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**1**

**interpretation and violation: ruling on I-Law is a political constraint, not a restriction**

Michael Stokes **Paulsen**, Distinguished University Chair and Professor, law, University of St. Thomas, “The Constitutional Power to Interpret Law,” YALE LAW JOURNAL v. 118, 6—**09**, p. 1770.

**Carl von Clausewitz famously referred to the "fog" of war as a metaphor for the inability to think clearly and sensibly in the midst of battle once the forces of war have been unleashed. n19 "Fog" is likewise a useful image for the phenomenon of unclear thinking about international law** in contemporary legal and political discourse. Once the idea of international law has been unleashed, its rhetorical salience frequently seems to overtake careful thought. What precisely is the force of international law as a matter of U.S. law, under the U.S. Constitution? How does it affect - does it affect - the U.S. constitutional law of war and foreign affairs powers? My contention is that **international law is not binding law on the** **U**nited **S**tates, **and cannot be binding law except to the extent provided in the U.S. Constitution. That extent is very limited and subject to several important constitutional overrides - empowerments or restrictions that nearly always permit international law requirements to be superseded by contrary enactments or actions of U.S. governmental actors**. The result is that **international law is primarily a political constraint on the exercise of U.S. power, not a true legal constraint; it is chiefly a policy consideration of international relations - of international politics. International law may be quite relevant in that sense. But it is largely irrelevant as a matter of U.S. law. While the legal regime of international law may consider international law supreme over the law of every nation, the U.S. Constitution does not.**

[\*1771] It follows that, to the extent international law is thought to yield determinate commands or obligations in conflict with the U.S. Constitution's assignments of powers and rights, international law is, precisely to that extent, unconstitutional - practically by definition. In such cases, U.S. government actors must not - constitutionally speaking, may not - follow international law.

**vote neg:**

**limits- infinite possible rulings with I-law- drawing the line on restriction key to prevent topic explosion**

**ground- they bypass the controversy around detention- shifts the debate to backfile checks**

**2**

**CIR passes now—new Obama strategy**

Brian **Bennett** and Christi Parsons, “Obama Softens Tone on Immigration Reform,” LOS ANGELES TIMES, 10—24—**13**, [www.latimes.com/nation/la-na-immigration-obama-20131025,0,6755968.story#axzz2ikONvPvJ](http://www.latimes.com/nation/la-na-immigration-obama-20131025,0,6755968.story#axzz2ikONvPvJ)

After months of insisting the House should take up the comprehensive immigration bill that passed the Senate in June, President **Obama changed tactics** Thursday **and said he might consider GOP proposals to overhaul separate parts** of the immigration system. The White House is hoping that public anger at the 16-day government shutdown has so badly damaged **the GOP** that House Republican leaders **will consider immigration** reform as a way **to improve their popularity** with moderate voters. Obama's aides also are intent on showing **the president is willing to compromise**, partly **to counter** GOP **charges** that **he was inflexible** during the bitter shutdown standoff. In remarks at the White House, Obama hinted that he was no longer tied to the Senate bill, the elaborate product of months of intense bipartisan negotiations, to achieve what he has called a major priority for his second term. **Obama** instead signaled that he **might consider** a package of **smaller bills**, if necessary, **as long as they provide a path to citizenship** for the estimated 11 million people in the country without legal status. "If House Republicans have new and different additional ideas on how we should move forward, then we want to hear them. I'll be listening," Obama told several dozen pro-reform activists from labor, business and religious groups. White House spokesman Jay Carney echoed the shift, telling reporters **there are "a variety of ways** that **you can reach the ultimate goal**" **of a bill** that **Obama could sign into law**. "The House's approach will be up to the House," Carney said. "There is a comprehensive bill the House Democrats have put together that is similar to the Senate bill and reflects the president's principles. But the means by which we arrive at our destination is in some ways of course up to the lawmakers who control the houses of Congress." The White House effort to resuscitate a bill that seemed all but dead in the House before the shutdown still faces steep and perhaps insurmountable odds. But **the jockeying** Thursday **raised** at least some **hope** that **compromise remains possible**. "I hope President Obama meant what he said today about listening to new and different ideas presented by House Republicans," House Judiciary Committee Chairman Robert W. Goodlatte (R-Va.) said in a statement. "**The president should work with Congress**, including House Republicans, **to achieve** immigration **reform**, and not against us." In recent weeks, **GOP leaders have worked** behind the scenes **to craft** legislative **proposals that might pass muster** with rank-and-file Republicans and — if joined with a legalization program — could appeal to the White House. Majority Leader Eric Cantor and other House Republicans have met in small groups to write bills that would change parts of the immigration system. GOP **proposals include** adding **high-tech visas**, revamping farm and **low-skilled immigrant** labor **programs, and** ramping up **border security**. "**I expect us to move forward this year** in trying to address reform and what is broken about our system," Cantor said on the House floor Wednesday.

**Plan picks a massive fight with the GOP**

**Compliance Campaign**, 8/29/20**12** (“Republican platform rejects international law,” <http://compliancecampaign.wordpress.com/2012/08/29/republican-platform-rejects-international-law/>,)

**In a section called “American Sovereignty in U.S. Courts,” the 2012 platform states emphatically that “subjecting American citizens to foreign laws is inimical to the spirit of the Constitution.” The fear of “foreign law” is cited as “one reason we oppose U.S. participation in the International Criminal Court,” which the Republicans suspect could lead to “ideological prosecutions”** of U.S. soldiers in The Hague.¶ “**There must be no use of foreign law by U.S. courts in interpreting our Constitution and laws,” the platform states**. “Nor should foreign sources of law be used in State courts’ adjudication of criminal or civil matters.”¶ **The conflation of “international law” with “foreign law” has been well-established in Republican Party rhetoric for several years now**, dating back at least to 2005 when the Supreme Court cited “the overwhelming weight of international opinion” in ruling that the death penalty for juvenile offenders was unconstitutional.

**Obama get’s blamed**

Paul E. **Mirengoff**, attorney, Federalist Society Online Debate Series, 6—23—**10**, www.fed-soc.org/debates/dbtid.41/default.asp

The other thing I found interesting was the degree to which Democrats used the hearings to attack the "Roberts Court." I don't recall either party going this much on the offensive in this respect during the last three sets of hearings. What explains this development? My view is that **liberal Democratic politicians (and members of their base) think they lost the argument during the last three confirmation battles. John Roberts and Samuel Alito "played" well, and Sonia Sotomayor sounded like a conservative. The resulting frustration probably induced the Democrats to be more aggressive** in general and, in particular, to try to discredit Roberts and Alito by claiming they are not the jurists they appeared to be when they made such a good impression on the public. I'm pretty sure the strategy didn't work. First, as I said, these hearings seem not to have attracted much attention. Second, Senate Democrats are unpopular right now, so their attacks on members of a more popular institution are not likely to resonate. Third, those who watched until the bitter end saw Ed Whelan, Robert Alt and others persuasively counter the alleged examples of "judicial activism" by the Roberts Court relied upon by the Democrats -- e.g., the Ledbetter case, which the Democrats continue grossly to mischaracterize. There's a chance that **the Democrats' latest** **partisan innovation** will **come back to haunt them**. **Justice Sotomayor and soon-to-be Justice Kagan are on record having articulated a traditional, fairly minimalist view of the role of judges. If a liberal majority were to emerge -- or even if the liberals prevail in a few high profile cases -- the charge of "deceptive testimony" could be turned against them. And if Barack Obama is still president at that time, he likely will receive some of the blame.**

**Capital key**

Laura **Matthews**, “Immigration Reform Bill: ‘I’m Going to Push to Call a Vote,’ Says Obama,” INTERNATIONAL BUSINESS TIMES, **10—16**—13,

[www.ibtimes.com/2013-immigration-reform-bill-im-going-push-call-vote-says-obama-1429220](http://www.ibtimes.com/2013-immigration-reform-bill-im-going-push-call-vote-says-obama-1429220)

When Congress finally passes a bipartisan bill that kicks the fiscal battles over to early next year, the spotlight could return to comprehensive immigration reform before 2013 ends. At least that’s the hope of President Barack Obama and his fellow Chicagoan Rep. Luis Gutierrez, D-Ill., chairman of the Immigration Task Force of the Congressional Hispanic Caucus and one of the most vocal advocates for immigration reform in the House of Representatives. “When we emerge from this crazy partisan eruption from the Republicans, **there will be a huge incentive for sensible Republicans who want to repair some of the damage they have done to themselves,” Gutierrez said in a statement. “Immigration reform remains the one issue popular with both Democratic and Republican voters on which the two parties can work together to deliver real, substantive solutions in the Congress this year.”** Reforming the status quo has consistently been favored by a majority of Americans. Earlier this year, at least two-thirds of Americans supported several major steps to make the system work better, according to a Gallup poll. Those steps include implementing an E-verify system for employers to check electronically the immigration status of would-be employees (85 percent), a path to citizenship for undocumented immigrants, (72 percent), an entry-exit check system to make sure people who enter the country then leave it (71 percent), more high-skilled visas (71 percent) and increased border security (68 percent). The Senate passed its version of a 2013 immigration reform bill in June that includes, but is not limited to, a pathway to citizenship for immigrants without documentation and doubling security on the southern border. But that measure has stalled in the House, where Republicans are adamant they will take a piecemeal approach. The momentum that lawmakers showed for reform has been sapped by the stalemate that that has shut down the government for 16 days and brought the U.S. to the brink of default. The Senate has agreed on Wednesday to a bipartisan solution to break the gridlock. When the shutdown and default threat is resolved (for a time), that’s when **Obama will renew his push** to get Congress to move on immigration reform. On Tuesday the president said **reform will become his top priority. “**Once that’s done, you know, the day after, I’m going to be pushing to say, call a vote on immigration reform,” Obama told Univision affiliate KMEX-TV in Los Angeles. “And if I have to join with other advocates and continue to speak out on that, and keep pushing, I’m going to do so because I think it’s really important for the country. And now is the time to do it.” The president pointed the finger at House Speaker John Boehner, R-Ohio, for not allowing the bill to be brought to the floor for a vote. Boehner had promised that the Senate’s bill would not be voted on unless a majority of the majority in the House supports it -- the same principle he was holding out for on the government shutdown before he gave in. “We had a very strong Democratic and Republican vote in the Senate,” Obama said. “The only thing right now that’s holding it back is, again, Speaker Boehner not willing to call the bill on the floor of the House of Representatives. So we’re going to have to get through this crisis that was unnecessary, that was created because of the obsession of a small faction of the Republican Party on the Affordable Care Act.” Republicans are opposing the Democratic view of immigration reform because of its inclusion of a 13-year path to citizenship for undocumented immigrants. They said this amounted to “amnesty.” Some Republicans prefer to give them legal resident status instead. Immigration advocates have also been urging Obama to use his executive authority to halt the more than 1,000 deportations taking place daily. Like the activists, Gutierrez said the government shutdown didn’t do anything to slow the number of daily deportations. Some Republicans who welcomed Sen. Ted Cruz’s filibuster over Obamacare because it shifted the focus from immigration. “If Ted [didn’t] spin the filibuster, if we don’t make this the focus, we had already heard what was coming,” Rep. Louie Gohmert, R-Texas, told Fox News on Tuesday. “As soon as we got beyond this summer, we were going to have an amnesty bill come to the floor. That’s what we would have been talking about. And that’s where the pivot would have been if we had not focused America on Obamacare.” Still, pro-immigration advocates are hopeful they can attain their goal soon. “**With more prodding from the president** and the American people,” Gutierrez said, “**we can get immigration reform legislation passed in the House and signed into law.”**

#### Immigration reform key to economy --- numerous reasons.

---Innovation ---Investment capital ---Aging workforce

**Huffington Post**, **2-7**-2013, Why Our Economy Demands Immigration Reform, p. http://www.huffingtonpost.com/jonathanmiller/immigration-reform-economy\_b\_2639092.html

When it comes to restoring strong, long-term growth in our nation's economy, there are few solutions more practical, bi-partisan, and urgent than immigration reform. Our current immigration system is rigid, outdated, and simply unable to keep up with demands of the new global marketplace. For our nation to thrive and transcend international competition in the 21st century economy, it is incumbent for us to build an immigration system that welcomes people who share our values, as well as the entrepreneurial spirit that has made our country great. No one can doubt that we are a nation whose foundation was built by immigrants. But did you know that more than 40 percent of today's Fortune 500 companies were founded by an immigrant, or a child of an immigrant? Or that more than 75 percent of all the patents received by the top ten U.S. universities in 2011 had an immigrant inventor? While we celebrate our nation's first immigrants every Thanksgiving -- and while many of us cherish the stories shared by our own family members who made the pilgrimage to our shores -- we too often forget that today, and every day, recent immigrants continue to play a vital role in the American economy. Unfortunately, far too often, our immigration policies drive too many foreign-born entrepreneurs and job creators away, even after we have trained them and given them degrees from American universities. This is not simply a matter of compassion or human interest. This is about the very survival of our economy, way of life, and continued global leadership. We must make it easier for foreign-born, U.S.-educated students to get visas. We must create a startup visa program for entrepreneurs and innovators who want to come to our country to start businesses and hire American workers, especially when they already have U.S. investors to back their ideas. We must be doing everything we can to keep that capital in the U.S., rather than handing the next great idea over to our competitors. Furthermore, with the enormous baby boomer generation set to retire, our current aging workforce simply cannot keep up with the demands. We need many more young workers, both in the high- and low-skilled areas of our economy. The U.S. government estimates that there are more than 3.5 million unfilled jobs in this country, even with high unemployment. Shortages are particularly high in industries with seasonal demands, like agriculture, landscaping, and hospitality. Many hotels and resorts across the country remain at half capacity, even during the busiest tourist seasons, simply because they cannot find enough workers to meet demands. We leave hundreds of millions of dollars in crops out in the fields because we can't hire enough workers to harvest them in time. Unfortunately, our system is not structured in a way that accounts for the ebb and flow of our labor needs. We need a more flexible visa allotment system, and we need to expand the number of employment-based visas that are issued each year. Right now, only 7 percent of all green cards are distributed for employment based reasons, which is clearly far too low.

**Economic collapse causes global nuclear war**

**Merlini,** Senior Fellow – Brookings, **11** [CesareMerlini, nonresident senior fellow at the Center on the United States and Europe and chairman of the Board of Trustees of the Italian Institute for International Affairs (IAI) in Rome. He served as IAI president from 1979 to 2001. Until 2009, he also occupied the position of executive vice chairman of the Council for the United States and Italy, which he co-founded in 1983. His areas of expertise include transatlantic relations, European integration and nuclear non-proliferation, with particular focus on nuclear science and technology.A Post-Secular World? DOI: 10.1080/00396338.2011.571015 Article Requests: Order Reprints : Request Permissions Published in: journal Survival, Volume 53, Issue 2 April 2011 , pages 117 - 130 Publication Frequency: 6 issues per year Download PDF Download PDF (~357 KB) View Related Articles To cite this Article: Merlini, Cesare 'A Post-Secular World?', Survival, 53:2, 117 – 130]

Two neatly opposed scenarios for the future of the world order illustrate the range of possibilities, albeit at the risk of oversimplification. The first scenario entails the premature crumbling of the post-Westphalian system. One or more of the acute tensions apparent today evolves into an open and traditional **conflict** between states, perhaps even**involving** the use of**nuclear weapons**.The crisis **might be triggered by a collapse of the global** economic and **financial system, the vulnerability of which we have just experienced, and the prospect of a second Great Depression, with consequences for peace** and democracy**similar to** those of **the first**. Whatever the trigger, the unlimited exercise of national sovereignty, exclusive self-interest and rejection of outside interference would likely be amplified, emptying, perhaps entirely, the half-full glass of multilateralism, including the UN and the European Union. Many of the more likely conflicts, such as between Israel and Iran or India and Pakistan, have potential religious dimensions. Short of war, tensions such as those related to immigration might become unbearable. Familiar issues of creed and identity could be exacerbated. One way or another, the secular rational approach would be sidestepped by a return to theocratic absolutes, competing or converging with secular absolutes such as unbridled nationalism

**3**

**Deference is high and adherence to political question doctrine is strict**

Curtis A. **Bradley**, Professor, Law, Duke University, “War Powers, Syria, and Non-Judicial Precedent,” Lawfare, 9—2—**13**,

[www.lawfareblog.com/2013/09/war-powers-syria-and-non-judicial-precedent/](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.

**Plan undermines the political question doctrine**

Martin **Lederman**, Professor, Law, George Washington University, “War, Terror, and the Federal Courts, Ten Years After 9/11: Conference,” AMERICAN UNIVERSITY LAW REVIEW v. 61, 6—**11**, LN.

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.

**This renders war power justiciable—breaks the entire doctrine and collapses deference**

Mathew **Miller**, attorney, “The Right Issues, the Wrong Branch: Arguments against Adjudicating Climate Change Nuisance Claims,” MICHIGAN LAW REVIEW v. 109, 20**10**, LN.

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.

**restrictions cause adversaries to doubt the credibility of our threats – causes nuclear escalation**

Matthew **Waxman** 8/25/**13**, Professor of Law @ Columbia and Adjunct Senior Fellow for Law and Foreign Policy @ CFR, “The Constitutional Power to Threaten War,” Forthcoming in Yale Law Journal, vol. 123, August 25, 2013, SSRN

A claim previously advanced from a presidentialist perspective is that **stronger¶** legislative **checks on war powers is harmful to coercive and deterrent strategies**, **because¶ it establishes easily-visible impediments to the President’s authority to follow through on¶ threats.** This was a common policy argument during the War Powers Resolution debates¶ in the early 1970s. Eugene Rostow, an advocate inside and outside the government for¶ executive primacy, remarked during consideration of legislative drafts that **any** serious**¶ restrictions on presidential use of force would mean in practice that “no President could¶ make a credible threat to use force as an instrument of deterrent diplomacy, even to head¶ off explosive confrontations**.”178 He continued:¶ In the tense and cautious diplomacy of our present relations with the Soviet¶ Union, as they have developed over the last twenty-five years, **the authority of the¶ President to set clear** and silent **limits** in advance **is** perhaps **the most important of**¶ **all the powers in our constitutional armory** **to prevent confrontations that could¶ carry nuclear implications. …¶** [I]t is the diplomatic power the President needs most under the¶ circumstance of modern life—**the power to make a credible threat to use force in¶ order to prevent a confrontation which might escalate**.179¶ In his veto statement on the War Powers Resolution, President Nixon echoed these¶ concerns, arguing that the law would undermine the credibility of U.S. deterrent and¶ coercive threats in the eyes of both adversaries and allies – they would know that¶ presidential authority to use force would expire after 60 days, so absent strong¶ congressional support they could assume U.S. withdrawal at that point.180 In short, those¶ who oppose tying the president’s hands with mandatory congressional authorization¶ requirements to use force sometimes argue that doing so incidentally and dangerously ties¶ his hands in threatening it. A critical assumption here is that **presidential flexibility**,¶ preserved in legal doctrine, **enhances the credibility of presidential threats to escalate**

**plan crushes military power and deterrence—multilateralism is irrelevant**

**Persaud 04**—Associate Professor of International Relations, American University, School of International Service (Randolph, Shades of American Hegemony: The Primitive, the Enlightened, and the Benevolent, 19 Conn. J. Int'l L. 263)

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

**Extinction**

Thomas P.M. **Barnett**, chief analyst, Wikistrat, “The New Rules: Leadership Fatigue Puts U.S. and Globalization, at Crossroads,” WORLD POLITICS REVIEW, 3—7—**11**, [www.worldpoliticsreview.com/articles/8099/the-new-rules-leadership-fatigue-puts-u-s-and-globalization-at-crossroads](http://www.worldpoliticsreview.com/articles/8099/the-new-rules-leadership-fatigue-puts-u-s-and-globalization-at-crossroads)

Events in Libya are a further reminder for **Americans** that we **stand at a crossroads** in our continuing evolution **as the** world's sole full-service **superpower**. Unfortunately, we are increasingly seeking change without cost, and shirking from risk because we are tired of the responsibility. We don't know who we are anymore, and our president is a big part of that problem. Instead of leading us, he explains to us. Barack Obama would have us believe that he is practicing strategic patience. But many experts and ordinary citizens alike have concluded that he is actually beset by strategic incoherence -- in effect, a man overmatched by the job. It is worth first examining the larger picture: We live in a time of arguably the greatest structural change in the global order yet endured, with this historical moment's most amazing feature being its relative and absolute lack of mass violence. That is something to consider when Americans contemplate military intervention in Libya, because if we do take the step to prevent larger-scale killing by engaging in some killing of our own, we will not be adding to some fantastically imagined global death count stemming from the ongoing "megalomania" and "evil" of American "empire." We'll be engaging in the same sort of system-administering activity that has marked our stunningly successful stewardship of global order since World War II. Let me be more blunt: As the guardian of globalization**, the U.S. military has been the greatest force for peace the world has ever known. Had America been removed from the global dynamics** that governed the 20th century, the mass murder never would have ended. Indeed, it's entirely conceivable **there would now be no** identifiable **human civilization left, once nuclear weapons entered** the killing equation. But **the world did not keep sliding down** that path of **perpetual war**. Instead**, America** stepped up and **changed everything by ushering in** our now-perpetual **great-power peace. We introduced** the international liberal trade order known as **globalization** and played loyal Leviathan over its spread. **What resulted was** the collapse of empires, an explosion of **democracy**, the persistent spread of **human rights**, the liberation of women, the doubling of life expectancy, a roughly 10-fold increase in adjusted global GDP and a profound and persistent reduction in battle deaths from state-based conflicts. That is what American "hubris" actually delivered. Please remember that the next time some TV pundit sells you the image of "unbridled" American military power as the cause of global disorder instead of its cure. With self-deprecation bordering on self-loathing, we now imagine a post-American world that is anything but. Just watch who scatters and who steps up as the Facebook revolutions erupt across the Arab world. While we might imagine ourselves the status quo power, we remain the world's most vigorously revisionist force. As for the sheer "evil" that is our military-industrial complex, again, let's examine what the world looked like before that establishment reared its ugly head. The last great period of global structural change was the first half of the 20th century, a period that saw a death toll of about 100 million across two world wars. That comes to an average of 2 million deaths a year in a world of approximately 2 billion souls. Today, with far more comprehensive worldwide reporting, researchers report an average of less than 100,000 battle deaths annually in a world fast approaching 7 billion people. Though admittedly crude, these **calculations suggest** a 90 percent absolute drop and a **99 percent** relative **drop in deaths due to war. We are** clearly **headed for a world** order **characterized by multipolarity,** something the American-birthed system was designed to both encourage and accommodate. **But** given how things turned out the last time we collectively faced such a fluid structure, **we would do well to keep U.S. power, in all of its forms**, deeply embedded in the geometry to come. To continue the historical survey, after salvaging Western Europe from its half-century of civil war, the U.S. emerged as the progenitor of a new, far more just form of globalization -- one based on actual free trade rather than colonialism. America then successfully replicated globalization further in East Asia over the second half of the 20th century, setting the stage for the Pacific Century now unfolding.

### 4

#### Text: The President of the United States should issue an executive order stating 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.

#### Executive incorporation of treaties solves

Nikkel 12, 2012, J.D. Candidate, 2012, William S. Boyd School of Law, Las Vegas; B.A., 2009, University of Nevada, Reno. Nevada Law Journal. Spring 2012. The Author would like to thank Professor Christopher L. Blakesley, Professor Terrill Pollman, and the Nevada Law Journal staff for helping with the research and writing of this Note.) Web, Lexis Nexis.

The D.C. Circuit’s reversal revealed a fundamental paradox in the government’s¶ approach to the Afghan conflict and the “war on terror.”11 Presidents¶ Obama and Bush have insisted the nation cannot be at “war” with al Qaeda and¶therefore the protections of the Geneva Conventions and other international law do not apply to nor protect captured persons.12 When the Bagram detainees¶ challenged the legality of their detentions, the D.C. Circuit deferred to the executive’s¶ judgment and denied habeas relief because Bagram was in an “active¶ theater of war in a territory under neither the de facto nor the de jure sovereignty¶ of the United States.”13 This paradox puts Bagram detainees in a legal¶ “black hole”14 where they cannot obtain relief through traditional military justice¶ (like Geneva-governed military commissions) and domestic courts refuse¶ to hear their habeas claims. This Note argues the Bagram detainees are entitled to the same habeas¶ access the Supreme Court granted the Guant´anamo Bay detainees in¶ Boumediene. The two groups are sufficiently similar both in the context of their¶ captures and the degree of control the U.S. exercises over their sites of detention.¶ Moreover, treating detainees like prisoners, rather than combatants, is a¶crucial step toward conducting the war on terror in a way consummate with¶ international humanitarian values, including individual dignity, minimization of¶ civilian harm, and discriminate use of force. Though this Note skirts the torture¶ debate, the abuses at Bagram are actually symptomatic of larger accountability¶ issues in American military policy that deserve deeper scrutiny. Although the¶ D.C. Circuit’s decision in Al Maqaleh v. Gates identified valid practical military¶ concerns inherent in an “active theater of war,” such as access to judicial¶ functions and presentation of sensitive evidence, these concerns are not insurmountable.¶ While courts should not discard claims of military necessity, the¶ D.C. Circuit’s reasoning in Al Maqaleh demonstrates applying anachronistic¶ precedent to habeas cases involving the practical concerns of modern warfare¶ leads to contradictory results. The nation is at war, but it refuses to treat the¶ people it detains as prisoners of war.

**5**

**Text: The United States federal government should implement a phased, revenue-neutral carbon fee and dividend on all domestic production and importation of coal, petroleum, and natural gas. The United States federal government should phase out HFCs and advocate that the Montreal Protocol be amended to phase out HFCs.**

**Carbon tax could be implemented immediately – solves warming and restores US negotiating credibility ensuring international action**

**Avi-Yonah& Uhlmann ’9** (Reuven S. Avi-Yonah is the Irwin I. Cohn Professor of Law and the Director of the International Tax LLM Program at the University of Michigan Law School; David M. Uhlmann is the Jeffrey F. Liss Professor from Practice and the Director of the Environmental Law and Policy Program at the University of Michigan Law School, “Combating Global Climate Change: Why a Carbon Tax Is a Better Response to Global Warming Than Cap and Trade”, Feb, 28 Stan. Envtl. L.J. 3, lexis, )

**A** more **efficient and effective market-based approach to reduce carbon dioxide emissions would be a carbon tax imposed on** [\*7] **all coal, natural gas, and oil produced domestically or imported into the U**nited **S**tates. **A carbon tax would** enable the market to account for the societal costs of carbon dioxide emissions and thereby **promote emission reductions**, just like a cap and trade system. **A carbon tax would be easier to implement and enforce**, however, **and simple**r **to adjust if the resulting market-based changes were either too weak or too strong.** A carbon tax also would produce revenue that could be used to fund research and development of alternative energy and tax credits to offset any regressive effects of the carbon tax. **Because a carbon tax could be implemented and become effective almost immediately, it would be a much quicker method of reducing greenhouse gas emissions** than a cap and trade system. In addition, **because a carbon tax could be effective in advance of any international treaty regarding greenhouse gas emissions, a carbon tax would provide the U**nited **S**tates **much needed credibility in the negotiations over international carbon dioxide limits**. **A carbon tax could** then supplement an international cap and trade system, combine with emission caps in an international hybrid "cap and tax" approach, or **become the focal point for the next international treaty to address global climate change**.

**CP will be modeled globally – solves warming**

**Handley ’9** (James Handley, chemical engineer and attorney who previously worked in the private sector and for the Environmental Protection Agency, March 11, “Imagine: A Harmonized, Global CO2 Tax”, Carbon Tax Center, <http://www.carbontax.org/blogarchives/2009/03/11/imagine-a-harmonized-global-co2-tax/>, )

“For more than 20 years, I have supported a CO2 tax, offset by an equal reduction in taxes elsewhere. However, a cap-and-trade system is also essential and actually offers a better prospect for a global agreement, in part because it is difficult to imagine a harmonized global CO2 tax. Moreover, I have long recognized that our political system has special difficulty in considering a CO2 tax even if it is revenue neutral.” — Al Gore, quoted in New York Times, House Bill for a Carbon Tax to Cut Emissions Faces a Steep Climb, March 7.

Let’s examine Mr. Gore’s points:

Harmonization: Mr. Gore has raised a crucial concern: **Any carbon-reduction policies the U.S. enacts must quickly go global**. Acting alone or counter to other nations’ efforts will not suffice.

containership\_pbo31\_1.jpgIn their seminal report last February, “Policy Options for Reduction of CO2 Emissions,” Peter Orszag (now Budget Director) and Terry Dinan of the Congressional Budget Office meticulously compared cap-and-trade with carbon tax options. They concluded that **a carbon tax would reduce emissions five times more efficiently**, primarily because of price volatility under a fixed cap.

**CBO had no difficulty “imagining a harmonized global carbon tax**.” Chapter 3 of the Orszag-Dinan report, “International Consistency Considerations,” describes straightforward ways to harmonize carbon taxes. If nations choose different carbon tax rates, border tax adjustments permitted under World Trade Organization rules authorize higher-taxing nations to enact tariffs to equalize tax rates on imported products to the same levels applied to similar domestically-produced products.

Indeed, Rep. John Larson’s new carbon tax bill employs precisely this strategy. In effect, **the U.S. would collect and retain the revenue generated by equalizing carbon taxes on products imported from countries that haven’t enacted their own or whose carbon tax rate is lower than ours. That will provide a powerful incentive for our trading partners to follow our lead**.

**Charming Betsy Ans: 1NC [9]**

**ONE—Turn, legitimacy**

**A. Plan guts it**

Ernesto J. **Sanchez**, “A Case Against Judicial Internationalism,” CONNECTICUT LAW REVIEW v. 38, December 20**05**, p. 216.

The fourth reason against an internationalist approach to judicial decisionmaking in cases with solely domestic implications involves the danger of becoming too concerned with international public opinion on specific American practices. Simply put, if the arguments the Roper amicus diplomats' briefs advanced -- that American courts should consider how foreign laws would approach a domestic issue for the sake of international approval -- becomes enshrined in law in one instance, it is possible that future judges will have license to do the same in other circumstances and in a manner that may more clearly conflict with established, and otherwise more definitely constitutional, American legal practice. In terms of **the** fifth and final argument against **judicial internationalism, the fact that unelected judges will be** the ones **doing so can only weaken the judiciary's legitimacy in the eyes of the American population, since that very legitimacy depends on "making legally principled decisions under circumstances in which their principled character is sufficiently plausible to be accepted by the Nation**." 174

**B. Flips solvency**

**Hansford 06** (Thomas Hansford, Assistant Professor of Political Science, University of South Carolina and James Spriggs, Associate Professor of Political Science, University of California, Davis, “The Politics of Precedent on the U.S. Supreme Court,” p. 18-24)

Judges promote legitimacy because they recognize that it encourages acceptance of and compliance with their decisions (Gibson 1989; Mon¬dak 1990, 1994; Tyler and Mitchell 1994). In our view of Supreme Court decision making, the justices value legitimacy for instrumental reasons, namely, as a means to the end of producing efficacious policy (see Epstein and Knight 1998). As discussed more fully below, **court decisions are not self-executing** and thus **third parties must implement them before they have any real effects. Since legitimacy** encourages compliance, **it enhances the power of courts and facilitates their ability to cause legal and political change.** Landes and Posner (1976, 273) make this point when stating: "No matter how willful a judge is, he is likely to follow precedent to some extent, for if he did not the practice of decision according to precedent (stare decisis, the lawyers call it) would be undermined and the precedential significance of his own decisions thereby reduced." Justice Stevens (1983, 2) reiterates this point by noting that stare decisis "obvi¬ously enhances the institutional strength of the judiciary." The significance of institutional and decisional legitimacy follows from two well-known characteristics of the judiciary. While these features apply to all courts, we will discuss them in the context relevant for our purposes-the U.S. Supreme Court. First, unlike elected officials or bureaucrats, the justices are expected to provide neutral, legal justifica¬tions for their decisions (Friedman et al. 1981; Maltz 1988). One important element of this expectation is that the justices show respect for the Court's prior decisions (Powell 1990). A recent national survey, for instance, demonstrates that the American public expects the Court to decide based on legal factors (Scheb and Lyons 2001). Nearly eighty-five percent of respondents to this survey indicated that precedent should have some or a large impact on the justices' decisions. By contrast, over seventy-three percent of respondents thought that whether judges were Democrats or Republicans should have no influence on their decisions. As these data indicate, Americans overwhelmingly believe in the idea that judges should make decisions based on neutral, legal criteria. Second, **the Court lacks significant implementation powers and thus relies on its external reputation to encourage implementation of and compliance with its decisions**. Alexander Hamilton pointed this idea out in Federalist 78: "The judiciary on the contrary has no influence over either the sword or the purse, no direction either of the strength or of the wealth of the society, and can take no active resolution whatever. It may truly be said to have neither Force nor Will, but merely judgment; and must ultimately depend upon the aid of the executive arm for the efficacy of its judgments." The basic idea is that the Court must rely on third parties to implement its policies, and a central way to promote compliance is through fostering institutional and decisional legitimacy (see Knight and Epstein 1996). **If the Court**, or a particular majority opinion, **is perceived as** somewhat **illegitimate, then** the **prospects for compliance may decrease.** The power of the Court, that is, rests on its "prestige to persuade" (Ginsburg 2004, 199).

**TWO—Turn, stripping**

**A. They cause it**

David **Gordon**, senior fellow, Ludwig von Mises Institute, MISES DAILY, 11—4—**08**, <http://mises.org/daily/3185>)

So far, you may ask, what is original about that? Do not many other critics of the Court attack its at-times-bizarre interpretive methods? Quirk's originality rests in his taking literally, and emphasizing, a part of the Constitution that most writers ignore. According to Article III, Section 2, the jurisdiction of the Supreme Court lies almost totally up to Congress. The Court has original jurisdiction only in cases involving disputes among the states and in cases where foreign diplomats are a party. Its appellate jurisdiction is subject to whatever "rules and exceptions" Congress chooses to make. So far as lower federal courts are concerned, they stand completely at the mercy of Congress. If it wished to do so, Congress could abolish the lower federal courts altogether. Thus, **if Congress does not like the decision of the Court** in Roe v Wade and its successor cases, **it can take away the right of the Court to hear any cases on appeal** that involve abortion. True enough, that would still leave the decision on the books, and it would presumably be binding on other courts; but in practice, it might be difficult to sustain it. If a court decided to allow restrictions on Roe contrary to the mandate of the Supreme Court, this ruling could not then be appealed to that court for reversal. Congress might, by getting rid of the federal courts completely, leave abortion entirely in the hands of the state courts. In like fashion, of course, for other controversial areas. Quirk points out that until 1875, the lower federal courts did not have the right to hear appeals from state court decisions about federal law. By using its Article III powers, Congress could radically reshape constitutional law. One might at first think that Quirk has made a mistake. Is he not blowing out of proportion a passage that really deals only with setting up rules of procedure for the federal courts? History buffs will be aware of the famous case of ex parte McCardle (1868), in which the Reconstruction Congress withdrew the right of the Court to hear a case, while that very case was pending before the Court; but is not this use of Article III an aberration? Surely, like the famous Tenure of Office Act, this was an example of how extreme that Congress was, rather than a guide to sound constitutional practice. To those inclined to think so, the ruling of the Court in McCardle will come as a surprise. It fully recognized the right of Congress to withdraw its jurisdiction. The Court said, “We are not at liberty to inquire into the motives of the legislature. We can only examine its powers under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words… It is quite clear, therefore, that this court cannot proceed to pass judgment in this case, for it no longer has jurisdiction of the appeal; and the judicial duty is not less fully performed by declining ungranted jurisdiction than in exercising firmly that which the Constitution and the laws confer. (pp. 289–90) It is Quirk's great merit to show that **Congress's power to limit the federal courts is a recurring theme in American history**. Quirk is a Jeffersonian; and he points out that Jefferson and his followers feared the potential for abuse in federal judicial power and acted to curb it. The Federalists had secured the appointment of a number of Federalist judges in the Judiciary Act of 1801. The Republicans replied to the Judiciary Act of 1801 by repealing it in the Judiciary Act of 1802. The 1802 act repealed "federal question" jurisdiction. It stripped the new judges of their offices. (p. 178) Congressional power under Article III is far from a theoretical question. Congress has in fact acted to limit the federal courts in several notable instances. By the early 1930s, a majority of Congress had come to think that the courts often acted in an improperly antilabor way by issuing injunctions that forbade unions to strike. Employers who claimed that unions were a threat to their property did not have to go through the long and involved process of a civil suit. Once an injunction against a union had been issued, the court could instead hold the union in contempt and inflict civil and criminal penalties. Accordingly, in the Norris-LaGuardia Act (continually misspelled in the book), Congress, exercising its Article III authority, took away the power of federal courts to issue injunctions **in labor cases**. An interesting question, not discussed in the book, is why Franklin Roosevelt did not resort to this tactic in his disputes with the Court. Again, in the 1950s, there was a Congressional outcry against several Supreme Court decisions that were deemed unduly protective of the civil liberties of members of the Communist Party. Senator William Jenner introduced a bill to withdraw the appellate jurisdiction of the Court in such cases; and although the measure failed to pass, its constitutionality was not seriously challenged.[2] Opponents, such as Senator Jacob Javits of New York, claimed rather that the bill was unwise. One eminent law professor, Arthur J. Freund, who opposed the Jenner Bill, responded in this way when asked whether it was constitutional to limit the Supreme Court's jurisdiction: "You can't challenge the constitutionality of a constitutional provision" (p. 234). The famous Engel v. Vitale (1962) decision, which held recitation by a public school teacher of a prayer in class to be unconstitutional, and the failure of a proposed constitutional amendment to overturn it to gain sufficient votes, aroused Senator Jesse Helms in 1979 to propose a "stripper" bill, as this sort of legislation is called, but it also failed of passage. In a number of instances, though, **Congress has in fact stripped the federal courts of jurisdiction, and** several **such laws remain on the books today**. In recent years, a number of scholars have maintained that the Article III power of Congress is limited and that it cannot, e.g., bring it about that a constitutionally protected right is withdrawn from judicial scrutiny. Supporters of this position can appeal to the weighty authority of Justice Story, who thought that Congress was required to extend the full "judicial power" mentioned in the Constitution to the federal courts. Quirk successfully shows, though, that there is an extremely strong case that Congress does have the power to strip the federal courts of jurisdiction.

**B. Turns the aff**

Tom **Clarke**, Department of Political Science, Emory University, THE LIMITS OF JUDICIAL INDEPENDENCE, 20**10**, p. 161-162.

In this vein, students of the separation of powers have recognized that congressional hostility toward the Court may be an important component of the strategic interaction between the institutions. Noting confrontations between the branches – such as those discussed in Chapter 2 – as well as more regular patterns of interinstituional tension, these scholars have focused on congressional hostility in its role as an institutional threat to exercise power (Segal, Westerland, and Lindquist, Forthcoming; McNollgast 1995, Rosenberg 1992). That is, the focus on congressional “saber rattling” – through either committee hearings (Segal, Westerland, and Lindquist, Forthcoming) or even Court-curbing (Rosenberg 1992) – has been primarily concerned with the potential for Congress to use its constitutional powers to formally sanction the Court. For example, Friedman and Harvey (2003, 17) note, “[t]here are numerous weapons a sitting Congress can apply against a Supreme Court deemed to be recalcitrant, including jurisdiction stripping, budget cutting, Court packing, and even the impeachment of Supreme Court Justices.” One study has even briefly noted **the** possible **connection between institutional confrontations and the Court’s *legitimacy***. **“If…[Congress** and the President] **succeed in overriding the Court’s interpretation, the Court will certainly pay a policy** price…**The Court also may bear a cost in terms of its *legitimacy*. Every override of the Court’s interpretation will chip away at its legitimacy** even if only marginally. Given that the Justices’ ability to achieve their policy goals hinges on their legitimacy, **because they lack** the **power to enforce their decisions, any erosion of the Court’s legitimacy is a concern**.” (Epstein, Knight Martin 2001, 598)

**THREE—treaty law and compliance irrelevant—history proves**

Kenneth **Waltz**, Professor at Columbia University,” Structural Realism after the Cold War,” International Security 25 (1), **2K**, p. 26-27

What is true of NATO holds for international institutions generally. **The effects that international institutions** may have on national decisions **are but one step removed from the capabilities and intentions of the major state** or states **that gave them birth and sustain them**. The **Bretton Woods** system strongly affected individual states and the conduct of international affairs. But when **the United States found that the system no longer served its interests**, the **Nixon shocks of 1971 were administered**. International institutions are created by the more powerful states, and the **institutions survive in their original form as long as they serve the major interests of their creators**, or are thought to do so. ”The nature of **institutional arrangements**,“ as Stephen Krasner put it, ”**is** better **explained by the distribution of national power capabilities** than by efforts to solve problems of market failure“61—or, I would add, by anything else.¶ Either international conventions, **treaties**, and institutions **remain close to the underlying distribution of national capabilities or they court failur**e.62 **Citing examples from the past 350 years, Krasner found that in all of the instances ”it was the value of strong states that dictated rule**s that were applied in a¶ discriminating fashion only to the weak.“63 The **sovereignty** of nations, a universally recognized international institution, **hardly stands in the way of a strong nation that decides to intervene in a weak one**. Thus, according to a senior offcial, the Reagan administration ”debated whether we had the right to dictate the form of another country’s government. **The bottom line was yes, that some rights are more fundamenta**l than the right of nations to noninter- vention. . . . We don’t have the right to subvert a democracy but we do have the right against an undemocratic one.“64 Most international law is obeyed most of the time, but **strong states bend or break laws when they choose to.**

**FOUR--Multilateralism solve nothing—4 reasons**

Rising multipolarity, institutional inertia, harder problems and institutional fragmentation

**Young et al 13**

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The **Doha** round of trade negotiations **is** **deadlocked, despite eight successful multilateral trade rounds before it**. **Climate negotiators have met** **for two decades without finding a way to stem global emissions. The UN is paralyzed** in the face of growing insecurities across the world, **the latest** dramatic **example being Syria**. Each of these phenomena could be treated as if it was independent, and an explanation sought for the peculiarities of its causes. Yet, such a perspective would fail to show what they, along with numerous other instances of breakdown in international negotiations, have in common. **Global cooperation is gridlocked across a range of issue areas**. **The reasons for this are** **not the result of any single underlying causal structure**, **but rather of** **several underlying dynamics that work together.** Global **cooperation today is failing not simply because it is very difficult to solve many global problems** – indeed it is – **but because previous phases of global cooperation** have been incredibly successful, producing unintended consequences that **have overwhelmed the problem-solving capacities of the very institutions that created them.** It is hard to see how this situation can be unravelled, given failures of contemporary global leadership, the weaknesses of NGOs in converting popular campaigns into institutional change and reform, and the domestic political landscapes of the most powerful countries. A golden era of governed globalization In order to understand why gridlock has come about it is important to understand how it was that the post-Second World War era facilitated, in many respects, a successful form of ‘governed globalization’ that contributed to relative peace and prosperity across the world over several decades. This period was marked by peace between the great powers, although there were many proxy wars fought out in the global South. This relative stability created the conditions for what now can be regarded as an unprecedented period of prosperity that characterized the 1950s onward. Although it is by no means the sole cause, the UN is central to this story, helping to create conditions under which decolonization and successive waves of democratization could take root, profoundly altering world politics. While the economic record of the postwar years varies by country, many experienced significant economic growth and living standards rose rapidly across significant parts of the world. By the late 1980s a variety of East Asian countries were beginning to grow at an unprecedented speed, and by the late 1990s countries such as China, India and Brazil had gained significant economic momentum, a process that continues to this day. Meanwhile, the institutionalization of international cooperation proceeded at an equally impressive pace. In 1909, 37 intergovernmental organizations existed; in 2011, the number of institutions and their various off-shoots had grown to 7608 (Union of International Associations 2011). There was substantial growth in the number of international treaties in force, as well as the number of international regimes, formal and informal. At the same time, new kinds of institutional arrangements have emerged alongside formal intergovernmental bodies, including a variety of types of transnational governance arrangements such as networks of government officials, public-private partnerships, as well as exclusively private/corporate bodies. Postwar institutions created the conditions under which a multitude of actors could benefit from forming multinational companies, investing abroad, developing global production chains, and engaging with a plethora of other social and economic processes associated with globalization. These conditions, combined with the expansionary logic of capitalism and basic technological innovation, changed the nature of the world economy, radically increasing dependence on people and countries from every corner of the world. This interdependence, in turn, created demand for further institutionalization, which states seeking the benefits of cooperation provided, beginning the cycle anew. This is not to say that international institutions were the only cause of the dynamic form of globalization experienced over the last few decades. Changes in the nature of global capitalism, including breakthroughs in transportation and information technology, are obviously critical drivers of interdependence. However, all of these changes were allowed to thrive and develop because they took place in a relatively open, peaceful, liberal, institutionalized world order. By preventing World War Three and another Great Depression, the multilateral order arguably did just as much for interdependence as microprocessors or email (see Mueller 1990; O’Neal and Russett 1997). Beyond the special privileges of the great powers **Self-reinforcing interdependence has** now **progressed to the point** **where it has altered our ability to engage in further global cooperation.** That is, **economic and political shifts in large part attributable to the successes of the post-war multilateral order are now amongst the factors** **grinding that system into gridlock.** Because of the remarkable success of global cooperation in the postwar order, human interconnectedness weighs much more heavily on politics than it did in 1945. The **need for international cooperation has never been higher**. **Yet the “supply” side of the equation, institutionalized multilateral cooperation, has stalled.** **In areas such as** nuclear **proliferation**, the explosion of small **arms sales, terrorism, failed states, global economic imbalances**, financial market instability, global **poverty** and inequality, **biodiversity losses, water deficits and climate change**, **multilateral and transnational cooperation is now increasingly ineffective or threadbare.** Gridlock is not unique to one issue domain, but appears to be becoming a general feature of global governance: **cooperation seems** to be **increasingly difficult and deficient** at **precisely** the time **when it is needed most**. It is possible to identify **four reasons for this blockage**, four pathways to gridlock: **rising multipolarity, institutional inertia, harder problems, and institutional fragmentation**. **Each** pathway can be thought of as **a growing trend** **that embodies a specific mix of causal mechanisms**. Each of these are explained briefly below. **Growing multipolarity**. **The absolute number of states** **has increased by 300 percent in the last 70 years,** **meaning** that the most **basic transaction costs of global governance have grown**. More importantly, **the number of states that “matter” on a given issue**—that is, the states without whose cooperation a global problem cannot be adequately addressed—**has expanded by similar proportions**. At Bretton Woods in 1945, the rules of the world economy could essentially be written by the United States with some consultation with the UK and other European allies. In the aftermath of the 2008-2009 crisis, the G-20 has become the principal forum for global economic management, not because the established powers desired to be more inclusive, but because they could not solve the problem on their own. However, a consequence of this progress is **now** that **many more countries, representing a diverse range of interests, must agree** in order **for** global **cooperation to occur**. **Institutional inertia**. The postwar order succeeded, in part, because it incentivized great power involvement in key institutions. From the UN Security Council, to the Bretton Woods institutions, to the Non-Proliferation Treaty, key pillars of the global order explicitly grant special privileges to the countries that were wealthy and powerful at the time of their creation. This hierarchy was necessary to secure the participation of the most important countries in global governance. Today, the gain from this trade-off has shrunk while the costs have grown. **As power shifts from West to East, North to South, a broader range of participation is needed** on nearly all global issues if they are to be dealt with effectively. At the same time, following decolonization, the end of the Cold War and economic development, **the idea that some countries should hold more rights and privileges than others is increasingly** (and rightly) **regarded as morally bankrupt**. And **yet, the architects of the postwar order did not**, in most cases, **design institutions that would organically adjust to fluctuations in national power**. **Harder problems**. As independence has deepened, **the types and scope of problems around which countries must cooperate has evolved**. **Problems are both now more extensive**, implicating a broader range of countries and individuals within countries, **and intensive**, penetrating deep into the domestic policy space and daily life. Consider the example of trade. For much of the postwar era, trade negotiations focused on reducing tariff levels on manufactured products traded between industrialized countries. Now, however, negotiating a trade agreement requires also discussing a host of social, environmental, and cultural subjects - GMOs, intellectual property, health and environmental standards, biodiversity, labour standards—about which countries often disagree sharply. In the area of environmental change a similar set of considerations applies. To clean up industrial smog or address ozone depletion required fairly discrete actions from a small number of top polluters. By contrast, **the threat of climate change and the efforts to mitigate it involve nearly all countries of the globe**. **Yet, the divergence of voice and interest within both the developed and developing worlds, along with the sheer complexity of the incentives** needed to achieve a low carbon economy, **have made a global deal, thus far, impossible** ( Falkner et al. 2011; Victor 2011). **Fragmentation**. The institution-builders of the 1940s began with, essentially, a blank slate. But **efforts to cooperate internationally today occur in** **a dense institutional ecosystem shaped by path dependency**. The **exponential rise in** both multilateral and transnational **organizations has created a more complex multilevel and multi-actor system of global governance.** Within this dense web of institutions mandates can conflict, **interventions are frequently uncoordinated**, and all too typically **scarce resources are subject to intense competition**. In this context, the proliferation of institutions tends to lead to dysfunctional fragmentation, reducing the ability of multilateral institutions to provide public goods. When funding and political will are scarce, countries need focal points to guide policy (Keohane and Martin 1995), which can help define the nature and form of cooperation. Yet, when international regimes overlap, these positive effects are weakened. **Fragmented institutions**, in turn, **disaggregate resources and political will, while increasing transaction costs.** In stressing four pathways to gridlock we emphasize the manner in which contemporary global governance problems build up on each other, although different pathways can carry more significance in some domains than in others. The **challenges now faced by the multilateral order are substantially different from those faced** by the 1945 victors **in the postwar settlement**. They are second-order cooperation problems arising from previous phases of success in global coordination. Together, they now block and inhibit problem solving and reform at the global level.

**FIVE—they gut nuclear deterrence**

**Boyle 09** (Francis A., professor of international law at the University of Illinois College of Law, “The Criminality on Nuclear Weapons,” http://www.wagingpeace.org/articles/2009/08/20\_boyle\_criminality\_deterrence.php)

**The use of nuclear weapons** in combat was, and still **is**, absolutely **prohibited under** all circumstances by both conventional and customary **international law**: e.g., the Nuremberg Principles, the Hague Regulations of 1907, the International Convention on the Prevention and Punishment of the Crime of Genocide of 1948, the Four Geneva Conventions of 1949 and their Additional Protocol I of 1977, etc. In addition, the use of nuclear weapons would also specifically violate several fundamental resolutions of the United Nations General Assembly that have repeatedly condemned the use of nuclear weapons as an international crime. Consequently, according to the Nuremberg Judgment, soldiers would be obliged to disobey egregiously illegal orders with respect to launching and waging a nuclear war. Second, all government officials and military officers who might nevertheless launch or wage a nuclear war would be personally responsible for the commission of Nuremberg crimes against peace, crimes against humanity, war crimes, grave breaches of the Geneva Conventions and Protocol 1, and genocide, among other international crimes. Third, such individuals would not be entitled to the defenses of superior orders, act of state, tu quoque, self-defense, presidential authority, etc. Fourth, such individuals could thus be quite legitimately and most severely punished as war criminals, up to and including the imposition of the death penalty, without limitation of time. THE THREAT TO USE NUCLEAR WEAPONS Article 2(4) of **the U**nite**d N**ations **Charter** of 1945 **prohibits** both **the threat and the use of force** except in cases of legitimate self-defense as recognized by article 51 thereof. But although the requirement of legitimate self-defense is a necessary precondition for the legality of any threat or use of force, it is certainly not sufficient. For the legality of any threat or use of force must also take into account the customary and conventional international laws of humanitarian armed conflict. Thereunder, the threat to use nuclear weapons (i.e., **nuclear deterrence**/terrorism) **constitutes ongoing international criminal activity:** namely, planning, preparation, solicitation and conspiracy to commit Nuremberg crimes against peace, crimes against humanity, war crimes, genocide, as well as grave breaches of the Four Geneva Conventions of 1949, Additional Protocol I of 1977, the Hague Regulations of 1907, and the International Convention on the Prevention and Punishment of the Crime of Genocide of 1948, inter alia. These are the so-called inchoate crimes that under the Nuremberg Principles constitute international crimes in their own right. The conclusion is inexorable that the **design, research, testing, production, manufacture, fabrication, transportation, deployment,** installation, **maintenance, storing, stockpiling,** sale, and purchase **as well as the threat to use nuclear weapons** together with all their essential accouterments **are criminal under** well-recognized principles of **international law.** Thus, those government decision-makers in all the nuclear weapons states with command responsibility for their nuclear weapons establishments are today subject to personal criminal responsibility under the Nuremberg Principles for this criminal practice of nuclear deterrence/terrorism that they have daily inflicted upon all states and peoples of the international community. Here I wish to single out four components of the threat to use nuclear weapons that are especially reprehensible from an international law perspective: counter-ethnic targeting; counter-city targeting; first-strike weapons and contingency plans; and the first-use of nuclear weapons even to repel a conventional attack.

**Perceived deterrence decline risks great power nuclear war**

John P. **Caves** Jr., senior Research fellow, Center for the Study of Weapons of Mass Destruction, National Defense University, “Avoiding a Crisis of Confidence in the U.S. Nuclear Deterrent,” STRATEGIC FORUM n. 252, 1—**10**, http://wmdcenter.dodlive.mil/files/2012/01/SF252.pdf

**Perceptions of a compromised U.S. nuclear deterrent** as described above **would have profound** policy **implications**, particularly if they emerge at a time when a nuclear-armed great power is pursuing a more aggressive strategy toward U.S. allies and partners in its region in a bid to enhance its regional and global clout. ¶ A dangerous period of vulnerability would open for the United States and those nations that depend on U.S. protection while the United States attempted to rectify the problems with its nuclear forces. As it would take more than a decade for the United States to produce new nuclear weapons, ensuing events could preclude a return to anything like the status quo ante.¶ The assertive, nuclear-armed great power, and other **major adversaries**, **could** be willing to **challenge U.S. interests more directly** **in the expectation that the U**nited **S**tates **would be less prepared to threaten** or deliver **a** military **response** that could lead to direct conflict. **They will want to keep the U**nited **S**tates **from reclaiming its** earlier **power position.¶ Allies** and partners who have relied upon explicit or implicit assurances of U.S. nuclear protection as a foundation of their security **could lose faith in** those **assurances**. **They** could **compensate by accommodating U.S. rivals,** especially **in the short term**, **or acquiring** their own **nuclear deterrents**, which in most cases could be accomplished only over the mid- to long term. A more nuclear world would likely ensue over a period of years.¶ Important U.S. interests could be compromised or abandoned, or **a major war could occur** **as adversaries and**/or **the U**nited **S**tates **miscalculate new boundaries of deterrence** and provocation. At worst, **war could lead to** state-on-state **employment of** weapons of mass destruction (**WMD)** on a scale far more catastrophic than what nuclear-armed terrorists alone could inflict.

**Warming Ans: 1NC [5]**

**Timeframe is 200 years and adaptation solves**

**Mendelsohn 9** – 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>

**These statements are** largely **alarmist and misleading**. Although climate change is a serious problem that deserves attention, **society’s immediate behavior has anextremely low probabilityof leading tocatastrophic 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.

**It’s too late**

Andreas **Souvaliotis 12** (3-20, “Is It Too Late to Change Climate Change?” <http://www.huffingtonpost.ca/andreas-souvaliotis/climate-change_b_1365449.html>

The alarm bells were going off 20 years ago at the Rio Summit but few of us were listening. Six years ago, Al Gore raised the volume much higher with his film and we started paying a lot more attention, but we still didn't do much about it. And now **the evidence is mounting that we might,** in fact, **be too far gone already. Climate change is happening much faster than we anticipated**; **feedback loops are kicking in everywhere**, totally **dwarfing** **any of our own** greenhouse gas **contributions**. **Skyrocketing** property damage from **climate volatility is obliterating livelihoods**, panicking insurance companies, and draining government funds. And **the OECD just released a** frightening **study** this week, **suggesting** that our constant debate, dithering, and lack of real response are now setting us up for **a severe** economic and lifestyle **nosedive in the coming decades.**  Maybe some of the cynics are right**: No matter how much we curb our emissions now, the damage is already done and the climate will continue to destabilize**. Maybe that whole "mitigation" concept was pure fantasy and we were a few decades too late. But should we just give up, enjoy the irresponsible partying a little bit longer, and then simply brace ourselves for whatever comes next -- or should we refocus our attention and energy on the things we can still affect?

**No ozone impact**

**Ridley** 8/17/**12** [Matt Ridley, columnist for The Wall Street Journal and author of *The Rational Optimist: How Prosperity Evolves,* “Apocalypse Not: Here’s Why You Shouldn’t Worry About End Times,” http://www.wired.com/wiredscience/2012/08/ff\_apocalypsenot/all/]

The threat to the ozone layer came next. **In the 1970sscientists discovered a decline in** the concentration of **ozone over Antarctica during several springs**, and the Armageddon megaphone was dusted off yet again. The **blame was pinned onchlorofluorocarbons**, used in refrigerators and aerosol cans, reacting with sunlight. The **disappearance of frogsand** an alleged **rise of melanoma** in people **were** both **attributed to ozone** depletion. So too was a supposed rash of blindness in animals: Al Gore wrote in 1992 about blind salmon and rabbits, while The New York Times reported “an increase in Twilight Zone-type reports of sheep and rabbits with cataracts” in Patagonia. But all **these accounts proved incorrect. The frogs were dying of a fungal disease spread by people; the sheep had** viral **pinkeye; the mortality rate from melanoma actually leveled off** during the growth of the ozone hole; and as for the blind salmon and rabbits, they were never heard of again.¶**There was aninternational agreement to cease using CFCs** by 1996. But **thepredicted recovery of the ozone** layer **never happened**: The hole stopped growing before the ban took effect, then failed to shrink afterward. **The ozone holestill grows every Antarctic spring, to** roughly **the same extent each year**. Nobody quite knows why. Some **scientists** think it is simply taking longer than expected for the chemicals to disintegrate; a few **believe that the cause of the hole was misdiagnosed** in the first place. Either way, **the ozone hole cannot yet be claimed as a looming catastrophe**, let alone one averted by political action.

**Environment treaties solve nothing—modest goals, vague standards, no incentives**

Lawrence **Susskind 08** Strengthening the Global Environmental Treaty System, <http://www.issues.org/25.1/susskind.html>

**For many treaties, the problem is that the goals set are so modest that even if implemented, they would not reverse the trend that triggered the problem-solving effort**. The Convention on Wetlands of International Importance, the Convention on International Trade in Endangered Species, and the Convention on Persistent Organic Pollutants seek to slow the rate at which a resource is lost or pollution occurs, but **under the best of circumstances, they won’t be sufficient to reverse or mitigate the adverse effects that have already occurred**. In quite a few instances, the **responsibilities of signatory countries for meeting timetables and targets are vague**. In general, **we have relied on** what might be called **a two-step** convention-protocol **process**. **First, usually after a decade or more of talks among a limited number of countries, a convention is adopted indicating that a problem exists and exhorting countries to do something about it**. That’s about all the Climate Change Convention accomplished. **Once a convention is ratified, the signatories agree to meet every year or so to talk about ways of adding protocols that spell out more specific timetables and targets. Thus, the Montreal Protocol was a 1990 amendment to the 1987 Vienna Convention**. The protocol called for a total phase-out of a list of CFCs by specific dates. It also scheduled interim reductions for each chemical and called on the signatory countries to reassess relevant control measures every four years. During the time that the protocol was under discussion, there was considerable disagreement regarding the scope of the problem, the level of production cuts required, and the provision of aid to developing nations to enable compliance with phase-out targets. The discovery of a hole in the ozone layer (over the South Pole), along with the availability of less-polluting aerosol alternatives, settled the scientific debate and prompted relatively quick action. In general, **financial resources have not been adequate to enable or ensure treaty compliance**. There are no general funds available at the global level to help cover the cost of treaty implementation. On occasion, some of the most developed nations, with the help of multilateral institutions such as the World Bank, volunteer to contribute small amounts of money through a foundation-like entity called the Global Environmental Fund (GEF) to assist developing nations in meeting their treaty obligations. Often, though, the politics of allocating these funds mean that money must be set aside for each region despite overwhelming needs in one location or the scientific merit of grant proposals from particular countries. Although most treaties require each signatory nation to submit regular progress reports, the treaty secretariats rarely, if ever, have sufficient technical staff to review the accuracy of the information submitted or assist countries that need technical support. The progress reports submitted by some countries often contain information that is questionable. **Some nations don’t take their treaty obligations seriously**. T**hey sign and even ratify treaties, but they don’t adopt national standards consistent with MEA requirements. In some instances**, although they adopt appropriate legislation, **they don’t or can’t enforce the standards**.

**Warming won’t cause conflicts**

Allouche 11 The sustainability and resilience of global water and food systems: Political analysis of the interplay between security, resource scarcity, political systems and global trade ☆ Jeremy Allouche Institute of Development Studies, Brighton, UK Available online 22 January 2011.

**The debates over** the likely impacts of **climate change have again popularised the idea of water wars**. The argument runs that **climate change will precipitate worsening ecological conditions contributing to resource scarcities, social breakdown, institutional failure, mass migrations and in turn cause greater political instability and conflict** ( [Brauch, 2002] and [Pervis and Busby, 2004]). In a report for the US Department of Defense, Schwartz and Randall (2003) speculate about the consequences of a worst-case climate change scenario arguing that watershortages will lead to aggressive wars (Schwartz and Randall, 2003, p. 15). **Despite growing concern that climate change will lead to instability and violent conflict, the evidence base to substantiate the connections is thin** ( [Barnett and Adger, 2007] and [Kevane and Gray, 2008]).

## 2NC

### T Solv: Warming 2NC

#### Best way to reduce emissions – spurs renewable transition and energy efficiency – other countries will model

**Komanoff 12** – economist and directs the New York City-based Carbon Tax Center (Charles, 12/10 “The Time Has Never Been More Right for a Carbon Tax”, <http://www.usnews.com/debate-club/is-a-carbon-tax-a-good-idea/the-time-has-never-been-more-right-for-a-carbon-tax>, )

Recurring and worsening climate disasters make painfully clear that the world has just a few decades, if that, toleave carbon-based energy behind. But no modern economy can do that unless prices of fuels tell the truth abouttheclimate damage they cause. This is best done by aggressively taxing the carbon content of coal, oil, and natural gas, with the levies placed "upstream" where the fuels are taken from the ground.¶That's a carbon tax: straightforward, transparent, no gimmicks, no loopholes. Unlike cap-and-trade, a carbon tax creates no new markets; rather, it embeds price signals in existing fuel markets that will spur innovation and reward the rapid uptake of clean energy. Moreover, making the tax revenue-neutral will prevent it from adding to the size of government.¶ With the anti-science far right losing traction in Washington, and with the nation reeling from "extreme weather" events like the 2011-2012 droughts and the recent Superstorm Sandy, Americans appear ready for climate action. Fortuitously, a carbon tax is perfectly suited to handle an overlooked but key piece of the "fiscal cliff"—the impending expiration of the two-year payroll tax "holiday."¶ The Carbon Tax Center estimates that a carbon tax pegged at just $18 per ton of carbon dioxide would generate $95 billion a year—enough to pay to extend the payroll tax holiday beyond its December 31 expiration and thereby help keep the fragile economic recovery from imploding. That tax is relatively small (equivalent to 17 cents on a gallon of gas and just under a penny per kilowatt-hour of electricity), so its climate impact would be modest. But the reductions in carbon emissions will cascade if the tax is ramped up, year by year; indeed, the mere expectation of rising prices for coal, oil, and gas will go far to drive an across-the-board transition torenewable and efficient energy.¶ To protect energy-intensive industries, carbon tax legislation should include "border tax adjustments" on imports, pegged to their untaxed carbon contents. These tariffs will incentivize our trading partners to impose their own carbon taxes so that the tax revenues flow to them, not the U.S. Treasury.¶ A carbon tax is so necessary and manageable that its adoption isn't a matter of "if" but of "when." The time has never been more right. It's up to Congress and the president to seize it.

#### A carbon-tax is the only way to reduce emissions – corrects incentives and creates spill-over effects

**Carbon Tax Center ‘12(“**Why a Carbon Tax?”, Carbon Tax Center: Pricing Carbon Efficiently and Equitably, updated June 29 and retrieved on July 27, , <http://www.carbontax.org/introduction/#no-tax-increase>, )

The rationale for a carbon tax is simple: the levels of CO2 already in the Earth’s atmosphere and being added daily are destabilizing established climate patterns and threatening the ecosystems on which we and other living beings depend. Very large and rapid reductions in the United States’ and other nations’ carbon emissions are essential to avoid runaway climate change and avert resulting severe weather events, inundation of coastal areas, spread of diseases, failure of agriculture and water supply, infrastructure destruction, forced migrations, political upheavals and international conflict. A carbon tax must be the central mechanism for reducing carbon emissions. Currently, the prices of gasoline, electricity and fuels in general include none of the costs associated with devastating climate change. This omission suppresses incentives to develop and deploy carbon-reducing measures such as energy efficiency (e.g., high-mileage cars and high-efficiency heaters and air conditioners), renewable energy (e.g., wind turbines, solar panels), low-carbon fuels (e.g., biofuels from high-cellulose plants), and conservation-based behavior such as bicycling, recycling and overall mindfulness toward energy consumption. Conversely, taxing fuels according to their carbon content will infuse these incentives at every link in the chain of decision and action — from individuals’ choices and uses of vehicles, appliances, and housing, to businesses’ choices of new product design, capital investment and facilities location, and governments’ choices in regulatory policy, land use and taxation. A carbon tax won’t stop global climate change by itself — other, synergistic actions are required as well. But without a carbon tax, even the most aggressive regulatory regime (e.g., high-mileage cars) and “enlightened” subsidies (e.g., tax credits for efficiency and renewables) will fall woefully short of the necessary reductions in carbon burning and emissions.

### CT Solv: Warming—Modeling 2NC

#### CP is modelled- happens fast- US success and economic incentives mean it’s modelled- that’s Handly

#### Even if other countries don’t establish a carbon tax, the innovation fueled by the CP leads to a worldwide clean tech transition\*\*\*\*

Kerr ’10 – J.D. from the University of Colorado School of Law and B.A. from Amherst College where he graduated magna cum laude (Alex Rice, “Why We Need a Carbon Tax”, Fall, 34 Environs Envtl. L. &Pol'y J. 69, lexis, )

Lastly, carbon taxes may benefit the global effort in preventing climate change without requiring participation from all countries.Carbon taxes that fuel innovation in the leading industrialized countries like the United States, Denmark, Germany, Japan, and Canada can spur clean technologies to the point of economic scale when distribution to less industrialized countries becomes cost effective. Just as Chinese automakers are aiming to skip the current technology of gas-powered vehicles by jumping to newer electric technologies, n177 many countries that lag technologically can make a virtue of a liability. Emerging market powers like India, Brazil, and China may have the option of implementing new solar and wind technologies without ever investing in conventional grid infrastructure. Furthermore, given the size of these markets, even modest adoption rates of solar, wind, and other renewables could result in significant global reductions in clean tech costs. n178 China, for example, despite its poor environmental track record and reputation for polluting, just overtook the United States as the world's third largest producer of solar panels, after Germany and Japan. n179

The United States and other clean tech leaders have a significant role to play in providing funding, technology, and knowledge in the diffusion of clean tech. A carbon tax, regardless of whether countries like China and India are among the first to adopt it, feeds the dynamic of the innovation-based environmental [\*97] protection model. Spillover from industrialized to industrializing markets contributes to the creation of a worldwide clean tech market. Both types of markets benefit from competition and collaboration, and a worldwide market creates greater scale and diversity in technology developments. The United States has already experienced the benefit of Chinese interest in clean tech and can expect more to come. "Companies from China are already tapping American equity markets, creating [a] frenzy over Chinese solar stocks, reflecting the confluence of two major trends: [China's] growing interest in clean technology stocks and demand from investors for more plays on China's booming economy." n180 A worldwide clean tech market invites new opportunities for entrepreneurial companies across the globe. Including India and China in the market-based solution to climate change is critical to the international negotiation dynamic. These countries, as an inescapable part of the global problem, must be part of the global solution.

### CT Solv: A2 "Border Tax / Destroys WTO"

#### Doesn’t violate WTO – multiple justifications

**Carbon Tax Center ’12** (Borders, May 14, retrieved July 27, 2012, <http://www.carbontax.org/issues/border-adjustments/>, )

A Duke University law professor subsequently published a working paper, U.S. Federal Climate Policy and Competitiveness Concerns: The Limits and Options of International Trade Law, which holds out strong hope that border tax adjustments could pass muster under WTO and GATT (General Agreement on Tariffs & Trades) rules. Prof. JoostPauwelyn writes:

First, a carbon tax or emission credits requirement on imports could be framed as WTO permissible “border adjustment” of a domestic, US tax or cap-and-trade system (Section V). Crucially, if such “border adjustment” does not discriminate imports as against US products, and does not discriminate some imports as against others, this type of competitiveness provision could pass WTO scrutiny without any reference to the environmental exceptions in Article XX of the General Agreement on Tariffs and Trade (“GATT”).

Second, even if “border adjustment” would not be permitted for process-based measures such as a domestic, US carbon tax, regulation or cap-and-trade system, and/or such “border adjustment” would be found to be discriminatory, the resulting GATT violation may still be justified by the environmental exceptions in GATT Article XX (Section VI). Such justification would then most likely center on whether, under the introductory phrase of GATT Article XX, a US carbon duty, emission credit requirement or other regulation on imports is applied on a variable scale that takes account of local conditions in foreign countries, including their own efforts to fight global warming and the level of economic development in developing countries.

#### It’s not protectionist

Helm ’10 – professor of energy policy at the University of Oxford (Dieter, “A carbon border tax can curb climate change”, Sept 5, <http://www.ft.com/intl/cms/s/0/a68bfc80-b915-11df-99be-00144feabdc0.html#axzz22FxaNA4b>, )

There are two objections to such a border tax: it would be protectionist; and it would be impractical. The former is nonsense: at present trade is highly distorted by the fact that some countries price in pollution and some do not. A border tax, however imperfect, reduces this trade distortion.

#### Trade conflicts and protectionism don’t cause war or retaliation-no impact to the economy or geopolitics

**Fletcher 11** Ian Fletcher is Senior Economist of the Coalition for a Prosperous America, former Research Fellow at the U.S. Business and Industry Council M.A. and B.A. from Columbia and U Chicago, "Avoid Trade War? We're Already In One!" August 29 2011 [www.huffingtonpost.com/ian-fletcher/avoid-trade-war-were-alre\_b\_939967.html](http://www.huffingtonpost.com/ian-fletcher/avoid-trade-war-were-alre_b_939967.html),

The curious thing about the concept of trade war is that, unlike actual shooting war, it has no historical precedent. In fact, there has never been a significant trade war, "significant" in the sense of having done serious economic damage. All history records are minor skirmishes at best.Go ahead. Try and name a trade war. The Great Trade War of 1834? Nope. The Great Trade War of 1921? Nope Again. There isn't one.The standard example free traders give is that America's Smoot-Hawley tariff of 1930 either caused the Great Depression or made it spread around the world. But this canard does not survive serious examination, and has actually been denied byalmost every economist who has actually researched the question in depth -- a group ranging from Paul Krugman on the left to Milton Friedman on the right.The Depression's cause was monetary. The Fed allowed the money supply to balloon during the late 1920s, piling up in the stock market as a bubble. It then panicked, miscalculated, and let it collapse by a third by 1933, depriving the economy of the liquidity it needed to breathe. Trade had nothing to do with it.As for the charge that Smoot caused the Depression to spread worldwide: it was too small a change to have plausibly so large an effect. For a start, it only applied to about one-third of America's trade: about 1.3 percent of our GDP. Our average tariff on dutiable goods went from 44.6 to 53.2 percent -- not a terribly big jump. Tariffs were higher in almost every year from 1821 to 1914. Our tariff went up in 1861, 1864, 1890, and 1922 without producing global depressions, and the recessions of 1873 and 1893 managed to spread worldwide without tariff increases.

As the economic historian (and free trader!) William Bernstein puts it in his book A Splendid Exchange: How Trade Shaped the World,

Between 1929 and 1932, real GDP fell 17 percent worldwide, and by 26 percent in the United States, but most economic historians now believe that only a miniscule part of that huge loss of both world GDP and the United States' GDP can be ascribed to the tariffwars. .. At the time of Smoot-Hawley's passage, trade volume accounted for only about 9 percent of world economic output. Had all international trade been eliminated, and had no domestic use for the previously exported goods been found, world GDP would have fallen by the same amount -- 9 percent. Between 1930 and 1933, worldwide trade volume fell off by one-third to one-half. Depending on how the falloff is measured, this computes to 3 to 5 percent of world GDP, and these losses were partially made up by more expensive domestic goods. Thus, the damage done could not possibly have exceeded 1 or 2 percent of world GDP -- nowhere near the 17 percent falloff seen during the Great Depression**.**.. The inescapable conclusion: contrary to public perception, Smoot-Hawley did not cause, or even significantly deepen, the Great Depression.

The oft-bandied idea that Smoot-Hawley started a global trade war of endless cycles of tit-for-tat retaliation isalso mythical. According to the official State Department report on this very question in 1931:

With the exception of discriminations in France, the extent of discrimination against American commerce is very slight...By far the largest number of countries do not discriminate against the commerce of the United States in any way.

That is to say, foreign nations did indeed raise their tariffs after the passage of Smoot, but this was a broad-brush response to the Depression itself, aimed at all other foreign nations without distinction, not a retaliation against the U.S. for its own tariff. The doom-loop of spiraling tit-for-tat retaliation between trading partners that paralyzes free traders with fear today simply did not happen. "Notorious" Smoot-Hawley is a deliberately fabricated myth, plain and simple. We should not allow this myth to paralyze our policy-making in the present day.

#### No trade wars—protectionism won’t go nuclear and global trade is resilient

**Bremmer 9** – president of Eurasia Group, a political-risk consultancy (Ian, 3/24, The Political Risks From Washington, http://www.realclearpolitics.com/articles/2009/03/top\_five\_risks\_and\_a\_red\_herri.html, )

There is one serious risk I think we can downplay--a global trade war. The past months have brought all sorts of fears of growing US protectionism and the spiraling international reaction. And a wide array of localized protectionist measures have been taken around the world-indeed, the world bank has counted about 50 trade restrictive actions and only a dozen liberalizing ones since the G20 countries promised to forestall protectionism last November. To list just a few examples--multiple countries have givenlow cost or no costcash to their automakers; the United States has restricted stimulus procurement to a subset of countries under a "Buy American" provision; in response to US cancellation of a Mexican trucking program that country has put over $2 billion in tariffs in place on trade with the United States. But thinking about the magnitude rather than the quantity of events uncovers that this is more conventional, rather narrow protectionism than the opening salvos of a trade war. Certainly in the United States, the highest stakes for protectionism are around the automotive sector (after all, the millions of jobs potentially at stake would undo the Obama administration's job preservation goals in one swoop). But there has been no serious suggestion of raising tariffs on foreign autos, and congressional votes and nationwide polls have made clear that there is no public will to keep the industry alive through massive subsidy. If the auto sector-where unionized labor and management could easily point to foreign competition as a cause of its problems**-**is not enough to merit nuclear protectionism, what is?Nothing, probably. The biggest silver lining to the economic and financial crisis in the United States is that it has very little to do with globalization. To date, there has been no blaming foreigners; rather, the recession has been a story of domestic greed and poor oversight. Certainly, as Americans feel poorer, the risk of redistribution from the have-lots to the have-littles increases. But it's not a backlash against interconnectedness, trade, or global supply chains.

### CT Solv: Economy

#### solves growth and clean tech transition best – aff takes several decades

Kerr ’10 – J.D. from the University of Colorado School of Law and B.A. from Amherst College where he graduated magna cum laude (Alex Rice, “Why We Need a Carbon Tax”, Fall, 34 Environs Envtl. L. &Pol'y J. 69, lexis, )

[\*74] Piecemeal incentives like tax credits for hybrids or the PTC can create cost competitiveness and bolster investments in particular markets. The scale of transformation at hand, however, requires a greater, more uniform level of government incentive and regulation. The United States alone spends over a trillion dollars annually on energy. n32 Currently, clean tech energy occupies a tiny percentage of that space. Even optimistic estimates of retooling the energy infrastructure talk in twenty to fifty year blocks. n33 Placing a cost on carbon wouldapply a relatively hands-off market pressure and would raise the tide to lift numerous clean tech enterprises. A carbon tax could ignite innovation, spur economic growth, and steer the economy in a direction that we thoughtfully choose.

#### Economic down-sides are exaggerated – empirically proven

**Carbon Tax Center ’11** (“Myths”, last updated Jan 21, retrieved July 27, <http://www.carbontax.org/myths/>, )

Myth #4. Heavy fuel taxes will impede economic recovery.

Who says? Traditional growth champions, fossil fuel interests.

Rebuttal: Traditionally, energy price volatility has wreaked more economic havoc than high or even rising prices.Even fairly steep price increases can be manageable so long as they’re regular and predictable,particularly now that the share of economic activity occupied by the fossil fuels sector is at an historic low — provided the revenues are distributed or tax-shifted back to Americans. And carbon taxes need not be draconian to accomplish their mission. Our program of recurring annual increases of $10-15 per ton of emitted carbon dioxide equates to 5-10% increases in energy prices per annum (with the percentages shrinking as the “base” rises and as non-fossil energy assumes a larger share). By comparison, the average annual real increase in U.S. gasoline prices in 2003-07 was 11%, and this didn’t stop the economy from growing at 3% a year. Needless to say, the true long-term threat to the economy (and everything else) is unchecked climate change, as the Stern Report has shown.

### Betsy: Ext3—Treaties Irrelevant

#### It’ll be this way for the future

Kenneth Waltz, Professor at Columbia University,” Structural Realism after the Cold War,” International Security 25 (1), 2000, p. 40-41

Robert Axelrod has shown that the ”tit-for-tat“ tactic, and no other, maxi- mizes collective gain over time. The one condition for success is that the game be played under the shadow of the future.93 Because states coexist in a self-help system, they may, however, have to concern themselves not with maximizing collective gain but with lessening, preserving, or widening the gap in welfare and strength between themselves and others. The contours of the future’s shadow look different in hierarchic and anarchic systems. The shadow may facilitate cooperation in the former**;** it works against it in the latter**.** Worries about the future do not make cooperation and institution building among nations impossible; they do strongly condition their operation and limit their accomplishment. Liberal institutionalists were right to start their investigations with structural realism. Until and unless a transformation occurs, it remains the basic theory of international politics.

#### Biology proves realism inevitable

Thayer 2004 – Thayer has been a Fellow at the Belfer Center for Science and International Affairs at the Kennedy School of Government at Harvard University and has taught at Dartmouth College and the University of Minnesota [*Darwin and International Relations: On the Evolutionary Origins of War and Ethnic Conflict*, University of Kentucky Press, 2004, pg. 75-76 //adi]

The central issue here is what causes states to behave as offensive realists predict. Mearsheimer advances a powerful argument that anarchy is the fundamental cause of such behavior. The fact that there is no world government compels the leaders of states to take steps to ensure their security, such as striving to have a powerful military, aggressing when forced to do so, and forging and maintaining alliances. This is what neorealists call a self-help system: leaders of states arc forced to take these steps because nothing else can guarantee their security in the anarchic world of international relations. I argue that evolutionary theory also offers a fundamental cause for offensive realist behavior. Evolutionary theory explains why individuals are motivated to act as offensive realism expects, whether an individual is a captain of industry or a conquistador. My argument is that anarchy is even more important than most scholars of international relations recognize. The human environment of evolutionary adaptation was anarchic; our ancestors lived in a state of nature in which resources were poor and dangers from other humans and the environment were great—so great that it is truly remarkable that a mammal standing three feet high—without claws or strong teeth, not particularly strong or swift—survived and evolved to become what we consider human. Humans endured because natural selection gave them the right behaviors to last in those conditions. This environment produced the behaviors examined here: egoism, domination, and the in-group/out-group distinction. These specific traits arc sufficient to explain why leaders will behave, in the proper circumstances, as offensive realists expect them to behave. That is, even if they must hurt other humans or risk injury to themselves, they will strive to maximize their power, defined as either control over others (for example, through wealth or leadership) or control over ecological circumstances (such as meeting their own and their family's or tribes need for food, shelter, or other resources).

#### their theory ignores relative gains

JM Greico- professor of political science at Duke University, 1993 “Neorealism and Neoliberalism: The Contemporary Debate”¶ edited by David Allen Baldwin, chapter entitled “Anarchy and the Limits of Cooperation: A Realist Critique of the Newest Liberal Institutionalism” p. 116-118

Realism has dominated international relations theory at least since World War II.' For realists, international anarchy fosters competition and conflict among states and inhibits their willingness to cooperate even when they share common interests. Realist theory also argues that international institutions are unable to mitigate anarchy's constraining effects on interstate cooperation. Realism, then, presents a pessimistic analysis of the prospects for international cooperation and of the capabilities of international institutions.2¶ The major challenger to realism has been what I shall call liberal institutionalism. Prior to the current decade, it appeared in three successive presentations—functionalist integration theory in the 1940s and early 1950s, neofunctionalist regional integration theory in the 1950s and 1960s, and interdependence theory in the 1970s.3 All three versions rejected realism's propositions about states and its gloomy understanding of world politics. Most significantly, they argued that international institutions can help states cooperate. Thus, compared to realism, these earlier versions of liberal institutionalism offered a more hopeful prognosis for international cooperation and a more optimistic assessment of the capacity of institutions to help states achieve it.¶ International tensions and conflicts during the 1970s undermined liberal institutionalism and reconfirmed realism in large measure. Yet that difficult decade did not witness a collapse of the international system, and in the light of continuing modest levels of interstate cooperation, a new liberal institutionalist challenge to realism came forward during the early 1980s (Stein 1983:115-40; Axelrod 1984; Keohane 1984; Lipson 1984; Axelrod and Keohane 1985). What is distinctive about this newest liberal institutionalism is its claim that it accepts a number of core realist propositions, including, apparently, the realist argument that anarchy impedes the achievement of international cooperation. However, the core liberal arguments—that realism overemphasizes conflict and underestimates the capacities of international institutions to promote cooperation—remain firmly intact. The new liberal institutionalists basically argue that even if the realists are correct in believing that anarchy constrains the willingness of states to cooperate, states nevertheless can work together and can do so especially with the assistance of international institutions.¶ This point is crucial for students of international relations. If neo-liberal institutionalists are correct, then they have dealt realism a major blow while providing ine intellectual justification for treating their own approach, and the tradition from which it emerges, as the most effective for understanding world politics.¶ This essay's principal argument is that, in fact, neoliberal institutionalism misconstrues the realist analysis of international anarchy and therefore it misunderstands the realist analysis of the impact of anarchy on the preferences and actions of states. Indeed, the new liberal institutionalism fails to address a major constraint on the willingness of states to cooperate which is generated by international anarchy and which is identified by realism. As a result, the new theory's optimism about international cooperation is likely to be proven wrong.¶ Neoliberalism's claims about cooperation are based on its belief that states are atomistic actors. It argues that states seek to maximize their individual absolute gains and are indifferent to the gains achieved by others. Cheating, the new theory suggests, is the greatest impediment to cooperation among rationally egoistic states, but international institutions, the new theory also suggests, can help states overcome this barrier to joint action. Realists understand that states seek absolute gains and worry about compliance. However, realists¶ find that states are positional, not atomistic, in character, and therefore realists argue that, in addition to concerns about cheating, states in cooperative arrangements also worry that their partners might gain more from cooperation that they do. For realists, a state will focus both on its absolute and relative gains from cooperation, and a state that is satisfied with a partner's compliance in a joint arrangement might nevertheless exit from it because the partner is achieving relatively greater gains. Realism, then, finds that there are at least two major barriers to international cooperation: state concerns about cheating and state concerns about relative achievements of gains. Neoliberal institutionalism pays attention exclusively to the former and is unable to identify, analyze, or account for the latter.¶ Realism's identification of the relative gains problem for cooperation is based on its insight that states in anarchy fear for their survival as independent actors. According to realists, states worry that today's friend may be tomorrow's enemy in war, and fear that achievements of joint gains that advantage a friend in the present might produce a more dangerous potential foe in the future. As a result, states must give serious attention to the gains of partners. Neoliber-als fail to consider the threat of war arising from international anarchy, and this allows them to ignore the matter of relative gains and to assume that states only desire absolute gains. Yet in doing so, they fail to identify a major source of state inhibitions about international cooperation.¶ In sum, I suggest that realism, its emphasis on conflict and competition notwithstanding, offers a more complete understanding of the problem of international cooperation than does its latest liberal challenger. If that is true, then realism is still the most powerful theory of international politics.

### Betsy: Ext4—Multilat Fails

#### Nationalism ensures gridlock on environment

David Held 13, Professor of Politics and International Relations, at the University of Durham AND Thomas Hale, Postdoctoral Research Fellow at the Blavatnik School of Government, Oxford University AND Kevin Young, Assistant Professor in the Department of Political Science at the University of Massachusetts Amherst, 5/24/13, “Gridlock: the growing breakdown of global cooperation,” http://www.opendemocracy.net/thomas-hale-david-held-kevin-young/gridlock-growing-breakdown-of-global-cooperation

**Gridlock** exists across a range of different areas in global governance today, from security arrangements to trade and finance. This dynamic **is**, arguably, **most evident in the realm of climate change**. **The diffusion of industrial production** across the world—a process enabled by economic globalization—**has created a situation in which the** basic **consumption of each individual directly affects** the life chances of every other individual on **the planet**, as well as the life chances of future generations.¶ This is a powerful and entirely new form of global interdependence. Bluntly put, the future of our civilization depends on our ability to cooperate across borders. And **yet, despite twenty years of multilateral negotiations under the UN**, **a global deal on** climate change **mitigation or adaptation remains elusive**, with differences between developed countries, which have caused the problem, and developing countries, which will drive future emissions, forming the core barrier to progress. Unless we overcome gridlock in climate negotiations, as in other issue areas, we will be unable to continue to enjoy the peace and prosperity we have inherited from the postwar order.¶ There are, of course, several forces that might work against gridlock. These include the potential of social movements to uproot existing political constraints, catalysed by IT innovation and the use of associated technology for coordination across borders; the capacity of existing institutions to adapt and accommodate factors such as emerging multipolarity (the shift from the G-5/7 to the G-20 is one example); and efforts at institutional reform which seek to alter the organizational structure of global governance (for example, proposals to reform the Security Council or to establish a financial transaction tax). ¶ **Whether there is the political will** or leadership **to move beyond gridlock remains a pressing question.** Social movements find it difficult to convert protests into consolidated institutional change. At the same time, **the** political **leadership of the great power blocs appears dogged by national concerns: Washington is sharply divided**, **Europe is preoccupied with the** future of the **Euro and China is absorbed by** the challenge of **sustaining economic growth as the prime vehicle of** domestic **legitimacy**. Against this background, **the further deepening of gridlock and the continuing failure to address global collective action problems appears likely**.

### Deter

#### solves all war- impossible- impact frame- heg deters- no conflict

#### unique link US isn’t abiding by START requirements in the squo – our arsenal is on pace to dwarf Russia’s

Kristensen 10/2/13 [Hans, director of the Nuclear Information Project at the Federation of American Scientists, “New START Data Shows Russia Decreasing, US Increasing Nuclear Forces”, http://blogs.fas.org/security/2013/10/newstartsep2013/]

While arms control opponents in Congress have been busy criticizing the Obama administration’s proposal to reduce nuclear forces further, the latest data from the New START Treaty shows that Russia has reduced its deployed strategic nuclear forces while the United States has increased its force over the past six months.¶ Yes, you read that right. Over the past six months, the U.S. deployed strategic nuclear forces counted under the New START Treaty have increased by 34 warheads and 17 launchers.¶ It is the first time since the treaty entered into effect in February 2011 that the United States has been increasing its deployed forces during a six-month counting period.¶ We will have to wait a few months for the full aggregate data set to be declassified to see the details of what has happened. But it probably reflects fluctuations mainly in the number of missiles onboard ballistic missile submarines at the time of the count. ¶ Slooow Implementation¶ The increase in counted deployed forces does not mean that the United States has begun to build up is nuclear forces; it’s an anomaly. But it helps illustrate how slow the U.S. implementation of the treaty has been so far.¶ Two and a half years into the New START Treaty, the United States has still not begun reducing its operational nuclear forces. Instead, it has worked on reducing so-called phantom weapons that have been retired from the nuclear mission but are still counted under the treaty.¶ For reasons that are unclear (but probably have to do with opposition in Congress), the administration has chosen to reduce its operational nuclear forces later rather than sooner. Not until 2015-2016 is the navy scheduled to reduce the number of missiles on its submarines. The air force still hasn’t been told where and when to reduce the ICBM force or which of its B-52 bombers will be denuclearized.¶ Moreover, even though the navy has already decided to reduce the missile tubes on its submarine force by more than 30 percent from 280 in 2016 to 192 on its next-generation ballistic missile submarine, it plans to continue to operate the larger force into the 2030s even though it is in excess of targeting and employment guidance.¶ Destabilizing Disparity¶ But even when the reductions finally get underway, the New START Treaty data illustrates an enduring problem: the growing disparity between U.S. and Russian strategic nuclear forces. The United States now is counted with 336 deployed nuclear launchers more than Russia.¶ Russia is already 227 deployed missiles and bombers below the 700 limit established by the treaty for 2018, and might well drop by another 40 by then to about 430 deployed strategic launchers. The United States plans to keep the full 700 launchers.¶ Put in another way: unless the United States significantly reduces its ICBM force beyond the 400 or so planned under the New START Treaty, and unless Russia significantly increases deployment of new missiles beyond what it is currently doing, the United States could end up having nearly as many launchers in the ICBM-leg of its Triad as Russia will have in its entire Triad.¶ Strange Bedfellows¶ For most people this might not matter much and even sound a little Cold War’ish. But for military planners who have to entertain potential worst-case threat scenarios, the growing missile-warhead disparity between the two countries is of increasing concern.¶ For the rest of us, it should be of concern too, because the disparity can complicate arms reductions and be used to justify retaining excessively large expensive nuclear force structures.¶ For the Russian military-industrial complex, the disparity is good for business. It helps them argue for budgets and missiles to keep up with the United States. But since Russia is retiring its old Soviet-era missiles and can’t build enough new missiles to keep some degree of parity with the United States, it instead maximizes the number of warheads it deploys on each new missile.¶ As a result, the Russian Strategic Rocket Forces has begun a program to deploy modified SS-27 ICBMs with multiple warheads (the modified SS-27 is known in Russia as RS-24 or Yars) with six missile divisions over the next decade and a half (more about that in a later blog). And a new “heavy” ICBM with up to ten warheads per missile is said to be under development.¶ So in a truly bizarre twist, U.S. lawmakers and others opposing additional nuclear reductions by the Obama administration could end up help providing the excuse for the very Russia nuclear modernization they warn against.

#### Flexibility key to deterrence, preventing allied prolif

Dr. Keith B. Payne, President, National Institute for Public Policy, “Maintaining Flexible and Resilient Capabilities for Nuclear Deterrence,” STRATEGIC STUDIES QUARTERLY, Summer 2011, Ebsco.

Will adequate flexibility and resilience ensure deterrence? Of course not; nothing can do that. But it should reduce the risk that deterrence will fail be- cause we do not have the threat options suitable for the occasion. Correspond- ingly, it can help to assure allies who rely on the US nuclear umbrella and may otherwise fear that the degradation of US deterrent capabilities endangers their own security. These fears could lead some allies and friends to reconsider their own need for nuclear weapons and thereby promote nuclear prolifera- tion. We already see this dynamic in play among some allies.49 It is useful to close with the observation that our preferred force numbers and types should follow the demands of strategy, not the reverse. This is no less true when that strategy is deterrence. Credible deterrence is a pre- cious product that defies easy or precise prediction. But, we do know that in the past, nuclear deterrence contributed to preventing conflict or esca- lation, and it may be necessary to do so again when we face severe risks. Consequently, the maintenance of credible nuclear deterrence should continue to be a national priority

#### even narrow application would eliminate nuclear weapons-collapses primacy

Ken Berry et al, Patricia Lewis, Benoît Pélopidas, Nikolai Sokov and Ward Wilson Delegitimizing Nuclear Weapons: Examining the Validity of Nuclear Deterrence The James Martin Center for Nonproliferation Studies Monterey Institute of International Studies May 2010 <http://cns.miis.edu/opapers/pdfs/delegitimizing_nuclear_weapons_may_2010.pdf>

It can be argued that nuclear weapons and their use are already illegal under existing International Humanitarian Law and under customary international law (note that customary international law has the same force as treaty law 83 – and indeed in some cases might be stronger where it is erga omnes [a statutory right, binding on all states]; whereas treaties for the most part only bind the parties to them – unless they come to be considered as reflecting such a fundamental principle that they are regarded as embodying that principle in customary law and erga omnes). Some of the rules derived from the UN Charter and the Geneva Conventions, for example, require that the use of any weapon: • must be proportional to the initial attack, • must be necessary for effective self-defense, • must not be directed at civilians or civilian objects, • must be used in a manner that makes it possible to discriminate between military targets

and civilian non-targets, • must not cause unnecessary or aggravated suffering to combatants, • must not affect states that are not parties to the conflict, and • must not cause severe, widespread or long-term damage to the environment. Nuclear weapons violate every one of these rules.

### BioD

#### ecosystems are resilient

**NIPCC 11**. Nongovernmental International Panel on Climate Change. Surviving the unprecedented climate change of the IPCC. 8 March 2011. http://www.nipccreport.org/articles/2011/mar/8mar2011a5.html

In a paper published in *Systematics and Biodiversity*, Willis *et al*. (2010) consider the IPCC (2007) "predicted climatic changes for the next century" -- i.e., their contentions that "global temperatures will increase by 2-4°C and possibly beyond, sea levels will rise (~1 m ± 0.5 m), and atmospheric CO2will increase by up to 1000 ppm" -- noting that it is "widely suggested that the magnitude and rate of these changes will result in many plants and animals going extinct," citing studies that suggest that "within the next century, over 35% of some biota will have gone extinct (Thomas *et al*., 2004; Solomon *et al*., 2007) and there will be extensive die-back of the tropical rainforest due to climate change (e.g. Huntingford *et al*., 2008)." On the other hand, they indicate that some **biologists and climatologists have pointed out that "many of the predicted increases in climate have happened before, in** terms of **both magnitude and rate of change** (e.g. Royer, 2008; Zachos et al., 2008), and yet **biotic communities** have **remained remarkably resilient** (Mayle and Power, 2008) **and in some cases thrived** (Svenning and Condit, 2008)." But they report that those who mention these things are often "placed in the 'climate-change denier' category," although the purpose for pointing out these facts is simply to present "a sound scientific basis for understanding biotic responses to the magnitudes and rates of climate change predicted for the future through using the vast data resource that we can exploit in fossil records." Going on to do just that, **Willis** et al**. focus on "intervals in time in the fossil record when atmospheric CO2 concentrations increased up to 1200 ppm, temperatures in mid- to high-latitudes increased by greater than 4°C within 60 years, and sea levels rose by up to 3 m higher than present,"** **describing studies of past biotic responses that indicate "the scale and impact of the magnitude and rate of such climate changes on biodiversity**." And **what emerges** from those studies, as they describe it, "**is evidence for rapid community turnover, migrations, development of novel ecosystems and thresholds from one stable ecosystem state to anoth**er." And, most importantly in this regard, they report "**there is** very little **evidence for broad-scale extinctions due to a warming world.**" In concluding, the Norwegian, Swedish and UK researchers say that "based on such evidence **we urge some caution in assuming broad-scale extinctions of species will occur due solely to climate changes of the magnitude and rate predicted for the next centur**y," reiterating that "**the fossil record indicates remarkable biotic resilience to wide amplitude fluctuations in climate."**

### Warm: Ext4—Green Treaties Fail

#### you should prefer his analysis

Science Daily 2008 (How To Toughen Up Environmental Treaties To Protect The Planet, 2/16, <http://www.sciencedaily.com/releases/2008/02/080216142157.htm>)

The Kyoto Protocol is one of more than 100 global environmental treaties negotiated over the past 40 years to address pollution, fisheries management, ocean dumping and other problems. But according to MIT Professor Lawrence Susskind, an expert in resolving complex environmental disputes, few of the agreements have done more than slow the pace of ecological damage, due to lack of ratification by key countries, insufficient enforcement and inadequate financial support. To give the pacts bite--not just bark--Susskind is proposing a series of reforms that include economic penalties for countries that fail to meet the treaties' targets. Susskind will outline a program to make global environmental treaties more effective and treaty-makers more accountable in a presentation Saturday, Feb. 16, at the annual meeting of the American Association for the Advancement of Science in Boston. The reforms he has in mind include engaging civil societies, not just governments, in drafting and enforcing global environmental treaties; offering incentives for countries that ratify treaties and comply with their terms; and establishing more meaningful timetables and targets, along with economic penalties. Penalties for non-compliance with environmental treaties should hit nations hard--in their pocketbooks, says Susskind. "All the multilateral banks and lending institutions, the World Trade Organization and the UN agencies should require compliance with global environmental treaty provisions as a prerequisite for loans or participation in any of their activities," he will urge in his AAAS talk. Susskind, the Ford Professor of Urban and Environmental Planning at MIT, will draw in part from his own experience working with the G-77 on the Climate Change Convention. He has published 20 books including "Environmental Diplomacy" (Oxford), "Transboundary Environmental Negotiation" (Jossey-Bass), and the award-winning "Consensus Building Handbook" (Sage).

#### North-South tensions cause delays

Lawrence Susskind, 2008 Strengthening the Global Environmental Treaty System, <http://www.issues.org/25.1/susskind.html>

Ongoing North-South tensions get in the way. Efforts to formulate and implement new global environmental treaties have been slowed by continuing tension between developed and developing countries. The G-77 nations have repeatedly taken the stand that the developed countries should first do all they can to address various global environmental problems (that they caused) before asking the developing nations to put off development or take costly steps to reduce emissions. The developed world, after all, has been growing in an unsustainable fashion for many decades and is disproportionately to blame for current levels of pollution and unsustainable levels of resource use. In addition, the nations of the South often assert that it is unreasonable for the North to expect the South to take action when the North is unwilling to share new technologies or help to fund Southern capacity-building efforts. The North asserts that most of the future population growth, increasing demand for energy, and pressure for greater food production will come from the South. Thus, the South ought to be held to the same environmental standards as the North, and the North refuses to sign until the South agrees to participate. The South pleads poverty and demands that the North show good faith by taking action first, sharing technology and providing funds for capacity-building. The two sides continue to wrangle about timetables and targets. The South seeks lower targets and longer time frames to meet them.

### Warm: Ext3—No Ozone Impact

## 1NR

### Deference DA: Turns Case—Warming 2NC

#### Setting a precedent against the PQD spills over to climate change cases---litigants are turning to the Courts now and asking them to abrogate the PQD

Laurence H. Tribe et al., Professor, Law, Harvard University, “Too Hot for Courts to Handle: Fuel Temperatures, Global Warming, and the Political Question Doctrone,” 1—10, <http://www.wlf.org/Upload/legalstudies/workingpaper/012910Tribe_WP.pdf>

Two sets of problems, one manifested at a microcosmic level and the other about as macrocosmic as imaginable, powerfully illustrate these propositions. Not coincidentally, both stem from concerns about temperature and its chemical and climactic effects, concerns playing an increasingly central role in the American policy process. As those concerns have come to the fore, courts have correspondingly warmed to the idea of judicial intervention, drawn by the siren song of making the world a better place and fueled by the incentives for lawyers to convert public concern into private profit. In both the fuel temperature and global warming cases, litigants, at times justifying their circumvention of representative democracy by pointing to the slow pace of policy reform, have turned to the courts. By donning the cloak of adjudication, they have found judges for whom the common law doctrines of unjust enrichment, consumer fraud, and nuisance appear to furnish constitutionally acceptable and pragmatically useful tools with which to manage temperature’s effects. Like the proverbial carpenter armed with a hammer to whom everything looks like a nail, those judges are wrong. For both retail gasoline and global climate, the judicial application of common law principles provides a constitutionally deficient—and structurally unsound—mechanism for remedying temperature’s unwanted effects. It has been axiomatic throughout our constitutional history that there exist some questions beyond the proper reach of the judiciary. In fact, the political question doctrine originates in no less august a case than Marbury v. Madison, where Chief Justice Marshall stated that “[q]uestions in their nature political, or which are, by the constitution and laws, submitted to the executive, can never be made in this court.”1 Well over a century after that landmark ruling, the Supreme Court, in Baker v. Carr, famously announced six identifying characteristics of such nonjusticiable political questions, which, primarily as a “function of the separation of powers,” courts may not adjudicate.2 Of these six characteristics, the Court recently made clear that two are particularly important: (1) the presence of “a textually demonstrable constitutional commitment of the issue to a coordinate political department;” and (2) “a lack of judicially discoverable and manageable standards for resolving it.”3 The spectrum of nonjusticiable political questions in a sense spans the poles formed by these two principles. At one pole, the Constitution’s specific textual commitments shield issues expressly reserved to the political branches from judicial interference. At the other pole lie matters not necessarily reserved in so many words to one of the political branches but nonetheless institutionally incapable of coherent and principled resolution by courts acting in a truly judicial capacity; such matters are protected from judicial meddling by the requirement that “judicial action must be governed by standard, by rule” and by the correlative axiom that “law pronounced by the courts must be principled, rational, and based upon reasoned distinctions.”4 At a deeper level, however, the two poles collapse into one. The reason emerges if one considers issues that courts are asked to address involving novel problems the Constitution’s framers, farsighted though they were, could not have anticipated with sufficient specificity to entrust their resolution to Congress or to the Executive in haec verba. A perfect exemplar of such problems is the nest of puzzles posed by humaninduced climate change. When matters of that character are taken to court for resolution by judges, what marks them as “political” for purposes of the “political question doctrine” is not some problem-specific language but, rather, the demonstrable intractability of those matters to principled resolution through lawsuits. And one way to understand that intractability is to view it as itself marking the Constitution’s textual, albeit broadly couched, commitment of the questions presented to the processes we denominate “legislative” or “executive”—that is, to the pluralistic processes of legislation and treaty-making rather than to the principle-bound process of judicially resolving what Article III denominates “cases” and “controversies.” In other words, the judicial unmanageability of an issue serves as powerful evidence that the Constitution’s text reserves that issue, even if broadly and implicitly, to the political branches.5 It has become commonplace that confusion and controversy have long distinguished the doctrine that determines, as a basic matter of the Constitution’s separation of powers, which questions are “political” in the specific sense of falling outside the constitutional competence of courts and which are properly justiciable despite the “political” issues they may touch. But that the principles in play have yet to be reduced to any generally accepted and readily applied formula cannot mean that courts are simply free to toss the separation of powers to the winds and plunge ahead in blissful disregard of the profoundly important principles that the political question doctrine embodies. Unfortunately, that appears to be just what some courts have done in the two temperature-related cases—one involving hot fuels, the other a hot earth— that inspired this publication. In the first, a court allowed a claim about measuring fuels to proceed despite a constitutional provision specifically reserving the issue to Congress. In the second—a case in which the specific issue could not have been anticipated, much less expressly reserved, but in which the only imaginable solutions clearly lie beyond judicial competence—a court, rather than dismissing the case as it ought to have done, instead summarily dismissed the intractable obstacles to judicial management presented by climate change merely because it was familiar with the underlying cause of action. As this pair of bookend cases demonstrates, the political question doctrine is feeling heat from both directions.

#### That crushes global coordination necessary to solve climate change

Laurence H. Tribe et al., Professor, Law, Harvard University, “Too Hot for Courts to Handle: Fuel Temperatures, Global Warming, and the Political Question Doctrone,” 1—10, <http://www.wlf.org/Upload/legalstudies/workingpaper/012910Tribe_WP.pdf>

But that being said, if the Second Circuit was implying that such claims are justiciable in part because they are relatively costless, it was wrong again. In the wake of the recent Copenhagen climate negotiations, America is at a crossroads regarding its energy policy. At Copenhagen, the world—for the first time including both the United States and China—took a tremulous first step towards a comprehensive and truly global solution to climate change.44 By securing a modicum of international consensus—albeit not yet with binding commitments—President Obama laid the foundation for what could eventually be a groundbreaking congressional overhaul of American energy policy, an effort that will undoubtedly be shaped by considerations as obviously political as our energy independence from hostile and unreliable foreign regimes and that will both influence and be influenced by the delicate state of international climate negotiations.45 Against this backdrop, courts would be wise to heed the conclusion of one report that what “makes climate change such a difficult policy problem is that decisions made today can have significant, uncertain, and difficult to reverse consequences extending many years into the future."46 This observation is even more salient given that America—and the world—stand at the precipice of major systemic climate reform, if not in the coming year then in the coming decade. It would be disastrous for climate policy if, as at least one commentator has predicted,47 courts were to “beat Congress to the punch” and begin to concoct common law “solutions” to climate change problems before the emergence of a legislative resolution. Not only does judicial action in this field require costly and irreversible technological change on the part of defendants, but the prior existence of an ad hoc mishmash of common law regimes will frustrate legislators’ attempts to design coherent and systematic marketbased solutions.48 Indeed, both emissions trading regimes and carbon taxes seek to harness the fungibility of GHG emissions by creating incentives for reductions to take place where they are most efficient. But if courts were to require reductions of randomly chosen defendants—with no regard for whether they are efficient reducers— they would inhibit the effective operation of legislatively-created, market-based regimes by prematurely and artificially constricting the size of the market. And as one analyst succinctly put it before Congress, “[a]n insufficient number of participants will doom an emissions trading market.”49 There is no doubt that the “Copenhagen Accord only begins the battle” against climate change, as diplomats, bureaucrats, and legislators all now begin the lengthy struggle to turn that Accord’s audacious vision into concrete reality.50 But whatever one’s position in the debate between emissions trading and carbon taxes, or even in the debate over the extent or indeed the reality of anthropogenic climate change, one thing is clear: legislators, armed with the best economic and scientific analysis, and with the capability of binding, or at least strongly incentivizing, all involved parties, are the only ones constitutionally entitled to fight that battle. CONCLUSION Some prognosticators opine that the political question doctrine has fallen into disrepute and that it no longer constitutes a viable basis upon which to combat unconstitutional judicial overreaching.51 No doubt the standing doctrine could theoretically suffice to prevent some of the most audacious judicial sallies into the political thicket, as it might in the climate change case, where plaintiffs assert only undifferentiated and generalized causal chains from their chosen defendants to their alleged injuries. But when courts lose sight of the important limitations that the political question doctrine independently imposes upon judicial power–even where standing problems are at low ebb, as with the Motor Fuel case–then constitutional governance, and in turn the protection of individual rights and preservation of legal boundaries, suffer. The specter of two leading circuit courts manifestly losing their way in the equally real thicket of political question doctrine underscores the urgency, perhaps through the intervention of the Supreme Court, of restoring the checks and balances of our constitutional system by reinforcing rather than eroding the doctrine’s bulwark against judicial meddling in disputes either expressly entrusted by the Constitution to the political branches or so plainly immune to coherent judicial management as to be implicitly entrusted to political processes. It is not only the climate of the globe that carries profound implications for our future; it is also the climate of the times and its implications for how we govern ourselves.

### Heg Good: Trade—1NC

#### Hegemony is key to the global economy – free trade and globalization.

**Thayer 7** [Bradley, Associate Professor in the Department of Defense and Strategic Studies at Missouri State University, “The Case for The American Empire," *American Empire: A Debate*, Published by Routledge, ISBN 0415952034, p. 42-43]

Economic Prosperity Economic prosperity is also a product of the American Empire. It has created a Liberal International Economic Order (LIEO)—a network of worldwide free trade and commerce, respect for intellectual property rights, mobility of capital and labor markets—to promote economic growth. The stability and prosperity that stems from this economic order is a global public good from which all states benefit, particularly states in the Third World. The American Empire has created this network not out of altruism but because it benefits the economic well-being of the United States. In 1998, the Secretary of Defense William Cohen put this well when he acknowledged that “economists and soldiers share the same interest in stability”; soldiers create the conditions in which the American economy may thrive, and “we are able to shape the environment [of international politics] in ways that are advantageous to us and that are stabilizing to the areas where we are forward deployed, thereby helping to promote investment and prosperity... business follows the flag.” Perhaps the greatest testament to the benefits of the American Empire comes from Deepak Lal, a former Indian foreign service diplomat, researcher at the World Bank, prolific author, and now a professor who started his career confident in the socialist ideology of post-independence India that strongly condemned empire. He has abandoned the position of his youth and is now one of the strongest proponents of the American Empire. Lal has traveled the world and, in the course of his journeys, has witnessed great poverty and misery due to a lack of economic development. He realized that free markets were necessary for the development of poor countries, and this led him to recognize that his faith in socialism was wrong. Just as a conservative famously is said to be a liberal who has been mugged by reality, the hard “evidence and experience” that stemmed from “working and traveling in most parts of the Third World during my professional career” caused this profound change.61 Lal submits that the only way to bring relief to the desperately poor countries of the Third World is through the American Empire. Empires provide order, and this order “has been essential for the working of the benign processes of globalization, which promote prosperity.”62 Globalization is the process of creating a common economic space, which leads to a growing integration of the world economy through the increasingly free movement of goods, capital, and labor. It is the responsibility of the United States, Lal argues, to use the LIEO to promote the well-being of all economies, but particularly those in the Third World, so that they too may enjoy economic prosperity.

### UQ – Arms control treaty now

#### US is going to sign a new arms control treaty

AP 13 http://www.foxnews.com/politics/2013/06/03/lawmakers-urge-obama-to-reject-un-arms-treaty-as-it-opens-for-signature/

Secretary of State John Kerry said Monday that the Obama administration would sign a controversial U.N. treaty on arms regulation, despite bipartisan resistance in Congress from members concerned it could lead to new gun control measures in the U.S. Kerry, releasing a written statement as the U.N. treaty opened for signature Monday, said the U.S. "welcomes" the next phase for the treaty, which the U.N. General Assembly approved on April 2. "We look forward to signing it as soon as the process of conforming the official translations is completed satisfactorily," he said. Kerry called the treaty "an important contribution to efforts to stem the illicit trade in conventional weapons, which fuels conflict, empowers violent extremists, and contributes to violations of human rights." The treaty would require countries that ratify it to establish national regulations to control the transfer of conventional arms and components and to regulate arms brokers, but it will not explicitly control the domestic use of weapons in any country.

### Defer: A2 “Deference Overturned Now”

#### Even if courts appear bolder, detention cases have been deferential in practice

Scheppele 12 (Kim, Professor of Sociology and Public Affairs in the Woodrow Wilson School, Director of the Program in Law and Public Affairs, Princeton University, January 2012, "The New Judicial Deference" Boston University Law Review, Lexis)

[\*93] But, I will argue, deference is still alive and well. We are simply seeing a new sort of deference born out of the ashes of the familiar variety. While governments used to win national security cases by convincing the courts to decline any serious review of official conduct in wartime, now governments win first by losing these cases on principle and then by getting implicit permission to carry on the losing policy in concrete cases for a while longer, giving governments a victory in practice. n9 Suspected terrorists have received [\*94] from courts a vindication of the abstract principle that they have rights without also getting an order that the abusive practices that have directly affected them must be stopped immediately. Instead, governments are given time to change their policies while still holding suspected terrorists in legal limbo. As a result, despite winning their legal arguments, suspected terrorists lose the practical battle to change their daily lives.

### Deference Uq: ID Specific

#### President has total discretion on ID now

Thomas Eddlem, “NDAA Indefinite Detention without Trial Approved by Appeals Court,” NEW AMERICAN, 7—19—13, www.thenewamerican.com/usnews/constitution/item/16026-ndaa-indefinite-detention-without-trial-approved-by-appeals-court

The U.S. Court of Appeals for the Second District struck down an injunction against indefinite detention of U.S. citizens by the president under the National Defense Authorization Act of 2012 in a July 17 ruling that is a blow to civil liberties protected by the U.S. Constitution. The appellate court ruled: Plaintiffs lack standing to seek preenforcement review of Section 1021 and vacate the permanent injunction. The American citizen plaintiffs lack standing because Section 1021 says nothing at all about the President’s authority to detain American citizens. The Section 1021 of the NDAA allows “detention under the law of war without trial until the end of the hostilities” for “a person who was a part of or substantially supported al-Qaeda, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act or has directly supported such hostilities in aid of such enemy forces.” The court is technically correct in stating that the law does not specifically mention U.S. citizens when it uses the term “person,” but like the vaguely worded “supported such hostilities in aid of such enemy forces,” it appears to be all-encompassing and subject solely to the president's discretionary whims.

### Deference Uq: PQD Now

#### Strict adherence to the political question doctrine now

Curtis A. Bradley, Professor, Law, Duke University, “War Powers, Syria, and Non-Judicial Precedent,” Lawfare, 9—2—13,

[www.lawfareblog.com/2013/09/war-powers-syria-and-non-judicial-precedent/](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.

### Defer Lx: ID—2NC

#### Court action to eliminate indefinite detention devastates deference

Michael Chertoff, former Secretary of Homeland Security, “The Decline of Judicial Deference in National Security,” RUTGERS LAW REVIEW, 2—3—11, [www.rutgerslawreview.com/wp-content/uploads/archive/vol63/Issue4/Chertoff\_Speech\_PDF.pdf](http://www.rutgerslawreview.com/wp-content/uploads/archive/vol63/Issue4/Chertoff_Speech_PDF.pdf)

So, where has this left us? It has left us in a puzzling situation. In a decision called Al-Bihani in the D.C. Circuit in 2010, Judge Janice Rogers Brown talked about the consequences—practical consequences—of having habeas review in Guantánamo as it affects the battlefield.42 And what she said is that the process at the tail end is now impacting the front end because when you conduct combat operations, you now have to worry about collecting evidence.43 A somewhat darker analysis has been put forward by Ben Wittes who has recently written a book called Detention and Denial, where he argues that the courts have now created an incentive system to kill rather than capture.44 And much of the law of war over the years was designed to move away from the “give no quarter” theory, where you killed everybody at the battlefield, into the theory of you would rather capture than kill. And his point, and you can agree or disagree with it, is that you have now actually loaded it the other way; you have pushed it in the direction of kill rather than capture.45 We have complete uncertainty now in the standards to be applied in the individual cases. If you read Ben Wittes‟s book Detention and Denial, he will details about ten or twelve district court cases where literally on the same facts you get different answers.46 And it is not that the district judges are not doing their best, but they have no guidance. There is no standard, and no one has offered them a standard. We now have litigation about Bagram Air Force Base in Afghanistan.47 It was absolutely predictable when Boumediene was decided that the next case would be against Bagram Airbase. I do not know how it is going to come out at the end. I think it is still in the district court, but I will tell you, the logic—now they may have stopped the logic of Guantánamo—the logic of Boumediene certainly raises questions about Bagram. How do you wind up having habeas in Bagram? And then what is going to happen when you are in a forward firebase? Are you going to have habeas cases there? No one knows, but the big problem is that the battlefield commanders do not know either; that is a serious operational problem. In many ways, it is absolutely a great example of what the Court in Eisentrager predicted.48 When you go down this path, you are going to actually have real operational problems with warfighting. But of course, we are not in 1950 now; we are actually in active operations. Finally, and I find this really to be the most interesting contemporary question posed by this series of issues, the press reports—and I cannot verify this, I am not confirming it, but I am assuming it to be true—the press reports that President Obama has authorized the killing of Anwar al-Aulaki, the American citizen in Yemen who is, in my mind for quite good reason, believed to be a major recruiter and operation leader for al-Qaeda.49 I want to be clear: I am perfectly okay with that, and I think it is exactly the right decision, so I do not want to be misunderstood. But I will say that if you read the decision and logic of Boumediene that is a very puzzling situation for al-Aulaki. Because if you need court permission to detain somebody, and if you need court permission to wiretap somebody, how can you kill that person without court permission? But that is what warfighting is. You cannot fight a war without that. There is current litigation on this issue where people are purporting to represent al-Aulaki‟s family.50 It has been tossed out, but we are just at the early stages. And frankly, I think we are going to see more of this.51 I have been reading that there are debates taking place about this. They are holding a moot court, I believe, on this issue. A lot of interesting comments can be made about where we find ourselves, where the current administration finds itself if you believe the al-Aulaki allegations to be true. But to me, what it suggests is that when you abruptly change the attitude of deference—and I think you must look at Boumediene as an abrupt change—the consequences become unpredictable and very serious. And there is a reason that judges and courts in the past forswore from doing that. We may be seeing some of this play out. How it ends is difficult to predict. Before I take a few minutes of questions, let me conclude by making sure I do not cast blame only on the Court, because it is not the Court‟s fault. This is something where everybody was complicit in putting us in this situation—all three branches of government. The fact is, I was here about seven or eight years ago in 2003, at Rutgers, not here in this particular building but across the street where they have a campus, and I gave a talk. I had just left as head of the criminal division, and I said we have kind of put a lot of things together in a jerry-built way. We need to have a sustainable legal architecture that is going to make this a framework that we are comfortable with over a long period of time. Congress has to get involved—the executive branch has to go to Congress. It is seven years later, and we have not done it. So that, to me, is a failure of both branches. For the executive branch, the failure to push Congress on this has been a mistake. It has led to, for example, a lot of delay in setting up the administrative process for dealing with these detainees. Frankly, I think that was a strategic error that more or less baited the Court into doing what the Court did. I come from the old school of believing that whatever you think the right answer is, you do not want to test the limit of what you think it is if you can avoid it. You want to go into court with the strongest possible position, and you want to be the most modest and incremental in asking for power because that is how you maximize your chance to win.

### Defer Lx: I-Law—2NC

#### citing I-law kills necessary presidential flexibility

Michael P. Van **Alstine** + February, **2012** Professor of Law, University of Maryland School of Law. For numerous and insightful comments, I am indebted to the participants in a workshop held in 2010 at the University of Virginia School of Law. ARTICLE: STARE DECISIS AND FOREIGN AFFAIRS Duke Law Journal 61 Duke L.J. 941

In spite of these protections, judicial precedent involving international law has the potential to create tensions not present in purely domestic law. If the subject matter is properly within the judiciary's Article III authority, a final precedent determining the force of international law is binding on the executive branch, just as it is on all other domestic institutions. n346 This fact alone carries [\*1008] important "collateral consequences," n347 for judicial missteps may wrongly constrain, or at least embarrass, the executive branch in its conduct of the nation's foreign relations. Moreover, correction of such missteps at the international level is difficult, if not impossible. The executive branch cannot compel a renegotiation of a treaty or executive agreement in the wake of a misguided precedent, and it certainly cannot unilaterally change customary international law. n348 The executive branch nonetheless has a continuing obligation to manage America's relations with foreign states within the bounds of the law. The consequence is that a judicial ruling on the nation's obligations under international law - or on the reciprocal obligations of foreign states - entails distinct risks of compromising the special need for a "single-voiced statement" in foreign affairs. n349

### Deference Uq: High Now

#### Judicial deference to executive war powers high now

Wayne McCormack, Professor, law, University of Utah, “U.S. Judicial Independence: Victim in the ‘War on Terror’,” 8—20—13,

today.law.utah.edu/projects/u-s-judicial-independence-victim-in-the-war-on-terror/

One of the principal victims in the U.S. so-called “war on terror” has been the independence of the U.S. Judiciary. Time and again, challenges to assertedly illegal conduct on the part of government officials have been turned aside, either because of overt deference to the Government or because of special doctrines such as state secrets and standing requirements. The judiciary has virtually relinquished its valuable role in the U.S. system of judicial review. In the face of governmental claims of crisis and national security needs, the courts have refused to examine, or have examined with undue deference, the actions of government officials.

## 2NR

**Accidents--1NC**

**FIRST, No risk of Accidents for US or Russia**

Dr. Leonid **Ryabikhin et all** (Executive Secretary, Committee of Scientist for Global Security and Arms Control; Senior Fellow, EastWest Institute), General (Ret.) Viktor Koltunov (Deputy Director, Institute for Strategic Stability of Rosatom), and Dr. Eugene Miasnikov (Senior Research Scientist, Center for Arms Control, Energy and Environmental Studies) “De-alerting: Decreasing the Operational Readiness of Strategic Nuclear Forces” Discussion paper presented at the seminar on “Re-framing De-Alert: Decreasing the Operational Readiness of Nuclear Weapons Systems in the U.S.-Russia Context” in Yverdon, Switzerland, 21-23 June 200**9**. http://www.ewi.info/system/files/RyabikhinKoltunovMiasnikov.pdf

Most of the experts define de-alerting as implementing some reversible physical changes in a weapon system that would significantly increase time between the decision to use the weapon and the actual moment of its launch. The proponents of this concept consider it as one of the ways to maintain strategic stability. They provide the following arguments in support of this concept. Radical changes have occurred in US-Russian relations. Russia and the United States are building strategic partnership relationship. In such situation the high alert readiness of strategic offensive forces targeted at each other does not correspond to the character of our relations. Strategic nuclear forces high alert readiness in combination with a concept of launch-on-warning strike increases the risk of “accidental” nuclear war (as a result of mistakes in the C3I system, inadequate situation analysis, mistaken decision-making, unauthorized action of personnel or even terrorists, provocation from the “third” states or non-state actors, etc.); False signals about missile attacks obtained from early warning system that may trigger an accidental launch. This assumption was very popular when the Russian early warning system was weakened as a result of collapse of the Soviet Union. Analysis of the above arguments shows, that they do not have solid grounds. Today **Russian and U.S. ICBMs are not targeted at any state. High alert status of the Russian and U.S.** strategic nuclear **forces has not been an obstacle for building a strategic partnership**. The issue of the possibility of an “accidental” nuclear war itself is hypothetical. **Both** states **have** developed and **implemented** constructive organizational and technical **measures that** practically **exclude launches resulting from unauthorized action of personnel or terrorists. Nuclear weapons are maintained under very strict** system of **control that excludes any accidental or unauthorized use and guarantees that these weapons can only be used provided** that **there** **is** an appropriate **authorization by** the **national leadership**. Besides that it should be mentioned that even the Soviet Union and the United States had taken important bilateral steps toward decreasing the risk of accidental nuclear conflict. **Direct emergency** telephone **“red line” has been established between the White House and the Kremlin** in 1963. In 1971 **the USSR and USA** signed the Agreement on Measures to Reduce the Nuclear War Threat. This Agreement **established** the **actions** of each side **in case of** even **a hypothetical accidental missile launch** and **it contains the requirements for the owner of the launched missile to deactivate and eliminate the missile**. Both the Soviet Union and the United States have developed proper measures to observe the agreed requirements.

**US constrains Israeli lashout**

Mitchell G. **Bard** (Executive Director of American – Israeli Cooperative Enterprise AICE and one of the leading authorities on US Middle East Policy. He haw written 18 books. PhD.). “Will Israel Survive.” **2007**. p 229

**American Jews sometimes fear the United States could one day turn against Israel because of the bias of the media**, the prevalence of anti-Israel professors on college campuses, or the changing demographics of the electorate. **The truth, however, is that Americans and Israelis are closely inter-twined on so many levels that the special relationship should endure. For Israel, the strength of the alliance provides security. Israelis know their ally will maintain its commitment and be limited in its ability to apply pressure to force them into actions they oppose.** **Still, no prime minister wants strained relations with Israel's closest friend and the world's most powerful nation, so Israel inevitably bends to the will of the president.**

#### No Solvency – Russia won’t comply  Payne, 9  Keith B. Payne, June 24, 2009, Professor and Department Head Graduate Department of Defense and Strategic Studies Missouri State University, “The July Summit and Beyond: Prospects for U.S.-Russia Nuclear Arms Reductions”

Fifth, before establishing new nuclear arms control limits, it would seem reasonable to resolve Russian violations of existing arms control agreements. In my opinion, the most important of these violations has been discussed openly in Russian publications. It is the Russian testing of the SS–27 ICBM with MIRVs in direct violation of START. Confidence in Russian compliance needs to be established prior to or at least part of any new efforts to negotiate limitations.