# 1AC

## Plan

#### The United States Congress should establish a national security court with exclusive jurisdiction over indefinite detention authority

## 1AC – Legitimacy Advantage

#### Indefinite Detention is crushing US credibility

David Welsh 11, J.D. from the University of Utah, “Procedural Justice Post-9/11: The Effects of Procedurally Unfair Treatment of Detainees on Perceptions of Global Legitimacy”, http://law.unh.edu/assets/images/uploads/publications/unh-law-review-vol-09-no2-welsh.pdf

The Global War on Terror 1 has been ideologically framed as a struggle between the principles of freedom and democracy on the one hand and tyranny and extremism on the other. 2 Although this war has arguably led to a short-term disruption of terrorist threats such as al-Qaeda, it has also damaged America’s image both at home and abroad. 3 Throughout the world, there is a growing consensus that America has “a lack of credibility as a fair and just world leader.” 4 The perceived legitimacy of the United States in the War on Terror is critical because terrorism is not a conventional threat that can surrender or can be defeated in the traditional sense. Instead, this battle can only be won through legitimizing the rule of law and undermining the use of terror as a means of political influence. 5 ¶ Although a variety of political, economic, and security policies have negatively impacted the perceived legitimacy of the United States, one of the most damaging has been the detention, treatment, and trial (or in many cases the lack thereof) of suspected terrorists. While many scholars have raised constitutional questions about the legality of U.S. detention procedures, 6 this article offers a psychological perspective of legitimacy in the context of detention.

#### Also undermines international coop and alliances

Martin Scheinin 12 is Professor of International Law and Former UN Special Rapporteur on Human Rights and Counter-Terrorism, "Should Human Rights Take a Back Seat in Wartime?" 1-11-12, www.realclearworld.com/articles/2012/01/11/national\_defense\_authorization\_act\_scheinin\_interview-full.html, DOA: 7-23-13, Y2K  
CLC: As a world leader and active promoter of universal human rights, the practice of indefinite detention without charge would seem to clash with U.S. ideals. Could you comment on this contradiction? MS: One of the main lessons learned in the international fight against terrorism is that counter-terrorism professionals have gradually come to learn and admit that human rights violations are not an acceptable shortcut in an effective fight against terrorism. Such measures tend to backfire in multiple ways. They result in legal problems by hampering prosecution, trial and punishment. The use of torture is a clear example here. They also tend to alienate the communities with which authorities should be working in order to detect and prevent terrorism. And they add to causes of terrorism, both by perpetuating "root causes" that involve the alienation of communities and by providing "triggering causes" through which bitter individuals make the morally inexcusable decision to turn to methods of terrorism. The NDAA is just one more step in the wrong direction, by aggravating the counterproductive effects of human rights violating measures put in place in the name of countering terrorism. CLC: Does the NDAA afford the U.S. a practical advantage in the fight against terrorism? Or might the law undermine its global credibility? MS: It is hard to see any practical advantage gained through the NDAA. It is just another form of what I call symbolic legislation, enacted because the legislators want to be seen as being "tough" or as "doing something." The law is written as just affirming existing powers and practices and hence not providing any meaningful new tools in the combat of terrorism. By constraining the choices by the executive, it nevertheless hampers effective counter-terrorism work, including criminal investigation and prosecution, as well as international counter-terrorism cooperation, markedly in the issue of closing the Guantanamo Bay detention facility. Hence, it carries the risk of distancing the United States from its closest allies and the international community generally. And of course these kinds of legal provisions are always open for bad faith copying by repressive governments that will use them for their own political purposes. CLC: Do you think the U.S. adoption of the indefinite detention provisions sets a precedent for other countries to do so? MS: Of course, these kinds of legal provisions are always open for bad faith copying by repressive governments that will use them for their own political purposes. Nevertheless, one of the conclusions I drew at the end of my six-year tenure as United Nations Special Rapporteur on human rights and counter-terrorism was that such copying of bad laws is less frequent than expected. It is much more common that countries are willing to learn from each other about what really works in the fight against terrorism, and for my part I did my best to identify and promote such best practice. There are a lot of good models showing how laws can at the same time comply with human rights and produce real results in the fight against terrorism. I don't think countries genuinely concerned about terrorism will be tempted to follow the NDAA approach. But repressive governments may do so for their own political purposes.

#### **National Security Court solves alliance bailing based on detention policy**

[STUART TAYLOR JR](http://www.theatlantic.com/stuart-taylor-jr/) FEB 27 2007  
The Case for a National Security Court

For the good of the war on terrorism, the United States needs to create a National Security Court to try enemy combatants. <http://www.theatlantic.com/magazine/archive/2007/02/the-case-for-a-national-security-court/305717/>  
McCarthy, who once prosecuted big terrorism cases and is now director of the Center for Law and Counterterrorism at the Foundation for Defense of Democracies, adds this: "If other nations, unwilling to prosecute and sufficiently punish terrorists themselves, become similarly unwilling to extradite them to the United States due to what they regard as a lack of fundamental fairness and independence in the prospective trial proceedings, it will be cold comfort indeed that those proceedings are perfectly adequate (even exemplary) under our Constitution and laws." He thinks the best solution is for Congress to create a new National Security Court independent of the executive branch. Other leading experts agree. They include moderate Democrat Neal Katyal, the Georgetown law professor who (much to McCarthy's regret) won the Supreme Court ruling last June that President Bush's military commissions were illegal. These and other experts disagree on the difficult details. But most agree that the new court should be staffed by already serving federal judges from around the country, to be chosen by the chief justice based on their fitness for the assignment. The judges would take time from their regular duties to review military detentions, plus any war-crimes convictions by the congressionally reconstituted military commissions. Some see the 29-year-old Foreign Intelligence Surveillance Court as a model. It hears (in secret) requests for warrants to intercept communications from or to search through the possessions of suspected international terrorists and spies. National Security Court judges would become expert in assessing the security costs of requiring various procedural protections for detainees. "Right now, these cases are heard by different courts, with different defense lawyers and different prosecuting attorneys," Katyal says. "None of them are really repeat players; none of them have the incentive to moderate their claims in order to build credibility. Creating a National Security Court, with repeat-player lawyers and judges, will change the entire dynamic, and help avoid the excessive rhetoric that has characterized both sides in the war on terror. It would also send a signal to the world that we have a serious process in place, one that we would feel comfortable applying to our own citizens." Many libertarians and human-rights activists, on the other hand, would settle for nothing less than the full panoply of protections afforded to ordinary criminal defendants. They should be careful what they wish for. As McCarthy points out: "Enemy combatants are often in a position to be killed or captured. Capturing them is the more merciful option, and making it more difficult or costly would almost certainly effect an increase in the number killed."

#### The plan’s external oversight on detention maintains heg---legitimacy is the vital internal link to global stability

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

The hegemonic model also reduces the need for executive branch flexibility, and the institutional competence terrain shifts toward the courts. The stability of the current U.S.-led international system depends on the ability of the U.S. to govern effectively. Effective governance depends on, among other things, predictability. n422 G. John Ikenberry analogizes America's hegemonic position to that of a "giant corporation" seeking foreign investors: "The rule of law and the institutions of policy making in a democracy are the political equivalent of corporate transparency and [\*155] accountability." n423 Stable interpretation of the law bolsters the stability of the system because other nations will know that they can rely on those interpretations and that there will be at least some degree of enforcement by the United States. At the same time, the separation of powers serves the global-governance function by reducing the ability of the executive branch to make "abrupt or aggressive moves toward other states." n424¶ The Bush Administration's detainee policy, for all of its virtues and faults, was an exceedingly aggressive departure from existing norms, and was therefore bound to generate intense controversy. It was formulated quickly, by a small group of policy-makers and legal advisors without consulting Congress and over the objections of even some within the executive branch. n425 Although the Administration invoked the law of armed conflict to justify its detention of enemy combatants, it did not seem to recognize limits imposed by that law. n426 Most significantly, it designed the detention scheme around interrogation rather than incapacitation and excluded the detainees from all legal protections of the Geneva Conventions. n427 It declared all detainees at Guantanamo to be "enemy combatants" without establishing a regularized process for making an individual determination for each detainee. n428 And when it established the military commissions, also without consulting Congress, the Administration denied defendants important procedural protections. n429¶ In an anarchic world characterized by great power conflict, one could make the argument that the executive branch requires maximum flexibility to defeat the enemy, who may not adhere to international law. Indeed, the precedents relied on most heavily by the Administration in the enemy combatant cases date from the 1930s and 1940s - a period when the international system was radically unstable, and the United States was one of several great powers vying for advantage. n4 30 But during that time, the executive branch faced much more exogenous pressure from other great powers to comply with international law in the treatment of captured enemies. If the United States strayed too far from established norms, it would risk retaliation upon its own soldiers or other consequences from [\*156] powerful rivals. Today, there are no such constraints: enemies such as al Qaeda are not great powers and are not likely to obey international law anyway. Instead, the danger is that American rule-breaking will set a pattern of rule-breaking for the world, leading to instability. n431 America's military predominance enables it to set the rules of the game. When the U.S. breaks its own rules, it loses legitimacy.¶ The Supreme Court's response to the detainee policy enabled the U.S. government as a whole to hew more closely to established procedures and norms, and to regularize the process for departing from them. After Hamdi, n432 the Department of Defense established a process, the CSRTs, for making an individual determination about the enemy combatant status of all detainees at Guantanamo. After the Court recognized habeas jurisdiction at Guantanamo, Congress passed the DTA, n433 establishing direct judicial review of CSRT determinations in lieu of habeas. Similarly, after the Court declared the military commissions unlawful in Hamdan, n434 this forced the Administration to seek congressional approval for commissions that restored some of the rights afforded at courts martial. n435 In Boumediene, the Court rejected the executive branch's foreign policy arguments, and bucked Congress as well, to restore the norm of habeas review. n436¶ Throughout this enemy combatant litigation, it has been the courts' relative insulation from politics that has enabled them to take the long view. In contrast, the President's (and Congress's) responsiveness to political concerns in the wake of 9/11 has encouraged them to depart from established norms for the nation's perceived short-term advantage, even at the expense of the nation's long-term interests. n437 As Derek Jinks and Neal Katyal have observed, "treaties are part of [a] system of time-tested standards, and this feature makes the wisdom of their judicial interpretation manifest." n438¶ At the same time, the enemy combatant cases make allowances for the executive branch's superior speed. The care that the Court took to limit the issues it decided in each case gave the executive branch plenty of time to [\*157] arrive at an effective detainee policy. n439 Hamdi, Rasul, and Boumediene recognized that the availability of habeas would depend on the distance from the battlefield and the length of detention. n440¶ The enemy combatant litigation also underscores the extent to which the classic realist assumptions about courts' legitimacy in foreign affairs have been turned on their head. In an anarchic world, legitimacy derives largely from brute force. The courts have no armies at their disposal and look weak when they issue decisions that cannot be enforced. n441 But in a hegemonic system, where governance depends on voluntary acquiescence, the courts have a greater role to play. Rather than hobbling the exercise of foreign policy, the courts are a key form of "soft power." n442 As Justice Kennedy's majority opinion observed in Boumediene, courts can bestow external legitimacy on the acts of the political branches. n443 Acts having a basis in law are almost universally regarded as more legitimate than merely political acts. Most foreign policy experts believe that the Bush Administration's detention scheme "hurt America's image and standing in the world." n444 The restoration of habeas corpus in Boumediene may help begin to counteract this loss of prestige.¶ Finally, the enemy combatant cases are striking in that they embrace a role for representation-reinforcement in the international realm. n445 Although defenders of special deference acknowledge that courts' strengths lie in protecting the rights of minorities, it has been very difficult for courts to protect these rights in the face of exigencies asserted by the executive branch in foreign affairs matters. This is especially difficult when the minorities are alleged enemy aliens being held outside the sovereign territory of the United States in wartime. In the infamous Korematsu decision, another World War II-era case, the Court bowed to the President's factual assessment of the emergency justifying detention of U.S. citizens of Japanese ancestry living in the United States. n446 In Boumediene, the Court [\*158] pointedly declined to defer to the executive branch's factual assessments of military necessity. n447 The court may have recognized that a more aggressive role in protecting the rights of non-citizens was required by American hegemony. In fact, the arguments for deference with respect to the rights of non-citizens are even weaker because aliens lack a political constituency in the United States. n448 This outward-looking form of representation-reinforcement serves important functions. It strengthens the legitimacy of U.S. hegemony by establishing equality as a benchmark and reinforces the sense that our constitutional values reflect universal human rights. n449¶ Conclusion¶ When it comes to the constitutional regime of foreign affairs, geopolitics has always mattered. Understandings about America's role in the world have shaped foreign affairs doctrines. But the classic realist assumptions that support special deference do not reflect the world as it is today. A better, more realist, approach looks to the ways that the courts can reinforce and legitimize America's leadership role. The Supreme Court's rejection of the government's claimed exigencies in the enemy combatant cases strongly indicates that the Judiciary is becoming reconciled to the current world order and is asserting its prerogatives in response to the fewer constraints imposed on the executive branch. In other words, the courts are moving toward the hegemonic model. In the great dismal swamp that is the judicial treatment of foreign affairs, this transformation offers hope for clarity: the positive reality of the international system, despite terrorism and other serious challenges, permits the courts to reduce the "deference gap" between foreign and domestic cases.

#### Alliance is key to hegemony

Joseph S. Nye 13 Jr. is a professor at Harvard’s Kennedy School of Government, “American power in the 21st century will be defined by the ‘rise of the rest’” 6-28-13, <http://articles.washingtonpost.com/2013-06-28/opinions/40255646_1_american-power-u-s-economy-united-states>, DOA: 7-23-13, y2k

In the last century, the United States rose from the status of second-tier power to being the world’s sole superpower. Some worry that the United States will be eclipsed in this century by China, but that is not the problem. There is never just one possible outcome. Instead, there are always a range of possibilities, particularly regarding political change in China. Aside from the political uncertainties, China’s size and high rate of economic growth will almost certainly increase its strength in relation to the United States. But even when China becomes the world’s largest economy, it will lag decades behind the United States in per-capita income, which is a better measure of an economy’s sophistication. Moreover, given our energy resources, the U.S. economy will be less vulnerable than the Chinese economy to external shocks. Growth will bring China closer to the United States in power resources, but as Singapore’s former prime minister Lee Kwan Yew has noted, that does not necessarily mean that China will surpass the United States as the world’s most powerful country. Even if China suffers no major domestic political setbacks, projections based on growth in gross domestic product alone ignore U.S. military and “soft power” advantages as well as China’s geopolitical disadvantages in the Asian balance of power. The U.S. culture of openness and innovation will keep this country central in an information age in which networks supplement, if not fully replace, hierarchical power. The United States is well positioned to benefit from such networks and alliances if our leaders follow smart strategies. In structural terms, it matters that the two entities with per-capita income and sophisticated economies similar to that of the United States — Europe and Japan — are both allied with the United States. In terms of balances-of-power resources, that makes a large difference for the net position of American power, but only if U.S. leaders maintain the alliances and institutional cooperation. In addition, in a more positive sum view of power with, rather than over, other countries, Europe and Japan provide the largest pools of resources for dealing with common transnational problems. On the question of absolute — rather than relative — American decline, the United States faces serious domestic problems in debt, secondary education and political gridlock. But these issues are only part of the picture. Of the many possible futures, stronger cases can be made for the positive over the negative. Among the negative futures, the most plausible is one in which the United States overreacts to terrorist attacks by turning inward and closing itself off to the strength it obtains from openness. But barring such mistaken strategies, there are, over a longer term, solutions to the major problems that preoccupy us. Of course, for political or other reasons, such solutions may remain forever out of reach. But it is important to distinguish between situations that have no solutions and those that, at least in principle, can be solved. Decline is a misleading metaphor and, fortunately, President Obama has rejected the suggested strategy of “managing decline.” As a leader in research and development, higher education and entrepreneurial activity, the United States is not in absolute decline, as happened in ancient Rome. In relative terms, there is a reasonable probability that the United States is likely to remain more powerful than any single state in the coming decades. We do not live in a “post-American world,” but neither do we live any longer in the “American era” of the late 20th century. In terms of primacy, the United States will be “first” but not “sole.” No one has a crystal ball, but the National Intelligence Council (which I once chaired) may be correct in its 2012 projection that although the unipolar moment is over, the United States probably will remain first among equals among the other great powers in 2030 because of the multifaceted nature of its power and legacies of its leadership. The power resources of many states and non-state actors will rise in the coming years. U.S. presidents will face an increasing number of issues in which obtaining our preferred outcomes will require power with others as much as power over others. Our leaders’ capacity to maintain alliances and create networks will be an important dimension of our hard and soft power. Simply put, the problem of American power in the 21st century is not one of a poorly specified “decline” or being eclipsed by China but, rather, the “rise of the rest.” The paradox of American power is that even the largest country will not be able to achieve the outcomes it wants without the help of others.

#### Heg solves nuclear war and decline of American power causes it

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This does not necessarily mean that the US is in systemic decline, but it encompasses a trend that appears to be negative and perhaps alarming. Although the US still possesses incomparable military prowess and its economy remains the world’s largest, the once seemingly indomitable chasm that separated America from anyone else is narrowing. Thus, the global distribution of power is shifting, and the inevitable result will be a world that is less peaceful, liberal and prosperous, burdened by a dearth of effective conflict regulation. Over the past two decades, no other state has had the ability to seriously challenge the US military. Under these circumstances, motivated by both opportunity and fear, many actors have bandwagoned with US hegemony and accepted a subordinate role. Canada, most of Western Europe, India, Japan, South Korea, Australia, Singapore and the Philippines have all joined the US, creating a status quo that has tended to mute great power conflicts. However, as the hegemony that drew these powers together withers, so will the pulling power behind the US alliance. The result will be an international order where power is more diffuse, American interests and influence can be more readily challenged, and conflicts or wars may be harder to avoid. As history attests, power decline and redistribution result in military confrontation. For example, in the late 19th century America’s emergence as a regional power saw it launch its first overseas war of conquest towards Spain. By the turn of the 20th century, accompanying the increase in US power and waning of British power, the American Navy had begun to challenge the notion that Britain ‘rules the waves.’ Such a notion would eventually see the US attain the status of sole guardians of the Western Hemisphere’s security to become the order-creating Leviathan shaping the international system with democracy and rule of law. Defining this US-centred system are three key characteristics: enforcement of property rights, constraints on the actions of powerful individuals and groups and some degree of equal opportunities for broad segments of society. As a result of such political stability, free markets, liberal trade and flexible financial mechanisms have appeared. And, with this, many countries have sought opportunities to enter this system, proliferating stable and cooperative relations. However, what will happen to these advances as America’s influence declines? Given that America’s authority, although sullied at times, has benefited people across much of Latin America, Central and Eastern Europe, the Balkans, as well as parts of Africa and, quite extensively, Asia, the answer to this question could affect global society in a profoundly detrimental way. Public imagination and academia have anticipated that a post-hegemonic world would return to the problems of the 1930s: regional blocs, trade conflicts and strategic rivalry. Furthermore, multilateral institutions such as the IMF, the World Bank or the WTO might give way to regional organisations. For example, Europe and East Asia would each step forward to fill the vacuum left by Washington’s withering leadership to pursue their own visions of regional political and economic orders. Free markets would become more politicised — and, well, less free — and major powers would compete for supremacy. Additionally, such power plays have historically possessed a zero-sum element. In the late 1960s and 1970s, US economic power declined relative to the rise of the Japanese and Western European economies, with the US dollar also becoming less attractive. And, as American power eroded, so did international regimes (such as the Bretton Woods System in 1973). A world without American hegemony is one where great power wars re-emerge, the liberal international system is supplanted by an authoritarian one, and trade protectionism devolves into restrictive, anti-globalisation barriers. This, at least, is one possibility we can forecast in a future that will inevitably be devoid of unrivalled US primacy.

#### Multilateral cooperation to solve warming, disease, and prolif impossible absent the plan

John G. Ikenberry 11, Albert G. Milbank Professor of Politics and International Affairs at Princeton, Spring, “A World of Our Making”, http://www.democracyjournal.org/20/a-world-of-our-making.php?page=all

Grand Strategy as Liberal Order Building American dominance of the global system will eventually yield to the rise of other powerful states. The unipolar moment will pass. In facing this circumstance, American grand strategy should be informed by answers to this question: What sort of international order would we like to see in place in 2020 or 2030 when America is less powerful? Grand strategy is a set of coordinated and sustained policies designed to address the long-term threats and opportunities that lie beyond the country’s shores. Given the great shifts in the global system and the crisis of liberal hegemonic order, how should the United States pursue grand strategy in the coming years? The answer is that the United States should work with others to rebuild and renew the institutional foundations of the liberal international order and along the way re-establish its own authority as a global leader. The United States is going to need to invest in alliances, partnerships, multilateral institutions, special relationships, great-power concerts, cooperative security pacts, and democratic security communities. That is, the United States will need to return to the great tasks of liberal order building. It is useful to distinguish between two types of grand strategy: positional and milieu oriented. With a positional grand strategy, a great power seeks to diminish the power or threat embodied in a specific challenger state or group of states. Examples are Nazi Germany, Imperial Japan, the Soviet bloc, and perhaps—in the future—Greater China. With a milieu-oriented grand strategy, a great power does not target a specific state but seeks to structure its general international environment in ways that are congenial with its long-term security. This might entail building the infrastructure of international cooperation, promoting trade and democracy in various regions of the world, and establishing partnerships that might be useful for various contingencies. My point is that under conditions of unipolarity, in a world of diffuse threats, and with pervasive uncertainty over what the specific security challenges will be in the future, this milieu-based approach to grand strategy is necessary. The United States does not face the sort of singular geopolitical threat that it did with the fascist and communist powers of the last century. Indeed, compared with the dark days of the 1930s or the Cold War, America lives in an extraordinarily benign security environment. Rather than a single overriding threat, the United States and other countries face a host of diffuse and evolving threats. Global warming, nuclear proliferation, jihadist terrorism, energy security, health pandemics—these and other dangers loom on the horizon. Any of these threats could endanger Americans’ lives and way of life either directly or indirectly by destabilizing the global system upon which American security and prosperity depends. What is more, these threats are interconnected—and it is their interactive effects that represent the most acute danger. And if several of these threats materialize at the same time and interact to generate greater violence and instability, then the global order itself, as well as the foundations of American national security, would be put at risk. What unites these threats and challenges is that they are all manifestations of rising security interdependence. More and more of what goes on in other countries matters for the health and safety of the United States and the rest of the world. Many of the new dangers—such as health pandemics and transnational terrorist violence—stem from the weakness of states rather than their strength. At the same time, technologies of violence are evolving, providing opportunities for weak states or nonstate groups to threaten others at a greater distance. When states are in a situation of security interdependence, they cannot go it alone. They must negotiate and cooperate with other states and seek mutual restraints and protections. The United States can-not hide or protect itself from threats under conditions of rising security interdependence. It must get out in the world and work with other states to build frameworks of cooperation and leverage capacities for action against this unusually diverse, diffuse, and unpredictable array of threats and challenges. This is why a milieu-based grand strategy is attractive. The objective is to shape the international environment to maximize your capacities to protect the nation from threats. To engage in liberal order building is to invest in international cooperative frameworks—that is, rules, institutions, partnerships, networks, standby capacities, social knowledge, etc.—in which the United States operates. To build international order is to increase the global stock of “social capital”—which is the term Pierre Bourdieu, Robert Putnam, and other social scientists have used to define the actual and potential resources and capacities within a political community, manifest in and through its networks of social relations, that are available for solving collective problems. If American grand strategy is to be organized around liberal order building, what are the specific objectives and what is the policy agenda? There are five such objectives. First, the United States needs to lead in the building of an enhanced protective infrastructure that helps prevent the emergence of threats and limits the damage if they do materialize. Many of the threats mentioned above are manifest as socioeconomic backwardness and failure that cause regional and international instability and conflict. These are the sorts of threats that are likely to arise with the coming of global warming and epidemic disease. What is needed here is institutional cooperation to strengthen the capacity of governments and the international com-munity to prevent epidemics or food shortages or mass migrations that create global upheaval—and mitigate the effects of these upheavals if they occur. The international system already has a great deal of this protective infrastructure—institutions and networks that pro-mote cooperation over public health, refugees, and emergency aid. But as the scale and scope of potential problems grow in the twenty-first century, investments in these preventive and management capacities will also need to grow. Early warning systems, protocols for emergency operations, standby capacities, etc.—these safeguards are the stuff of a protective global infrastructure. Second, the United States should recommit to and rebuild its security alliances. The idea is to update the old bargains that lie behind these security pacts. In NATO, but also in the East Asia bilateral partner-ships, the United States agrees to provide security protection to the other states and brings its partners into the process of decision-making over the use of force. In return, these partners agree to work with the United States—providing manpower, logistics, and other types of support—in wider theaters of action. The United States gives up some autonomy in strategic decision-making, although it is more an informal restraint than a legally binding one, and in exchange it gets cooperation and political support. Third, the United States should reform and create encompassing global institutions that foster and legitimate collective action. The first move here should be to reform the United Nations, starting with the expansion of the permanent membership on the Security Council. Several plans have been proposed. All of them entail adding new members—such as Germany, Japan, India, Brazil, South Africa, and others—and reforming the voting procedures. Almost all of the candidates for permanent membership are mature or rising democracies. The goal, of course, is to make them stakeholders in the United Nations and thereby strengthen the primacy of the UN as a vehicle for global collective action. There really is no substitute for the legitimacy that the United Nations can offer to emergency actions—humanitarian interventions, economic sanctions, uses of force against terrorists, and so forth. Public support in advanced democracies grows rapidly when their governments can stand behind a UN-sanctioned action. Fourth, the United States should accommodate and institution-ally engage China. China will most likely be a dominant state, and the United States will need to yield to it in various ways. The United States should respond to the rise of China by strengthening the rules and institutions of the liberal international order—deepening their roots, integrating rising capitalist democracies, sharing authority and functional roles. The United States should also intensify cooperation with Europe and renew joint commitments to alliances and multilateral global governance. The more that China faces not just the United States but the entire world of capitalist democracies, the better. This is not to argue that China must face a grand counterbalancing alliance against it. Rather, it should face a complex and highly integrated global system—one that is so encompassing and deeply entrenched that it essentially has no choice but to join it and seek to prosper within it. The United States should also be seeking to construct a regional security order in East Asia that can provide a framework for managing the coming shifts. The idea is not to block China’s entry into the regional order but to help shape its terms, looking for opportunities to strike strategic bargains at various moments along the shifting power trajectories and encroaching geopolitical spheres. The big bargain that the United States will want to strike is this: to accommodate a rising China by offering it status and position within the regional order in return for Beijing’s acceptance and accommodation of Washington’s core strategic interests, which include remaining a dominant security provider within East Asia. In striking this strategic bargain, the United States will also want to try to build multilateral institutional arrangements in East Asia that will tie China to the wider region. Fifth, the United States should reclaim a liberal internationalist public philosophy. When American officials after World War II championed the building of a rule-based postwar order, they articulated a distinctive internationalist vision of order that has faded in recent decades. It was a vision that entailed a synthesis of liberal and realist ideas about economic and national security, and the sources of stable and peaceful order. These ideas—drawn from the experiences with the New Deal and the previous decades of war and depression—led American leaders to associate the national interest with the building of a managed and institutionalized global system. What is needed today is a renewed public philosophy of liberal internationalism—a shift away from neoliberal-ism—that can inform American elites as they make trade-offs between sovereignty and institutional cooperation. Under this philosophy, the restraint and the commitment of American power went hand in hand. Global rules and institutions advanced America’s national interest rather than threatened it. The alternative public philosophies that have circulated in recent years—philosophies that champion American unilateralism and disentanglement from global rules and institutions—did not meet with great success. So an opening exists for America’s postwar vision of internationalism to be updated and rearticulated today. The United States should embrace the tenets of this liberal public philosophy: Lead with rules rather than dominate with power; provide public goods and connect their provision to cooperative and accommodative policies of others; build and renew international rules and institutions that work to reinforce the capacities of states to govern and achieve security and economic success; keep the other liberal democracies close; and let the global system itself do the deep work of liberal modernization. As it navigates this brave new world, the United States will find itself needing to share power and rely in part on others to ensure its security. It will not be able to depend on unipolar power or airtight borders. It will need, above all else, authority and respect as a global leader. The United States has lost some of that authority and respect in recent years. In committing itself to a grand strategy of liberal order building, it can begin the process of gaining it back.

#### Warming is real and human caused- Prefer scientific consensus to their hack deniers

**Lewandowsky and Ashley 2011** (Stephan Lewandowsky, Professor of Cognitive Studies at the University of Western Australia, and Michael Ashley, Professor of Astrophysics at the University of New South Wales, June 24, 2011, “The false, the confused and the mendacious: how the media gets it wrong on climate change,” http://goo.gl/u3nOC)

But despite these complexities, some aspects of climate science are thoroughly settled. We know that atmospheric CO₂ is increasing due to humans. We know that this CO₂, while being just a small fraction of the atmosphere, has an important influence on temperature. We can calculate the effect, and predict what is going to happen to the earth’s climate during our lifetimes, all based on fundamental physics that is as certain as gravity. The consensus opinion of the world’s climate scientists is that climate change is occurring due to human CO₂ emissions. The changes are rapid and significant, and the implications for our civilisation may be dire. The chance of these statements being wrong is vanishingly small. Scepticism and denialism Some people will be understandably sceptical about that last statement. But when they read up on the science, and have their questions answered by climate scientists, they come around. These people are true sceptics, and a degree of scepticism is healthy. Other people will disagree with the scientific consensus on climate change, and will challenge the science on internet blogs and opinion pieces in the media, but no matter how many times they are shown to be wrong, they will never change their opinions. These people are deniers. The recent articles in The Conversation have put the deniers under the microscope. Some readers have asked us in the comments to address the scientific questions that the deniers bring up. This has been done. Not once. Not twice. Not ten times. Probably more like 100 or a 1000 times. Denier arguments have been dealt with by scientists, again and again and again. But like zombies, the deniers keep coming back with the same long-falsified and nonsensical arguments. The deniers have seemingly endless enthusiasm to post on blogs, write letters to editors, write opinion pieces for newspapers, and even publish books. What they rarely do is write coherent scientific papers on their theories and submit them to scientific journals. The few published papers that have been sceptical about climate change have not withstood the test of time. The phony debate on climate change So if the evidence is this strong, why is there resistance to action on climate change in Australia? At least two reasons can be cited. First, as The Conversation has revealed, there are a handful of individuals and organisations who, by avoiding peer review, have engineered a phony public debate about the science, when in fact that debate is absent from the one arena where our scientific knowledge is formed. These individuals and organisations have so far largely escaped accountability. But their free ride has come to an end, as the next few weeks on The Conversation will continue to show. The second reason, alas, involves systemic failures by the media. Systemic media failures arise from several presumptions about the way science works, which range from being utterly false to dangerously ill-informed to overtly malicious and mendacious. The false Let’s begin with what is merely false. A tacit presumption of many in the media and the public is that climate science is a brittle house of cards that can be brought down by a single new finding or the discovery of a single error. Nothing could be further from the truth. Climate science is a cumulative enterprise built upon hundreds of years of research. The heat-trapping properties of CO₂ were discovered in the middle of the 19th century, pre-dating even Sherlock Holmes and Queen Victoria.

#### Not inevitable – even if temporarily over the tipping point, can be brought back down.

**Dyer 2009** (Gwynne Dyer, MA in Military History and PhD in Middle Eastern History former [Senior Lecturer](file:///C:\wiki\Senior_Lecturer) in War Studies at the [Royal Military Academy Sandhurst](file:///C:\wiki\Royal_Military_Academy_Sandhurst), “Climate Wars,”)

There is no need to despair. The slow-feedback effects take a long time to work their way through the climate system, and if we could manage to get the carbon dioxide concentration back down to a safe level before they have run their course, they might be stopped in their tracks. As Hansen et al. put it in their paper: A point of no return can be avoided, even if the tipping level [which puts us on course for an ice-free world] is temporarily exceeded. Ocean and ice-sheet inertia permit overshoot, provided the [concentration of carbon dioxide] is returned below the tipping level before initiating irre­versible dynamic change .... However, if overshoot is in place for centuries, the thermal perturbation will so pen­etrate the ocean that recovery without dramatic effects, such as ice-sheet disintegration, becomes unlikely. The real, long-term target is 350 parts per million or lower, if we want the Holocene to last into the indefinite future, but for the remainder of this book I am going to revert to the 450 parts per million ceiling that has become common currency among most of those who are involved in climate change issues. If we manage to stop the rise in the carbon dioxide concentration at or not far beyond that figure, then we must immediately begin the equally urgent and arduous task of getting it back down to a much lower level that is safe for the long term, but one step at a time will have to suffice. I suspect that few now alive will see the day when we seriously start work on bringing the concen­tration back down to 350, so let us focus here on how to stop it rising past 450.

#### Unmitigated warming causes extinction

**Mazo 2010** (Jeffrey Mazo, Managing Editor of Survival and Research Fellow for Environmental Security and Science Policy at the International Institute for Strategic Studies, March 2010, “Climate Conflict: How global warming threatens security and what to do about it”)

The best estimates for global warming to the end of the century range from 2.5-4.~C above pre-industrial levels, depending on the scenario. Even in the best-case scenario, the low end of the likely range is 1.goC, and in the worst 'business as usual' projections, which actual emissions have been matching, the range of likely warming runs from 3.1--7.1°C. Even keeping emissions at constant 2000 levels (which have already been exceeded), global temperature would still be expected to reach 1.2°C (O'9""1.5°C)above pre-industrial levels by the end of the century." Without early and severe reductions in emissions, the effects of climate change in the second half of the twenty-first century are likely to be catastrophic for the stability and security of countries in the developing world - not to mention the associated human tragedy. Climate change could even undermine the strength and stability of emerging and advanced economies, beyond the knock-on effects on security of widespread state failure and collapse in developing countries.' And although they have been condemned as melodramatic and alarmist, many informed observers believe that unmitigated climate change beyond the end of the century could pose an existential threat to civilization." What is certain is that there is no precedent in human experience for such rapid change or such climatic conditions, and even in the best case adaptation to these extremes would mean profound social, cultural and political changes.

#### **Disease outbreak risks extinction.**

Yule ’13 Article¶ Biodiversity, Extinction, and Humanity’s Future: The¶ Ecological and Evolutionary Consequences of Human¶ Population and Resource Use¶ Jeffrey V. Yule \*, Robert J. Fournier and Patrick L. Hindmarsh¶ School of Biological Sciences, Louisiana Tech University, Ph.D. in Ecology and Evolution, August 2007. Stony Brook University, Stony¶ Brook, NY. Advisor: Lev R. Ginzburg Associate Professor of Biological Sciences and Environmental Sciences¶ Graduate and Research Faculty

We have assumed that humanity’s future will unfold in a way that avoids any of a number of global¶ disasters for Homo sapiens sapiens. An equally reasonable but less optimistic assessment could take¶ exception to that position. A variety of things could go badly wrong for humanity. Global human N¶ may not stabilize at or below where it stands now without being pushed there by some form(s) of crisis¶ that result from humans exceeding global K. As a result, anthropogenic factors from the intentionally¶ harmful (e.g., warfare) to the unintentionally disastrous (e.g., agricultural practices leading to topsoil¶ erosion and desertification) could occur singly or in conjunction with one another, with a variety of¶ natural disasters (e.g., volcanic eruptions, earthquakes), and with disasters that straddle the boundary¶ of natural and anthropogenic, the sorts of scenarios that otherwise could have been avoided or their¶ impacts lessened with more forethought (e.g., outbreaks of infectious disease that move easily through¶ dense human population centers and cannot be readily treated due to pathogen drug resistance).¶ Although we cannot rule out such eventualities, speculation about the future of humanity is inherently¶ more interesting if it proceeds on the assumption that the species will be at least moderately successful¶ beyond the short- to medium-term. However, it may not, and the potential failure of our species has¶ considerable biological implications.

#### Alliances prevent nuclear war---key to burden sharing

Douglas Ross 99 is professor of political science at Simon Fraser University, Winter 1998/1999, Canada’s functional

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

## Terror

### Uq

#### Offensive counter terror measures are inevitable- it’s just a question of effective oversight

Wittes 2013 (Benjamin Wittes, editor in chief of Lawfare and a Senior Fellow in Governance Studies at the Brookings Institution, March 19, 2013, “Coming at the AUMF Debate from a Different Angle,” Lawfare, http://www.lawfareblog.com/2013/03/coming-at-the-aumf-debate-from-a-different-angle/)

The spirit that animates our paper, by contrast, is the suspicion that this belief is a bit less than realistic. In my view, to sketch the alternative, whoever is president is going to continue our current counterterrorism policies for the foreseeable future. Barring a Rand Paul presidency (and it will be interesting to see if either Jen or Steve endorses that prospect in the name of peace), any president is going to feel obliged to maintain counterterrorism on offense, and Congress—whining, carping, complaining all the way both that the president is being too aggressive and that he is not being aggressive enough—will go along with it, indeed, will insist upon it. That’s just the political reality. And it’s the political reality for a very simple reason that is, at its core, not about a point of law: Americans overwhelmingly prefer killing terrorists overseas to allowing them operating wiggle-room with which to attack Americans.¶ This counterterrorism on offense will be justified, as it has been so far, by aggressive interpretation of the AUMF as covering associated forces in geographic locales far from hot battlefields. Or it will be justified by an expansive view of Article II powers. Or it will be justified by whatever other legal means may be available. The critical point, however, is that the core strategy is simply not going to be walked back, unless there is some dramatic political shift, and most fundamentally, it’s not going to be walked back because a group of lawyers think the AUMF is no longer a vital instrument—any more than the absence of a congressional action precluded the Libya operation.¶ If you buy this premise, the question before us as we contemplate the future of the AUMF is not one of continued war versus a return to peace. The question, rather, is whether you want the contours of this continuing armed conflict to be defined by the Executive Branch acting alone, or whether you want it defined by some joint action of the Executive Branch and Congress. Even recognizing that Congress may not play its role optimally, I am in the latter camp. I believe there’s a useful role for Congress to play in defining the conflict at its margins. I don’t believe that Congress has either the force or the will to decide that the nation is at peace—or that it believes anything of the kind.

#### Obama has chosen article III courts as the preferred venue to try terrorist suspects captured in the War on Terror SUSAN CRABTREE **OCTOBER** 14, 2013 High-profile terror suspect taken to N.Y. to face trial http://washingtonexaminer.com/high-profile-terror-suspect-taken-to-n.y.-to-face-trial/article/2537222 The [**Obama**](http://washingtonexaminer.com/section/barack-obama) **administration** Monday on **transferred an alleged top** [**al Qaeda**](http://washingtonexaminer.com/section/al-qaeda) **figure** captured by U.S. special forces **to** [**New York**](http://washingtonexaminer.com/section/new-york) **to face charges in federal court.** **The move is likely to revive debate about whether suspected** [**terrorists**](http://washingtonexaminer.com/section/terrorism) **should be tried in civilian or military courts.** Abu Anas al-Libi, a suspect in the 1998 bombings of U.S. embassies in [Kenya](http://washingtonexaminer.com/section/kenya) and Tanzania that killed 224 civilians, was captured by the U.S. Army Delta Force in Tripoli, [Libya](http://washingtonexaminer.com/section/libya) on Oct. 5. He was then whisked onto a Navy ship in the in the Mediterranean Sea where he was questioned by U.S. intelligence officials. U.S. Attorney Preet Bharara, the chief federal prosecutor for Manhattan, said **the military handed al-Libi to U.S. civilian law enforcement** over the weekend **and he was brought directly to the New York area. He is expected to appear before a judge** on Tuesday. **The move is sure to draw sharp opposition from Republicans in Congress**, who believe such a high-profile terrorist suspect should be sent to the U.S. prison at [Guantanamo Bay](http://washingtonexaminer.com/section/guantanamo-bay) for indefinite interrogations and detention. Republican Sens. [Lindsey Graham](http://washingtonexaminer.com/section/lindsey-graham), S.C., [Saxby Chambliss](http://washingtonexaminer.com/section/saxby-chambliss), Ga., and Kelly Ayotte, N.H., have strongly opposed the prospect of trying al-Libi in criminal court. They argue that al-Libi, who was once a close confidant of Osama bin Laden, should be sent to Guantanamo Bay to be interrogated by military intelligence officials for as long as needed and question if his brief interrogation at sea was sufficient.

### Convictions

#### CIPA didn’t solve the problems with classified evidence being used- Article III courts create a double bind- either we release vital information or let terrorists go free

American BAR July 2009

Due Process and Terrorism Series   
Trying Terrorists in Article III Courts   
Challenges and Lessons Learned A Post-Workshop Report http://www.americanbar.org/content/dam/aba/migrated/natsecurity/trying\_terrorists\_artIII\_report\_final.authcheckdam.pdf

Central to issues of trying terrorist suspects in the Article III courts are the issues associated with the use of classified and sensitive information. Congress enacted the Classified Information Procedures Act (CIPA) in 1980 to respond to the problem of “greymail”, a defense tactic that of forced the government either to disclose classified evidence or to dismiss its case altogether. In modern cases, CIPA is used to protect classified information in criminal trials generally by permitting the trial court to make pretrial judgments regarding the relevance, use, and admissibility of such information *in camera* and *ex parte*. Where the classified information is relevant to a criminal prosecution, the judge can permit the government to disclose summaries of or substitutions for the evidence in lieu of the actual evidence. Some of the most complex decisions arise when classified information is so central to a defense that a summary or substitution would be inadequate. In such situations, trial courts might preclude certain evidence from being introduced or simply dismiss certain counts of an indictment. At worst, the government may be forced to decide between either disclosing evidence to the defense or simply withdrawing its case altogether to prevent disclosure. Thus, even where CIPA applies, the government may still face a “greymail”- like situation in some cases if the classified information is highly relevant to the defense and a summary or substitution would prove inadequate.

#### **Article III case studies are inherently flawed-- even if they’re empirically successful your evidence doesn’t account for the number of cases the government has had to dismiss**

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Several participants cautioned that most of these points are based only on those terrorism cases that have been tried in Article III courts to date, and that such cases do not afford a complete database for assessing the sufficiency of the Article III system. They noted that the success of the Article III criminal system may be overstated because there is no record of the terrorism prosecutions that the government never pursued as a result of challenges associated with the Article III courts. Several discussants suggested that the government, for reasons they felt they could not publicly disclose, came very close to withdrawing past terrorism cases because of challenges associated with the Article III system, and may have made compromises to pursue those cases in the Article III courts. Partly as a consequence of this reasoning, some of the discussants suggested that while it is generally desirable to prosecute terrorism cases in Article III courts, there may be some class of cases that require a backstop to the Article III framework to deal with terrorist suspects who may pose a threat to national security but who cannot be prosecuted successfully.

#### Emperics prove released detainees will return to the jihad against America

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| David Edwards and Joe Byrne January 27, 2009 |

Gitmo recruited thousands of terrorists, says US interrogator

<http://rawstory.com/news/2008/Gitmo_recruited_thousands_of_terrorists_says_0127.html>

A Pentagon report that 61 former inmates from Guantanamo Bay have "returned to the battlefield" doesn't seem to be scaring anyone. Matthew Alexander, a former senior interrogator in Iraq, told Keith Olbermann last night on MSNBC's *Countdown* that Guantanamo Bay is a persuasive argument for al-Qaeda in recruitment of fighters in Iraq. Matthew Alexander led the team of interrogators who found Abu Musab al-Zarqawi in August 2006. Since returning from Iraq, he has been outspoken about the tactics that the US military uses to interrogate prisoners. His book, *How to Break A Terrorist*, outlines his experience with the "deeply flawed, ineffective, un-American way the US military conducts interrogations in Iraq." The Pentagon report on former Gitmo inmates returning to terrorism has been the subject of much debate since its release. Only 18 former inmates are listed as "confirmed recidivists"; the remaining 43 are listed as "suspected," although the basis of suspicion isn't definitively documented. The activity of one "confirmed recidivist" amounts to being interviewed in a documentary about Guantanamo Bay. Seton Hall University law professor Mark Denbeaux published a [report](http://law.shu.edu/administration/public_relations/press_releases/2009/shl_defense_dept_wrong_on_gtmo.htm) on Jan. 15 pointing out that the Pentagon has altered its figures on "terrorist recidivism" multiple times, with the latest figure being the most egregiously inaccurate. Denbeaux [spoke to MSNBC host Rachel Maddow](http://rawstory.com/news/2008/Olbermann_debunks_released_Gitmo_detainee_propaganda_0123.html) at the beginning of the month. "Once again, they've failed to identify names, numbers, dates, times, places, or acts upon which their report relies," the professor asserts. "Every time they have been required to identify the parties, the DOD has been forced to retract their false IDs and their numbers. They have included people who have never even set foot in Guantanamo--much less were they released from there." Last night, Olbermann asked Matthew Alexander why the Pentagon would use the idea of former Gitmo inmates engaging in terrorism to try to keep the prison open. "Whether [the number of detainees that are suspected terrorists] is 68 or 100, that number pales in comparison to the number of fighters that have been recruited to al-Qaeda because of Guantanamo," Alexander responded. "That number would be in the thousands. The number one reason that I consistently heard while in Iraq that foreign fighters gave for coming there was 'torture and abuse occurring in Abu Ghraib and Guantanamo'... If we seriously want to undercut one of al-Qaeda's best recruiting tools, the best thing to do would be to close Guantanamo Bay."

#### **NSC is key to convictions- hybrid courts are key to adjudicating terrorism- civilian models of law are inadequate even if the judges are qualified**

Glenn Sulmasy 2009   
THE NATIONAL SECURITY COURT SYSTEM A NATURAL EVOLUTION OF JUSTICE IN AN AGE OF TERROR – pg 182  
Professor of law, commander, and judge advocate at the US Coast Guard Academy

The key is to balance, and legislatively guide, national security judges to equate justice in this arena as distinct from that of military criminal law or ordinary federal courts. The stakes in the national security courts are much greater than they are in standard federal courts. As it is currently constructed, the existing system allows for judges who have no background in warfare or national security to intervene, hear, and decide cases when they have little or no understanding of the issues because these are beyond the scope of the judges’ expertise. The legislation creating the NSCS must be specific and make clear to the judges that this is not an ordinary criminal court and, as such, the judges should refrain from making analogies to the civilian system in deciding their cases. The threat we face demands these enhanced requirements for specialized judges for this specialized court.

### Intel

#### Article III trials will destroy foreign intel cooperation- has to be secretive

American BAR July 2009

Due Process and Terrorism Series   
Trying Terrorists in Article III Courts   
Challenges and Lessons Learned A Post-Workshop Report <http://www.americanbar.org/content/dam/aba/migrated/natsecurity/trying_terrorists_artIII_report_final.authcheckdam.pdf>  
First, the disclosure of evidence in some terrorism trials may force a decision about whether to expose important intelligence gathering priorities, methods, and sources. This exposure may lead to conflicting interests between U.S. intelligence and law enforcement agencies; the risk of conflict is no less substantial when using sensitive evidence as opposed to classified evidence. In addition, it is not always clear at the outset which intelligence information will be valuable in the future, meaning that intelligence agencies are resistant to disclosing any intelligence information unless its secrecy can be adequately safeguarded and its use will result in meaningful benefits to the government. *Second*, the use of classified and sensitive evidence obtained from the intelligence arm of a foreign government can pose an obstacle to future cooperation between the United States and the foreign government. Intelligence information is often shared between governments with the express understanding that such cooperation will remain secret. In terrorism trials, the prosecution may face the dilemma of either (i) turning over the evidence of foreign cooperation and thereby undermining the trust of the foreign government, (ii) proceeding with litigation on a more restricted set of evidence, or, in some rare cases, (iii) withdrawing some charges against the defendant.

#### Intel can’t leak in a NSC- trials with classified evidence would be closed- otherwise it’s open which solves our transparency and legitimacy advantage

Joseph Schaeffer, Pitt Law '12, attended a talk on a proposed national security court system given by US Coast Guard Captain Glenn Sulmasy\*, a law professor at the US Coast Guard Academy and a National Security and Human Rights Fellow at Harvard Universityhttp://jurist.org/dateline/2009/10/us-national-security-courts-sulmasys.php

But all this was only a preview of what was to come. Sulmasy felt obligated to rebut the feasibility of the military commission and the civilian court system alternatives, perhaps to preempt criticisms that his third way is unnecessary. According to Sulmasy, the primary defect of the civilian court system consists of its strict evidentiary and procedural requirements. While this might initially seem counter-intuitive, it actually makes quite a bit of sense. Guantanamo detainees were not captured according to civilian evidentiary and procedural requirements. Trial courts could deal with this by either acquitting detainees en masse or relaxing evidentiary and procedural requirements, thereby raising constitutional issues and weakening the protections afforded all Americans. Neither of these options seems particularly attractive. Sulmasy also argued that civilian court judges lack the requisite experience to try national security cases and that it would be difficult to find impartial jurors. Turning to military commissions, Sulmasy defended their use while simultaneously acknowledging their impracticability. Arguing that military commissions are both constitutional and just, since most detainees have more rights than in their home countries, Sulmasy nonetheless acknowledged that the previous administration's public relations blunders meant that the military commission would need to be abandoned. One could argue that this was a gross understatement, but Sulmasy seemed anxious to move on. It was time to discuss his proposed National Security Court System. A National Security Court System would be established by Congress under its Article III powers, similar in nature to current specialty taxation, bankruptcy, and FISA courts. The NSCS would be firmly in the public sphere, overseen by the Department of Justice rather than the Department of Defense, and proceedings would be presumptively open. As explained by Sulmasy, this means that the press, international observers, etc., would have access to the proceedings, except where classification and national security issues mandated otherwise. Detainees would be represented by either Judge Advocate Generals or federal public defenders and would be guaranteed a habeas corpus hearing within three months of capture and full trial within one year of capture. Detainees would not receive the full benefit of American constitutional protections, but would rather be subject to lessened evidentiary and procedural requirements. Sulmasy acknowledged the controversiality of these lessened protections without prompt, but argued again that the majority of detainees still would have more rights than in their home countries. The trials would occur on military bases for security reasons and would be chaired by special military National Security Court judges. Finally, the NSCS would be established with a sunset provision, which Sulmasy proposed setting at five years, in order to force Congress to reevaluate its efficacy and Constitutionality at some future point.

### Oil

#### The court’s key to getting groups like Al Qaeda and their close affiliates Glenn **Sulmasy 2009** THE NATIONAL SECURITY COURT SYSTEM A NATURAL EVOLUTION OF JUSTICE IN AN AGE OF TERROR – pg 180-181 Professor of law, commander, and judge advocate at the US Coast Guard Academy Similarly, legislation creating the system should be clear that **persons subject to the court,** regardless of citizenship**, are those alleged to have been, or are, members of al Qaeda or affiliated groups** that engage or plan to engage in acts of international terrorism. The Congress needs to clarify that **“any terrorist” is not subject to this court but simply those who engage in international terrorism.** This removes the fear of some that the court would have jurisdiction over any group that engages in terrorism. The **limited jurisdiction** of the NSCS **would serve as a check on any arbitrary use of the court system.**

#### Yemen is the training ground for terrorism against Saudi Arabia – will attack oil facilities

Ulrichsen 2011 (Kristian Ulrichsen, Kuwait Research Fellow in the Kuwait Programme for Development, Governance and Globalisation in the Gulf States Centre for the Study of Global Governance at the London School of Economics and Political Science, "The Geopolitics of Insecurity in the Horn of Africa and the Arabian Peninsula," Middle East Policy Council, http://www.mepc.org/journal/middle-east-policy-archives/geopolitics-insecurity-horn-africa-and-arabian-peninsula?print)

The reconstitution of AQAP in January 2009, following the merger of al-Qaeda's Yemeni and Saudi wings, confirmed suspicions held by many security officials that the counterterrorism campaign in the GCC against the original AQAP organization had merely displaced the threat from terrorism to the undergoverned periphery of the peninsula.3 From the beginning, the organization featured a newer generation of radicals who displayed both the intent and, increasingly, the capability to operate transnationally. This built upon existing trends of terror suspects' infiltration and weapons smuggling across the Yemeni-Saudi boundary. In May 2008, for example, Yemen's vice president, Abd al-Rab Mansur al-Hadi, claimed that 16,000 suspected members of al-Qaeda had been expelled from Yemen since 2003. This figure included many "Arab Afghans" who had fled Afghanistan for Saudi Arabia following the overthrow of the Taliban in 2001, and subsequently moved to Yemen to avoid capture by Saudi security forces.4 Despite these arrests, plots and cells continued to be uncovered in Yemen during 2008, including a Yemeni-led cell linked to al-Qaeda that was planning to attack oil-installation facilities in the Eastern Province of Saudi Arabia.5 Reminiscent of al-Qaeda's failed attack in February 2006 at Abqaiq, this highlighted the vulnerability of Saudi Arabia's 1,800-kilometer border with Yemen.6 The coordinated attack on the U.S. embassy compound in the Yemeni capital of Sanaa on September 17, 2008, which killed 10 people, marked the beginning of the "second generation" of transnational terrorism in the peninsula. This attack melded the threats to regional security from Iraq, al-Qaeda and the growing lawlessness in Yemen itself. Three of the six suicide bombers had recently returned from Iraq; following their arrival in Yemen, they reportedly attended al-Qaeda training camps in the southern provinces of Hadramawt and Maarib.7 Yemeni security officials already suspected these camps of training an aggressive new generation of extremist leaders and jihadi footsoldiers.8 Together with the relocation of extremists from Saudi Arabia and the growing incidence of militant flows linking Yemen to the Islamist insurgents of Al-Shabaab in Somalia, they represented a deadly new threat to internal security in Yemen and regional stability in the Arabian Peninsula.9

#### Attacks on Saudi oil facilities collapse the global economy

Gartenstein-Ross 2011 (Daveed Gartenstein-Ross, Directs the Center for the Study of Terrorist Radicalization at the Foundation for the Defense of Democracies, May 23, 2013, "Osama's Oil Obsession," Foreign Policy, www.foreignpolicy.com/articles/2011/05/23/osamas\_oil\_obsession)

Bin Laden long believed that undermining the U.S. economy was central to his war against the United States -- an outlook that has permeated al Qaeda's ranks and will outlive him. Al Qaeda views attacking the oil supply as a smart strategy for good reason: America's reliance on oil for its transportation needs makes it a commodity that, if disrupted or made unaffordable, will cause the U.S. economy to collapse. The United States holds only 3 percent of conventional global oil reserves, yet uses 25 percent of the world's daily production. It imports more than 66 percent of its oil, amounting to a daily purchase of 12 million barrels of imported oil. A significant rise in the price of oil due to a terrorist attack would deal al Qaeda's main enemy a severe economic blow.¶ The threat that keeps counterterrorism officials up at night is a massive strike on Saudi oil installations, taking advantage of the limited number of production hubs to knock a significant amount of oil off the world market. The kingdom relies on its Abqaiq facility to process two-thirds of its crude oil, and on two primary terminals (Ras Tanura and Ras al-Ju'aymah) to export its oil to the world. The economic impact of a successful attack on one of these targets would be tremendous: Gal Luft and Anne Korin of the Institute for the Analysis of Global Security estimate that, if a terrorist cell hijacked a plane and crashed it into either the Abqaiq or Ras Tanura facilities in a 9/11-style attack, it could "take up to 50% of Saudi oil off the market for at least six months and with it most of the world's spare capacity, sending oil prices through the ceiling."¶ Former CIA case officer Robert Baer agrees, writing his 2004 book Sleeping with the Devil, "A single jumbo jet with a suicide bomber at the controls, hijacked during takeoff from Dubai and crashed into the heart of Ras Tanura, would be enough to bring the world's oil-addicted economies to their knees, America's along with them."¶ The prospect of a terrorist strike is so worrying because of the critical role that Saudi oil production plays in the world economy. Saudi Arabia produces almost 10 million barrels of oil per day, and is the only country able to maintain excess daily production capacity of around 1.5 million barrels per day (a "swing reserve") to keep world prices stable.Al Qaeda has certainly tried to attack the kingdom's key oil targets. The threat of terrorist attacks on Saudi oil infrastructure first became a reality in September 2005, when a 48-hour shootout with Islamic militants at a villa in the Saudi seaport of al-Dammam ended with Saudi police introducing light artillery. When police entered the compound in the aftermath of the battle, they found not only what Newsweek described as "enough weapons for a couple of platoons of guerilla fighters," but also forged documents that would have given the terrorists access to the country's key oil and gas facilities. Saudi Interior Minister Prince Nayef bin Abdul Aziz confirmed to the newspaper Okaz that the cell had planned to attack energy facilities, noting that "there isn't a place that they could reach that they didn't think about."

#### Global economic crisis causes war---strong statistical support—also causes great power transitions

Royal 10 – Jedediah Royal, Director of Cooperative Threat Reduction at the U.S. Department of Defense, 2010, “Economic Integration, Economic Signaling and the Problem of Economic Crises,” in Economics of War and Peace: Economic, Legal and Political Perspectives, ed. Goldsmith and Brauer, p. 213-214

Less intuitive is how periods of economic decline may increase the likelihood of external conflict. Political science literature has contributed a moderate degree of attention to the impact of economic decline and the security and defence behaviour of interdependent states. Research in this vein has been considered at systemic, dyadic and national levels. Several notable contributions follow. First, on the systemic level, Pollins (2008) advances Modelski and Thompson’s (1996) work on leadership cycle theory, finding that rhythms in the global economy are associated with the rise and fall of pre-eminent power and the often bloody transition from one pre-eminent leader to the next. As such, exogenous shocks such as economic crises could usher in a redistribution of relative power (see also Gilpin, 10981) that leads to uncertainty about power balances, increasing the risk of miscalculation (Fearon, 1995). Alternatively, even a relatively certain redistribution of power could lead to a permissive environment for conflict as a rising power may seek to challenge a declining power (Werner, 1999). Seperately, Polllins (1996) also shows that global economic cycles combined with parallel leadership cycles impact the likelihood of conflict among major, medium, and small powers, although he suggests that the causes and connections between global economic conditions and security conditions remain unknown. Second, on a dyadic level, Copeland’s (1996,2000) theory of trade expectations suggests that ‘future expectation of trade’ is a significant variable in understanding economic conditions and security behavior of states. He argues that interdependent states are likely to gain pacific benefits from trade so long as they have an optimistic view of future trade relations. However, if the expectation of future trade decline, particularly for difficult to replace items such as energy resources, the likelihood for conflict increases , as states will be inclined to use force to gain access to those resources. Crises could potentially be the trigger for decreased trade expectations either on its own or because it triggers protectionist moves by interdependent states. Third, others have considered the link between economic decline and external armed conflict at a national level. Blomberg and Hess (2002) find a strong correlation between internal conflict and external conflict, particularly during periods of economic downturn. They write, The linkages between internal and external conflict and prosperity are strong and mutually reinforcing. Economic conflict tends to spawn internal conflict, which in turn returns the favour. Moreover, the presence of a recession tends to amplify the extent to which international and external conflicts self-reinforce each other. (Blomberg & Hess, 2002, p.89). Economic decline has also been linked with an increase in the likelihood of terrorism (Blomberg, Hess, & Weerapana, 2004), which has the capacity to spill across borders and lead to external tensions. Furthermore, crises generally reduce the popularity of a sitting government. ‘Diversionary theory’ suggests that, when facing unpopularity arising from economic decline, sitting governments have increased incentives to create a ‘rally round the flag’ effect. Wang (1996), DeRouen (1995), and Blomberg, Hess and Thacker (2006) find supporting evidence showing that economic decline and use of force are at least indirectly correlated. Gelpi (1997) Miller (1999) and Kisanganie and Pickering (2009) suggest that the tendency towards diversionary tactics are greater for democratic states than autocratic states, due to the fact that democratic leaders are generally more susceptible to being removed from office due to lack of domestic support. DeRouen (2000) has provided evidence showing that periods of weak economic performance in the United States, and thus weak presidential popularity, are statistically linked to an increase in the use of force..

### Retal

**Extinction via retal**

**Ayson 2010** (Robert Ayson, Professor of Strategic Studies and Director of the Centre for Strategic Studies: New Zealand at the Victoria University of Wellington, “After a Terrorist Nuclear Attack: Envisaging Catalytic Effects,” Studies in Conflict & Terrorism, Volume 33, Issue 7, July, Available Online to Subscribing Institutions via InformaWorld)

A terrorist nuclear attack, and even the use of nuclear weapons in response by the country attacked in the first place, would not necessarily represent the worst of the nuclear worlds imaginable. Indeed, there are reasons to wonder whether nuclear terrorism should ever be regarded as belonging in the category of truly existential threats. A contrast can be drawn here with the global catastrophe that would come from a massive nuclear exchange between two or more of the sovereign states that possess these weapons in significant numbers. Even the worst terrorism that the twenty-first century might bring would fade into insignificance alongside considerations of what a general nuclear war would have wrought in the Cold War period. And it must be admitted that as long as the major nuclear weapons states have hundreds and even thousands of nuclear weapons at their disposal, there is always the possibility of a truly awful nuclear exchange taking place precipitated entirely by state possessors themselves. But these two nuclear worlds—a non-state actor nuclear attack and a catastrophic interstate nuclear exchange—are not necessarily separable. It is just possible that some sort of terrorist attack, and especially an act of nuclear terrorism, could precipitate a chain of events leading to a massive exchange of nuclear weapons between two or more of the states that possess them. In this context, today’s and tomorrow’s terrorist groups might assume the place allotted during the early Cold War years to new state possessors of small nuclear arsenals who were seen as raising the risks of a catalytic nuclear war between the superpowers started by third parties. These risks were considered in the late 1950s and early 1960s as concerns grew about nuclear proliferation, the so-called n+1 problem. It may require a considerable amount of imagination to depict an especially plausible situation where an act of nuclear terrorism could lead to such a massive inter-state nuclear war. For example, in the event of a terrorist nuclear attack on the United States, it might well be wondered just how Russia and/or China could plausibly be brought into the picture, not least because they seem unlikely to be fingered as the most obvious state sponsors or encouragers of terrorist groups. They would seem far too responsible to be involved in supporting that sort of terrorist behavior that could just as easily threaten them as well. Some possibilities, however remote, do suggest themselves. For example, how might the United States react if it was thought or discovered that the fissile material used in the act of nuclear terrorism had come from Russian stocks,40 and if for some reason Moscow denied any responsibility for nuclear laxity? The correct attribution of that nuclear material to a particular country might not be a case of science fiction given the observation by Michael May et al. that while the debris resulting from a nuclear explosion would be “spread over a wide area in tiny fragments, its radioactivity makes it detectable, identifiable and collectable, and a wealth of information can be obtained from its analysis: the efficiency of the explosion, the materials used and, most important … some indication of where the nuclear material came from.”41 Alternatively, if the act of nuclear terrorism came as a complete surprise, and American officials refused to believe that a terrorist group was fully responsible (or responsible at all) suspicion would shift immediately to state possessors. Ruling out Western ally countries like the United Kingdom and France, and probably Israel and India as well, authorities in Washington would be left with a very short list consisting of North Korea, perhaps Iran if its program continues, and possibly Pakistan. But at what stage would Russia and China be definitely ruled out in this high stakes game of nuclear Cluedo? In particular, if the act of nuclear terrorism occurred against a backdrop of existing tension in Washington’s relations with Russia and/or China, and at a time when threats had already been traded between these major powers, would officials and political leaders not be tempted to assume the worst? Of course, the chances of this occurring would only seem to increase if the United States was already involved in some sort of limited armed conflict with Russia and/or China, or if they were confronting each other from a distance in a proxy war, as unlikely as these developments may seem at the present time. The reverse might well apply too: should a nuclear terrorist attack occur in Russia or China during a period of heightened tension or even limited conflict with the United States, could Moscow and Beijing resist the pressures that might rise domestically to consider the United States as a possible perpetrator or encourager of the attack? Washington’s early response to a terrorist nuclear attack on its own soil might also raise the possibility of an unwanted (and nuclear aided) confrontation with Russia and/or China. For example, in the noise and confusion during the immediate aftermath of the terrorist nuclear attack, the U.S. president might be expected to place the country’s armed forces, including its nuclear arsenal, on a higher stage of alert. In such a tense environment, when careful planning runs up against the friction of reality, it is just possible that Moscow and/or China might mistakenly read this as a sign of U.S. intentions to use force (and possibly nuclear force) against them. In that situation, the temptations to preempt such actions might grow, although it must be admitted that any preemption would probably still meet with a devastating response. As part of its initial response to the act of nuclear terrorism (as discussed earlier) Washington might decide to order a significant conventional (or nuclear) retaliatory or disarming attack against the leadership of the terrorist group and/or states seen to support that group. Depending on the identity and especially the location of these targets, Russia and/or China might interpret such action as being far too close for their comfort, and potentially as an infringement on their spheres of influence and even on their sovereignty. One far-fetched but perhaps not impossible scenario might stem from a judgment in Washington that some of the main aiders and abetters of the terrorist action resided somewhere such as Chechnya, perhaps in connection with what Allison claims is the “Chechen insurgents’ … long-standing interest in all things nuclear.”42 American pressure on that part of the world would almost certainly raise alarms in Moscow that might require a degree of advanced consultation from Washington that the latter found itself unable or unwilling to provide. There is also the question of how other nuclear-armed states respond to the act of nuclear terrorism on another member of that special club. It could reasonably be expected that following a nuclear terrorist attack on the United States, both Russia and China would extend immediate sympathy and support to Washington and would work alongside the United States in the Security Council. But there is just a chance, albeit a slim one, where the support of Russia and/or China is less automatic in some cases than in others. For example, what would happen if the United States wished to discuss its right to retaliate against groups based in their territory? If, for some reason, Washington found the responses of Russia and China deeply underwhelming, (neither “for us or against us”) might it also suspect that they secretly were in cahoots with the group, increasing (again perhaps ever so slightly) the chances of a major exchange. If the terrorist group had some connections to groups in Russia and China, or existed in areas of the world over which Russia and China held sway, and if Washington felt that Moscow or Beijing were placing a curiously modest level of pressure on them, what conclusions might it then draw about their culpability? If Washington decided to use, or decided to threaten the use of, nuclear weapons, the responses of Russia and China would be crucial to the chances of avoiding a more serious nuclear exchange. They might surmise, for example, that while the act of nuclear terrorism was especially heinous and demanded a strong response, the response simply had to remain below the nuclear threshold. It would be one thing for a non-state actor to have broken the nuclear use taboo, but an entirely different thing for a state actor, and indeed the leading state in the international system, to do so. If Russia and China felt sufficiently strongly about that prospect, there is then the question of what options would lie open to them to dissuade the United States from such action: and as has been seen over the last several decades, the central dissuader of the use of nuclear weapons by states has been the threat of nuclear retaliation. If some readers find this simply too fanciful, and perhaps even offensive to contemplate, it may be informative to reverse the tables. Russia, which possesses an arsenal of thousands of nuclear warheads and that has been one of the two most important trustees of the non-use taboo, is subjected to an attack of nuclear terrorism. In response, Moscow places its nuclear forces very visibly on a higher state of alert and declares that it is considering the use of nuclear retaliation against the group and any of its state supporters. How would Washington view such a possibility? Would it really be keen to support Russia’s use of nuclear weapons, including outside Russia’s traditional sphere of influence? And if not, which seems quite plausible, what options would Washington have to communicate that displeasure? If China had been the victim of the nuclear terrorism and seemed likely to retaliate in kind, would the United States and Russia be happy to sit back and let this occur? **In the charged** atmosphere immediately after a nuclear terrorist attack, how would the attacked country respond to pressure from other major nuclear powers not to respond in kind? The phrase “how dare they tell us what to do” immediately springs to mind. Some might even go so far as to interpret this concern as a tacit form of sympathy or support for the terrorists. This might not help the chances of nuclear restraint.

## Solvency

#### The creation of a National Security Court is crucial to restore legitimacy and rule of law in detention

David Welsh 11, J.D. from the University of Utah, “Procedural Justice Post-9/11: The Effects of Procedurally Unfair Treatment of Detainees on Perceptions of Global Legitimacy”, http://law.unh.edu/assets/images/uploads/publications/unh-law-review-vol-09-no2-welsh.pdf

In the context of the War on Terror, legitimacy is the critical missing element under the current U.S. detention regime. Legitimacy can be defined as “a psychological property of an authority, institution, or social arrangement that leads those connected to it to believe that it is appropriate, proper, and just.” 50 As far back as Plato and Aristotle, philosophers have recognized that influencing others merely through coercion and power is costly and inefficient. 51 Today, empirical evidence suggests that legitimacy, rather than deterrence, is primarily what causes individuals to obey the law. 52 Thus, while legal authorities may possess the immediate power to stop illegal action, long-term compliance requires that the general public perceives the law to be legitimate. 53 Terrorism is primarily an ideological war that cannot be won by technology that is more sophisticated or increased military force. 54 While nations combating terrorism must continue to address immediate threats by detaining suspected terrorists, they must also consider the prevention of future threats by analyzing how their policies are perceived by individuals throughout the world. Ultimately, in the War on Terror, “the benefits to be derived from maximizing legitimacy are too important to neglect.” 55¶ Over time, perceptions of legitimacy create a “reservoir of support” for an institution that goes beyond mere self -interest. 56 In the context of government:¶ Legitimacy is [an] endorphin of the democratic body politic; it is the substance that oils the machinery of democracy, reducing the friction that inevitably arises when people are not able to get everything they want from politics. Legitimacy is loyalty; it is a reservoir of goodwill that allows the institutions of government to go against what people may w ant at the moment without suffering debilitating consequences. 57¶ The widespread acceptance of highly controversial decisions by the U.S. Supreme Court illustrates the power of institutional legitimacy. 58 The Court itself noted that it “cannot buy support for its decisions by spending money and, except to a minor degree, it can- not independently coerce obedience to its decrees.” 59 “The Court’s power lies, rather, in its legitimacy . . . .” 60 For example, by empha- sizing “equal treatment,” “honesty and neutrality,” “gathering infor- mation before decision making,” and “making princip led, or rule based, decisions instead of political decisions,” the Court maintained legitimacy through the controversial abortion case Planned Parent- hood of Southeastern Pennsylvania v. Casey in 1992 . 61 Thus, al- though approximately half of Americans oppose abort ion, 62 the vast majority of these individuals give deference to the Court’s ruling on this issue. 63¶ In the post-World War II era, the United States built up a world- wide reservoir of support based upon four pillars: “its commitment to international law, its acceptance of consensual decision-making, its reputation for moderation, and its identification with the preservation of peace.” 64 Although some U.S. policies between 1950 and 2001 did not align with these pillars, on a whole the United States legitimized itself as a world superpower during this period. 65 In the 1980s, President Ronald Reagan spoke of America as a “shining city on a hill,” suggesting that it was a model for the nations of the world to look to. 66 While the United States received a virtually unprecedented outpouring of support from the international community following 9/11, a nation’s reservoir of support will quickly evaporate when its government overreacts. Across the globe, individuals have expressed a growing dissatisfaction with U.S. conduct in the War on Terror, and by 2006, even western allies of the Uni ted States lobbied for the immediate closure of Guantanamo Bay, callin g it “an embar- rassment.” 67 Former Secretary of State Colin Powell proclaimed that “Guantanamo has become a major, major problem . . . in the way the world perceives America and if it were up to me I would close Guantanamo not tomorrow but this afternoon . . . .” 68 Similarly, President Obama noted in his campaign that “Guantanamo has become a recruiting tool for our enemies.” 69¶ Current U.S. detention policies erode each of the four pillars on which the United States established global legitimacy. In fact, critics have argued that the “United States has assumed man y of the very features of the ‘rogue nations’ against which it has rhetorically—and sometimes literally—done battle over the years.” 70 While legitimacy cannot be regained overnight, the recent election o f President Barack Obama presents a critical opportunity for a re-articulation of U.S. detention policies. Although President Obama issued an executive order calling for the closure of Guantanamo Bay only two days after being sworn into office, 71 significant controversy remains about the kind of alternate detention system that will replace it. 72 In contrast to the current model, which has largely rendered in efficient decisions based on ad hoc policies, I argue for the establishment of a domestic terror court (DTC) created specifically to deal with the unique procedural issues created by a growing number of suspected terrorists.

#### NSC is the best solution to the detainee issue---other options fail

Anthony L. Kimery 9, Homeland Security Today's Online Editor and Online Media Division manager, draws on 30 years of experience and extensive contacts as he investigates homeland security, counterterrorism and border security, citing Glenn Sulmasy, first permanent commissioned military law professor at the Coast Guard Academy, where he is a Professor of Law teaching international, constitutional, and criminal law, "The Case For A 'National Security Court'", December 3, [www.hstoday.us/blogs/the-kimery-report/blog/the-case-for-a-national-security-court/a9333d82c11cecd35e74c8c0b65c2698.html](http://www.hstoday.us/blogs/the-kimery-report/blog/the-case-for-a-national-security-court/a9333d82c11cecd35e74c8c0b65c2698.html)

“The administration is now fully aware that this is a vastly complex issue – and one that requires a complex solution,” Sulmasy said.¶ “The President, in an eloquent speech at the National Archives in late May, identified there would be various options to consider for the detainees: diplomatic re-patriation, the use of military commissions, civilian Article III federal courts, and that he was still reviewing what to do with the 75-100 detainees that do not fit neatly in any of these regimes. That is where the National Security Court system provides the best, most pragmatic alternative for those difficult cases, as well as those inevitable future captures in the War on al Qaeda,” Sulmasy said.¶ Sulmasy continued: “Recent reports discuss the possibility of a hybrid court held on military bases within the US. Of course, I am delighted to hear of such ideas and progress. However, the nation needs to go further and create one court system that is best suited for this unique Al Qaeda fighter once captured. Rather than offering options to the detainees of either choosing a military commission or a civilian court, the National Security Court system provides one forum to attain the necessary balance between human rights, due process, and national security."¶ “We have to move forward, and recognize that the two existing paradigms – use of our traditional federal courts or the use of the law of war model (military commissions) – are simply jamming a square peg in a round hole. The administration now has the opportunity to statutorily create a legal system that best serves the needs of the nation, as well as the detainees.”¶ “The key distinction with my system from those now proposed by various commentators and scholars … is that the NSCS must be presumptively adjudicatory – and not used as a means of preventative detention,” Sulmasy said, noting that “the presumption should be to try, and if determined by the Commander-in-Chief and the military that such a trial would be either too risky or not possible, then as an exception such a decision can be made. This distinction is important and vital to ensure we fully support the rule of law, promote the national security, and still garner and maintain international support for our efforts.”

# 2AC

## Terror

#### New merger proves threat is real

Thomas 2013 (Matthew J. Thomas, Monterey Institute of International Studies, August 8, 2013, “Exposing and exploiting weaknesses in the merger of Al- Qaeda and Al-Shabaab”, http://www.tandfonline.com/loi/fswi20)

Still, the merger may pose new challenges that amplify the threat of al-Qaeda,27 as the terrorist organization’s rising influence in Africa may lead to a trans-Saharan ‘arc of instability’ with both regional and international consequences.28 Having strategically expanded its operational reach into the Horn of Africa (HOA), al-Qaeda may encourage al-Shabaab and its Yemeni affiliate al-Qaeda in the Arabian Peninsula (AQAP) to carry out more attacks against Western interests abroad and disrupt the flow of oil through the geostrategic Bab al-Mandeb Strait in the Gulf of Aden. Furthermore, al-Qaeda now has unrestricted access to al-Shabaab’s unprecedented number of Western recruits, many of whom are US and European passport holders, and may encourage them to infiltrate back into various Western nations in order carry out and/or incite domestic terrorist attacks.29

#### The threat is high – fissile material goes missing every year – al Qaeda has nuclear ambitions

Dahl, 2013 (Fredrik Dahl, Reuters, July 1, 2013, “Governments warn about nuclear terrorism threat” <http://www.reuters.com/article/2013/07/01/us-nuclear-security-idUSBRE96010E20130701>)

\*NSEG=Nuclear Security Governance Experts Group

Cites Yukiya Amano, director general of the IAEA

Analysts say radical groups could theoretically build a crude but deadly nuclear bomb if they had the money, technical knowledge and materials needed. Ministers remained "concerned about the threat of nuclear and radiological terrorism ... More needs to be done to further strengthen nuclear security worldwide", the statement said. The document "encouraged" states to take various measures such as minimizing the use of highly-enriched uranium, but some diplomats said they would have preferred firmer commitments. Many countries regard nuclear security as a sensitive political issue that should be handled primarily by national authorities. This was reflected in the statement's language. Still, Yukiya Amano, director general of the International Atomic Energy Agency (IAEA), which hosted the conference, said the agreement was "very robust" and represented a major step forward. RADICAL GROUPS' "NUCLEAR AMBITIONS" Amano earlier warned the IAEA-hosted conference against a "false sense of security" over the danger of nuclear terrorism. Holding up a small lead container that was used to try to traffic highly enriched uranium in Moldova two years ago, the U.N. nuclear chief said it showed a "worrying level of knowledge on the part of the smugglers". "This case ended well," he said, referring to the fact that the material was seized and arrests were made. But he added: "We cannot be sure if such cases are just the tip of the iceberg." Obtaining weapons-grade fissile material - highly enriched uranium or plutonium - poses the biggest challenge for militant groups, so it must be kept secure both at civilian and military facilities, experts say. An apple-sized amount of plutonium in a nuclear device and detonated in a highly populated area could instantly kill or wound hundreds of thousands of people, according to the Nuclear Security Governance Experts Group (NSGEG) lobby group. But experts say a so-called "dirty bomb" is a more likely threat than a nuclear bomb. In a dirty bomb, conventional explosives are used to disperse radiation from a radioactive source, which can be found in hospitals or other places that are generally not very well protected. More than a hundred incidents of thefts and other unauthorized activities involving nuclear and radioactive material are reported to the IAEA every year, Amano said. "Some material goes missing and is never found," he said. U.S. Energy Secretary Ernest Moniz said al Qaeda was still likely to be trying to obtain nuclear material for a weapon. "Despite the strides we have made in dismantling core al Qaeda we should expect its adherents ... to continue trying to achieve their nuclear ambitions," he said.

#### Growth is key to the environment

Bhagwati 4– Economics Professor, Columbia (Jagdish, In Defense of Globalization, p 144-5)

The belief that specific pollutants, such as sulfur dioxide, resulting from increased economic activity will rise in urban areas as per capita income increases depends on two assumptions: that all activities expand uniformly and that pollution per unit output in an activity will not diminish. But neither assumption is realistic. As income rises, activities that cause more pollution may contract and those that cause less pollution may expand, so the sulfur dioxide concentration may fall instead of rise. In fact, **as development occurs, economies** typically **shift from primary production**, which is often pollution intensive, to manufactures, which are often less so, and then **to traded services, which are** currently even **less pollution-intensive**. This natural evolution itself could then reduce the pollution-intensity of income as development proceeds. Then again, the available technology used, and technology newly invented, may become more environment-friendly over time. Both phenomena constitute an ongoing, observed process. The shift to environment-friendly technology can occur naturally as households, for example, become less poor and shift away from indoor cooking with smoke-causing coal-based fires to stoves using fuels that cause little smoke. 19 But this shift is often a result also of environment-friendly technological innovation prompted by regulation. Thus, restrictions on allowable fuel efficiency have promoted research by the car firms to produce engines that yield more miles per gallon. But these **regulations are created by increased environmental consciousness**, for **which** the environmental groups can take credit. And the rise of these environmental groups **is**, in turn, **associated with increased incomes.** Also, revelations about **the astonishing environmental degradation in the Soviet Union** and its satellites **underline how the absence of democratic feedback** and controls is a surefire recipe for environmental neglect. The fact that economic growth generally promotes democracy, as discussed in Chapter 8, is yet another way in which rising income creates a better environment. In all these ways, then, increasing incomes can reduce rather than increase pollution. In fact, for several pollutants, empirical studies have found a bell-shaped curve: pollution levels first rise with income but then fall with it. 20 The economists Gene Grossman and Alan Krueger, who estimated the levels of different pollutants such as sulfur dioxide in several cities worldwide, were among the first to show this, estimating that for sulfur dioxide levels, the peak occurred in their sample at per capita incomes of $5,000–6,000. 21 Several **historical examples can also be adduced: the reduction in smog** today compared to what the industrial revolution produced in European cities in the nineteenth century, **and** the **reduced deforestation** of United States compared to a century ago.

## Heg

#### Reputational legitimacy theory is true and key to foster cooperation

Douglas M Gibler 8, Department of Political Science University of Alabama, Tuscaloosa “The Costs of Reneging: Reputation and Alliance Formation” The Journal of Conflict Resolution, Vol. 52, No. 3, June, pp. 426-454

More sophisticated treatments of the reputation logic have been produced by formal theorists, both in economics and in political science. In economics, the ability of firm reputation to deter competition has been well analyzed (see Kreps and Wilson, 1982; Wilson, 1989; and Weigelt and Camerer, 1988), and political scientists have adopted these theories as tools in understanding the types of signals leaders can send (see for example, Alt, Calvert, and Humes, 1988; Ordeshook, 1986; and Wagner, 1992). Sartori (2002) and Guisinger and Smith (2002) probably go furthest in arguing that leaders and their envoys have incentives to develop certain types of reputations in order to overcome the uncertainty endemic to crisis diplomacy. In these models, a reputation for honesty allows the sender to credibly give information that would otherwise be “cheap talk”, and thus, leaders may concede less important issues, without bluffing, in order to maintain a reputation for honesty when more important issues arise (Sartori, 2002: 122).¶ The sum argument of these statements and theoretical treatments is clear. Decision-makers argue and act, at least in part, based on reputations. Traditional deterrence theory suggests reputations should be pursued by leaders as important and manipulable tools, which are useful in future crises. Formal theorists agree; reputations provide valuable information when the costs of signaling are low.

**Heg solves everything**

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First the absurdity: A few of the most over-the-top Bush-Cheney neocons did indeed promote a vision of U.S. primacy by which America shouldn't be afraid to wage war to keep other rising powers at bay. **It was a nutty concept then**, and it **remains a nutty concept today**. But since it feeds a lot of major military weapons system purchases, especially for the China-centric Air Force and Navy, don't expect it to disappear so long as the Pentagon's internal budget fights are growing in intensity. ¶ Meanwhile, the Chinese do their stupid best to fuel this outdated logic by building a force designed to keep America out of East Asia just as their nation's dependency on resources flowing from unstable developing regions skyrockets. With America's fiscal constraints now abundantly clear, the world's primary policing force is pulling back, while that force's implied successor is nowhere close to being able to field a similar power-projection capacity -- and never will be. So with NATO clearly stretched to its limits by the combination of Afghanistan and Libya, a lot of future fires in developing regions will likely be left to burn on their own. We'll just have to wait and see how much foreign commentators delight in that G-Zero dynamic in the years ahead. ¶ That gets us to the original "insult": the U.S. did not lord it over the world in the 1990s. Yes, it did argue for and promote the most rapid spread of globalization possible. But **the "evil" of the Washington Consensus** only yielded the **most rapid growth of a truly global middle class that the world has ever seen**. Yes, we can, in our current economic funk, somehow cast that development as the "loss of U.S. hegemony," in that the American consumer is no longer the demand-center of globalization's universe. But this is without a doubt the most amazing achievement of U.S. foreign policy, surpassing even our role in World War II. ¶ Numerous world powers served as global or regional hegemons before we came along, **and their record on economic development was painfully transparent**: **Elites got richer, and the masses got poorer**. Then America showed up after World War II and engineered an international liberal trade order, one that was at first admittedly limited to the West. But within four decades it went virally global, and now for the first time in history, more than half of our planet's population lives in conditions of modest-to-mounting abundance -- **after millennia of mere sustenance**. ¶ You may choose to interpret this as some sort of cosmic coincidence, but the historical sequence is undeniable: **With its unrivaled power, America made the world a far better place**. ¶ That spreading wave of global abundance has reformatted all sorts of traditional societies that lay in its path. Some, like the Chinese, have adapted to it magnificently in an economic and social sense, with the political adaptation sure to follow eventually. Others, being already democracies, have done far better across the board, like Turkey, Indonesia and India. But there are also numerous traditional societies where that reformatting impulse from below has been met by both harsh repression from above and violent attempts by religious extremists to effect a "counterreformation" that firewalls the "faithful" from an "evil" outside world.¶ Does this violent blowback constitute the great threat of our age? Not really. As I've long argued, this "friction" from globalization's tectonic advance is merely what's left over now that great-power war has gone dormant for 66 years and counting, with interstate wars now so infrequent and so less lethal as to be dwarfed by the civil strife that plagues those developing regions still suffering weak connectivity to the global economy. ¶ Let's remember what the U.S. actually did across the 1990s after the Soviet threat disappeared. It went out of its way to police the world's poorly governed spaces, battling rogue regimes and answering the 9-1-1 call repeatedly when disaster and/or civil strife struck vulnerable societies. **Yes, playing globalization's bodyguard made America public enemy No. 1 in the eyes of its most violent rejectionist movements**, including al-Qaida, but we made the effort because, in our heart of hearts, we knew that this is what blessed powers are supposed to do. ¶ Some, like the Bush-Cheney neocons, were driven by more than that sense of moral responsibility. They saw a chance to remake the world so as to assure U.S. primacy deep into the future. The timing of their dream was cruelly ironic, for it blossomed just as America's decades-in-the-making grand strategy reached its apogee in the peaceful rise of so many great powers at once. Had Sept. 11 not intervened, the neocons would likely have eventually targeted rising China for strategic demonization. Instead, they locked in on Osama bin Laden. The rest, as they say, is history. ¶ The follow-on irony of the War on Terror is that its operational requirements actually revolutionized a major portion of the U.S. military -- specifically the Army, Marines and Special Forces -- in such a way as to redirect their strategic ethos from big wars to small ones. It also forged a new operational bond between the military's irregular elements and that portion of the Central Intelligence Agency that pursues direct action against transnational bad actors. The up-front costs of this transformation were far too high, largely because the Bush White House stubbornly refused to embrace counterinsurgency tactics until after the popular repudiation signaled by the 2006 midterm election. But the end result is clear: **We now have the force we actually need to manage this global era**.¶ But, of course, **that can all be tossed into the dumpster** if we convince ourselves that our "loss" of hegemony was somehow the result of our own misdeed, instead of being our most profound gift to world history. Again, we grabbed the reins of global leadership and patiently engineered not only the **greatest redistribution -- and expansion -- of global wealth ever seen,** but also the **greatest consolidation of global peace ever seen**. ¶ Now, if we can sensibly realign our strategic relationship with the one rising great power, China, whose growing strength upsets us so much, then in combination with the rest of the world's rising great powers we can collectively wield enough global policing power to manage what's yet to come. ¶ As always, **the choice is ours**.

#### No impact turns---hegemonic decline emboldens rising power and challengers---US intervention is inevitable, only a question of effectiveness.

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But the question is not whether promises to bring home troops and reduce military spending can be sold in an election year -- the question is what impact would retrenchment have on future U.S. and global security. If history is any guide, the answer is troubling: Over the past century, each of America's attempts to reduce its role in the world was met by rising global threats, eventually requiring a major U.S. re-engagement. This is not to argue that the U.S. should sustain its muscular post-9/11 global posture or continue its land war in Afghanistan. It is to urge caution against a growing belief that scaling back American power in the world will be without risks or costs. History shows that in the aftermath of America's major wars of the 20th century -- World War I, World War II and Vietnam -- the American public and powerful leaders in Washington demanded strict new limits in foreign policy. After World War I, that meant rejecting participation in the League of Nations and receding into isolation. After World War II, it meant embarking on one of the largest voluntary military demobilizations in world history. And after Vietnam, it meant placing new restrictions on a president's ability to conduct overseas operations. But in each case, hopes were soon dashed by global challengers who took advantage of America's effort to draw back from the world stage -- Germany and Japan in the 1930s, the Soviet Union in the immediate post-World War II period and the Soviet Union again after Vietnam. In each case, the United States was forced back into a paramount global leadership role -- in World War II, the Cold War and the military build-up and proxy wars of the 1980s. Similar effects have also followed the withdrawal of U.S. troops from global hot spots, as in Somalia in 1993. America's need to extricate itself from that calamitous humanitarian mission, in which 18 U.S. soldiers were killed, was clear. But the withdrawal came at a huge strategic cost: It emboldened the narrative of the emerging al Qaeda network that America was a "paper tiger," setting the stage for the escalating terrorist attacks of the 1990s and September 11, 2001. The Afghan war: When friends are enemies U.S. steps up Mideast military presence Military option for Pres. Obama in Libya Obama's desire to withdraw from costly and unpopular foreign conflicts and refocus on domestic issues is understandable. And he is by no means an isolationist, as his intensified war on al Qaeda can attest. But Obama's assertion that his recalibration of U.S. foreign policy -- centered on withdrawing U.S. troops from Mideast wars and leaning more on allies and the United Nations -- has awakened "a new confidence in our leadership" is without foundation. Like Great Britain in the 19th century, America since the turn of the 20th century has been the world's pivotal global power. Fair or not, in moments when America seemed unsure of its role in the world, the world noticed and reacted. There is no reason to believe now is different. Indeed, in many ways looming opportunists are more obvious today than the 1930s, 1970s and 1990s. These include al Qaeda and other Islamist movements spinning U.S. troop withdrawals from Iraq and Afghanistan as strategic defeats; an emboldened Iran on the cusp of attaining nuclear weapons; and a rising China flexing its muscles in the South China Sea. To his credit, Romney has strongly warned against a world with more limited American leadership. He has also promised to reverse Obama's defense cuts and offer his own increases. But while Obama's approach may be shortsighted, Romney's would face an uphill battle against fiscal and popular sentiment. These issues must certainly be raised in the upcoming presidential debates. Whoever wins in November will confront not just an increasingly dangerous world, but also an increasingly isolationist public. The great challenge will be to convince the American people that robust U.S. leadership in the world remains vital to their security and prosperity and convince the world it remains unwavering. History shows that doing otherwise only raises the stakes down the line.

## Rollback

#### Rollback is stupid- congress passes a law transferring EXCLUSIVE JURISDICTION of detention to the court—

#### Obama can’t ignore statute- he’d be impeached

#### Convictions means the court is preferred- no rollback or circumvention **Kevin E. Lunday\* and Harvey Rishikof\*\*** **Fall 2008** \* Kevin E. Lunday is a Captain and judge advocate in the U.S. Coast Guard. The views expressed in this article are those of the author and do not reflect the official policy or position of the Commandant or Judge Advocate General, the U.S. Coast Guard, the Department of Homeland Security, or the U.S. Government. \*\* Harvey Rishikof is a professor of law and former chair of the Department of National Security Strategy, National War College. The views expressed in this article are those of the author and do not reflect the official policy or position of the National Defense University, the National War College, the U.S. Department of Defense, or the U.S. Government. <http://www.lexisnexis.com/lnacui2api/mungo/lexseestat.do?bct=A&risb=21_T18256136877&homeCsi=138801&A=0.9712615206089685&urlEnc=ISO-8859-1&&citeString=39%20Cal.%20W.%20Int'l%20L.J.%2087,at%2094&countryCode=USA&_md5=00000000000000000000000000000000> The primary triggering mechanism for establishing NSC jurisdiction would fall within the discretion and control of the Attorney General. Through certification and charging provisions, the Attorney General could invoke NSC jurisdiction by certifying that persons in custody inside the United States are suspected of terrorist activity, or by charging persons in custody outside the United States with one or more specific terrorism offenses. However **the NSC would provide the government with a preferred venue to manage terrorism cases and proceedings**, **reducing the risk of the NSC being sidelined** like the current ATRC. [n102](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-23.930436.7390262749&target=results_DocumentContent&returnToKey=20_T18256147522&parent=docview&rand=1380406808850&reloadEntirePage=true#n102) **Further, the NSC could review challenges to the executive certification or charging decisions,** [**n103**](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-23.930436.7390262749&target=results_DocumentContent&returnToKey=20_T18256147522&parent=docview&rand=1380406808850&reloadEntirePage=true#n103) **transferring those cases in which the government has improperly attempted to employ the NSC for non-terrorism cases to the appropriate district court. This review power will reduce government incentives to dress up any case in terrorism clothing to obtain the advantages of the NSC procedures.** The review power would not prevent the government from pursuing a terrorism matter in district court instead of the NSC. However, even without an executive action triggering NSC jurisdiction, **if a district court determines that it is unable to adequately manage a terrorism case, it would be permitted to sua sponte transfer the case to NSC jurisdiction.**

### A2: Congressional rollback

#### Congress authorizes the court—it operates independently, no link to rollback args **2009 Andrew C. McCarthy** is Director of the Center for Law & Counterterrorism at the Foundation for the Defense of Democracies. From 1985 through 2003, he was a federal prosecutor at the U.S. Attorney’s Office for the Southern District of New York, and was the lead prosecutor in the seditious conspiracy trial against Sheikh Omar Abdel Rahman and eleven others, described subsequently. Alykhan Velshi is a staff attorney at the Center for Law & Counterterrorism, where he focuses on the international law of armed conflict and the use of force. Outsourcing American Law- We Need a National Security Court **Congress should use its authority under Article I, section 8, of the Constitution to create a new National Security Court**. Such a court could subsume, and expand on the jurisdiction and duties of, the existing federal Foreign Intelligence Surveillance Court. **This new tribunal would be responsible for terrorism trials, as well as the review and monitoring of the detention of alien enemy combatants. It would inject judicial participation into the process to promote procedural integrity and international cooperation, but** **would avoid the perilous prospect of judicial micromanagement of the executive branch’s conduct of war on terror.**

## **XO CP**

#### Interp- reject object fiat

#### The president is the object of the resolution

#### The CP would fiat a mindset of the object

#### Justifies a CP to not go to war with X country to solve all of our advantages

#### Not a fair test of the lit – we test how to DEAL with power not how to use the power you have

#### Destroys limits- there are an infinite number of ways to use power and an infinite number of things you could attack or not attack

#### Do both

#### The perm is the only thing that can give an executive order the power of law

Leanna Anderson (clerk for H.R. Lloyd a U.S. Magistrate) 2002 Hastings Constitutional Law Quarterly

To be challengeable, an executive order must have the force and effect of law. Under the United States Code, federal court jurisdiction is limited to "federal questions." "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." For federal courts to have jurisdiction over a civil action challenging an executive order, the order must have the "force and effect of law." There are two different branches of analysis under this requirement. First, if the order is issued in accordance with Congressional statutory mandate or delegation, the order has the force and effect of law. However, if the order is not based on an express Congressional grant of authority, federal courts may either look for an implied Congressional basis for the order or find that no statutory basis exists so that the order does not have the force and effect of law.

#### Obama will lie- past speeches on gitmo closure proves he can’t be trusted to keep his word on indefinite detention policy--his record proves speeches do not translate into action Glenn Greenwald, columnist on civil liberties and US national security issues, May 27, 2013 guardian.co.uk, “Obama's terrorism speech: seeing what you want to see” <http://www.guardian.co.uk/commentisfree/2013/may/27/obama-war-on-terror-speech>

The hallmark of a skilled politician is the ability to speak to a group of people holding widely disparate views, and have all of them walk away believing they heard what they wanted to hear. Other than Bill Clinton, I've personally never seen a politician even in the same league as Barack Obama when it comes to that ability. His most consequential speeches are shaped by their simultaneous affirmation of conflicting values and even antithetical beliefs, allowing listeners with irreconcilable positions to conclude that Obama agrees with them.

The highly touted speech Obama delivered last week on US terrorism policy was a master class in that technique. If one longed to hear that the end of the "war on terror" is imminent, there are several good passages that will be quite satisfactory. If one wanted to hear that the war will continue indefinitely, perhaps even in expanded form, one could easily have found that. And if one wanted to know that the president who has spent almost five years killing people in multiple countries around the world feels personal "anguish" and moral conflict as he does it, because these issues are so very complicated, this speech will be like a gourmet meal. But whatever else is true, what should be beyond dispute at this point is that Obama's speeches have very little to do with Obama's actions, except to the extent that they often signal what he intends not to do. How many times does Obama have to deliver a speech embracing a set of values and polices, only to watch as he then proceeds to do the opposite, before one ceases to view his public proclamations as predictive of his future choices? Speeches, especially presidential ones, can be significant unto themselves in shaping public perceptions and setting the terms of the debate, so Obama's explicit discussion of the "ultimate" ending of the war on terror can be reasonably viewed as positive. But it signals nothing about what he actually will do. I'm genuinely amazed that there are still smart people who treat these speeches as though they do. As Esquire's Tom Junod put it after the speech: "if the Lethal Presidency reminds us of anything, it's that we should be a long way from judging this president on his rhetoric or his portrayal of himself as a moral actor." The Atlantic's Conor Friedersdorf added that Obama "has a long record of broken promises and misleading rhetoric on civil liberties, and it would be naive to assume that he'll follow through on everything he said on Thursday."

#### Do the CP

#### Executive action leads to rollback by future presidents [**Henry Zheng**](http://www.policymic.com/profiles/3433/henry-zheng) **September, 2012** NDAA Terrorism Law: Obama and His Unchecked Power Grab <http://www.policymic.com/articles/14856/ndaa-terrorism-law-obama-and-his-unchecked-power-grab>

Despite his promises to end the war, President Obama has continued to expand his presidential powers in the War on Terror, which are legal executive privileges that began in the Bush administration. The key difference is that Obama's authority seems to be more ambiguous, more powerful, and less defined than in the previous administrations. When Obama was accused of violating the Constitution with the passage of his Affordable Care Act, at least the Supreme Court could justify the legitimacy of the legislation by invoking the Constitution's Taxing and Spending Clause. However, with the passage of the National Defense Authorization Act for Fiscal Year 2012, he is vested with extrajudicial powers that at times contradict the very principles codified by the Founding Fathers. One such power is granted under the [NDAA's section 1021 and 1022](http://tenthamendmentcenter.com/2012/02/06/ndaa-sections-1021-and-1022-scary-potential/), which contain the provisions that allow the president to indefinitely detain a terrorist suspect without a trial. In an [interview with John Cusack on Truthout.com](http://truth-out.org/opinion/item/11264-john-cusack-and-jonathan-turley-on-obamas-constitution), the George Washington University law professor Jonathan Turley observes that this effectively undermines the due process guaranteed by the Fifth Amendment of the Constitution that could be detrimental to our civil liberties if the power is used irresponsibly. This violation of the due process of law is viewed by Turley as a dangerous concession by U.S. citizens that could lead to greater encroachment on our liberties in the future. According to Turley, it is "meaningless" that Obama has pledged to not use his powers against U.S. citizens because he still possesses the legal authority to do so. It is uncertain whether future administrations will be so "disciplined" in its refrain from indefinitely detaining or killing U.S. citizens (on home soil) who speak out against the government, tasks that can be legally accomplished by labeling them terrorists and subsequently circumventing the mechanisms of the judicial process guaranteed by the Constitution. In response to such concerns, President Obama issued a [policy directive](http://www.justice.gov/opa/documents/ppd-14.pdf) in February that narrows the coverage of indefinite detention to non-U.S. citizens and does not allow those under his administration to detain citizens or legal permanent residents captured on U.S. soil. However, legal columnist [Joanne Mariner still finds the issue unresolved](http://verdict.justia.com/2012/02/29/chipping-away-at-the-ndaa) because the directive could just as easily be rescinded by future presidents. She suggests that American citizens on U.S. soil have not ensured that their constitutional liberties are protected as long as section 1021 and section 1022 of the NDAA remain as they are now because we are subjected to the executive branch's "discretion" unless there are changes to the statute itself. Currently, a bill called the [Due Process Guarantee Act](http://www.opencongress.org/bill/112-s2003/) that would make it illegal to detain a citizen or lawful permanent resident has been in review by the Senate Judiciary Committee since last year.

#### Congress would roll back the CP

Fisher 4, Senior Specialist in Separation of Powers with the Congressional Research Service, LOC [Louis, Presidential War Power: Second Edition, Revised, p. 274-277]

Statutory Restrictions

Instead of relying on unpredictable court decisions, Congress must learn to invoke the powerful weapons at its command. Through its prerogative to¶ authorize programs and appropriate funds, it can define and limit presidential power. In domestic as well as in foreign affairs, Congress can withhold all or part of an appropriation and may attach riders to appropriations measures to proscribe certain actions.44¶ Some claim that the power of the purse is ineffective in restraining presidential wars. Senator Jacob Javits (R-N.Y.) said that Congress "can hardly cut off appropriations when 500,000 American troops are fighting for their lives, as in Vietnam."45 The short answer is that Congress can, and has, used the power of the purse to restrict presidential war power. If members of Congress are worried about American troops fighting for their lives in a futile war, those lives are not protected by voting for continued funding. The proper and responsible action is to terminate appropriations and bring the troops home. Members need to make that case to their constituents. It can be done.¶ The Supreme Court has held that the President as Commander in Chief "is authorized to direct the movements of the naval and military forces placed by law at his command, and to employ them in the manner he may deem most effectual to harass and conquer and subdue the enemy."46 The power to move forces "placed by law" at his command implies that Congress can, by statute, control the scope of the commander-in-chief powers. Many such restrictions have been enacted. Following are some contemporary examples.¶ In 1973, Congress used the power of the purse to end the war in Vietnam. Three years later it prohibited the CIA from operating in Angola other than to gather intelligence. Legislation also prohibited the Agency from conducting military or paramilitary operations in Angola and denied any appropriated funds to finance directly or indirectly any type of military assistance to Angola.47¶ In 1984, Congress adopted the Boland Amendment to prohibit assistance of any kind by the Reagan administration to support the Contras in Nicaragua. The all-embracing language read: "During fiscal year 1985, no funds available to the Central Intelligence Agency, the Department of¶ Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual." 48 No constitutional objection to this provision was ever voiced publicly by President Reagan, the White House, the Justice Department, or any other agency of the executive branch.¶ Two years later, Congress restricted the President's military role in Central America by stipulating that U.S. personnel "may not provide any training or other service, or otherwise participate directly or indirectly in the provision of any assistance, to the Nicaraguan democratic resistance pursuant to this title within those land areas of Honduras and Costa Rica which are within 20 miles of the border with Nicaragua."9 The statute defined U.S. personnel to mean "any member of the United States Armed Forces who is on active duty or is performing inactive duty training" and any employee of any department, agency, or other component of the executive branch.50 The clear purpose was to prevent military activities in Honduras and Costa Rica from spilling over into Nicaragua. The Reagan administration never offered any constitutional objections to this statutory restriction.¶ Also in 1986, Congress passed this prohibition on placing U.S. personnel in Nicaragua: "No member of the United States Armed Forces or employee of any department, agency, or other component of the United States Government may enter Nicaragua to provide military advice, training, or logistical support to paramilitary groups operating inside that country. Nothing in this title shall be construed as authorizing any member or unit of the Armed Forces of the United States to engage in combat against the government of Nicaragua.”51¶ In 1991, when Congress authorized President Bush to use military force against Iraq, the authority was explicitly linked to UN Security Council Resolution 678, which was adopted to expel Iraq from Kuwait.52 Thus, the legislation did not authorize any wider action, such as using U.S. forces to invade and occupy Iraq. In 1993, Congress established a deadline for troops to leave Somalia. No funds could be used for military action after March 31, 1994, unless the President requested an extension from Congress and received legislative authority.53

#### CP links to politics more than the plan

Billy Hallowell 13, writer for The Blaze, B.A. in journalism and broadcasting from the College of Mount Saint Vincent in Riverdale, New York and an M.S. in social research from Hunter College in Manhattan, “HERE’S HOW OBAMA IS USING EXECUTIVE POWER TO BYPASS LEGISLATIVE PROCESS” Feb. 11, 2013, <http://www.theblaze.com/stories/2013/02/11/heres-how-obamas-using-executive-power-to-bylass-legislative-process-plus-a-brief-history-of-executive-orders/>

“In an era of polarized parties and a fragmented Congress, the opportunities to legislate are few and far between,” Howell said. “So presidents have powerful incentive to go it alone. And they do.”¶ And the political opposition howls.¶ Sen. Marco Rubio, R-Fla., a possible contender for the Republican presidential nomination in 2016, said that on the gun-control front in particular, Obama is “abusing his power by imposing his policies via executive fiat instead of allowing them to be debated in Congress.”¶ The Republican reaction is to be expected, said John Woolley, co-director of the American Presidency Project at the University of California in Santa Barbara.¶ “For years there has been a growing concern about unchecked executive power,” Woolley said. “It tends to have a partisan content, with contemporary complaints coming from the incumbent president’s opponents.”

#### **NSC key to flex Kevin E. Lunday\* and Harvey Rishikof\*\*** **Fall 2008** \* Kevin E. Lunday is a Captain and judge advocate in the U.S. Coast Guard. The views expressed in this article are those of the author and do not reflect the official policy or position of the Commandant or Judge Advocate General, the U.S. Coast Guard, the Department of Homeland Security, or the U.S. Government. \*\* Harvey Rishikof is a professor of law and former chair of the Department of National Security Strategy, National War College. The views expressed in this article are those of the author and do not reflect the official policy or position of the National Defense University, the National War College, the U.S. Department of Defense, or the U.S. Government. <http://www.lexisnexis.com/lnacui2api/mungo/lexseestat.do?bct=A&risb=21_T18256136877&homeCsi=138801&A=0.9712615206089685&urlEnc=ISO-8859-1&&citeString=39%20Cal.%20W.%20Int'l%20L.J.%2087,at%2094&countryCode=USA&_md5=00000000000000000000000000000000> **The involvement of an Article III court** in review of actions traditionally reserved almost entirely to the discretion of the **executive raises concerns about interference with the President's constitutional commander-in-chief and foreign relations powers to direct military operations** under the laws of war or the statutory authority to direct special activities such as covert actions. [n98](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-23.930436.7390262749&target=results_DocumentContent&returnToKey=20_T18256147522&parent=docview&rand=1380406808850&reloadEntirePage=true" \l "n98) However, the executive's authority is not plenary. **Article I of the Constitution provides Congress with the power to make rules for capture on land and sea.** [n99](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-23.930436.7390262749&target=results_DocumentContent&returnToKey=20_T18256147522&parent=docview&rand=1380406808850&reloadEntirePage=true" \l "n99) Additionally, Congress is granted authority by statute to conduct general oversight of certain special activities. [n100](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-23.930436.7390262749&target=results_DocumentContent&returnToKey=20_T18256147522&parent=docview&rand=1380406808850&reloadEntirePage=true" \l "n100) **The NSC's jurisdiction provides a constitutional balance between these grants of authority, without interfering with the President's prerogative to direct military operations as commander-in-chief,** nor Congress' authority to make laws and provide oversight in order to ensure political accountability. [n101](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-23.930436.7390262749&target=results_DocumentContent&returnToKey=20_T18256147522&parent=docview&rand=1380406808850&reloadEntirePage=true" \l "n101)

## **Polaticks**

#### Deal collapse inevitable over centrifuges and Zarif isn’t seeking a deal

**Goldberg, 1/24/14 -** national correspondent for The Atlantic(Jeffrey, Bloomberg, “More Bad Omens for the Iran Nuclear Talks” <http://www.bloomberg.com/news/2014-01-24/more-bad-omens-for-the-iran-nuclear-talks.html>)

The velocity of bad sign-spotting is increasing as we get closer to the main negotiations over Iran's nuclear program. Bad Sign No. 1: I think it’s important to note that Iranian President Hassan Rouhani has just stated that under no circumstances would Iran agree to destroy any of its centrifuges. I would also like to note that this unequivocal statement, if sincere, means that there is no possibility of a nuclear deal between Iran and the six powers set to resume negotiating with it next month. In order to keep Iran perpetually 6 to 12 months away from developing a nuclear weapon -- an unacceptable period in the mind of Israeli Prime Minister Benjamin Netanyahu, but a time-frame that U.S. President Barack Obama could conceivably accept -- Iran would have to agree to dismantle 15,000 centrifuges; close an important uranium enrichment site; and accept 20 years of nuclear inspections, according to the Institute for Science and International Security, a well-respected (and centrist) think tank headed by the former United Nations weapons inspector David Albright. Here is what Rouhani -- who is described as a far more moderate a figure than the man who actually leads Iran, Supreme Leader Ayatollah Ali Khamenei -- said on CNN: “In the context of nuclear technology, particularly of research and development and peaceful nuclear technology, we will not accept any limitations. And in accordance with the parliament law, in the future, we’re going to need 20,000 megawatts of nuclear-produced electricity, and we’re determined to obtain the nuclear fuel for the nuclear installation at the hands of our Iranian scientists. And we are going to follow on this path." At which point, his interviewer, Fareed Zakaria, asks: “So there would be no destruction of centrifuges, of existing centrifuges?” To which Rouhani responds: “Not under any circumstances. Not under any circumstances.” I’m not sure how Rouhani and his chief negotiator, the suave, superficially Westernized foreign minister Mohammad Javad Zarif, back down from this maximalist position. And I’m not sure how Obama could possibly accept a deal that mothballs centrifuges while leaving them in place, rather than devising an agreement that guarantees their destruction. If the centrifuges are allowed to remain in Iran, but are disabled (or covered with bedsheets or wrapped in couch-plastic or locked in a very big room), it would possible for Iran to very quickly start spinning them again. First step: Kick out the inspectors. Second step: Break the locks. Third step: Enrich uranium to weapons-grade level in a short enough period that the West -- the lumbering, ambivalent, disputatious West -- has insufficient time to respond. This would be the moment, of course, at which Obama would have to carry out his promise to use whatever means necessary to stop Iran from going nuclear, and this is not a position Obama wants to create for himself -- which is why leaving the centrifuges in place would not be a wise move for him. Bad Sign No. 2: Zarif, the moderate’s moderate, might not be so moderate at all. Writing in the New Republic, Ali Alfoneh and Reuel Marc Gerecht plumb Zarif’s new memoir, “Mr. Ambassador: A Conversation with Mohammad-Javad Zarif, Iran’s Former Ambassador to the United Nations,” and find distressing signs of ideological fervor: "His discussion of the basic nature of the Islamic Republic and the West exposes Zarif’s ideological commitment and the regime’s revolutionary constancy.” They quote him: “ 'We have a fundamental problem with the West and especially with America,’ Zarif declares. ‘This is because we are claimants of a mission, which has a global dimension. It has nothing to do with the level of our strength, and is related to the source of our raison d’etre. How come Malaysia [an overwhelmingly Muslim country] doesn’t have similar problems? Because Malaysia is not trying to change the international order. It may seek independence and strength, but its definition of strength is the advancement of its national welfare.’ ” Alfoneh and Gerecht continue, “While Zarif considers national welfare one of the goals of the Islamic Republic, he stresses that ‘we have also defined a global vocation, both in the Constitution and in the ultimate objectives of the Islamic revolution.' He adds: ‘I believe that we do not exist without our revolutionary goals.’ ” In other words, U.S. negotiators facing Zarif might be facing someone who is more rigidly ideological than they are prepared to acknowledge.

#### Not intrinsic—do both

#### No Israeli strike – institutional and political checks

**Keck, 13** - Zachary Keck is associate editor of The Diplomat (“Five Reasons Israel Won't Attack Iran”, The National Interest, 11/28, <http://nationalinterest.org/commentary/five-reasons-israel-wont-attack-iran-9469>  
4. Israel’s Veto Players Although Netanyahu may be ready to attack Iran’s nuclear facilities, he operates within a democracy with a strong elite structure, particularly in the field of national security. It seems unlikely that he would have enough elite support for him to seriously consider such a daring and risky operation. For one thing, Israel has strong institutional checks on using military force. As then vice prime minister and current defense minister Moshe Yaalon explained last year: “In the State of Israel, any process of a military operation, and any military move, undergoes the approval of the security cabinet and in certain cases, the full cabinet… the decision is not made by two people, nor three, nor eight.” It’s far from clear Netanyahu, a fairly divisive figure in Israeli politics, could gain this support. In fact, Menachem Begin struggled to gain sufficient support for the 1981 attack on Iraq even though Baghdad presented a more clear and present danger to Israel than Iran does today. What is clearer is that Netanyahu lacks the support of much of Israel’s highly respected national security establishment. Many former top intelligence and military officials have spoken out publicly against Netanyahu’s hardline Iran policy, with at least one of them questioning whether Iran is actually seeking a nuclear weapon. Another former chief of staff of the Israeli Defense Forces told The Independent that, “It is quite clear that much if not all of the IDF [Israeli Defence Forces] leadership do not support military action at this point…. In the past the advice of the head of the IDF and the head of Mossad had led to military action being stopped.”

#### **Won’t pass AIPAC backed out three days ago**

By MANU RAJU and BURGESS EVERETT | 2/6/14

Bill Clinton, AIPAC urge delay on Iran sanctions

http://www.politico.com/story/2014/02/bill-clinton-iran-sanctions-103219.html#ixzz2scXUqNEw

The White House’s push to delay an Iran sanctions vote got a big boost this week when both Bill Clinton and the powerful pro-Israel lobby AIPAC urged the Senate to hold off as diplomatic talks take shape. Together, Clinton and the American Israel Public Affairs Committee’s support of President Barack Obama’s position gives the White House key allies as it seeks to avoid a battle with Congress on the sensitive issue in an election year. The White House has been warning lawmakers that passing sanctions legislation will blow up the sensitive diplomatic talks aimed at preventing Iran from developing a nuclear weapon. Hillary Clinton, too, is siding with President Barack Obama over the matter. A spokesman for the former president declined to comment. On Thursday, following a lengthy, nuanced floor speech by Senate Foreign Relations Chairman Robert Menendez (D-N.J.) about ongoing talks with Iran, AIPAC said in a statement that it believed now is not the time to move forward on a sanctions bill that both Iran and Obama have said would disrupt fragile diplomatic negotiations. “We agree with the Chairman that stopping the Iranian nuclear program should rest on bipartisan support and that there should not be a vote at this time on the measure. We remain committed to working with the Administration and the bipartisan leadership in Congress to ensure that the Iran nuclear program is dismantled,” AIPAC said in a statement.

#### Obama pushes the plan to a Congress who loves it

Fisher 9 – Australian Ambassador for Counter-terrorism

(William, “Special ‘Terror’ Courts Worry Legal Experts,” http://original.antiwar.com/fisher/2009/05/20/special-terror-courts/)  
The administration of President Barack Obama is considering the creation of a national security court to try cases in which there is enough reliable intelligence to hold a foreign terrorism suspect in preventive detention but not enough to bring a case in federal court or even through military commissions.¶ Human rights advocates and legal experts confirm that the new institution is among the options being considered by the Justice Department Task Force Obama created to determine how best to adjudicate the cases of suspected terrorists held at the U.S. naval base at Guantanamo Bay, Cuba. Obama has pledged to close that detention center by January 2010.¶ But the idea of establishing a national security court is attracting widespread criticism because it would mean keeping some terrorism suspects on U.S. soil indefinitely.¶ While the idea of such a new court system is generally supported by conservatives, that support is far from universal.¶ Sen. Lindsey Graham, a conservative Republican from South Carolina and a military judge in the Air Force Reserve, notes the legal difficulties that would arise from a national security court. "How do you hold someone in prison without a trial indefinitely?" he asked.¶ Another prominent conservative, Bruce Fein, who served in the Justice Department under President Ronald Reagan, described the issues surrounding detention and trial of alleged terrorists as "the most important the Republic has confronted since the Civil War as to what America means.

#### The squo costs more capital than the plan- bipartisan opposition, public popularity, and rights groups

[Bansi Bhatt](http://www.policymic.com/profiles/27672/bansi-bhatt) January 2013   
NDAA 2013 Allows Indefinite Detention Of U.S. Citizens By President  
<http://www.policymic.com/articles/22288/ndaa-2013-allows-indefinite-detention-of-u-s-citizens-by-president>

This notion of detaining U.S. citizens has people screaming on both sides of the aisle, such as Senator Dianne Feinstein (D - Calif.) and Senator Rand Paul (R - Ky.). Some argue that the bill does not allow the indefinite detention of U.S. citizens because one part of the bill states that it will not change the law in regards to the detention of U.S. citizens. However, with further examination, it becomes clear that another part of the bill actually states that it will change the law. From this, another argument arises which is that the provisions are too vague. With all this in mind, it should be noted that it is left up to the executive branch to decide whether or not it will adopt these powers. The president has made it clear that his administration will not be detaining U.S. citizens. But nonetheless, this provision in particular has civil liberties activists barking mad. Civil liberties groups believe that this bill further strengthens the power of the federal government and continues to infringe upon our constitutional rights as citizens of the United States of America. Civil liberties groups point out that this is not the only time Obama has signed a bill that he threatened to veto. Executive director of the Bill of Rights Defense Committee, Shahid Buttar, made a public statement in regards to the president signing the NDAA. Very poignantly, [Buttarnoted](http://www.salon.com/2013/01/03/obama_signs_ndaa_again/), “Once again, Obama has failed to lead on Guantánamo and surrendered closure issues to his political opponents in Congress. In one fell swoop, he has belied his recent lip-service about a continued commitment to closing Guantánamo.” This argument is shared by many Americans who are disappointed that Obama has signed the NDAA, and argue that he has failed to keep his promise and has failed to take appropriate action when it comes to Guantánamo. But overall, this is a clear example of “politics as usual” and the failure of politicians to act on their promises.

#### Political capital is a joke- Congressional voting is determined by ideology

Richard **Fleisher** Fordham University Professor Department of Political Science Jon R. **Bond** Texas A&M University Professor Department of Political Science **and** B. Dan **Wood** Texas A&M University Professor Department of Political Science “Which Presidents Are Uncommonly Successful in Congress?” **2008**. In Bert A. Rockman and Richard W. Waterman (eds.), Presidential Leadership: The Vortex of Power. Oxford University Press, pp. 191-213 http://webdoc.sub.gwdg.de/ebook/p/2005/american\_congress/congress.wustl.edu/fleisher.pdf

Presidency scholars claim that presidential success is a function of both skill and political conditions. Although students of presidential-congressional relations have been unable to demonstrate convincingly that presidential activities systematically affect success, the literature provides substantial theory and evidence regarding the political conditions that determine presidential success in Congress. Our analysis contributes additional evidence that presidential success on the floor of Congress is determined primarily by whether political conditions are favorable or unfavorable. Although our model leaves some variance unexplained, few of the residuals would be considered outliers. That is, none of the ten presidents analyzed here were uncommonly successful or unsuccessful relative to the conditions they faced. The few instances of uncommon success could occur by random chance. Presidential skill, nonetheless, continues to occupy a central, if not dominant, position in the literature. This analysis cannot refute skill as an explanation. Previous research has found a number of interesting and important cases on which a skilled performance (or lack of it) made the difference between success and failure. But the debate over the relative importance of skills cannot be resolved simply by agreeing that skills matter some of the time on some issues. If presidential skill is to provide a theoretical understanding of presidential success on par with that provided by political conditions, then we should be able to observe more than idiosyncratic effects on a small number of issues. The burden of providing systematic evidence rests on proponents of the skill part of the explanation. The persistent failure to find systematic evidence should raise doubts about skill as scientific theory. We should also continue to work to improve our understanding of the conditions that affect presidential success, and how they operate. Our finding of significant interactions of party polarization with public approval and majority control is noteworthy. Party control sets the basic condition for presidential success, and presidents do somewhat better in their honeymoon year. The marginal effect of public opinion on success is conditioned by the level of partisanship in Congress. At low levels of partisanship, the president’s standing with the public has a modest positive effect on success. But at high levels of partisanship, which have characterized Congress in recent decades, the marginal effect of public approval diminishes (and even turns negative in the House). Party polarization also interacts with party control, enhancing the benefit of majority status. Thus, polarized parties further reduce the ability of presidential activities to affect success even at the margins. In polarized periods, electoral processes reduce the number of moderate and cross-pressured members, the very members who are most inclined to search beyond the primary cues of party and ideology for guidance in making decisions. Fewer members who look beyond party and ideology, means fewer members subject to presidential persuasion. This condition places a high premium on having majorities in the House and Senate. Unless the level of partisanship in Congress declines, a rational strategy for a president who seeks to improve his legislative success is to focus on maintaining or winning partisan majorities in the House and Senate. President Bush seems to have successfully followed this strategy in the 2002 midterm elections. Ironically, electoral activities aimed at electing sympathetic majorities in Congress are likely to contribute to more party polarization.

#### Congress won’t backlash against itself

## State secrets

#### Plan solves secrecy—intel cant leak

#### NU Wikileaks

Kevin Gosztola May 23, 2013 ‘We Steal Secrets’ Documentary Focuses on Personalities of Assange, Manning Over Significance of WikiLeaks

WikiLeaks forced state secrets revealing corruption, crimes, fraud, misconduct, etc, into the open for the world to see, but, rather than telling a lesser known story about the backlash led by the US government against the organization, Gibney opts to highlight Manning’s struggle with his gender identity and how Assange’s egotistical personal battles have been a drag on WikiLeaks, which have been covered extensively by establishment media. A reporter with the Washington Examiner at the end of the screening said to Gibney she thought the film was “about a lot of awfully troubled people.” She asked Gibney if he learned anything about human nature from making the film because many of the characters in the film all appeared to have personal and psychological issues. This reaction is likely to be a common one among Americans who see the film. That is unfortunate, because if this is what they walk away with, they are unlikely to appreciate the contributions to humanity that both Manning and WikiLeaks have made. They are not likely to grasp the extent of the secrecy state in America and the nobility of WikiLeaks’ efforts to confront it and continue to operate, even while under a secret grand jury investigation. WikiLeaks had a tremendous impact on journalism. It has inspired other news organizations to begin to consider how to operate their own leak submission portals. It would have been worthwhile to broach this aspect. Unfortunately, none of this appears in the documentary.

#### NU Jewel v NSA

bmaz July 8, 2013 Federal Court Strikes Down Obama DOJ’s State Secrets Defense

http://www.emptywheel.net/2013/07/08/federal-court-strikes-down-obama-dojs-state-secrets-defense/

In what can only be described as a significant ruling, Judge Jeffrey White in the Northern California District (CAND) has rejected the federal government’s, via the Obama and Holder Department of Justice, assertion of state secrets privilege in the case of Jewel v. National Security Agency and the related consolidated case of Shubert v. Obama.

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#### Netherlands guts nuclear secrecy and deterrence

Maxime Zech Jan 30, 2014

MPs could debate nuclear weapons in NL http://www.nltimes.nl/2014/01/30/mps-debate-nuclear-weapons-nl/

T he secrecy around possible existence of nuclear weapons in the Netherlands should come to an end in favor of an open debate, MPs said yesterday. A majority of parliament members made this clear in a discussion with Foreign Affairs Minister Frans Timmermans (PvdA). Up to now, the government has not disclosed whether there are nuclear weapons in this country. Last year, however, ex-prime ministers Ruud Lubbers and Dries van Agt, confirmed the existence of American nuclear weapons on Volkel air base. If this is true, the Netherlands must ask America to take back the weapons, according to Labour Party MP Michiel Servaes (PvdA). Servaes is one of many MPs who now urge for open discussion about the existence of nuclear weapons on Dutch territory. Germany and the United Kingdom already have permission from NATO to do just this. According to the cabinet, however, an agreement has been struck within NATO not to discuss the locations and numbers of American nuclear weapons in Europe. The Volkel air base holds between 10 and 20 nuclear bombs of the type B61. These must be modernized in 2017 for almost half a billion euros. A majority of MPs have already asked the American Congress to abandon this. Frans Timmermans wants to establish a “larger transparency” when it comes to issues like this. He believes the NATO agreement not to discuss American weapons in Europe is an outdated concept, and promises to bring the issue into discussion with NATO. Timmermans does emphasize that he needs ally support to broach the subject of the number of nuclear weapons on European territory belonging to NATO. “Until new agreements have been made, we will not discuss locations and numbers”, Timmermans said.

#### NU Cheating – proves NW less salient than their impacts assume

By Eric Auner, on 17 Jan 2014, Cheating Scandal Unfolds Amid Debate Over U.S. Nuclear Strategy

http://www.worldpoliticsreview.com/trend-lines/13505/cheating-scandal-unfolds-amid-debate-over-u-s-nuclear-strategy

The United States has maintained large numbers of nuclear weapons on high alert for decades, ready to launch at a moment’s notice. Numerous military personnel are specifically assigned to manage U.S. nuclear weapons operations and must be ready to precisely carry out complex tasks under extreme time pressure. But the operators of these weapons are human, and the Air Force announced earlier this week that 34 intercontinental ballistic missile (ICBM) launch officers had been suspended for cheating on a monthly proficiency test. The airmen were stationed at Malmstrom Air Force Base in Montana, which houses 150 of the nation’s 450 nuclear-tipped ICBMs. Even though nuclear deterrence is far less salient now than it was during the Cold War, revelations like these still raise alarms across the U.S. foreign policy establishment. Secretary of the Air Force Deborah Lee Jones called the cheating “absolutely unacceptable behavior” that is “contrary to our core values in the Air Force” in a briefing Wednesday. She described measures taken in reaction to the scandal, including retesting all ICBM personnel. Outgoing House Armed Services Committee Chairman Buck McKeon said that the ICBM mission was “a centerpiece of U.S. national security” and that he was “saddened that a few serious violations have sullied the name of an otherwise honorable group of professionals.”

#### NU: Public NPR

FAS Project on Government Secrecy Volume 2010, Issue No. 28 April 8, 2010 http://www.fas.org/sgp/news/secrecy/2010/04/040810.html

When portions of the Bush NPR nevertheless leaked in 2002, Defense Secretary Donald Rumsfeld furiously condemned the release. "Whoever leaked it violated federal criminal law," he said. "It seems that there are some people who simply have a compulsion to seem important, so they take classified information which can damage U.S. national security and give it to people who aren't cleared for it," he added. Even after the Bush NPR report leaked, another official said, "the last administration then found it difficult ever to talk about the results of the review, because it was talking about a leaked classified document." http://www.fas.org/sgp/news/2002/03/dod031302.html But this week, in a tangible sign of changing national security secrecy standards, Defense Secretary Robert Gates held a press conference to release the latest NPR document himself. "The report of the Nuclear Posture Review will exist only in unclassified form," a Pentagon official said at a background briefing on April 6. "There will not be a classified Nuclear Posture Review from which we have redacted a lot of information and then just put forward an unclassified variant. This reflected a decision early in the process.... And in an effort to be fully transparent in our choices and the thinking behind them, we did not want to leave big open questions about what might be left unsaid because it's in the classified domain."

## Security

Role of the ballot is to evaluate normative implications of the plan: neg must prove the plan is worse than the status quo or offer a competitive counter advocacy.

That’s Most predictable—grounded in the resolution. Alternatives are infinite moot 1ac offense.

Perm both

Perm do the aff and the alt in every non-competitive instance

Can’t solve every residual link

Can’t solve the aff—we outweigh—floating PIKs bad—moving target, jacks ground, bad education, voter fairness

Extinction precludes value to life and discussion

#### Calls to address specific security threats are key to solve those problems without succumbing to the pratfalls of the Bush Doctrine

Kailyn Nicholson and Anna Schaffer - Henry M. Jackson School of International Studies - 3/10/2011, The Future of U.S. Democracy Promotion: Strategies for a Sustainable Fourth Wave of Democratization, https://digital.lib.washington.edu/dspace/bitstream/handle/1773/16487/Task%20Force%20C%202011%20Web.pdf?sequence=1

Democracy Promotion in Rhetoric The current administration has attempted to steer clear of unrealistic rhetoric in favor of a more pragmatic doctrine. This resolution appears to reflect the Obama administration‘s efforts to disassociate from the Bush-era rhetoric that provoked such global criticism. Post 9/11, the Bush administration was seen to sway between a preemptive realism that sought to unilaterally maintain America‘s position of power in the world and a lofty Wilsonian rhetoric that espoused spreading democratic ideals to all corners of the globe. Especially under Bush‘s Freedom Agenda, supporting democracy and the promotion of freedom was embraced as a foreign policy goal. The Freedom Agenda incorporated or helped to justify the global war on terror and Iraqi invasion. Increasingly weak evidence to support initial justifications for intervention eventually gave way to the language of democracy promotion as a more appealing rhetoric. And, Iraq became the centerpiece of this agenda executed in the name of promoting democratic values and supporting human rights. In his second inaugural address in 2005, former President Bush stated, So it is the policy of the U.S. to seek and support the growth of democratic movements and institutions in every nation and culture, with the ultimate goal of ending tyranny in our world…We will encourage reform in other governments by making clear that success in our relations will require decent treatment of their own people. America‘s belief in human dignity will guide our principles (Bush 2005) In claiming that the long-term goal of the U.S. was to end ‗tyranny in our world,‘ Bush set unrealistic and idealized expectations for the results of democracy promotion. Much of the justifications by the Bush administration for democracy promotion asserted the moral grounds for democracy. In a speech at the 2008 World Economic Forum in Sharm el-Sheikh Egypt, former President Bush pronounced: Some say any state that holds an election is a democracy. But true democracy requires vigorous political parties allowed to engage in free and lively debate. True democracy requires the establishment of civic institutions that ensure an election‘s legitimacy and hold leaders accountable. And true democracy requires competitive elections in which opposition candidates are allowed to campaign without fear or intimidation. Too often in the Middle East, politics has consisted of one leader and the opposition in jail. America is deeply concerned about the plight of political prisoners in this region, as well as democratic activists who are intimidated or repressed, newspapers and civil society organizations that are shut down, and dissidents whose voices are stifled. The time has come for nations across the Middle East to abandon these practices, and treat their people with dignity and the respect they deserve (Bush 2008) Here, former President Bush professed to stand behind democratic forces in all states. The fact that this speech took place three years after the 2005 Egyptian presidential election, where one candidate, Ayman Nour, was imprisoned, highlights a thread of hypocrisy in Bush‘s lofty rhetoric. Alternatively, the Obama administration adopted a more realistic rhetoric that gave recognition to other national interests, including security interests and threats to U.S. security. In response to the discourse and policies of the previous administration President Obama stated: Indeed, one of the lessons of our effort in Iraq is that American influence around the world is not a function of military force alone. We must use all elements of our power -- including our diplomacy, our economic strength, and the power of America's example -- to secure our interests and stand by our allies. And we must project a vision of the future that's based not just on our fears, but also on our hopes -- a vision that recognizes the real dangers that exist around the world (Obama 2010) Indeed, Obama‘s rhetoric implies a much more pragmatic approach than that of the previous administration. Here, Obama stated the need for balancing various U.S. interests and real-world threats, while also acknowledging tensions. One critique of Obama states, ―If there is an Obama doctrine emerging, it is one much more realpolitik than his predecessor‘s, focused on relations with traditional great powers and relegating issues like human rights and democracy to second-tier concerns‖ (Baker 2010). However, it should be noted and taken into consideration that pragmatic responses advocated by the Obama administration may have been influenced by the legacy issues left from the previous administration. It is possible the Obama administration has taken a realistic and pragmatic approach because it is an alternative to the last administration. Therefore, it is important to consider how foreign policy is influenced by legacy and also how it may be constrained by reality. In any case, within any administration, Wilsonian ideals and moral values are never to be ignored. In his most recent State of the Union address Obama gave support to human rights and noted: Recent events have shown us that what sets us apart must not just be our power – it must also be the purpose behind it. In south Sudan – with our assistance – the people were finally able to vote for independence after years of war….And we saw that same desire to be free in Tunisia, where the will of the people proved more powerful than the writ of a dictator. And tonight, let us be clear: The U.S. of America stands with the people of Tunisia, and supports the democratic aspirations of all people (Obama 2011) While Obama does still express support for human rights and democratic values he does so with an air of caution. Unlike the previous administration, this administration refrains from soaring unrealistic rhetoric in favor of a more pragmatic and realistic rhetoric regarding foreign policy and democracy promotion. In doing so, this current administration is seen to be noticeably less hypocritical and inconsistent than the previous. C. Implementation: Rhetoric in Action? In reality U.S. democracy promotion efforts have not reflected the rhetoric surrounding it. Democracy promotion is inconsistent country to country and policy to policy. Actions do not reflect the language expressed by policy makers to support democracy. After the Bush administration it has become increasingly entangled with military interests resulting in the association of democracy promotion with regime change and forceful coercion. Under the façade of democracy promotion, policies may implement a top-down effort supporting supposed democratic leaders rather than fostering democratic values from the bottom-up through civil society. Its exclusiveness and selectiveness is seen when we support democracy in one state and ignore human rights in another. Within the Bush administration a large gap existed between talk and action whether it was the continued cozy relations with the Saudi government, the U.S. embrace of Pakistan‘s former military dictator Pervez Musharraf, or the largely uncritical line toward China‘s continued authoritarianism (Carothers 2007). In the Middle East, the Bush administration later came to characterize its interventionin Iraq as a democratizing mission, when clearly other interests, particularly security interests were involved from the start. Other U.S. autocratic allies in the region felt almost no pressure at all, despite the Bush team‘s grand pronouncements about its commitment to a politically transformed region (Carothers 2007). Instead, the Bush administration worked to tighten relations with allies in the region in an effort to create a friendly coalition of states that would serve as useful partners in the War on Terror and would help to maintain the balance of power as it was in the Middle East. Thus, the statement of principles made by President Bush at the World Economic Forum in Egypt in 2008 rarely applies to Egypt or other U.S. allies in the Middle East. Yemen, Saudi Arabia, Jordan, Egypt, Pakistan, Ethiopia have all escaped the rhetoric of supporting human rights and democratic values by the Bush administration(Carothers 2007). Indeed, inconsistency between rhetoric and action is widespread; however, inconsistency in rhetoric between private and public audiences also exists. This is a different situation where the U.S. presents public rhetoric of support, for example, in the case of Egypt -prior to the year 2011- but expresses disapproval and criticisms in private. The recent release of WikiLeaks documents has revealed how American diplomats have repeatedly raised concerns with Egyptian officials about jailed dissidents and bloggers. A 2009 cable from U.S. ambassador to Egypt, Margaret Scobey, highlighted the difficulty of promoting democracy in a state that is both a strategic ally, but also a partial democracy ruled by an oppressive president: We continue to promote democratic reform in Egypt, including the expansion of political freedom and pluralism, and respect for human rights. Egyptian democracy and human rights efforts, however, are being stymied, and the GoE [Government of Egypt] remains skeptical of our role in democracy promotion, complaining that any efforts to open up will result in empowering the Muslim Brotherhood, which currently holds 86 seats in Egypt's 454-seat parliament (Embassy Cairo. 2009) However, the documents also show that relations between Mubarak and Obama warmed up as a result of Obama playing down what was the so-called ‗name and shame‘ approach of the Bush Administration (Landler and Lehren 2011). The nature of the WikiLeaks documents concerning Egypt draw attention to a balancing of private pressure with strong public support for Mubarak under the current administration-underscoring yet another sign of inconsistency. II. How False U.S. Rhetoric Has Hurt U.S. Reputation and Image While the U.S. has unparalleled economic and military assets, American influence and standing in the world are significantly low. Frequent gaps between rhetoric and behavior, policy changes or even reversals have harmed the U.S. image as an international power and moral figure. This negative image is partially a consequence of false rhetoric. A recent committee on human rights in Washington acknowledged, ―The world is not blind to this double standard. When they see the U.S. promoting human rights, not as a matter of principle but as a matter of convenience, it saps these principles of much of their force, and it makes the U.S. a much less powerful moral force on behalf of the values that this Nation stands for‖ (U.S. 2008). Even among other Western nations, the U.S. is seen to have a weak stance concerning human rights. In 1998, The United States Information Agency (USIA) found that 59 percent of the British and 61 percent of Germans said the U.S. was doing a good job promoting human rights. Today, 56 percent of the British and 78 percent of Germans say the US is doing a bad job (Kull 2007). Clearly, opinions of the U.S. on human rights issues have degraded significantly. An American rhetoric supporting human rights and democratic ideals worldwide while, simultaneously, failing to be consistent in implementing this rhetoric evidently will influence this degradation. The U.S. is viewed as hypocritical in its rhetoric about human rights and democracy because it is seen to be selective in its actual application. American leaders pursue more confrontational strategies for supporting democratic change against those countries with strained relations with the U.S. and adopt policies of engagement to induce or, at times, overlook democratic change with allies and friends. ―Close American relationships with authoritarian regimes in Saudi Arabia, Egypt, Jordan, and cordial relationships with autocratic rulers in Kazakhstan, Azerbaijan, and Equatorial Guinea, undermine U.S. credibility when criticizing similar types of autocratic regimes with less friendly ties to Washington‖ (McFaul 2010,163). Rhetoric about liberty has been juxtaposed with the instability in Iraq and democracy promotion has become associated with regime change. In the past decade, ―the rhetorical conflation by the Bush Administration and its allies of the war in Iraq and democracy promotion has muddied the meaning of the democracy project, diminishing support for it at home and abroad‖ (Melia 2007, 12). Public opinion polls from a 2005 survey by the Pew Research Center found the U.S. to be broadly disliked in most countries surveyed. Furthermore, a degrading trend in U.S. image can be seen as a repercussion of the inconsistency in rhetoric and policy of the past. A poll, conducted for BBC World Service in 18 countries, tracked this issue from 2005-2007. ―On average, positive views of the U.S. have slipped from 40 percent in 2005 to 36 percent in 2006 to 29 percent in 2007. Negative views have risen from 46 percent in 2005 to 52 percent in 2007‖ (Kull 2007). What‘s more, Gallup Polls in 143 countries reveal the image of the leadership of the U.S. is generally poor worldwide, but that the Obama administration will have the most repair work to do on its image in the predominantly Muslim Middle East and North Africa, where regional median approval is just 15 percent (Ray 2009). One year into his term, global opinion polls taken by Gallup reflect a positive view of Obama‘s leadership and foreign policy, yet, still present mixed reviews towards his handlings of trouble spots in the Middle East (English 2010). Such negative views of the U.S. erode U.S. power and undermine U.S. influence abroad. III. Democracy Promotion as a Façade for Promoting Other U.S. Interests The point where democracy promotion rhetoric does not properly align with implementation of supporting democracy, in any given state, is a sign of inconsistency and the use of democracy promotion as a façade for promoting other U.S. interests. Inconsistency between rhetoric and action in democracy promotion highlights the varying and diverse interests of the U.S. where democracy promotion, at times, wrongly serves the purpose of justifying other non-related and sometimes contrary U.S. interests. While the U.S. does wish to support and uphold human rights and the universal concept of economic, social and political freedoms, these interests somehow fall behind other US interests. This raises the questions of: whether U.S. interests are presented as prioritized? And how does one account for the supremacy of security interests over values of supporting human rights and democracy in general? This section will first examine U.S. interests from a Wilsonian, idealist view and next, from a realist view. These two schools of thought concerning foreign policy and inevitably, democracy promotion are today seen to be in opposition with each other. This can be accounted for by the short-term mindset of foreign policy in any given administration. Foreign policy is bound to vary with each new administration, within the same administration or due to a change in the global landscape. A forward-looking foreign policy strategy encourages a balance between interests of supporting human rights and moral values (so called idealist interests), and realist tendencies to focus solely on security and strategic interests. The current strategy, however, juxtaposes these two interest views and prompts a choice between the two. Thus, while it is in U.S. interests in the long-term to promote democracy as an end in itself, U.S. actions concerning democracy promotion currently seem to be motivated and driven by short-term interests. This section will analyze where focus on short-term realist interests has prompted a lack of clarity and consistency in policies. In this manner, democracy promotion is used as a tool, rather than an end, to maintain or secure other strategic interests. What‘s more, efforts to advance democracy and human rights only occur when they are in agreement with other interests. Shortterm realist interests also reveal, in certain cases, that democracy promotion does not even exist at all; the U.S. does not intervene or interfere in certain states where other U.S. interests have a higher priority than supporting democracy. China, Ethiopia, Kazakhstan, Nigeria, Pakistan, and Russia, are sites where security and economic interests override the interest of supporting a democracy (Carothers 2007). Furthermore, lack of clarity and consistency in policies has wrongly entangled democracy promotion with military and security interests. Security, for any state, including the U.S. is critical to a state‘s survival. Indeed, first and foremost, security is America‘s primary interest. Michael McFaul notes that the ―central purpose of American power is not to make the world a better place, but first to ensure security, prosperity of American people‖ and the ―paramount objective of American foreign policy must always be to defend the security of the American people‖ (McFaul 2010, 10, 68). Deterring military foes, forging alliances, creating alliances, ensuring stable access to natural resources, creating and maintaining U.S. military bases, expanding trade and investment opportunities abroad all represent strategies to ensure American security and, therefore, generally precede other policies (United States 2010). However, security is not, nor should not, be the sole interest of U.S foreign policy. Foreign policy, must take other interests into account; clearly, ―Not all interests need to be vital to be worthy of American protection‖ (Haass 1995, 48). A. The Case for Wilsonianism A Wilsonian view of foreign policy and also democracy promotion states a U.S. interest in upholding moral values. The U.S. has a moral obligation to human rights, and here democracy promotion is not simply a tool for national interest. Democracy promotion is seen as an end in itself that promotes human rights values, quality of life, economic, political and social liberties. In rhetoric, America‘s stated interests for promoting democracy are normally Wilsonian ideals associated with supporting human empowerment and self-determination and the wish that democratic values are shared globally. Critics have deemed this view to be limited in the scope with which it can substantiate a policy action to promote democracy. Richard Haassargues, ―The principal problem with this thinking is that the active promotion of democracy is a luxury policymakers cannot always afford‖ (Haass 1995, 46). Further critiques note that there may still be instances where national security or economic interests override supporting democratic values. When it comes to human rights, nowhere have the conflicts and contradictions been greater than in Washington‘s dealings with superpowers. Haass continues, ―When it comes to relations with Russia or China, Saudi Arabia or Egypt, other national security interests must normally take precedence over (or at least coexist with) concerns about how they choose to govern themselves. During the early Bush administration certain neo-conservatives appropriated ―the fact that promoting democracy can be difficult and expensive also reduces its attraction as a foreign policy compass‖ as another means to highlight the apparent conflicting interests associated with democracy promotion (Haass 2005). B. The Case for Realism Realists emphasize the balance of U.S. power amongst other global actors through the maintenance of security. ―This theory prescribes that the U.S. has a security interest in increasing its military and economic power and fostering and maintaining alliances with powerful states to check the influence of other great or rising powers‖(McFaul 2010, 76). Above all else, maintaining a balance of power is ideal. U.S. needs access to oil, minerals, basing rights and trade from all countries willing to cooperate, irrespective of whether they are autocratic or democratic. Realists argue that democracy promotion can undermine allies, empower anti-American forces and generate both domestic and international instability. In the case of Egypt, for instance, supporters of Mubarak and Mubarak himself, argued that democratization could give way to the empowerment of non-western friendly actors, such as the Muslim Brotherhood and ultimately destabilize the Middle East region (Embassy Cairo 2010).Haass acknowledges ―The strength of the realist approach is that it does not overlook existing and potential threats to U.S. interests, threats that if they were to materialize could overwhelm policy concerns‖ (Haass 1995, 48). C. Democracy Promotion as a Tool, Rather Than an End Here is where focus on short-term realist interests prompts a lack of clarity and consistency in policies. Under a realist school of thought, democracy promotion is seen as a tool rather than an end. It can be emphasized as a strategy to ideally secure other interests. Consequently, democracy promotion, when it exists, can become entangled with military and security interests; or, democracy promotion may not exist at all where other strategic interests are already present. Still, there are cases where democracy promotion doesn‘t even exist at all; the U.S. does not intervene or interfere in certain states where other U.S. interests have a higher priority than supporting a democracy. U.S. military presence in the Middle East prompts the need for allies in the region. Pakistan represents one instance; Pervez Musharraf maintained control of Pakistan with his power as a military dictator up until the 2008 elections. Security interests as well as economic interests play a significant role in undermining democracy promotion in the Middle East. U.S. oil interests invoke a more hardheaded foreign policy that disregards human rights and quality of life standards in states such as Algeria and Saudi Arabia. Accordingly, Michael McFaul notes, ―Without the illiberal kingdom of Saudi Arabia as a trade partner today, the U.S. would not have enough affordable energy to support our current way of life‖ (McFaul 2010, 79). On the same note, other countries with limited trade and aid relations to the U.S., such as Syria, will not experience the same policy with the U.S. as does Saudi Arabia, for instance. Economic and strategic interests have, in the past, prevented the U.S. from taking a firm stance against China‘s human rights violations. China, on the contrary, maintains a favored nation status. For the U.S., ―promoting human rights was jettisoned in May 1994 when the need to export to China and engage in a host of strategic efforts proved too significant to set aside‖ (Haass 1995, 53). Indeed U.S. leverage against China‘s human rights violations is supposedly limited due to economic interests that are present. Furthermore, when powers face a challenger to their hegemony, they are more likely to tolerate autocracies that can present themselves as buffer against their rivals (Levitsky and Steven and Way, 2002). The U.S. has been cited for supporting the ‗democrat‘ rather than the democracy where support for autocratic allies is emphasized over support for actual democratic institutions. This policy was seen in Egypt, prior to January 25, 2011, where the U.S. has provided billions of dollars in aid over the past several decades to prop up the Egyptian dictatorship. Supporters of this policy acknowledge the false assumption that elected parties will be in agreement with the U.S. and its foreign policy. They acknowledge that democratic elections could promote the rise of a fascist leader (Kopstein 2006, 89). Mubarak, has been cited frequently for human rights violations; detention, torture, refusal to register opposition political parties were all used by Mubarak as a means to constrain the scope of democracy and prevent a threat to his persistent rule (Untied States 2008). In Egypt, Mubarak profited from this Western concern that Islamists will win a fair election in the country. ―As evidence Mubarak can point to the parliamentary elections of 2005, when candidates backed by the Muslim Brotherhood captured a majority of the seats they contested‖ (United States 2008). Although the U.S. rarely placed pressure on Mubarak publicly, documents from WikiLeaks reveal U.S. pressure on Mubarak to democratize and to improve human rights. Nevertheless, ―U.S. pressure for democratization largely ended with the strong Muslim Brotherhood showing of 2005‖(United States 2008). Instances of supporting autocratic allies have happened frequently in U.S. foreign policy, and present a challenge to the consistency in rhetoric of foreign policy and democracy promotion in the future. D. Entanglement of Democracy Promotion with Military or Security Interests Inconsistency between rhetoric and action can also manifest itself when other U.S. interests, specifically military and security interests, become entangled with the act of promoting democracy. In the past decade, entanglement represents one of the greatest faults to American foreign policy and its association with democracy promotion consequently. Entanglement presented itself most distinctly within Bush‘s Freedom Agenda where military force became an instrument for democracy promotion and democracy promotion became associated with regime change. Here, McFaul comments that “During the Bush administration, the American armed forces assumed a leading role in fostering democratic change (McFaul 2010, 155). At times, the purpose for a military intervention can be disguised under the veil of democracy promotion. Or, similarly, democracy promotion becomes a façade to fulfill other interests, as was seen in Iraq. “The increasingly threadbare nature of initial US justifications for the invasion, (weapons of mass destruction, the Iraq-Al-Qaeda ‘link‘), rendered the language of democracy promotion an attractive fall-back for the administration" (Durac and Cavatorta 2009, 9). A close association between military intervention and democracy promotion overshadows the more traditional and legitimate means for supporting democratic development in other countries. In Iraq, policy makers fell back on democracy when all other legitimate reasons to invade couldn‘t be summoned. In cases like this, the act of using democracy promotion as a façade renders U.S. democracy promotion misleading and unfounded. IV. Undermining U.S. Credibility and Image A. Accusations of Hypocrisy The determinedness with which the Bush administration tied democracy promotion rhetoric to aggressive War on Terror military actions had the opposite of its desired effect. The U.S. had hoped that its preemption policy might be more palatable if couched in values that are almost universally agreed upon, like freedom and democracy. President Bush‘s statement ―For the sake of our long-term security, all free nations must stand with the forces of democracy and justice that have begun to transform the Middle East‖ implies that the U.S.‘s involvement in the Middle East is consistently aimed at supporting democratic movements. However, the fact that security is a much more immediate concern in military conflicts meant that, in practice, democracy was not the primary consideration when it came to which governments to support and which to challenge. Egypt, for example, is a close U.S. ally and enjoyed generous military support throughout the freedom agenda years despite being decisively authoritarian. On the other hand, the U.S. refused to support Hamas although it was democratically elected by the Palestinian people. While both of these decisions make sense from a geopolitical/security perspective, they do not fit the democracy promotion agenda. When President Bush made universal statements about democracy promotion while at the same time supporting non-democracies and failing to support all functioning democracies for security reasons, the international community recognized the hypocrisy. B. Accusations of Hubris Another way in which U.S. democracy promotion rhetoric helped undermine our credibility and image abroad has been by declaring success, or at least marked progress, in places where democracy, if it exists at all, is not functioning enough to improve the quality of life of citizens. By calling these examples successful, the U.S. either looks disturbingly out of touch or too haughty to admit the shortcomings of its democracy promotion efforts. Iraq is an excellent example of this, as Frank Rich of the New York Times points out: ―Iraq‘s ‗example of freedom,‘‖ as President Bush referred to his project in nation building and democracy promotion, did not inspire other states in the Middle East to emulate it. If Iraq is an example of success, who indeed would volunteer to be the next patient of U.S. democracy promotion? There are many other examples stretching back before the Bush era of similarly willfully inaccurate statements. Thomas Carothers points to the Congo, Cambodia, and Soviet-free Afghanistan as cases where the U.S. stubbornly congratulated themselves on progress that, to the rest of the world, looked like tragedy. Setting unrealistic expectations for the results of democracy promotion, such as President Bush‘s ―long-term goal of ending tyranny in our world, ―are another form of this hubris (Bush 2005). These two types of misleading rhetoric create a very stark image of U.S. democracy promotion in the eyes of the rest of the world. The U.S. claims to stand behind democratic forces in all states, but does not follow through when more immediate strategic concerns are present. Actions claimed to be democracy promotion are implemented with military coercion and claimed as successes even if they fail to provide security or stability for the country‘s citizens, and, in the case of Iraq, actively destabilize a region. As a result, ―the credibility of the US as an agent of democracy promotion in the Middle East is called into question, both within the region and without‖ (Bali and Rana, 2010). V. Implications for Diplomatic Effectiveness: Realism The preceding mistakes have resulted in ―Obama and his foreign-policy team edge[ing] away from the language of democracy promotion, which they fear that the Freedom Agenda has rendered toxic. (Taub 2009)‖ The new administration may feel the need to avoid Bush-era rhetoric that engendered so much criticism, but the associations of U.S. democracy promotion with aggressive militarism, hypocrisy, and arrogance will not disappear overnight. They must be replaced by a strong, realistic redefinition of what democracy promotion means to the U.S., when and how it will be practiced, and when it must take a backseat to other more immediate concerns. Once the U.S. rhetorically embraces realistic standards, it will be possible for policy and rhetoric to be consistent. This will present a reasonable face for U.S. democracy promotion, encouraging cooperation and discussion rather than avoidance or presumptive opposition. This is something U.S. policymakers should be concerned with for more substantive reasons than international popularity. Being seen as hypocritical and arrogant strengthens the case of foreign leaders seeking to oppose U.S. policy, both in international forums and bilateral relations. The U.S.‘s ability to achieve foreign policy objectives- be they economic, military, or geopolitical- is materially harmed by the perception that we have qualities undesirable in a working relationship. Unrealistic assessment of outcomes, inconsistency, unwillingness to recognize areas of weakness, and arrogance are all characteristics that do not invite support and cooperation. Indeed, McFaul asserts the Bush administration‘s rhetoric and policy in the Middle East were damaging to the U.S.‘s ability to realize foreign policy goals to the extent that they formed ―a serious impasse between the White House and all other international organizations, which subsequently tried to steer clear of associating with Bush policies, including his freedom agenda‖ (McFaul 2010, 218). It clearly follows that all U.S foreign policy goals are served by a positive and respected image abroad, because other states and international organizations are more willing to cooperate with policies when they have a positive image of U.S. goals and methods for achieving them. Certain aspects of democracy promotion have been identified as contributing to a negative image abroad:  Aggression/militarism  Unwarranted declarations of success/denial of mistakes  Inconsistency o Between rhetoric and action Between standards for various states Accordingly, attempts to foster a more positive, cooperative image should involve amending democracy promotion policy to be more:  Peaceful and non-coercive  Realistic o In assessments of progress and willingness to discuss/learn from mistakes o Rhetoric able to be achieved with action o Policies capable of being applied consistently across cases (flexible, humble) Incorporating these guidelines into a new coherent democracy promotion strategy will help the Obama administration avoid the backlash against Bush era mistakes. As previously mentioned Obama is already bringing his democracy promotion rhetoric down to a more realistic level, but he has not fully embraced all the changes necessary for a new effective era of democracy promotion. His administration‘s handling of the recent Egyptian protests is an indication of the need for clear, consistent rhetoric that can be employed in situations where democracy promotion and other interests conflict. This is already acknowledged in private. A cable sent from the U.S. Embassy in Egypt in 2008 admits that ―An ongoing challenge remains balancing our security interests with our democracy promotion efforts.‖ Yet instead of openly addressing this conflict in statements on Egypt‘s unfolding revolution, President Obama delivered ―ambiguous messages about an orderly transition‖ (Embassy Cairo 2008). More than two weeks into the protests, he issued a statement saying ―the future of Egypt will be determined by the Egyptian people‖ (Obama 2011). While this is certainly an improvement on former president Bush‘s coercive and idealistic rhetoric, it does not provide a clear policy on democracy promotion and its limitations. Inherent in the statement is a message of non-coercion, acknowledgement of the unpredictability of democratization efforts, and an unwillingness to burn bridges with current government authorities. All of these considerations should be stated publicly and result from a clearly defined U.S. policy on democracy promotion that commits to realistic goals and recognizes that other interests like regional security must play a role in immediate decisions without endangering the long-term process of democratization. A. Non-coercion: Separating Immediate Security Concerns from Democracy Promotion Efforts As later sections of this paper will discuss, successful democratization is a long-term process requiring diverse economic and civil society development. While it is possible to destabilize a dictatorial regime through military or economic coercion, removing one undemocratic government does not automatically- or even usually- usher a functioning democracy into power. Therefore coercion is rarely a useful tool in democracy promotion efforts. More frequently, as described earlier in the chapter, democracy promotion ends up being used as a justification for otherwise unpopular coercive actions. Iraq is the most recent and most blatant example of military coercion justified by democracy promotion rhetoric, but understood by most politicians to be a strategic attempt to gain influence in the oil-rich Middle East. Cuba provides an excellent example of economic coercion in the name of democracy. If the sanctions imposed by the U.S. really were an attempt to force a democratic transition, the decades of unperturbed socialism since their implementation would have proven this method a failure. The fact that the embargo remains intact proves other strategic interests are at stake. If the U.S. can refrain from using democracy promotion rhetoric to justify coercive policies, foreign governments and citizens will be less likely to balk at the idea of allowing the U.S. influence in their country. Later sections of this paper will elaborate on strategies for peaceful and non-coercive democracy promotion. This should be a policy that the U.S. is firmly committed to. Not only does it adhere to a basic moral commitment to human rights, peace, and stability, as outlined previously, by showing respect for state sovereignty and international cooperation it will also increase the ability of the U.S. to achieve foreign policy goals through diplomatic channels. Matthew Longo agrees that ―Without question, military power is important, but it is not the only road forward. Nor is it always the best agent for change. The message of democracy-promotion abroad is not well-delivered from the opposite end of a gun‖ (Longo 2010). This is not a call for the U.S. to withdraw its foreign military presence or adopt a pacifist attitude; far from it. It simply urges that democracy promotion rhetoric not be used as a decoration to make military action more palatable. Security rhetoric can be militant, but for the sake of effectiveness in the international arena, democracy promotion rhetoric should be non-coercive. B. Achievable Rhetoric The second point, realistic assessment of progress in democracy promotion efforts, is crucial in order to achieve consistency between rhetoric and action. If the government makes grandiose statements about democracy promotion, as were common under Bush‘s Freedom Agenda, it will be hard pressed to live up to them. Eliminating tyranny entirely is a noble goal, as is supporting all democratic movements worldwide, but the truth is that the U.S. government is in no position to actually do either of those things. It cannot achieve consistency between rhetoric and action if rhetoric is unrealistic. This is not to say that there is no place for lofty or inspiring language. On the contrary, it often plays an important role in motivating populations to organize for democratic change. What is essential is that lofty rhetoric not be confused with actual commitments to act or expected outcomes of an action. For example, instead of claiming a completely free and democratic Middle East to be the goal of a policy like the Freedom Agenda, U.S. politicians could state that all citizens of Middle Eastern states deserve to have their basic rights and freedoms protected by accountable, responsive governments. It is entirely possible to reinforce a commitment to human rights and quality of life for all people without making specific claims about the U.S.‘s own power to reshape the world as it sees fit. C. Realism Allows for Consistency In addition to rhetoric about goals and actions being realistic in scope, it must also be as consistent as possible with actual U.S. interests, policies, and actions. Clearly this is not possible in all areas of foreign policy, particularly security and intelligence, but for democracy promotion it is largely possible and in fact helpful in many ways. Cavatorta and Durac point out that often, ―rather than being interested in democratic reform for its own sake, the US propounds democracy in the hope and expectation that it will deliver outcomes which the US desires.‖ It is important not to confuse democracy promotion for its own sake with democracy promotion used as part of a strategy to make a state less hostile to U.S. interests, be they economic, military, or political. This distinction is important because, as previously stated, democracy promotion is a long-term and contextually sensitive project and is unlikely to succeed as part of a short-term effort to affect specific strategic variables. Thus, if democracy promotion is tied to such projects rhetorically, it will seem to have a low success rate and diminish our credibility. If, however, it is made clear that the U.S. is seeking a strategic outcome, for instance permission to build a military base in a foreign state, and democracy promotion is one of many tools being employed to towards this end, no unrealistic expectations are raised. In this case, the U.S. appears pragmatic rather than blindly optimistic. Being clear and realistic rhetorically about the desired short-term and long-term outcomes of policies will improve the image of the U.S. as an international actor and restore credibility to its democracy promotion efforts. When democracy promotion is indeed the priority of a given project, it will be more successful and contribute to a more admirable and diplomatically effective U.S. when mistakes are recognized, discussed in a cooperative forum, and amended for future projects. Democracy promotion, like any process, will stagnate if unsuccessful models are ignored and allowed to proliferate because of a desire to save face. It is time to stop ―using transitional language to characterize countries that in no way conform to any democratization paradigm‖ and earn back the respect of the democracy promotion community (Carothers 2007, 4). D. Realism Encourages Multilateral Cooperation A further benefit to realistic assessments of progress beyond image repair is the possibility for greater international cooperation on democracy promotion projects. Discussions among democracy promoters about the successes and challenges of particular cases will not only foster a sense of shared goals, but also allow for faster and more effective revisions of unsuccessful tactics. Multilateralism has many benefits that will be more thoroughly discussed later in the paper, but most simply it will make us less vulnerable to accusations of arrogance. Exemplifying the willingness to cooperate and take criticism that we would like to see in other states will only bolster our credibility and effectiveness in the diplomatic arena. VI. Conclusion Improving the image of the U.S. abroad will increase its effectiveness in all aspects of foreign policy. Creating a clear, consistent democracy promotion policy that recognizes the need to compromise between immediate strategic interests and long-term democratization efforts is necessary to eliminate accusations of hubris and hypocrisy so common since the Bush Administration‘s Freedom Agenda. President Obama has made steps in the right direction, but has yet to present a cohesive, transparent democracy promotion policy to the public.

#### Discursive focus generates epistemological ignorances and won’t alter security structures

Adrian Hyde-Price (Professor of International Politics at Bath) 2001 “Europes new security challenges” p. 39

Securitization thus focuses almost exclusively on the discursive domain and eschews any attempt to determine empirically what constitutes security concerns. It does not aspire to comment on the reality behind a securitization discourse or on the appropriate instruments for tackling security problems. Instead, it suggests that security studies – or what Waever calls securitization studies –should focus on the discursive moves whereby issues are securitized. The Copenhagen school thus emphasizes the need to understand the “speech acts” that accomplish a process of securitization. Their focus is on the linguistic and conceptual dynamics involved, even though they recognize the importance of the institutional setting within which securitization takes place. The concept of securitization offers some important insights for security studies. However, it is too epistemologically restricted to contribute to a significant retooling of security studies. On the positive side, it draws attention to the way in which security agendas are constructed bgy politicians and other political actors. It also indicates the utility of discourse analysis as an additional tool of analysis for security studies. However, at best, securitization studies can contribute one aspect of security studies. It cannot provide the foundations for a paradigm shift in the subdiscipline. Its greatest weakness is its epistemological hypochondria. That is, its tendency to reify epistemological problems and push sound observations about knowledge claims to their logical absurdity. Although it isimportant to understand the discursive moves involved in perception of security in, say, the Middle East, it is also necessary to make some assessment of nondiscursive factors like the military balance or access to freshwater supplies. For the Copenhagen school, however, these nondiscursive factors are relegated to second place. They are considered only to the extent that they facilitate or impede the speech act. In this way, the Copenhagen school is in danger of cutting security studies off from serious empirical research and setting it adrift on a sea of floating signifiers.

#### The alternative fails and causes a spiral of insecurity that causes the most violent aspects of your impact claims – only taking strategic political action like the plan solves

P. H. Liotta (Professor of Humanities at Salve Regina University, Newport, RI, andExecutive Director of the Pell Center for International Relations and Public Policy) 2005 “Through the Looking Glass” Sage Publications

Although it seems attractive to focus on exclusionary concepts that insist on desecuritization, privileged referent objects, and the ‘belief’ that threats and vulnerabilities are little more than social constructions (Grayson, 2003), all these concepts work in theory but fail in practice. While it may be true that national security paradigms can, and likely will, continue to dominate issues that involve human security vulnerabilities – and even in some instances mistakenly confuse ‘vulnerabilities’ as ‘threats’ – there are distinct linkages between these security concepts and applications. With regard to environmental security, for example, Myers (1986: 251) recognized these linkages nearly two decades ago: National security is not just about fighting forces and weaponry. It relates to watersheds, croplands, forests, genetic resources, climate and other factors that rarely figure in the minds of military experts and political leaders, but increasingly deserve, in their collectivity, to rank alongside military approaches as crucial in a nation’s security. Ultimately, we are far from what O’Hanlon & Singer (2004) term a global intervention capability on behalf of ‘humanitarian transformation’. Granted, we now have the threat of mass casualty terrorism anytime, anywhere – and states and regions are responding differently to this challenge. Yet, the global community today also faces many of the same problems of the 1990s: civil wars, faltering states, humanitarian crises. We are nowhere closer toaddressing how best to solve these challenges, even as they affect issues of environmental, human, national (and even ‘embedded’) security. Recently, there have been a number of voices that have spoken out on what the International Commission on Intervention and State Sovereignty has termed the ‘responsibility to protect’:10 the responsibility of some agency or state (whether it be a superpower such as the United States or an institution such as the United Nations) to enforce the principle of security that sovereign states owe to their citizens. Yet, the creation of a sense of urgency to act – even on some issues that may not have some impact for years or even decades to come – is perhaps the only appropriate first response. The real cost of not investing in the right way and early enough in the places where trends and effects are accelerating in the wrong direction is likely to be decades and decades of economic and political frustration – and, potentially, military engagement. Rather than justifying intervention (especially military), we ought to be justifying investment. Simply addressing the immensities of these challenges is not enough. Radical improvements in public infrastructure and support for better governance, particularly in states and municipalities (especially along the Lagos–Cairo–Karachi–Jakarta arc), will both improve security and create the conditions for shrinking the gap between expectations and opportunity. A real debate ought to be taking place today. Rather than dismissing ‘alternative’ security foci outright, a larger examination of what forms of security are relevant and right among communities, states, and regions, and which even might apply to a global rule-set – as well as what types of security are not relevant – seems appropriate and necessary. If this occurs, a truly remarkable tectonic shift might take place in the conduct of international relations and human affairs. Perhaps, in the failure of states and the international community to respond to such approaches, what is needed is the equivalent of the 1972 Stockholm conference that launched the global environmental movement and established the United Nations Environmental Programme (UNEP), designed to be the environmental conscience of the United Nations. Similarly, the UN Habitat II Conference in Istanbul in 1996 focused on the themes of finding adequate shelter for all and sustaining human development in an increasingly urbanized world. Whether or not these programs have the ability to influence the future’s direction (or receive wide international support) is a matter of some debate. Yet, given that the most powerful states in the world are not currently focusing on these issues to a degree sufficient to produce viable implementation plans or development strategies, there may well need to be a ‘groundswell’ of bottom-up pressure, perhaps in the form of a global citizenry petition to push the elusive world community toward collective action.Recent history suggests that military intervention as the first line of response to human security conditions underscores a seriously flawed approach. Moreover, those who advocate that a state’s disconnectedness from globalization is inversely proportional to the likelihood of military (read: US) intervention fail to recognize unfolding realities (Barnett, 2003, 2004). Both middle-power and major-power states, as well as the international community, must increasingly focus on long-term creeping vulnerabilities in order to avoid crisis responses to conditions of extreme vulnerability. Admittedly, some human security proponents have recently soured on the viability of the concept in the face of recent ‘either with us or against us’ power politics (Suhrke, 2004). At the same time, and in a bit more positive light, some have clearly recognized the sheer impossibility of international power politics continuing to feign indifference in the face of moral categories. As Burgess (2004: 278) notes, ‘for all its evils, one of the promises of globalization is the unmasking of the intertwined nature of ethics and politics in the complex landscape of social, economic, political and environmental security’. While it is still not feasible to establish a threshold definition for human security that neatly fits all concerns and arguments (as suggested by Owen, 2004: 383), it would be a tragic mistake to assume that national, human, and environmental security are mutually harmonious constructs rather than more often locked in conflictual and contested opposition with each other. Moreover, aspects of security resident in each concept are indeed themselves embedded with extraordinary contradictions. Human security, in particular, is not now, nor should likely ever be, the mirror image of national security. Yet, these contradictions are not the crucial recognition here. On the contrary, rather than focusing on the security issues themselves, we should be focusing on the best multi-dimensional approaches to confronting and solving them. One approach, which might avoid the massive tidal impact of creeping vulnerabilities, is to sharply make a rudder shift from constant crisis intervention toward strategic planning, strategic investment, and strategic attention. Clearly, the time is now to reorder our entire approach to how we address – or fail to address – security.

#### Critiquing security isn’t enough – political action is necessary and the perm solves

Pinar Bilgin (Department of International Relations Bilkent University Ankara) 2005 “Regional Security in the Middle East” p. 60-1

Admittedly, providing a critique of existing approaches to security, revealing those hidden assumptions and normative projects embedded in Cold War Security Studies, is only a first step. In other words, from a critical security perspective, self-reflection, thinking and writing are not enough in themselves. They should be compounded by other forms of practice (that is, action taken on the ground). It is indeed crucial for students of critical approaches to re-think security in both theory and practice by pointing to possibilities for change immanent in world politics and suggesting emancipatory practices if it is going to fulfil the promise of becoming a 'force of change' in world politics. Cognisant of the need to find and suggest alternative practices to meet a broadened security agenda without adopting militarised or zero-sum thinking and practices, students of critical approaches to security have suggested the imagining, creation and nurturing of security communities as emancipatory practices (Booth 1994a; Booth and Vale 1997). Although Devetak's approach to the theory/practice relationship echoes critical approaches' conception of theory as a form of practice, the latter seeks to go further in shaping global practices. The distinction Booth makes between 'thinking about thinking' and 'thinking about doing' grasps the difference between the two. Booth (1997:114) writes: Thinking about thinking is important, but, more urgently, so is thinking about doing…. Abstract ideas about emancipation will not suffice: it is important for Critical Security Studies to engage with the real by suggesting policies, agents, and sites of change, to help humankind, in whole and in part, to move away from its structural wrongs. In this sense, providing a critique of existing approaches to security, revealing those hidden assumptions and normative projects embedded in Cold War Security Studies, is only a first (albeit crucial) step. It is vital for the students of critical approaches to re-think security in both theory and practice.

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### Econ

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

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

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

#### Their K is wrong and has zero evidentiary basis --- economic predictions are accurate, not totalizing, reflexive, and there’s no alt

DOUGLAS W. HANDS 84 Department of Economics University of Puget Sound What Economics Is Not: An Economist's Response to Rosenberg Source: Philosophy of Science, Vol. 51, No. 3 (Sep., 1984), pp. 495-503 http://www.jstor.org/stable/187496

1. Economic Predictions. Much of Rosenberg's discussion is directed toward explaining the "predictive weakness" (p. 297) of modem economics and the discipline's inability (or lack of desire) to "improve its predictive content" (p. 301). This failure to generate successful predictions and to improve the few predictions which are made is taken as an empiricafl act about even the most applied economic theories. No evidence is provided, or even suggested, to support this empirical claim. Rosenberg certainly needs to provide evidence for the ubiquitous predictive failure of applied economic theory. Such criticism is by no means "well known" or "standard" in the literature on economic methodology. It is "standard” to argue that economic theories are insulated from direct falsification, that they are built on inadequate behavioral foundation s, and that in their most abstract form they fail to yield predictions or even to systematically connect up with applied theories which might yield predictions. But systematic predictive failure is not a standard methodological criticism of applied economic theory. The reason why such predictive failure i snot a standard criticism i squite simple: Rosenberg has exaggerated the extent of this failure. Predictive failure is simply not the ubiquitous fact of modem economic theory which Rosenberg assumes. While nowhere n ear the standards ofthe best natura ls cience, applied economic theories (both micro and macro) do generate an ocean of successful predictions, on everything from the impact of trucking deregulation to the demand for consumer credit. Rosenberg's claim that economic predictions have not "improved"(p . 301) with time is also exaggerated. W hile there is always room for more improvement, modern macroeconometric models provide extraordinary accuracy relative to pre-World W ar I1b usiness cycle models. Where substantiael errros ooccur, such as the inability to predict the inflationary im pacto fthe OPEC i nduceds upply-sides hock, the models are improved so that failures of the same type are less likely to reoccur.3 Rosenberg even goes so far as to argue that more predictively successful alternatives currently exist (at least in the micro domain) and are neglected, ostensibly because of an irrational professional attraction to intentional and extreme views of human behavior. He tells us that even if a more predictive theory were available: "it is not likely to actually deflect practicing economists from their intentional extreme research program . . . the reason is that they are not really much interested in questions of empirical applicability at all. Otherwise some of the attractive nonintentional and/or nonextremal approaches to economic behavior that are available would long ago have elicited more interest from economists than they have" (p. 308). An adequate defense of this position would of course require a demonstration of both the predictive failure of traditional microeconomics and the predictive success of the proposed alternatives. We have already questioned the validity of the former; Rosenberg merely asserts the latter. Contrary to Rosenberg's claim, predictive success is an important criterion of theory choice in economics. One of the reasons for this is that economic predictions are consumed by the business community. These business interests do not care whether the underlying economic theory is intentional or nonintentional. In fact, they do not even care whether the predictions are from scientific theories or not. They are only concerned with (and pay for) predictive accuracy. In addition to these business interests, labor unions, governments, and other organizations are also consumers of economic predictions. These groups approach economic theory with the same nomological nonchalance as the corporate consumers. Of course, the fact that organizational consumers of economic predictions often purchase infolmation based on traditional economic models does not imply that these models constitute "science" or that there is no room for nontraditional models. The argument is only that the survivability of the traditional approach in such applications indicates that (relative to the available alternatives), its predictive failings are not as great as Rosenberg would have us believe.

#### Elites will backlash against the alt in devastating civil wars

Roger Terry (senior editor at the Ensign magazine) Economic Insanity. 1995. pp. 137-138

Given the fact that capitalism as we know it is both corrupt and rapidly deteriorating, we are faced with the dilemma of how to get from our present system to one that is both more equitable and more workable. This will not be an easy transition, for it will involve the conversion of our present authoritarian organizations into democratic institutions. Unfortunately, recognizing that we need to make this transition is much easier than actually making it. How do you convert ftom a system of either narrow, unlimited ownership or widely dispersed absentee ownership to a system of limited, universal ownership? A good argument can be built for making this transition gradually, over a long period of time. If we were to try to make this shift overnight, the consequences would likely be as horrible as they are predictable. Suddenly abolishing our present system of ownership would create a crisis far more perilous even than the Civil War, which arose from abolishing a different, although related, form of ownership. It would be naive to think that those who have accumulated vast amounts of money, property, and power would simply yield to reason (or even newly enacted laws) and give up these possessions without a fight. And I mean a literal fight, one in which the odds would be stacked against change and democracy. It is not difficult to imagine an actual civil war far more devastating than the one fought over slavery.

### K

#### Affirming survival doesn’t devalue life – life is complex and malleable and can be celebrated even when it seems oppressive

Fassin, 10 - James D. Wolfensohn Professor in the School of Social Science at the Institute for Advanced Study, Princeton, as well as directeur d’études at the École des Hautes Études en Sciences Sociales, Paris. (Didier, Fall, “Ethics of Survival: A Democratic Approach to the Politics of Life” Humanity: An International Journal of Human Rights, Humanitarianism, and Development, Vol 1 No 1, Project Muse)

Conclusion

**Survival**, in the sense Jacques Derrida attributed to the concept in his last interview, not only shifts lines that are too often hardened between biological and political lives: it **opens an ethical space for** reflection **and** action. **Critical thinking in the past decade has often taken biopolitics and the politics of life as its objects**. It has thus unveiled the way in which individuals and groups, even entire nations, have been treated by powers, the market, or the state, during the colonial period as well as in the contemporary era.¶ **However, through indiscriminate extension, this powerful instrument has lost some of its analytical sharpness and heuristic potentiality**. On the one hand, **the binary reduction of life to the opposition between nature and history, bare life and qualified life**, when systematically applied from philosophical inquiry in sociological or anthropological study, **erases much of the complexity and richness of life in society as it is in fact observed**. On the other hand**, the normative prejudices which underlie the evaluation of the forms of life and of the politics of life, when generalized to an undifferentiated collection of social facts, end up by depriving social agents of legitimacy, voice, and action**. The risk is therefore both scholarly and political. It calls for ethical attention.¶ In fact, the genealogy of this intellectual lineage reminds us that the main founders of these theories expressed tensions and hesitations in their work, which was often more complex, if even sometimes more obscure, than in its reduced and translated form in the humanities and social sciences today. And also biographies, here limited to fragments from South African lives that I have described and analyzed in more detail elsewhere, suggest the necessity of complicating the dualistic models that oppose biological and political lives. Certainly, powers like the market and the state do act sometimes as if human beings could be reduced to “mere life,” **but democratic forces, including from within the structure of power, tend to produce alternative strategies that escape this reduction**. **And people themselves, even under conditions of domination,** [End Page 93] **manage subtle tactics that transform their physical life into a political instrument or a moral resource or an affective expression**.¶ But let us go one step further: ethnography invites us to reconsider what life is or rather what human beings make of their lives, and reciprocally how their lives permanently question what it is to be human. “The blurring between what is human and what is not human shades into the blurring over what is life and what is not life,” writes Veena Das. In the tracks of Wittgenstein and Cavell, she underscores that the usual manner in which we think of forms of life “not only obscures the mutual absorption of the natural and the social but also emphasizes form at the expense of life.”22 It should be the incessant effort of social scientists to return to this inquiry about life in its multiple forms but also in its everyday expression of the human.

#### It’s not just abstract extinction scenarios—there's unique value to focused discussions on specific simulations—it helps bridge the gap between theory and practice by informing provisional conclusions based on complex information.

Donohue, 13 [2013 Nation al Security Pedagogy: The Role of Simulations, Associate Professor of Law, Georgetown Law, <http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=2172&context=facpub>]

V . T OTAL I MMERSION S IMULATION S The concept of simulations as an aspect of higher education, or in the law school environment, is not new . 162 Moot court, after all, is a form of simulation and one of the oldest teaching devices in the law. What is new, however, is the idea of designing a civilian national s ecurity course that takes advantage of the doctrinal and experiential comp onents of law school education, and integrating the experience through a multi - day simulation. In 2009 I taught the first module based on this design at Stanford Law, which I develo ped the following year into a full course at Georgetown Law. It has since gone through multiple iterations. The initial concept followed on the federal full - scale Top Off icial (“TopOff”) exercises, used to train government officials to respond to domestic c r i s e s . 163 It adapted a Tabletop Exercise, designed with the help of exercise officials at DHS and FEMA, to the law school environment. The Tabletop used one storyline to push on specifi c legal questions, as students, assigned roles in the discussion, sat around a table and for six hours engaged with the material. The problem with the Tabletop Exercise was that it was too static, and the rigidity of the format left little room, or time, for student agency. U nlike the government’s TopOff exercises, which gave officials the opportunity to fully engage with the many different concerns that arise in the course of a national security crisis as well as the chance to deal with externalities, t he Tabletop focused on specific legal issues, even as it controlled for external chaos. The opportunity to provide a more full experience for the students came with the creation of first a one - day, and then a multi - day simulation. The course design an d simulation conti nues to evolve . It offers a one model for achieving the pedagogical goals outlined above, in the process developing a rigorous training ground for the next generation of national security l a w y e r s . 164 A . Course Design The central idea in structuring the course, which I refer to as National Security Law Simulation 2.0 (“ NSL Sim 2.0 ”) was to bridge the gap between theory and practice by conveying doctrinal material and creating an alternative reality in which students would be forced to act upon legal c o n c e r n s . 165 The exercise itself is a form of problem - based learning, wherein students are given both agency and responsibility for the results. Towards this end, the structure must be at once bounded (i.e., directed and focused on certain areas of the law and legal education) and flexible (i.e., responsive to student input and decision - making). P erhaps the most significant weakness in the use of any constructed universe is the problem of authenticity. Efforts to replicate reality will in evitably fall short. There is simply too much uncertainty, randomness, and complexity in the real world. One way to address this shortcoming, however, is through design and agency. The scenarios with which students grapple, and the structural design of the simulation must reflect the national security realm, even as students themselves must make choices that carry consequences. Indeed, to some extent, student decisions themselves must drive the evolution of events within the simulation. 166 Additionally**,** while authenticity matters, it is worth noting that at some level, the fact that the incident does not take place in a real - world setting can be a great advantage. That is, the simulation creates an environment where students can make mistakes and learn from these mistakes— without what might otherwise be devastating consequences. It also allows instructors to develop multiple points of feedback to enrich student learning in a way that would be much more difficult to do in a regular practice setting. NSL Si m 2.0 takes as its starting point the national security pedagogical goals discussed above. It works backwards to then engineer a classroom, cyber, and physical/simulation experience to delve into each of these areas. As a substantive matter, the course f ocuses on the constitutional, statutory, and regulatory authorities in national security law, placing particular focus on the interstices between black letter law and areas where the field is either unsettled or in flux. A key part of the course design is in retaining both the doctrinal and experiential components of legal education. Divorcing simulations from the doctrinal environment risks falling short on the first and third national security pedagogical goals: (1) analytical skills and substantive kn owle dge, and (3 ) critical thought. To be sure, a certain amount of both can be learned in the course of a simulation; however, the national security crisis environment is not well - suited to the more thoughtful and careful analytical discussion. What I am thus proposing is a course design in which doctrine is paired with the type of experiential learning more common in a clinical realm. The former precedes the latter, giving students the opportunity to develop depth and breadth prior to the exercise. In order to capture problems related to adaptation and evolut ion [1(d )], the simulation itself takes place over a multi - day period. Because of the intensity involved in national security matters (and conflicting demands on student time), the model makes use of a mu lti - user virtual environment. The use of such technology is critical to creating more powerful, immersive s i m u l a t i o n s . 167 It also allow s for continual interaction between the players. Multi - user virtual environments have the further advantage in h elping to transform the traditional teaching culture, predominantly concerned with manipulating textual and symbolic knowledge, into a culture where students learn and can then be assessed on the basis of their participation in changing p r a c t i c e s . 168 I thus worked with the Information Technology group at Georgetown Law to build the cyber portal used for NSL Sim 2.0. The twin goals of adaptation and evolution require students to be given a significant amount of agency and responsibility for decisions taken in the course of the simulation. To further this aim, I constituted a Control Team, with six professors, two attorneys in practice, a media expert, six to eight former simulation students, and technology experts. Four of the professors specialize in different areas of national security law and assume roles in the course of the exercise, with the aim of pushing students towards a deeper doctrinal understanding of the shifting authorities. One professor plays the role of President of the United States. The sixth professor focuses on questions of professional 44 respo nsibility. The two attorneys fro m practice help to build the simulation and then, along with all the professors, assume active roles during the simulation itself. Returning students assist in the execution of the play, further developing their understanding of national security law. T hroughout the simulation, the C ontrol T eam is constantly reacting to student choices . Where unexpected decisions are made, professors may choose to pursue the evolution of the story to accomplish the pedagogical aims, or they may choose to cut off play in that area (there are various devices for doing so, such as denying requests, sending materials to labs to be analyzed, drawing the players back into the main storylines, and l eaking information to the media ). Unlike the more limited experiential tools of hypotheticals or doctrinal problems, a total immersion simulation involves a number of scenarios, as well as systemic noise, to give students experience in dealing with the second pedagogical goal: i.e., factual chaos and information overload. The drivin g aim here is to teach students how to manage information more effectively. Five to six storylines are thus developed, each with its own arc and evolution. To this are added multiple injects relating to background noise. Thus, unlike hypotheticals , doct rinal problems, single - experience exercises, or even Tabletop exercises, the goal is not to eliminate external conditions, but to embrace them as part of the challenge facing national security lawyers. The simulation itself is problem - based, giving players agency in driving the evolution of the experience— thus addressing goal [2(c)]. This requires a real - time response from the professor(s) overseeing the simulation, pairing bounded storylines with flexibility to push on different areas of the law and the s tudents’ practical skills. Indeed, each storyline is based on a problem facing the government, to which players must then respond, generating in turn a set of new issues that must be addressed. The written and oral components of the simulation conform to the fourth pedagogical goal — i.e., the types of situations in which national security lawyers will find themselves . Particular emphasis is placed on nontraditional modes of communication : e.g., legal documents in advance of the crisis itself, meetings in the midst of breaking national security concerns, multiple informal interactions, media exchanges, telephone calls, Congressional testimony, and formal briefings to senior level officials in the course of the simulation as well a s during the last class ses sion . This is paired with the preparation of formal legal instruments, such as applications to the Foreign Intelligence Surveillance Court, legal memos, applic ations for search warrants under Title III, and administrative subpoenas such as National Securi ty Letters. In addition, students are required to prepare a paper prior to the simulation, outlining their legal authorities – and following the session, to deliver a 90 second oral briefing. To replicate the high - stakes, political environment at issue in goals (1) and (5), students are divided into political and legal roles, and assigned to different (and competing) institutions: the White House, DoD, DHS, HHS, DOJ, DOS, Congress, state officials, nongovernmental organizations, and the media. This req uires students to acknowledge and work within the broader Washington context, even as they are cognizant of the policy implications of their decisions. They must get used to working with policymakers and to representing one of (many) different considerati ons that decisionmakers take into account in the national security domain. Scenarios are then selected with high consequence events in mind , to ensure that students recognize both the domestic and international dimensions of national security law . Further injects into the simulation provide for the broader political context — for instance, whether it is an election year, which parties control different branches, and state and local issues in related but distinct areas. The media is given a particularly prom inent role. One member of the Control Team runs an AP wire service, while two student players represent print and broadcast me dia, respectively. The Virtual News Network (“VNN”), which performs in the second capacity, runs continuously during the exercis e, in the course of which players may at times be required to appear before the camera. This media component thus helps to emphasize the broader political context within which national security law is practiced. Both anticipated and unanticipated decision s give rise to ethical questions and matters related to the fifth goal: professional responsibility. The way in which such issues arise stems from simulation design as well as spontaneous injects from both the Control Team and the participants in the sim ulation itself. As aforementioned, one professor on the Control Team , and a practicing attorney who has previously gone through a simulation , focus on raising decision points that encourage students to consider ethical and professional considerations. Th roughout the Frameworkjudgment and leadership play a key role , directly impacting the players’ effectiveness , with the exercise itself hitting the aim of the integration of the various pedagogical goals. Finally, there are multiple layers of feedb ack that players receive prior to, during, and following the simulation to help t hem to gauge their effectiveness. T he Socratic method in the course of doctrinal studies provides immediate assessment of the students’ grasp of the law . Written assignments focused on the contours of individual players’ authorities give professors an opportunity to assess students’ level of understanding prior to the simulation. And the simulation itself provides real - time feedback from both peers and professors . The Contr ol Team provides data points for player reflection — for instance, the Control Team member playing President may make decisions based on player input, giving students an immediate impression of their level of persuasiveness, while another Control Team member may reject a FISC application as insufficientThe simulation goes beyond this, however, focusing on teaching students how to develop (6) opportunities for learning in the future. Student meetings with mentors in the field, which take place before the si mulation, allow students to work out the institutional and political relationships and the manner in which law operates in practice, even as they learn how to develop mentoring relationships. (Prior to these meetings we have a class discussion about mento ring, professionalism, and feedback). Students, assigned to simulation teams about one quarter of the way through the course, receive peer feedback in the lead - up to the simulation and during the exercise itself. Following the simulation the Control Team and observers provide comments . Judges , who are senior members of the bar in the field of national security law, observe player interaction s and provide additional debriefing . The simulation, moreover, is recorded through both the cyber portal and throu gh VNN, allowing students to go back and to assess their performance. Individual meetings with the professors teaching the course similarly follow the event. Finally, students end the course with a paper reflecting on their performance and issues that ar ose in the course of the simulation and with an aim towards developing frameworks for how to analyze uncertainty, tension with colleagues, mistakes, and successes in the future.B . Substantive Areas: Interstices and Threats As a substantive matter, NSL Sim 2.0 is designed to take account of areas of the law central to national security . It focuses on specific authorities that may be brought to bear in the course of a crisis . The decision of which areas to explore is made well in advance of the cour se. It is particularly helpful here to think about national security authorities on a continuum, as a way to press students on shifting standards depending upon the type of threat faced. One course, for instance, might center on the interstices between c rime, drugs, terrorism and war. Another might push on the intersection of pandemic disease and biological weapons. A third could turn to cybercrime and cyberterrorism. This is the most important determination, because the substance of the doctrinal port ion of the course and the simulation follows from this decision. For a course focused on the interstices between pandemic disease and biological weapons, for instance, preliminary inquiry would lay out what authorities apply, where the courts have weighed in on the question, and what matters are unsettled. Relevant areas might include public health law, biological weapons provisions, federal quarantine and isolation authorities, habeas corpus and due process, military enforcement and posse comitatus , emine nt domain and appropriation of land/property, takings, contact tracing, thermal imaging and surveillance, electronic tagging, vaccination, and intelligence - gathering. The critical areas can then be divided into the dominant constitutional authority, statut ory authorities, regulations, key cases, general rules, and constitutional questions. This, then, becomes a guide for the doctrinal part of the course, as well as the grounds on which the specific scenarios developed for the simulation are based. The aut horities, simultaneously, are included in an electronic resource library and embedded in the cyber portal (the Digital Archives) to act as a closed universe of the legal authorities needed by the students in the course of the simulation. Professional resp onsibility in the national security realm and the institutional relationships of those tasked with responding to biological weapons and pandemic disease also come within the doctrinal part of the course. The simulation itself is based on five to six storyl ines that push on the interstices between different areas of the law. The storylines are used to present a coherent, non - linear scenario that can adapt to student injects. Each scenario is mapped out in a three to seven page document, which is then check ed with scientists, government officials, and area experts for consistency with how the scenario would likely unfold in real life. For the biological weapons and pandemic disease emphasis, for example, one narrative might relate to the presentation of a patient suspected of carrying yersinia pestis at a hospital in the United States. The document would map out a daily progression of the disease consistent with epidemiological patterns and the central actors in the story: perhaps a U.S. citizen, potentia l connections to an international terrorist organization, intelligence on the individual’s actions overseas, etc. The scenario would be designed specifically to push on the intersection of public health and counterterrorism/biological weapons threats, and the associated (shifting) authorities, thus requiring the disease initially to look like an innocent presentation ( e.g., by someone who has traveled from overseas), but then for the storyline to move into the second realm (i.e., awareness that this was in fact a concerted attack). A second storyline might relate to a different disease outbreak in another part of the country, with the aim of pushing the Stafford Act/Insurrection Act line and raising federalism concerns. The role of the military here and T itle 10/Title 32 questions would similarly arise — with the storyline designed to raise these questions. A third storyline might simply be (well developed) noise in the system: reports of suspicious activity potentially linked to radioactive material, with the actors linked to nuclear material. A fourth storyline would focus perhaps on container security concerns overseas, progressing through newspaper reports, with containers showing up in local police precincts. State politics would constitute the fifth storyline, raising question of the political pressures on the state officials in the exercise. Here, ethnic concerns, student issues, economic conditions, and community policing concerns might prove the focus. The sixth storyline could be further noise in the system — loosely based on current events at the time. In addition to the storylines, a certain amount of noise is injected into the system through press releases, weather upda tes, private communications, and the like. The five to six storylines, prep ared by the Control Team in consultation with experts, becomes the basis for the preparation of scenario “injects”: i.e., newspaper articles, VNN 47 broadcasts, reports from NGOs, private communications between officials, classified information, government l eaks, etc., which , when put together, constitute a linear progression. These are all written and/or filmed prior to the exercise. The progression is then mapped in an hourly chart for the unfolding events over a multi - day period. All six scenarios are p laced on the same chart, in six columns, giving the Control Team a birds - eye view of the progression. C . How it Works As for the nuts and bolts of the simulation itself, it traditionally begins outside of class, in the evening, on the grounds that national security crises often do not occur at convenient times and may well involve limited sleep and competing d e m a n d s . 169 Typically, a phone call from a Control Team member posing in a role integral to one of the main storylines, initiates play. Student s at this point have been assigned dedicated simulation email addresses and provided access to the cyber portal. The portal itself gives each team th e opportunity to converse in a “ classified ” domain with other team members, as well as access to a public AP wire and broadcast channel, carrying the latest news and on which press releases or (for the media roles) news stories can be posted. The complete universe of legal authorities required for the simulation is located on the cyber portal in the Digital A rchives, as are forms required for some of the legal instruments (saving students the time of developing these from scratch in the cour se of play). Additional “ classified ” material — both general and SCI — has been provided to the relevant student teams. The Control Team has access to the complete site. For the next two (or three) days, outside of student initiatives (which, at their prompting , may include face - to - face meetings), the entire simulation takes place through the cyber portal. The Control Team, immediately active, begins responding to player decisions as they become public (and occasionally, through monitoring the “classified” communications, before they are released) . This time period provides a ramp - up to the third (or fourth) day of play, all owing for the adjustment of any substantive, student, or technology concerns, while setting the stage for the breaking crisis. The third (or fourth) day of play takes place entirely at Georgetown Law. A special room is constructed for meetings between the President and principals, in the form of either the National Security Council or the Homeland Security Council, with breakout rooms assigned to each of the agencies involved in the NSC process. Congress is provided with its own physical space, in which m eetings, committee hearings and legislative drafting can take place. State government officials are allotted their own area, separate from the federal domain, with the Media placed between the three major interests. The Control Team is sequestered in a d ifferent area, to which students are not admitted. At each of the major areas, the cyber portal is publicly displayed on large flat panel screens, allowing for the streaming of video updates from the media, AP wire injects, articles from the students assi gned to represent leading newspapers, and press releases. Students use their own laptop computers for team decisions and communication. As the storylines unfold, the Control Team takes on a variety of roles, such as that of POTUS, the Vice President, the President’s Chief of Staff, the Governor of a state, and public health officials. Some of the roles are adopted on the fly, depending upon player responses and queries as the storylines progress. Judges, given full access to each player domain, determine how effectively the students accomplish the national security goals. The judges are themselves well - experienced in the practice of national security law, as well as in legal education. They thus can offer a unique perspective on the scenarios confronted by the students, the manner in which the simulation unfolded, and how the students performed in their various capacities. At the end of the day, the exercise terminates and an immediate hotwash is held, in which players are first debriefed on what occurre d during the simulation. Because of the players’ divergent experiences and the different roles assigned to them, the students at this point are often unaware of the complete picture. The judges (and formal observers) then offer reflections on the simulat ion and determine which teams performed most effectively**.** Over the next few classes, more details about the simulation emerge, as students discuss it in more depth and consider limitations created by their knowledge or institutional position, questions t hat arose in regard to their grasp of the law, the types of decision - making processes that occurred , and the effectiveness or their — and other students’ — performance s . Reflection papers, paired with oral briefings, focus on the substantive issues raised by the simulation and introduce the opportunity for students to reflect on how to create opportunities for learning in the future . The course then c o n c l u d e s . 17V I .