, “Existential Risks: Analyzing Human Extinction Scenarios and Related Hazards” Journal of Evolution and Technology, Vol 9, http://www.nickbostrom.com/existential/risks.html

9 Implications for policy and ethics Existential risks have a cluster of features that make it useful to identify them as a special category: the extreme magnitude of the harm that would come from an existential disaster; the futility of the trial-and-error approach; the lack of evolved biological and cultural coping methods; the fact that existential risk dilution is a global public good; the shared stakeholdership of all future generations; the international nature of many of the required countermeasures; the necessarily highly speculative and multidisciplinary nature of the topic; the subtle and diverse methodological problems involved in assessing the probability of existential risks; and the comparative neglect of the whole area. From our survey of the most important existential risks and their key attributes, we can extract tentative recommendations for ethics and policy: 9.1 Raise the profile of existential risks We need more research into existential risks – detailed studies of particular aspects of specific risks as well as more general investigations of associated ethical, methodological, security and policy issues. Public awareness should also be built up so that constructive political debate about possible countermeasures becomes possible. Now, it’s a commonplace that researchers always conclude that more research needs to be done in their field. But in this instance it is really true. There is more scholarly work on the life-habits of the dung fly than on existential risks. 9.2 Create a framework for international action Since existential risk reduction is a global public good, there should ideally be an institutional framework such that the cost and responsibility for providing such goods could be shared fairly by all people. Even if the costs can’t be shared fairly, some system that leads to the provision of existential risk reduction in something approaching optimal amounts should be attempted.

#### Terrorists goals are ideological; not political – only utilitarianism solves

Whitman 7 (Jeffery, Prof of Philosophy, Religion, and Classical Studies Susquehanna University, “Just War Theory and the War on Terrorism A Utilitarian Perspective,” http://www.mesharpe.com/PIN/05Whitman.pdf)

Nonetheless, there was something different about the 9/11 attacks that is troubling, and that difference is the nihilistic nature of the attackers. Most, but not all, terrorist activity has a political or religious goal of some sort as its aim—the liberation of a minority group, the establishment of a new state, the removal of a perceived oppressor. Al-Qaeda professes a political goal, but its actions belie its claims. It claims to be fighting for the cause of Palestinian freedom and for oppressed Muslims everywhere, but it has appropriated the Islamic religion and the concept of jihad in order to recruit suicide bombers with the promise of martyrdom and entry into Paradise. In so doing, the political goal, if it ever existed, has become subservient to eschatological concerns. Political failure has become an irrelevant distraction that is trumped by the reward of eternal life. As Michael Ignatieff notes concerning al-Qaeda, their goals are less political than apocalyptic, securing immortality for themselves while calling down a mighty malediction on the Great Satan. Goals that are political can be engaged politically. Apocalyptic goals, on the other hand, are impossible to negotiate with. They can only be fought by force of arms. (2004, 125–126) This version of Islamic fundamentalist terrorism, represented by such groups as Hamas, Hezbollah, and al-Qaeda, seems particularly intractable. These groups, especially insofar as they employ suicide-bomber tactics, have become death cults (Ignatieff 2004, 126–127). There can be no negotiated settlement, so the only solution seems to be a violent one aimed at the utter destruction of the terrorists. And yet, a purely violent and largely military response runs significant risks, both morally and pragmatically, for the counterterrorist forces. The risks are especially poignant for a liberal democracy like the United States, for the use of purely military means, particularly the brutal military means that may seem necessary to defeat terrorism, may run contrary to the very principles a liberal democracy represents (Ignatieff 2004, 133–136).6 Thus the terrorist threat represented by al-Qaeda–like groups presents a difficult and somewhat unique challenge for the United States. Nonetheless, I remain convinced that a utilitarian conceptualization of just war theory can help us to successfully navigate between the Scylla of losing the fight against terrorism and the Charybdis of abandoning the principles that define our liberal democracy.

#### Positivism is not violent and just because something is arbitrarily constructed does not mean it can be wished away

Jarvis 2000 (Darryl, Senior Lecturer in International Relations – University of Sydney, International Relations and the Challenge of Postmodernism, p. 128-130)

Inculpating modernity, positivism, technical rationality, or realism with violence, racism, war, and countless other crimes not only smacks of anthropomorphism but, as demonstrated by Ashley's torturous prose and reasoning, requires a dubious logic to make such connections in the first place. Are we really to believe that ethereal entities like positivism, mod­ernism, or realism emanate a "violence" that marginalizes dissidents? Indeed, where is this violence, repression, and marginalization? As self- professed dissidents supposedly exiled from the discipline, Ashley and Walker appear remarkably well integrated into the academy—vocal, pub­lished, and at the center of the Third Debate and the forefront of theo­retical research. Likewise, is Ashley seriously suggesting that, on the basis of this largely imagined violence, global transformation (perhaps even rev­olutionary violence) is a necessary, let alone desirable, response? Has the rationale for emancipation or the fight for justice been reduced to such vacuous revolutionary slogans as "Down with positivism and rationality"? The point is surely trite. Apart from members of the academy, who has heard of positivism and who for a moment imagines that they need to be emancipated from it, or from modernity, rationality, or realism for that matter? In an era of unprecedented change and turmoil, of new political and military configurations, of war in the Balkans and ethnic cleansing, is Ashley really suggesting that some of the greatest threats facing humankind or some of the great moments of history rest on such innocu­ous and largely unknown nonrealities like positivism and realism? These are imagined and fictitious enemies, theoretical fabrications that represent arcane, self-serving debates superfluous to the lives of most people and, arguably, to most issues of importance in international relations. More is the pity that such irrational and obviously abstruse debate should so occupy us at a time of great global turmoil. That it does and continues to do so reflects our lack of judicious criteria for evaluating the­ory and, more importantly, the lack of attachment theorists have to the real world. Certainly it is right and proper that we ponder the depths of our theoretical imaginations, engage in epistemological and ontological debate, and analyze the sociology of our knowledge." But to suppose that this is the only task of international theory, let alone the most important one, smacks of intellectual elitism and displays a certain contempt for those who search for guidance in their daily struggles as actors in international politics. What does Ashley's project, his deconstructive efforts, or valiant fight against positivism say to the truly marginalized, oppressed, and des­titute? How does it help solve the plight of the poor, the displaced refugees, the casualties of war, or the emigres of death squads? Does it in any way speak to those whose actions and thoughts comprise the policy and practice of international relations? On all these questions one must answer no. This is not to say, of course, that all theory should be judged by its technical rationality and problem-solving capacity as Ashley forcefully argues. But to suppose that problem-solving technical theory is not necessary—or is in some way bad—is a contemptuous position that abrogates any hope of solving some of the nightmarish realities that millions confront daily. As Holsti argues, we need ask of these theorists and their theories the ultimate question, "So what?" To what purpose do they deconstruct, problematize, destabilize, undermine, ridicule, and belittle modernist and rationalist approaches? Does this get us any further, make the world any better, or enhance the human condition? In what sense can this "debate toward [a] bottomless pit of epistemology and metaphysics" be judged pertinent, relevant, help­ful, or cogent to anyone other than those foolish enough to be scholasti­cally excited by abstract and recondite debate." Contrary to Ashley's assertions, then, a poststructural approach fails to empower the marginalized and, in fact, abandons them. Rather than ana­lyze the political economy of power, wealth, oppression, production, or international relations and render an intelligible understanding of these processes, Ashley succeeds in ostracizing those he portends to represent by delivering an obscure and highly convoluted discourse. If Ashley wishes to chastise structural realism for its abstractness and detachment, he must be prepared also to face similar criticism, especially when he so adamantly intends his work to address the real life plight of those who struggle at marginal places. If the relevance of Ashley's project is questionable, so too is its logic and cogency. First, we might ask to what extent the postmodern "empha­sis on the textual, constructed nature of the world" represents "an unwar­ranted extension of approaches appropriate for literature to other areas of human practice that are more constrained by an objective reality."" All theory is socially constructed and realities like the nation-state, domestic and international politics, regimes, or transnational agencies are obviously social fabrications. But to what extent is this observation of any real use? Just because we acknowledge that the state is a socially fabricated entity, or that the division between domestic and international society is arbitrar­ily inscribed does not make the reality of the state disappear or render invisible international politics. Whether socially constructed or objectively given, the argument over the ontological status of the state is of no par­ticular moment. Does this change our experience of the state or somehow diminish the political-economic-juridical-military functions of the state? To recognize that states are not naturally inscribed but dynamic entities continually in the process of being made and reimposed and are therefore culturally dissimilar, economically different, and politically atypical, while perspicacious to our historical and theoretical understanding of the state, in no way detracts from its reality, practices, and consequences. Similarly, few would object to Ashley's hermeneutic interpretivist understanding of the international sphere as an artificially inscribed demarcation. But, to paraphrase Holsti again, so what? This does not make its effects any less real, diminish its importance in our lives, or excuse us from paying serious attention to it. That international politics and states would not exist with­out subjectivities is a banal tautology. The point, surely, is to move beyond this and study these processes. Thus, while intellectually interesting, con­structivist theory is not an end point as Ashley seems to think, where we all throw up our hands and announce there are no foundations and all real­ity is an arbitrary social construction. Rather, it should be a means of rec­ognizing the structurated nature of our being and the reciprocity between subjects and structures through history. Ashley, however, seems not to want to do this, but only to deconstruct the state, international politics, and international theory on the basis that none of these is objectively given but fictitious entities that arise out of modernist practices of representa­tion. While an interesting theoretical enterprise, it is of no great conse­quence to the study of international politics. Indeed, structuration theory has long taken care of these ontological dilemmas that otherwise seem to preoccupy Ashley."

#### No endless warfare or patriarchal violence

Gray 7—Director of the Centre for Strategic Studies and Professor of International Relations and Strategic Studies at the University of Reading, graduate of the Universities of Manchester and Oxford, Founder and Senior Associate to the National Institute for Public Policy, formerly with the International Institute for Strategic Studies and the Hudson Institute (Colin, July, “The Implications of Preemptive and Preventive War Doctrines: A Reconsideration”, <http://www.ciaonet.org/wps/ssi10561/ssi10561.pdf>)

7. A policy that favors preventive warfare expresses a futile quest for absolute security. It could do so. Most controversial policies contain within them the possibility of misuse. In the hands of a paranoid or boundlessly ambitious political leader, prevention could be a policy for endless warfare. However, the American political system, with its checks and balances, was designed explicitly for the purpose of constraining the executive from excessive folly. Both the Vietnam and the contemporary Iraqi experiences reveal clearly that although the conduct of war is an executive prerogative, in practice that authority is disciplined by public attitudes. Clausewitz made this point superbly with his designation of the passion, the sentiments, of the people as a vital component of his trinitarian theory of war. 51 It is true to claim that power can be, and indeed is often, abused, both personally and nationally. It is possible that a state could acquire a taste for the apparent swift decisiveness of preventive warfare and overuse the option. One might argue that the easy success achieved against Taliban Afghanistan in 2001, provided fuel for the urge to seek a similarly rapid success against Saddam Hussein’s Iraq. In other words, the delights of military success can be habit forming. On balance, claim seven is not persuasive, though it certainly contains a germ of truth. A country with unmatched wealth and power, unused to physical insecurity at home—notwithstanding 42 years of nuclear danger, and a high level of gun crime—is vulnerable to demands for policies that supposedly can restore security. But we ought not to endorse the argument that the United States should eschew the preventive war option because it could lead to a futile, endless search for absolute security. One might as well argue that the United States should adopt a defense policy and develop capabilities shaped strictly for homeland security approached in a narrowly geographical sense. Since a president might misuse a military instrument that had a global reach, why not deny the White House even the possibility of such misuse? In other words, constrain policy ends by limiting policy’s military means. This argument has circulated for many decades and, it must be admitted, it does have a certain elementary logic. It is the opinion of this enquiry, however, that the claim that a policy which includes the preventive option might lead to a search for total security is **not at all convincing**. Of course, folly in high places is always possible, which is one of the many reasons why popular democracy is the superior form of government. It would be absurd to permit the fear of a futile and dangerous quest for absolute security to preclude prevention as a policy option. Despite its absurdity, this rhetorical charge against prevention is a stock favorite among prevention’s critics. It should be recognized and dismissed for what it is, a debating point with little pragmatic merit. And strategy, though not always policy, **must be nothing if not pragmatic**.

#### Assign minimal risk to their impact – paranoia and misperception.

Posner and Vermeule 2009

Eric and Adrian, Professors of Law @ Chicago and Harvard, Tyrannophobia, September 15, 2009

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.

#### Discursive othering doesn’t result in ‘uncontrollable violence’

Rodwell 5 (Jonathan Rodwell is a PhD student at Manchester Met. researching the U.S. Foreign Policy of the late 70's / rise of ‘neo-cons’ and Second Cold War, “Trendy But Empty: A Response to Richard Jackson,” http://www.49thparallel.bham.ac.uk/back/issue15/rodwell1.htm)

To be specific if the U.S. and every other nation is continually reproducing identities through ‘othering’ it is a constant and universal phenomenon that fails to help us understand at all why one result of the othering turned out one way and differently at another time. For example, how could one explain how the process resulted in the 2003 invasion of Iraq but didn’t produce a similar invasion of Afghanistan in 1979 when that country (and by the logic of the Regan administrations discourse) the West was threatened by the ‘Evil Empire’. By the logical of discourse analysis in both cases these policies were the result of politicians being able to discipline and control the political agenda to produce the outcomes. So why were the outcomes not the same? To reiterate the point how do we explain that the language of the War on Terror actually managed to result in the eventual Afghan invasion in 2002? Surely it is impossible to explain how George W. Bush was able to convince his people (and incidentally the U.N and Nato) to support a war in Afghanistan without referring to a simple fact outside of the discourse; the fact that a known terrorist in Afghanistan actually admitted to the murder of thousands of people on the 11h of Sepetember 2001. The point is that if the discursive ‘othering’ of an ‘alien’ people or group is what really gave the U.S. the opportunity to persue the war in Afghanistan one must surly wonder why Afghanistan. Why not North Korea? Or Scotland?

If the discourse is so powerfully useful in it’s own right why could it not have happened anywhere at any time and more often? Why could the British government not have been able to justify an armed invasion and regime change in Northern Ireland throughout the terrorist violence of the 1980’s? Surely they could have just employed the same discursive trickery as George W. Bush? Jackson is absolutely right when he points out that the actuall threat posed by Afghanistan or Iraq today may have been thoroughly misguided and conflated and that there must be more to explain why those wars were enacted at that time. Unfortunately that explanation cannot simply come from the result of inscripting identity and discourse. On top of this there is the clear problem that the consequences of the discursive othering are not necessarily what Jackson would seem to identify. This is a problem consistent through David Campbell’s original work on which Jackson’s approach is based[iii]. David Campbell argued for a linguistic process that ‘always results in an other being marginalized’ or has the potential for ‘demonisation’[iv]. At the same time Jackson, building upon this, maintains without qualification that the systematic and institutionalised abuse of Iraqi prisoners first exposed in April 2004 “is a direct consequence of the language used by senior administration officials: conceiving of terrorist suspects as ‘evil’, ‘inhuman’ and ‘faceless enemies of freedom creates an atmosphere where abuses become normalised and tolerated”[v]. The only problem is that the process of differentiation does not actually necessarily produce dislike or antagonism. In the 1940’s and 50’s even subjected to the language of the ‘Red Scare’ it’s obvious not all Americans came to see the Soviets as an ‘other’ of their nightmares. And in Iraq the abuses of Iraqi prisoners are isolated cases, it is not the case that the U.S. militarily summarily abuses prisoners as a result of language. Surely the massive protest against the war, even in the U.S. itself, is also a self evident example that the language of ‘evil’ and ‘inhumanity’ does not necessarily produce an outcome that marginalises or demonises an ‘other’. Indeed one of the points of discourse is that we are continually differentiating ourselves from all others around us without this necessarily leading us to hate fear or abuse anyone.[vi] Consequently, the clear fear of the Soviet Union during the height of the Cold War, and the abuses at Abu Ghirab are unusual cases. To understand what is going on we must ask how far can the process of inscripting identity really go towards explaining them? As a result at best all discourse analysis provides us with is a set of universals and a heuristic model

## 2nc

## Cp

### 2NC Sovency

#### Each link equally to the plan because you don’t abolish them

#### The CP solves better-New legislation would inevitably become politicized, lead to court challenges, create delays and incoherent jurisprudence

Nesbitt-JD Candidate Minnesota-10 95 Minn. L. Rev. 244

Note: Meeting Boumediene's Challenge: The Emergence of an Effective Habeas Jurisprudence and Obsolescence of New Detention Legislation

Furthermore, even if, from an abstracted institutional perspective, Congress is better suited to the task, there is good reason to doubt that Congress would, in fact, produce reasoned, sensible detention legislation. New legislation is likely to be less the result of reasonable deliberation and more a function of interest group politics. 195 A habeas reform bill introduced by Lindsey Graham in early August 2010 illustrates this point. 196 The bill would require the D.C. district courts to give "utmost deference" to the executive's determination as to whether a particular organization is associated with al Qaeda or the Taliban. 197 [\*280] In essence, this provision would take from Congress its constitutional power to determine the entities with which the United States is at war. 198 The criticism, then, is that even if institutionally competent, Congress may not be politically competent to pass detention legislation that would be any more effective than the habeas litigation has proven to be. 199 And, like the Graham bill, resulting legislation may well raise serious constitutional concerns, the resolution of which would only further delay the habeas proceedings. In any case, new legislation would also be subject to interpretation by courts, and so - rather than clarifying the law - may only destabilize the increasingly coherent jurisprudence. 200 It bears emphasizing that the political branches could pass new detention legislation that appropriately reckoned with the implications of Boumediene, ensuring that detainees have a prompt, meaningful chance to contest their status, to assess the evidence against them, and so on. 201 The suggestion here, however, is that the game would not be worth the candle: the federal courts in Washington, D.C. have already done this work for them. C. Congressional Inaction The best option is, in the end, the simplest one. The political branches should allow the courts to continue to adjudicate habeas petitions on the basis of the AUMF as construed in Hamdi and in light of the Court's guidance in Boumediene. As has happened over the last two years, remaining differences among judges will likely narrow over time as the jurisprudence matures. 202 True, as Judge Brown pointed out in urging congressional [\*281] action, the common-law process depends on incrementalism and eventual correction, and may be most effective where there are a significant number of cases brought before a large number of courts; by contrast, the number of Guantanamo detainees is limited, the circumstances of their confinement are unique, and all cases are heard before the D.C. courts. 203 Yet, as Part II demonstrated, even as district court judges have rejected the alternative approaches of their colleagues on both substantive and procedural issues, 204 the common-law process has already worked to resolve many of these disagreements. And that all habeas cases are heard before the federal courts in Washington, D.C. is a virtue rather than a vice, as it allows the D.C. judges to rapidly accumulate expertise. 205 A central purpose of the habeas litigation is to allow each detainee a fair and equal chance to challenge his confinement. The early months of litigation gave reasons to doubt whether that was happening. But times have changed. Detainees need not wait for the law to cohere on some future date; it is already beginning to do so. While detainees do not benefit from all aspects of the jurisprudence emerging from the D.C. Circuit, the law is at least becoming coherent and consistent enough to provide every detainee the same, genuine opportunity to challenge his detention. The D.C. Circuit has not resolved every divergence, nor could it. Some disagreements, rooted in different conceptions of the appropriate amount of deference to accord the government in light of Boumediene, will persist. 206 Given the convergence of [\*282] substantive detention standards discussed above, such disagreements may increasingly be about procedural matters. From a uniformity standpoint this result is less of a problem. Procedure is an area of unique judicial expertise; district court judges are well suited to develop procedures that ensure accurate fact-finding and a fair - or at least reasoned and public - resolution of each habeas case. 207 It would be unwise to mandate a one-size-fits-all procedural framework for cases that are widely recognized to be "unique" and "unprecedented." 208 CONCLUSION The Guantanamo habeas cases have challenged our court system. With little guidance from Congress or the Supreme Court, federal judges have been muddling through the habeas cases for over two years. But while district court judges have disagreed about both substantive and procedural issues, the D.C. Circuit has resolved the most salient of these disagreements. As a result, the habeas jurisprudence is increasingly coherent, and effectively provides each detainee with the same, meaningful chance to challenge his detention. Moreover, the many detainee wins have not come at the expense of laying precedent that threatens U.S. national security. Indeed, the standards emerging from the D.C. Circuit are, if anything, overly protective of national security prerogatives at the expense of detainee liberty. For detainees as well as for the government, then, habeas works. Many eight-or-more-year denizens of Guantanamo never belonged there, and the story of their detention will no doubt long stain the reputation of the United States as a champion of individual liberty and human rights. But the story recounted [\*283] here is not an unmitigated failure of these principles. Boumediene gave detainees access to a process that has led many to freedom; Fouad Al-Rabiah, the aviation engineer discussed in the Introduction, is now at home in Kuwait. 209 In sum, the habeas cases decided so far suggest that the wisest course of action is also the simplest and most politically attractive. Congress should stand back and allow the habeas litigation to proceed.

### A2: Perm-Do Both

#### The perm doesn’t shield the link:

#### A-the plan and CP happen simultaneously- Congress wouldn’t know they were following the Court

#### B-the CP isn’t announced immediately- can’t solve short-term backlash links

#### Doesn’t solve politics; the Court must act first to provide political cover.

Garrett and Stutz 2005 (Robert T. Garrett and Terrence Stutz, Dallas Morning News, “School finance now up to court Justices to decide if overhaul needed after bills fail in Legislature” lexis)

That could foreshadow the court's response to a chief argument by state attorneys – that the court should butt out and leave school finance to the Legislature. A court finding against the state would put the ball back in the hands of lawmakers, who have tended to put off dealing with problems in schools, prisons and mental health facilities until state or federal judges forced them to act. "It's the classic political response to problems they don't want to deal with," said Maurice Dyson, a school finance expert and assistant law professor at Southern Methodist University. "There is no better political cover than to have a court rule that something must be done, which allows politicians to say their hands are tied."

### A2: CP Illegitimate

#### F. Process debate is good debate

Kurr et al 13 (Jeff Kurr—Baylor University Kevin D. Kuswa, PhD—Fresno State Paul E. Mabrey III—James Madison University “Agents Wording Paper: Passive Voice, the Judiciary, and Other Odds and Ends,” <http://www.cedadebate.org/forum/index.php?action=dlattach;topic=4848.0;attach=1690>)

In short, this topic is all about the agent of action. The “object to be reduced” is the power possessed by a particular agent (the President) and the controversy is how the other governmental agents can restrict the authority held by the executive. Who should do the restraining? Congress? The Court? Other entities? The Executive herself? These are key questions. This topic literature is uniquely about the agent/actor question surrounding the restraint of presidential war powers. The fact that the literature is so divided and diverse on possible ways that certain agents should restrict PWP, may mean that we should privilege the agent by not specifying. Furthermore, the problem concerning the ability to generate good solvency (i.e., the president will ignore, congress doesn't act, courts fail etc.) means we should err on the side aff choice/flexibility in terms of being able to choose the means of defending the resolution through the agent the aff selects.

### A2: Court cant clarify jurisdiction

#### ---The CP is just an extension of Boumediene

Brighten-Jurisprudence and Social Policy Program, Berkeley-10

‘TheWay Ahead’ orThe Status Quo? Why National Security Court Proposals Threaten Judicial Independence A Review of Glenn Sulmasy’s TheNational SecurityCourt System: ANatural Evolution

of Justice in an Age of Terror1

<http://laworgs.depaul.edu/journals/RuleofLaw/Documents/Brighten%20-%20final.pdf>

In response to Hamdan, Congress enacted the Military Commissions Act of 2006, 33 authorizing a reformulated system of military commissions to prosecute ‘alien unlawful enemy combatants’. 34 This legislation precluded the latter individuals from seeking habeas corpus review, and instead provided a more limited and streamlined review process.35 The cataclysm erupted two years later, when the Supreme Court in Boumediene v. Bush 36 held the former section of the Military Commissions Act unconstitutional for suspending the Great Writ without adequate substitute, thus effectively and unprecedentedly mandating direct access to federal courts for aliens detained outside the United States.37 Sulmasy dedicates a large portion of chapters five and six to a near-diatribe about judicial intrusion in Boumediene, echoing a case comment he penned the previous year.38 “After Boumediene,” Sulmasy asserts, “the decision regarding military detention of enemies is purely in the hands of the civilian courts . . .the least accountable branch.” 39 The military, according to Sulmasy, will now “hav[e] the Supreme Court as their new operational commander,” owing to the court’s “inject[ion] [of] their policy preferences into military decision making . . . intrud[ing] on what is clearly the province of the political branches.” 40 This intrusion, predicts Sulmasy, will “complicate[] the mission for both the commanders in the field and the executive branch during an ongoing war.” 41 Moreover, Sulmasy warns that Boumediene, absent swift response by the political branches, will inevitably catalyze further judicial development of constitutional protections for ‘unlawful combatants’, effectively impeding the executive’s ability to pursue national security policy and to prosecute suspected terrorists. 42 Sulmasy’s reaction to Hamdan and Boumediene, though harsh, is not idiosyncratic; indeed, it mirrors that of other conservative commentators.43 It should be noted, moreover, that many scholars – regardless of political bent – acknowledge the Supreme Court’s unusually assertive posture in these decisions.44 In particular, Boumediene constitutes the first-ever decision by which the Supreme Court invalidated a military policy measure supported by both other branches during a time of purported warfare.45 This aspect, at least – to be fair to Sulmasy’s account – is not mere hyperbole invented by conservative critics. The bulk of The National Security Court System, then, presents an indictment of the judiciary’s post-9/11 reversal of what Sulmasy considers proper inter-branch relations, as he perceives the latter to have existed throughout the span of U.S. history. Hamdan and Boumediene, according to Sulmasy’s analysis, represent a fundamental rift between the good old days of judicial deference and the current period of unprecedented intrusion. As a descriptive proposition, Sulmasy’s thesis is questionable in certain respects. 46 Its empirical fallibility is unimportant for this review’s purposes, however; accurate or not, the book’s primary thesis furnishes Sulmasy’s impetus for his national security court system, and as this essay will explain below, fundamentally characterizes the political nature of that proposal.

### S

#### ---Hamdan proves the Court can clarify their role in Detention policy

Calabresi-prof law NU-7

THE UNITARY EXECUTIVE, JURISDICTION STRIPPING,AND THE HAMDAN OPINIONS: A TEXTUALISTRESPONSE TO JUSTICE SCALIA

http://www.utexas.edu/law/journals/tlr/sources/Issue%2090.1/Kleinerman/RP%20CU/kleinerman.fn54.jurisdictionstripping.pdf

Hamdan argued in the Supreme Court that to read the Detainee Treatment Act to strip jurisdiction over pending habeas cases, as did Justice Scalia, “raises grave [constitutional] questions about Congress’ authority to impinge upon this Court’s appellate jurisdiction.”11 The Hamdan majority did not need to address this constitutional question because it (wrongly, in our view) read the Detainee Treatment Act to preserve jurisdiction over pending cases,12 but Justice Scalia’s construction of the statute required him to address Hamdan’s constitutional claims. He casually dismissed the possibility of any “lurking questions”13 about Congress’s power to strip the Supreme Court’s jurisdiction “in light of the aptly named ‘Exceptions Clause’ of Article III, § 2, which, in making our appellate jurisdiction subject to ‘such Exceptions and under such Regulations as the Congress shall make,’ explicitly permits exactly what Congress has done here.”14 We think that while Justice Scalia may have been right on the specific facts of Hamdan, 15 his broader claims about Congress’s power to strip jurisdiction from the Supreme Court are textually wrong. Simply put, Article III requires that the federal judiciary be able to exercise all of the judicial power of the United States that is vested by the Constitution and that the Supreme Court must have the final judicial word16 in all cases, such as Hamdan’s, that raise federal issues.

These conclusions flow quite naturally from an originalist methodology that looks to the objective meaning of the Constitution that would have been held by a hypothetical reasonable observer in 1788 and that relies primarily on textual, intratextual, and structural arguments.17 Ironically one can make a strong case for Justice Scalia’s view of congressional power to control Supreme Court jurisdiction using legislative history and consequentialist arguments—tools that Justice Scalia normally abjures. But the more one focuses on formalist arguments from text and structure, the more clear it becomes that the Supreme Court is constitutionally vested with the final judicial say on matters within (at least the first three of) the heads of jurisdiction granted to the federal courts in Article III.

## DA

### ! Calc

#### Quick timeframe of our impacts justifies intervention

Dipert 6 (Randall, PhD, Professor of Philosophy, University at Buffalo, Buffalo, “Preventive War and the Epistemological Dimension of the Morality of War,” https://www.law.upenn.edu/live/files/1291-dipert-preventive-war)

Human beings typically lack extensive, justified knowledge about the future. As we wait to act, new information can arrive or old information can be revised; we can even make new inferences from the information we had, or discover the fallaciousness of our old inferences. This is ultimately the source of the Urgency Condition and the desirability of ‘present [immediate]’ condition in the phrase ‘clear and present [danger]’: our fallibility almost always decreases with time, we have more rather than less information, and can make more leisurely and careful inferences. Our human fallibility entails that the threshold for preventive attack increases with the amount of time in advance of the expected aggression against us, since the risk of wrong assessment of such calculations as Just Cause and Chance of Success is typically proportional to the amount of time we have to gather more information or correct earlier factual or judgment errors. We should realize, however, that requirements of ‘imminence’ or ‘clear and present danger’ are wise rules of thumb, but are themselves grounded in more detailed epistemological considerations (Walzer 2004: 147). In establishing the moral justifiability of going to war in a consequentialist framework, the only factor that diminishes this effect of time-increased fallibility is the amount of harm that will befall us if we wait. Observe however that Urgency is ultimately not a separate condition, but a factor that is dependent on the epistemological status of our beliefs, combined with the general likelihood of generally decreasing fallibility. Very high levels of objective certainty of a future attack on us would require only small amounts of harm in waiting (for God, no harm to waiting is necessary), in order to justify an anticipatory attack by us, while small objective uncertainty in our judgments of future attack would require comparatively greater amounts of harm in waiting to attack in order to justify a preventive attack. In the calculus of justified war, there may be other interactions as well: the likelihood of our total destruction in an enemy first-strike would require slightly less objective certainty than would the likelihood of at worst losing a city.19 Very roughly, the justifiability in going to war, J, is positively proportion to the probability of harm of an enemy surprise attack, P, the amount of this harm, H, and the danger in waiting, W, crudely, J8/P/H/ W\*/although to be ‘minimally reasonably justifiable’ each of P, H, and W must be above a certain threshold.

#### War turns structural violence but not the other way around

Joshua Goldstein, Int’l Rel Prof @ American U, 2001, War and Gender, p. 412

First, peace activists face a dilemma in thinking about causes of war and working for peace. Many peace scholars and activists support the approach, “if you want peace, work for justice.” Then, if one believes that sexism contributes to war one can work for gender justice specifically (perhaps among others) in order to pursue peace. This approach brings strategic allies to the peace movement (women, labor, minorities), but rests on the assumption that injustices cause war. The evidence in this book suggests that causality runs at least as strongly the other way. War is not a product of capitalism, imperialism, gender, innate aggression, or any other single cause, although all of these influence wars’ outbreaks and outcomes. Rather, war has in part fueled and sustained these and other injustices.9 So,”if you want peace, work for peace.” Indeed, if you want justice (gender and others), work for peace. Causality does not run just upward through the levels of analysis, from types of individuals, societies, and governments up to war. It runs downward too. Enloe suggests that changes in attitudes towards war and the military may be the most important way to “reverse women’s oppression.” The dilemma is that peace work focused on justice brings to the peace movement energy, allies, and moral grounding, yet, in light of this book’s evidence, the emphasis on injustice as the main cause of war seems to be empirically inadequate.

#### And trials are unethical for guantanimo detainees – they revictimize them

Koss-Public Health University of Arizona-2K

Blame, Shame, and Community: Justice Responses to Violence Against Women

http://www.mincava.umn.edu/documents/koss/koss.html

Inherent traumatizing features of adversarial justice Women whose rapes and assaults are adjudicated learn that even successful convictions or civil damage awards exact a psychic price. Partner violence victims whose cases are prosecuted face stressors not present in other crimes, including being forced to testify about intimate details of their relationships, fear of losing their children and vice versa, and fear of having to raise the children alone without child support ( [Goodman et al., 1999](http://www.mincava.umn.edu/documents/koss/koss.html#goodman1999) ). Rape survivors may be dismayed that their identity is a matter of public record, that they are expected to testify about graphic details of sexual assault in open court, and that even rape shield laws fail to protect them from questions about their social and sexual history as they pertain to consent issues. Victims may be further shocked when a plea bargain to which they were not party to and do not agree with ends their recourse for justice, precluding any face-to-face encounter with the perpetrator

### Link – 2NC

#### The detention-drones tradeoff is empirically true

**Goldsmith, Harvard law professor, 2012**

(Jack, “Proxy Detention in Somalia, and the Detention-Drone Tradeoff”, June, <http://www.lawfareblog.com/2012/06/proxy-detention-in-somalia-and-the-detention-drone-tradeoff/>, ldg)

There has been speculation about the effect of the Obama administration’s pinched detention policy – i.e. no new detainees brought to GTMO, and no new detainees to Parwan (Afghanistan) from outside Afghanistan – on its other counterterrorism policies. I have long believed there must be some tradeoff between narrowing U.S. detention capabilities and other counterterrorism options, at least implicitly, and not necessarily for the better. As I wrote three years ago, in response to news reports that the Obama administration’s cutback on USG detentions resulted in more USG drone strikes and more outsourcing of rendition, detention, and interrogation: There are at least two problems with this general approach to incapacitating terrorists. First, it is not ideal for security. Sometimes it would be more useful for the United States to capture and interrogate a terrorist (if possible) than to kill him with a Predator drone. Often the United States could get better information if it, rather than another country, detained and interrogated a terrorist suspect. Detentions at Guantanamo are more secure than detentions in Bagram or in third countries. The second problem is that terrorist suspects often end up in less favorable places. Detainees in Bagram have fewer rights than prisoners at Guantanamo, and many in Middle East and South Asian prisons have fewer yet. Likewise, most detainees would rather be in one of these detention facilities than be killed by a Predator drone. We congratulate ourselves when we raise legal standards for detainees, but in many respects all we are really doing is driving the terrorist incapacitation problem out of sight, to a place where terrorist suspects are treated worse. The main response to this argument – especially as it applies to the detention-drone tradeoff – has been to deny any such tradeoff on the ground that there are no terrorists outside of Afghanistan (a) whom the United States is in a position to capture on the ground (as opposed to kill from the sky), and (b) whom the USG would like to detain and interrogate. Dan Klaidman’s book provides some counter-evidence, but I will save my analysis of that for a review I am writing. Here I would like to point to an important story by Eli Lake that reveals that the “United States soldiers have been hunting down al Qaeda affiliates in Somalia”; that U.S. military and CIA advisers work closely with the Puntland Security Force in Somalia, in part to redress piracy threats but mainly to redress threats from al-Shabab; that the Americans have since 2009 captured and brought to the Bosaso Central Prison sixteen people (unclear how many are pirates and how many are al-Shabab); and that American interrogators are involved in questioning al-Shabab suspects. The thrust of Lake’s story is that the conditions of detention at the Bosaso Central Prison are atrocious. But the story is also important for showing that that the United States is involved outside of Afghanistan in capturing members of terrorists organizations that threaten the United States, and does have a national security need to incapacitate and interrogate them. It does not follow, of course, that the USG can or should be in the business of detaining every al-Shabab suspect currently detained in the Bosaso Central Prison. But the Lake story does show that the alternatives to U.S. detention are invariably worse from a human rights perspective. It portends (along with last month’s WPR Report and related DOD press release) that our creeping involvement on the ground in places like Somalia and Yemen mean that the USG will in fact be in a position to capture higher-level terrorists in al Qaeda affiliates. And that in turn suggests that the factual premise underlying the denial of a detention-drone tradeoff will become harder and harder to defend.

### Yes Terrorism

#### Osama-getting nukes religious priority, attempts at capture have already happened, central Asian black market has nukes for cheap.

#### High risk of terrorism-current safety is an incomplete patchwork.

**Luongo et al., Partnership for Global Security president, 2012**

(Kenneth, “Nuclear Terrorism: A Clear Danger”, 3-15, <http://www.nytimes.com/2012/03/16/opinion/nuclear-terrorism-a-clear-danger.html?_r=1&>, ldg)

Terrorists exploit gaps in security. The current global regime for protecting the nuclear materials that terrorists desire for their ultimate weapon is far from seamless. It is based largely on unaccountable, voluntary arrangements that are inconsistent across borders. Its weak links make it dangerous and inadequate to prevent nuclear terrorism. Later this month in Seoul, the more than 50 world leaders who will gather for the second Nuclear Security Summit need to seize the opportunity to start developing an accountable regime to prevent nuclear terrorism. There is a consensus among international leaders that the threat of nuclear terrorism is real, not a Hollywood confection. President Obama, the leaders of 46 other nations, the heads of the International Atomic Energy Agency and the United Nations, and numerous experts have called nuclear terrorism one of the most serious threats to global security and stability. It is also preventable with more aggressive action. At least four terrorist groups, including Al Qaeda, have demonstrated interest in using a nuclear device. These groups operate in or near states with histories of questionable nuclear security practices. Terrorists do not need to steal a nuclear weapon. It is quite possible to make an improvised nuclear device from highly enriched uranium or plutonium being used for civilian purposes. And there is a black market in such material. There have been 18 confirmed thefts or loss of weapons-usable nuclear material. In 2011, the Moldovan police broke up part of a smuggling ring attempting to sell highly enriched uranium; one member is thought to remain at large with a kilogram of this material. A terrorist nuclear explosion could kill hundreds of thousands, create billions of dollars in damages and undermine the global economy. Former Secretary General Kofi Annan of the United Nations said that an act of nuclear terrorism “would thrust tens of millions of people into dire poverty” and create “a second death toll throughout the developing world.” Surely after such an event, global leaders would produce a strong global system to ensure nuclear security. There is no reason to wait for a catastrophe to build such a system. The conventional wisdom is that domestic regulations, U.N. Security Council resolutions, G-8 initiatives, I.A.E.A. activities and other voluntary efforts will prevent nuclear terrorism. But existing global arrangements for nuclear security lack uniformity and coherence. There are no globally agreed standards for effectively securing nuclear material. There is no obligation to follow the voluntary standards that do exist and no institution, not even the I.A.E.A., with a mandate to evaluate nuclear security performance. This patchwork approach provides the appearance of dealing with nuclear security; the reality is there are gaps through which a determined terrorist group could drive one or more nuclear devices.

**Their evidence is all just like “there are a lot of steps” --- ya obviously, and our authors considered all of them --- the risk is real**

Peter **Beinart 8**, associate professor of journalism and political science at CUNY, The Good Fight; Why Liberals – and only Liberals – Can Win the War on Terror and Make America Great Again, 106-7

For all these reasons, jihadists seem less intent on acquiring a finished nuclear weapon than on acquiring weapons- grade uranium and building the bomb themselves. In the early 1990s, Al Qaeda bought a 3- foot- long cylinder from a Sudanese military officer who said it contained South African highly enriched uranium. It turned out to be a hoax. Jihadists have reportedly made other failed attempts as well. Eventually, however, they could succeed. Moscow may adequately protect its nuclear weapons, but the National Academy of Sciences has warned that “large inventories of SNM [fissile material] are stored at many sites that apparently lack inventory controls.” And the Russians reportedly experience one or two attempted thefts of that material a year—that they know of. ¶ If Al Qaeda obtained 50 kilograms of weapons-g rade uranium, the hardest part would be over. The simplest nuke to build is the kind the United States dropped on Hiroshima, a “gun- type,” in which a mass of highly enriched uranium is fired down a large gun barrel into a second uranium mass. Instructions for how to make one are widely available. Just how widely available became clear to an elderly nuclear physicist named Theodore Taylor in 2002, when he looked up “atomic bomb” in the World Book Encyclopedia in his upstate New York nursing home, and found much of the information you’d need. ¶ Even with directions, building a nuclear bomb would still be a monumental task. According to a New York Times Magazine article by Bill Keller, in 1986 five Los Alamos nuke builders wrote a paper called “Can Terrorists Build Nuclear Weapons?” They concluded that it would require people who understood “the physical, chemical and metallurgical proper-¶ 107¶ ties of the various materials to be used, as well as characteristics affecting their fabrication; neutronic properties; radiation effects, both nuclear and biological; technology concerning high explosives and/or chemical pro- pellants; some hydrodynamics; electrical circuitry.” That sounds daunting. **Yet, at the end of the paper, the scientists answered their question: “Yes, they can.”** ¶Finally, once terrorists built a nuclear weapon, they’d still have to smuggle it into the United States. The best way might be to put it in a shipping container, on one of the many supertankers that bring oil into American ports every day. The containers are huge, more than big enough to fit a gun-t ype nuke, which could be as small as 6 feet in length and 6 inches in diameter. Highly enriched uranium emits much less radiation than plutonium, and inside a supertanker’s thick double-steel hull it would be hard for sensors to detect. What’s more, a single ship can carry several thousand containers, most of which are never searched. On September 11, 2002, ABC News smuggled a 15- pound cylinder of depleted uranium in a cargo container past U.S. customs. On September 11, 2003, they performed the same exercise—and got the uranium past customs again.

#### Their argument essentializes terror scholarship – it’s not a monolithic entity – defer to specific research

Michael J. Boyle '8, School of International Relations, University of St. Andrews, and John Horgan, International Center for the Study of Terrorism, Department of Psychology, Pennsylvania State University, April 2008, “A Case Against Critical Terrorism Studies,” Critical Studies On Terrorism, Vol. 1, No. 1, p. 51-64

Some CTS advocates have positioned the CTS project against something usually called ‘terrorism studies’, ‘Orthodox terrorism studies’ or, alternatively, ‘terrorology’. Whatever these bodies of literature are (or at least are imagined by those who have created them as such), they are recent intellectual constructions, the product of an over-generalization that has emerged from the identification of (1) the limitations associated with terrorism research to date, coupled with (2) a less than complete understanding of the nature of research on terrorism. **A cursory review of the terrorism literature reveals that attempts to generalize about something called Orthodox Terrorism Studies are deeply problematic. Among terrorism scholars, there are wide disagreements about, among others, the definition of terrorism, the causes of terrorism, the role and value of the concept of ‘radicalization’ and ‘extremism’, the role of state terror, the role that foreign policy plays in motivating or facilitating terrorism, the ethics of terrorism, and the proper way to conduct ‘counter-terrorism’**. A cursory examination of the contents of the two most well-known terrorism journals Terrorism and Political Violence and Studies in Conflict and Terrorism quickly reveals this. **These differences, and the concomitant disagreements that result in the literature, cut across disciplines** – principally political science and psychology, but also others, such as anthropology, sociology, theology, and philosophy – **and even within disciplines wide disagreements about methods** (for example, discourse analysis, rational choice, among others) **persist. To suggest that they can be lumped together as something called ‘terrorology’ or ‘Orthodox Terrorism Studies’ belies a narrow reading of the literature. This is, in short, a ‘straw man’ which helps position CTS in the field but is not based on a well-grounded critique of the current research on terrorism.**

#### Terrorism studies are epistemologically and methodologically valid---our authors are self-reflexive

Michael J. Boyle '8, School of International Relations, University of St. Andrews, and John Horgan, International Center for the Study of Terrorism, Department of Psychology, Pennsylvania State University, April 2008, “A Case Against Critical Terrorism Studies,” Critical Studies On Terrorism, Vol. 1, No. 1, p. 51-64

Jackson (2007c) calls for the development of an explicitly CTS on the basis of what he argues preceded it, dubbed ‘Orthodox Terrorism Studies’. The latter, he suggests, is characterized by: (1) its poor methods and theories, (2) its state centricity, (3) its problemsolving orientation, and (4) its institutional and intellectual links to state security projects. Jackson argues that the major defining characteristic of CTS, on the other hand, should be ‘a skeptical attitude towards accepted terrorism “knowledge”’. **An implicit presumption from this is that terrorism scholars have laboured for all of these years without being aware that their area of study has an implicit bias, as well as definitional and methodological** **problems**. In fact**, terrorism scholars are not only well aware of these problems, but also have provided their own** searching **critiques** of the field at various points during the last few decades (e.g. Silke 1996, Crenshaw 1998, Gordon 1999, Horgan 2005, esp. ch. 2, ‘Understanding Terrorism’). **Some of those scholars most associated with the critique of empiricism** implied in ‘Orthodox Terrorism Studies’ **have also engaged in deeply critical examinations of the nature of sources, methods, and data in the study of terrorism**. For example, Jackson (2007a) regularly cites the handbook produced by **Schmid and Jongman** (1988) to support his claims that theoretical progress has been limited. But this fact was well recognized by the authors; indeed, in the introduction of the second edition they **point out** that they have not revised their chapter on theories of terrorism from the first edition, because the **failure to address** persistent conceptual and **data problems** has undermined progress in the field. The point of their handbook was to sharpen and make more comprehensive the result of research on terrorism, not to glide over its methodological and definitional failings (Schmid and Jongman 1988, p. xiv). Similarly, **Silke’s** (2004) **volume on the state of the field of terrorism research performed a similar function**, highlighting the shortcomings of the field, in particular the lack of rigorous primary data collection. **A non-reflective community of scholars does not produce such scathing indictments of its own work.**

## Case

### Util

#### Goodness of intentions doesn’t mean good outcomes, evaualte consequences otherwise you have moral tunnel vision and are complicit in greater evils, that’s Issac Appeal to consequences is inevitable

**Epstein, Chicago law professor, 1996**

(Richard, “SYMPOSIUM: THE TORT/CRIME DISTINCTION: A GENERATION LATER”, Februrary/April, 76 B.U.L. Rev. 1, lexis, ldg)

Similarly, on questions of method, I believe that the deontological approach is wrong insofar as it claims that its normative conclusions can be denied only on pain of self-contradiction. Today many writers believe that the protection of individual autonomy is not a primary goal of legal rules, but that, to the contrary, any "natural" distribution of talents is determined largely by luck and hence morally arbitrary. n5 Given this perspective, it follows that legal rules should introduce certain measures of sharing across individuals, if not by forced labor, then by systems of taxation and regulation that redistribute the fruits of individual labor. n6 One can argue against these views, but hardly on the ground that they are self-contradictory, or even that they are morally suspect in their effort to raise [\*3] the level of the least fortunate closer to the level enjoyed by those who have a greater share of natural abilities and endowments. A defense of the older regime of individual liberties and properties cannot rest on a simple assertion that people have rights and that other individuals are not allowed to do actions that violate those rights. n7 One has to show why any given configuration of rights is superior to its rival conceptions, an undertaking that typically requires an appeal to consequences, less for particular cases, and more for some overall assessment of how alternative legal regimes play out in the long run. In a word, one has to become a utilitarian of some stripe to justify rules in terms of the consequences they bring about. n8

### S

#### The public and party structures are committed to an aggressive foreign policy-it’s what the people want-and any outbreak of terrorism will turn us more neocon

**McDonough, Dalhousie Centre for Foreign Policy Studies fellow, 2009**

(David, “Beyond Primacy: Hegemony and ‘Security Addiction’ in U.S. Grand Strategy”, Winter, Orbis, ScienceDirect, ldg)

The reason that the current debate is currently mired in second-order issues of multilateral versus unilateral legitimacy can be attributed to the post 9/11 security environment. A grand strategy is, after all, ‘‘a state’s theory about how it can best cause security for itself.’’ 35 It would be prudent to examine why the neoconservative ‘‘theory’’ proved to be so attractive to American decision-makers after the 9/11 attacks, and why the Democrats have begun to rely on an equally primacist ‘‘theory’’ of their own. As Charles Kupchan has demonstrated, a sense of vulnerability is often directly associated with dramatic shifts in a state’s grand strategy. Kupchan is, of course, largely concerned with vulnerability to changes in the global distribution of power. 36 Even so, the 9/11 terrorist attacks have dramatically increased the U.S. sense of strategic vulnerability to both global terrorist organizations like Al Qaeda and even to more traditional threats that are seen, as Donald Rumsfeld said, ‘‘in a dramatic new light–through the prism of our experience on 9/11.’’ 37 Perhaps more than any previous terrorist action, these attacks demonstrated the potential inﬂuence of non-state terrorist groups like Al Qaeda. U.S. strategic primacy makes conventional responses unattractive and ultimately futile to potential adversaries. The country’s societal vulnerability to terrorist attacks will likewise lead to extremely costly defensive reactions against otherwise limited attacks. For both the United States and its asymmetrical adversaries, the advantage clearly favors the offense over the defense. With the innumerable list of potential targets, ‘‘preemptive and preventive attacks will accomplish more against. . .[terrorists or their support structures], dollar for dollar, than the investment in passive defenses.’’ 38 As former Undersecretary of Defense for Policy Douglas Feith has argued, a primary reliance on defense requires instrusive security measures that would inevitably endanger American civil liberties and curtail its free and open society. 39 Strategic preponderance ensures that the United States will continue to face adversaries eager to implement asymmetrical tactics, even as it offers the very resources necessary to implement both offensive and less effective defensive measures. Unfortunately, terrorist groups with strategic reach (i.e., capable of inﬂuencing the actions of states) will likely increase in the coming years due to a combination of factors, including the ‘‘democractization of technology,’’ the ‘‘privatization of war’’ and the ‘‘miniaturization of weaponry.’’ As more groups are imbued with sophisticated technological capabilities and are able to employ increasingly lethal weapons, the United States will be forced to rely even further on its unprecedented global military capabilities to eliminate this threat. The global war on terror, even with tactical successes against al Qaeda, will likely result in an inconclusive ending marked by the fragmentation and proliferation of terrorist spoiler groups. The ‘‘Israelization’’ of the United States, in which ‘‘security trumps everything,’’ will be no temporary phenomenon. 40 Realism provides an insufﬁcient means for understanding the current post-9/11 strategic threat environment and underestimates the potential impact of the terrorist threat on the American sense of vulnerability. Globalized terrorism must be confronted by proactive measures to reduce the domestic vulnerability to attack and to eliminate these organizations in their external sanctuaries. Even then, these measures will never be able to ensure ‘‘perfect security.’’ As a result, signiﬁcant public pressure for expanded security measures will arise after any attack. The United States will be consumed with what Frank Harvey has termed security addiction: ‘‘As expectations for acceptable levels of pain decrease, billions of dollars will continue to be spent by both parties in a never-ending competition to convince the American public that their party’s programs are different and more likely to succeed.’’ 41 This addiction has an important impact on the dramatically rising levels of homeland security spending. Indeed, while this increased spending is an inevitable and prudent reaction to the terrorist threat, it also creates high public expectations that will only amplify outrage in a security failure. 42 Relatedly, American strategic preponderance plays an important role in facilitating a vigorous international response to globalized terrorism, including the use of coercive military options and interventions. A primacist strategy has the dual attraction of both maximizing U.S. strategic dominance and convincing the public of a party’s national security credentials. Indeed, the Republicans had developed a strong advantage in electoral politics by its adherence to a strong military and aggressive strategy, and the Democrats in turn ‘‘learned the lesson of its vulnerability on the issue and [...] explicitly declared its devotion to national security and support for the military.’’ 43 The 9/11 attacks may not have altered the distribution of power amongst major states, but it has directly created a domestic political situation marked by an addiction to expansive security measures that are needed to satisfy increasingly high public expectations. In such a climate, it is easy to see why the neo-conservatives were so successful in selling their strategic vision. The fact that the United States has effectively settled on a grand strategy of primacy in the post-9/11 period should come as no surprise. **It is simply inconceivable that a political party could successfully advocate a grand strategy that does not embrace military preeminence and interventionism**, two factors that are seen to provide a deﬁnite advantage in the pursuit of a ‘‘global war on terror.’’ Political parties may disagree on the necessary tactics to eliminate the terrorist threat. But with increased vulnerability and security addiction, the United States will continue to embrace strategies of primacy– rather than going ‘‘beyond primacy’’–for much of the Long War.

### AT: Justifies Endless War

#### Assign minimal risk – paranoia and misperception.

Posner and Vermeule 2009

Eric and Adrian, Professors of Law @ Chicago and Harvard, Tyrannophobia, September 15, 2009

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.

### Rodwell

#### Discourse analysis is tautology; if nothing is neutral all of their evidence has the same epistemological bias---linear causality is inevitable and has explanatory power---disads first

Rodwell 5 (Jonathan Rodwell is a PhD student at Manchester Met. researching the U.S. Foreign Policy of the late 70's / rise of ‘neo-cons’ and Second Cold War, “Trendy But Empty: A Response to Richard Jackson,” http://www.49thparallel.bham.ac.uk/back/issue15/rodwell1.htm)

Next, discourse analysis as practiced exists within an enormous logical cul-de-sac. Born of the original premise that each discourse and explanation has it’s own realities, what results is a theoretical approach in which a critique is actually impossible because by post-structural logic a critique can only operate within it’s own discursive structure and on it’s own terms. If things only exist within specific languages and discourse you must share the basic premises of that discourse to be able to say anything about it. But what useful criticisms can you make if you share fundamental assumptions? Moreover remembering the much argued for normative purposes of Jackson’s case he talks about the effects of naturalizing language and without blushing criticises the dangerous anti-terror rhetoric of George W. Bush. The only problem is Jackson has attempted to illustrate that what is moral or immoral depends on the values and structures of each discourse. Therefore why should a reader believe Richard Jackson’s idea of right and wrong any more than George W. Bush’s? Fundamentally if he wishes to maintain that each discourse is specific to each intellectual framework Jackson cannot criticise at all. By his own epistemological rules if he is inside those discourses he shares their assumptions, outside they make no sense What actually occurs then is an aporia - a logical contraction where a works own stated epistemological premises rob it of the ability to contain any critical force. Such arguments are caught between the desire to maintain that all discursive practices construct their own truths, in which case critiques are not possible as they are merely one of countless possible discursive truths with no actually reason to take then seriously, or an appeal to material reality, but again the entire premises of post structural linguistics rejects the idea of a material reality.[vii] In starting from a premise that it is not possible to neutrally describe the real world, the result is that without that real world, discourse analysis actually has nothing to say. The issue of the material real world, or ‘evidence’ is actually the issue at the heart of the weakness of post-structural discourse analysis, though it does hold the potential to at least rescue some of it’s usefulness. The problem is simple, in that the only way Jackson or any post-structuralist can operationalise their argument is with an appeal to material evidence. But by the logic of discourse analysis there is no such thing as neutral ‘evidence’. To square this circle many post-struturalist writers do seem to hint at complexity and what post-structural culturalists might call ‘intertextuality’, arguing for ‘favouring a complexity of interactions’ rather than ‘linear causality’[viii]. The implication is that language is just one of an endless web of factors and surely this prompts one to pursue an understanding of these links. However, to do so would dangerously undermine the entire post-structural project as again, if there are discoverable links between factors, then there are material facts that are identifiable regardless of language. Consequently, rather than seeking to understand the links between factors what seems to happen is hands are thrown up in despair as the search for complexity is dropped as quickly as it is picked up. The result is one-dimensional arguments that again can say little. This is evident in Jackson’s approach as he details how words have histories and moreover are part of a dialectic process in which ‘they not only shape social structures but are also shaped by them’.[ix] However we do not then see any discussion of whether, therefore, it is not discourse that is the powerful tool but the effect of the history and the social structure itself. Throughout Jackson’s argument it is a top down process in which discourse disciplines society to follow the desire of the dominant, but here is an instance of a dialectic process where society may actually be the originating force, allowing the discourse in turn to actually to be more powerful. However we simply see no exploration of this potential dialectic process, merely the suggestion it exists.

## 1nr

Rather, we either are relying on host-state intervention or we are limiting ourselves to surveillance. Very hard to know how much of each might be going on, of course. If it is occurring often, moreover, it might reflect a decline in host-state willingness to cooperate with us (in light of increased domestic and diplomatic pressure from being seen to be responsible for funneling someone into our hands, and the backdrop understanding that, in the age of wikileaks, we simply can’t promise credibly that such cooperation will be kept secret)

## Case

#### Discoursive othering doesn’t result in uncontrollable violence – it is illogical to think the discourse surrounding the war on terror will lead to rampant interventions – our Rodwell evidence says that Iraq and Afghanistan show that the discourse is constrained by the possibility of long protracted unpopular conflicts and that discoursive othering didn’t lead to wars with China, North Korea, Iran, etc. – that takes out their empirics claims – I’ll read the rest of the Rodwell Card Now

If the discourse is so powerfully useful in it’s own right why could it not have happened anywhere at any time and more often? Why could the British government not have been able to justify an armed invasion and regime change in Northern Ireland throughout the terrorist violence of the 1980’s? Surely they could have just employed the same discursive trickery as George W. Bush? Jackson is absolutely right when he points out that the actuall threat posed by Afghanistan or Iraq today may have been thoroughly misguided and conflated and that there must be more to explain why those wars were enacted at that time. Unfortunately that explanation cannot simply come from the result of inscripting identity and discourse. On top of this there is the clear problem that the consequences of the discursive othering are not necessarily what Jackson would seem to identify. This is a problem consistent through David Campbell’s original work on which Jackson’s approach is based[iii]. David Campbell argued for a linguistic process that ‘always results in an other being marginalized’ or has the potential for ‘demonisation’[iv]. At the same time Jackson, building upon this, maintains without qualification that the systematic and institutionalised abuse of Iraqi prisoners first exposed in April 2004 “is a direct consequence of the language used by senior administration officials: conceiving of terrorist suspects as ‘evil’, ‘inhuman’ and ‘faceless enemies of freedom creates an atmosphere where abuses become normalised and tolerated”[v]. The only problem is that the process of differentiation does not actually necessarily produce dislike or antagonism. In the 1940’s and 50’s even subjected to the language of the ‘Red Scare’ it’s obvious not all Americans came to see the Soviets as an ‘other’ of their nightmares. And in Iraq the abuses of Iraqi prisoners are isolated cases, it is not the case that the U.S. militarily summarily abuses prisoners as a result of language. Surely the massive protest against the war, even in the U.S. itself, is also a self evident example that the language of ‘evil’ and ‘inhumanity’ does not necessarily produce an outcome that marginalises or demonises an ‘other’. Indeed one of the points of discourse is that we are continually differentiating ourselves from all others around us without this necessarily leading us to hate fear or abuse anyone.[vi] Consequently, the clear fear of the Soviet Union during the height of the Cold War, and the abuses at Abu Ghirab are unusual cases. To understand what is going on we must ask how far can the process of inscripting identity really go towards explaining them? As a result at best all discourse analysis provides us with is a set of universals and a heuristic model

#### Discourse analysis is tautology; if nothing is neutral all of their evidence has the same epistemological bias---linear causality is inevitable and has explanatory power---disads first

Rodwell 5 (Jonathan Rodwell is a PhD student at Manchester Met. researching the U.S. Foreign Policy of the late 70's / rise of ‘neo-cons’ and Second Cold War, “Trendy But Empty: A Response to Richard Jackson,” http://www.49thparallel.bham.ac.uk/back/issue15/rodwell1.htm)

Next, discourse analysis as practiced exists within an enormous logical cul-de-sac. Born of the original premise that each discourse and explanation has it’s own realities, what results is a theoretical approach in which a critique is actually impossible because by post-structural logic a critique can only operate within it’s own discursive structure and on it’s own terms. If things only exist within specific languages and discourse you must share the basic premises of that discourse to be able to say anything about it. But what useful criticisms can you make if you share fundamental assumptions? Moreover remembering the much argued for normative purposes of Jackson’s case he talks about the effects of naturalizing language and without blushing criticises the dangerous anti-terror rhetoric of George W. Bush. The only problem is Jackson has attempted to illustrate that what is moral or immoral depends on the values and structures of each discourse. Therefore why should a reader believe Richard Jackson’s idea of right and wrong any more than George W. Bush’s? Fundamentally if he wishes to maintain that each discourse is specific to each intellectual framework Jackson cannot criticise at all. By his own epistemological rules if he is inside those discourses he shares their assumptions, outside they make no sense What actually occurs then is an aporia - a logical contraction where a works own stated epistemological premises rob it of the ability to contain any critical force. Such arguments are caught between the desire to maintain that all discursive practices construct their own truths, in which case critiques are not possible as they are merely one of countless possible discursive truths with no actually reason to take then seriously, or an appeal to material reality, but again the entire premises of post structural linguistics rejects the idea of a material reality.[vii] In starting from a premise that it is not possible to neutrally describe the real world, the result is that without that real world, discourse analysis actually has nothing to say. The issue of the material real world, or ‘evidence’ is actually the issue at the heart of the weakness of post-structural discourse analysis, though it does hold the potential to at least rescue some of it’s usefulness. The problem is simple, in that the only way Jackson or any post-structuralist can operationalise their argument is with an appeal to material evidence. But by the logic of discourse analysis there is no such thing as neutral ‘evidence’. To square this circle many post-struturalist writers do seem to hint at complexity and what post-structural culturalists might call ‘intertextuality’, arguing for ‘favouring a complexity of interactions’ rather than ‘linear causality’[viii]. The implication is that language is just one of an endless web of factors and surely this prompts one to pursue an understanding of these links. However, to do so would dangerously undermine the entire post-structural project as again, if there are discoverable links between factors, then there are material facts that are identifiable regardless of language. Consequently, rather than seeking to understand the links between factors what seems to happen is hands are thrown up in despair as the search for complexity is dropped as quickly as it is picked up. The result is one-dimensional arguments that again can say little. This is evident in Jackson’s approach as he details how words have histories and moreover are part of a dialectic process in which ‘they not only shape social structures but are also shaped by them’.[ix] However we do not then see any discussion of whether, therefore, it is not discourse that is the powerful tool but the effect of the history and the social structure itself. Throughout Jackson’s argument it is a top down process in which discourse disciplines society to follow the desire of the dominant, but here is an instance of a dialectic process where society may actually be the originating force, allowing the discourse in turn to actually to be more powerful. However we simply see no exploration of this potential dialectic process, merely the suggestion it exists.

## TPA

### 1NR Impact

#### Trade solves nuclear war in unstable regions and empirically prevents outbreak of conflict – turns their claims about U.S. imperialism because they know going to war will result in a destruction of their own economic resources and incentives

Weede 2010

Erich, Professor of Sociology University of Bonn, The Capitalist Peace and the Rise of China: Establishing Global Harmony by Economic Interdependence International Interactions. Apr-Jun2010, Vol. 36 Issue 2, p206-213

Historically, the rise and fall of great powers has been related to great wars. Both world wars of the twentieth century would not have been possible without the previous industrialization and rise of Germany. World War II, which in Asia was a war between the Japanese on the one hand and the Western powers and China on the other hand, would not have been conceivable without the previous rise of Japan. The early phase of the Vietnam War has to be understood against the background of a declining France. If the rise and fall of great powers indicate great dangers, then one should question whether the world can peacefully accommodate a rising China. Here it is argued that the capitalist peace offers the best way to manage the coming power transition between China and the West. 1 China is rising. In the thirty years after Deng Xiaoping began economic reforms the Chinese economy grew nearly by a factor of ten. Recently, the West suffered from negative growth rates whereas China grows by about 8 percent a year. The difference in growth rates between China and the West has been about 10 percent. A power transition of such speed is without historical precedent. Given its size China is a “natural” great power— unlike Britain, France, or Germany. Even the combined population of the United States and the European Union does not approach the population size of China. If China outgrows poverty, then it must become a world power. Although war in the nuclear age threatens to be much worse than any previous world war, fear of nuclear war itself might exert some pacifying impact. Such fear, however, need not be our only protection against future wars. Economic interdependence itself makes war less likely. One finding of quantitative research is that military conflict becomes less likely if a pair of nations—say China and the United States, or China and India, or China and Japan—trade a lot with each other (Hegre 2009; Oneal and Russett 2005; Russett and Oneal 2001). Fortunately, all of them do. One may label this effect “peace by free trade”. Foreign investment has some beneficial impact, too (Souva and Prins 2006). Moreover, economic freedom reduces nvolvement in military conflict, and financial market openness reduces the risk of war, too (Gartzke 2005, 2007, 2009). Quantitative research has demonstrated that there is something like a capitalist peace. Until a few years ago it looked as if the democratic peace were solid and robust whereas the capitalist peace between free traders was less so. Now, however, the democratic peace looks more conditional: It is not only restricted to relations between democracies, but might also be restricted to developed or market democracies (Mousseau 2005, 2009). It has been doubted whether it applies to the poorest democracies. Moreover, the less mature or perfect the democracies are, the weaker the democratic peace is. By contrast, peace by free trade or economic freedom looks more robust. Pacifying effects are not restricted to relationships between free traders on both sides of a dispute (Russett 2009:19). Moreover, the trade to GDP ratio is no longer the only or even the best way to document the pacifying effects of economic freedom or the invisible hand. By applying innovative measures of free markets, such as avoidance of too much public property ownership and protectionism, one may argue in favor of much more robustly pacifying effects of economic freedom than of political freedom (McDonald 2009). The occurrence of World War I is the standard argument against peace by trade or economic interdependence because there was substantial economic interdependence between the Western powers and the Central European powers. Certainly, World War I serves as a useful reminder that commerce makes war less likely without making it impossible. But World War I is not as much of a problem for capitalist peace theory as frequently assumed. Moreover, there was no democratic contribution to pacification because the Central European powers were, at best, imperfect democracies. By contemporary standards, even the democratic character of the United Kingdom was not beyond suspicion because of franchise limitations. As far as trade linkages were concerned they were strongest where least needed— between Britain and France, between Britain and the United States, between Germany and Austria-Hungary. These pairs ended up on the same side in the war. Whereas strong trade links between Germany on the one hand and Britain or Russia on the other hand did not prevent them from fighting each other, Germany and France exemplify weak trade ties where strong ties were needed most in order to avoid hostilities (Russett and Oneal 2001:175). Skeptics rightly observe that increasing trade did not prevent World War I, but they overlook that trade volumes rose not because of free trade policies, but in spite of mounting protectionism. Trade increased because of falling transportation costs, but in spite of protectionist policies. Finally, capitalist or commercial peace theory is an admittedly incomplete theory. It says only how risks of war may be reduced but it says nothing about what generates them in the first place. But commercial peace theory is certainly compatible with World War II, which was even bloodier than the previous world war as well as with the later reconciliation between the former Axis powers and the West. There was little trade between the Western powers and the Axis powers. Since the Axis powers were not democracies, the democratic peace could also not apply between the Axis and the West. The different long-term effects of the settlements of both world wars may be explained by differences in application of a capitalist peace strategy toward the losers of the wars. After World War I France influenced the settlement more than anyone else. It did not even think of a commercial peace strategy. Misery and desperation within Germany contributed to Hitler’s empowerment and indirectly to World War II. After World War II, the United States, however, pursued a capitalist peace strategy toward the vanquished. It promoted global free trade and subsidized even the recovery of the losers of the war. Germany and Japan became prosperous and allies of the United States.

#### Trade solves structural violence

Trebilcock 2005

Michael J., Professor of Law and Economics, University of Toronto Faculty of Law, Critiquing the Critics of Economic Globalization, Journal of International Law & International Relations Vol. 1(1-2) http://www.jilir.org/docs/vol1no1-2/JILIR%201(1-2)%20Trebilcock-Critiquing%20the%20Critics%20of%20Economic%20Globalization.pdf

Although the critics’ arguments have been largely negated by empirical evidence, it is questionable whether even a finding of empirical correlation would have bolstered their arguments regarding a causal relationship between globalization and domestic income inequality. This is because at a fundamental level globalization is about wealth generation. Producing goods and supplying services across national boundaries allows comparative advantages of trading partners to decrease the overall cost of supplying all parties to a transaction with desired products. However, once the wealth is generated globalization does not necessarily dictate how that wealth is distributed within nations. Although economic conditions may create a predilection for benefiting a particular group (for instance, capital holders may benefit proportionately more if a country specializes in capital-intensive goods, or on the contrary, labor may benefit relatively more if demand for it rises), perhaps the most economically important action of governments has been to redistribute wealth according to broader policy considerations. Consequently, to the extent that a correlation between globalization and inequality existed, it is unclear whether it should be attributed to the causal effects of globalization, or more simply the lack of appropriate redistribution mechanisms at the state level. The same state can globalize with vastly different effects on domestic income inequality, depending on the redistributive mechanisms it employs. The analysis extends to the arguments of the anti-globalization critics regarding the disproportionate costs of globalization borne by certain segments of society. To the extent this is true, as has been argued vehemently by the left in America, the supposed plight of those negatively affected has less to do with globalization than it does with a conscious decision not redistribute the gains from globalization to the affected parties. On the other hand, the experience of a number of the High Performance Asian Economies suggests that government policies to redistribute wealth can markedly decrease levels of inequality. The merits of such policies are, at least to some degree, separate from the issue of whether globalization gives a society more resources with which to make distribution choices, which it undoubtedly does. This is merely a reflection of the fact that globalization is not Pareto-efficient (where everybody is made better-off), but is Kaldor-Hicks-efficient (in that the winners could compensate the losers and still be better off). In summary, the empirical evidence suggests that open economies tend to grow faster than closed economies; that withincountry inequalities have generally not been increasing substantially; that global income inequalities measured on a population basis have been declining; that absolute levels of poverty have been declining sharply measured as a percentage of the world’s population and more modestly in terms of absolute numbers (reflecting population growth), but that between-country inequalities have been rising sharply, suggesting that many developing countries have become increasingly marginalized in the international economy (raising important questions of domestic governance and remaining external barriers to their effective participation in global trade and investment).

### 1NR A2: Grievance DA

#### Grievance doesn’t outweigh nuclear war – prefer utilitarian calculus because it is the only ethical option in the face of large magnitude threats that have the possibility of extinction

Torbjörn Tännsjö 11, the Kristian Claëson Professor of Practical Philosophy at Stockholm University, 2011, “Shalt Thou Sometimes Murder? On the Ethics of Killing,” online: http://people.su.se/~jolso/HS-texter/shaltthou.pdf

I suppose it is correct to say that, if Schopenhauer is right, if life is never worth living, then according to utilitarianism we should all commit suicide and put an end to humanity. But this does not mean that, each of us should commit suicide. I commented on this in chapter two when I presented the idea that utilitarianism should be applied, not only to individual actions, but to collective actions as well.¶ It is a well-known fact that people rarely commit suicide. Some even claim that no one who is mentally sound commits suicide. Could that be taken as evidence for the claim that people live lives worth living? That would be rash. Many people are not utilitarians. They may avoid suicide because they believe that it is morally wrong to kill oneself. It is also a possibility that, even if people lead lives not worth living, they believe they do. And even if some may believe that their lives, up to now, have not been worth living, their future lives will be better. They may be mistaken about this. They may hold false expectations about the future.¶ From the point of view of evolutionary biology, it is natural to assume that people should rarely commit suicide. If we set old age to one side, it has poor survival value (of one’s genes) to kill oneself. So it should be expected that it is difficult for ordinary people to kill themselves. But then theories about cognitive dissonance, known from psychology, should warn us that we may come to believe that we live better lives than we do.¶ My strong belief is that most of us live lives worth living. However, I do believe that our lives are close to the point where they stop being worth living. But then it is at least not very far-fetched to think that they may be worth not living, after all. My assessment may be too optimistic.¶ Let us just for the sake of the argument assume that our lives are not worth living, and let us accept that, if this is so, we should all kill ourselves. As I noted above, this does not answer the question what we should do, each one of us. My conjecture is that we should not commit suicide. The explanation is simple. If I kill myself, many people will suffer. Here is a rough explanation of how this will happen: ¶ ... suicide “survivors” confront a complex array of feelings. Various forms of guilt are quite common, such as that arising from (a) the belief that one contributed to the suicidal person's anguish, or (b) the failure to recognize that anguish, or (c) the inability to prevent the suicidal act itself. Suicide also leads to rage, loneliness, and awareness of vulnerability in those left behind. Indeed, the sense that suicide is an essentially selfish act dominates many popular perceptions of suicide. ¶ The fact that all our lives lack meaning, if they do, does not mean that others will follow my example. They will go on with their lives and their false expectations — at least for a while devastated because of my suicide. But then I have an obligation, for their sake, to go on with my life. It is highly likely that, by committing suicide, I create more suffering (in their lives) than I avoid (in my life).

#### Indefinite detention doesn’t mean destruction of value to life because life always has value

Etzioni, 2009 (Amitai, Ph.D. in Sociology from Berkeley, professor of international affairs at The George Washington University, “The Obama Doctrine,” July 21, http://blog.amitaietzioni.org/2009/07/index.html)

Still, one should not overlook that it also has a clear and strong normative underpinning. The observation that we value the right to life more than any other is reflected in the finding that in the criminal codes of all free nations, taking a life is punished much more severely than any other violation of rights. Moreover, ranking the value of life over most, if not all, other values reflects on the elementary but profound truth that the respect for all other rights depends on the sanctity of life. People who are shot dead gain little if they have right to freedom of speech, religion, assembly, and so on. In contrast, those whose lives are well protected can live to fight another day, to struggle to gain their other rights. Hence the profound value of promoting security first.

### 1NR A2: TPA/TPP Failing

TPA has momentum-Will pass this month

Hinz-Chicago Business-1/2/14

http://www.chicagobusiness.com/article/20140102/BLOGS02/140109985#

Fight builds to give Obama fast-track trade authority

January 02, 2014

Big Illinois exporters could get a vote very early this new year on something they've wanted for a long time: fast-track authority for President Barack Obama to negotiate new international trade deals. But the issue in the House now is "very close." So says North Side congressman Mike Quigley, who unlike many Democratic House members says action is needed despite concerns from labor and some other groups. Like it or not, "this is a global economy," said Mr. Quigley in an interview earlier this week. "If you're not at the bargaining table, if you don't get an agreement, someone else does," he said, referring specifically to China, which has been building ties rapidly with some of America's traditionally strong trading partners in Asia. "You'll be left in the dust." Many top Illinois businesses already are lobbying to extend Trade Promotion Authority, as fast-track formally is known. "From the 1930s until 2007, Congress has authorized every president to pursue trade agreements that open markets for U.S. goods and services," Caterpillar Inc. Chairman and CEO Doug Oberhelman wrote in a recent guest editorial. "Today, trade supports more than one in five American jobs. U.S. exports have grown more than twice as fast as GDP since 2002, accounting for 14 percent of GDP in 2012. And workers in U.S. companies that export goods earn on average up to 18 percent more than those in similar jobs in non-exporting companies," he added. "Updated TPA legislation would provide clear guidance on Congress' requirements for trade agreements. It would also provide our trade negotiating partners with a degree of comfort that the United States is committed to the international trade negotiating process and the trade agreements we negotiate." But Democrats in particular have been leery to renew the authority because of concerns that workers elsewhere are underpaid, putting Americans at a disadvantage. Many environmental groups express similar concerns stemming from low standards abroad. Even some Republicans are withholding support in highly partisan Washington. But given international realities, the solution is not to ignore what competing countries are doing but "get the best deal possible" at the table for both labor and the environment. "It's tough being in the middle in this Congress . . . (But) this is important for Chicago and Illinois. We can't live in isolation." Though the Obama White House has not signaled action, Mr. Quigley says he expects fast-track legislation to hit the House floor in January. And another Chicagoan, former U.S. Commerce Secretary Bill Daley, says some momentum indeed has begun to build on behalf of the measure. "I think they have a compromise," Mr. Daley said. "Until the bill is on the floor, you never know for sure. But right now, they're talking as if they have a deal." If so, a long-pending proposed Asian trade deal could follow shortly thereafter. Look for Penny Pritzker, commerce secretary from Chicago, to play a role too.

#### Fast Track will pass-Obama is focused on vote wrangling

Inside U.S. Trade 12/20/13

HEADLINE: Jarrett Predicts Obama Will Succeed In Getting TPA; NAM Rallies Members

White House senior adviser Valerie Jarrett on Dec. 18 predicted that President Obama would ultimately be successful in his quest to have Congress approve new fast-track authority also known as Trade Promotion Authority (TPA). "We think we will get it," she said. "We've had an enormous amount of outreach to the Hill on all of the agreements, and we are very encouraged by it." Her comment is an apparent reference to TPA, the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP). But Jarrett sidestepped a question of how much political capital Obama is willing to expend to obtain fast-track authority. "The president has made it very clear that he wants TPA to pass, and he's going to work hard to get it done, and he's going to work hard to get each of the trade agreements passed," she said. Jarrett emphasized that Obama also is committed to "work hard to get the best deal possible. We're not just looking to get a deal for the deal's sake." She said that the administration wants to make sure that "those deals protect our values, our workers, and it's good for business. And that's very high on the president's agenda." Obama met on Dec. 16 with U.S. Trade Representative Michael Froman, other economic advisers as well the national security adviser, a meeting which Jarrett said was held to focus on "our trade agreements."

#### Debate over TPA bill is about to start-Will pass with push from Obama

Reuters 12/10/13

U.S. Congress could OK trade promotion bill in early 2014, lawmaker says

BY ELVINA NAWAGUNA

(Reuters) - The Obama administration could secure "fast-track" trade promotion authority from Congress early next year, a leading lawmaker said on Tuesday, handing it the means to secure two big new trade deals. House Ways and Means Committee Chairman Dave Camp, a Michigan Republican, said lawmakers had made considerable progress in pulling together a Trade Promotion Authority (TPA) bill and expect to pass it within the first few months of 2014. The Obama administration has said it needs Congress to approve TPA, which would allow any trade deal to move swiftly through Congress. With TPA, lawmakers cannot amend or filibuster trade deals but can still vote for or against them. The administration needs that fast-track rule to clinch two huge trade deals, the Trans-Pacific Partnership (TPP) with 11 other Pacific Rim countries, and the Transatlantic Trade and Investment Partnership (TTIP) with the European Union. The administration argues that TPA, which expired in 2007, is useful in coaxing countries to put their best deal on the table without fearing that Congress could reopen and amend them. Camp's comments came in response to the Tuesday morning conclusion of the TPP ministerial meeting in Singapore. The ambitious U.S.-led TPP would create a free-trade bloc with 11 other countries including Vietnam, Chile, New Zealand, Japan and Mexico, in an area that makes up about 40 percent of the global economy. The Singapore meeting ended in no TPP deal, but the Obama administration said significant progress was made and that the nations found common ground on a number of issues during the four-day meeting. Reuters reported on Tuesday that the 12 countries failed to reach agreement on some thorny issues, including intellectual property, agricultural tariffs and state-owned enterprises. Differences over farm tariffs between the United States and Japan also presented a major roadblock in the negotiations. U.S. Trade Representative Michael Froman had said previously the United States was aiming to finalize a deal before the end of this year. The negotiations will now move into another year, with the next meeting scheduled for January. The third round of the TTIP negotiations involving the United States and the EU are expected to take place in mid-December. "Concluding these negotiations, as well as other trade agreements, will require congressional passage of Trade Promotion Authority legislation," Camp said in a statement. "Given the considerable bipartisan and bicameral progress that has been made on that front, I expect we will be in a position to do so early next year if we have the administration's active participation." A spokeswoman for Camp said the lawmaker has been working with Senator Max Baucus, the Democratic chairman of the Senate Finance Committee, and Senator Orrin Hatch, the top Republican on the panel, to put together a TPA bill.

### 1NR A2: New Riders

Trade negotiations are making progress---TPA is the key to clinching the deals – only our evidence has empirics

Business Roundtable 12/11/13 States News Service

HEADLINE: SOLID PROGRESS ON TRANS-PACIFIC PARTNERSHIP

Negotiators have made solid progress toward completing a Trans-Pacific Partnership trade agreement, reinforcing the need for Congress to pass Trade Promotion Authority. From The Hill, "Fast-track authority, currency manipulation remain top trade issues amid TPP delay": Business groups and lawmakers are making a two-pronged push for completion of fast-track authority and the addition of currency manipulation provisions into a delayed Asia-Pacific trade deal. Trade advocates used the announcement on Tuesday that negotiators of the 12-nation Trans-Pacific Partnership (TPP) had failed to reach an agreement in time to make a self-imposed year-end deadline to keep up their pressure on other initiatives. House and Senate leaders are nearing the end of talks on the details of a trade promotion authority (TPA) bill but an agreement remained elusive, so far, this week, and may get pushed until next year, according to a House aide. "Concluding these negotiations, as well as other trade agreements, will require congressional passage of Trade Promotion Authority legislation," said House Ways and Means Committee Chairman Dave Camp (R-Mich.). The House is expected to recess for the year this week, and since negotiators did not nail down a final TPP agreement, a vote on Trade Promotion Authority (TPA) will probably be scheduled for early next year. The TPA legislation enjoys bipartisan support in both chambers of Congress. In any case, better to get this important trade agreement right than to rush it through because of a goal set earlier in the negotiations (involving the United States and 11 other countries Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam). The Hill notes Business Roundtable's call for Trade Promotion Authority as reiterated in our news release, "Americas Business Leaders Commend Significant Progress on Trans-Pacific Partnership" that quotes Business Roundtable President John Engler, who first notes that the 11 other TPP countries comprise the largest market for U.S. goods and services exports in the world. Trade Promotion Authority is an essential partnership between Congress and the Administration to complete trade agreements such as the TPP, TTIP and TISA that benefit the U.S. economy and support American jobs, said Engler. We urge Congress and the Administration to work together to act on updated Trade Promotion Authority legislation as soon as possible Indeed, BRT operates the Trade Benefits America website, which features a fact sheet on the importance of TPA: Since President Franklin D. Roosevelt in the 1930s, every President through 2007 has had authority from Congress to negotiate trade agreements that open new markets for American companies and workers and help ensure a rules-based system for two-way trade. More recently known as Trade Promotion Authority (TPA), or fast track, this type of authority was last enacted in 2002, and it lapsed in 2007. Over the last decade, many new challenges to doing business in the global marketplace have emerged. Updating TPA and its negotiating objectives would help to address strategically such issues across the range of current U.S. trade negotiations, as well as in the future.

### 1NR A2: Link Turn

#### Only Congressional moves to reclaim war power authority triggers the DA

**Howell, Chicago American politics professor, 9-3-13**

(William, “All Syria Policy Is Local”, [www.foreignpolicy.com/articles/2013/09/03/all\_syria\_policy\_is\_local\_obama\_congress?page=full](http://www.foreignpolicy.com/articles/2013/09/03/all_syria_policy_is_local_obama_congress?page=full), ldg)

From a political standpoint, seeking congressional approval for a limited military strike against the Syrian regime, as President Barack Obama on Saturday announced he would do, made lots of sense. And let's be clear, this call has everything to do with political considerations, and close to nothing to do with a newfound commitment to constitutional fidelity. The first reason is eminently local. Obama has proved perfectly willing to exercise military force without an express authorization, as he did in Libya -just as he has expanded and drawn down military forces in Afghanistan, withdrawn from Iraq, significantly expanded the use of drone strikes, and waged a largely clandestine war on terrorism with little congressional involvement. The totality of Obama's record, which future presidents may selectively cite as precedent, hardly aligns with a plain reading of the war powers described in the first two articles of the constitution. Obama isn't new in this regard. Not since World War II has Congress declared a formal war. And since at least the Korean War, which President Harry Truman conveniently called a "police action," commanders-in-chief have waged all sorts of wars -small and large -without Congress's prior approval. Contemporary debates about Congress's constitutional obligations on matters involving war have lost a good deal of their luster. Constitutional law professors continue to rail against the gross imbalances of power that characterize our politics, and members of whichever party happens to be in opposition can be counted on to decry the abuses of war powers propagated by the president. But these criticisms -no matter their interpretative validity -rarely gain serious political traction. Too often they appear as arguments of convenience, duly cited in the lead-up to war, but serving primarily as footnotes rather than banner headlines in the larger case against military action. Obama's recent decision to seek congressional approval is not going to upend a half-century of practice that has shifted the grounds of military decision-making decisively in the president's favor, any more than it is going to imbue the ample war powers outlined in Article I with newfound relevance and meaning. For that to happen, Congress itself must claim for itself its constitutional powers regarding war. Obama did not seek Congress's approval because on that Friday stroll on the White House lawn he suddenly remembered his Con Law teaching notes from his University of Chicago days. He did so for political reasons. Or more exactly, he did so to force members of Congress to go on the record today in order to mute their criticisms tomorrow. And let's be clear, Congress -for all its dysfunction and gridlock -still has the capacity to kick up a good dust storm over the human and financial costs of military operations. Constitutional musings from Capitol Hill -of the sort a handful of Democrats and Republicans engaged in this past week -rarely back the president into a political corner. The mere prospect of members of Congress casting a bright light on the human tolls of war, however, will catch any president's attention. Through hearings, public speeches, investigations, and floor debates, members of Congress can fix the media's attention -and with it, the public's -on the costs of war, which can have political repercussions both at home and abroad. Think, then, about the stated reasons for some kind of military action in Syria. No one is under the illusion that a short, targeted strike is going to overturn the Assad regime and promptly restore some semblance of peace in the region. In the short term, the strike might actually exacerbate and prolong the conflict, making the eventual outcome even more uncertain. And even the best-planned, most-considered military action won't go exactly according to plan. Mishaps can occur, innocent lives may be lost, terrorists may be emboldened, and anti-American protests in the region will likely flare even hotter than they currently are. The core argument for a military strike, however, centers on the importance of strengthening international norms and laws on chemical and biological weapons, with the hope of deterring their future deployment. The Assad regime must be punished for having used chemical weapons, the argument goes, lest the next autocrat in power considering a similar course of action think he can do so with impunity. But herein lies the quandary. The most significant reasons for military action are abstract, largely hidden, and temporally distant. The potential downsides, though, are tangible, visible, and immediate. And in a domestic political world driven by visual imagery and the shortest of time horizons, it is reckless to pursue this sort of military action without some kind of political cover. Were Obama to proceed without congressional authorization, he would invite House Republicans to make all sorts of hay about his misguided, reckless foreign policy. But by putting the issue before Congress, these same Republicans either must explain why the use of chemical weapons against one's people does not warrant some kind of military intervention; or they must concede that some form of exacting punishment is needed. Both options present many of the same risks for members of Congress as they do for the president. But crucially, if they come around to supporting some form of military action -and they just might -members of Congress will have an awfully difficult time criticizing the president for the fallout. Will the decision on Saturday hamstring the president in the final few years of his term? I doubt it. Having gone to Congress on this crisis, must he do so on every future one? No. Consistency is hardly the hallmark of modern presidents in any policy domain, and certainly not military affairs. Sometimes presidents seek Congress's approval for military action, other times they request support for a military action that is already up and running, and occasionally they reject the need for any congressional consent at all. And for good or ill, it is virtually impossible to discern any clear principle that justifies their choices. The particulars of every specific crisis -its urgency, perceived threat to national interests, connection to related foreign policy developments, and what not -can be expected to furnish the president with ample justification for pursuing whichever route he would like. Like jurists who find in the facts of a particular dispute all the reasons they need for ignoring inconvenient prior case law, presidents can characterize contemporary military challenges in ways that render past ones largely irrelevant. Partisans and political commentators will point out the inconsistencies, but their objections are likely to be drowned out in rush to war. Obama's decision does not usher in a new era of presidential power, nor does it permanently remake the way we as a nation go to war. It reflects a temporary political calculation -and in my view, the right one -of a president in a particularly tough spot. Faced with a larger war he doesn't want, an immediate crisis with few good options, and yet a moral responsibility to act, he is justifiably expanding the circle of decision-makers. But don't count on it to remain open for especially long.

Adding a vote over the plan derails the domestic agenda

Politico 9/4/13

http://www.politico.com/story/2013/09/obamas-political-capital-spreads-thin-96306.html

President Obama’s political capital spreads thin

By CARRIE BUDOFF BROWN and JAKE SHERMAN | 9/4/13 8:59 PM EDT

President Barack Obama faced a heavy lift in Congress this fall when his agenda included only budget issues and immigration reform.

No matter how it plays out, the sudden emergence of a fight over Syria presents both political and logistical challenges for Congress and the White House. House Republicans were already grumbling about the prospect of several perilous votes this fall — first on raising the debt limit and extending government funding, then on a package of reforms to the immigration system. White House aides began hearing skepticism from Republican leaders that they could force a debt limit hike through the chamber and then press for passage of even a pared-back immigration bill. Adding a vote on military intervention in Syria could create even more friction between the Obama administration and House Republicans, as lawmakers are being put in a position of potentially voting against their party leaders. House Speaker John Boehner (R-Ohio) and Majority Leader Eric Cantor (R-Va.) are backing Obama, but the vast majority of the conference appears to oppose the resolution, at least at this point. And even before Syria took over the headlines, there was very little time on the congressional calendar to address those issues — as well as the confirmation of the yet-to-be-nominated Federal Reserve chairman. As much as Obama likes to say the White House and Congress should “be able to walk and chew gum at the same time,” often they cannot.

Fast Track is vulnerable to short legislative session-supercharges the link

Inside U.S. Trade 12/20/13

HEADLINE: Fast-Track Bill Faces Uncertainty After Baucus Tapped To Be China Envoy

U.S. Trade Representative Michael Froman has been engaged in the process of developing the fast-track bill, which means the final bill will likely be acceptable to the administration, supporters said. President Obama this week held a cabinet meeting on trade issues, including fast-track renewal (see related story). Informed sources said Froman worked hard to bring about the Dec. 16 cabinet meeting because it conveys the presidential commitment to passing a new fast-track bill, both for a domestic and international audience. On the international side, it could provide a signal to countries engaged in the TPP negotiations that they must move the negotiations along, sources said. In a related development, a January meeting of TPP ministers is now unlikely to occur over what sources said are scheduling conflicts. A USTR official would only say this week that no time or location has been set for the next meeting of TPP ministers. After the cabinet meeting, a senior administration official told reporters that the administration as a whole plans to step up its outreach to Congress to make the case for fast track. "We'll all be working together to try and get it done and get done in a way that's as quickly as possible but has as broad bipartisan support as possible," the official said. Supporters of fast track say they want an early vote by Easter recess next year, which has mid-term elections and therefore a short legislative session. But business sources said this week that final passage may not come until a lame-duck session following the election, especially because it will involve a drawn-out debate given the pent-up demand on trade issues (Inside U.S. Trade, Dec. 6).

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#### Risk of nuclear terrorism is real and high now

**Bunn et al., Harvard University's John F. Kennedy School of Government, 10-2-13**

(Matthew, “Steps to Prevent Nuclear Terrorism” Recommendations Based on the U.S.-Russia Joint Threat Assessment, http://belfercenter.ksg.harvard.edu/publication/23430/steps\_to\_prevent\_nuclear\_terrorism.html)

I. Introduction In 2011, Harvard’s Belfer Center for Science and International Affairs and the Russian Academy of Sciences’ Institute for U.S. and Canadian Studies published “The U.S. – Russia Joint Threat Assessment on Nuclear Terrorism.” The assessment analyzed the means, motives, and access of would-be nuclear terrorists, and concluded that the threat of nuclear terrorism is urgent and real. The Washington and Seoul Nuclear Security Summits in 2010 and 2012 established and demonstrated a consensus among political leaders from around the world that nuclear terrorism poses a serious threat to the peace, security, and prosperity of our planet. For any country, a terrorist attack with a nuclear device would be an immediate and catastrophic disaster, and the negative effects would reverberate around the world far beyond the location and moment of the detonation. Preventing a nuclear terrorist attack requires international cooperation to secure nuclear materials, especially among those states producing nuclear materials and weapons. As the world’s two greatest nuclear powers, the United States and Russia have the greatest experience and capabilities in securing nuclear materials and plants and, therefore, share a special responsibility to lead international efforts to prevent terrorists from seizing such materials and plants. The depth of convergence between U.S. and Russian vital national interests on the issue of nuclear security is best illustrated by the fact that bilateral cooperation on this issue has continued uninterrupted for more than two decades, even when relations between the two countries occasionally became frosty, as in the aftermath of the August 2008 war in Georgia. Russia and the United States have strong incentives to forge a close and trusting partnership to prevent nuclear terrorism and have made enormous progress in securing fissile material both at home and in partnership with other countries. However, to meet the evolving threat posed by those individuals intent upon using nuclear weapons for terrorist purposes, the United States and Russia need to deepen and broaden their cooperation. The 2011 “U.S. - Russia Joint Threat Assessment” offered both specific conclusions about the nature of the threat and general observations about how it might be addressed. This report builds on that foundation and analyzes the existing framework for action, cites gaps and deficiencies, and makes specific recommendations for improvement. “The U.S. – Russia Joint Threat Assessment on Nuclear Terrorism” (The 2011 report executive summary): • Nuclear terrorism is a real and urgent threat. Urgent actions are required to reduce the risk. The risk is driven by the rise of terrorists who seek to inflict unlimited damage, many of whom have sought justification for their plans in radical interpretations of Islam**;** by the spread of information about the decades-old technology of nuclear weapons; by the increased availability of weapons-usable nuclear materials; and by globalization, which makes it easier to move people, technologies, and materials across the world. • Making a crude nuclear bomb would not be easy, but is potentially within the capabilities of a technically sophisticated terrorist group, as numerous government studies have confirmed. Detonating a stolen nuclear weapon would likely be difficult for terrorists to accomplish, if the weapon was equipped with modern technical safeguards (such as the electronic locks known as Permissive Action Links, or PALs). Terrorists could, however, cut open a stolen nuclear weapon and make use of its nuclear material for a bomb of their own. • The nuclear material for a bomb is small and difficult to detect, making it a major challenge to stop nuclear smuggling or to recover nuclear material after it has been stolen. Hence, a primary focus in reducing the risk must be to keep nuclear material and nuclear weapons from being stolen by continually improving their security, as agreed at the Nuclear Security Summit in Washington in April 2010. • Al-Qaeda has sought nuclear weapons for almost two decades. The group has repeatedly attempted to purchase stolen nuclear material or nuclear weapons, and has repeatedly attempted to recruit nuclear expertise. Al-Qaeda reportedly conducted tests of conventional explosives for its nuclear program in the desert in Afghanistan. The group’s nuclear ambitions continued after its dispersal following the fall of the Taliban regime in Afghanistan. Recent writings from top al-Qaeda leadership are focused on justifying the mass slaughter of civilians, including the use of weapons of mass destruction, and are in all likelihood intended to provide a formal religious justification for nuclear use. While there are significant gaps in coverage of the group’s activities, al-Qaeda appears to have been frustrated thus far in acquiring a nuclear capability; it is unclear whether the the group has acquired weapons-usable nuclear material or the expertise needed to make such material into a bomb. Furthermore, pressure from a broad range of counter-terrorist actions probably has reduced the group’s ability to manage large, complex projects, but has not eliminated the danger. However, there is no sign the group has abandoned its nuclear ambitions. On the contrary, leadership statements as recently as 2008 indicate that the intention to acquire and use nuclear weapons is as strong as ever.