# round 8 neg v. kansas cg

## 1nc

### 1nc politics

#### Obama will win on debt ceiling if he maintains his position of strength

**Liasson, 9/21/13** (Mara, “Have Obama's Troubles Weakened Him For Fall's Fiscal Fights?” NPR, <http://www.npr.org/blogs/itsallpolitics/2013/09/21/224494760/have-obamas-troubles-weakened-him-for-falls-fiscal-fights>)

"[Obama] had some missteps within the caucus," Manley says, but "now that he has those situations behind him ... he can turn his attention to the debt limit and the spending issues." Manley says the president will be well-positioned to take on Republicans in those fiscal fights, "if only because ... their policies are so out of the mainstream that they won't enjoy any support on the Hill and/or with the American people." The plan to bomb Syria was extremely unpopular. But on budget issues, the president is on firmer footing with the public, who may not like Obamacare but don't want it repealed or defunded. So, in the House at least, Republicans are making demands the president cannot and will not meet. "You have never seen, in the history of the United States, the debt ceiling or the threat of not raising the debt ceiling being used to extort a president or a governing party, and trying to force issues that have nothing to do with the budget and have nothing to do with the debt," Obama has said. White House officials say Democrats will always have internal divisions, but right now they are nothing compared with the fights inside the GOP. "There is essentially a civil war brimming in the Republican Party right now," says Dan Pfeiffer, the president's senior adviser. Pfeiffer points to open warfare between Tea Party conservatives and moderates, and even between House and Senate conservatives, as Republicans struggle to settle on a viable budget strategy. "The important thing is, as we head into these budget battles this fall, Democrats ... are in lock-step about the way to approach this," he says, "which is that we are not going to negotiate on the debt ceiling — we're not going to allow the full faith and credit of the United States to be held hostage by the Republicans, who want to ... deny health insurance to millions of Americans. We're in lock-step and they're divided, so I feel pretty good about that." Despite the setbacks of the spring and summer, the Obama team is counting on the latent power of the presidency — one of the most resilient institutions in American life. Unlike on Syria, Obama seems to have a budget strategy. He's hanging tough on his two red lines: no negotiations on the debt ceiling and no changes to Obamacare. The president is willing for now to let the Republicans flirt with the unpopular and dangerous possibilities of a government shutdown and a debt default. It's a high-stakes game of chicken, and one where the White House feels confident it has the upper hand.

#### Restrictions on authority are a loss that spills over to the debt ceiling

**Parsons, 9/12/13** (Christi, Los Angeles Times, “Obama's team calls a timeout”

<http://www.latimes.com/nation/la-na-obama-congress-20130913,0,2959396.story>)

After a week in which President Obama narrowly averted a bruising defeat on Capitol Hill over a military strike on Syria, the decision had the feeling of a much-needed timeout. The messy debate over a resolution to authorize military force put a harsh light on the president's already rocky relationship with Congress. Despite a charm offensive earlier this year, complete with intimate dinners and phone calls, Obama faced contrary lawmakers in both parties, a climate that is certain to persist through the next round of legislative fights, if not to the end of his second term. In deciding to seek approval for military action, Obama banked on the long-standing deference to the commander in chief on matters of national defense. But by the time he pressed "pause" on the intense White House lobbying effort, he was finding as much defiance as deference. Although the White House cast the issue as a matter of national security and a crucial test of U.S. power, dozens of lawmakers from both parties were set to deliver a rare rebuke to a president on foreign policy. Even Democratic loyalists seemed unswayed by appeals to preserve the prestige of the presidency — and this president. Hawkish Republicans offering to reach across the aisle to support the president said they found the White House distant and uninterested. The canceled picnic punctuated a week of aggravated feelings. "We obviously have divided government. We have sometimes contentious, sometimes very effective relations with Congress. But we keep at it," said White House spokesman Jay Carney, who denied the picnic cancellation had anything to do with the state of relations between the two branches of government. On Capitol Hill, the week's episode strained Obama's traditional alliance with his fellow Democrats, many of whom were wary of another military involvement, unclear about the president's plans for a missile strike and surprised by his decision to ask them to vote on it. "Not only was it a hard ask, but it was not a well-prepared ask," said Sen. Sheldon Whitehouse (D-R.I.). "His willingness to back away from the ultimatum and pursue the disarmament proposal was extremely welcome, and I think that helped all of us in our relationship with him." Obama's relationship with his Republican critics was not helped. As lawmakers look ahead to the rest of the fall agenda, including the coming budget battles, the administration's performance this week will not be easy to forget, some said. "It's just more lack of confidence that they know what they're doing," said Sen. Tom Coburn (R-Okla.). "There's only so much political capital," said Sen. Rob Portman (R-Ohio). Democrats defended the president, blaming Republicans for a "knee-jerk" opposition to any initiative tied to this White House, a phenomenon that Obama aides regularly cite but that the president appears to have disregarded in his decision to put a use-of-force resolution before Congress. "Historically, when it comes to military force, Republicans and conservatives have led that. Now they're opposed to it," said Sen. Richard J. Durbin (D-Ill.). In a private meeting this week, Durbin said, Obama himself joked that "a lot of Republicans on Capitol Hill are discovering their inner doves on Syria." The next set of negotiations will be far more predictable and on familiar territory. By the end of the month, the president and Congress must agree on a plan to continue funding the government, or it will shut down. And by mid-October, they will have to agree to raise the debt limit, or risk a default. The White House has said it won't negotiate on the debt limit, as it did twice before, counting on the public and business groups to pressure Republicans. Democrats were hopeful the budget issues would put the White House back on more solid political footing. "I think the public has a heck of a lot more confidence in the president on economics and budget than [in] the House Republicans," said Sen. Carl Levin (D-Mich.). That may be wishful thinking, said Ross Baker, a political science professor at Rutgers University, who studies the Senate. "These things carry over. There's no firewall between issues," he said. "Failure in one area leads to problems in other areas." The debate over the war in Syria may be on an extended pause, although prospects of Obama returning to Congress to ask for a use-of-force authorization seem slim. A bipartisan group of senators is drafting an amended authorization, but the group is not expected to fully air its proposal until diplomatic talks conclude. There were some signs that the debate may have won the president some empathy, if not support. At a private lunch with Republican senators this week, Obama asked them not to undermine him on the world stage. Sen. Ron Johnson of Wisconsin, who is part of a group of GOP senators working with the White House on fiscal issues, said the appeal resonated.

#### The impact is the global economy

**Davidson, 9/10/13** – co-founder of NPR’s Planet Money (Adam, “Our Debt to Society” New York Times, <http://www.nytimes.com/2013/09/15/magazine/our-debt-to-society.html?pagewanted=all>)

If the debt ceiling isn’t lifted again this fall, some serious financial decisions will have to be made. Perhaps the government can skimp on its foreign aid or furlough all of NASA, but eventually the big-ticket items, like Social Security and Medicare, will have to be cut. At some point, the government won’t be able to pay interest on its bonds and will enter what’s known as sovereign default, the ultimate national financial disaster achieved by countries like Zimbabwe, Ecuador and Argentina (and now Greece). In the case of the United States, though, it won’t be an isolated national crisis. If the American government can’t stand behind the dollar, the world’s benchmark currency, then the global financial system will very likely enter a new era in which there is much less trade and much less economic growth. It would be, by most accounts, the largest self-imposed financial disaster in history. Nearly everyone involved predicts that someone will blink before this disaster occurs. Yet a small number of House Republicans (one political analyst told me it’s no more than 20) appear willing to see what happens if the debt ceiling isn’t raised — at least for a bit. This could be used as leverage to force Democrats to drastically cut government spending and eliminate President Obama’s signature health-care-reform plan. In fact, Representative Tom Price, a Georgia Republican, told me that the whole problem could be avoided if the president agreed to drastically cut spending and lower taxes. Still, it is hard to put this act of game theory into historic context. Plenty of countries — and some cities, like Detroit — have defaulted on their financial obligations, but only because their governments ran out of money to pay their bills. No wealthy country has ever voluntarily decided — in the middle of an economic recovery, no less — to default. And there’s certainly no record of that happening to the country that controls the global reserve currency. Like many, I assumed a self-imposed U.S. debt crisis might unfold like most involuntary ones. If the debt ceiling isn’t raised by X-Day, I figured, the world’s investors would begin to see America as an unstable investment and rush to sell their Treasury bonds. The U.S. government, desperate to hold on to investment, would then raise interest rates far higher, hurtling up rates on credit cards, student loans, mortgages and corporate borrowing — which would effectively put a clamp on all trade and spending. The U.S. economy would collapse far worse than anything we’ve seen in the past several years.

#### Nuclear war

**Friedberg and Schoenfeld 8**

[Aaron, Prof. Politics. And IR @ Princeton’s Woodrow Wilson School and Visiting Scholar @ Witherspoon Institute, and Gabriel, Senior Editor of Commentary and Wall Street Journal, “The Dangers of a Diminished America”, 10-28, <http://online.wsj.com/article/SB122455074012352571.html>]

Then there are the dolorous consequences of a potential collapse of the world's financial architecture. For decades now, Americans have enjoyed the advantages of being at the center of that system. The worldwide use of the dollar, and the stability of our economy, among other things, made it easier for us to run huge budget deficits, as we counted on foreigners to pick up the tab by buying dollar-denominated assets as a safe haven. Will this be possible in the future? Meanwhile, traditional foreign-policy challenges are multiplying. The threat from al Qaeda and Islamic terrorist affiliates has not been extinguished. Iran and North Korea are continuing on their bellicose paths, while Pakistan and Afghanistan are progressing smartly down the road to chaos. Russia's new militancy and China's seemingly relentless rise also give cause for concern. If America now tries to pull back from the world stage, it will leave a dangerous power vacuum. The stabilizing effects of our presence in Asia, our continuing commitment to Europe, and our position as defender of last resort for Middle East energy sources and supply lines could all be placed at risk. In such a scenario there are shades of the 1930s, when global trade and finance ground nearly to a halt, the peaceful democracies failed to cooperate, and aggressive powers led by the remorseless fanatics who rose up on the crest of economic disaster exploited their divisions. Today we run the risk that rogue states may choose to become ever more reckless with their nuclear toys, just at our moment of maximum vulnerability. The aftershocks of the financial crisis will almost certainly rock our principal strategic competitors even harder than they will rock us. The dramatic free fall of the Russian stock market has demonstrated the fragility of a state whose economic performance hinges on high oil prices, now driven down by the global slowdown. China is perhaps even more fragile, its economic growth depending heavily on foreign investment and access to foreign markets. Both will now be constricted, inflicting economic pain and perhaps even sparking unrest in a country where political legitimacy rests on progress in the long march to prosperity. None of this is good news if the authoritarian leaders of these countries seek to divert attention from internal travails with external adventures.

### 1nc court capital

#### Court capital is low – they’ll strike down McCutcheon because of it

eNews 9-16 (eNews Park Foresst, “Upcoming Case Tests Whether U.S. Supreme Court Will Allow Increased Flow of Corrupting Money in Federal Elections,” 2013, <http://www.enewspf.com/latest-news/latest-national/latest-national-news/46250-upcoming-case-tests-whether-u-s-supreme-court-will-allow-increased-flow-of-corrupting-money-in-federal-elections.html>)

The public opposes the corrupting influence of corporations and the wealthy in politics

A relatively small number of people use contributions to maximize their leverage over elected officials. All told, around 1,700 donors gave the maximum permitted amount to committees of the major parties in the 2012 election cycle, accounting for more than $100 million in contributions. Almost 600 reached the aggregate limit on contributions to federal candidates.

Many more people oppose the corrupting influence of large donors on our government. A February 2013 YouGov poll found 44 percent of Americans think the 2012 election cycle’s aggregate limit of $46,200—raised to $48,600 this cycle—to federal candidates was already too high. Eighteen percent think it was just right, and just 12 percent think there should be no limit.

A 2012 Brennan Center for Justice survey found that 69 percent of respondents disapproved of the Citizens United decision, making it one of the most unpopular Supreme Court decisions in history.

Before the Citizens United decision, the idea of money equaling speech was largely supported by public opinion, by a margin of 56-37 percent, according to 2009 polling by Gallup and the First Amendment Center. Once Americans got to see the effects big money had on politics, there was a huge shift in public opinion. Polling done by YouGov in 2013 shows that Americans now overwhelmingly reject the notion that money is equivalent to speech, by a margin of 55 to 23 percent.

Accordingly, public confidence in the Supreme Court has dropped significantly, with a recent Rasmussen poll finding only 28 percent of Americans have a favorable view of the court.

Both the court’s precedents and a proper concern for the court’s legacy and legitimacy point to only one outcome**: a decision** upholding **the aggregate** contribution limits **as a bulwark against corruption**.

#### Plan boosts court capital—increases willingness to ignore the public

Little 00 (Laura, Professor of Law – Temple University, Beasley School of Law, November, 52 Hastings L.J. 47, Lexis)

Other scholars bolster Redish's position by pointing out that judicial review of both federalism and separation of powers questions presents something of a self-fulfilling prophesy. Through review of these sensitive issues of power, the judiciary bolsters its own position or amasses "political capital" and, thereby, legitimates its own power to engage in such review . 237 The judiciary has therefore established  [\*98]  itself as an effective watchdog to ensure that governmental structures are functioning appropriately. n237. Perry, supra note 11, at 57 (Supreme Court has "amassed a great deal of the political capital it now enjoys ... precisely by resolving problems arising under the doctrines of federalism and of the separation-of-powers "); see also Archibald Cox, The Role of the Supreme Court in American Government 30 (1972) (explaining that "history legitimated the power [of judicial review], and then habit took over to guide men's actions so long as the system worked well enough").

#### That's bad—McCutcheon strike down key to global democracy

Wertheimer 9-12 (Fred, President – Democracy 21; Attorney, “The Supreme Court’s Democracy Test,” Politico, 2013, <http://www.politico.com/story/2013/09/the-supreme-courts-democracy-test-96640.html>)

As damaging as Citizens United has been to our political system, the Supreme Court would make a bad situation far worse if it strikes down the overall contribution limits in the McCutcheon case. To understand why, we need to look at the role of “joint fundraising committees” in modern-day fundraising.

The overall contribution limit for a single donor in the 2012 election cycle was $70,800 to all party committees and $46,200 to all federal candidates.

In the presidential election, Barack Obama and Mitt Romney each had joint fundraising committees that consisted of their campaign committees and several party committees.

Obama and Romney used those committees to solicit contributions to their parties of $70,800 per donor, the maximum amount an individual could give to their party committees under the overall contribution limits. The money raised by these joint fundraising committees was then spent to support the Obama and Romney campaigns.

All told, 1,257 individual donors gave the maximum amount in party contributions to these joint fundraising committees, according to the Center for Responsive Politics.

Now imagine that overall contribution limits are struck down. Presidential candidates in 2016 could solicit and each of these donors could contribute as much as $1.2 million to their joint fundraising committees.

This huge contribution, consisting of the contributions that could be given to all of the committees of a party, could then be spent to support the presidential candidate who solicited the new, maximum contribution. Without the overall limit, there is no cap on the number of party committees that could participate in a joint fundraising committee.

While the current $70,800 limit is far more money than all but a tiny number of the wealthiest Americans can afford to contribute, when it comes to creating opportunities for corruption, there is a fundamental difference between a $70,800 contribution and a $1.2 million contribution solicited by a president or presidential candidate. And similar, if not worse, opportunities for corruption would be created in Congress if the overall limits were struck down.

For example, House Speaker John Boehner could establish a joint fundraising committee consisting of all of his party’s House candidates. Boehner could then solicit, and McCutcheon (or any other donor) could give, a contribution of as much as $2.2 million in response to the solicitation. Compare that with the $46,200 an individual could give to all federal candidates in 2012.

The million- and multimillion-dollar contributions that would be permitted absent the overall contribution limits are the kind of contributions the Supreme Court has long held can be prohibited to prevent corruption. They are also the kind of contributions the court has held officeholders can be prohibited from soliciting because of the opportunities they create for corruption.

In 2003, the Supreme Court in the McConnell case upheld a ban on the solicitation of large contributions by federal officeholders and candidates. The court said, “Large soft-money donations at a candidate’s or officeholder’s behest give rise to all of the same corruption concerns posed by contributions made directly to the candidate or officeholder.” The court further stated, “Though the candidate may not ultimately control how the funds are spent, the value of the donation to the candidate or officeholder is evident from the fact of the solicitation itself.”

If the court strikes down the overall contribution limit in McCutcheon, it will also eviscerate the ban on the solicitation of large contributions by federal officeholders. History shows that in American politics, candidates solicit the maximum amounts they legally can, and wealthy donors respond. That is precisely what happened in the 2012 presidential election.

Consider this: In the 2012 election, 283 individuals each made contributions of $250,000 or more to Super PACs, according to the Center for Responsive Politics. Absent the overall contribution limits that apply to federal candidates and parties, donors will be able to give similar huge contributions directly to candidates and parties.

Contributions made directly to candidates and parties are different from contributions to outside spending groups, such as Super PACs, according to the Supreme Court. The court has held repeatedly that large contributions to candidates and parties create opportunities for corruption, whereas in Citizens United the court said that money spent independently by outside groups does not pose a threat of corruption.

The distinction is vital to American democracy. It reflects the fact that the direct link between big donors and officeholders creates the most dangerous opportunities for corruption – for the purest form of legalized bribery. Influence-seeking big donors want to provide their checks directly to those officeholders from whom they can obtain favorable treatment in return for their money.

Furthermore, it is not as if the overall limits are starving candidates and parties of resources to communicate with voters. Federal candidates and their parties spent $5.2 billion, or 83 percent of the total expenditures, in the 2012 national election, even with the overall limits in place.

If the Supreme Court struck down the overall contribution limits, it would recreate the system of legalized corruption that existed prior to Watergate and might well open the door to striking down all of the remaining contribution limits. This in turn would take us back to the Robber Baron era of the 19th century, when members of Congress were functionally owned and controlled by wealthy interests.

And that would be an unmitigated disaster for America.

#### Democracy’s on the brink --- consolidation solves global WMD conflict

**Halperin 11** (Morton H., Senior Advisor – Open Society Institute and Senior Vice President of the Center for American Progress, “Unconventional Wisdom – Democracy is Still Worth Fighting For”, Foreign Policy, January / February, <http://www.foreignpolicy.com/articles/2011/01/02/unconventional_wisdom?page=0,11>)

As the United States struggles to wind down two wars and recover from a humbling financial crisis, realism is enjoying a renaissance. Afghanistan and Iraq bear scant resemblance to the democracies we were promised. The Treasury is broke. And America has a president, Barack Obama, who once compared his foreign-policy philosophy to the realism of theologian Reinhold Niebuhr: "There's serious evil in the world, and hardship and pain," Obama said during his 2008 campaign. "And we should be humble and modest in our belief we can eliminate those things." But one can take such words of wisdom to the extreme-as realists like former Secretary of State Henry Kissinger and writer Robert Kaplan sometimes do, arguing that the United States can't afford the risks inherent in supporting democracy and human rights around the world. Others, such as cultural historian Jacques Barzun, go even further, saying that America can't export democracy at all, "because it is not an ideology but a wayward historical development." Taken too far, such realist absolutism can be just as dangerous, and wrong, as neoconservative hubris. For there is one thing the neocons get right: As I argue in *The Democracy Advantage*, democratic governments are more likely than autocratic regimes to engage in conduct that advances U.S. interests and avoids situations that pose a threat to peace and security. Democratic states are more likely to develop and to avoid famines and economic collapse. They are also less likely to become failed states or suffer a civil war. Democratic states are also more likely to cooperate in dealing with security issues, such as terrorism and proliferation of weapons of mass destruction. As the bloody aftermath of the Iraq invasion painfully shows, democracy cannot be imposed from the outside by force or coercion. It must come from the people of a nation working to get on the path of democracy and then adopting the policies necessary to remain on that path. But we should be careful about overlearning the lessons of Iraq. In fact, the outside world can make an enormous difference in whether such efforts succeed. There are numerous examples-starting with Spain and Portugal and spreading to Eastern Europe, Latin America, and Asia-in which the struggle to establish democracy and advance human rights received critical support from multilateral bodies, including the United Nations, as well as from regional organizations, democratic governments, and private groups. It is very much in America's interest to provide such assistance now to new democracies, such as Indonesia, Liberia, and Nepal, and to stand with those advocating democracy in countries such as Belarus, Burma, and China. It will still be true that the United States will sometimes need to work with a nondemocratic regime to secure an immediate objective, such as use of a military base to support the U.S. mission in Afghanistan, or in the case of Russia, to sign an arms-control treaty. None of that, however, should come at the expense of speaking out in support of those struggling for their rights. Nor should we doubt that America would be more secure if they succeed.

### 1nc pqd

#### Judicial deference is high – there’s strict adherence to the political question doctrine

Bradley 9-2 (Curtis A., William Van Alstyne Professor of Law – Duke Law School, “War Powers, Syria, and Non-Judicial Precedent,” Lawfare Blog, 2013, http://www.lawfareblog.com/2013/09/war-powers-syria-and-non-judicial-precedent/)

As an initial matter, we need to bracket the issue of whether Obama’s action will weaken his own power as a political matter. This is a complicated issue: on the one hand, it may signal weakness both to Congress and to other nations; on the other hand, if he obtains congressional authorization, he may be in an ultimately stronger political position, as Jack Goldsmith has pointed out. As I understand it, the claim being made by Spiro, Rothkopf, and others is that the power of the presidency more generally is being weakened. How might this happen? **Not through an influence on judicial doctrine**: Although courts sometimes take account of historic governmental practices when assessing the scope of presidential authority, they have consistently invoked limitations on standing and ripeness, as well as the political question doctrine, to avoid **addressing constitutional issues relating to war powers**. In the absence of judicial review, what is the causal mechanism by which the “precedent” of Obama seeking congressional authorization for the action in Syria could constrain future presidential action? When judicial review is unavailable, the most obvious way in which the President is constrained is through the political process—pressure from Congress, the public, his party, etc. In an extreme case, this pressure could take the form of impeachment proceedings, but it does not take such an extreme case for the pressure to have a significant effect on presidential decisionmaking. Indeed, it is easy to think of political considerations that might have motivated Obama to go to Congress with respect to Syria.

#### The plan reverses this

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

Number two: Numerous very important, contested, hotly debated topics have arisen in the last ten years, many of them in the Bush Administration, **involving** for example interrogation techniques, **the scope of detention authority**, habeas review, military commissions, targeted killings, and the use of force more broadly. On some of these questions, the federal courts - and the Supreme Court in particular - have had quite a lot to say; and on others, not so much, at least in part because of several different federal courts doctrines that prevent the courts from speaking too much about those. You're all familiar with standing limits, **political questions**, state secrets, etc. We're going to focus particularly on a couple of them, which are immunity doctrines and the weakening of the Bivens n2 and state court sorts of causes of action.

We will also discuss the fact that there are many people who think the federal courts have become too involved at supervising and resolving substantive questions involving the political branches, including some of Judge Kavanaugh's colleagues, who have been particularly vocal about that, engaging in what appears to be a form of resistance to the Supreme Court's Boumediene n3 decision. By contrast, many other people think the courts have not been nearly involved enough at resolving some of the unresolved questions about the scope of interrogation and detention and military commissions and the like, that might be lingering from the last administration, or occurring now in the new administration, such as with respect to use of force. So that's the second broad topic - whether the federal courts have been too timid or too aggressive in this area.

#### Treaty enforcement is a political question – Supreme Court enforcement violates it

Wu 5 (Timmy, Visiting Professor, University of Chicago, Associate Professor of Law, University of

Virginia, “Treaties’ Domains,” <http://www.law.virginia.edu/pdf/workshops/0405/wu.pdf>)

Unfortunately Treaty cases compounds the complications surrounding a regular Chevron case. Chevron deference is premised on the superior expertise and greater political accountability of an expert agency. 81 That’s reasoning that can apply in a Treaty interpretation case too: for if the Executive has implemented a treaty, it may have done so based on subject matter expertise, and if people don’t like the President’s approach to treaties they can vote against him. But in a treaty interpretation case there is at least one additional basis for deference to the Executive that draws not upon expertise but upon political authority.82 This is the President’s independent not only to enforce treaties, but also to set the foreign policy of the United States. And as Louis Henkin has explained, this second kind of deference, often called political question deference, is best understood to reflect a power reserved to the President, and resulting in a rule binding for a court.83

#### This makes war powers a justiciable issue – this case-specific exception causes a slippery slope that breaks the entire doctrine

Miller 10 (Mathew Edwin, JD – University of Michigan Law School, Associate – Latham & Watkins LLP, “The Right Issue, the Wrong Branch: Arguments against Adjudicating Climate Change Nuisance Claims,” Michigan Law Review, November, 109 Mich. L. Rev. 257, Lexis)

However, to say that cases like American Electric Power are justiciable just because plaintiffs allege a public nuisance begs the question: Why should such claims **automatically be justiciable?** It contravenes the **purpose and articulation of the political question doctrine** to suggest that nuisances are categorically justiciable because political questions have historically excluded torts between private parties and have focused instead on governmental issues like gerrymandering, foreign policy, and federal employment. n70 Again, Baker demanded "discriminating" case-by-case inquiries, rejecting "resolution by any semantic cataloguing." n71 Similarly, the fact that other public nuisance claims have not presented political questions in the past should not preclude such a finding in the climate context. n72 Indeed, the argument for nonjusticiability rests on the notion that climate suits are unique and therefore defy classification among tort precedent. n73

[\*271] Extending the political question doctrine to a public nuisance allegation would surpass precedent in terms of claim-category application. Yet with respect to the theory behind the doctrine, **such an extension is proper** because cases like American Electric Power would push existing nuisance law to embrace a complex, qualitatively unique phenomenon **that cannot be prudentially adjudicated**. n74 The Supreme Court has never held that torts cannot present political questions, so prudential constitutional principles should similarly apply to them. This Note simply argues that the facts, claims, parties, and relief demanded in this particular mode of litigation should fall under the nonjusticiability umbrella, wherever its limits may lie. n75 The following analysis of Baker invokes the American Electric Power situation specifically for the sake of convenience, but the arguments therein should be read to apply to injunctive climate nuisance claims generally.

[Continues to Footnore]

n75. This Note does not purport to suggest exactly where the line ought to be drawn in applying the political question doctrine to tort claims. A consideration of the potential doctrinal "slippery slope" - where courts might improperly refuse to adjudicate claims solely on the basis of complexity - is beyond the scope of the present discussion.

#### Nuclear war

**Knowles 9** – Acting Assistant Professor, New York University School of Law (Robert, Spring, “American Hegemony and the Foreign Affairs Constitution”, 41 Ariz. St. L.J. 87, Lexis Law)

Nonetheless, foreign relations remain special, and courts must treat them differently in one important respect. In the twenty-first century, speed matters, and the executive branch alone possesses the ability to articulate and implement foreign policy quickly. Even non-realists will acknowledge that the international realm is much more susceptible to crisis and emergency than the domestic realm. But speed remains more important even to non-crisis foreign affairs cases. n391 It is true that **the stable nature of American hegemony will prevent truly destabilizing events** from happening without great changes in the geopolitical situation - the sort that occur over decades. The United States will not, for some time, face the same sorts of existential threats as in the past. n392 Nonetheless, in foreign affairs matters, it is only the executive branch that has the capacity successfully to conduct [\*150] treaty negotiations, for example, which depend on adjusting positions quickly. The need for speed is particularly acute in crises. Threats from transnational terrorist groups and loose **nuclear weapons are among the most serious problems** facing the United States today. The United States maintains a "quasi-monopoly on the international use of force," n393 but the rapid pace of change and improvements in weapons technology mean that the executive branch must respond to emergencies long before the courts have an opportunity to weigh in. Even if a court was able to respond quickly enough, it is not clear that we would want courts to adjudicate foreign affairs crises without the deliberation and opportunities for review that are essential aspects of their institutional competence. Therefore, courts should grant a higher level of deference to executive branch determinations in deciding whether to grant a temporary restraining order or a preliminary injunction in foreign affairs matters. Under the super-strong Curtiss-Wright deference scheme, the court should accept the executive branch interpretation unless Congress has specifically addressed the matter and the issue does not fall within the President's textually-specified Article I powers.

#### Independently—violating PQD on war powers causes a wave of litigation—the impact is DOD contracting

Isenberg 10 (David, Research Fellow – Independent Institute, “Contractor Legal Immunity and the ‘Political Questions’ Doctrine,” CATO Institute, 1-19, <http://www.cato.org/publications/commentary/contractor-legal-immunity-political-questions-doctrine>)

One can easily see why most defense contractors, including private military and security firms working under U.S. government contract, would like to prevent such suits from proceeding. The sheer number of injuries alone gives them reason to want to avoid possible suits. According to ProPublica as of last September 30 the number of private contractors injured in Iraq and Afghanistan totaled 37,652. Of course, not all those injuries are the result of something done wrong. But even a small fraction of them would **entail considerable legal costs for a contractor** so it is easy to understand why they would want to preventing such suits from being filed in the first place.

As I am not a lawyer the following is derived from Maj. Carter’s article.

Traditionally, the reason given for this is that such cases may involve “political questions” that the Judicial Branch is ill-equipped to decide. Thus defense contractor advocates claim these actions must be dismissed, else there be grim consequences for Government contingency contracting.

But according to Maj. Carter, “the recent developments in political question doctrine case law are significant to the future of Government contingency contracting. However, they are not catastrophic — although portrayed as such by some defense contractor advocates. There will not be an explosion of contracting costs passed on to the Government. There will not be a mass refusal of defense contractors to accept contingency contracts. There will not be chaos on the battlefield. Such predictions are nothing more than “bellowing bungle.”

Carter wrote:

What is the political question doctrine? According to Chief Justice John Marshall, “[q]uestions, in their nature political, or which are, by the constitution and laws, submitted to the executive, can never be made in [the U.S. Supreme Court].” In 2004, the Court held “[s]ometimes .. . the law is that the judicial department has no business entertaining [a] claim of unlawfulness — because the question is entrusted to one of the political branches or involves no judicially enforceable rights. Such questions are said to be ‘nonjusticiable,’ or ‘political questions.’”

What this means is that traditionally courts have deferred to the political branches in matters of foreign policy and military affairs. Policy decisions regarding **the employment of U.S. military forces** in combat belong to the political branches, not the courts. The Supreme Court has held that, due to their “complex, subtle, and professional” nature, decisions as to the “composition, training, equipping, and control of a military force” are “subject always” to the control of the political branches.

Tort suits that challenge the internal operations of these areas of the military are likely to be dismissed as political questions. Yet, notwithstanding the foregoing prohibitions on judicial conduct, the Supreme Court has cautioned, “it is error to suppose that every case or controversy which touches foreign relations lies beyond judicial cognizance.” As mentioned earlier, vast precedent exists for judicial involvement in foreign and military affairs. Case law establishes that military decisions are reviewable by federal courts. An assertion of military necessity, standing alone, is not a bar to judicial action. Merely because a dispute can be tied in some way to combat activities does not prevent a court from reviewing it. Although an action arises in a contingency environment, if a case is essentially “an ordinary tort suit” it is well within the competence of the courts to entertain. Courts have underscored the point: no litmus test exists that prohibits judicial action merely because an issue involves the military in some fashion.

Where plaintiffs seek only damages and not injunctive relief, such cases are “particularly judicially manageable.” When such a damages-only lawsuit concerns only a defense contractor (as opposed to the Federal Government), courts have held that such actions do not involve “overseeing the conduct of foreign policy or the use and disposition of military power.” Thus, those actions are less likely to raise political questions than suits against the Government, suits seeking injunctive relief, or both.

Given the enormous amount of money involved in Government contingency contracting and the correspondingly large number of contractors and contractor employees performing GWOT (Global War on Terror) contingency contracts, the number of plaintiffs seeking redress for tortious conduct was certain to rise — and it did. Universally, defendant defense contractors invoked the political question doctrine in order to shield themselves from liability in their performance of GWOT contracts, some with more success than others. The first significant case centered around the tragic events at the Abu Ghraib prison in Iraq.

In Ibrahim v. Titan Corp., Iraqi plaintiffs alleged they were tortured, raped, humiliated, beaten, and starved while in U.S. custody. Apparently fearing a dismissal on sovereign immunity grounds if they sued the U.S. Government, the plaintiffs instead chose to name as defendants the contractors who provided interpreters and interrogators for the prison. The defendants filed a motion to dismiss, alleging the matter involved political questions. The court held the case should not be dismissed at such an early stage on political question grounds, especially because the United States was not a party to the case. Ibrahim is significant because it was the first GWOT case to underscore the need for full factual development of a case prior to an assessment of justiciability.

One particularly interesting point in Carter’s article is this:

Judges and scholars openly speculate about the possible consequences of defense contractor tort liability on the federal procurement process. In Boyle, the Supreme Court warned that “[t]he financial burden of judgments against [] contractors would ultimately be passed through, substantially if not totally, to the United States itself, since defense contractors will predictably raise their prices to cover, or to insure against, contingent liability … .”

Since private military contracting advocates claim that their firms are more cost effective than the government one might reasonably believe that they can be so only by preventing tort suits against them. If the cost of such suits were factored in, the presumed cost effectiveness could conceivably be significantly less, **or perhaps not exist at all**.

Carter asks “is the situation really this dire? Are contractors at a point where, because of increased litigation risks, they will be forced to charge the Government more for their services or elect to not provide services altogether?”

The answers may not be far away. In November 2008, Joshua Eller filed suit in the U.S. District Court for the Southern District of Texas, as a result of injuries he suffered at Balad Air Base, Iraq, while deployed as a contractor employee of KBR from February to November of 2006. The complaint alleges defendants KBR and Halliburton “intentionally and negligently exposed thousands of soldiers, contract employees and other persons to unsafe water, unsafe food, and contamination due to faulty waste disposal systems … .” The complaint also includes allegations of injury from toxic smoke which emanated from an open air burn pit at Balad. The complaint alleges approximately 1,000 other individuals suffered similar injuries and it seeks to combine all of those actions into a single class action lawsuit. More significantly, this action is only one of several suits currently pending that relate to similar KBR activities in Iraq.

**The political question doctrine will be a** major factor in this coming storm of litigation. With the large number of potential plaintiffs compounded by the seriousness of the conduct and injuries alleged, these suits have the potential to dwarf the damages awards previously sought in earlier GWOT cases. Undoubtedly, KBR will seek to raise the political question doctrine as an absolute bar to these and any similar suits.

Defense contractor advocates warn of “deleterious effects” to the mission and the contractor-military relationship if tort suits against war zone defense contractors are allowed to proceed. They argue such tort claims “frustrate” and “conflict with” the Government’s ability to control contingency operations and would result in compromised logistical support and mission jeopardy. Furthermore, many companies, especially smaller ones, could be deterred from seeking contingency contracts. For those contractors who do elect to proceed, they will seek to insulate themselves from liability by either self-insuring or obtaining insurance coverage, if it is available. The argument continues that such costs will then be passed onto the Government in the form of higher contract prices. But, most alarmingly, some defense contractor advocates claim the impact of such suits “would be far more profound than financial” and defense contractors may, out of a fear of being sued, refuse to follow the military’s instructions altogether.

#### Key to contain Afghan instability

Schwartz 9 (Moshe, Specialist in Defense Acquisition – Congressional Research Service, “Department of Defense Contractors in Iraq and Afghanistan: Background and Analysis,” Congressional Research Service, 8-23, http://fpc.state.gov/documents/organization/128824.pdf)

The Department of Defense (DOD) increasingly relies upon contractors to support operations in Iraq and Afghanistan, which has resulted in a DOD workforce in those countries comprising approximately an equal number of contractors (200,000) as uniformed personnel (194,000). The critical role contractors play in supporting such military operations and the billions of dollars spent by DOD on these services requires operational forces to effectively manage contractors during contingency operations. Lack of sufficient contract management can delay or even prevent troops from receiving needed support and can also result in wasteful spending. Some analysts believe that poor contract management has also played a role in abuses and crimes committed by certain contractors against local nationals, which likely has undermined U.S. counterinsurgency efforts in Iraq and Afghanistan.

DOD officials have stated that the military’s experience in Iraq and Afghanistan, coupled with Congressional attention and legislation, has focused DOD’s attention on the importance of contractors to operational success. DOD has taken steps to improve how it manages and oversees contractors in Iraq and Afghanistan. These steps include tracking contracting data, implementing contracting training for uniformed personnel, increasing the size of the acquisition workforce in Iraq and Afghanistan, and updating DOD doctrine to incorporate the role of contractors. However, these efforts are still in progress and could take three years or more to effectively implement.

#### Extinction

Morgan 7 (Stephen J., Political Writer and Former Member of the British Labour Party Executive Committee, “Better another Taliban Afghanistan, than a Taliban NUCLEAR Pakistan!?”, 9-23, http://www.freearticlesarchive.com/article/\_Better\_another\_Taliban\_Afghanistan\_\_than\_a\_Taliban\_NUCLEAR\_Pakistan\_\_\_/99961/0/)

As the war intensifies, he has no guarantees that the current autonomy may yet burgeon into a separatist movement. Appetite comes with eating, as they say. Moreover, should the Taliban fail to re-conquer al of Afghanistan, as looks likely, but captures at least half of the country, then a Taliban Pashtun caliphate could be established which would act as a magnet to separatist Pashtuns in Pakistan. Then, the likely break up of Afghanistan along ethnic lines, could, indeed, lead the way to the break up of Pakistan, as well. Strong centrifugal forces have always bedevilled the stability and unity of Pakistan, and, in the context of the new world situation, the country could be faced with civil wars and popular fundamentalist uprisings, probably including a military-fundamentalist coup d’état. Fundamentalism is deeply rooted in Pakistan society. The fact that in the year following 9/11, the most popular name given to male children born that year was “Osama” (not a Pakistani name) is a small indication of the mood. Given the weakening base of the traditional, secular opposition parties, conditions would be ripe for a coup d’état by the fundamentalist wing of the Army and ISI, leaning on the radicalised masses to take power. Some form of radical, military Islamic regime, where legal powers would shift to Islamic courts and forms of shira law would be likely. Although, even then, this might not take place outside of a protracted crisis of upheaval and civil war conditions, mixing fundamentalist movements with nationalist uprisings and sectarian violence between the Sunni and minority Shia populations. The nightmare that is now Iraq would take on gothic proportions across the continent. The prophesy of **an arc of civil war** over Lebanon, Palestine and Iraq **would spread to south Asia, stretching from Pakistan to Palestine, through Afghanistan into Iraq and up to the Mediterranean** coast. Undoubtedly, this would also spill over into India both with regards to the Muslim community and Kashmir. Border clashes, terrorist attacks, sectarian pogroms and insurgency would break out. A new war, and possibly **nuclear war,** between Pakistan and India could not be ruled out. Atomic Al Qaeda Should Pakistan break down completely, a Taliban-style government with strong Al Qaeda influence is a real possibility. Such deep chaos would, of course, open a “Pandora's box” for the region and the world. With the possibility of unstable clerical and military fundamentalist elements being in control of the Pakistan nuclear arsenal, not only their use against India, but Israel becomes a possibility, as well as the acquisition of nuclear and other deadly weapons secrets by Al Qaeda. Invading Pakistan would not be an option for America. Therefore a nuclear war would now again become a real strategic possibility. This would bring a shift in the tectonic plates of global relations. It could usher in a new Cold War with **China and Russia pitted against the US**.

### 1nc amendments cp

#### Text –

#### Congress should propose and three fourths of the states should ratify an amendment to the United States Constitution that treaties ratified by the United States are a restriction on the war powers authority of the President of the United States in the area of indefinite detention

#### Amendments solve war powers

Goldstein 88 (Yonkel, J.D. – Stanford Law School and Has the Sweetest of Names, “The Failure of Constitutional Controls over War Powers in the Nuclear Age: The Argument for a Constitutional Amendment,” Stanford Law Review, July, 40 Stan. L. Rev. 1543, Lexis)

The scope of the **war-making powers** of the executive and legislative branches of the United States government, in the context of the nuclear age, is unclear. The tremendous destructive power of modern arsenals, especially that of atomic weapons, makes this issue one of paramount importance. As the dangers of war have increased exponentially since the time when the Constitution was ratified, the efficacy of the constitutional safeguards which were intended to limit the likelihood of war has dwindled dramatically. The lack of a major nuclear war, so far, may suggest to some that the legal system of controls over United States war powers is operating well. As Professor Spanier states, however, in discussing the principle of civilian control of the military, factors which are extrinsic to the legal system have been primarily responsible for the American military's subservience to civilians. n1 My argument is an analogous one, namely that the system of checks and balances, designed to ensure that entry into war either be in response to an emergency thrust upon the nation or the result of a thorough examination of policy alternatives and considerations, is no longer functioning. Consequently, credit for the lack of nuclear war since World War II belongs more to factors extrinsic to the legal system designed to control American war power than it does to [\*1544] any workable system intended to regulate that power. The constitutional war-making provisions have now been tested; under modern-day pressures they have been found wanting. As a result, it is time to **amend the Constitution** for both practical and symbolic reasons. A constitutional amendment would have a consciousness-raising effect on the American people. It would signal a clear change from immediate past precedent and, simultaneously, legitimate that change in the most authoritative way possible under our system. The proposed amendment would both (1) clearly establish congressional authority to set policy in all matters relating to the preparation and execution of war, hostilities, aggression, or defense of the United States, American citizens, and American interests, and (2) establish a private right of action against Congress for its failure to make diligent efforts to ascertain the relevant facts, to debate, and to set policy in this area. The first part of this amendment would help to settle any lingering debate over the proper congressional role in defense matters, yet allow the system to retain the flexibility necessary to execute a sound and responsive defense policy; Congress would be able to delegate responsibility and authority however it sees fit. The second part recognizes the appropriateness of a mechanism to allow United States citizens to stimulate congressional and judicial action in order to protect against the risks of nuclear war; courts would not be empowered to judge substantive legislative decisions, but would be able to ensure that Congress, in reaching those decisions, adhere to constitutional principles. Thus, the courts would function similarly to how they have operated in the due process area.

#### The is more legitimate and avoids rollback

Vermeule 4 (Adrian, Professor of Law – Harvard Law School, “Constitutional Amendments and the Constitutional Common Law,” Public Law and Legal Theory Working Paper No. 73, University of Chicago Law School, September, <http://www.law.uchicago.edu/files/files/73-av-amendments.pdf>)

Decision costs and benefits

We must account for the costs of decision making as well as the quality of decisions. A simple view would be that the formal amendment process is too costly to serve as the principal means, or even as an important means, of constitutional updating, just as periodic constitutional conventions are too costly to be practical.

Dennis Mueller denies this view. He suggests instead that the decision costs of the formal amendment process are **decision benefits**:

The U.S. Constitution contains broad definitions of rights, and the task of amending their definitions to reflect changes in the country’s economic, social and political characteristics has been largely carried out by the Supreme Court. While this method of updating the Constitution’s definition of rights has helped to prevent them from becoming hopelessly out of date, it has **failed to build the kind of support** for the new definitions of rights that would exist if they had **arisen from a wider consensual agreement** in the society. The bitter debates and clashes among citizens over civil rights, criminal rights and abortion illustrate this point. . . . Although [alternative procedures for constitutional amendment] may appear to involve greater decision-making costs, they have the potential for building consensus over the newly formulated definitions of rights.82

On this view, it is an illusion that constitutional common law incurs lower decision costs in the long run, even if a given change may be more easily implemented through adjudication in the short run. Although at any given time it is less costly to persuade five Justices to adopt a proposed constitutional change than to obtain a formal amendment to the same effect, the former mode of change incurs **higher decision costs** over time, because **common-law constitutionalism allows** greater conflictin subsequent periods.

A benefit of formal amendments, then, is to **more effectively discourage** **subsequent efforts by constitutional losers to overturn adverse constitutional change**. Precisely because the formal amendment process is more costly to invoke, formal amendments are more enduring than are judicial decisions that update constitutional rules;83 so losers in the amendment process will less frequently attempt to overturn or destabilize the new rules, in subsequent periods, than will losers in the process of common-law constitutionalism. This point does not necessarily suppose that dissenters from a given amendment come to agree with the enacting supermajority’s judgment, only that they accept the new equilibrium faute de mieux.

Obviously more work might be done to specify these intuitions, but it is at least plausible to think that the simplest view, on which formal amendments incur decisionmaking costs that exceed their other benefits, is untenably crude. The overall picture, rather, is a tradeoff along the following lines. Relative to common-law constitutionalism, the Article V process requires a higher initial investment to secure constitutional change. If Mueller is right, however, constitutional settlements produced by the Article V process will tend to be more enduring over time than is judicial updating, which can be unsettled and refought at lower cost in subsequent periods.

[Note: from the Vermeule article: “constitutional common law is short for something like ‘judge-made constitutional law’.”]

#### Amendments are a predictable alternative – the CP is fast and solves judicial deference

Denning and Vile 2 (Brannon P., Assistant Professor of Law – Southern Illinois University School of Law, and John R., Political Science Department Chair – Middle Tennessee State University, “The Relevance of Constitutional Amendments: A Response to David Strauss,” Tulane Law Review, November, 77 Tul. L. Rev. 247, Lexis)

B. The Checking Function

Perhaps the most important function that the Article V amending process potentially plays is that it offers a **check on the Supreme Court's** decisions, short of outright **defiance**. In fact, of our twenty-seven amendments, at least four were ratified to overturn, or in reaction to, a specific Supreme Court decision. n122 Strauss's argument that many of these Court opinions were aberrant and would not have survived for very long anyway is beside the point. By resort to the amendment process, "We the People" are not dependent upon the Court seeing the errors of its ways and correcting them. The standard amending process does require the cooperation of Congress, but, even here, the Founders provided an alternative in case this institution proved to be unreliable. Although the Article V convention mechanism has not been used, it appears to have prompted Congress to propose amendments on a **number of occasions**, most notably in the case of the Seventeenth Amendment, providing for direct election of the Senate. That process can be hastened without the interference of, or dependence upon, intermediating institutions.

Strauss may be correct that, absent Article V, the Court or Congress would eventually arrive at the same place as a formal amendment, but, to paraphrase Keynes, eventually we will all be dead. [\*277] Issues of ultimate efficacy aside, it would seem to be psychologically important to have open a process for amendment, lest a polity be unable to loosen the dead hand of the past other than by severing its connections with the past completely through revolution (with all the uncertainty that accompanies such radical surgery), or be unable to escape the occasional ill-starred decision of a branch, like the Supreme Court, which is insulated from the application of ordinary political pressure.

#### Political question doctrine and politics DAs are all net benefits

Miksha 3 (Andre, Chief Deputy Prosecuting Attorney – Hamilton County Prosecutor's Office (24th Judicial Circuit), “Declaring War on the War Powers Resolution,” Valparaiso University Law Review, 37 Val. U. L. Rev. 651, <http://scholar.valpo.edu/cgi/viewcontent.cgi?article=1264&context=vulr>)

III. THE INFIRMITIES OF THE WAR POWERS RESOLUTION

Given almost thirty years of history, the War Powers Resolution has been criticized as a dead letter and a total failure. n120 Not only has the Resolution been a total failure in fulfilling its stated purposes, but the [\*676] Resolution also suffers from inherent constitutional failings. n121 This Note argues that these ills result from several factors.

First, the Resolution fails to meet the demands of the Constitution because it designs a new system of war powers inconsistent with principles of separation of powers and accountability. n122 Second, the Resolution has been a total failure due to its weak construction of enforcement mechanisms. n123 Third, the necessities of military command and execution require a more strict and swift system. n124 This Note further argues that the solution to the Resolution's ills and to the necessities of American civilian-military decision-making is a **constitutional amendment**. n125

A. Constitutional Concerns

Although the Resolution began with genuine and virtuous aspirations, it created a system of powers inconsistent with the Constitution in several ways. The Resolution sought to rearrange the separation of the powers held by two major institutions of American government in which the third branch of government has remained reticent regarding this breach of constitutional principles. n126 The Resolution also defies the constitutional value of discourse and accountability by allowing the President to act unilaterally. n127

1. Separation of Powers and Delegation

The Constitution is the document that established the separation of powers and the structure of the federal government. n128 The Resolution reconceived one part of the separation of powers through a simple act of [\*677] Congress. n129 The reconception was improper because it was inconsistent with principles set forth explicitly in the document and with the principle of delegation of power. On the other hand, a constitutional amendment is appropriate because its subject is **the determination** of the separation of powers, and it sets the rights and responsibilities of the branches in relation to each other. An amendment would help to solidify the limits and responsibilities of the branches of government in a manner consistent with the Constitution itself.

a. General Constitutional Construction

The Constitution gives to Congress the enumerated power to declare war and to the President the power and responsibility to conduct those operations as Commander in Chief. n130 The Framers' make/declare debate shows that they wished Congress to hold the power to initiate hostilities. n131 The early courts were also clear that the President's role was the prosecution of war. n132

The Resolution allows the President to initiate hostilities in some circumstances, but the Resolution's permission is too broad to be considered a declaration because it does not contemplate an actual situation facing the United States. n133 Thus, by granting the President this power, the Resolution rewrites the separation of powers as conceived by the Constitution. Such a rewrite may not be conducted in violation of the principles laid forth in the Constitution because the Supremacy [\*678] Clause states that federal laws must be made in accordance with the Constitution. n134

Some commentators, however, argue that the Framers purposely left the war powers in a cloudy, uncertain arrangement. n135 It is hard to think that the Framers left this great potential for tyranny and abuse to a purely political process without guidance as to how the balance was to be stricken. n136 Some scholars also argue that the power of the purse was a sufficient check on the President; however, this contention is not valid today. n137 Congressional implied consent, which is argued to flow from the unused power of the purse, cannot be constitutionally sufficient either, although it may be supported by recent history. n138 The Supreme Court has only upheld a claim of implied consent in cases involving a proper delegation of power, and the Resolution does not represent a proper delegation. n139

[\*679] b. Improper Delegation of Power

Congress may delegate limited powers that it has been given by the Constitution. n140 The courts have become increasingly willing to uphold delegation against constitutional attack, especially when foreign affairs issues are involved. n141 In accordance with the Star-kist Foods test for proper delegation of power, Congress must provide (1) an "intelligible principle" for the executive to follow, (2) a specific policy or objective, and (3) limits circumscribing that power. n142 One may argue that the War Powers Resolution fit these requirements fully and represented a proper delegation of power. However, based on the historical and political developments, a closer legal analysis reveals that the Resolution was not a proper delegation.

The War Powers Resolution states a purpose and policy but does not provide any guidance as to when the President may introduce forces into hostilities. n143 Section 2(a) of the Resolution states the purpose as an effort to "fulfill the intent of the Framers of the Constitution" and "insure that the collective judgment of both Congress and the President will apply to the introduction of United States Armed Forces into hostilities." n144 Although the purpose is allegedly to guarantee the collective judgment of both the Congress and the President, the provisions of the War Powers Resolution are very weak. n145

Section 2(b) states that Congress has the power to make all laws necessary and proper for carrying into execution its own powers and all other constitutional powers. n146 However, Congress may not wholly delegate legislative powers. n147 The courts have allowed Congress some [\*680] leeway in this area, but only where Congress has provided sufficient guidance that the President is not working in a vacuum.

Section 2(c) states that the President may only act pursuant to a declaration of war, specific statutory authorization, or a national emergency created by an attack upon the United States. n148 This section approaches the sort of guidance that **the courts have contemplated**; however, **this construction relies on** specific congressional action in two situations and an attack upon the United States in the third. n149 Given the post-Resolution activities of the President, this paragraph seems to have had no import to the Executive. n150 Thus, through the Resolution's application, presidents have failed to comply with this section by claiming a general unilateral right to take action.

Through these provisions, the Resolution does not create an "intelligible principle" by which the President is guided to decide whether to introduce forces. The President has unbridled discretion. In addition, apart from the three specific situations described in section 2(c), the statute lacks a policy for when the President may act. The only prong of the Star-kist Foods test that may actually be satisfied by the Resolution is the limit on the power delegated because the President is allowed to act only within certain but broad circumstances. However, the Resolution does not suggest to the President how he or she must make the determination to introduce armed forces into hostilities. A proper delegation of power requires no less.

c. Impossible Delegation of Legislative Power

Nevertheless, Congress generally lacks the constitutional ability to delegate legislative powers. n151 Article I of the Constitution makes it clear that all enumerated legislative powers are vested in Congress. n152 In 1892, the Supreme Court recognized the principle that Congress cannot [\*681] constitutionally delegate legislative power to the President. n153 As recently as 1989, the Court reaffirmed that mandate. n154 The war powers are indeed legislative powers and may not be delegated in whole. n155 However, the courts have allowed Congress to delegate purely legislative powers under some circumstances, such as the Federal Sentencing Guidelines, but those delegations involved only a part of the legislative power as Congress merely used the agencies to work out the minute details. n156 This is not the case with the Resolution because Congress neither provided clear guidance nor limited the actual role of the subordinate.

d. The Courts

The courts have been very reserved in foreign affairs matters, but an amendment may make the interpretation of war powers a clear constitutional issue requiring the Supreme Court's analysis. The courts have avoided adjudication of disputes arising under the War Powers Resolution because of the justiciability doctrines of impasse, ripeness, standing, and political question. n157

### 1nc point of order

#### Text:

#### The United States Congress should amend the War Powers Resolution to:

#### -include a point-of-order mechanism that allows legislators to object to indefinite detention that violate treaties signed by the United States without clear-statement requirements from Congress

#### -include a clear statement rule, using the Necessary and Proper Clause, that treaties ratified by the United States are a restriction on the war powers authority of the President of the United States in the area of indefinite detention.

#### The United States Congress should raise and sustain a point of order against any presidential action that claims authority in indefinite detention that violates treaties signed on by the United States

#### It solves:

#### Amending the WPR to include point-of-orders strengthens the clear statement requirement, prevents vague interpretation of AUMF, and solves executive loopholes

Mitchell 9 (Jonathan F., Assistant Professor of Law – George Mason University School of Law, “Legislating Clear-Statement Regimes in National-Security Law,” Georgia Law Review, Summer, 43 Ga. L. Rev. 1059, Lexis)

The proposals to add funding restrictions to FISA and the War Powers Resolution are equally vulnerable to expansive executive branch theories of implied repeal. Recall that the OLC Kosovo memo asserts that the 1999 Emergency Supplemental Appropriations Act implicitly repealed restrictions in the War Powers Resolution, even though the Appropriations Act never earmarked funds for military operations in Kosovo, nor specifically authorized military operations in Kosovo beyond the WPR’s sixtyday window. According to OLC, it was enough that some 178 members of Congress thought that the President might continue the Kosovo hostilities beyond sixty days and that the appropriations legislation did not expressly withhold funds for that purpose.179 In like manner, a future executive might claim that a generic Authorization to Use Military Force implicitly repeals Senator Specter’s proposed funding restrictions under the last-in-time rule, so long as it can concoct some argument that legislators are aware (or should be aware) that warrantless surveillance of the enemy is a “fundamental incident of the use of military force.” Or the 180 President might claim that annual appropriations bills for the intelligence agencies implicitly repeal the earlier-enacted funding restrictions if legislators are aware of the President’s warrantless surveillance activities but fail to expressly reaffirm FISA’s restrictions. Proposals that would add funding restrictions to the War Powers Resolution are similarly incapable of withstanding the executive-branch lawyers’ broad theories of implied repeal. Those funding restrictions, like § 8(a)(1) of the War Powers Resolution, would be brushed aside whenever implicit congressional “authorization” might be found in later-enacted statutory language. The challenge for these efforts to strengthen the War Powers Resolution and FISA is that any future ambiguous statute will provide rope for executive-branch lawyers to concoct congressional "authorization" for the President's actions, no matter what restrictions or interpretive instructions Congress provides in framework legislation. None of these proposed reforms will disable the executive from using its expansive theories of constitutional avoidance and implied repeal to provide a veneer of legality for the President's actions, and minimize the prospect of future criminal sanctions and political reprisals against executive-branch employees. b. point-of-order mechanisms Congress could establish more effective clear-statement regimes in national security law if it pre-committed itself against enacting vague or ambiguous statutory language that the executive might use to claim implicit congressional "authorization." One such precommitment strategy would be to include point-of-order mechanisms in the War Powers Resolution and FISA (and other national-security framework statutes). These would **empower any individual legislator** to object to any bill **that authorizes military force**, or that funds the military or the intelligence agencies, and that fails to explicitly prohibit military hostilities beyond sixty days or warrantless electronic surveillance, unless Congress has specifically authorized such activities. Congress could further specify that if the point of order is sustained, the bill will be automatically amended to specifically prohibit or withhold funding for such activities. When a legislator raises a point of order, the chair must either sustain it and declare the legislation out of order, or overrule it. n181 Then a majority vote of the chamber can reverse the chair's ruling. Establishing point-of-order mechanisms in the War Powers Resolution and FISA **would strengthen the codified clear-statement requirements** in two ways. First, such mechanisms would impose a procedural roadblock to ambiguous statutory language that executive-branch lawyers might construe as implicitly authorizing extended military hostilities or warrantless electronic surveillance. Second, they would help deter future legislators from acquiescing to Presidential actions that Congress has not specifically authorized. Yet Congress has never established a point-of-order mechanism to [\*1105] enforce the clear-statement requirements in its national-security legislation, n182 even though it regularly employs this device to enforce precommitments in legislation that governs the federal budget process. If Congress had included such a point-of-order mechanism in the War Powers Resolution, any legislator could have objected to the 1999 Emergency Supplemental Appropriations Act when it reached the House or Senate floor. Any such objection would have required the chair to sustain the point of order **and amend the legislation**, because the bill appropriated money for the military yet failed to withhold funds for military hostilities that extend beyond sixty days. Then a majority vote of the entire chamber would have been necessary to overturn the chair's ruling and allow the 1999 Emergency Supplemental Appropriations Act to survive as written. And, if the chair had decided to overrule the point-of-order objection in violation of the chamber's rule, the objecting legislator could have appealed the chair's ruling to the full chamber, where a majority vote could overrule the chair's ruling and sustain the point of order. If FISA had included a point-of-order enforcement mechanism, any legislator could have raised a similar objection to the post-September 11th Authorization to Use Military Force, and the annual appropriations legislation to fund the intelligence agencies, unless those statutes were amended to specifically preclude electronic surveillance outside of FISA. Point-of-order mechanisms would not completely foreclose Congress from enacting ambiguous legislation such as the 1999 Emergency Supplemental Appropriations Act or the post-9/11 Authorization to Use Military Force. But they would impose significant procedural obstacles to legislation that executive-branch lawyers might use to claim implicit congressional authorization for extended military hostilities or electronic surveillance. Unless Congress specifically authorizes military hostilities beyond sixty days or warrantless electronic surveillance, appropriations statutes that fail to explicitly prohibit or withhold funding for such activities will survive only if: (1) Every single legislator in a chamber fails to raise a point-of-order objection; (2) A majority in that chamber votes to overrule a point-of-order objection; or (3) Congress repeals the point-of-order device before considering the bill.

#### The Congress CP solves treaties, detention, and ilaw

Rooney ’06 (Heather L, B.A. Evangel University, 2003; JD Candidate, Drake University Law School, Spring, 54 Drake L. Rev. 679 ln)

The Supreme Court decisions pertaining to detainees provide a very general framework of rights that the United States government must extend to prisoners being held at Guantanamo Bay; however, questions about the exact protections that must be provided cannot be effectively answered by the Court on a case-by-case basis. The judiciary's interpretive process would take too long and each holding would likely be seen as confined to the facts of the particular case. Moreover, the international community remains apprehensive as to how the United States is going to approach international law in general - an apprehension that is quickly affecting rapport, even with our allies. The international community wants to know whether the United States is going to ignore international treaties, including those governing human rights, whenever it determines that doing so is in the interest of national security. As the leading and most powerful nation in the world, the United States needs to step up - **and** **the quickest, cleanest, and least controversial way of reaching a consensus on this issue is for Congress to act**. [**433**](http://www.lexis.com/research/retrieve?_m=f9db1e8bd4f173e7f0d8d5885e30e8bd&csvc=bl&cform=2758.-2&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzb-zSkAW&_md5=5bd57aaa6927fbda851267871792d6a8#n433) [\*747] Legislation should be passed that adequately addresses the "complex mass of questions" posed by the (1) potentially lifelong detention (2) of foreign nationals (3) who are being detained on a military base (4) that is outside the total sovereignty of the United States (5) during an open-ended war. [**434**](http://www.lexis.com/research/retrieve?_m=f9db1e8bd4f173e7f0d8d5885e30e8bd&csvc=bl&cform=2758.-2&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzb-zSkAW&_md5=5bd57aaa6927fbda851267871792d6a8#n434) [\*748] [\*749] Congressional legislation would provide the **best possible blueprint** of the American public's opinion on how and even whether the United States [\*750] should protect terrorists. [**435**](http://www.lexis.com/research/retrieve?_m=f9db1e8bd4f173e7f0d8d5885e30e8bd&csvc=bl&cform=2758.-2&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzb-zSkAW&_md5=5bd57aaa6927fbda851267871792d6a8#n435) It would also provide the international community with a long-awaited answer as to whether the United States agrees that international human rights laws are applicable to detainees. [**436**](http://www.lexis.com/research/retrieve?_m=f9db1e8bd4f173e7f0d8d5885e30e8bd&csvc=bl&cform=2758.-2&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzb-zSkAW&_md5=5bd57aaa6927fbda851267871792d6a8#n436) **Congress must legislate** so that the United States can emerge from its current state of "legal fog" [**437**](http://www.lexis.com/research/retrieve?_m=f9db1e8bd4f173e7f0d8d5885e30e8bd&csvc=bl&cform=2758.-2&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzb-zSkAW&_md5=5bd57aaa6927fbda851267871792d6a8#n437) with a national consensus on the appropriate treatment of detainees that will **build confidence and cooperation** both at home and abroad.

### 1nc Charming Betsy

#### 1ac card says that single decisions don’t implicate Charming Betsy – plan doesn’t spillover

Crootoff  11  
Rebecca Crootof, J.D. Yale Law School  
Judicious Influence: Non-Self-Executing Treaties and the Charming Betsy Canon (April 5, 2011). Yale Law Journal. Available at SSRN: <http://ssrn.com/abstract=1803380>  
 The Charming Betsy Canon Encourages Domestic Courts’ Engagement with International Agreements and International Adoption

Conclusion

There are legitimate reasons to celebrate and criticize Medellin’s reasoning.

The case clarifies murky areas of domestic law, but it does so at the expense of

the United States fulfilling its international commitments. However, those

who rejoice in or bemoan Medellin’s seeming presumption in favor of non-selfexecution

mistake the case’s import. While high-profile decisions like Medellin

will draw fire, treaties’ influence in domestic jurisprudence remains largely

unaffected.Treaties, eve self-executing treaties, are rarely used directly. Instead, in concert with the Charming Betsy canon, both self- and non-self-executing treaties serve as useful tools in statutory construction. Existing court practice reflects this understanding, and normative arguments support it. The limited application of the Charming Betsy canon results in relatively costless compliance with international law, accords with separation-of-powers principles by avoiding unintended and possibly undesirable breaches of international obligations, and allows domestic courts to engage with and influence developing norms. In giving meaning to U.S. international obligations while respecting the limits of international law in domestic jurisprudence, judicious application of the Charming Betsy canon in conjunction with non-self-executing treaties reconciles often-opposing interests.

#### Charming betsy canon expansion is inevitable their author AND proves the link to PQD

Waters 07  
Melissa A Waters Assistant Professor of Law, Washington 26 Lee Law School.  
USING HUMAN RIGHTS TREATIES TO RESOLVE AMBIGUITY: THE ADVENT  OF A RIGHTS­CONSCIOUS CHARMING  BETSY CANON  
<http://www.victoria.ac.nz/law/research/publications/vuwlr/prev-issues/pdf/vol-38-2007/issue-2/using-human-rights-waters.pdf>

<Their Card Starts>

One of the most significant developments in international law over the past decade has been the

emergence of a rich transnational judicial dialogue among the world's common law courts. While

transnational judicial dialogue is emerging across a wide range of substantive law areas, thus far the

scholarly debate over dialogue has focused largely on the use of international human rights law in

interpreting domestic constitutional texts. Equally significant forms of dialogue are taking place

outside the constitutional context, however, and thus far these other forms have received far less

scholarly attention.

One particularly overlooked arena for transnational judicial dialogue on human rights is in the

interpretation of statutory law. Courts have long looked to international law to interpret statutes. In

the United States, for example, the socalled

Charming Betsy canon of statutory interpretation holds

that "an act of Congress ought never to be construed to violate the law of nations, if any other

possible construction remains." 1 United States courts have applied the Charming Betsy canon to

construe ambiguous statutes in such a manner that they would not violate either international treaties

#### <AND ends>

Over the past decade, common law courts have begun to transform the centuries old

Charming

Betsy canon into an extraordinarily powerful judicial tool for entrenching international human rights

obligations into domestic law. By developing what I will refer to as a "rightsconscious

Charming

Betsy canon", courts are able to utilise treaties to interpret domestic statutes consistently with

international legal human rights norms. In addition, some judges have urged for the expansion of

the rightsconscious

approach beyond the statutory context, arguing that courts should adopt the

Charming Betsy canon to interpret ambiguities in constitutional texts. In both contexts,

transnational judicial dialogue has played a key role in encouraging the development of a rightsconscious

approach. Human rights treaties have become a kind of bridging device: courts use them

as common reference points around which to construct a dialogue with their foreign counterparts

regarding both the content of human rights law and the proper application of that law to interpret

domestic legal texts.

As we shall see, the emergence of the rights conscious

Charming Betsy canon has reinvigorated

the debate over the proper role for treaties in common law legal systems. Traditional common law

dualism holds that a treaty has domestic legal effect in only two situations: first, if it has been

incorporated by legislation, or second, if courts are utilising the treaty as evidence of the existence

of a customary international law norm. The traditional Charming Betsy canon fits well within the

dualist paradigm, because it emphasises respect for the political branches, particularly the

legislature. As Professor Ralph Steinhardt has observed, by seeking to read domestic legislation

consistently with international commitments undertaken by the political branches, Charming Betsy

"assures that [a country] is not compromised or embarrassed in its foreign relations." 3 From a

dualist standpoint, the traditional Charming Betsy canon is "a restrictive and prophylactic doctrine

protecting the separation of powers." 4

The emerging right sconscious

Charming Betsy canon, however, is considerably more monist in

orientation than its historical predecessor. It emphasises respect for international law rather than

judicial deference to political branch prerogatives in treaty incorporation. Courts employing the

canon utilise unincorporated human rights treaties to inform the substantive content of domestic

statutes. In so doing, they are developing a flexible, powerful and increasingly controversial judicial

tool for entrenching human rights treaty obligations into domestic law. This essay explores the emergence of a rightsconscious

Charming Betsy canon in both statutory and constitutional

interpretation, and considers its implications for traditional common law dualism.

#### No uniqueness for backing down from treaties – their author

Crootoff  11  
Rebecca Crootof, J.D. Yale Law School  
Judicious Influence: Non-Self-Executing Treaties and the Charming Betsy Canon (April 5, 2011). Yale Law Journal. Available at SSRN: <http://ssrn.com/abstract=1803380>  
 The Charming Betsy Canon Encourages Domestic Courts’ Engagement with International Agreements and International Adoption

Much of domestic law already accords with international law, in large part because the United States actively influences the development of treaties. The United States often plays a pivotal role in drafting international treaties, and U.S. ratifications of multilateral treaties often are accompanied by declarations that U.S. obligations under the treaty are already fulfilled by domestic law. Therefore, aside from the fact that the Charming Betsy canon does not obligate or encourage courts to override domestic law, its proper application will likely favor interpretations that harmonize with provisions previously endorsed by the United States.

#### No norms impact

**Ikenberry ’11** – Professor of Politics and International Affairs @ Princeton

G. John Ikenberry, the Albert G. Milbank Professor of Politics and International Affairs at Princeton University. “A World of Our Making”. Democracy A Journal of Ideas. Issue #21, Summer 2011. http://www.democracyjournal.org/21/a-world-of-our-making-1.php?page=1

The main alternatives to liberal order—both domestic and international—have more or less disappeared. The great liberal international era is not ending. Still, if the liberal order is not in crisis, its governance is. Yet, given the fundamental weakness of the past international orders—brought down by world wars and great economic upheavals—the challenges of reforming and renegotiating liberal world order are, if anything, welcome ones.

There are four reasons to think that some type of updated and reorganized liberal international order will persist. First, the old and traditional mechanism for overturning international order—great-power war—is no longer likely to occur. Already, the contemporary world has experienced the longest period of great-power peace in the long history of the state system. This absence of great-power war is no doubt due to several factors not present in earlier eras, namely nuclear deterrence and the dominance of liberal democracies. Nuclear weapons—and the deterrence they generate—give great powers some confidence that they will not be dominated or invaded by other major states. They make war among major states less rational and there-fore less likely. This removal of great-power war as a tool of overturning international order tends to reinforce the status quo. The United States was lucky to have emerged as a global power in the nuclear age, because rival great powers are put at a disadvantage if they seek to overturn the American-led system. The cost-benefit calculation of rival would-be hegemonic powers is altered in favor of working for change within the system. But, again, the fact that great-power deterrence also sets limits on the projection of American power presumably makes the existing international order more tolerable. It removes a type of behavior in the system—war, invasion, and conquest between great powers—that historically provided the motive for seeking to overturn order. If the violent over-turning of international order is removed, a bias for continuity is introduced into the system.

Second, the character of liberal international order itself—**with or without** American **hegemonic leadership**—reinforces continuity. The complex interdependence that is unleashed in an open and loosely rule-based order generates expanding realms of exchange and investment that result in a growing array of firms, interest groups, and other sorts of political stakeholders who seek to preserve the stability and openness of the system. Beyond this, the liberal order is also relatively easy to join. In the post-Cold War decades, countries in different regions of the world have made democratic transitions and connected themselves to various parts of this system. East European countries and states within the old Soviet empire have joined NATO. East Asian countries, including China, have joined the World Trade Organization (WTO). Through its many multilateral institutions, the liberal international order facilitates integration and offers support for states that are making transitions toward liberal democracy. Many countries have also experienced growth and rising incomes within this order. Comparing international orders is tricky, but the current liberal international order, seen in comparative perspective, does appear to have unique characteristics that encourage integration and discourage opposition and resistance.

Third, the states that are rising today do not constitute a potential united opposition bloc to the existing order. There are so-called rising states in various regions of the world. China, India, Brazil, and South Africa are perhaps most prominent. Russia is also sometimes included in this grouping of rising states. These states are all capitalist and most are democratic. They all gain from trade and integration within the world capitalist system. They all either are members of the WTO or seek membership in it. But they also have very diverse geopolitical and regional interests and agendas. They do not constitute either an economic bloc or a geopolitical one. Their ideologies and histories are distinct. They share an interest in gaining access to the leading institutions that govern the international system. Sometimes this creates competition among them for influence and access. But it also orients their struggles toward the reform and reorganization of governing institutions, not to a united effort to overturn the underlying order.

Fourth, all the great powers have alignments of interests that will continue to bring them together to negotiate and cooperate over the management of the system. All the great powers—old and rising—are status-quo powers. All are beneficiaries of an open world economy and the various services that the liberal international order provides for capitalist trading states. All worry about religious radicalism and failed states. Great powers such as Russia and China do have different geopolitical interests in various key trouble spots, such as Iran and South Asia, and so disagreement and noncooperation over sanctions relating to nonproliferation and other security issues will not disappear. But the opportunities for managing differences with frameworks of great-power cooperation exist and will grow.

### 1nc Warming

#### International community won’t act – means warming becomes inevitable

**Mckibben 10** – Foreign Policy writer, author, environmentalist, and activist. In 1988, he wrote The End of Nature, the first book for a common audience about global warming. (Bill, 11-22, “Sipping Margaritas While the Climate Burns” http://www.foreignpolicy.com/articles/2010/11/22/sipping\_margaritas\_while\_the\_climate\_burns?page=0,1) Jacome

In fact, I suspect it will be mostly holding pattern and very little landing in Mexico this December. The fundamental problem that has always dogged these talks -- a rich north that won't give up its fossil-fuel addiction, a poor south that can't give up its hope of fossil-fueled development -- has, if anything, gotten worse, mostly because the north has decided to think of itself as poor, too or at least not able to devote resources to changing our climate course.

It is possible -- indeed it has been possible from the start -- that this essential gulf will prevent action to slow greenhouse gas emissions at the pace that physics and chemistry demand before it's too late to reverse or contain the impacts of climate change. There's really only one way to build a bridge across the divide, and that's with big stacks of money. Theoretically, the rich countries pledged at Copenhagen that they would pony up $30 billion in "fast-start" financing to help poor countries get going on building renewable energy. And at last scrupulous count, according to the World Resources Institute, there's actually $28.34 billion on the table, more than half of it coming from Japan. Unfortunately, much of it isn't "new and additional" -- instead it's repurposed money from other development grants. None of that increases anyone's confidence in the $100 billion a year that U.S. Secretary of State Hillary Clinton projected in Copenhagen would be available by 2020 -- especially because the only news that has emerged this year as to its source is that it won't be coming from "public funds."

#### Montreal Protocol is meaningless, no Ozone risk

**Singer 2002** (S. Fred, Prof. Emeritus Env. Sci. – U. Virginia, “Correct Lessons from Shrinking Ozone Hole”, http://www.heartland.org/policybot/results/10609/Correct\_Lessons\_from\_Shrinking\_Ozone\_Hole.html)

I agree with the title of your editorial ("The sky is not falling" Oct 12, 2002) but wish to correct some of the scientific information: \* The Antarctic Ozone Hole (AOH) was never "theorized" but discovered in 1985 and explained only much later; \* By 1987, when the Montreal Protocol (to phase out CFCs) was concluded, the published data showed no increase in stratospheric chlorine, an ozone-destroying chemical, and therefore no evidence for a human influence. In fact, the chief US negotiator Richard Benedick bragged that he was able to pull off the Montreal accord without any backing from science. I quote from his book Ozone Diplomacy: " Perhaps the most extraordinary aspect of the treaty was............[that it] rested on scientific theories rather than on firm data;" \* According to the official UN report of 2002, stratospheric chlorine is still rising. No matter: The size of the AOH has been controlled by changing weather patterns rather than by chlorine levels; \* In spite of theoretical predictions, there has been no direct observational evidence for a steady increase of ultraviolet radiation at the Earth's surface. Therefore all imagined impacts cited in the editorial -- skin cancers, cataracts, etc. -- are based on speculation.

#### No extinction—reject 1% hyperbole

Robert O. **Mendelsohn 9**, the Edwin Weyerhaeuser Davis Professor, Yale School of Forestry and Environmental Studies, Yale University, June 2009, “Climate Change and Economic Growth,” online: <http://www.growthcommission.org/storage/cgdev/documents/gcwp060web.pdf>

The heart of the debate about climate change comes from a number of warnings from scientists and others that give the impression that human-induced climate change is an immediate threat to society (IPCC 2007a,b; Stern 2006). Millions of people might be vulnerable to health effects (IPCC 2007b), crop production might fall in the low latitudes (IPCC 2007b), water supplies might dwindle (IPCC 2007b), precipitation might fall in arid regions (IPCC 2007b), extreme events will grow exponentially (Stern 2006), and between 20–30 percent of species will risk extinction (IPCC 2007b). Even worse, there may be catastrophic events such as the melting of Greenland or Antarctic ice sheets causing severe sea level rise, which would inundate hundreds of millions of people (Dasgupta et al. 2009). Proponents argue there is no time to waste. Unless greenhouse gases are cut dramatically today, economic growth and well‐being may be at risk (Stern 2006).

These statements are largely alarmist and misleading. Although climate change is a serious problem that deserves attention, society’s immediate behavior has an extremely low probability of leading to catastrophic consequences. The science and economics of climate change is quite clear that emissions over the next few decades will lead to only mild consequences. The severe impacts predicted by alarmists require a century (or two in the case of Stern 2006) of no mitigation. Many of the predicted impacts assume there will be no or little adaptation. The net economic impacts from climate change over the next 50 years will be small regardless. Most of the more severe impacts will take more than a century or even a millennium to unfold and many of these “potential” impacts will never occur because people will adapt. It is not at all apparent that immediate and dramatic policies need to be developed to thwart long‐range climate risks. What is needed are long‐run balanced responses.

#### Domestic problems undercut both Chinese and U.S. action

**Hale, 11** - PhD Candidate in the Department of Politics at Princeton University and a Visiting Fellow at LSE Global Governance, London School of Economics (Thomas, “A Climate Coalition of the Willing,” Washington Quarterly, Winter,http://www.twq.com/11winter/docs/11winter\_Hale.pdf

Intergovernmental efforts to limit the gases that cause climate change have all but failed. After the unsuccessful 2010 Copenhagen summit, and with little progress at the 2010 Cancun meeting, it is hard to see how major emitters will agree any time soon on mutual emissions reductions that are sufficiently ambitious to prevent a substantial (greater than two degree Celsius) increase in average global temperatures.

It is not hard to see why. No deal excluding the United States and China, which together emit more than 40 percent of the world’s greenhouse gases (GHGs), is worth the paper it is written on. But domestic politics in both countries effectively block ‘‘G-2’’ leadership on climate. In the United States, the Obama administration has basically given up on national cap-and-trade legislation. Even the relatively modest Kerry-Lieberman-Graham energy bill remains dead in the Senate. The Chinese government, in turn, faces an even harsher constraint. Although the nation has adopted important energy efficiency goals, the Chinese Communist Party has staked its legitimacy and political survival on raising the living standard of average Chinese. Accepting international commitments that stand even a small chance of reducing the country’s GDP growth rate below a crucial threshold poses an unacceptable risk to the stability of the regime. Although the G-2 present the largest and most obvious barrier to a global treaty, they also provide a convenient excuse for other governments to avoid aggressive action. Therefore, the international community should not expect to negotiate a worthwhile successor to the Kyoto Protocol, at least not in the near future.

#### 

## 2nc

### 2nc economy impact

#### Global growth solves war

**Royal 10** – Jedediah Royal, Director of Cooperative Threat Reduction at the U.S. Department of Defense, 2010, “Economic Integration, Economic Signaling and the Problem of Economic Crises,” in Economics of War and Peace: Economic, Legal and Political Perspectives, ed. Goldsmith and Brauer, p. 213-215

Less intuitive is how periods of economic decline may increase the likelihood of external conflict. Political science literature has contributed a moderate degree of attention to the impact of economic decline and the security and defence behaviour of interdependent states. Research in this vein has been considered at systemic, dyadic and national levels. Several notable contributions follow.

First, on the systemic level, Pollins (2008) advances Modclski and Thompson's (1996) work on leadership cycle theory, finding that rhythms in the global economy are associated with the rise and fall of a pre-eminent power and the often bloody transition from one pre-eminent leader to the next. As such, exogenous shocks such as economic crises could usher in a redistribution of relative power (see also Gilpin, 1981) that leads to uncertainty about power balances, increasing the risk of miscalculation (Fearon. 1995). Alternatively, even a relatively certain redistribution of power could lead to a permissive environment for conflict as a rising power may seek to challenge a declining power (Werner, 1999). Separately, Pollins (1996) also shows that global economic cycles combined with parallel leadership cycles impact the likelihood of conflict among major, medium and small powers, although he suggests that the causes and connections between global economic conditions and security conditions remain unknown.

Second, on a dyadic level, Copeland's (1996. 2000) theory of trade expectations suggests that 'future expectation of trade' is a significant variable in understanding economic conditions and security behaviour of states. He argues that interdependent states are likely to gain pacific benefits from trade so long as they have an optimistic view of future trade relations. However, if the expectations of future trade decline, particularly for difficult  to replace items such as energy resources, the likelihood for conflict increases, as states will be inclined to use force to gain access to those resources. Crises could potentially be the trigger for decreased trade expectations either on its own or because it triggers protectionist moves by interdependent states.4

Third, others have considered the link between economic decline and external armed conflict at a national level. Blomberg and Hess (2002) find a strong correlation between internal conflict and external conflict, particularly during periods of economic downturn. They write:

The linkages between internal and external conflict and prosperity are strong and mutually reinforcing. Economic conflict tends to spawn internal conflict, which in turn returns the favour. Moreover, the presence of a recession tends to amplify the extent to which international and external conflicts self-reinforce each other. (Blomberg & Hess, 2002. p. 89)

Economic decline has also been linked with an increase in the likelihood of terrorism (Blomberg. Hess. & Weerapana. 2004). which has the capacity to spill across borders and lead to external tensions.

Furthermore, crises generally reduce the popularity of a sitting government. 'Diversionary theory' suggests that, when facing unpopularity arising from economic decline, sitting governments have increased incentives to fabricate external military conflicts to create a 'rally around the flag' effect. Wang (1990, DeRouen (1995). and Blomberg, Hess, and Thacker (2006) find supporting evidence showing that economic decline and use of force are at least indirectly correlated. Gelpi (1997), Miller (1999), and Kisangani and Pickering (2009) suggest that the tendency towards diversionary tactics are greater for democratic states than autocratic states, due to the fact that democratic leaders are generally more susceptible to being removed from office due to lack of domestic support. DeRouen (2000) has provided evidence showing that periods of weak economic performance in the United States, and thus weak Presidential popularity, are statistically linked to an increase in the use of force.

In summary, recent economic scholarship positively correlates economic integration with an increase in the frequency of economic crises, whereas political science scholarship links economic decline with external conflict at systemic, dyadic and national levels.' This implied connection between integration, crises and armed conflict has not featured prominently in the economic-security debate and deserves more attention.

#### The impact is global conflict and instability

**Tilford 2008** – PhD in history from George Washington University, served for 32 years as a military officer and analyst with the Air Force and Army (Earl, “Critical mass: economic leadership or dictatorship”, Cedartown Standard, lexis)

Could it happen again? Bourgeois democracy requires a vibrant capitalist system. Without it, the role of the individual shrinks as government expands. At the very least, the dimensions of the U.S. government economic intervention will foster a growth in bureaucracy to administer the multi-faceted programs necessary for implementation. Bureaucracies, once established, inevitably become self-serving and self-perpetuating. Will this lead to “socialism” as some conservative economic prognosticators suggest? Perhaps. But so is the possibility of dictatorship. If the American economy collapses, especially in wartime, there remains that possibility. And if that happens the American democratic era may be over. If the world economies collapse, totalitarianism will almost certainly return to Russia, which already is well along that path in any event. Fragile democracies in South America and Eastern Europe could crumble. A global economic collapse will also increase the chance of global conflict. As economic systems shut down, so will the distribution systems for resources like petroleum and food. It is certainly within the realm of possibility that nations perceiving themselves in peril will, if they have the military capability, use force, just as Japan and Nazi Germany did in the mid-to-late 1930s. Every nation in the world needs access to food and water. Industrial nations—the world powers of North America, Europe, and Asia—need access to energy. When the world economy runs smoothly, reciprocal trade meets these needs. If the world economy collapses, the use of military force becomes a more likely alternative. And given the increasingly rapid rate at which world affairs move; the world could devolve to that point very quickly.

#### Leads to global power vacuums—brings every conflict over the brink

**Dadush**, Carnegie International Economics Senior Associate and Director, **12-8-11**

[Uri, Uri Dadush is senior associate and director in Carnegie’s International Economics Program. His work particularly focuses on trends in the global economy, and he is interested in the implications of the increased weight of developing countries for the pattern of financial flows, trade and migration, and the associated economic policy and governance questions. He is the editor of the International Economic Bulletin, and the co-author of Paradigm Lost: The Euro in Crisis (Carnegie report, June 2010), Currency Wars (Carnegie report, September 2011), and of Juggernaut: How Emerging Markets Are Reshaping Globalization (Carnegie book, 2011). "The Long-Term Economic Outlook for the United States and its International Implications", http://www.carnegieendowment.org/2011/12/08/long-term-economic-outlook-for-united-states-and-its-international-implications/84c2#]

In the bad scenario, the eurozone unravels. The European Union still exists, but as an empty shell around a fragmented continent mired in a prolonged depression. Suffering from another global crisis, Japan remains ensnared in its decades-long slump. With the United States increasingly withdrawn, and few countries willing to follow an authoritarian and mercantilist China (assuming it does not adapt quickly to playing a more prominent global role), a large and dangerous global power vacuum is created. There is also a dearth of values and ideas, as the Washington Consensus becomes discredited and the world’s most successful economy, China, is built on a one-party, state-driven system. Progress on climate change, trade reform, financial and monetary system reform, and global governance grinds to a halt, and the trading system may be thrown into reverse by a revival of protectionism. A weaker and less secure international community reduces its aid effort, leaving impoverished or crisis-stricken countries to fend for themselves and, therefore, multiplying the chances of grievance and peripheral conflicts. The United States loses its proportionally greatest influence to regional hegemons—China in Asia and Russia in Eastern Europe and Central Asia—while Western Europe would remain divided and rudderless. The Middle East finds itself riven by numerous rivalries that occasionally erupt into open conflict and oil price shocks. More generally, the absence of leadership and confusion on values makes the reconciliation of disputes more difficult and tempts the strongest to take risks they would not otherwise take. Conclusion Which of the stories is more likely to be realized? I believe the good scenario is the more likely, though many would disagree. What is clear is that the outcome will depend crucially on today’s decisions, and, if mistakes are made, the bad scenario may well materialize. The overriding lesson of these two futures is that there is more at stake in current economic policy debates in Washington and Brussels than most people realize. A return of the United States and European economies to health over a reasonable time frame is vital for preserving the current international order and reestablishing a sound base for continued prosperity and peace.

#### Extinction

**Kemp 10**

Geoffrey Kemp, Director of Regional Strategic Programs at The Nixon Center, served in the White House under Ronald Reagan, special assistant to the president for national security affairs and senior director for Near East and South Asian affairs on the National Security Council Staff, Former Director, Middle East Arms Control Project at the Carnegie Endowment for International Peace, 2010, The East Moves West: India, China, and Asia’s Growing Presence in the Middle East, p. 233-4

The second scenario, called Mayhem and Chaos, is the opposite of the first scenario; everything that can go wrong does go wrong. The world economic situation weakens rather than strengthens, and India, China, and Japan suffer a major reduction in their growth rates, further weakening the global economy. As a result, energy demand falls and the price of fossil fuels plummets, leading to a financial crisis for the energy-producing states, which are forced to cut back dramatically on expansion programs and social welfare. That in turn leads to political unrest: and nurtures different radical groups, including, but not limited to, Islamic extremists. The internal stability of some countries is challenged, and there are more “failed states.” Most serious is the collapse of the democratic government in Pakistan and its takeover by Muslim extremists, who then take possession of a large number of nuclear weapons. The danger of war between India and Pakistan increases significantly. Iran, always worried about an extremist Pakistan, expands and weaponizes its nuclear program. That further enhances nuclear proliferation in the Middle East, with Saudi Arabia, Turkey, and Egypt joining Israel and Iran as nuclear states. Under these circumstances, the potential for nuclear terrorism increases, and the possibility of a nuclear terrorist attack in either the Western world or in the oil-producing states may lead to a further devastating collapse of the world economic market, with a tsunami-like impact on stability. In this scenario, major disruptions can be expected, with dire consequences for two-thirds of the planet’s population.

### 2nc key to economy

**Destroys the global economy.**

**Milstead 9-12** [David, Writer for the Globe and Mail, “The under-the-radar threat to U.S. stocks” Factiva]

Conventional wisdom holds that the chief risk to the high-flying U.S. stock market is “tapering,” the potential cutback of the Federal Reserve's bond-buying program. It's an understandable view, given how the Fed's monetary policy has propped up the country's economy for years by helping to keep long-term interest rates at ultra-low levels. But it's also wrong. The greatest immediate hazard to stocks isn't the direction the six governors of the Federal Reserve will take. It's what the 535 members of Congress will do in the coming weeks when faced with two budgetary issues that ought to be routine – but will likely be anything but. The first issue is approving a federal budget for the fiscal year that begins Oct. 1, or at least a resolution that will keep the government open in its absence. The second is authorizing a new, higher number for the U.S. government's borrowing before Washington hits its debt ceiling, once again, possibly by mid-October. In the absence of such a vote, the U.S. must simply stop spending – and, in essence, default on its debt. If this sounds familiar, it's because we went through a similar showdown two years ago, in the summer of 2011. Yet it's easy to forget now how that fiscal gridlock roiled the markets. In the first day of trading after Standard & Poor's downgraded U.S. debt in early August, the S&P 500 fell nearly 7 per cent. The day after, the index was nearly 19 per cent below the level of early July. The rhetoric suggests this fiscal showdown could inflict similar damage. Eighty House Republicans recently signed a letter urging their leadership to use any new government-funding bill to cut all necessary money for President Barack Obama's signature accomplishment, the Affordable Care Act, more popularly known as Obamacare. The Republican House leadership, it is said, does not support such a move. That's apparently because they prefer to make it part of the showdown over the debt ceiling. (The National Review, one of the U.S.'s leading conservative publications, reported Tuesday that Eric Cantor, the House Majority Leader, told Republicans they will be demanding a one-year delay of Obamacare in exchange for an increase in the debt ceiling.) Failing to raise the debt ceiling doesn't mean default, its opponents argue. The Treasury can just do a better job of “prioritizing,” paying the creditors while axing other expenses. In the absence of a higher debt ceiling, the U.S. could pay the interest on Treasury securities, and keep on footing the tab for Medicare and Medicaid, Social Security, national defence and a handful of aid programs, according to the Bipartisan Policy Centre. But, starting Oct. 15, it won't be able to afford the salaries of other federal workers, or perform functions like road construction and air traffic control, or run the federal court system. Ted Yoho, the improbably named Republican representative from Florida, said this about a failure to raise the debt ceiling, according to a recording of one of his summertime town hall meetings leaked to the Huffington Post: “So they say that would rock the market, capital would leave, the stock market would crash … I think our credit rating would do better.” Better, I think, to take the U.S. Treasury's position that the markets will view the U.S. picking and choosing which bills to pay as an admission it simply can't pay them all. Deputy secretary Neil Wolin said during the last debt-ceiling showdown, in 2011, that it “would merely be default by another name.” That, however, is the view from the reality-based community, rather than the deeply irrational, anti-intellectual element that has hijacked the Republican Party and turned ordinary budgetary procedure into a partisan brawl. The liberal economic writer Jonathan Chait recently wrote “the chaos and dysfunction have set in so deeply that Washington now lurches from crisis to crisis, and once-dull, keep-the-lights-on rituals of government procedure are transformed into white-knuckle dramas that threaten national or even global catastrophe.” And yet stocks seem to be priced as if Democrats, Republicans and President Obama will come together to work something out. There is great faith that the United States will overcome its challenges and take the right path in the end. Investors could suffer double-digit losses in the coming weeks if that faith is misplaced.

#### Even the credible possibility of default will destroy the economy

**Davis, 9/18/13 -** professor of political science at Brigham Young University(Richard, Deseret News, “Raise the debt ceiling, then talk about spending less” <http://www.deseretnews.com/article/865586538/Raise-the-debt-ceiling-then-talk-about-spending-less.html>)

This is a strategy popular with the Republican right wing, but it is bad policy for the nation. Paying the nation’s bills is not about politics. It sends the wrong signal to investors that U.S. political leaders are not serious about the consequences of default. The nation’s bond rating was lowered after the last near-default. That would happen again if the government defaulted. Even the possibility of default makes investors jittery and undermines our reputation as a nation that always lives up to its promise to pay its bills. A lower bond rating costs taxpayers more money because borrowing comes at a heavier price, just as a lower credit score for failure to pay bills hurts an individual.

#### The threat of default alone is enough

**Kapur, 9/18/13** – TPM’s senior politics reporter (Sahil, “Obama Blasts GOP 'Extortion' And Threat Of 'Apocalypse' Over Debt Limit” <http://talkingpointsmemo.com/dc/obama-blasts-gop-extortion-and-threat-of-apocalypse-over-debt-limit>)

A new report released Wednesday by Congress' Joint Economic Committee found that the mere threat of default has the potential to significantly disrupt the economy.

"With so much at stake, debt-ceiling brinksmanship poses serious and unnecessary risks to the U.S. economy, a fact that became clear during the protracted debt ceiling showdown of 2011," the report concluded. "The Dow Jones Industrial Average dropped over 2,000 points in late July and early August of that year as Congress struggled to raise the debt ceiling, and Standard and Poor's downgraded the U.S. credit rating. Consumer confidence also fell sharply in that period."

#### Even temporary default will collapse the economy

**Schwarcz, 8/14/13** – professor of law at Duke, founding director of the Duke Global Capital Markets Center (Steven, “Rollover Risk: Ideating a U.S. Debt Default” SSRN)

Yet the harm caused by a U.S. debt default, even if the default is temporary, could be devastating. It would raise government borrowing costs, not only for the United States but for nations worldwide. It would almost certainly have severe systemic consequences, causing financial markets to plummet and credit markets to freeze, making it difficult for companies to borrow.

Such a default would also likely attract numerous lawsuits, raising legal issues of first impression. The Fourteenth Amendment to the Constitution, for example, makes it illegal for the federal government to renege on its debt. If the government lacks money to pay the debt on a timely basis, would the default be unconstitutional? Creditors challenging a U.S. debt default would also face several complex procedural legal hurdles, including the need to overcome sovereign immunity, to establish a compensable remedy, and to enforce any resulting judgment against government assets in the face of executive branch opposition.

#### Debt ceiling will collapse the economy – outweighs tapering

**Holliday, 9/18/13** (Katie, CNBC, “Debt ceiling, not tapering, is the bigger market risk” <http://www.cnbc.com/id/101042572>)

Talk of a reduction in U.S. stimulus has been all the rage since Federal Reserve Chairman Ben Bernanke first uttered the 'T word' in late May, but as more worrying issues come into focus, analysts say the industry's favorite topic of conversation is set to change.

According to Mark Zandi, chief economist at Moody's Analytics, once investors find out whether the Fed will begin tapering following this week's policy meeting, the U.S. government's debt ceiling will come back to the fore.

"The debt ceiling will become a real problem by mid-October... I think [industry commentators] need to start talking a little more about that," said Zandi.

If Congress is unable to pass legislation on the debt ceiling in the coming weeks, Zandi said the issue could be more detrimental than the tapering fallout, which prompted a sharp selloff across global equity markets as investors ditched risk and piled into safe haven assets. Emerging market equity, fixed income and currencies were hit particularly hard.

"If Congress and the Administration don't come together pretty soon… if we don't have a piece of legislation on that in the next few weeks, that's going to be a real significant problem, much bigger than tapering," he added.

The government has been bumping against its $16.7 trillion debt ceiling limit since May. But the issue has lurked in the background recently as worries over tapering and geopolitical issues surrounding Syria took precedent.

### 2nc food prices impact

#### T-bond crisis causes food price spikes

**Min 10** – Associate Director for Financial Markets Policy, Center for American Progress (David, "The Big Freeze", 10/28, <http://www.americanprogress.org/issues/2010/10/big_freeze.html)>

A freeze on the debt ceiling could erode confidence in U.S. Treasury bonds in a number of ways, creating further and wider panic in financial markets. First, by causing a disruption in the issuance of Treasury debt, as happened in 1995-96, a freeze would cause investors to seek alternative financial investments, even perhaps causing a run on Treasurys. Such a run would cause the cost of U.S. debt to soar, putting even more stress on our budget, and the resulting enormous capital flows would likely be highly destabilizing to global financial markets, potentially creating more asset bubbles and busts throughout the world.

Second, the massive withdrawal of public spending that would occur would cause significant concern among institutional investors worldwide that the U.S. would swiftly enter a second, very deep, recession, raising concerns about the ability of the United States to repay its debt. Finally, the sheer recklessness of a debt freeze during these tenuous times would signal to already nervous investors that there was a significant amount of political risk, which could cause them to shy away from investing in the United States generally.

Taken together, these factors would almost certainly result in a significant increase in the interest rates we currently pay on our national debt, currently just above 2.5 percent for a 10-year Treasury note. If in the near term these rates moved even to 5.9 percent, the long-term rate predicted by the Congressional Budget Office, then our interest payments would increase by more than double, to nearly $600 billion a year. These rates could climb even higher, if investors began to price in a “default risk” into Treasurys—something that reckless actions by Congress could potentially spark—thus greatly exacerbating our budget problems.

The U.S. dollar, of course, is the world’s reserve currency in large part because of the depth and liquidity of the U.S. Treasury bond market. If this market is severely disrupted, and investors lost confidence in U.S. Treasurys, then it is unclear where nervous investors might go next. A sharp and swift move by investors out of U.S. Treasury bonds could be highly destabilizing, straining the already delicate global economy.

Imagine, for example, if investors moved from sovereign debt into commodities, most of which are priced and traded in dollars. This could have the catastrophic impact of weakening the world’s largest economies while also raising the prices of the basic inputs (such as metals or food) that are necessary for economic growth.

In short, a freeze on the debt ceiling would cause our interest payments to spike, making our budget situation even more problematic, while potentially triggering greater global instability—

perhaps even a global economic depression.

#### Global war

**Brown 7** – Director, Earth Policy Institute, (Lester R., 3-21, <http://www.earth-policy.org/press_room/C68/senateepw07>)

Urban food protests in response to rising food prices in low and middle income countries, such as Mexico, could lead to political instability that would add to the growing list of failing states. At some point, spreading political instability could disrupt global economic progress. Against this backdrop, Washington is consumed with "ethanol euphoria." President Bush in his State of the Union address set a production goal for 2017 of 35 billion gallons of alternative fuels, including grain-based and cellulosic ethanol, and fuel from coal. Given the current difficulties in producing cellulosic ethanol at a competitive cost and given the mounting public opposition to coal fuels, which are far more carbon-intensive than gasoline, most of the fuel to meet this goal might well have to come from grain. This could take most of the U.S. grain harvest, leaving little grain to meet U.S. needs, much less those of the hundred or so countries that import grain. The stage is now set for direct competition for grain between the 800 million people who own automobiles, and the world's 2 billion poorest people. The risk is that millions of those on the lower rungs of the global economic ladder will start falling off as rising food prices drop their consumption below the survival level.

### 2nc uniqueness wall

#### He’s winning because he’s using capital to unify Democrats and exploit GOP divisions

**Allen, 9/19/13** (Jonathan, Politico, “GOP battles boost Obama” <http://www.politico.com/story/2013/09/republicans-budget-obama-97093.html>)

There’s a simple reason President Barack Obama is using his bully pulpit to focus the nation’s attention on the battle over the budget: In this fight, he’s watching Republicans take swings at each other.

And that GOP fight is a lifeline for an administration that had been scrambling to gain control its message after battling congressional Democrats on the potential use of military force in Syria and the possible nomination of Larry Summers to run the Federal Reserve.

If House Republicans and Obama can’t cut even a short-term deal for a continuing resolution, the government’s authority to spend money will run out on Oct. 1. Within weeks, the nation will default on its debt if an agreement isn’t reached to raise the federal debt limit.

For some Republicans, those deadlines represent a leverage point that can be used to force Obama to slash his health care law. For others, they’re a zero hour at which the party will implode if it doesn’t cut a deal.

Meanwhile, “on the looming fiscal issues, Democrats — both liberal and conservative, executive and congressional — are virtually 100 percent united,” said Sen. Charles Schumer (D-N.Y.).

Just a few days ago, all that Obama and his aides could talk about were Syria and Summers. Now, they’re bringing their party together and shining a white hot light on Republican disunity over whether to shut down the government and plunge the nation into default in a vain effort to stop Obamacare from going into effect.

The squabbling among Republicans has gotten so vicious that a Twitter hashtag — #GOPvsGOPugliness — has become a thick virtual data file for tracking the intraparty insults. Moderates, and even some conservatives, are slamming Texas Sen. Ted Cruz, a tea party favorite, for ramping up grassroots expectations that the GOP will shut down the government if it can’t win concessions from the president to “defund” his signature health care law.

“I didn’t go to Harvard or Princeton, but I can count,” Sen. Bob Corker (R-Tenn.) tweeted, subtly mocking Cruz’s Ivy League education. “The defunding box canyon is a tactic that will fail and weaken our position.”

While it is well-timed for the White House to interrupt a bad slide, Obama’s singular focus on the budget battle is hardly a last-minute shift. Instead, it is a return to the narrative arc that the White House was working to build before the Syria crisis intervened.

#### He just needs to stay the course

**Robinson, 9/20**/13 – Washington Post columnist (Eugene, “Obama Needs to Stand His Ground” <http://www.realclearpolitics.com/articles/2013/09/20/obama_needs_to_stand_his_ground_120003.html>)

Obama is by nature a reasonable and flexible man, but this time he must not yield. Even if you leave aside what delaying or defunding Obamacare would mean for his legacy -- erasing his most significant domestic accomplishment -- it would be irresponsible for him to bow to the GOP zealots' demands.

The practical impact of acquiescing would be huge. Individuals who have been uninsured are anticipating access to adequate care. State governments, insurance companies and health care providers have spent vast amounts of time and money preparing for the law to take effect. To suddenly say "never mind" would be unbelievably reckless.

The political implication of compromising with blackmailers would be an unthinkable surrender of presidential authority. The next time he said "I will do this" or "I will not do that," why should Congress or the American people take him seriously? How could that possibly enhance Obama's image on the world stage?

Obama has said he will not accept a budget deal that cripples Obamacare and will never negotiate on the debt ceiling. Even if the Republicans carry through with their threats -- and this may happen -- the president has no option but to stand his ground.

You don't deal with bullies by making a deal to keep the peace. That only rewards and encourages them. You have to push back.

The thing is, this showdown is a sure political loser for the GOP -- and smart Republicans know it. Boehner doesn't want this fight, and in fact should be grateful if Obama hangs tough and shows the crazies the limits of their power. Republicans in the Senate don't want this fight. It's doubtful that even a majority of House Republicans really, truly want this fight, no matter what they say publicly.

But irresponsible demagogues -- I mean you, Sen. Ted Cruz, R-Texas -- have whipped the GOP base into a frenzy of unrealistic expectations. House members who balk at jumping off the cliff risk being labeled "moderate," which is the very worst thing you can call a Republican -- and the most likely thing to shorten his or her political career.

The way to end this madness is by firmly saying no. If Boehner won't do it, Obama must.

#### Business pressure will change minds – but Obama’s capital is key to mobilizing it

**Sink, 9/18/13** (Justin, The Hill, “Amid fiscal fights, Obama courting business leaders”

<http://thehill.com/homenews/administration/322883-amid-fiscal-fights-obama-courting-business-leaders>)

President Obama will address the Business Roundtable (BRT) on Wednesday as he works to get corporate leaders on his side during this fall’s fiscal showdowns with the GOP.

The White House is hoping that Obama can rally the influential organization, made up of conservative chief executives from the nation’s largest corporations, to help build pressure on congressional Republicans.

According to a White House official, the president will ask business leaders "to help send the message to Congress that a default would be disastrous for our economy and for businesses across the country."

"Some Republicans in Congress are playing a reckless political game by threatening to leave the economy hanging in the balance for an ideological agenda that has no chance of becoming law—a game that last time had real consequences, hurting growth and business confidence," the official said.

Obama is expected to note that during debt ceiling negotiations in the summer of 2011, the stock market decreased 17 percent, the nation's credit rating was downgraded, and consumer confidence dropped to its lowest level since the financial crisis. He'll argue to the assembled corporate executives that failure to strike a deal would again endanger the economy — and their bottom lines.

“The president’s focus, as is always the case when he meets with this group, is what we can do together to keep the American economy growing,” White House press secretary Jay Carney said on Tuesday.

But the sell will not be an easy one — the association’s officials have been critical of the president, and members of the group are wary of the administration’s aggressive regulatory push on labor and environmental issues.

And congressional Republicans are accusing the president of employing "scare tactics" to gain leverage.

"No one is threatening to default," said Brendan Buck, a spokesman for House Speaker John Boehner (R-Ohio). "The president only uses these scare tactics to avoid having to show the courage needed to deal with our debt crisis. Every major deficit deal in the last 30 years has been tied to a debt limit increase, and this time should be no different."

Obama has leaned on the organization in the past. Shortly after the president’s last visit in December for a speech and closed-door discussion, the CEOs sent a letter to congressional leaders arguing all options — including tax increases — should be on the table as negotiators sought a “fiscal-cliff” deal.

That gesture, a reversal from the group’s stance just five months earlier, ratcheted up pressure on congressional Republicans. The GOP subsequently stumbled, and Obama struck a deal that many Democrats embraced.

#### It will pass but it will consume all time and attention to get it done and the perception of political weakness will cause the opposition to dig in their heels

**Gerson, 9/18/13 -** served as a senior adviser to President George W. Bush(Michael, Virginian Pilot, “The politics of paralysis” lexis)

The remainder of legislative time and attention that hasn't been spent on Syria this year will now be consumed by the budget and debt-ceiling debates - in which the best possible outcome is the avoidance of self-inflicted wounds.

Republican leaders seem prepared to combine the continuing resolution and debt-ceiling increase, extend both for a year with the budget at level spending, and impose a one-year delay in implementing Obamacare. They won't get the last part - Obama would veto anything including it - but the Republican base insists.

The Obama administration, in return, offers nothing. It is continuing the practice of starting a negotiation process by refusing to negotiate.

Coming to an eventual compromise between one side that demands the moon and the other side that demands and offers nothing at all won't be easy. The protection of Obamacare is the one "red line" the administration holds absolutely sacred.

But conservatives sense opportunity in a weakened president and a deeply unpopular law. And Speaker John Boehner's room to maneuver is extremely limited by a small faction of his party that is just big enough to paralyze him. It is a recipe for confidence-shaking, market-spooking, down-to-the-wire confrontation.

In the shadow of this conflict, little else will grow. According to Yuval Levin of the Ethics and Public Policy Center, "only things that have to pass - or else the government shuts down or the economy crashes - are going to pass this year."

### PC key to debt ceiling

#### Reducing war powers will end Obama’s credibility with Congress – it causes stronger GOP pushback on the debt ceiling – and the fight alone will wreck markets

**Seeking Alpha, 9/10/13** (“Syria Could Upend Debt Ceiling Fight”, <http://seekingalpha.com/article/1684082-syria-could-upend-debt-ceiling-fight>)

Unless President Obama can totally change a reluctant public's perception of another Middle-Eastern conflict, it seems unlikely that he can get 218 votes in the House, though he can probably still squeak out 60 votes in the Senate. This defeat would be totally unprecedented as a President has never lost a military authorization vote in American history. To forbid the Commander-in-Chief of his primary power renders him all but impotent. At this point, a rebuff from the House is a 67%-75% probability.

I reach this probability by looking within the whip count. I assume the 164 declared "no" votes will stay in the "no" column. To get to 218, Obama needs to win over 193 of the 244 undecided, a gargantuan task. Within the "no" column, there are 137 Republicans. Under a best case scenario, Boehner could corral 50 "yes" votes, which would require Obama to pick up 168 of the 200 Democrats, 84%. Many of these Democrats rode to power because of their opposition to Iraq, which makes it difficult for them to support military conflict. The only way to generate near unanimity among the undecided Democrats is if they choose to support the President (recognizing the political ramifications of a defeat) despite personal misgivings. The idea that all undecided Democrats can be convinced of this argument is relatively slim, especially as there are few votes to lose. In the best case scenario, the House could reach 223-225 votes, barely enough to get it through. Under the worst case, there are only 150 votes. Given the lopsided nature of the breakdown, the chance of House passage is about one in four.

While a failure in the House would put action against Syria in limbo, I have felt that the market has overstated the impact of a strike there, which would be limited in nature. Rather, investors should focus on the profound ripple through the power structure in Washington, which would greatly impact impending battles over spending and the debt ceiling.

Currently, the government loses spending authority on September 30 while it hits the debt ceiling by the middle of October. Markets have generally felt that Washington will once again strike a last-minute deal and avert total catastrophe. Failure in the Syrian vote could change this. For the Republicans to beat Obama on a President's strength (foreign military action), they will likely be emboldened that they can beat him on domestic spending issues.

Until now, consensus has been that the two sides would compromise to fund the government at sequester levels while passing a $1 trillion stand-alone debt ceiling increase. However, the right wing of Boehner's caucus has been pushing for more, including another $1 trillion in spending cuts, defunding of Obamacare, and a one year delay of the individual mandate. Already, Conservative PACs have begun airing advertisements, urging a debt ceiling fight over Obamacare. With the President rendered hapless on Syria, they will become even more vocal about their hardline resolution, setting us up for a showdown that will rival 2011's debt ceiling fight.

I currently believe the two sides will pass a short-term continuing resolution to keep the government open, and then the GOP will wage a massive fight over the debt ceiling. While Obama will be weakened, he will be unwilling to undermine his major achievement, his healthcare law. In all likelihood, both sides will dig in their respective trenches, unwilling to strike a deal, essentially in a game of chicken. If the House blocks Syrian action, it will take America as close to a default as it did in 2011. Based on the market action then, we can expect massive volatility in the final days of the showdown with the Dow falling 500 points in one session in 2011.

As markets panicked over the potential for a U.S. default, we saw a massive risk-off trade, moving from equities into Treasuries. I think there is a significant chance we see something similar this late September into October. The Syrian vote has major implications on the power of Obama and the far-right when it comes to their willingness to fight over the debt ceiling. If the Syrian resolution fails, the debt ceiling fight will be even worse, which will send equities lower by upwards of 10%. Investors must be prepared for this "black swan" event.

Looking back to August 2011, stocks that performed the best were dividend paying, less-cyclical companies like Verizon (VZ), Wal-Mart (WMT), Coca-Cola (KO) and McDonald's (MCD) while high beta names like Netflix (NFLX) and Boeing (BA) were crushed. Investors also flocked into treasuries despite default risk while dumping lower quality bonds as spreads widened. The flight to safety helped treasuries despite U.S. government issues. I think we are likely to see a similar move this time.

Assuming there is a Syrian "no" vote, I would begin to roll back my long exposure in the stock market and reallocate funds into treasuries as I believe yields could drop back towards 2.50%. Within the stock market, I think the less-cyclical names should outperform, making utilities and consumer staples more attractive. For more tactical traders, I would consider buying puts against the S&P 500 and look toward shorting higher-beta and defense stocks like Boeing and Lockheed Martin (LMT). I also think lower quality bonds would suffer as spreads widen, making funds like JNK vulnerable. Conversely, gold (GLD) should benefit from the fear trade.

I would also like to address the potential that Congress does not vote down the Syrian resolution. First, news has broken that Russia has proposed Syria turn over its chemical stockpile. If Syria were to agree (Syria said it was willing to consider), the U.S. would not have to strike, canceling the congressional vote. The proposal can be found here. I strongly believe this is a delaying tactic rather than a serious effort. In 2005, Libya began to turn over chemical weapons; it has yet to complete the hand-off. Removing and destroying chemical weapons is an exceptionally challenging and dangerous task that would take years, not weeks, making this deal seem unrealistic, especially because a cease-fire would be required around all chemical facilities. The idea that a cease-fire could be maintained for months, essentially allowing Assad to stay in office, is hard to take seriously. I believe this is a delaying tactic, and Congress will have to vote within the next two weeks.

The final possibility is that Democrats back their President and barely ram the Syria resolution through. I think the extreme risk of a full-blown debt stand-off to dissipate. However, Boehner has promised a strong fight over the debt limit that the market has largely ignored. I do believe the fight would still be worse than the market anticipates but not outright disastrous. As such, I would not initiate short positions, but I would trim some longs and move into less cyclical stocks as the risk would still be the debt ceiling fight leading to some drama not no drama.

Remember, in politics everything is connected. Syria is not a stand-alone issue. Its resolution will impact the power structure in Washington. A failed vote in Congress is likely to make the debt ceiling fight even worse, spooking markets, and threatening default on U.S. obligations unless another last minute deal can be struck.

#### Political capital is key to avoid making concessions on the debt ceiling

**Garnham, 9/17/13** (Peter, “Summers not over for dollar strength” Euromoney,

Full article: <http://www.euromoney.com/Article/3255829/Category/16/ChannelPage/0/Summers-not-over-for-dollar-strength.html?single=true&copyrightInfo=true>)

That is because seeking his confirmation in the US Senate could have cost Obama valuable political capital. As Geoffrey Yu, strategist at UBS, points out, that could have meant that reaching an agreement on raising the debt ceiling afterwards would have therefore required even greater concessions from Obama and created additional fiscal drag on the US economy. Overall, it would seem the ripple effects from Summers’ withdrawal from the race to become Fed chairman and the negative impact on the dollar could disappear quickly.

#### Concessions will split the Democratic base and make a deal impossible

**Cook, 9/17**/13 - Economic and Fiscal Policy Correspondent at National Journal (Nancy, “How Dangerous Is the Rift Among Democrats?” National Journal, <http://www.nationaljournal.com/congress/how-dangerous-is-the-rift-among-democrats-20130917>)

Remember that split among congressional Republicans on fiscal strategy? Well, now it seems the Democrats have the makings of a similar problem.

In recent weeks, congressional D's have been uncharacteristically independent, breaking with their leadership and the Obama administration. First they opposed military action in Syria, warning the president they would deny his request to strike. And then came Larry Summers, who was brought down by a handful of Senate Democrats who let the White House know they would not confirm him as Fed chief.

All this bodes quite poorly for President Obama (and Harry Reid and Nancy Pelosi) as the spending and debt fights approach.

If Obama's advisers take anything away from the Syria and Summers episodes, Capitol Hill aides and lawmakers suggest it should be the message that Democrats are not going to get in line with a budget deal that compromises their liberal positions. No longer should the White House feel free, as it has in the past, to consider tweaks to programs like Medicare or Social Security, for instance (unless, of course, Republicans agree to extract more money from taxpayers).

Reid and one of his primary deputies, Sen. Patty Murray, continue to oppose the "chained CPI" proposal that would change the way government benefits are calculated and make them less generous—one of the ideas the president offered up in past budget negotiations. House Democrats largely are not in favor of one of the president's other previous budget offers—to cut Medicare by $400 billion.

These concessions would be an incredibly hard sell to Democrats during a year where the country's annual deficit continues to fall, says a House Democratic leadership aide.

"A lot of our members were concerned about the drift of the negotiations during the fiscal cliff," the aide said. "Our sense is that any deal this fall would not be as large so there is not as much of a necessity to offer up those items."

The White House hasn't ruled those items out though; it's not really even engaging in the discussion at all yet. If lawmakers start to draw lines in the sand, the president will have fewer tools to use and fewer levers to pull to score a deal that keeps the government running and the United States current on its debt.

#### Political capital is key to drumming up public support to pressure the GOP

**Meet the Press, 9/15/13** (NBC News, lexis) **Woodward = Bob Woodward, investigative journalist.**

GREGORY: Well, we`ll see.

But I want to bring up a point with about a minute left. You know, Syria is now going to get mired in whether this agreement is lived up to or not. We`ve got a budget battle that`s brewing again with the debt ceiling.

But, you think this is the next crisis that Obama is facing with Congress. Are we going to raise the debt ceiling? Will he negotiate? He says...

WOODWARD: And this is really serious. Back in 2011, when the crisis visited them, the Secretary of the Treasury Tim Geithner was running around and saying if we don`t fix this, we could trigger a depression worse than the 1930s. And when I talked to Obama about this, he said, it was the most intense three weeks of his presidency. More than Osama bin Laden and so forth.

So -- and the Republicans are out here, a group of them in the House, essentially using extortion and blackmail methods to say, if we don`t defund Obamacare we`re not going to do the routine things of government.

PARKER: Well, we`re at a game of chicken at this point. And they are not -- no one thinks they`re going to defund Obama, not even the people pushing for it.

And at some point, you know, the Republicans are going to have to blink and they`re going to fund it. If they pass a bill that doesn`t include funding for Obamacare, then the Senate won`t pass the bill and, you know, somebody`s got to blink. We`re not going to shut down government. We can`t.

NAVARRO: But let`s be I think fair to the Republicans here. It`s not all Republicans saying let`s shut down the government if we don`t defund Obamacare. So I don`t think it`s fair to paint it as the Republicans, because the Republicans that have been here today, including John McCain, have been very much against this and saying...

WOODWARD: Yes, it`s the 40 extremists that`s who`s doing it.

PARKER: The insane caucus.

WOODWARD: You used it.

GREGORY: We`ll leave it there.

NAVARRO: You`re going to get a lot of flak from mental health advocates.

PARKER: Never had that happen.

GREGORY: All right, thank you all very much. We`ll leave it there.

Coming up next the future of our economy five years after the biggest financial crisis since the Great Depression. Among our guests, former Treasury Secretary Hank Paulson and CNBC`s Maria Bartiromo along with former Congresswoman Barney Frank on where we are five years later.

First our political collector Chuck Todd will be along with his "First Read Sunday." What to look for in the week ahead in politics. Back here in just a moment.

GREGORY: We`re back with more politics. Our political director Chuck Todd with his "First Read Sunday."

We just talked about the debt ceiling business. You`re looking at it this, this week. That of our poll.

CHUCK TODD, NBC NEWS CORRESPONDENT: We did. And we have a poll and we show the initial gauge of the public, the default position is don`t raise it. Look at this, 44 percent say no, 22 percent say yes. The White House pushing back on this poll saying you have to explain it to the people.

Well, this is the exact same place the debt ceiling was in April 2011.

Now, by the time if hit a crisis point, more of the public moved into in favor of raising the debt ceiling, but what this shows is the president has to use political capital and time to flip these numbers. It`s going to be a lot of work.

### AT: Winner’s win

#### Empirically false and the plan is more likely to disrupt Obama’s careful issue selection

**Eberly, 13** - coordinator of Public Policy Studies and assistant professor in the Department of Political Science at St. Mary's College of Maryland (Todd, Baltimore Sun, “The presidential power trap” <http://articles.baltimoresun.com/2013-01-21/news/bs-ed-political-capital-20130121_1_political-system-george-hw-bush-party-support/2>)

Only by solving the problem of political capital is a president likely to avoid a power trap. Presidents in recent years have been unable to prevent their political capital from eroding. When it did, their power assertions often got them into further political trouble. Through leveraging public support, presidents have at times been able to overcome contemporary leadership challenges by adopting as their own issues that the public already supports. Bill Clinton's centrist "triangulation" and George W. Bush's careful issue selection early in his presidency allowed them to secure important policy changes — in Mr. Clinton's case, welfare reform and budget balance, in Mr. Bush's tax cuts and education reform — that at the time received popular approval.

However, short-term legislative strategies may win policy success for a president but do not serve as an antidote to declining political capital over time, as the difficult final years of both the Bill Clinton and George W. Bush presidencies demonstrate. None of Barack Obama's recent predecessors solved the political capital problem or avoided the power trap. It is the central political challenge confronted by modern presidents and one that will likely weigh heavily on the current president's mind today as he takes his second oath of office.

#### **Having to defend authority against Congress derails the agenda**

Kriner 10 Douglas L. Kriner (assistant professor of political science at Boston University) “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec 1, 2010, page 68-69.

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.

#### **Plan’s a perceived as a loss – saps capital**

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

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

#### Current set of losses aren’t enough to sink his agenda – but another high profile loss will end it

**Lawrence, 9/17/13 -** national correspondent at National Journal.(Jill, “Obama Says He’s Not Worried About Style Points. He Should Be.” National Journal, <http://www.nationaljournal.com/whitehouse/obama-says-he-s-not-worried-about-style-points-he-should-be-20130917>)

In some ways Obama's fifth year is typical of fifth years, when reelected presidents aim high and often fail. But in some ways it is atypical, notably in the number of failures, setbacks, and incompletes Obama has piled up. Gun control and immigration reform are stalled. Two Obama favorites withdrew their names as potential nominees in the face of congressional opposition – Susan Rice, once a frontrunner for secretary of state, followed by Larry Summers, a top candidate to head the Federal Reserve. Secretary of State John Kerry's possibly offhand remark about Assad giving up his chemical weapons, and Putin's jump into the arena with a diplomatic proposal, saved him from almost certain defeat on Capitol Hill. Edward Snowden set the national security establishment on its heels, then won temporary refuge from … Putin. It's far from clear how that will be resolved. And that's as true for the budget and debt-limit showdowns ahead. Some of Obama's troubles are due to the intransigence of House conservatives, and some may be inevitable in a world far less black and white than the one Reagan faced. But the impression of ineffectiveness is the same. "People don't like it when circumstances are dictating the way in which a president behaves. They want him to be the one in charge," says Dallek, who has written books about nine presidents, including Reagan and Franklin Roosevelt. "It's unfair… On the other hand, that's what goes with the territory. People expect presidents to be in command, and they can't always be in command, and the public is not forgiving." Obama's job approval numbers remain in the mid-40s. The farther they fall below 50 percent, history suggests, the worse he can expect Democrats to do in the midterm House and Senate elections next year. Obama would likely be in worse trouble with the public, at least in the short term, if he had pushed forward with a military strike in Syria. In fact, a new Pew Research Center poll shows 67 percent approve of Obama's switch to diplomacy. But his journey to that point made him look weak and indecisive. Indeed, the year's setbacks are accumulating and that is dangerous for Obama. "At some point people make a collective decision and they don't listen to the president anymore. That's what happened to both Jimmy Carter and George W. Bush," Cannon says. "I don't think Obama has quite gone off the diving board yet in the way that Carter or Bush did … but he's close to the edge. He needs to have some successes and perceptions of success."

### at: seitz

#### Yes extinction—consensus of recent studies—Robock indicts don’t apply

**Farnsworth 2011** – editor and a contributor for Arms Control Now (2/18, Tim, Arms Control Now, “Thinking Existentially about the Worldwide Threat”, <http://armscontrolnow.org/2011/02/18/thinking-existentially-about-the-worldwide-threat/>, WEA)

A **panel of scientists** provided a useful update today on the latest thinking about the climatic consequences of nuclear weapons use. The presentation provided a grim reminder that the nuclear Sword of Damocles still hangs over all nations of the earth, nuclear and non-nuclear powers alike – notwithstanding the significant achievement of New START ratification by the United States and Russia.¶ At the annual meeting in Washington of the American Association for the Advancement of Science, Georgiy Stenchikov (King Abdullah University of Science and Technology), Luke Oman (NASA Goddard Space Flight Center), and Michael Mills (National Center for Atmospheric Research) **shared results** of their research, benefiting from **extensive studies** of related phenomenon in recent decades, such as massive forest fires, volcanic eruptions, and oil well fires. **Unlike the “nuclear winter” studies of the 1980s**, which focused on the impact of an all-out US-Soviet nuclear exchange, the latest research looked at the environment effects of a more **limited nuclear war** between India and Pakistan.¶ The speakers reported on their estimates of the environmental consequences resulting from theoretical detonation of 100 15kt-yield nuclear weapons over Indian and Pakistani cities. In such an exchange, millions of tons of soot in the smoke plumes from urban fires would be lofted into the stratosphere, circulating around the earth within days, but adversely affecting the ozone layer, world temperatures, and precipitation for years.

#### Nuclear war accelerates warming

**Jacobson 8** \*Professor of Civil and Environmental Engineering and Director of the Atmosphere/ Energy Program at Stanford University. He has received a B.S. in Civil Engineering a B.A. in Economics (1988, Stanford), an M.S. in Environmental Engineering (1988 Stanford), an M.S. in Atmospheric Sciences (, UCLA), and a PhD in Atmospheric Sciences [UCLA (Mark, 1991 1994, “Review of solutions to global warming, air pollution, and energy security†”]

Because the production of nuclear weapons material is occurring only in countries that have developed civilian nuclear energy programs, the risk of a limited nuclear exchange between countries or the detonation of a nuclear device by terrorists has increased due to the dissemination of nuclear energy facilities worldwide. As such, it is a valid exercise to estimate the potential number of immediate deaths and carbon emissions due to the burning of buildings and infrastructure associated with the proliferation of nuclear energy facilities and the resulting proliferation of nuclear weapons. The number of deaths and carbon emissions, though, must be multiplied by a probability range of an exchange or explosion occurring to estimate the overall risk of nuclear energy proliferation. Although concern at the time of an explosion will be the deaths and not carbon emissions, **policy makers today must weigh all the potential future risks of mortality and carbon emissions** when comparing energy sources. Here, we detail the link between nuclear energy and nuclear weapons and estimate the emissions of nuclear explosions attributable to nuclear energy. The primary limitation to building a nuclear weapon is the availability of purified fissionable fuel (highly-enriched uranium or plutonium).68 Worldwide, nine countries have known nuclear weapons stockpiles (US, Russia, UK, France, China, India, Pakistan, Israel, North Korea). In addition, Iran is pursuing uranium enrichment, and 32 other countries have sufficient fissionable material to produce weapons. Among the 42 countries with fissionable material, 22 have facilities as part of their civilian nuclear energy program, either to produce highly-enriched uranium or to separate plutonium, and facilities in 13 countries are active.68 Thus, the ability of states to produce nuclear weapons today follows directly from their ability to produce nuclear power. In fact, producing material for a weapon requires merely operating a civilian nuclear power plant together with a sophisticated plutonium separation facility. The Treaty of Non-Proliferation of Nuclear Weapons has been signed by 190 countries. However, international treaties safeguard only about 1% of the world’s highly-enriched uranium and 35% of the world’s plutonium.68 Currently, about 30 000 nuclear warheads exist worldwide, with 95% in the US and Russia, but enough refined and unrefined material to produce another 100 000 weapons.69 The explosion of fifty 15 kt nuclear devices (a total of 1.5 MT, or 0.1% of the yields proposed for a full-scale nuclear war) during a limited nuclear exchange in megacities could burn 63–313 Tg of fuel, adding 1–5 Tg of soot to the atmosphere, much of it to the stratosphere, and killing 2.6–16.7 million people.68 The soot emissions would cause significant short- and medium-term regional cooling.70 **Despite short-term cooling, the CO2 emissions would cause long-term warming**, as they do with biomass burning.62 The CO2 emissions from such a conflict are estimated here from the fuel burn rate and the carbon content of fuels. Materials have the following carbon contents: plastics, 38–92%; tires and other rubbers, 59–91%; synthetic fibers, 63–86%;71 woody biomass, 41–45%; charcoal, 71%;72 asphalt, 80%; steel, 0.05–2%. We approximate roughly the carbon content of all combustible material in a city as 40–60%. Applying these percentages to the fuel burn gives CO2 emissions during an exchange as 92–690 Tg CO2. The annual electricity production due to nuclear energy in 2005 was 2768 TWh yr\_1. If one nuclear exchange as described above occurs over the next 30 yr, the net carbon emissions due to nuclear weapons proliferation caused by the expansion of nuclear energy worldwide would be 1.1–4.1 g CO2 kWh\_1, where the energy generation assumed is the annual 2005 generation for nuclear power multiplied by the number of yr being considered. This emission rate depends on the probability of a nuclear exchange over a given period and the strengths of nuclear devices used. Here, we bound the probability of the event occurring over 30 yr as between 0 and 1 to give the range of possible emissions for one such event as 0 to 4.1 g CO2 kWh\_1. This emission rate is placed in context in Table 3.

### Court detention rulings

**Empirically – Court detention cases caused a Congressional backlash**

**Abramowitz and Weisman 6** – Washington Post Staff Writers (6/1/06, Michael and Jonathan, The Washington Post, “GOP Seeks Advantage In Ruling On Trials”, <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/30/AR2006063001737.html>) AC

**Republicans** yesterday **looked to wrest a political victory from a legal defeat in the Supreme Court, serving notice to Democrats that they must back President Bush on how to try suspects at Guantanamo Bay or risk being branded as weak on terrorism.**

**In striking down the military commissions** Bush sought for trials of suspected members of al-Qaeda and other terrorist groups, **the high court Thursday invited Congress to establish new rules and put the issue prominently before the public** four months before the midterm elections. As the White House and lawmakers weighed next steps, **House GOP leaders signaled they are ready to use this week's turn of events as a political weapon**.

House Majority Leader John A. **Boehner** (R-Ohio) **criticized** House Minority Leader Nancy **Pelosi's comment Thursday that the court decision "affirms the American ideal that all are entitled to the basic guarantees of our justice system**." Th**at statement, Boehner said, amounted to** Pelosi's **advocating "special privileges for terrorists**."

Similar views ricocheted around conservative talk radio -- Rush Limbaugh called Pelosi's comments "deranged" on his show Thursday -- and **Republican strategists said they believed that the decision presented Bush a chance to put Democrats on the spot while uniting a Republican coalition** that lately has been splintered on immigration, spending and other issues.

"**It would be good politics to have a debate about this if Democrats are going to argue for additional rights for terrorists,"** said Terry Nelson, a prominent GOP political strategist who was political director for Bush's reelection campaign in 2004.

## 1nr

### AT: Muller

Muller 2K

Dr. Harold Muller is the Director of the Peace Research Institute-Frankfurt and Professor of International Relations at Goethe University Compliance Politics: A Critical Analysis of Multilateral Arms Control Treaty Enforcement <http://cns.miis.edu/npr/pdfs/72muell.pdf>

In this author's view,3 at least four distinct missions continue to make arms control, disarmament, and non-proliferation agreements useful, even indispensable parts of a stable and reliable world security structure:

• As long as the risk of great power rivalry and competition exists—and it exists today—constructing barriers against a degeneration of this competition into major violence remains a pivotal task of global security policy. Things may be more complicated than during the bipolar age since asymmetries loom larger and more than one pair of competing major powers may exist. With overlapping rivalries among these powers, arms races are likely to be interconnected, and the stability of any one pair of rivals might be affected negatively by developments in other dyads. Because of this greater risk of instability, the increased political complexity of the post-bipolar world calls for more rather than less arms control. For these competitive relationships, stability or stabilization remains a key goal, and effectively verified agreements can contribute much to establish such stability. • Arms control also has a role to play in securing regional stability. At the regional level, arms control agreements can create balances of forces that reassure regional powers that their basic security is certain, and help build confidence in the basically non-aggressive policies of neighbors. Over time, a web of interlocking agreements may even create enough of a sense of security and confidence to overcome past confrontations and enable transitions towards more cooperative relationships. At the global level, arms limitation or prohibition agreements, notably in the field of weapons of mass destruction, are needed to ban existential dangers for global stability, ecological safety, and maybe the very survival of human life on earth. In an age of increasing interdependence and ensuing complex networks that support the satisfaction of basic needs, international cooperation is needed to secure the smooth working of these networks. Arms control can create underlying conditions of security and stability that reduce distrust and enable countries to commit them-selves to far-reaching cooperation in other sectors without perceiving undesirable risks to their national security. Global agreements also affect regional balances and help, if successful, to reduce the chances that regional conflicts will escalate. Under opportune circumstances, the normative frameworks that they enshrine may engender a feeling of community and shared security interests that help reduce the general level of conflict and assist in ushering in new relations of global cooperation. • Finally, one aspect that is rarely discussed in the arms control context is arms control among friends and partners. It takes the innocent form of military cooperation; joint staffs, commands, and units; common procurement planning; and broad and far-reaching transparency. While these relations serve at the surface to enhance a country's military capability by linking it with others, they are conducive as well to creating a sense of irreversibility in current friendly relations, by making unthinkable a return to previous, possibly more conflictual times. European defense cooperation is a case in point.1 Whatever the particular mission of a specific agreement, it will serve these worthwhile purposes only if it is implemented appropriately and, if not, means are available to ensure compliance. In other words, the enduring value of arms control rests very much on the ability to assure compliance.5 Despite the reasons given above for the continuing utility of arms control, the skeptics may still have the last word if agreements are made empty shells by repeated breaches and a lack of effective enforcement.

### 1nc 1

#### 1ac card says that single decisions don’t implicate Charming Betsy – plan doesn’t spillover

Crootoff  11  
Rebecca Crootof, J.D. Yale Law School  
Judicious Influence: Non-Self-Executing Treaties and the Charming Betsy Canon (April 5, 2011). Yale Law Journal. Available at SSRN: <http://ssrn.com/abstract=1803380>  
 The Charming Betsy Canon Encourages Domestic Courts’ Engagement with International Agreements and International Adoption

Conclusion

There are legitimate reasons to celebrate and criticize Medellin’s reasoning.

The case clarifies murky areas of domestic law, but it does so at the expense of

the United States fulfilling its international commitments. However, those

who rejoice in or bemoan Medellin’s seeming presumption in favor of non-selfexecution

mistake the case’s import. While high-profile decisions like Medellin

will draw fire, treaties’ influence in domestic jurisprudence remains largely

unaffected.Treaties, eve self-executing treaties, are rarely used directly. Instead, in concert with the Charming Betsy canon, both self- and non-self-executing treaties serve as useful tools in statutory construction. Existing court practice reflects this understanding, and normative arguments support it. The limited application of the Charming Betsy canon results in relatively costless compliance with international law, accords with separation-of-powers principles by avoiding unintended and possibly undesirable breaches of international obligations, and allows domestic courts to engage with and influence developing norms. In giving meaning to U.S. international obligations while respecting the limits of international law in domestic jurisprudence, judicious application of the Charming Betsy canon in conjunction with non-self-executing treaties reconciles often-opposing interests.

### 1nc 2

#### Charming betsy canon expansion is inevitable their author AND proves the link to PQD

Waters 07  
Melissa A Waters Assistant Professor of Law, Washington 26 Lee Law School.  
USING HUMAN RIGHTS TREATIES TO RESOLVE AMBIGUITY: THE ADVENT  OF A RIGHTS­CONSCIOUS CHARMING  BETSY CANON  
<http://www.victoria.ac.nz/law/research/publications/vuwlr/prev-issues/pdf/vol-38-2007/issue-2/using-human-rights-waters.pdf>

<Their Card Starts>

One of the most significant developments in international law over the past decade has been the

emergence of a rich transnational judicial dialogue among the world's common law courts. While

transnational judicial dialogue is emerging across a wide range of substantive law areas, thus far the

scholarly debate over dialogue has focused largely on the use of international human rights law in

interpreting domestic constitutional texts. Equally significant forms of dialogue are taking place

outside the constitutional context, however, and thus far these other forms have received far less

scholarly attention.

One particularly overlooked arena for transnational judicial dialogue on human rights is in the

interpretation of statutory law. Courts have long looked to international law to interpret statutes. In

the United States, for example, the socalled

Charming Betsy canon of statutory interpretation holds

that "an act of Congress ought never to be construed to violate the law of nations, if any other

possible construction remains." 1 United States courts have applied the Charming Betsy canon to

construe ambiguous statutes in such a manner that they would not violate either international treaties

#### <AND ends>

Over the past decade, common law courts have begun to transform the centuries old

Charming

Betsy canon into an extraordinarily powerful judicial tool for entrenching international human rights

obligations into domestic law. By developing what I will refer to as a "rightsconscious

Charming

Betsy canon", courts are able to utilise treaties to interpret domestic statutes consistently with

international legal human rights norms. In addition, some judges have urged for the expansion of

the rightsconscious

approach beyond the statutory context, arguing that courts should adopt the

Charming Betsy canon to interpret ambiguities in constitutional texts. In both contexts,

transnational judicial dialogue has played a key role in encouraging the development of a rightsconscious

approach. Human rights treaties have become a kind of bridging device: courts use them

as common reference points around which to construct a dialogue with their foreign counterparts

regarding both the content of human rights law and the proper application of that law to interpret

domestic legal texts.

As we shall see, the emergence of the rights conscious

Charming Betsy canon has reinvigorated

the debate over the proper role for treaties in common law legal systems. Traditional common law

dualism holds that a treaty has domestic legal effect in only two situations: first, if it has been

incorporated by legislation, or second, if courts are utilising the treaty as evidence of the existence

of a customary international law norm. The traditional Charming Betsy canon fits well within the

dualist paradigm, because it emphasises respect for the political branches, particularly the

legislature. As Professor Ralph Steinhardt has observed, by seeking to read domestic legislation

consistently with international commitments undertaken by the political branches, Charming Betsy

"assures that [a country] is not compromised or embarrassed in its foreign relations." 3 From a

dualist standpoint, the traditional Charming Betsy canon is "a restrictive and prophylactic doctrine

protecting the separation of powers." 4

The emerging right sconscious

Charming Betsy canon, however, is considerably more monist in

orientation than its historical predecessor. It emphasises respect for international law rather than

judicial deference to political branch prerogatives in treaty incorporation. Courts employing the

canon utilise unincorporated human rights treaties to inform the substantive content of domestic

statutes. In so doing, they are developing a flexible, powerful and increasingly controversial judicial

tool for entrenching human rights treaty obligations into domestic law. This essay explores the emergence of a rightsconscious

Charming Betsy canon in both statutory and constitutional

interpretation, and considers its implications for traditional common law dualism.

### 1nc 3

#### No uniqueness for backing down from treaties – their author

Crootoff  11  
Rebecca Crootof, J.D. Yale Law School  
Judicious Influence: Non-Self-Executing Treaties and the Charming Betsy Canon (April 5, 2011). Yale Law Journal. Available at SSRN: <http://ssrn.com/abstract=1803380>  
 The Charming Betsy Canon Encourages Domestic Courts’ Engagement with International Agreements and International Adoption

Much of domestic law already accords with international law, in large part because the United States actively influences the development of treaties. The United States often plays a pivotal role in drafting international treaties, and U.S. ratifications of multilateral treaties often are accompanied by declarations that U.S. obligations under the treaty are already fulfilled by domestic law. Therefore, aside from the fact that the Charming Betsy canon does not obligate or encourage courts to override domestic law, its proper application will likely favor interpretations that harmonize with provisions previously endorsed by the United States.

### 1nc 4

#### The US isn’t key to global order and ad hoc diplomacy checks

Keith A. **Grant et al**, 200**9**; Professors of Political Science at the University of Arizona, Keith A. Grant, Thomas Volgy, Elizabeth Fausett, and Stuart Rodgers; Mapping the New World Order Chapter 3 Accounting for the New World Order of FIGO Architecture and Its Effectiveness p 74

Our mapping of the web of FIGOs in the post-Cold War era indicate no substantial creation of a new institutional order, along lines that would be consistent with the stated preferences of US policy makers. In many significant ways, however, the institutional architecture has changed: death rates of regional FIGOs have increased substantially compared to the past I inter-regional FIGOs have increased dramatically; the overall web of FIGOs has failed to continue its upward trajectory, although the density of state linkages may be deepening; there appears to be substantially more organizational formation involving those states that may not be satisfied with American global leadership; and in fact the US, along with most major powers, **appears to be less central** to the web than it was 15 or 30 years ago. In terms of the creation of new institutional arrangements, we find some limited evidence consistent with the notion that the decline in US structural strength is associated with its inability or unwillingness to forge a new institutional order. Paralleling diminished US structural strength, there is greater participation in ongoing organizations and in newly created organizations by both major dissatisfied states (Russia and China) and by other states dissatisfied with US foreign policies. In fact, there are nearly as many new global and inter-regional FIGOs in the post Cold-War web when all major powers are absent, indicating perhaps that resistance to US global leadership may be more widespread than when viewed only through the participation patterns of major powers. Nor should such a conclusion come as a surprise to observers of post Cold War international politics. American policy makers have used bilateral and unilateral approaches at least as often as multilateral ones, 21 and have spent a considerable amount of effort to veto attempts at multilateral arrangements by other states since the end of the Cold War. These "vetoes" of multilateral arrangements implies that US structural or relational strength may be sufficient to deter certain institutional outcomes. Clearly, American policy makers have worked to insure that regional institutional arrangements did not arise in Asia, and the paucity of organizations in that region attests to the possible veto power contained by US relational strength (e.g. Rapkin, 2001). Attempts by China and Japan to create a regional counterweight to the IMF for Asia in the 1990s failed in part due to such pressure.

#### Global multilateralism is impossible, but regional solutions check the impact

**Khanna, 10** – senior research fellow at the New America Foundation (Parag, “How’s That New World Order Working Out?,” Foreign Policy, December, http://www.foreignpolicy.com/articles/2010/11/29/hows\_that\_new\_world\_order\_working\_out

Bush Sr. chose to give the speech at the United Nations for a reason: America was the preeminent power, but he was a multilateralist. Paralyzed during the Cold War, the United Nations now had a chance toplay the central role as arbiter of global governance for which it was envisioned. But rather than personify multilateralism itself, the United Nations is proving to be at best just one manifestation of it. Free-standing functional agencies like the World Trade Organization and the International Monetary Fund -- which has only become more important in the wake of the financial crisis -- are our only effective global bodies, and they are solely economic in nature. But the G-20 has hardly lived up to its billing as the new "steering committee for the world." Before the most recent Seoul summit, world leaders described U.S. proposals for harmonizing current account surpluses and deficits as "clueless." The Security Council has long ceased to be legitimate or effective, with little prospect for reform in sight. As we learned so painfully this year, the United Nations can't forge a global climate deal and can't make the world meet the Millennium Development Goals. For every issue there are now several specialized agencies, like the World Food Program and Office of the U.N. High Commissioner for Refugees, that mostly secure their own funding contributions and are evolving at their own pace.

The closest thing we have to multilateral governance happens on a regional level, and it is far more promising, whether the deeply entrenched and supranational European Union, the rejuvenated Association of Southeast Asian Nations, or the nascent African Union. Each is building a regional order tailored to its members' priorities and level of development. On Sudan and Somalia, it's Uganda leading the new diplomatic and peacekeeping push. For Palestine, the Arab League is considering a peacekeeping force. And on Iran, Turkey is now in the lead.

The world of 1990 was expected to remain fundamentally international. Yet instead its very structure has changed as globalization has empowered legions of transnational nonstate actors from corporations to NGOs to religious groups. As a result, today's world features overlapping and competing claims to authority and legitimacy. The Gates Foundation gives away more money each year than any European country. Villagers in Nigeria expect Shell to deliver the goods, not their government. And Oxfam shapes the British development agency's priorities more than the reverse.

Neither the United States nor the United Nations can put the genie back in the bottle. With each passing year, deal-making at Davos and the Clinton Global Initiative become more important than the glacial advance of empty declarations at international summits. These and other venues are the places where the "new new world order" is being built. And it's happening from the bottom up rather than the top down.

### C02

#### International community won’t act – means warming becomes inevitable

**Mckibben 10** – Foreign Policy writer, author, environmentalist, and activist. In 1988, he wrote The End of Nature, the first book for a common audience about global warming. (Bill, 11-22, “Sipping Margaritas While the Climate Burns” http://www.foreignpolicy.com/articles/2010/11/22/sipping\_margaritas\_while\_the\_climate\_burns?page=0,1) Jacome

In fact, I suspect it will be mostly holding pattern and very little landing in Mexico this December. The fundamental problem that has always dogged these talks -- a rich north that won't give up its fossil-fuel addiction, a poor south that can't give up its hope of fossil-fueled development -- has, if anything, gotten worse, mostly because the north has decided to think of itself as poor, too or at least not able to devote resources to changing our climate course.

It is possible -- indeed it has been possible from the start -- that this essential gulf will prevent action to slow greenhouse gas emissions at the pace that physics and chemistry demand before it's too late to reverse or contain the impacts of climate change. There's really only one way to build a bridge across the divide, and that's with big stacks of money. Theoretically, the rich countries pledged at Copenhagen that they would pony up $30 billion in "fast-start" financing to help poor countries get going on building renewable energy. And at last scrupulous count, according to the World Resources Institute, there's actually $28.34 billion on the table, more than half of it coming from Japan. Unfortunately, much of it isn't "new and additional" -- instead it's repurposed money from other development grants. None of that increases anyone's confidence in the $100 billion a year that U.S. Secretary of State Hillary Clinton projected in Copenhagen would be available by 2020 -- especially because the only news that has emerged this year as to its source is that it won't be coming from "public funds."

#### Domestic problems undercut both Chinese and U.S. action

**Hale, 11** - PhD Candidate in the Department of Politics at Princeton University and a Visiting Fellow at LSE Global Governance, London School of Economics (Thomas, “A Climate Coalition of the Willing,” Washington Quarterly, Winter,http://www.twq.com/11winter/docs/11winter\_Hale.pdf

Intergovernmental efforts to limit the gases that cause climate change have all but failed. After the unsuccessful 2010 Copenhagen summit, and with little progress at the 2010 Cancun meeting, it is hard to see how major emitters will agree any time soon on mutual emissions reductions that are sufficiently ambitious to prevent a substantial (greater than two degree Celsius) increase in average global temperatures.

It is not hard to see why. No deal excluding the United States and China, which together emit more than 40 percent of the world’s greenhouse gases (GHGs), is worth the paper it is written on. But domestic politics in both countries effectively block ‘‘G-2’’ leadership on climate. In the United States, the Obama administration has basically given up on national cap-and-trade legislation. Even the relatively modest Kerry-Lieberman-Graham energy bill remains dead in the Senate. The Chinese government, in turn, faces an even harsher constraint. Although the nation has adopted important energy efficiency goals, the Chinese Communist Party has staked its legitimacy and political survival on raising the living standard of average Chinese. Accepting international commitments that stand even a small chance of reducing the country’s GDP growth rate below a crucial threshold poses an unacceptable risk to the stability of the regime. Although the G-2 present the largest and most obvious barrier to a global treaty, they also provide a convenient excuse for other governments to avoid aggressive action. Therefore, the international community should not expect to negotiate a worthwhile successor to the Kyoto Protocol, at least not in the near future.

#### 

**Roberts, 4** [Paul, Contributor to Harper's Magazine, The End of Oil: on the Edge of a Perilous New World, pg. 284-5

Politically, the energy poverty of the developing world will influence the transformation of the energy economy in important ways. Because developing nations currently have little choice but to use the cheapest energy available (coal, in China and India), they regard policies to reduce carbon emissions as undercutting their own efforts to escape energy poverty and to modernize. By the same token, because developing countries rely on “dirty” energy, any success they have in achieving economic growth will doom global efforts to shift to cleaner energy. This implicit threat gives developing nation a surprising measure of power over such global energy decisions as climate policy. Countries like China, India, and even Russia, with its obsolete and energy-intensive industrial base, will refuse to support global initiatives like CO2 reduction unless wealthy developed nations promise financial and technological aid. But developing countries will also become political pawns as industrialized nations – mainly the United States and Europe – maneuver for advantage on issues such as climate policy.

#### Nothing can offset coal enough to matter for warming

**Chaisson, 07 –** Director Research and Technology Clean Air Task Force (Joseph, “CLEAN COAL,” CQ Congressional Testimony, 4/6, lexis

Despite these problems, coal fired power generation is likely to be relied on for decades to come and is projected to expand dramatically. World electric demand is expected to triple by 2050, coming largely from developing countries like China and India. Most analyses agree that this underlying demand growth will substantially outpace even the most aggressive energy efficiency policies. Renewable energy, while it should and will be widely deployed, faces significant physical, environmental and economic challenges that will practically limit its share of total electrical supply for several decades. Natural gas is relatively expensive and its reserves are far more limited than coal. Finally, nuclear power faces considerable hurdles of scale, economics and environmental opposition. For these reasons among others, China is building as much new coal capacity each year as the entire UK power grid, and coal power generation in India is projected to grow rapidly - matching current US coal consumption by 2020 and China's current coal consumption by about 2030. The United States faces both growing demand for electricity and an aging power plant fleet; coal will remain economically attractive to meet some portion of electricity demand growth and to replace some existing power plants.

#### Co2 warming is a hoax

**Carter 10** – Robert, PhD, Adjuct Research Fellow, James Cook University, Craig Idso, PhD, Chairman at the Center for the Study of Carbon Dioxide and Global Change, Fred Singer, PhD, President of the Science and Environmental Policy Project, Susan Crockford, evolutionary biologist with a specialty in skeletal taxonomy , paleozoology and vertebrate evolution, Joseph D’Aleo, 30 years of experience in professional meteorology, former college professor of Meteorology at Lyndon State College, Indur Goklany, independent scholar, author, and co-editor of the Electronic Journal of Sustainable Development, Sherwood Idso, President of the Center for the Study of Carbon Dioxide and Global Change, Research Physicist with the US Department of Agriculture, Adjunct Professor in the Departments of Geology, Botany, and Microbiology at Arizona State University, Bachelor of Physics, Master of Science, and Doctor of Philosophy, all from the University of Minnesota, Madhav Khandekar, former research scientist from Environment Canada and is an expert reviewer for the IPCC 2007 Climate Change Panel, Anthony Lupo, Department Chair and Professor of Atmospheric Science at the University of Missouri, Willie Soon, astrophysicist at the Solar and Stellar Physics Division of the Harvard-Smithsonian Center for Astrophysics, Mitch Taylor (Canada) (December 22, “[Irreversible CO2-Induced Global Warming?](http://www.nipccreport.org/articles/2010/dec/22dec2010a5.html)” <http://www.nipccreport.org/articles/2010/dec/22dec2010a5.html>) Jacome

Lastly, with respect to the first of Solomon et al.'s three criteria -- their assumption that the modeled atmospheric warming is already occurring, and that there is evidence for anthropogenic (i.e., CO2-induced) contributions to it -- the situation is much the same: real-world data provide little to no support for this contention. It shold be noted, for example, that the global warming of the past few decades was actually part of a much longer warming, which began in many places throughout the world a little over three centuries ago (about 1680) with the dramatic "beginning of the end" of the Little Ice Age (LIA, see figure below), well before there was any significant increase in the air's CO2 content. And this observation suggests that a continuation of whatever phenomenon -- or combination of phenomena -- may have caused the greater initial warming could well have caused the lesser final warming, the total effect of which was to transport the earth from the chilly depths of the Little Ice Age into the relative balm of the Current Warm Period.

The mean relative temperature history of the earth (blue, cool; red, warm) over the past two millennia - adapted from Loehle and McCulloch (2008) - highlighting the Medieval Warm Period (MWP) and Little Ice Age (LIA), together with a concomitant history of the atmosphere's CO2 concentration (green).

It should also be added that earth's current temperature is no higher now (and maybe just a tad less, in fact) than it was during the peak warmth of the Medieval Warm Period (MWP), when (just as at the "beginning of the end" of the LIA) there was over 100 ppm less CO2 in the air than there is today. Consequently, since the great MWP-to-LIA cooling occurred without any significant change in the atmosphere's CO2 concentration, just the opposite could occur just as easily, and the planet could warm, and by an equal amount -- just as it actually did over the past three centuries -- all without any help from an increase in the atmosphere's CO2 content, which remained essentially constant for the first 1850 years of the 2000-year record depicted in the figure above, and which did not begin to really take off until just the last few decades of the 20th century, which **brief period of correlation is simply too short to** use as justification for claiming that the late 20th-century CO2 increase was responsible for the late 20th-century warming of the globe, and especially since that warming actually ceased at the end of the 20th century, even though the atmosphere's CO2 content has subsequently continued to climb at an unprecedented rate and to ever greater heights.

**No impact to CO2 level rise**

**Happer, Ph.D. in Physics, 11**—Chairman of the Board of Directors (GMI); Cyrus Fogg Brackett Professor of Physics, Princeton University, Ph.D. in Physics from Princeton (William, 23 May 2011, The Truth About Greenhouse Gases, http://www.marshall.org/article.php?id=953, RBatra)

Although human beings and many other animals would do well with no CO2 at all in the air, there is an upper limit that we can tolerate. Inhaling air with a concentration of a few percent, similar to the concentration of the air we exhale, hinders the diffusional exchange of CO2 between the blood and gas in the lung. Both the United States Navy (for submariners) and nasa (for astronauts) have performed extensive studies of human tolerance to CO2. As a result of these studies, the Navy recommends an upper limit of about 8000 ppm for cruises of ninety days, and nasa recommends an upper limit of 5000 ppm for missions of one thousand days, both assuming a total pressure of one atmosphere. Higher levels are acceptable for missions of only a few days.

We conclude that atmospheric CO2 levels should be above 150 ppm to avoid harming green plants and below about 5000 ppm to avoid harming people. That is a very wide range, and our atmosphere is much closer to the lower end than to the upper end. The current rate of burning fossil fuels adds about 2 ppm per year to the atmosphere, so that getting from the current level to 1000 ppm would take about 300 years—and 1000 ppm is still less than what most plants would prefer, and much less than either the nasa or the Navy limit for human beings.

Yet there are strident calls for immediately stopping further increases in CO2 levels and reducing the current level. As we have discussed, animals would not even notice a doubling of CO2 and plants would love it. The supposed reason for limiting it is to stop global warming—or, since the predicted warming has failed to be nearly as large as computer models forecast, to stop climate change. Climate change itself has been embarrassingly uneventful, so another rationale for reducing CO2 is now promoted: to stop the hypothetical increase of extreme climate events like hurricanes or tornados. But this does not necessarily follow. The frequency of extreme events has either not changed or has decreased in the 150 years that CO2 levels have increased from 270 to 390 ppm.

Let me turn to some of the problems the non-pollutant CO2 is supposed to cause. More CO2 is supposed to cause flooded cities, parched agriculture, tropical diseases in Alaska, etc., and even an epidemic of kidney stones. It does indeed cause some warming of our planet, and we should thank Providence for that, because without the greenhouse warming of CO2 and its more potent partners, water vapor and clouds, the earth would be too cold to sustain its current abundance of life.

Other things being equal, more CO2 will cause more warming. The question is how much warming, and whether the increased CO2 and the warming it causes will be good or bad for the planet.

The argument starts something like this. CO2 levels have increased from about 280 ppm to 390 ppm over the past 150 years or so, and the earth has warmed by about 0.8 degree Celsius during that time. Therefore the warming is due to CO2. But **correlation is not causation**. Roosters crow every morning at sunrise, but that does not mean the rooster caused the sun to rise. The sun will still rise on Monday if you decide to have the rooster for Sunday dinner.

There have been many warmings and coolings in the past when the CO2 levels did not change. A well-known example is the medieval warming, about the year 1000, when the Vikings settled Greenland (when it was green) and wine was exported from England. This warm period was followed by the “little ice age” when the Thames would frequently freeze over during the winter. **There is no evidence for significant increase of CO2 in the medieval warm period, nor for a significant decrease at the time of the subsequent little ice age.** Documented famines with millions of deaths occurred during the little ice age because the cold weather killed the crops. Since the end of the little ice age, the earth has been warming in fits and starts, and humanity’s quality of life has improved accordingly.

A rare case of good correlation between CO2 levels and temperature is provided by ice-core records of the cycles of glacial and interglacial periods of the last million years of so. But these records show that **changes in temperature preceded changes in CO2 levels, so that the levels were an effect of temperature changes**. This was probably due to outgassing of CO2 from the warming oceans and the reverse effect when they cooled.

### OZone

#### No impact to ozone loss and it won’t collapse anyways

**Ring 09** [Meteorologist in New Zealand. 2009. “The Nonsense that is Ozone Depletion.” http://www.ourcivilisation.com/ozone/king.htm]

There is not a 'layer' of ozone at all, any more than there is single layer of air; and ozone doesn't protect us from anything. The Sun's rays hit us at exactlythe same time as they hit the ozone. Therefore, protection is impossible. In the same way, 'hard' water molecules, H3O, doesn't prevent anyone from getting wet. If we could snap our fingers and make every single last molecule of ozone disappear, it would have absolutely no bearing on the amount of UV light reaching the Earth. Now, back to the poles, where there are indeed observed ozone-depletion zones. How come? Well, there happens to be two places on Earth where UV light doesn't meet rising warm air molecules: where the Sun shines less and where it is cold — at the Poles! Because the Earth is tilted, there is a wide area of depletion around both poles, and New Zealand happens to be under the southern depletion zone for much of the winter. In fact the "hole" gets bigger towards spring, because the highs and lows of the effect are modified by Earth's wind systems and subsequently the flow of warm and cold air. That is why you see glaring headlines on sudden discoveries about ozone depletion around New Zealand around New Zealand's springtime. But by December the hole is much smaller, and that's when New Zealand has its summer, when the skin cancer risk from the sun is higher. Bricks Don't Float Up Despite all the information you may have read, there is not one shred of supportable evidence that CFCs have found their way 40 miles up above the Earth. No one has ever found any up there because they are roughly five times heavier than air. They are like a brick in a swimming pool. It is not often that you will see a brick floating to the surface of your pool. CFCs are so dense that even as a gas you could fill a bucket with it and pour the contents of one bucket into another. Secondly there is no evidence that they can destroy anything because they are very stable and unreactive substances. Most dictionaries and chemistry books describe them as inert gases. Faced with this rather unfortunate logic, some researchers extend the plot, claiming that in the upper atmosphere the intense UV light is sufficient to break down the CFCs, releasing chlorine which then does the damage. If that actually could happen though, then the "ozone layer" would just get replaced by the CFC layer, which would then further "protect" us from UV radiation. There is, too, another difficulty with the theory: the fact that all the CFCs in the world are insufficient to even dent the known amount of ozone. The factor is 1 in 100,000. So we get told of yet another scenario — that in some imagined chain reaction, chlorine wouldkeep on getting released by the UV until all the ozone was destroyed. But even if we supposed that this could happen, then all of these reactions going on would only further absorb UV, protecting us even more. We would right now be dying from lack of UV light and vitamin "D" deficiency. There is no evidence that such a chain reaction would occur. Also, it is a long jump and unscientific to say that if a reaction could occur, then it would. Furthermore, there are some 192 known chemical reactions and 48 photochemical reactions occurring in the stratosphere(the ozone area) all the time. How would it be that chlorine and ozone, which are only in minute quantities anyway, should be able to carry on this reaction to the exclusion of the other 241 known reactive processes? And who says that the "holes" are getting bigger? In 1988 NASA's Nimbus satellite appeared to show that the southern hole was increasing. Here was supposed proof that man was aggravating the situation. The fact that the following year's results showed the hole smaller than ever previously recorded went totally unannounced, except in obscure journals. Neither was it reported that the variation in depletion-area size seemed to correspond with increases in sunspot activity, which throws out more UV radiation

#### Non unique

**IANS, 11** — largest private news agency in India (“Arctic ozone layer depleted by 40 percent: Experts”, 4/6/2011, http://my.news.yahoo.com/arctic-ozone-layer-depleted-40-percent-experts-20110406-041046-097.html)

The ozone layer that shields us from the sun's harmful rays has depleted by a record 40 percent over the Arctic, experts have said. The long, cold winter and lingering CFCs (chlorofluorocarbons) in the atmosphere have resulted in its 40 percent plunge, they said. The record loss has caused alarm because it allows more harmful ultraviolet (UV) light to reach the Earth's surface, raising the odds of sunburn, skin cancer and eye damage, Daily Mail reported on its website Wednesday, citing experts. The World Meteorological Organization (WMO) Wednesday revealed that ozone column loss had reached 40 percent this spring. A WMO spokesperson said: 'Depletion of the ozone has reached an unprecedented level over the Arctic this spring because of the continuing presence of ozone-depleting substances in the atmosphere and a very cold winter in the stratosphere. 'If the ozone depleted area moves away from the pole and towards lower latitudes one can expect increased ultraviolet (UV) radiation as compared to the normal for the season. 'Some crops and forms of marine life can also suffer adverse effects.' The highest ozone loss previously recorded over the Arctic was about 30 percent and occurred in several seasons over the past 15 years, the WMO said. Any increase in UV radiation over lower latitudes away from the Arctic could affect parts of Canada, the Nordic countries, Russia and Alaska in the US. UV-B rays have been linked to skin cancer, cataracts and damage to the human immune system. The record ozone loss over the Arctic comes despite the 'very successful' Montreal Protocol aimed at cutting production and consumption of ozone-destroying chemicals such as chlorofluorocarbons (CFCs) and halons, the Mail reported. The substances were once present in refrigerators, spray cans and fire extinguishers, but have been phased out.

#### Synthetic fertilizer makes it inevitable

**FAO, 2** (no date given but cites data from “Organic agriculture and climate change,” Food and Agriculture Organization of the UN, http://www.fao.org/DOCREP/005/Y4137E/y4137e02b.htm)

**Nitrous oxide emissions** not only **contribute severely** to the greenhouse effect but also **to the depletion of** stratospheric **ozone**. Almost 90 percent of the global atmospheric N2O is formed during the microbial transformation of nitrate (NO3-) and ammonia (NH4+) in soils and water. Globally, agriculture contributes to 65-80 percent of total N2O, mainly from nitrogenous fertilizers on cultivated soils, cattle and feedlots. In OECD countries the agricultural contribution to N2O emissions is estimated at 58 percent104. N2O emissions from soils are due to the unproductive loss of mobile N. Any nitrogen input (mineral and organic fertilizers, biologically fixed N, crop residues) and also the mineralization of nitrogen compounds in soils rich in organic matter contribute to the emission of N2O. Especially in agricultural soils elevated N2O production depends on the nitrogen fertilization level105. The above-mentioned inputs are proposed as determinants of N2O emissions by the Inter-Governmental Panel on Climate Change. Tropical ecosystems, currently an important source of N2O (and NO) are often phosporus-limited rather than being N-limited like the Northern hemispheric terrestrial ecosystems. Nitrogen fertilizer inputs into these phosphorus-limited ecosystems generate N2O (and NO) fluxes that are 10 to 100 times greater than the same fertilizer addition to nearby N-limited ecosystems106. The ban on synthetically-produced mineral nitrogen in organic agriculture confines the productivity to the natural system limits (i.e. N-fixation) or the limits defined by the annual nutrient balance of the farm, including imported fodder and organic fertilizers. Organic agriculture therefore is likely to emit less N2O due to restricted intensity because of: \* a systemically lower N-input; \* less N from organic manure due to lower livestock densities; \* a higher C/N ratio of applied organic manure and less available mineral nitrogen in the soil as a source for denitrification107; \* the permanent plant cover in organic systems which results in a more efficient uptake of mobile nitrogen in soils, thus reducing the potential and risk for N2O emissions. As Tilman (1998) points out "sustainable and productive ecosystems have tight internal cycling of nutrients, a lesson that agriculture must relearn".

## 2nr

### 2nr econ

#### Lack of internal link defense means the entire global economy grinds to a halt—distinct from normal crises like 2008—that reverses interdependence and proves the status quo solves all war

**Hillebrand 10** - Professor of Diplomacy @ University of Kentucky and a Senior Economist for the Central Intelligence Agency. [Evan E. Hillebrand, ?Deglobalization Scenarios: Who Wins? Who Loses?,? Global Economy Journal, Volume 10, Issue 2 2010, <http://www.bepress.com/cgi/viewcontent.cgi?article=1611&context=gej>)

A long line of writers from Cruce (1623) to Kant (1797) to Angell (1907) to Gartzke (2003) have theorized that economic interdependence can lower the likelihood of war. Cruce thought that free trade enriched a society in general and so made people more peaceable; Kant thought that trade shifted political power away from the more warlike aristocracy, and Angell thought that economic interdependence shifted cost/benefit calculations in a peace-promoting direction. Gartzke contends that trade relations enhance transparency among nations and thus help avoid bargaining miscalculations.

There has also been a tremendous amount of empirical research that mostly supports the idea of an inverse relationship between trade and war. Jack Levy said that, “While there are extensive debates over the proper research designs for investigating this question, and while some empirical studies find that trade is associated with international conflict, most studies conclude that trade is associated with peace, both at the dyadic and systemic levels” (Levy, 2003, p. 127).

There is another important line of theoretical and empirical work called Power Transition Theory that focuses on the relative power of states and warns that when rising powers approach the power level of their regional or global leader the chances of war increase (Tammen, Lemke, et al, 2000). Jacek Kugler (2006) warns that the rising power of China relative to the United States greatly increases the chances of great power war some time in the next few decades. The IFs model combines the theoretical and empirical work of the peacethroughtrade tradition with the work of the power transition scholars in an attempt to forecast the probability of interstate war. Hughes (2004) explains how he, after consulting with scholars in both camps, particularly Edward Mansfield and Douglas Lemke, estimated the starting probabilities for each dyad based on the historical record, and then forecast future probabilities for dyadic militarized interstate disputes (MIDs) and wars based on the calibrated relationships he derived from the empirical literature.

The probability of a MID, much less a war, between any random dyad in any given year is very low, if not zero. Paraguay and Tanzania, for example, have never fought and are very unlikely to do so. But there have been thousands of MIDs in the past and hundreds of wars and many of the 16,653 dyads have nonzero probabilities. In 2005 the mean probability of a country being involved in at least one war was estimated to be 0.8%, with 104 countries having a probability of at least 1 war approaching zero. A dozen countries12, however, have initial probabilities over 3%.

The globalization scenario projects that the probability for war will gradually decrease through 2035 for every country—but not every dyad--that had a significant (greater than 0.5% chance of war) in 2005 (Table 6). The decline in prospects for war stems from the scenario’s projections of rising levels of democracy, rising incomes, and rising trade interdependence—all of these factors figure in the algorithm that calculates the probabilities. Not all dyadic war probabilities decrease, however, because of the power transition mechanism that is also included in the IFs model. The probability for war between China and the US, for example rises as China’s power13 rises gradually toward the US level but in these calculations the probability of a China/US war never gets very high.14

Deglobalization raises the risks of war substantially. In a world with much lower average incomes, less democracy, and less trade interdependence, the average probability of a country having at least one war in 2035 rises from 0.6% in the globalization scenario to 3.7% in the deglobalization scenario. Among the top-20 war-prone countries, the average probability rises from 3.9% in the globalization scenario to 7.1% in the deglobalization scenario. The model estimates that in the deglobalization scenario there will be about 10 wars in 2035, vs. only 2 in the globalization scenario15. Over the whole period, 2005-2035, the model predicts four great power wars in the deglobalization scenario vs. 2 in the globalization scenario.16

IV. Winners and Losers

Deglobalization in the form of reduced trade interdependence, reduced capital flows, and reduced migration has few positive effects, based on this analysis with the International Futures Model. Economic growth is cut in all but a handful of countries, and is cut more in the non-OECD countries than in the OECD countries. Deglobalization has a mixed impact on equality. In many non-OECD countries, the cut in imports from the rest of the world increases the share of manufacturing and in 61 countries raises the share of income going to the poor. But since average productivity goes down in almost all countries, this gain in equality comes at the expense of reduced incomes and increased poverty in almost all countries. The only winners are a small number of countries that were small and poor and not well integrated in the global economy to begin with—and the gains from deglobalization even for them are very small.

Politically, deglobalization makes for less stable domestic politics and a greater likelihood of war. The likelihood of state failure through internal war, projected to diminish through 2035 with increasing globalization, rises in the deglobalization scenario particularly among the non-OECD democracies. Similarly, deglobalization makes for more fractious relations among states and the probability for interstate war rises.

### 2nr thumper

#### Illegit new argument—I read losers lose because the 2ac said winners win—adding new external issues when I said sandbagging bad is preposterous—makes 2nr coverage impossible

#### The House will cave to the Senate deal so they can save strength for the debt fight

**Associated Press, 9/19/13** (“Vote in Congress on Friday aimed at averting US government shutdown” <http://www.nanaimodailynews.com/news/vote-in-congress-on-friday-aimed-at-averting-us-government-shutdown-1.631432>)

Republicans controlling the House of Representatives planned a vote Friday to ship to the Senate a measure that would prevent a government shutdown but cripple the signature legislative accomplishment of President Barack Obama's first term.

The House was set to vote on a temporary spending bill that would fund the government until Dec. 15, but also kill Obama's health care overhaul. The health care provision, however, has almost no chance of passing the Democratic-led Senate. Obama said Thursday he would veto it if it passed anyway.

That could create an impasse that leads to a shutdown. But more likely, Republicans will eventually accept the Senate version of the funding bill — with the health care measure stripped out of it. Republican leaders are wary of being blamed for a shutdown. And avoiding this fight would also allow them to focus on a bigger battle later this year over raising the government's borrowing authority.

### 2nr shield

#### Court is politicized if it’s a major issue

**Harrison 05** –Lindsay, Lecturer in Law at the University of Miami Law School, JD cum laude from Harvard Law, November 18. “Does the Court Act as "Political Cover" for the Other Branches?” http://legaldebate.blogspot.com/2005/11/does-court-act-as-political-cover-for.html

While the Supreme Court may have historically been able to act as political cover for the President and/or Congress, that is not true in a world post-Bush v. Gore. The Court is seen today as a politicized body, and especially now that we are in the era of the Roberts Court, with a Chief Justice hand picked by the President and approved by the Congress, it is highly unlikely that Court action will not**,** at least to some extent, be blamed on and/or credited to the President and Congress. The Court can still get away with a lot more than the elected branches since people don't understand the technicalities of legal doctrine like they understand the actions of the elected branches; this is, in part, because the media does such a poor job of covering legal news. Nevertheless, it is preposterous to argue that the Court is entirely insulated from politics, and equally preposterous to argue that Bush and the Congress would not receive at least a large portion of the blame

for a Court ruling that, for whatever reason, received the attention of the public.