# 1AC

### 1AC – Plan

#### The United States federal government should grant existing Article III courts exclusive jurisdiction over the legal status of individuals indefinitely detained under the War Powers authority of the President of the United States.

### Advantage 1

#### Advantage 1 is Intelligence –

#### Scenario 1 is the UK –

#### British intelligence is over-stretched in the SQ

Rogan, 1/23 (Tom, “Why Syria is Forcing British Intelligence Into Hard Choices” The American Spectator. Web, ACc 2/5/2013 <http://spectator.org/articles/57510/why-syria-forcing-british-intelligence-hard-choices>

These are busy and difficult times at [New Scotland Yard](http://en.wikipedia.org/wiki/Counter_Terrorism_Command), [Thames House](http://en.wikipedia.org/wiki/Mi5), [Vauxhall Cross](http://en.wikipedia.org/wiki/Mi6) and “[the doughnut](http://en.wikipedia.org/wiki/Government_Communications_Headquarters).” Over the last few days, British Police have separately arrested [two men](http://www.bbc.co.uk/news/uk-25788563) and [one woman](http://www.bbc.co.uk/news/uk-25768181) at London’s Heathrow Airport, [another man](http://www.bbc.co.uk/news/uk-25818880) at London’s Stansted Airport and a [further woman](http://www.bbc.co.uk/news/uk-25768181) in North London. The common theme? The suspects travel/intended travel either to or from Istanbul. It doesn’t take a genius to figure out what’s going on here. Turkey is Europe’s launching pad for the Syrian civil war. Jihadist threats from Syria are now actively threatening to spill across British borders.¶ Placed alongside recent [MI6 meetings](http://online.wsj.com/news/articles/SB10001424052702303819704579318470126721930) with the Assad regime, this rapid succession of arrests tells us something — the UK security establishment is greatly concerned. Very public counter-terrorism operations such as these aren’t the favored British way.¶ Like the U.S., the UK applies a blend of persuasion and [pressure](http://www.dailymail.co.uk/news/article-2344907/Younger-brother-Woolwich-murder-suspect-says-MI5-MI6-tried-recruit-me.html) to recruit its sources. However, where U.S. domestic counter-terrorism strategy predicates early interdiction of terrorist suspects as its key priority, the British approach is rooted in a different formula. For the UK, it’s about identifying the individual terrorist, finding the cell, developing the network picture and then constricting the larger group’s operational flexibility. Put more simply, where the U.S. likes to take people off the streets quickly, the UK prefers to keep people “in play” until the last possible moment. While each approach has merits and risks, facing al Qaeda’s 2006 Transatlantic Plot, the diverging UK/U.S. philosophies caused a [major row](http://www.tomroganthinks.com/2011/12/intelligence-relationship-between-us-uk.html).¶ So why is the situation in Syria forcing the UK to buck its counter-terrorism tradition?¶ For three reasons.¶ First, British citizens/nationals are actively fighting alongside supranational Salafi terrorist groups inside Syria. While some Britons in Syria [assert](http://www.youtube.com/watch?v=qWlopcE7kbs) that their enemy is Assad’s regime and not the UK, others are [proud](http://www.youtube.com/watch?v=vXmQPm5-vrw) to broadcast their hatred for British society. Regarding the latter individuals, the security challenge is clear. When these men and women return home from Syria, they’ll no longer just be disaffected rejectionists. Instead, they’ll be lawful British residents with the military knowledge, combat experience, and ideological desire to cause havoc on UK streets. This threat is made especially profound by the fact that [some](http://www.youtube.com/watch?v=7jD146Rx80k) British citizens have joined [ISIS](http://en.wikipedia.org/wiki/Islamic_State_of_Iraq_and_the_Levant) (the jihadist group responsible for unrestrained carnage in Iraq and Syria). As Jessica Lewis [notes](http://www.understandingwar.org/sites/default/files/JessVBIED_PartII_3Oct.pdf#page=27), ISIS has a reconstituted cadre of highly capable and strategically minded explosives experts. Some of these killers are almost certainly now training British and [other European](http://www.telegraph.co.uk/news/worldnews/middleeast/syria/10583000/France-warns-Europe-could-be-overwhelmed-by-jihadis-returning-from-Syria.html) citizens.¶ Second, Western intelligence services lack effective penetration of terrorist groups operating inside Syria. That’s a major problem. Without physical access to a particular locale, it’s extraordinarily difficult to develop human sources. In Syria, the constantly shifting battlefield makes force protection concerns a major issue — SIS can’t simply throw teams of case officers or agents into the meat grinder of war and hope for the best. Again, the outreach by UK Intelligence to Assad further proves their concern.¶ Still, there’s another collection-related difficulty for the UK — the Syria related terrorist threat is not the same as that of Pakistan. It’s well known that the greatest terrorist menace to the UK is posed by marginal but [embedded elements](http://www.tomroganthinks.com/2013/09/zawahiri-and-aq-cores-evolving-strategy.html) of the British-Pakistani community. What’s less well known, however, is that the presence of such a large Pakistani community is also instrumental to the success of the British security services. After all, a good number of citizens from this community actively support British counter-terrorism efforts. With their cultural awareness and Pakistani roots, these individuals afford a unique “access” capability to the British state. Conversely, the British-Syrian community is far smaller and far more disconnected from foreign jihadists in Syria.¶ Third, the UK Intelligence Community is severely strained by its present operational taskings. While their budgets were [recently increased](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209036/spending-round-2013-complete.pdf#page=11), British Intelligence agencies are grappling with a vast array of adversaries. Alongside their state to state intelligence and counter-intelligence responsibilities, MI5, SIS, and GCHQ face Northern Ireland linked[splinter groups](http://www.bbc.co.uk/news/uk-scotland-glasgow-west-24640536), new crops of “[homegrown](http://www.foxnews.com/opinion/2013/05/23/video-magnifies-london-terrorists-savage-bravado/)” terrorists and of course, a multitude of homegrown-foreign [fusion cells](http://www.bbc.co.uk/news/uk-22305095). The attacks in Nairobi and Mumbai have provided another[component](http://www.bbc.co.uk/news/uk-24278644) to the threat.¶ So does Edward Snowden. These days, facing new media interest and a growing public skepticism, British Intelligence officers are finding it [much harder](http://www.tomroganthinks.com/2013/08/why-british-government-stopped.html) to stay in the shadows. Indeed, in a signal of their grudging acceptance of this changed reality, “[C](https://www.sis.gov.uk/about-us/the-chief.html)” and co. are adapting. In an unprecedented display, the UK Intelligence Chiefs recently gave [open testimony](http://www.tomroganthinks.com/2013/11/semper-occult-uk-intelligence-chiefs.html) to Parliament. It’s in this sense that Syria originating threats come at a most difficult time. In the context of limited resources and difficult organizational changes, Syria is forcing British intelligence to make precarious choices about where to allocate its capabilities.¶ From overflowing [refugee camps](http://www.bbc.co.uk/news/world-middle-east-23801200) to [incinerated playgrounds](http://www.bbc.co.uk/news/world-23892594), Syria’s tragedy is obvious for all to see. Yet, just as the wanton destruction moves most of us to anger and sadness, others see pernicious opportunity in the violence. For all the cosmopolitan virtues of British society, not all its citizens are proud supporters of secular democracy. Correspondingly, the tremors of this brutal conflict are now reverberating across British borders in deeply troubling ways. ¶

#### Britain’s foreign and domestic intelligence services are not cooperating – even the Parliament knows it

Parker ‘12 Tom Parker, formerly policy director for Terrorism, Counterterrorism and Human Rights at Amnesty International USA. He is also a former officer in the British Security Service, “U.S. Tactics Threaten NATO” 9-17-12, http://nationalinterest.org/commentary/us-tactics-threaten-nato-7461, 8-03-13

European governments that have tried to turn a blind eye to U.S. counterterrorism practices over the past decade are now forced to pay attention by their own courts, which will restrict cooperation in the future**.**As recently as last month, the German federal prosecutor’s office opened a probe into the October 2010 killing of a German national identified only as “Buenyamin E.” in a U.S. drone strike in Pakistan. There are at least four other similar cases involving German nationals and several reported strikes involving legal residents of the United Kingdom.In March, Polish prosecutors charged the former head of Polish intelligence, Zbigniew Siemiatkowski, with “unlawfully depriving prisoners of the their liberty” because of the alleged role he played in helping to establish a CIA secret prison in northeastern Poland in 2002–2003.Last December, British Special Forces ran afoul of the UK courts for informally transferring two Al Qaeda suspects detained in Iraq, Yunus Rahmatullah and Amanatullah Ali, to U.S. forces. The British government has been instructed to recover the men from U.S. custody or face legal sanctions that could result in two senior ministers being sent to prison. Perhaps the most dramatic example illustrating the gap that has opened up between the United States and its European allies concerns the 2009 in absentia conviction of twenty-three U.S. agents in an Italian court for the role they played in the extraordinary rendition of radical Imam Hassan Mustafa Osama Nasr from Milan to Cairo.Britain, Poland, Italy and Germany are among America’s closest military partners. Troops from all four countries are currently serving alongside U.S. forces in Afghanistan, but they are now operating within a very different set of constraints than their U.S. counterparts.The European Court of Human Rights established its jurisdiction over stabilization operations in Iraq, and by implication its writ extends to Afghanistan as well. The British government has lost a series of cases before the court relating to its operations in southern Iraq. This means that concepts such as the right to life, protection from arbitrary punishment, remedy and due process apply in areas under the effective control of European forces. Furthermore, the possibility that intelligence provided by any of America’s European allies could be used to target a terrorism suspect in Somalia or the Philippines for a lethal drone strike now raises serious criminal liability issues for the Europeans. The United States conducts such operations under the legal theory that it is in an international armed conflict with Al Qaeda and its affiliates that can be pursued anywhere on the globe where armed force may be required. But not one other member of NATO shares this legal analysis, which flies in the face of established international legal norms. The United States may have taken issue with the traditional idea that wars are fought between states and not between states and criminal gangs, but its allies have not.The heads of Britain’s foreign and domestic intelligence services have been surprisingly open about the “inhibitions” that this growing divergence has caused the transatlantic special relationship**,** telling Parliament that it has become an obstacle to intelligence sharing. European attitudes are not going to change—the European Court of Human Rights is now deeply embedded in European life, and individual European governments cannot escape its oversight no matter how well disposed they are to assist the United States. The United States has bet heavily on the efficacy of a new array of counterterrorism powers as the answer to Al Qaeda. In doing so it has evolved a concept of operations that has much more in common with the approach to terrorist threats taken by Israel and Russia than by its European partners. There has been little consideration of the wider strategic cost of these tactics, even as the Obama administration doubles down and extends their use. Meanwhile, some of America’s oldest and closest allies are beginning to place more and more constraints on working with U.S. forces. NATO cannot conduct military operations under two competing legal regimes for long. Something has to give—and it may just be the Atlantic alliance.

#### Britain hates US indefinite detention – they stopped participating in joint CIA ops

Pearlstein 9, Visiting Research Scholar and Lecturer in Public and International Affairs, Woodrow Wilson School of Public and International Affairs, Princeton University, ‘9 [Deborah, “WE'RE ALL EXPERTS NOW:¶ A SECURITY CASE AGAINST SECURITY DETENTION”, Case Western Journal of International Law, Vol. 40, 2009, RSR]

articularly in the challenge of counterterrorism detention policy,¶ the United States has had to face the reality that programs it has pursued¶ principally for tactical purposes have resulted in significant strategic setbacks.¶ As one recent and striking poll of a bipartisan group of leading U.S.¶ foreign policy experts found, eighty-seven percent of experts polled believed¶ that features of the U.S. detention system had hurt more than helped¶ in the fight against Al Qaeda. 17 Indeed, detention programs have at times¶ resulted in significant tactical losses. Britain, America's close ally, pulled¶ out of planned joint counterterrorism operations with the CIA because it¶ could not obtain adequate assurances that U.S. agents would refrain from¶ rendition or cruel treatment.' 8 The costs of such trade-offs may be especially¶ acute in some circumstances-for example, if securing international cooperation¶ for the disposition of fissile material is central to a sate's strategic¶ counterterrorism plan.

#### East Africa operatives are targeting London – internal al Qaeda documents prove

* universities
* cruise ships
* hotels

Lister 13 et al, 9/26 (Paul, Tim, and Nic, “Evidence suggests that Al-Shabaab is shifting focus to ‘soft’ targets” CNN. http://www.cnn.com/2013/09/26/world/london-bombing-plot-qaeda/index.html

(CNN) -- "Our objectives are to strike London with low-cost operations that would cause a heavy blow amongst the hierarchy and Jewish communities, using attacks similar to the tactics used by our brothers in Mumbai."¶ Those are the opening words of a document found on the body of al Qaeda's top East Africa operative when he was killed two years ago.¶ And the plans uncovered in the document are now even more interesting and relevant in light of the attack on the shopping center in Nairobi, Kenya.¶ Among the targets identified: the famous Eton College, the five-star Dorchester and Ritz hotels, and the Jewish neighborhood of Golders Green in north London.¶ The Word document, written in English, which CNN understands was stored on a thumb drive, was found when Fazul Abdullah Mohammed -- architect of the U.S. Embassy bombings in Nairobi and in Dar es Salaam, Tanzania, in 1998 -- was killed at a government checkpoint in the Somali capital, Mogadishu, one night in June 2011. Its contents were first reported by Michelle Shephard of the Toronto Star, who provided the document to CNN.¶ Read the document here on The Toronto Star¶ Richard Barrett, the former head of counterterrorism for MI6, told CNN that while the plans were "pretty aspirational" they were found on "a very determined and extremely able operator who could convert plans to reality" and were seen as a "significant warning" by Western intelligence agencies.It's not clear whether Mohammed wrote or had approved of the plan. Its style and content suggest that it may have been a "pitch" to him by another al Qaeda operative. Shephard says that it may have been written by a British jihadist in East Africa.¶ But after the Nairobi attack by the Somali jihadist group Al-Shabaab and other al Qaeda documents seen by CNN, it is further evidence that replicating the 2008 Mumbai, India, attacks has become a major priority for the terror group, aiming at "soft" targets such as hotels, shopping malls, resorts or even cruise ships.¶ Barrett told CNN that the attack plans discovered in Mogadishu will now be seen in a more concerning light by Western intelligence agencies though "it is open to doubt" that Al-Shabaab would currently have the capability to carry out such an attack in the UK.¶ In a message to affiliates earlier this month, al Qaeda leader Ayman al-Zawahiri called for "taking the citizens of the countries that are participating in the invasion of Muslim countries as hostages so that our prisoners may be freed in exchange."¶ Attacking Eton College, where members of the royal family and British aristocracy are educated, would "strike a heavy blow at the 'who's who' of the political and business world," the document said.¶ "As we know the average English man is envious of the rich and has no ties to the upper class. This attack will totally infuriate the government/royalty but will not have such an impact on the masses," it reasoned.¶ As for the planned attack on either the Ritz or the Dorchester hotels -- which the author envisaged being carried out on "New Year's, Valentine's Day or even Hanukkah" -- there were further similarities to the attacks in Mumbai and Nairobi.¶ "We plan to book in advance and take plenty of petrol with the brother, then set the 1st 2nd and 3rd floor on fire using petrol and igniting using petrol bombs ... while we block the stairs so no-one can run down by blocking the staircase with furniture."¶ The author envisaged using Western recruits to carry out the attack, including British militants who had joined jihadist ranks in Somalia and people put forward by Al-Shabaab.¶ "For this mission we can use our own people or the harakah (Al-Shabaab) can supply suitable candidates or we would need instant access to all British muhajireen (jihadist emigrants)" the writer said.¶ "Each martyrdom seeker will be trained in Somalia preferably for 2 months ... the brothers will be pushed through many battles to see how they react under pressure and they will be analysed to see if they can keep their composure."¶ The training outlined in the document is a chilling precursor to the planning involved in the Nairobi attack.¶ The brothers "will be trained how to raid a house, clear rooms and gather all hostages in one room also how to use a human shield while shooting and moving through a building," it says.¶ "Reconnaissance will cover how to gather suitable information on the target, for example where are the nearest police stations, what times is the area most crowded, when are best times to attack, are there any armed guards, are they prepared for an attack, best way to enter building," it continues.¶ The Al-Shabaab attack in Nairobi closely mirrored the Mumbai attacks, in which members of the Pakistani group Lashkar-e-Tayyiba, a terrorist outfit affiliated with al Qaeda, seized hotels and a Jewish center and held out against Indian security forces for three days. More than 160 people were killed.¶ The similarities are striking:¶ • The targets were "soft" -- not military or government facilities, and therefore more easily penetrated;¶ • They were also enclosed, making it more difficult for security forces to flush out the assailants;¶ • A similar number of attackers -- about 10 -- was involved, and they used multiple entrance points;¶ • Both attacks were low-tech, involving automatic weapons and hand grenades, at the opposite end of the terror spectrum from the 9/11 attacks;¶ • Both involved a significant amount of preparation.¶ • They were in major cities, in places that attracted foreigners, and especially Westerners, and they focused on neighboring countries regarded as hostile. The Pakistani group attacked Indian targets; the Al-Shabaab cell attacked a Kenyan landmark in retaliation for Kenya's incursion into and occupation of southern Somalia;¶ • Israeli or Jewish interests were part of the targeting matrix;¶ • The attacks were geared to gaining maximum publicity.¶ Bergen: Are mass murderers using Twitter as a tool?¶ Resemblance to plans for European, U.S. strikes¶ Similar priorities appeared to have influenced another senior al Qaeda planner, Younis al Mauretani, who orchestrated a plan to hit Europe with a series of strikes, including Mumbai-style gun attacks. The discovery of the plans led to the United States issuing an unprecedented warning to its citizens in Europe in October 2010.¶ Western counterterrorism officials told CNN that al Qaeda at the time also envisaged hitting the United States with coordinated gun and hostage attacks. When U.S. Navy SEALs raided Osama bin Laden's compound in Abbottabad, Pakistan, they retrieved a letter Mauretani had written to bin Laden in March 2010 outlining attack plans. "After we hit Europe we will hit America," it said.¶ According to Swedish counterterrorism officials, in December 2010, a Swedish al Qaeda cell attempted to put part of the "Mumbai-style" plot into operation by driving to Denmark with a submachine gun, a silencer, several dozen 9 mm submachine gun cartridges, and plastic wrist straps to handcuff hostages. Their target was the Jyllands-Posten newspaper in Copenhagen, one of the newspapers that published controversial cartoons of the Prophet Mohammed. They were arrested once they reached the Danish capital. Security services believe the plan was to try to take up to 200 journalists hostage at the newspaper and execute many of them, a Swedish counterterrorism source told CNN.¶ Who is Al- Shabaab?¶ In May 2011, German police discovered a thumb drive hidden in the underpants of a terrorist suspect who was being questioned in Berlin. Encrypted deep inside a pornographic video called "Kick Ass" and a file marked "Sexy Tanja" was an internal al Qaeda document called "Future Works," which discussed seizing cruise ships and executing passengers, and carrying out attacks in Europe similar to the Mumbai attacks. Counterterrorism sources say another of the documents recovered contained notes in German, written at a training camp, on taking and executing hostages, putting the attack on camera and sending the video to al Qaeda so it could be used as propaganda.¶ U.S. intelligence sources told CNN last year that the documents, which included an internal report on terrorist plots that al Qaeda had orchestrated against the UK, were "pure gold."¶ While "Future Works" did not include dates, places or specific plans, it appears to have been a brainstorming exercise to seize the initiative and return al Qaeda to front-page news around the world.

#### Massive Syrian fighter backflow into Britain – spurs creation of terrorist cells

Gorman, Low, and Habib,GLH 12/4 (Jihadists Returning Home to Europe Pose Terror Threat” Wall Street Journal. Web, Acc http://online.wsj.com/news/articles/SB10001424052702303722104579238542737904868

Scores of jihadist fighters from Europe who streamed to Syria to join Islamic extremist rebels have begun returning home, where some are suspected of plotting terror attacks, according to U.S. and European intelligence and security officials.¶ Authorities in the U.K. and France recently made several terror-related arrests of individuals suspected of links to Syria.¶ "They're real committed jihadists," a senior U.S. intelligence official said. "The concern is that we're at the very early stages of this."¶ For the U.S. and Western countries, the returning jihadists pose the biggest long-term concern of the Syrian civil war, the official said. Governments are rushing to counter the new terror threat.¶ "We monitor very closely people seeking to travel [to Syria]—and also people traveling back—because of the potential risk they may pose upon their return to the U.K.," said Britain's security minister James Brokenshire.¶ The total number of fighters from Europe is difficult to track, but officials and academics estimate it at about 1,000 or more, including from Germany, France and the Netherlands. Dozens have traveled to Syria from the U.S.¶ Once there, many are believed to fight alongside al Qaeda-affiliated groups such as Jabhat al Nusra, or the Nusra Front, and the Islamic State of Iraq and al-Sham, known as ISIS.¶ The [European Union](http://topics.wsj.com/organization/E/EU/4624?lc=int_mb_1001) doesn't ban membership in Syrian groups affiliated with al Qaeda, which makes it difficult to crack down on the flow of jihadists to the war.¶ The U.S. has designated ISIS and the Nusra Front as terrorist groups and countries such as the U.K. are pressing to do the same.¶ The flow of fighters to causes in the Middle East started with Afghanistan in the 1980s and continued during the Iraq war.¶ But the number going to Syria has mounted more rapidly, U.S. and European officials said.¶ Recruited through a network of mosques across Europe, these jihadists then make the pilgrimage to safe houses in southern Turkey, where they prepare to cross the border into Syria's battlefields.¶ The recruiting efforts in Europe's mosques aim for Muslim youth with clean records who aren't on the radar of intelligence services. This makes it easier for them to return home later, the European diplomat said.¶ An international Islamic group, Hizb al Tahrir, is at the center of this recruitment in Europe, Western officials say. The group is particularly strong in the U.K. and Denmark, the European diplomat said.¶ "They create small groups and form a strong sense of group cohesion with a leader in the middle…surrounded by young, aspiring jihadists," the European diplomat said.¶ They also show videos and photos of the war's human toll for emotional appeal.¶ European governments are most concerned about ISIS fighters returning because that group "wants to use Syria as an al Qaeda operations headquarters for global terror," this diplomat said.¶ At ISIS and Nusra Front safe houses across southern Turkey, fresh recruits from Europe, Australia and to a lesser extent, the U.S., turn in their Western passports and receive a Syrian I.D. They are issued a nom du guerre and cross the border to Syria's battlefields.¶ "The procedure for Jabhat and ISIS is to hold the passports centrally," the European diplomat said. "Those passports can be reused, and they can now go anywhere in Europe."¶ Western officials believe members of these groups may also be faking their deaths so their biometric data is wiped clean from European databases and they can re-enter Europe undetected.¶ ISIS takes these European passports and distributes them to other jihadists who look similar, allowing them to enter Europe for operations.¶ For now, the most dedicated jihadists remain in Syria. But U.S. and European officials have said scores have filtered back and expect that as the conflict drags on, more will.¶ Security officials are concerned because, once inside Europe, the returning fighters can move across borders with relative ease.¶ Belgium is just a two-day drive from Syria and from there, an undetected jihadi with a European passport could make his way to the U.S. virtually unimpeded.¶ The jihadists "are a serious concern to our countries because they can and will return battle-hardened, further radicalized, traumatized" and more closely connected with extremist groups, Dick Schoof, national coordinator for security and counterterrorism in the Netherlands, said at a recent security conference in London.¶ British police in September arrested two brothers, both U.K. citizens in their 20s, in relation to alleged terror training in Syria.¶ In mid-October, several men were arrested in London on suspicion of involvement in a terrorist plot.¶ Authorities have been investigating whether there was a Syria connection.¶ French police in November placed under formal investigation four men who were allegedly in touch with Islamist groups within Syria and were organizing trips of jihadist candidates from France. The men, all French nationals between 22 and 35, are in custody but haven't been charged.¶ Concern about the issue has prompted Dutch authorities to raise the terror threat level in the Netherlands and increase resources for monitoring jihadist travel.¶ And with fighters still flocking to extremist groups in Syria, security officials are trying to find ways to stem the flow and keep track of those who go.

#### Causes a terror attack in the UK

Sherlock and Whitehead 1/19 (Rush and Tom, “Al-Qaeda training British and European 'jihadists' in Syria to set up terror cells at home” The Telegraph. Web, Acc 2/4/2014) <http://www.telegraph.co.uk/news/worldnews/middleeast/syria/10582945/Al-Qaeda-training-British-and-European-jihadists-in-Syria-to-set-up-terror-cells-at-home.html>

British people fighting in [Syria](http://www.telegraph.co.uk/news/worldnews/middleeast/syria/) are being trained as “jihadists” and then encouraged to return to the UK to launch attacks on home soil, an al-Qaeda defector and western security sources have told the Telegraph.¶ In a rare interview on Turkey’s border with Syria, the defector from the Islamic State of Iraq and al-Sham (ISIS) said that recruits from Britain, Europe and the US were being indoctrinated in extremist anti-Western ideology, trained in how to make and detonate car bombs and suicide vests and sent home to start new terror cells.¶ He has provided the first confirmation from Syrian rebels that young British men are being indoctrinated in extremist anti-Western ideology.¶ Some of those intent on overthrowing the Syrian regime are being brainwashed by fanatics, the former member of the Islamic State of Iraq and al-Sham (ISIS) warned.¶ His comments echo the concerns of the security services at a time when it is feared that up to 500 Britons are fighting in Syria and could return to emulate attacks such as the London bombings and 9/11.¶ Britain’s security and intelligence agencies believe the threat of would-be terrorists being directed back to the UK by al-Qaeda organisers in Syria is growing.¶ It is feared that as genuine opposition groups fade in the war-torn country, extremist and terror groups such as ISIS will have an increasing influence allowing them to target more foreign recruits for their cause. The threat from Syria is dominating the work of MI5 and the spy agency has had to allocate more and more resources to tackling the danger in the past six months, The Daily Telegraph understands.¶ In an interview with this newspaper, the defector, known as Murad, said of the foreign fighters he met in Syria: “They talked often about terrorist attacks. The foreigners were proud of 9/11 and the London bombings. The British, French and American mujahideen [holy warriors] in the room started talking about places that they wanted to bomb or explode themselves in Europe and the United States. Everyone named a target. The American said he dreamed of blowing up the White House.”¶ Tens of thousands of foreign fighters have joined the struggle against Bashar al-Assad’s regime in Syria, including up to 500 from Britain. Of these, scores were already known to MI5 for their radical sympathies.¶ Some have gone to the country with genuine intentions to fight the regime but are then brainwashed by al-Qaeda and encouraged to return home and launch attacks there instead.¶ “This is a threat that is not going away and is likely to increase,” one senior Whitehall source said.¶ Last Friday, two 21-year-old men from Birmingham were charged with travelling to Syria to carry out acts of terrorism.¶ Two 15-year-old boys from France were reported last week to have left Toulouse to join the fighting in Syria. The possibility of French citizens returning from Syria as hardened jihadists was the “biggest threat that the country faces in the coming years,” Manuel Valls, the interior minister, said on Sunday.¶ France and Europe risk being “overwhelmed” by the phenomenon, he added. Mr Valls estimated that 700 French nationals have either travelled to Syria or returned to France – or are currently en route. Some 21 have been killed.¶ Shiraz Maher, a senior research fellow at the International Centre for the Study of Radicalisation at King’s College London, estimated last week that up to 50 British fighters have already returned home.¶ Last month, Richard Walton, the head of Scotland Yard’s counter – terrorism command, said there were already indications that Britons were returning from Syria with orders to carry out attacks, with the Metropolitan Police carrying out a “huge number of operations” to protect the public.¶ He said: “I don’t think the public realises the seriousness of the problem. The penny hasn’t dropped. But Syria is a game – changer. We are seeing it every day. You have hundreds of people going to Syria, and if they don’t get killed they get radicalised.”¶ In his first public speech in October, Andrew Parker, the Director General of MI5, said: “For the future, there is good reason to be concerned about Syria. A growing proportion of our casework now has some link to Syria, mostly concerning individuals from the UK who have travelled to fight there or who aspire to do so.”

#### Destroys the UK Economy

Klein 7 (“The Costs of Terror: The Economic Consequences of Global Terrorism” Adam, Facts and Findings. Konrad-Adenauer-Stiftung” http://www.kas.de/wf/doc/kas\_10991-544-2-30.pdf?131022171614¶ 3. FUTURE SCENARIOS AND LEVEL OF ECONOMIC THREAT

.¶ Future attacks could range from isolated bombings perpetrated by relative amateurs to catastrophic WMD attacks planned and executed by experienced al Qaeda operatives. The various possible scenarios vary in likelihood and potenti- al economic consequences—political leaders must weigh both factors when assessing the vulnerability of our econo- mies to the terrorist threat.¶ 3.1. Isolated, conventional, non-catastrophic attacks on infrastructure and civilian “soft targets.”¶ Examples of such attacks include the London and Madrid bombings and the failed train bombings in North-Rhine Westphalia. These plots are difficult to detect and stop, and relatively easy to prepare and execute. Securing all vulnerable “soft targets” and infrastructure would be impossible. Furthermore, such attacks are within the capabilities of relatively unsophisticated groups of “terrorist entrepreneurs” with only minimal outside guidance and expertise. There- fore, periodic attacks on this scale will be a fact of life for the foreseeable future.¶ While such attacks cause great mayhem and fear, and can have significant political impact, their economic impact is limited. There are two notable potential exceptions. A serious incident in the aviation sector – for example, a success- ful surface-to-air missile attack on a commercial jetliner – could deeply reduce customer confidence in post-9/11 security improvements and badly harm the industry. Alter- natively, even a moderately successful attack on a key node in the global petroleum delivery infrastructure (e.g. the Saudi export terminal at Ras Tanura) could, at least tempo- rarily, sharply increase the price of oil.¶ Other examples include the foiled 2000 “Millennium Plot” against Los Angeles Airport, the 1995 “Bojinka” plot to simultaneously explode 12 US airliners over the Pacific, the 2006 plot to bomb up to 12 flights from London to the United States using liquid explosives, and the 1993 attempt to destroy the World Trade Center with a massive under- ground truck bomb.¶ Although spectacular large-scale attacks are difficult to carry out, requiring expertise, detailed planning and sufficient financial resources, they remain central in the imagination of al Qaeda and al Qaeda-inspired groups. The 9/11 attacks reflected bin Laden’s conviction that the US could be brought down with a Hiroshima-type shock of catastrophic propor- tions. The symbolic value of such attacks is also an impor- tant goal of terrorist planners.¶ The potential economic impact of such attacks is great. The massive psychological shock of 9/11 resulted in reduced economic growth and drastically changed business conditions in certain sectors. Nevertheless, even such a massive attack did not succeed in inflicting long-term structural economic damage.

#### UK is key to global economy

Miller and Kennedy 12/13 (Sydney Morning Herald, Rich Miller and Simon Kennedy, Bloomberg, Global growth set to accelerate in 2014, with the America in the engine room. Business Day. Web, Acc 2/4/2013) http://www.smh.com.au/business/world-business/global-growth-set-to-accelerate-in-2014-with-the-america-in-the-engine-room-20131213-2zchm.html#ixzz2sURyiP7J

The world economy is primed for its fastest expansion in four years, with the US propelling the improvement in output.¶ Global growth will accelerate at least 3.4 percent in 2014 from less than 3 percent this year as the euro area recovers from recession and China and other emerging markets stabilise, according to economists at Goldman Sachs, Deutsche Bank and Morgan Stanley. The UK will be a standout, while Japan risks damping the mood by suffering a mid-year slowdown after an April increase in sales taxes.¶ “So far it’s been a very bumpy, below-par and brittle expansion,” said Joachim Fels, co-chief global economist at Morgan Stanley in London. “Next year could bring a very important transition: a transition to a sounder, safer and more sustainable recovery.”

#### Decline collapses power projection – leads to nuclear war

Harris & Burrows 9 Mathew, PhD European History @ Cambridge, counselor of the U.S. National Intelligence Council (NIC) and Jennifer, member of the NIC’s Long Range Analysis Unit “Revisiting the Future: Geopolitical Effects of the Financial Crisis” http://www.ciaonet.org/journals/twq/v32i2/f\_0016178\_13952.pdf

Of course, the report encompasses more than economics and indeed believes the future is likely to be the result of a number of intersecting and interlocking forces. With so many possible permutations of outcomes, each with ample Revisiting the Future opportunity for unintended consequences, there is a growing sense of insecurity. Even so, history may be more instructive than ever. While we continue to believe that the Great Depression is not likely to be repeated, the lessons to be drawn from that period include the harmful effects on fledgling democracies and multiethnic societies (think Central Europe in 1920s and 1930s) and on the sustainability of multilateral institutions (think League of Nations in the same period). There is no reason to think that this would not be true in the twenty-first as much as in the twentieth century. For that reason, the ways in which the potential for greater conflict could grow would seem to be even more apt in a constantly volatile economic environment as they would be if change would be steadier. In surveying those risks, the report stressed the likelihood that terrorism and nonproliferation will remain priorities even as resource issues move up on the international agenda. Terrorism’s appeal will decline if economic growth continues in the Middle East and youth unemployment is reduced. For those terrorist groups that remain active in 2025, however, the diffusion of technologies and scientific knowledge will place some of the world’s most dangerous capabilities within their reach. Terrorist groups in 2025 will likely be a combination of descendants of long established groups\_inheriting organizational structures, command and control processes, and training procedures necessary to conduct sophisticated attacks and newly emergent collections of the angry and disenfranchised that become self-radicalized, particularly in the absence of economic outlets that would become narrower in an economic downturn. The most dangerous casualty of any economically-induced drawdownof U.S. military presence would almost certainly be the Middle East. Although Iran’s acquisition of nuclear weapons is not inevitable, worries about a nuclear-armed Iran could lead states in the region to develop new security arrangements with external powers, acquire additional weapons, and consider pursuing their own nuclear ambitions. It is not clear that the type of stable deterrent relationship that existed between the great powers for most of the Cold War would emerge naturally in the Middle East with a nuclear Iran. Episodes of low intensity conflict and terrorism taking place under a nuclear umbrella could lead to an unintended escalation and broader conflict if clear red lines between those states involved are not well established. The close proximity of potential nuclear rivals combined with underdeveloped surveillance capabilities and mobile dual-capable Iranian missile systems also will produce inherent difficulties in achieving reliable indications and warning of an impending nuclear attack. The lack of strategic depth in neighboring states like Israel, short warning and missile flight times, and uncertainty of Iranian intentions may place more focus on preemption rather than defense, potentially leading to escalating crises. 36 Types of conflict that the world continues to experience, such as over resources, could reemerge, particularly if protectionism grows and there is a resort to neo-mercantilist practices. Perceptions of renewed energy scarcity will drive countries to take actions to assure their future access to energy supplies. In the worst case, this could result in interstate conflicts if government leaders deem assured access to energy resources, for example, to be essential for maintaining domestic stability and the survival of their regime. Even actions short of war, however, will have important geopolitical implications. Maritime security concerns are providing a rationale for naval buildups and modernization efforts, such as China’s and India’s development of blue water naval capabilities. If the fiscal stimulus focus for these countries indeed turns inward, one of the most obvious funding targets may be military. Buildup of regional naval capabilities could lead to increased tensions, rivalries, and counterbalancing moves, but it also will create opportunities for multinational cooperation in protecting critical sea lanes. With water also becoming scarcer in Asia and the Middle East, cooperation to manage changing water resources is likely to be increasingly difficult both within and between states in a more dog-eat-dog world.

#### Scenario 2 is Germany –

#### Active German-US cooperation is critical to shared databases, surveillance and travel tracking – solves recruitment, funds, logistics, and training

Miko 4 Francis T. Miko, Specialist in International Relations, Foreign Affairs, Defense, and Trade Division, CRS Report for Congress, Received through the CRS Web, Order Code RL32710, 12-27

U.S.-German cooperation in the area of information sharing mostly occurs on a case-by-case basis and is not based on formal governmental agreements. Some question whether this is adequate. Given the way that transnational terrorist networks operate, some argue that it is necessary to target the entire terrorist infrastructure (e.g., recruitment, fund raising, logistics, and training).63 A shared database containing all available information regarding the most threatening persons might allow both countries to better track terrorist suspects, to harmonize surveillance activities, and to target travel by terrorists (as was recommended by the U.S. 9/11 Commission). Apparently the only databases of such dangerous persons accessible to both governments are the lists of Islamic terrorist organizations and persons maintained by the UN and the EU. 64 Sharply different perspectives on the death penalty have also hampered bilateral cooperation in some cases. Germany, like all EU member countries, has abolished the death penalty. German law does not allow extradition of a person wanted by another country if there is a possibility that the person might be executed if found guilty. In previous cases, Germany extradited suspects only after it had received assurances that the death penalty would not be imposed. In 1998, Germany arrested and extradited a key suspect in the 1998 U.S. Embassy bombings in Africa, after U.S. prosecutors agreed to waive the death penalty. Germany has interpreted its laws to forbid even provision of evidence relating to such a case, if that information might lead to the imposition of a death sentence. This became an issue when the United States sought to obtain documents from Germany related to the case of Zacarias Moussaoui, the so-called 20th hijacker. The information was eventually supplied based on the understanding that the United States would agree not to seek the death penalty solely based on the evidence gained from Germany.65 Still, the death penalty issue remains a potential impediment to cooperation in specific cases. Germany and the United States also differ on the question of the status of prisoners, particularly the Al Qaeda and Taliban detainees in Guantánamo Bay. Germany’s Foreign Minister Joschka Fischer and other politicians have argued that all detainees should be granted formal status as prisoners of war. Germans, like other Europeans, have also criticized U.S. plans to use military tribunals to try at least some of the terrorist suspects. Such tribunals are seen as unnecessary and counterproductive by German officials. Some question has been raised whether terrorist suspects would be extradited by Germany and other EU countries, if they were likely to face a military tribunal.66 In the German view, conduct of the fight against global terrorism requires multilateral cooperation, formally sanctioned by the relevant international organizations. Germans argue that most unilateral measures are illegitimate and ineffective. In this context, German officials are hoping that the second Bush Administration will place greater emphasis on multilateralism to strengthen international support for U.S. counterterrorism initiatives. From Germany’s perspective, joint action on counterterrorism is also tied closely to joint decision making.67 The U.S. Administration rejects any absolute commitment to multilateralism in terms of waiting for UN approval for any military action. Such a policy would be seen in the United States as a dangerous and unacceptable recipe for paralysis. Some criticize the German approach as too wedded to process over results, especially when dealing with “rogue” states and weapons of mass destruction. While Germany has declared WMD non-proliferation a core element of its national security strategy, the German approach has been criticized by some for relying almost exclusively on positive engagement and avoiding conflict, an approach that might not be very successful in influencing certain regimes or potential terrorists. Some observers believe that the German stance reflects the reality that the country presently lacks the military means or the political will to confront WMD states with anything other than “soft power” instruments (such as diplomacy and economic levers). Some see a complementarity in the differing U.S. and German approaches. The U.S. has extensive military capabilities to deal with threats of terrorism, while Germany views its strengths in conflict prevention and reconstruction. This could mean, for instance, that Germany might be better positioned to take on a greater role in long-term reconstruction efforts in countries like Afghanistan. Some argue that with a better understanding of the potential complementary roles the two countries can play based on the strengths and advantages of each, new opportunities for enhanced cooperation in the global war on terrorism might be found. The final report of the U.S. 9/11 Commission suggests that long-term success in the war against terrorism demands the use of all elements of national power, including “soft power” instruments such as diplomacy, intelligence, and foreign aid. A key question is to what degree differences are likely to hamper U.S.-German cooperation against terrorism. It could be argued that U.S. and German security in the near and mid-term are likely to be affected far more by what Germany does to cooperate with the United States in terms of domestic security and bilaterally than by Germany’s stance on other international issues. Lapses in German domestic surveillance or other shortcomings in German domestic policy could directly threaten U.S. security. For example, according to statements from the BND, some dozen or so Islamic militants capable of carrying out assaults may have left Germany for Iraq not too long ago.68 Therefore, many question whether the United States and Germany can afford the risk of allowing international policy differences to lead to declining cooperation within the crucial arena of domestic security. The United States and Germany may see security threats through different lenses, and responses to those threats are shaped by different national interests, practices, and historical experiences.69 Ultimately, understanding and accepting these differences (agreeing to disagree), in the minds of some observers, may be the best approach to enhancing future U.S.-German cooperation in the global war on terrorism. Close bilateral cooperation with the United States is important for Germany’s own global interests. For the United States, as well, German cooperation against terrorism is likely to remain significant in light of Germany’s importance as a European and world actor, as a key hub for the transnational flow of persons and goods especially to the United States, and as a country whose soil has been used by terrorist to target the United States.

#### US-German intelligence coalitions are too ad hoc and must be expanded

Zelikow 13 Philip, professor at the University of Virginia and was executive director of the 9/11 Commission, Financial Times, 11-8, http://www.ft.com/intl/cms/s/0/b9e95818-4715-11e3-b4d3-0014...

The uproar over US intelligence collection in friendly countries may be just the jolt that is needed to persuade leaders on both sides of the Atlantic to think again about the way their intelligence and security services co-operate. Rather than recoiling in horror, they should be discussing sharing more. There is, at the moment, a special intelligence relationship between the US, the UK, Australia, Canada and New Zealand – the so-called “five eyes”. But it is more a product of history than of deliberate policy selection. They should reconsider the coalition that has, somewhat serendipitously, been organised to help governments understand 21st-century dangers and opportunities. In peace and in war, allies matter. Coalitions matter. Well-built coalitions can be powerfully effective. Many in the US took it for granted when an entire armoured corps was moved from Germany to Saudi Arabia to help defeat Iraq in 1991. They did not appreciate the machinery of coalition co-operation behind that and other triumphs in that war. Nor do many people appreciate the way that long-term planning with countries from Canada to Australia has enhanced the fundamental capabilities that protect the US and those nations alike. Mere ad hoc operational co-operation does not allow for deliberate planning, discussions of common purpose or development of combined capabilities. That is why concerned governments, such as those of the US and Germany, will be able to settle for only limited understandings out of this crisis: “Don’t collect on this” or “Leave that politician alone.” They will be merely reactive, and will pass up a significant opportunity. When I served in government during the 2000s, I advocated a much-stronger intelligence partnership between Washington and Berlin. Each side should deliberate on the costs and benefits. There are vital common interests. Though they support rival companies, the two governments are rarely at cross purposes. Each side can contribute critical information or analysis. US intelligence about Islamist extremists in Europe, even in Germany itself, may have saved lives – perhaps in Germany too. German experts were often as good, sometimes better, than any in the US not only on matters in Europe, but also on matters further afield – such as Afghanistan. And deepening habits of common work can improve the quality of strategic thought and analysis on both sides with profound importance over time.

#### That’s key to joint CT and arms trade ops

Blome 14 NIKOLAUS, Spiegel, 1-20, http://www.spiegel.de/international/europe/nsa-syping-scandal-a-944415-2.html

Furthermore, German intelligence officials are concerned that an open conflict could result in the reduction in the amount of information the US is willing to share. In recent years, German intelligence has broadened its cooperation with the US and would like to intensify it even further. Intelligence officials have made it clear they are concerned about aggravating Washington so as not to endanger joint operations, such as those aimed at counterterrorism or the illicit arms trade. "They could simply shut off the faucet," says one high-ranking intelligence official. That could also make it more difficult to keep an eye on Islamists who may be planning attacks on German soil.

#### Plan is a key concession for shared access to databases

IISS 6 *Strategic Comments, the International Institute for Strategic Studies, The International Institute for Strategic Studies*, is a London-based independent think-tank, 6-11, http://www.worldsecuritynetwork.com/Other/no\_author/Cooperative-Intelligence

Consequently, there is a growing realisation within the US intelligence community that the checks and balances afforded by intelligence sharing would stand to upgrade the quality of actionable intelligence. Recently confirmed CIA Director General Michael Hayden has said that the CIA should make it a ‘top priority’ to nurture information exchanges with its foreign counterparts on threats of mutual concern. He advocates more routine exchanges of documents and shared access to databases – a departure from the CIA’s tradition of ‘transactional’ sharing only at the specific request of partners in favour of a ‘common knowledge’ model. In addition, Hayden believes that the timely sharing of raw information would perforce improve intelligence analysis by testing the plausibility of information before a wider and more critical audience. Though a US Air Force general, Hayden also wants to expand the role of civilian agencies and shrink that of the DoD in the collection and analysis of information. This attitude will probably sit fairly well with allies and partners that are deeply suspicious of the US military’s judgement, influence and conduct in the counter-terrorism and non-proliferation fields. Inaugural Director of National Intelligence John Negroponte – to whom Hayden was principal deputy – is charged by statute with asserting greater civilian control over US intelligence activities. Now, therefore, two strong institutional presences exist to balance the DoD, which, along with the difficulties it has experienced in Iraq, suggests that its bureaucratic power over those activities may be palpably diminished. While Hayden’s association with domestic electronic surveillance as National Security Agency director may give some partners pause, they associate mainly the Pentagon with Iraq and procedural excesses. Hayden’s clear-eyed preoccupation with maintaining the high tempo of intelligence collection on emerging threats while simultaneously improving intelligence analysis, coupled with his premium on intelligence sharing, suggests tangible movement within the US national security system in the direction of greater operational interdependence with respect to intelligence matters. This development too is likely to reassure partners who have been leery of unilateral US intrusion in the broader security arena. The US and its partners may be settling into a new epoch of collegiality in the intelligence realm. But for it to survive popular political opposition – particularly in Europe – operational collaborations like renditions and covert detentions will have to be kept discreet and infrequent.

#### European safe havens are the most likely avenue for WMD terrorism – both attacks on nuclear plants and trafficking of HEU

Ferguson, 4 – scientist-in-residence based in the Washington DC office of the Center for Nonproliferation Studies, Monterey Institute of International Studies (Charles, “The threat of nuclear terrorism in Europe” 2/6, http://www.eurozine.com/articles/2004-06-02-ferguson-en.html)

While most terrorist groups are not motivated to unleash nuclear terror, at least one terrorist network - al Qaeda - has expressed strong interest in acquiring weapons of mass destruction. Al Qaeda operatives and their brethren in like-minded organizations have spread their web across numerous countries. According to a January report by The Observer , Islamic militants have built up an extensive network in Europe since 11 September 2001, using Great Britain as a logistical hub and nerve center. In recent years, Islamic extremists have expanded eastward into Bulgaria, the Czech Republic, Poland, and Romania. Terrorist cells have become rooted in Austria, France, and Germany and have recruited new members in these and other countries. Intelligence officials have warned that labeling all of these groups as al Qaeda misses the complexity behind the terrorist network. While most of the cells follow a similar agenda as al Qaeda, few directly hold their allegiance to this organization. The current focus on Islamic extremist groups should not blind us from seeing other terrorist organizations that would covet nuclear means of destruction. For example, Aum Shinrikyo, an apocalyptic cult with no ties to Islamic extremism, sought out nuclear weapons and released deadly sarin gas in a 1995 chemical attack in the Tokyo subway system. Despite the growth of terrorist cells in Europe, one must not assume that they will ultimately go nuclear. Climbing the escalation ladder to acts of nuclear terror requires leaping over several barriers. Regardless of the nuclear terror act under consideration, the terrorist group must be motivated to conduct extreme levels of violence and to venture into unconventional methods of attack. While a terrorist organization with a well-defined constituency would most likely not want to alienate its constituency with a nuclear act, groups that have weak or non-existent ties to constituencies would not face as many moral or political constraints. For example, the Chechen rebels, a national-separatist group, depend strongly on their supporters within Chechnya. In contrast, the character and agenda of al Qaeda, a political-religious terrorist network, make this organization apparently less concerned about directly harming constituents. The final barriers for a terrorist group to cross are technical in nature. The group would have to acquire the nuclear assets. If the group decided to attack a nuclear power plant, it would have to identify a vulnerable nuclear facility. The organization would have to develop or hire the skills needed to build and detonate a weapon or to sabotage a nuclear facility. Finally, the group would have to be able to deliver the attack without being detected during the development or completion phase. Vulnerable Nuclear and Radiological Assets in Europe Tactical nuclear weapons: Though intact nuclear weapons tend to be well-guarded, some are more susceptible than others to falling into the hands of terrorists. Most experts believe that portable so-called tactical nuclear weapons (TNWs) are more vulnerable to terrorist seizure than are strategic nuclear weapons. TNWs are designed for nuclear-war fighting or battlefield use. As such, they tend to be more portable than their strategic cousins. In Europe, concerns over loose nuclear weapons have focused on the thousands of Russian TNWs that are in various physical conditions and under varying security storage and use. The United States also maintains about 150-180 TNWs in about six NATO countries. While European politicians want to keep the issue of NATO's nuclear weapons out of public view, they need to take steps to reassure Russia that nuclear arms will not be deployed in new NATO-member states. This confidence building measure could serve as a way toward achieving more openness about how to improve the security of Russian TNWs. Uranium: Of the two types of weapons-usable nuclear material, highly enriched uranium (HEU) poses the greatest concern, because it can be used in the simplest nuclear bomb - a gun-type device - to produce a high-yield explosion. Most weapons experts agree that a well-funded terrorist group could build a gun-type bomb, which simply slams two pieces of HEU together inside a gun barrel. The major barrier to stopping construction of such a device is access to HEU. Research sites in Bulgaria, the Czech Republic, Hungary, Poland, Romania, and Yugoslavia have HEU, supplied mostly from Russia. Over the past several years, experts have warned that HEU from these sites could find its way to terrorists. The December 1994 seizure of almost three kilograms of weapons-usable HEU in the Czech Republic highlighted this danger. Since the fall of the Soviet Union, there have been many incidents of illicit trafficking of nuclear and radiological materials in Central and Eastern Europe and the newly independent states. Many more incidents could be happening than are being detected. Fortunately, efforts to secure and repatriate HEU from vulnerable sites in this region have begun. Since the summer of 2002, the United States, Russia, the International Atomic Energy Agency (IAEA), partner governments, and non-governmental organizations, such as the Nuclear Threat Initiative, have conducted three successful missions - Belgrade, Romania and Bulgaria - to secure HEU at research sites and to repatriate it to Russia. But more needs to be done, since about 20 additional research sites, each containing enough Russian-origin HEU for at least one bomb, still exist. Some of these sites are located in Central and Eastern Europe. Radiation: Within the past few years, the European Union has commissioned two studies to determine the effectiveness of the existing regulatory practices concerning the life cycle of radioactive sources. The first study examined the controls within the EU itself and found that radioactive materials management varied across the EU. The report underscored the risk posed by some 30,000 disused sources that are in danger of becoming orphaned, that is, of falling outside of regulatory controls. On the heels of that study, the EU investigated the regulatory practices in the Czech Republic, Estonia, Hungary, Poland, and Slovenia, states that were being considered for early admission to the EU. The EU study concluded that these states have regulatory controls that meet the general standards found throughout the EU. While the results of these pre-11 September reports are by and large encouraging, it should be noted that they focused on safety considerations and did not examine details of security procedures. Nuclear power plants: Well-designed nuclear power plants employ defense-in-depth safety features. To release radioactivity from a nuclear plant, terrorists would have to destroy or disable multiple safety systems. Unfortunately, Central and Eastern Europe contain many Soviet-designed nuclear power plants that do not meet Western safety standards. For example, early Soviet-designed models lack an adequate emergency core cooling system and containment structure, and have an inadequate fire protection system. Such reactors operate in Bulgaria, Slovenia, the Czech Republic, Hungary and Slovakia and Lithuania. While these reactors have engendered discussion regarding safety and security, attacks and sabotage against research centers - where security procedures tend to be less rigorous than at commercial plants - have been overlooked. Many research reactors are located at universities in or near major urban areas. While the inventory of radioactivity in a typical research reactor pales in comparison to the large quantities of lethal fission products within a commercial reactor, release of radioactivity from research sites could suit nuclear terrorists' purposes.

#### The threat of cross border terrorism is high – coop key to monitoring early phases of radicalization

Renard 14 Thomas, senior research fellow at Egmont – Royal Institute for International Relations, an independent Brussels-based think tank, and ESPO project leader at Egmont. EUROPEAN STRATEGIC PARTNERSHIPS OBSERVATORY, Confidential partnerships? The EU, its strategic partners and international terrorism, working paper n.4 January

Overall, terrorist activities (approximated by measuring attacks and arrests) are in steady decline in Europe, but the threat remains high. 3 A total of 219 attacks in 2012 is a non-negligible number. These attacks originate from a broad spectrum of terrorist groups – mostly ethno-separatist movements – many of which operate across national borders, making it more difficult to monitor and mitigate them. If international religiously-inspired groups have carried out very few attacks in the past years (six in 2012 and none in 2011), the threat is nonetheless considered to be serious and these groups to be active, as indicated by the important number of related investigations and arrests. The radical Islamist terrorist threat is evolving as well. The profile of violent activists is gradually changing, with an increase in self-radicalised and lone-wolf terrorists. This complicates the counter-terrorism challenge since these individuals are particularly difficult to spot early in the radicalisation process. It also requires more monitoring of online activities, opening a whole new front in the cyber-world. 4 The threat is evolving in geographical terms as well. As Afghanistan loses its appeal for jihadi fighters, there is a danger that some of them, and particularly European jihadists, might come back to Europe and start plotting an attack. Afghanistan and Pakistan – known as the AfPak region – are already being replaced by the Sahel region and Syria as the new hotbed for international terrorism, thereby moving the core of the threat closer to Europe’s borders. Mirroring the trend in terrorist activities, the popular perception of terrorism as a major threat to Europe is eroding. In all EU member states, citizens ranked terrorism as a major concern in the aftermath of 9/11. Their threat perception has evolved and terrorism is no longer the major preoccupation of citizens, although it remains seen as an important security challenge. 5 The challenge in Europe today is thus one of facing an evolving, multi-dimensional and multifaceted threat while popular support is waning and other challenges are taking over attention and resources. The end of the terrorism frenzy and the return to a certain normality is probably a good thing, but a growing sense of ‘counter-terrorism fatigue’ 6 is not. European governments and societies must learn the right lessons from the past decade and continue to develop more effective means of cooperation, including at the European level, to reduce the risk and the impact of a future terrorist attack. This is the reason why the EU should pursue its efforts on counter-terrorism, at the regional and global levels.

#### Terrorists can fly an airplane into a nuclear power plant

White and Santoro 14 “The potential for the sabotage of research reactors and nuclear power plants by terrorist groups” Special Report by the Australian Strategic Policy Institute. Web, Acc at https://www.aspi.org.au/publications/preventing-nuclear-terrorism-australias-leadership-role/SR63\_prevent\_nuclear\_terrorism.pdf

The potential for the sabotage of research reactors and ¶ nuclear power plants by terrorist groups also must be taken ¶ seriously. Saboteurs could crash an airplane into a nuclear ¶ power station, use truck bombs, conduct commando attacks ¶ by land or water or mount cyberattacks, and rely on insider ¶ assistance for such deeds. Some of these scenarios might ¶ seem far-fetched, but the 9/11 attacks demonstrated that a ¶ determined terrorist organisation is capable of employing ¶ sophisticated terror tactics. Failure of imagination is not an ¶ option: the world must prepare for nuclear ‘black swans’.1¶ ¶ Significantly, according to the 9/11 Commission Report, ¶ Mohammed Atta, one of the cell leaders of the 9/11 attacks, ¶ had expressed interest to the al-Qaeda leadership in crashing ¶ an aeroplane into a nuclear power plant.

#### None of Europe’s reactors are built to withstand this

Edwards, 6 (Rob, “Europe's new nuclear reactors will not be 9/11-proof” New Scientist. Web, Acc http://www.newscientist.com/article/dn9191-europes-new-nuclear-reactors-will-not-be-911proof.html#.UvHGcWRDvNA

¶ New nuclear reactors planned to be built across Europe are not designed to withstand a 9/11-style aircraft attack by terrorists, a leaked report has revealed.¶ The European pressurised water reactor (EPR) is capable of resisting an accidental crash by a five-tonne military fighter, says the French nuclear power company y, EDF. But only by extrapolation does it argue that the reactor will also withstand the impact of a 250-tonne commercial airliner flown deliberately into it.¶ This assumption, according to independent nuclear engineer, John Large, is "entirely unjustified". This "reflects what seems to be an almost total lack of preparation to defend against the inevitability of terrorist attack," he says.¶ Europe's first EPR, seen by the nuclear industry as the forerunner of a new generation of nuclear power plants, is under construction at Olkiluoto in Finland. It is the most likely type of reactor to be built in the UK, now that the Prime Minister, Tony Blair, has put nuclear power "back on the agenda with a vengeance".¶ The leaked document is a 2003 report from a senior EDF official, Bruno Lescoeur, to the French nuclear safety regulator, IRSN. It attempts to show that the post-9/11 risks of planes crashing into an EPR are low.¶ Act of war¶ Because the reactors are designed to withstand a military jet crash, the report contends, they will also withstand the hardest parts of a passenger airline - its engines. It also claims that terrorists would have difficulty steering an aircraft towards a reactor at a low enough angle.¶ But EDF does not give any absolute guarantees. "EDF does not envisage assuring a capacity to resist every act of war or every foreseeable act of terrorism," writes Lescoeur. "The hypotheses relating to an impact must cover a 'reasonable risk', and cannot pretend to include all the possibilities."¶ EDF's assessment is dismissed as "extremely inadequate" by Large, who was commissioned by the environmental campaign group Greenpeace to evaluate the leaked report. He points out that the newly released footage of the attack on the Pentagon on 9/11 showed that trained terrorists could fly low and on target.¶ A similar attack on a reactor would cause "a total calamity", with the release of large amounts of radioactivity, Large claims. The only way to protect the reactors would be to cover them with a specially hardened concrete superstructure, or to build them underground.¶ The leaking of the document has provoked a fierce controversy in France, one of the world's biggest users of nuclear electricity. A French anti-nuclear activist, Stephane Lhomme of Sortir du Nucléaire, was detained by police for 14 hours on 16 May in connection with the leaked report.¶ The French green movement responded by distributing the document as widely as possible, making it available on a dozen websites. So far, EDF has declined to comment.

#### Instantly kills millions

Lean 3 (Geoffrey, “Attack on nuclear plan ‘could kill 3.5 m” The Independent. Web, Acc 2/24/2014) http://www.independent.co.uk/environment/attack-on-nuclear-plant-could-kill-35m-9085908.html

More than three and a half million people could be killed by a terrorist attack on a British nuclear plant, concludes a series of three reports so alarming that even Greenpeace – which commissioned them – is unwilling to publish them.¶ The reports – whose findings the Government has also sought to suppress – show that terrorists could identify the most dangerous parts of the plants from publicly available information and crash aircraft into them, releasing vast amounts of radioactivity.¶ Now MPs and peers have launched an investigation by the Parliamentary Office of Science and Technology into the revelations as part of a formal inquiry into "the possible risks and consequences of a terrorist attack at a nuclear facility in the UK". They decided to set up the inquiry last month – at the urging of the House of Commons Defence Select Committee – drawing on the reports and other material, even though ministers warned that much of the information they needed was secret and would not be made available to them.¶ The reports show that Britain could face a far greater threat than the danger of ricin, constantly quoted by ministers, or the warnings of a rocket attack on an aircraft that led to last week's deployment of tanks at Heathrow. Yet one of their authors – John Large, an independent nuclear expert – says that the Government has reacted to it with "staggering indolence".¶ The three reports, commissioned by Greenpeace after the 11 September attacks, cover the vulnerability of Britain's nuclear installations, the possibility of an attack from the air and the consequences of the resulting disaster. They were completed at the end of 2001, but the pressure group has sat on them for over a year, unable to decide what to do with them. They are still being kept a closely guarded secret.¶ The first, by Dr Large, concludes that Britain's nuclear plants are "almost totally ill-prepared" for an airborne terrorist attack. The second, by an aviation expert, suggests that it would only take four minutes for an airliner to divert from its regular flight path to attack the most dangerous target of all, the Sellafield nuclear complex in Cumbria. And the third, by leading scientist Dr Frank Barnaby, estimates that, at worst, 3.6 million people could die as a result.¶ Dr Large said last night that he had found it "astonishingly easy" to get information on targets at Sellafield and other nuclear plants, and that he had been sent official reports identifying them without any attempt to check on his bona fides.¶ He said: "A terrorist cell charged with attacking Sellafield could readily obtain sufficient information from publicly available documents to identify highly hazardous and vulnerable targets for which there exists little defence in depth."¶ Dr Barnaby – a former Aldermaston scientist, who was for 10 years director of the Stockholm International Peace Research Institute – concludes that a jumbo jet crashing into Sellafield could cause a fireball over a mile high.¶ He says that 25 times as much radioactivity as was emitted by the Chernobyl disaster in 1986 would be likely to be released, eventually killing 1.1 million people from cancer. In the worst case scenario, the number of deaths could reach 3.6 million.¶ Dr Large was so alarmed by his findings that he asked Greenpeace not to publish his report, and stamped the words "Not for Open Publication" on every page.¶ Greenpeace, for its part, has been paralysed by indecision by the reports, unable to decide even to disclose their findings to ministers or officials to try to get them to act on the vulnerabilities they identified.¶ The pressure group is highly sensitive about this, and has only now decided – after repeated questioning by The Independent on Sunday – "to seek to stimulate this debate within government over the next months".¶ Shaun Birnie, a nuclear campaigner for Greenpeace International, said last week that there had been "months of debate" inside the organisation about what to do with the reports, with some activists fearing that the Government might take action against it.¶ He admitted: "We never got round to agreeing how to use this report" but threatened that any suggestion in this article that Greenpeace had sat on the report would damage relations with the IoS.¶ Challenged to explain the organisation's lack of urgency at a time of an increasing terrorist threat, he said: "There is no reason to rush this. A year is a very, very short time in the half life of plutonium."

#### Also causes retaliatory escalation and extinction

Morgan, Professor of Foreign Studies at Hankuk University, ‘9 (Dennis Ray, December, “World on fire: two scenarios of the destruction of human civilization and possible extinction of the human race” Futures, Vol 41 Issue 10, p 683-693, ScienceDirect)

In a remarkable website on nuclear war, Carol Moore asks the question "Is Nuclear War Inevitable??" [10].4 In Section 1, Moore points out what most terrorists obviously already know about the nuclear tensions between powerful countries. No doubt, they've figured out that the best way to escalate these tensions into nuclear war is to set off a nuclear exchange. As Moore points out, all that militant terrorists would have to do is get their hands on one small nuclear bomb and explode it on either Moscow or Israel. Because of the Russian "dead hand" system, "where regional nuclear commanders would be given full powers should Moscow be destroyed," it is likely that any attack would be blamed on the United States" [10]. Israeli leaders and Zionist supporters have, likewise, stated for years that if Israel were to suffer a nuclear attack, whether from terrorists or a nation state, it would retaliate with the suicidal "Samson option" against all major Muslim cities in the Middle East. Furthermore, the Israeli Samson option would also include attacks on Russia and even "anti-Semitic" European cities [10]. In that case, of course, Russia would retaliate, and the U.S. would then retaliate against Russia. China would probably be involved as well, as thousands, if not tens of thousands, of nuclear warheads, many of them much more powerful than those used at Hiroshima and Nagasaki, would rain upon most of the major cities in the Northern Hemisphere. Afterwards, for years to come, massive radioactive clouds would drift throughout the Earth in the nuclear fallout, bringing death or else radiation disease that would be genetically transmitted to future generations in a nuclear winter that could last as long as a 100 years, taking a savage toll upon the environment

#### Scenario 3 is Extradition

#### Allies won’t extradite terror suspects to the US over due process concerns – causes release and safe havens

Kris 11 (David, Assistant Attorney General for National Security at the U.S. Department of Justice from March 2009 to March 2011 “Law Enforcement as a Counter Terrorism Tool” 6/15/2011 acc at http://jnslp.com//wp-content/uploads/2011/06/01\_David-Kris.pdf

Finally, the criminal justice system may help us obtain important¶ cooperation from other countries. That cooperation may be necessary if we¶ want to detain suspected terrorists or otherwise accomplish our national¶ security objectives. Our federal courts are well-respected internationally.¶ There are well-established, formal legal mechanisms that allow the transfer¶ of terrorism suspects to the United States for trial in federal court, and for¶ the provision of information to assist in law enforcement investigations –¶ i.e., extradition and mutual legal assistance treaties (MLATs). Our allies¶ around the world are comfortable with these mechanisms, as well as with¶ more informal procedures that are often used to provide assistance to the¶ United States in law enforcement matters, whether relating to terrorism or¶ other types of cases. Such cooperation can be critical to the success of a¶ prosecution, and in some cases can be the only way in which we will gain custody of a suspected terrorist who has broken our laws.184¶ In contrast, many of our key allies around the world are not willing to¶ cooperate with or support our efforts to hold suspected terrorists in law of¶ war detention or to prosecute them in military commissions. While we hope that over time they will grow more supportive of these legal¶ mechanisms, at present many countries would not extradite individuals to¶ the United States for military commission proceedings or law of war¶ detention. Indeed, some of our extradition treaties explicitly forbid¶ extradition to the United States where the person will be tried in a forum¶ other than a criminal court. For example, our treaties with Germany¶ (Article 13)185 and with Sweden (Article V(3))186 expressly forbid extradition¶ when the defendant will be tried in an “extraordinary” court, and the¶ understanding of the Indian government pursuant to its treaty with the¶ United States is that extradition is available only for proceedings under the¶ ordinary criminal laws of the requesting state.187 More generally, the¶ doctrine of dual criminality – under which extradition is available only for¶ offenses made criminal in both countries – and the relatively common¶ exclusion of extradition for military offenses not also punishable in civilian¶ court may also limit extradition outside the criminal justice system.188 Apart¶ from extradition, even where we already have the terrorist in custody, many¶ countries will not provide testimony, other information, or assistance in¶ support of law of war detention or a military prosecution, either as a matter¶ of national public policy or under other provisions of some of our¶ MLATs.18 These concerns are not hypothetical. During the last Administration,¶ the United States was obliged to give assurances against the use of military¶ commissions in order to obtain extradition of several terrorism suspects to¶ the United States.190 There are a number of terror suspects currently in foreign custody who likely would not be extradited to the United States by foreign nations if they faced military tribunals.191 In some of these cases, it might be necessary for the foreign nation to release these suspects if they cannot be extradited because they do not face charges pending in the¶ foreign nation.

#### That increases terrorist attacks against the U.S.

Whitehair, 10- A Thesis submitted to the Faculty of the Graduate School of Arts and Sciences of Georgetown University in partial fulfillment of the requirements for the degree of Master of Arts in Security Studies (Julia, “A PLACE TO HIDE: POPULAR SUPPORT AND TERRORIST SAFE HAVENS” 11/19, http://repository.library.georgetown.edu/bitstream/handle/10822/553428/WhitehairJuliaC.pdf?sequence=1)

Given U.S. efforts to shut down traditional safe havens and the attention given in recent years to homegrown terrorist cells in the United States and Europe, policymakers likely will have to confront questions about safe havens within healthy states. Terrorism experts and policymakers with counterterrorism portfolios have already raised Europe as a persistent source of terrorism targeting the United States. Michael Scheuer in his testimony before members of Congress called the European Union “the earth’s single largest terrorist safe haven” and “a major, consistent, and invulnerable source of terrorist threat to the United States.”5 Former Director of Central Intelligence Porter Goss in 2005 and former U.S. Coordinator for Counterterrorism Ambassador Harry A. Crumpton in 2006 testified about the persistent threat to the United States from terrorists based in Europe.6 Senators Lieberman and Collins of the Senate Committee on Homeland Security and Governmental Affairs spoke of an increase in homegrown terror cells and attacks with roots in the United States.7

### Advantage 2

#### Advantage 2 is Leadership

#### US leadership is uncertain in the SQ

Roberts 14 Williams, AL JAZEERA, 1-29, http://www.aljazeera.com/indepth/features/2014/01/obama-calls-shift-from-war-diplomacy-20141296833617321.html

Obama has pulled the US back from the world, even as he prosecuted a covert war on terror through drone strikes and targeted military operations. As a result, he has been criticised by elements on both the left and right for pursuing what they say is a risky new isolationism. His supporters, though, view his policy as realism. "The Democratic liberal interventionists and neo-conservatives hate his policies. He has proven to be remarkably risk-averse, not risk-ready when it comes to adventures abroad," said Aaron David Miller, a distinguished scholar at the Washington-based Woodrow Wilson International Center, a think-tank. Today, the US faces challenges not just in Afghanistan and Iraq, but also in Libya, Egypt, Yemen, Jordan and Bahrain because of civil unrest and democratisation movements. Syria's grinding civil war threatens to destabilise its neighbours. Peace talks between Israel and the Palestinians appear fraught. Obama's announced strategic rebalancing to the Pacific hasn't materialised. North Korea's new leader is erratic and regional tensions are rising between China and its neighbours, notably US ally Japan. 'An extraordinarily bad hand' "The whole situation is very difficult,'' said Ron Neumann, a former ambassador to Afghanistan and president of the American Academy of Diplomacy, who faults Obama for not acting sooner in Syria. "Obama has been dealt an extraordinarily bad hand. In most of these cases, there are no good policies. It's a choice between really bad ones, and ones that might work, or might not." Americans hope Obama quells economic woes Obama and his White House advisers are nothing if not politically astute and, as the president's speech reflected, Americans today are focused more on challenges at home - healthcare, jobs, wages and immigration. A Pew poll in November showed, for the first time since 1974, a growing majority of Americans believe US prestige is in decline. Despite vexing foreign policy problems, most Americans want the US to mind its own business abroad and confront problems at home - 63 percent want to see the US less involved in Middle East politics. "We floundered in Syria. We seem a little too cynical in Egypt. There is a collective sense that you have this disengagement and if he furthers that with a withdrawal from Afghanistan, then you will have questions raised," said Michael O'Hanlon, senior fellow at Brookings Institution, a Washington think-tank. There are presently 38,000 American troops in Afghanistan. Many observers believe Afghanistan's fragile progress would be lost if the US were to leave abruptly at the end of this year without a bilateral security agreement in place. Karzai has raised objections to a security agreement, notably refusing to grant US forces the right to enter private homes unannounced. Administration officials have said in recent weeks that without an agreement, the US would withdraw all troops. "If you go, things will get much worse, quickly," said Neumann. "If you stay and remain relevant and take appropriate action at the right times, you have a chance to make things better." Criticism from Gates Former US Defence Secretary Robert Gates wrote in his new book, Duty: Memoirs of a Secretary at War, that the president appeared to lack conviction about the outcome of the war in Afghanistan. Gates concluded that Obama "doesn't believe in his own strategy, and doesn't consider the war to be his. For him, it's all about getting out." Concern about the pace of US withdrawal extends beyond Afghanistan. In the US Senate, Republican foreign policy leaders fear that Obama, through decisions on many fronts, has sharply backed away from the US' traditional post-World War II role as the leader of global democratic alliances, according to a senior aide. "The picture the president painted of the security situation in the Middle East is not even remotely connected to the world as I see it,'' Senator Lindsey Graham, a South Carolina Republican, said on C-SPAN after the speech. "Syria is a humanitarian disaster. The King of Jordan is under siege. He forgot to tell us that Iraq is falling apart and al-Qaeda is on the rise." In Syria, Obama ignored the Syrian rebels at first, only to promise military aid that never fully materialised. When Obama threatened a US missile strike, Russia's intercession with a plan to dispose of Syria's chemical weapons saved the American president from the probable embarrassment of a congressional vote of disapproval. Meanwhile, Assad's forces are continuing the siege of the restive city of Homs, as troubled UN-sponsored peace talks get under way in Switzerland. For the sake of our national security, we must give diplomacy [with Iran] a chance to succeed. - US President Barack Obama "Syria is a moral, strategic and international humanitarian disaster. The question is whether it is our disaster," said Miller, who expects peace talks to muddle indefinitely and the war to continue. But in Obama's policy of disengagement, Syria is not the US' problem, Miller argued. Iraq is sliding back into sectarian warfare amid renewed infiltration by al-Qaeda. The US did not reach a security agreement with Iraqi Prime Minister Nouri al-Maliki's government that would have provided for a troop presence after 2011. Maliki's Shia-led party has failed to assimilate the country's Sunni population into a coalition government. Al-Qaeda-affiliated fighters in Anbar province briefly took control of key towns, including Fallujah, where the US Marines had fought a costly and bloody hand-to-hand battle during the Iraq war. "There is a cost of inaction," said Gayle Tzemach Lemmon, a senior fellow at the Council on Foreign Relations. "There is a danger in thinking the American people don't desire engagement. It leaves out the leadership role. Whether we like it or not, we do not just get to focus on domestic issues and forget our role in the world. We are not a country that has that luxury." Iran rapprochement? To be sure, there's hope for Obama's legacy, Lemmon said. Nuclear negotiations with Iran could lead to a restoration of diplomatic relations with the US within the next three years. "If Iran's leaders do seize the chance, then Iran could take an important step to rejoin the community of nations, and we will have resolved one of the leading security challenges of our time without the risks of war," Obama said. Reflecting scepticism that Iran is serious about making concessions, lawmakers in both the House and Senate have put forward new sanctions legislation they intend to pass should the talks with Iran fail. Obama said he would veto a new Iran sanctions bill. "For the sake of our national security, we must give diplomacy a chance to succeed," he said. The prospect of the West reducing sanctions on Iran has raised tensions between the US and Israel, where the renewal of peace talks with the Palestinians has been met with scepticism. Two weeks ago, Israeli Defence Minister Moshe Ya'alon was forced to apologise after private comments surfaced in which he called US Secretary of State John Kerry "messianic" and "obsessive" and said the security plan the US had put forward was "not worth the paper it's written on". The world has become more unstable and the US' role more uncertain in the past year, the Brookings Institution foreign policy analysts Robert Kagan and Ted Piccone wrote in a report last week. Obama needs to "reassert American leadership in a rules-based international system in which norms are not only articulated but also, wherever possible, enforced", they said.

#### A new global push is attempting to rein in indefinite detention – November’s UN negotiations prove

Lynch 11-4 Colum, Foreign Policy, Global Push to Rein in U.S. Moves from Spying to Gitmo, http://thecable.foreignpolicy.com/posts/2013/11/04/un\_usa\_nsa\_gitmo

"There is an effort to push back by the international community," Juan Mendez, an independent U.N. human rights watchdog and former Argentine political prisoner who endured torture during that country's "Dirty War," told Foreign Policy. "I think many governments, Europeans in particular, are moving backwards from their blind support for whatever the United States did after 9/11. As a result of this, they are asserting a need to go back to basics and reinforce international human rights standards and international humanitarian law standards." Mendez, who currently serves as a U.N. special rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment, is seeking to update the rules for the treatment of detainees. He has drafted a proposal to revise a code of conduct written in the 1950s -- known as the Standard Minimum Rules on the Treatment of Prisoners -- to reflect the evolution of international law over the past 60-plus years. The measures include new restrictions on the use of solitary confinement, and applies standard international guidelines for humanely treating incarcerated criminals to prisoners of war, immigrants, and patients of mental health facilities. European governments, led by Denmark and Switzerland, have pressed this week for a U.N. General Assembly resolution that would condemn the use of torture and endorse Mendez's plans. But they have faced resistance from the United States, which maintains that applying the rules beyond the criminal justice system would go beyond the scope of Mendez's mandate. In closed-door negotiations, the United States has sought to scrub language that would apply the rules to place like Guantanamo. "With respect to detention pursuant to the law of armed conflict, existing international instruments already govern the field," U.S. State Department lawyer Julianna Bentes told the committee. "Extending SMRs [Standard Minimum Rules] to cover additional categories would lead to confusion in both fields, and ultimately undermine state support for the U.N. standards for crime prevention and criminal justice." The United States still wields enormous influence at the United Nations, leading efforts in the Security Council to combat terrorism around the world. Since 9/11, the U.N. Security Council has created a raft of resolutions requiring governments to pass and enforce anti-terror laws, and imposed sanctions on individuals and entities suspected of having links to al Qaeda. Prosecuting the war on terror is one of the few things the U.N.'s five major powers -- Britain, China, France, Russia, and the United States -- consistently agree on. They have backed international peacekeeping efforts in Somalia and Mali that target Islamist militants linked to al Qaeda. But many smaller governments are increasingly reluctant to follow Washington's lead. Other rising powers, including Brazil and Germany, are seeking to take the initiative, promoting a raft of U.N. resolutions and rules that would curtail America's powers. America's go-it-alone strategy has fueled anxiety beyond the current controversy over spying. Brazil's Patriota voiced concerns about the United States's use of drones to target suspected terrorists, saying that it "indirectly encourages others to do the same." For the time being, there has not been a major push by governments at the U.N. to impose legal constraints on America's use of armed drones in foreign lands. But the matter has become the subject of an ongoing investigation by Ben Emmerson, the U.N. special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, and Christof Heyns, the U.N. special rapporteur on extrajudicial, summary, or arbitrary executions. "Although drones are not illegal weapons, they can make it easier for States to deploy deadly and targeted force on the territories of other States," Heyns wrote. "If the right to life is to be secured, it is imperative that the limitations posed by international law on the use of force are not weakened by broad justifications of drone strikes." Navi Pillay, the U.N. high commissioner for human rights, said she is also "seriously concerned about human rights implications for the protection of civilians of armed drone strikes carried out in the context of counter-terrorism and military operations" by the United States and Israel. During a debate on protection of civilians in August, Pillay urged countries to "clarify the legal basis for such strikes," noting that "the current lack of transparency surrounding their use creates an accountability vacuum and affects the ability of victims to seek redress." In May, Pillay offered a broader critique of America's respond to terrorism in a speech to the Human Rights Council. "The objective of the global struggle against terrorism is the defense of the rule of law and a society characterized by values of freedom, equality, dignity, and justice," she said. "Yet time and again, my office has received allegations of very grave violations of human rights that have taken place in the context of counter-terrorist and counter-insurgency operations. Such practices are self-defeating. Measures that violate human rights do not uproot terrorism: they nurture it." Pillay said the "injustice embodied" in the Guantanamo detention center -- where many individuals are subject to "indefinite" and "arbitrary" detention in "breach of international law"-- has become an ideal recruitment tool for terrorists. Some of the push back is posturing by governments seeking to take advantage of the world's lone superpower being on the defensive. For example, China -- a country with a reputation for engaging in extensive online espionage of foreigners and ruthlessly cracking down on dissent at home -- urged the U.N. to curtail what it sees as American excesses. At a U.N. meeting last month dealing with online communications, Xie Xiaowu, a Chinese diplomat, called on member states to confront a "certain country [that] is abusing their technological advantages to spy on other countries, steal information from organizations or individuals of other countries, and violate people's privacy." It is imperative to establish "multilateral, democratic and transparent" international norms that are "fair, equitable and efficient" and that "respect the information sovereignty of all states and protect the fundamental rights of all citizens," he added. "Hegemony in the field of ICT [Information and Communications Technology] must be rejected." For years, China and Russia have been pushing for a U.N. code of conduct for cyber-security. The United States and other Western governments harbored suspicions that the Chinese and Russian effort was largely aimed at kneecapping America's technical advantage online -- and reinforcing states' rights to curb freedom of expression online. Other states expressing concern about American practices are doing so in part to shift blame away from themselves, U.N. experts say. Some of the nations complaining the most loudly also partnered with the NSA in its spying operations. The Brazilians have been embarrassed by the disclosure of an NSA listening station in Brasilia, right under the government's nose, said Bruce Jones, the director of New York University Center on International Cooperation. "In domestic terms, they have to create some distance" from the United States, he said. Germany, Jones noted, is seriously offended by the revelations that the NSA listened in on German Chancellor Angela Merkel's cell phone conversations. But what they really want is to develop a closer relationship with American intelligence agencies.

#### That ruins the Western alliance

Grare 12-27 December Frederic, CNN, 12-27, http://globalpublicsquare.blogs.cnn.com/category/afghanistan/

With the existential threat of the Soviet Union long gone and given European governments’ dwindling capacity to contribute to collective security, the continent no longer constitutes a strategic concern for Washington. At the same time, the war-weary and fiscally-stressed United States is increasingly reluctant to commit to foreign military adventures. These two phenomena, neither of which is directly or exclusively related to Afghanistan, are pulling the two sides of the Atlantic apart. Future conflicts may not exactly look like Afghanistan, but there is a good chance they will share some of its characteristics, in particular the primacy of politics and the relatively secondary character of military force. In Afghanistan, most U.S. allies concurred with the perception that the conflict could not be solved kinetically. However, for a variety of reasons, they never really stood against that dominant U.S. paradigm. Instead, they let themselves become part of a succession of U.S. military strategies that all proved short lived. The result of all this is a collective failure that from next year will very likely translate into a loss of credibility not just for the U.S., but for the entire Western alliance.

#### US-EU partnership critical to global stability

Daul 13 Joseph, Chairman of the largest political group in the European Parliament - EPP Group, Huffington Post, 5-16

In today's multilateral, multipolar world, Europe and America can and should work together in a partnership for global stability and the enlightened values both sides hold dear. Our Trans-Atlantic partnership guaranteed peace and prosperity in the 20th century. This strong relationship helped bring about the end of not only the first and second world wars but also the cold war. It allowed for democracy and freedom to extend to countries which for too long were not free. Moreover, it brought about the longest period of prosperity in our shared history. I believe that in the 21st century we cannot rest on our past successes. Instead, we have to move forward and embrace this visionary and challenging agenda. We have to ask ourselves a crucial question: what can we do, as Europeans and Americans working together, to make the world a better, safer and more prosperous place for all? Today, the House Ways and Means Trade Subcommittee will hold a hearing on negotiations of the US-EU trade and investment partnership agreement. We look forward to hearing our colleagues' views on this long awaited agreement. On our side, the developments are clear: the renewal of our special relationship has to be made on the basis of a partnership of equals. The European Parliament has actively pushed for the formation of a High Level Group for Jobs and Growth and will continue to play an active role in promoting and supporting an EU-US Free Trade Agreement. On both sides of the Atlantic, as legislators, we have a crucial role to play in these negotiations. Our determination today will pave the way for a better present and future. Our relationship is already very strong -- we have the biggest economic flows in the world. In parallel, 95% of our trade is 'problem free'. Our combined gross domestic product (GDP) represents more than half of global GDP. We, two partners have the world's strongest bilateral trade and investment partnership, accounting for more than 30% of world trade. Each day, $2.7 billion of goods and services are traded bilaterally, supporting millions of jobs in both our economies. Although our relationship has enormous potential, this is far from being fully realised. Latest estimates show that a comprehensive and ambitious agreement between the EU and the US could bring overall annual gains of 0.4% in GDP for the US and 0.5% for the EU by 2027. Direct investment by the United States and the EU in each other's markets totals more than $3.7 trillion. Europe is by far the largest destination for US outbound investment, with Europe accounting for a roughly equal amount of US outbound investment. We do have some issues on specific areas of legislation and regulation. But we have to think bigger than that. We need to set ourselves a more ambitious challenge. By 2020, we need to implement a genuine transatlantic single market, based on the four freedoms which already exist in Europe - the free movement of goods, services, capital and people. In the aftermath of the financial crisis, we are rethinking market regulation. We should be bold and work towards a harmonized regulatory framework that would make such a transatlantic market a reality. Instead of pre-empting the outcome of the negotiations and building up a sense of fear we should invest in developing a culture of trust. This will facilitate dialogue among all stakeholders -- business, in particular small business, and the Research and Innovation sectors -- as well as providing the framework for long-term legal certainty. Some may say that we are rushing. Others may say that we are too late. I believe that we should be honest with ourselves and answer the obvious questions: are we ready to negotiate as fast as possible, having the easy deals done as they could enter into force early and then get into more complicated negotiations later? Alternatively, do we put all the issues on the table and hope that the negotiations will end any time sooner rather than later? For us, the prospect for negotiations are much better between the US and EU than for those with other countries. Why? Because in this negotiation, there should be little fear of social dumping on either side. For example, one can always argue that car regulations in the US and in the EU aim at achieving more or less the same goals although methods may vary. If it is good enough for us it should be good enough for the US and vice versa. In turn, these imply difficult political decisions and structural changes in the way domestic systems function on both sides. More than ever, the European Union needs to act as a political union, rising above national divisions. Equally, the United States must show that its new multilateral approach can translate into concrete political action being more open. On both sides, the important goal of a partnership agreement is subject to certain conditions, being a challenge for both the American administration and EU leaders. Our relationship goes further than a trade agreement. We need to use the Euro-Atlantic partnership to change the way global governance functions. The United States and Europe can and must take a leadership role in defining the principles and structures of this new multipolar, multilateral world. We all know the difficult challenges we face today: economic insecurity, energy independence, climate change, migration and terrorism. Common action on these fronts is essential. Additionally, in addressing these issues, we need to find ways to bring on board Russia, China, India, Brazil and other new regional powers. We are home to the world's most successful democracies. I firmly believe we need to use this partnership to put in place the right policies and right institutions on a world-wide scale. The US and Europe are similar to an old couple in the family of nations. If they get on well, the rest of the world benefits. Conversely, if they disagree or fall out, the world suffers accordingly. I am convinced that only a strong America with a strong Europe as its partner can guarantee peace and prosperity in this century. The goodwill has long been there. Now, more than ever, we need to translate this into action.

#### US needs permanent monitoring and search capability to prevent nuclear theft in Pakistan

Sanger and Schmitt 14 DAVID E. SANGER and ERIC SCHMITT, NYT, 1-26

The risk that President Obama may be forced to pull all American troops out of Afghanistan by the end of the year has set off concerns inside the American intelligence agencies that they could lose their air bases used for drone strikes against Al Qaeda in Pakistan and for responding to a nuclear crisis in the region. Until now, the debate here and in Kabul about the size and duration of an American-led allied force in Afghanistan after 2014 had focused on that country’s long-term security. But these new concerns also reflect how troop levels in Afghanistan directly affect long-term American security interests in neighboring Pakistan, according to administration, military and intelligence officials. The concern has become serious enough that the Obama administration has organized a team of intelligence, military and policy specialists to devise alternatives to mitigate the damage if a final security deal cannot be struck with the Afghan president, Hamid Karzai, who has declined to enact an agreement that American officials thought was completed last year. If Mr. Obama ultimately withdrew all American troops from Afghanistan, the C.I.A.’s drone bases in the country would have to be closed, according to administration officials, because it could no longer be protected. Their concern is that the nearest alternative bases are too far away for drones to reach the mountainous territory in Pakistan where the remnants of Al Qaeda’s central command are hiding. Those bases would also be too distant to monitor and respond as quickly as American forces can today if there were a crisis in the region, such as missing nuclear material or weapons in Pakistan and India. A senior administration official, asked about the preparations, responded by email on Sunday that as the possibility of a pullout “has grown in Afghanistan, we have been undertaking a methodical review of any U.S. capabilities that may be affected and developing strategies to mitigate impacts.” The official added that the administration was determined to find alternatives, if necessary. “We will be forced to adapt,” the official said, “and while perhaps less than most efficient, the United States will find ways necessary to protect our interests.” The issue is coming to the fore after the Pentagon recently presented Mr. Obama with two options for the end of the year. One option calls for a presence through the end of Mr. Obama’s term of 10,000 American troops who could train Afghan troops, conduct counterterrorism raids and protect the American facilities, including those in eastern Afghanistan where drones and nuclear monitoring are based. Under the other, so-called zero option, no American troops would remain. The United States has said that if it is unable to reach a final security arrangement with Mr. Karzai, it is prepared, reluctantly, to pull out completely, as it did in Iraq in 2011. Mr. Obama has made “no decisions” on troop levels, said Caitlin M. Hayden, the spokeswoman for the National Security Council. “We will be weighing inputs from our military commanders, as well as the intelligence community, our diplomats and development experts, as we make decisions about our-post 2014 presence in Afghanistan,” she said. In his State of the Union address on Tuesday night, however, Mr. Obama is expected to say that by the end of this year the Afghan war will be over — at least for Americans — slightly more than 13 years after it began, making it the longest in American history. Mr. Obama’s hope is to keep 8,000 to 12,000 troops — most of them Americans, some from allies — in Afghanistan after the NATO combat mission ends this year. The resurgence of Al Qaeda’s affiliate in Iraq, combining with insurgents in Syria, has offered a sobering reminder of the consequences of the American decision to withdraw all its troops from Iraq. Mr. Karzai seems to be betting that the damage that a withdrawal would do to American intelligence operations is so great that he may be able to strike a better deal. Even though the zero option has few supporters in the administration, the idea has gained renewed credence with each day that Mr. Karzai delays signing the security accord and poses new demands to the United States. “Karzai has believed for some time that he has this leverage — that we need him and his bases more than he needs us,” said Daniel Markey, a former State Department official and the author of “No Exit From Pakistan,” published last year. Secretary of State John Kerry is to meet Pakistan’s foreign and national security policy adviser, Sartaj Aziz, here on Monday, and counterterrorism operations are to be a major subject of discussion, a senior State Department official said Sunday. Talking with Pakistan about its nuclear program is especially delicate. In recent years the country has accelerated its drive to build small tactical nuclear weapons — similar to what the United States placed in Europe during the Cold War — that could be used to repel an invasion from India. But those weapons are considered more vulnerable to theft or use by a rogue commander, and they are one reason that American intelligence agencies have invested so heavily in monitoring the Pakistani arsenal. A scare in 2009, when the United States feared that nuclear materials or a weapon was missing in Pakistan, led Mr. Obama to order the basing of a permanent monitoring and search capability in the region. But the complexities of bringing those capabilities to an end are forcing the intelligence agencies, which run the covert strikes into Pakistan and monitor nuclear events around the world, to scramble. Their base inside Pakistan was closed after a shooting involving a C.I.A. security contractor, Raymond Davis, and the raid into Pakistani territory that killed Osama bin Laden, both in 2011. Crucial to the surveillance of Bin Laden’s house in Abbottabad was the use of an RQ-170 drone. Pakistani officials talked openly in the weeks after that raid about their fear that the unmanned aircraft was also being used to monitor their nuclear arsenal, now believed to be the fastest growing in the world. The raid, and those drones, came out of American facilities just over the Afghan border. “You hear about the president’s decision of the ‘zero option’ in the context of the future of Afghanistan, but this is really more about Pakistan,” said one former senior intelligence official who has consulted with the Pentagon and intelligence agencies about the problem. “That’s where the biggest problem is.” The C.I.A.’s drone bases in Afghanistan, including one in the eastern part of the country, allow operators to respond quickly to fresh intelligence. The proximity to Pakistan’s tribal areas also allows the Predator drones and their larger, faster cousin, the Reaper, to fly longer missions without having to return to base. “There certainly is an interdependence between the military and the intelligence community in Afghanistan,” one senior administration official said. The Reapers, the newest, largest and most capable of the unmanned armed vehicles, have a range of up to 1,100 miles. That puts Pakistan’s tribal areas within range of some bases the American military has flown from, especially in Kyrgyzstan, where for more than a decade the Pentagon has conducted air operations, include cargo and troop flights, out of a base at Manas. But the United States said last fall that it would pull out of that base in July. Other allied countries are within the Reaper’s range — in the Persian Gulf, for example. But the distances would be too great to carry out drone operations effectively, officials said, and it is very unlikely that any of those nations would approve launching the diplomatically sensitive strikes missions from their soil. “There’s no easy alternative to Afghanistan,” one former senior American counterterrorism official said.

**Global nuclear war**

William Pitt 9, NYT best selling author on international affairs, "Unstable Pakistan Threatens the World," ARAB AMERICAN NEWS, 5--8--09, www.arabamericannews.com/news/index.php?mod=article&cat=commentary&article=2183

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But a suicide bomber in Pakistan rammed a car packed with explosives into a jeep filled with troops today, killing five and wounding as many as 21, including several children who were waiting for a ride to school. Residents of the region where the attack took place are fleeing in terror as gunfire rings out around them, and government forces have been unable to quell the violence. Two regional government officials were beheaded by militants in retaliation for the killing of other militants by government forces. As familiar as this sounds, it did not take place where we have come to expect such terrible events. This, unfortunately, is a whole new ballgame. It is part of another conflict that is brewing, one which puts what is happening in Iraq and Afghanistan in deep shade, and which represents a grave and growing threat to us all.Pakistan is now trembling on the edge of violent chaos, and is doing so with nuclear weaponsin its hip pocket,right in the middle of one of the most dangerous neighborhoods in the world.The situation in brief: Pakistan for years has been a nation in turmoil, run by a shaky government supported by a corrupted system, dominated by a blatantly criminal security service, and threatened by a large fundamentalist Islamic population with deep ties to the Taliban in Afghanistan. All this is piled atop an ongoing standoff with neighboring India that has been the center of political gravity in the region for more than half a century. The fact that Pakistan, and India, and Russia, and China all possess nuclear weaponsand share the same space means any ongoing or escalating violence over there has the real potential to crack open the very gates of Hellitself. Recently, the Taliban made a military push into the northwest Pakistani region around the Swat Valley. According to a recent Reuters report: The (Pakistani) army deployed troops in Swat in October 2007 and used artillery and gunship helicopters to reassert control. But insecurity mounted after a civilian government came to power last year and tried to reach a negotiated settlement. A peace accord fell apart in May 2008. After that, hundreds — including soldiers, militants and civilians — died in battles. Militants unleashed a reign of terror, killing and beheading politicians, singers, soldiers and opponents. They banned female education and destroyed nearly 200 girls' schools.About 1,200 people were killed since late 2007 and 250,000 to 500,000 fled, leaving the militants in virtual control. Pakistan offered on February 16 to introduce Islamic law in the Swat valley and neighboring areas in a bid to take the steam out of the insurgency. The militants announced an indefinite cease-fire after the army said it was halting operations in the region. President Asif Ali Zardari signed a regulation imposing sharia in the area last month. But the Taliban refused to give up their guns and pushed into Buner and another district adjacent to Swat, intent on spreading their rule. The United States, already embroiled in a war against Taliban forces in Afghanistan, must now face the possibility that Pakistan could collapse under the mounting threat of Taliban forces there. Military and diplomatic advisers to President Obama, uncertain how best to proceed, now face one of the great nightmare scenarios of our time. "Recent militant gains in Pakistan," reported The New York Times on Monday, "have so alarmed the White House that the national security adviser, Gen. James L. Jones, described the situation as 'one of the very most serious problems we face.'" "Security was deteriorating rapidly," reported The Washington Post on Monday, "particularly in the mountains along the Afghan border that harbor al-Qaeda and the Taliban, intelligence chiefs reported, and there were signs that those groups were working with indigenous extremists in Pakistan's populous Punjabi heartland. The Pakistani government was mired in political bickering. The army, still fixated on its historical adversary India, remained ill-equipped and unwilling to throw its full weight into the counterinsurgency fight. But despite the threat the intelligence conveyed, Obama has only limited options for dealing with it. Anti-American feeling in Pakistan is high, and a U.S. combat presence is prohibited. The United States is fighting Pakistan-based extremists by proxy, through an army over which it has little control, in alliance with a government in which it has little confidence." It is believedPakistan is currently in possession of between 60 and 100 nuclear weapons. Because Pakistan's stability is threatened by the wide swath of its population that shares ethnic, cultural and religious connections to the fundamentalist Islamic populace of Afghanistan, fears over what could happen to those nuclear weapons if the Pakistani government collapses are very real. "As the insurgency of the Taliban and Al Qaeda spreads in Pakistan," reported the Times last week, "senior American officials say they are increasingly concerned about new vulnerabilities for Pakistan's nuclear arsenal, including the potential for militants to snatch a weapon in transport or to insert sympathizers into laboratories or fuel-production facilities. In public, the administration has only hinted at those concerns, repeating the formulation that the Bush administration used: that it has faith in the Pakistani Army. But that cooperation, according to officials who would not speak for attribution because of the sensitivity surrounding the exchanges between Washington and Islamabad, has been sharply limited when the subject has turned to the vulnerabilities in the Pakistani nuclear infrastructure." "The prospect of turmoil in Pakistan sends shivers up the spinesof those U.S. officials charged with keeping tabs on foreign nuclear weapons," reported Time Magazine last month. "Pakistan is thought to possess about 100 — the U.S. isn't sure of the total, and may not know where all of them are. Still, if Pakistan collapses, the U.S. military is primed to enter the country and secure as many of those weapons as it can, according to U.S. officials. Pakistani officials insist their personnel safeguards are stringent, but a sleeper cell could cause big trouble, U.S. officials say." In other words, a shaky Pakistan spells trouble for everyone, especially if America loses the footrace to secure those weapons in the event of the worst-case scenario. If Pakistani militants ever succeed in toppling the government, several very dangerous events could happen at once. Nuclear-armed India could be galvanized into military actionof some kind,as could nuclear-armed China or nuclear-armed Russia.If the Pakistani government does fall, and all those Pakistani nukes are not immediately accounted for and secured,the specter (or reality) o**f** loose nukes falling into the hands of terrorist organizations could place the entire world on a collision course with unimaginable disaster.We have all been paying a great deal of attention to Iraq and Afghanistan, and rightly so. The developing situation in Pakistan, however, needs to be placed immediately on the front burner. The Obama administration appears to be gravely serious about addressing the situation. So should we all.

#### There’s a unique risk of al Qaeda reemergence in 2014 due to poor reconstruction

Grare 12-27 December Frederic, CNN, 12-27, http://globalpublicsquare.blogs.cnn.com/category/afghanistan/

In parallel, the temptation in Washington to blame the Europeans for the coalition failures in Afghanistan grew as it became increasingly clear that, despite the official rhetoric, the United States had achieved none of its objectives. If al Qaeda has been weakened, none of its local affiliates has been eradicated and its reemergence remains a possibility in 2014 and beyond – the reality is that the Afghan state that is emerging from the reconstruction effort is in no position to prevent this happening on its own once U.S. forces have withdrawn next year. Ironically the impending exit from Afghanistan has only exacerbated ill feelings on both sides of the Atlantic. In spite of the principle “in together, out together,” Washington decided unilaterally to withdraw, but felt let down when some of its partners decided to anticipate its own departure.

#### Post-drawdown Afghan state collapse leads to nuclear war

Cronin 13 (Audrey Kurth Cronin is Professor of Public Policy at George Mason University and author of How Terrorism Ends and Great Power Politics and the Struggle over Austria. Thinking Long on Afghanistan: Could it be Neutralized? Center for Strategic and International Studies The Washington Quarterly • 36:1 pp. 55\_72 [http://dx.doi.org/10.1080/0163660X.2013.751650](http://dx.doi.org/10.1080/0163660X.2013.751650" \t "_blank))

With ISAF withdrawal inevitable, a sea change is already underway: the question is whether the United States will be ahead of the curve or behind it. Under current circumstances, key actions within Afghanistan by any one state are perceived to have a deleterious effect on the interests of other competing states, so the only feasible solution is to discourage all of them from interfering in a neutralized state. As the United States draws down over the next two years, yielding to regional anarchy would be irresponsible. Allowing neighbors to rely on bilateral measures, jockey for relative position, and pursue conflicting national interests without regard for dangerous regional dynamics will result in a repeat of the pattern that has played out in Afghanistan for the past thirty years\_/except this time the outcome could be not just terrorism but nuclear war.

#### Enhancing US-German cooperation is critical to greater German involvement in Afghanistan reconstruction.

Miko 4 Francis T. Miko, Specialist in International Relations, Foreign Affairs, Defense, and Trade Division, CRS Report for Congress, Received through the CRS Web, Order Code RL32710, 12-27

This could mean, for instance, that Germany might be better positioned to take on a greater role in long-term reconstruction efforts in countries like Afghanistan. Some argue that with a better understanding of the potential complementary roles the two countries can play based on the strengths and advantages of each, new opportunities for enhanced cooperation in the global war on terrorism might be found. The final report of the U.S. 9/11 Commission suggests that long-term success in the war against terrorism demands the use of all elements of national power, including “soft power” instruments such as diplomacy, intelligence, and foreign aid. A key question is to what degree differences are likely to hamper U.S.-German cooperation against terrorism. It could be argued that U.S. and German security in the near and mid-term are likely to be affected far more by what Germany does to cooperate with the United States in terms of domestic security and bilaterally than by Germany’s stance on other international issues.

### 1AC – Solvency

#### Contention 2 is Solvency

#### Prosecution in federal courts solves best—multiple reasons, experts agree

Oona **Hathaway**, Professor, International Law, Yale Law School, Samuel Adelsberg, Spencer Amdur, Philip Levitz, Freya Pitts and Sirine Shebaya, “The Power to Detain: Detention of Terrorism Suspects after 9/11,” YALE JOURNAL OF INTERNATIONAL LAW v. 38, Winter 20**13**, p. 161-167.

The United States is still actively engaged in hostilities with global terrorist organizations, but there are indications that "we're within reach of strategically defeating al-Qaeda." n227 This development, combined with the growing distance from the national trauma of September 11, has reinvigorated the debate surrounding the detention and prosecution of suspected terrorists both outside of and within the United States. Even though Congress has recently expanded military detention and prosecution, n228 prosecution in federal court offersseveral key advantagesover law-of-war detention, including predictability, legitimacy, greater cooperation by defendants and international partners, and flexibility. n229 These advantages have led a diverse set of actors - from current Department of Defense and counterterrorism officials, n230 to [\*162] former Bush Administration officials, n231 to the Washington Post editorial board n232 - to support the prosecution and detention of individuals through the federal courts, despite Congress's recently expressed preference for law-of-war detention. In some cases, prosecution in federal court is theonly availableoption for prosecuting an accused terrorist. Federal antiterrorism statutes are extensive and provide statutory authority to prosecute individuals who are part of or supporting terrorist groups without direct ties to forces associated with al-Qaeda or the Taliban (and therefore outside the scope of the 2001 AUMF or the NDAA), n233 and independently operating terrorists who are inspired by, but are not part of or associated with, al-Qaeda or the Taliban. n234 These statutes also reach persons or citizens who, because they are apprehended in the United States, cannot be tried under the MCA. The following sections discuss the contours and limitations of such criminal prosecution and detention in the terrorism context. Even where detention under the law of war is available, the criminal justice system offers some key advantages for the detention and prosecution of suspected terrorists**.** We thus aim here to offer a correction to the recent trend toward favoring law-of-war detention over criminal prosecution and detention. In the vast majority of cases, criminal prosecution and detention is the most effective and legitimate way to address the terrorist threat**.** A. The Advantages of Criminal Prosecution and Detention The least contested bases for detention authority in any context are post-conviction criminal detention and pre-verdict detention for those who pose a risk of flight. It is often assumed that such criminal detention is ill-suited to terrorists. However, with very little fanfare, federal district court dockets have been flush with terrorism cases over the past decade. Strikingly, efforts to measure the conviction rate in these cases place it between 86 and 91 percent**.** n235 Far from being ineffective, then, trying suspected terrorists in criminal courts is remarkably effective. It also offers the advantages of predictability, legitimacy, and strategic benefits in the fight against terrorism. **1.** Predictability Post-conviction detention of terrorists after prosecution in federal court provides predictability that is currently absent in the military commission system. Federaldistrict courts have years of experience trying complex cases and convicting dangerous criminals, including international terrorists, and the rules arewell established and understood. The current military commission system, on the other hand, is a comparatively untested adjudicatory regime. n236 As already noted, conviction rates in terrorism trials have been close to ninety percent since 2001, and those rates have remained steady in the face of large increases in the number of prosecutions. The military commissions, by contrast, have - as of this writing - convicted seven people since 2001, five of whom pled guilty. n237 Charges have been dropped against several defendants, n238 [\*164] and other defendants have been charged but not tried. n239 The commission procedures have been challenged at every stage, and it is unclear what final form they will ultimately take. Even their substantive jurisdiction remains unsettled. In October 2012, the Court of Appeals for the D.C. Circuit overturned Salim Hamdan's military commission conviction for providing material support to terrorism. n240 The Court held that the Military Commissions Act of 2006, which made material support for terrorism a war crime that could be prosecuted in the commissions, was not retroactively applicable to Hamdan's conduct prior to enactment of the statute. n241 Moreover, the Court explained that material support for terrorism was not a recognized war crime under international law. n242 As a result, his conviction for material support for terrorism in the commission could not stand. n243 It is uncertain how this will affect other trials of detainees, but this decision clearly illustrates the unsettled nature of the commissions. n244 **2.** Legitimacy Federal courts are also generally considered more legitimate than military commissions. The stringent procedural protections reduce the risk of error and generate trust and legitimacy. n245 The federal courts, for example, provide more robust hearsay protections than the commissions. n246 In addition, jurors are [\*165] ordinary citizens, not U.S. military personnel. Indeed, some of the weakest procedural protections in the military commission system have been successfully challenged as unconstitutional. n247 Congress and the Executive have responded to these legal challenges - and to criticism of the commissions from around the globe - by significantly strengthening the commissions' procedural protections. Yet theremaining gaps **-** along with what many regard as **a** tainted history **-** continue toraise doubts about the fairness and legitimacy of the commissions**.** The current commissions, moreover, have been active for only a short period - too brief a period for doubts to be confirmed or put to rest. n248 Federal criminal procedure, on the other hand, is well-established and widely regarded as legitimate. Legitimacy of the trial process is important not only to the individuals charged but also to the fight against terrorism**.** As several successful habeas corpus petitions have demonstrated, insufficient procedural protections create a real danger of erroneous imprisonment for extended periods. n249 Such errors can generateresentment and distrust of the United States that undermine the effectiveness of counterterrorism efforts. Indeed, evidence suggests that populations are more likely to cooperate in policing when they believe they have been treated fairly**.** n250 The understanding that a more legitimate detention regime will be a more effective one is reflected in recent statements from the Department of Defense and the White House. n251 **3.** Strategic Advantages There is clear evidence that other countries recognize and respond to the difference in legitimacy between civilian and military courts and that they are, indeed, more willing to cooperate with U.S. counterterrorism efforts when terrorism suspects are tried in the criminal justice system. Increased international cooperation is therefore another advantage of criminal prosecution.Many key U.S. allies have been unwilling to cooperate in cases involving law-of-war detention or prosecution but have cooperated in criminal [\*166] prosecutions. In fact, many U.S. extradition treaties, including those with allies such as India and Germany, forbid extradition when the defendant will not be tried in a criminal court. n252 This issue has played out in practice several times. An al-Shabaab operative was extradited from the Netherlands only after assurances from the United States that he would be prosecuted in criminal court. n253 Two similar cases arose in 2007. n254 In perhaps the most striking example, five terrorism suspects - including Abu Hamza al-Masr, who is accused of providing material support to al-Qaeda by trying to set up a training camp in Oregon and of organizing support for the Taliban in Afghanistan - were extradited to the United States by the United Kingdom in October 2012. n255 The extradition was made on the express condition that they would be tried in civilian federal criminal courts rather than in the military commissions. n256 And, indeed, both the European Court of Human Rights and the British courts allowed the extradition to proceed after assessing the protections offered by the U.S. federal criminal justice system and finding they fully met all relevant standards. n257 An insistence on using military commissions may thus hinder extradition and other kinds of international prosecutorial cooperation, such as the sharing of testimony and evidence. Finally, the criminal justice system is simply a more agile and versatile prosecution forum. Federal jurisdiction offers an extensive variety of antiterrorism statutes that can be marshaled to prosecute terrorist activity committed outside the **U**nited **S**tates, and subsequently to detain those who are convicted. n258 This greater variety of offenses - military commissions can only [\*167] punish an increasingly narrow set of traditional offenses against the laws of war n259 - offers prosecutorsimportant flexibility**.** For instance, it might be very difficult to prove al-Qaeda membership in an MCA prosecution or a law-of-war habeas proceeding; but if the defendant has received training at a terrorist camp or participated in a specific terrorist act, federal prosecutors may convict under various statutes tailored to more specific criminal behavior**.** n260 In addition, military commissions can no longer hear prosecutions for material support committed before 2006. n261 Due in part to the established track record of the federal courts, the federal criminal justice system also allows for more flexible interactions between prosecutors and defendants. Proffer and plea agreements are powerful incentives for defendants to cooperate, and often lead tovaluable intelligence-gathering**,** producing more intelligence over the course of prosecution. n262

#### Obama’s speech has called on Congress to remove restrictions on detainment

Josh Rogin 13, senior correspondent for national security & politics for Newsweek and The Daily Beast, May 23, 2013, “How Obama Bungled the Guantánamo Closing” <http://www.thedailybeast.com/articles/2013/05/23/how-obama-bungled-the-guantanamo-closing.html>

.¶ Obama took that issue head-on Thursday when he called on Congress to remove restrictions on transferring prisoners to the U.S., announced the Defense Department will establish a domestic site for holding military commissions, defended the idea of trying alleged terrorists on U.S. soil, and lifted the ban on transferring Guantánamo prisoners to Yemen, which could greatly reduce the prisoner population in Guantánamo.¶ By announcing these steps, Obama is calling on the public to support his contention that the prison can be closed safely, in order to put pressure on Congress to change its tune, experts said.¶ “It looks like he’s learned some lessons from the last go-round,” said Ken Gude, chief of staff at the Center for American Progress, the think tank founded by former Clinton chief of staff John Podesta. “Starting by designating a site on a military base to hold commissions is a great first step. What is Congress going to say to the Defense Department? That it doesn’t think it can secure a U.S. military base inside the United States from potential attack by terrorists?”

#### Restrictions inevitable---only a question of whether they are deliberate or haphazard

Benjamin Wittes 9, senior fellow and research director in public law at the Brookings Institution, is the author of Law and the Long War: The Future of Justice in the Age of Terror and is also a member of the Hoover Institution's Task Force on National Security and Law, “Legislating the War on Terror: An Agenda for Reform”, November 3, Book, p. 17

A new administration now confronts the same hard problems that plagued its ideologically opposite predecessor, and its very efforts to turn the page on the past make acute the problems of institutionalization. For while the new administration can promise to close the detention facility at Guantanamo Bay and can talk about its desire to prosecute suspects criminally, for example, it cannot so easily forswear noncriminal detention. While it can eschew the term "global war on terror," it cannot forswear those uses of force—Predator strikes, for example—that law enforcement powers would never countenance. Nor is it hastening to give back the surveillance powers that Congress finally gave the Bush administration. In other words, its very efforts to avoid the Bush administrations vocabulary have only emphasized the conflicts hybrid nature—indeed- emphasized that the United States is building something new here, not merely applying something old.¶ That point should not provoke controversy. The evidence that the United States is fumbling toward the creation of hybrid institutions to handle terrorism cases is everywhere around us. U.S. law, for example, now contemplates extensive- probing judicial review of detentions under the laws of war—a naked marriage of criminal justice and wartime traditions. It also contemplates warrantless wiretapping with judicial oversight of surveillance targeting procedures—thereby mingling the traditional judicial role in reviewing domestic surveillance with the vacuum cleaner-type acquisition of intelligence typical of overseas intelligence gathering. Slowly but surely, through an unpredictable combination of litigation, legislation, and evolutionary developments within executive branch policy, the nation is creating novel institutional arrangements to authorize and regulate the war on terror. The real question is not whether institutionalization will take place but whether it will take place deliberately or haphazardly, whether the United States will create through legislation the institutions with which it wishes to govern itself or whether it will allow an endless sequence of common law adjudications to shape them.¶ The authors of the chapters in this book disagree about a great many things. They span a considerable swath of the U.S. political spectrum, and they would no doubt object to some of one another's policy prescriptions. Indeed, some of the proposals are arguably inconsistent with one another, and it will be the very rare reader who reads this entire volume and wishes to see all of its ideas implemented in legislation. What binds these authors together is not the programmatic aspects of their policy prescriptions but the belief in the value of legislative action to help shape the contours of the continuing U.S. confrontation with terrorism. That is, the authors all believe that Congress has a significant role to play in the process of institutionalization—and they have all attempted to describe that role with reference to one of the policy areas over which Americans have sparred these past several years and will likely continue sparring over the next several years.

**Comparatively, criminal courts better for legitimacy**

**Glazier 09** (David, Professor of Law, Loyola Law School, December 2009, "PLAYING BY THE RULES: COMBATING AL QAEDA WITHIN THE LAW OF WAR" William and Mary Law Review, Lexis)

Preventive detention of al Qaeda personnel should be lawful until the earlier of the time that they no longer pose an individual threat or the WAQT reaches an end. Nevertheless, detention based on a criminal conviction and sentence should be preferable for several reasons. First, "hard-core" individuals might remainwilling to use violenceagainst U.S. interests even after al Qaeda has ceased to exist as a recognizable entity or pose a credible threat**.** The sentence of a detainee convicted during an armed conflict is unaffected by the end of hostilities, n541 so trial for serious offenses can provide more reliable long-term incapacitation than mere preventive detention. Many Americans consider detainee living conditions mandated by the law of war too good for terrorists and strongly prefer actual [\*1045] imprisonment. n542 A guilty verdict also attaches substantial moral culpability to the detainee and may help bring closure to victims of terrorist violence. Conviction following a criminal trial meeting internationally recognized standards of justice should result in the widest possible acceptance of the validity of any detainee's continued detention**.** Criminal trials applying standard American constitutional criminal procedure standards should thus be employed whenever adequate admissible evidence exists to support a good faith conviction. Federal trials not only enjoy thegreatest legitimacy, but they also allow application of the broadest scope of possible charges, including specialized offenses such as providing material support to terrorism and the full range of inchoate offenses recognized under Anglo- American law. n543 Detainees classified as either civilians or unlawful combatants are subject to prosecution under the full scope of U.S. domestic criminal law, whereas those classified as lawful combatants should at least be subject to trial for violations of the War Crimes Act. n544 For those cases involving either offenses committed in captivity that are properly triable under the UCMJ, or any violations of the law of war that fall outside the scope of crimes triable under the War Crimes Act, trial by regularly convened generalcourts-martial should be used**.** n545 Contrary to frequent public assertions by officials who really should know better, n546 American military justice is no longer the "gold standard." A number of democracies have abolished separate military trials entirely, n547 whereas other heirs of the [\*1046] British military justice system, the U.K. and Canada, have had to eliminate the multiple roles still allowed the convening authority under U.S. practice. n548 Nevertheless, the fact that trials under national military justice arespecifically authorized by GenevaIII should effectively mute criticism of detainee trials by actual courts-martial**.** But the fact that U.S. military justice no longer measures up to the standards of other leading democracies highlights the desirability of trials by actual federal courts whenever possible. Although the MCA 2009 authorizes the President to try suspected terrorists before military commissions, nothing in the statute requires him to do so. n549 While their early history shows that military commissions can be used to provide "full and fair" trials, the history of their use in the "war on terror" is irreparably flawed, and they should be abandoned. The Executive Branch has all the authority necessary to try any person over whom statutory jurisdiction can be obtained, either by regular Article III courts or courts-martial.

#### The legislative process increases public awareness and debate which is key to resolving the contentious nature of Obama’s demands- even if stakeholders don’t agree with the proposal, the aff’s process ensures embrace, not backlash.

Sillivana, 2009 (Assistant Professor of Law, Paul M. Herbert Law Center, Louisiana State University.“Lincoln’s Constitutionalism in Time of War: Lessons for the War on Terror?” Article: “INTERNATIONAL LAW AND DOMESTIC LEGITIMACY: REMARKS PREPARED FOR LINCOLN’S CONSTITUTIONALISM IN TIME OF WAR: LESSONS FOR THE CURRENT WAR ON TERROR? Chapman Law Review. Spring 2009. Web, Acc 8/14/2013 at <http://www.chapmanlawreview.com/?p=1514>)

Moreover, the incorporation of international law does not preclude legislative override where necessary. The last-in-time doctrine enables the political branches to supersede international law through the passage of contradictory federal legislation.71 The formal incorporation of Congress through such a process fosters public debate both domestically and internationally, and also provides incentive for the legislature to come off the sideline to place preferred policies on solid legal footing. Regardless of its success or failure, the process of forming legislation and engaging in the political machinations that surround prospective legislation encourages a broader public dialogue as well as a focal \*502 point for discussion of policy issues upon which debate can unfold. The focal points of such debates tend to revolve around legislation that sparks the greatest public concern and reflects positions centered on popular understanding of the “most important” points surrounding the issue. Invitation for public debate in the policy-making process enables dissenting views to voice opinions and air grievances. More broadly, incorporating the public into the debate acts as a functional and productive way to curb the vitriol of dissent–which perceives itself as unduly marginalized and unjustly silenced in affecting the actions and direction of government. Public inclusion in the broader policy judgments of war and armed conflict not only enables public opinion an outlet and opportunity for enhanced focus but also encourages public investment in the policy outcome that is ultimately embraced at the conclusion of the process, even if that outcome reflects a decision against the passage of any legislation.

#### It’s a sequencing question- Congressional action to affirm international law provides the proper framework for legitimate executive action. Gitmo proves structural limitations are a prerequisite to executive action.

Sillivana, 2009 (Assistant Professor of Law, Paul M. Herbert Law Center, Louisiana State University.“Lincoln’s Constitutionalism in Time of War: Lessons for the War on Terror?” Article: “INTERNATIONAL LAW AND DOMESTIC LEGITIMACY: REMARKS PREPARED FOR LINCOLN’S CONSTITUTIONALISM IN TIME OF WAR: LESSONS FOR THE CURRENT WAR ON TERROR? Chapman Law Review. Spring 2009. Web, Acc 8/14/2013 at <http://www.chapmanlawreview.com/?p=1514>)

B. Extra-Executive Structural Regulations¶ International law provides a substantive framework for many of the types of legal difficulties that occur frequently among nations but are typically under-examined in the domestic legal context. In such circumstances, international law can provide the structural design to move the executive toward consensus building through constraints that guard against the intrinsic temptation of the executive branch to maximize its own power at the potential cost of losing its credibility. Where norm vacuums exist in sorting out the law as a domestic matter, international law often provides a basic substantive framework around which more extensive law can be built domestically.¶ These structural and touchstone characteristics of international law assist the public in assessing, and accepting, final provisions of law carried out in policy. Specifically, incorporating international law in the domestic process (1) promotes international and domestic political dialogue; (2) encourages the executive branch to engage in formal and informal justification of its policies; and (3) incentivizes transparency through public disclosure.¶ The importance of structural limitations surrounding executive action is demonstrable in the discussion surrounding the treatment of prisoners at Guantanamo Bay. Addressing the issue of the standard of treatment of U.S. detainees, President Bush asserted that the U.S. would treat detainees “humanely \*503 and, to the extent appropriate and consistent with military necessity . . . .”72 The power of this statement as a force of legitimation, is compromised by the fact that “it was very vague, it was not effectively operationalized into concrete standards of conduct, and it left all of the hard issues about ‘humane’ and ‘appropriate’ treatment to the discretion of unknown officials.”73

#### The US Court of Appeals decision in Al Maqeleh v. Gates created a legal black hole for detainees in an active theater of war

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

Dilawar's horrific death was one of many prisoner abuses at Bagram Airfield since late 2001, thrusting the base into the national spotlight as the New York Times and other media outlets began to investigate the abuses at Bagram. 6 In the wake of this increased international scrutiny and the United States Supreme Court's decision opening federal courts to detainee habeas challenges from Guantanamo Bay Naval Base in Boumediene v. Bush, 7 detainees at Bagram filed habeas suits in federal court to seek release. 8 The United States District Court for the District of Columbia ("District Court") consolidated these cases into a single action, Al Maqaleh v. Gates, and held in August 2009 that the Bagram detainees could indeed seek habeas relief in domestic courts. 9 However, the United States Court of Appeals for the District of Columbia ("D.C. Circuit") reversed this decision in May 2010 because the detainees' location in an active "theater of war" precluded their access to federal courts under Boumediene. 10 The D.C. Circuit's reversal revealed a fundamental paradox in the government's approach to the Afghan conflict and the "war on terror." 11 Presidents Obama and Bush have insisted the nation cannot be at "war" with al Qaeda and therefore the protections of the Geneva Conventions and other international law [\*445] do not apply to nor protect captured persons. 12 When the Bagram detainees challenged the legality of their detentions, the D.C. Circuit deferred to the executive's judgment and denied habeas relief because Bagram was in an "active theater of war in a territory under neither the de facto nor the de jure sovereignty of the United States." 13 This paradox puts Bagram detainees in a legal "black hole" 14 where they cannot obtain relief through traditional military justice (like Geneva-governed military commissions) and domestic courts refuse to hear their habeas claims.

#### Intelligence structures are key to the success of special ops

Ara 11 Martin J., Lieutenant, United States Navy M.S., London School of Economics, AND Thomas Brand Lieutenant, Colonel, German Army B.S., University of the German Federal Armed Forces Munich, , AND Brage Andreas Larssen, Major, Norwegian Army B.S., Norwegian Military Academy, Oslo, December 2011, “HELP A BROTHER OUT: A CASE STUDY IN MULTINATIONAL INTELLIGENCE SHARING, NATO SOF,” http://www.dtic.mil/dtic/tr/fulltext/u2/a556078.pdf\*Note: SOF = Special Operation Forces

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

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#### We meet- Indef detention with a right to trial isn’t indefinite detention -

#### Coutner interp - Restriction means a limit or qualification, and includes conditions on action

CAA 8,COURT OF APPEALS OF ARIZONA, DIVISION ONE, DEPARTMENT A, STATE OF ARIZONA, Appellee, v. JEREMY RAY WAGNER, Appellant., 2008 Ariz. App. Unpub. LEXIS 613

P10 The term "restriction" is not defined by the Legislature for the purposes of the DUI statutes. See generally A.R.S. § 28-1301 (2004) (providing the "[d]efinitions" section of the DUI statutes). In the absence of a statutory definition of a term, we look to ordinary dictionary definitions and do not construe the word as being a term of art. Lee v. State, 215 Ariz. 540, 544, ¶ 15, 161 P.3d 583, 587 (App. 2007) ("When a statutory term is not explicitly defined, we assume, unless otherwise stated, that the Legislature intended to accord the word its natural and obvious meaning, which may be discerned from its dictionary definition."). P11 The dictionary definition of "restriction" is "[a] limitation or qualification." Black's Law Dictionary 1341 (8th ed. 1999). In fact, "limited" and "restricted" are considered synonyms. See Webster's II New Collegiate Dictionary 946 (2001). Under these commonly accepted definitions, Wagner's driving privileges were "restrict[ed]" when they were "limited" by the ignition interlock requirement. Wagner was not only [\*7] statutorily required to install an ignition interlock device on all of the vehicles he operated, A.R.S. § 28-1461(A)(1)(b), but he was also prohibited from driving any vehicle that was not equipped with such a device, regardless whether he owned the vehicle or was under the influence of intoxicants, A.R.S. § 28-1464(H). These limitations constituted a restriction on Wagner's privilege to drive, for he was unable to drive in circumstances which were otherwise available to the general driving population. Thus, the rules of statutory construction dictate that the term "restriction" includes the ignition interlock device limitation.

### Solvency

#### Comstock is sufficiently distinct – not applied to the aff

Columbia Law National Security Blog (citing an anonymous Harvard Law school graduate) 2010 “Comstock Case Augments Federal Detention Authority” http://blogs.law.columbia.edu/nsls/2010/05/19/comstock-case-augments-federal-detention-authority/

Over at Slate, Dahlia Lithwick worries that a likely consequence of this view of federal power is acceptance of the positions of the Bush and Obama administrations on the indefinite preventative detention of terrorism suspects. According to Lithwick, “the Supreme Court has just handed Congress broad authority to detain people merely because they show signs of future dangerousness.”¶ As explained in the (as always) excellent summary of Comstock on SCOTUSblog, Comstock holds in part that¶ the Necessary and Proper Clause grants Congress ‘broad authority,’ requiring only that a statute ‘constitute[] a means that is rationally related’ to the implementation of an enumerated power. This can build on itself: Congress has broad powers to create federal crimes to further various enumerated powers. Congress can then ensure enforcement of these crimes by imprisoning offenders in federal prisons. In turn, it can take action to guarantee the safety of those who may be affected by federal imprisonment, including those in surrounding communities.¶ For Lithwick, this “very expansive view of federal crime-fighting authority” may open the door to the indefinite detention of those deemed by the government to be dangerous as a result of their suspected or proven terrorist connections. This is particularly so because the rationale underlying the detention of sex offenders beyond their criminal sanctions translates so readily into the terrorism context: “Incurable and mentally unstable sex offenders are no more terrifying than incurable and mentally unstable jihadists.”¶ Lithwick notes that there may be sufficient distinctions between the commitment of sex offenders and the detention of terrorism suspects to contain Comstock’s holding, including the fact that the sex offenders have “presumably had trials and served their time.” ¶ [Ed.: Lithwick largely begins with the assumption - broadly but not universally accepted - that preventative detention is an unnecessary evil. She then skirts the rationale for "preventative" detention of terrorists as military opponents. Although Lithwick may be right that there are convincing analogies between the government's interests in Comstock and in many of the terrorism cases, she does not elaborate on her "worries" about this power. ]

#### Empirics prove the trials won’t be rigged- trial of Ghailani proves.

Weiser, 2010 (Benjamin, “Detainee Acquitted on most Counts in ’98 Bombings” The New York Times. http://www.nytimes.com/2010/11/18/nyregion/18ghailani.html?\_r=0&gwh=7A74957B6B7A2A725A3E8A665FFA3088

The first former [Guantánamo](http://topics.nytimes.com/top/news/national/usstatesterritoriesandpossessions/guantanamobaynavalbasecuba/index.html?inline=nyt-geo) detainee to be tried in a civilian court was acquitted on Wednesday¶ of all but one of more than 280 charges of conspiracy and murder in the 1998 terrorist bombings of the United States Embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania.¶ The case has been seen as a test of [President Obama](http://topics.nytimes.com/top/reference/timestopics/people/o/barack_obama/index.html?inline=nyt-per)’s goal of trying detainees in federal court whenever feasible, and the result seems certain to fuel debate over whether civilian courts are appropriate for trying terrorists.¶ The defendant, [Ahmed Khalfan Ghailani](http://topics.nytimes.com/top/reference/timestopics/people/g/ahmed_khalfan_ghailani/index.html?inline=nyt-per), 36, was convicted of one count of conspiracy to destroy government buildings and property. He was acquitted of four counts of conspiracy, including conspiring to kill Americans and to use weapons of mass destruction.¶ Because of the unusual circumstances of Mr. Ghailani’s case — after he was captured in Pakistan in 2004, he was held for nearly five years in a so-called black site run by the [Central Intelligence Agency](http://topics.nytimes.com/top/reference/timestopics/organizations/c/central_intelligence_agency/index.html?inline=nyt-org) and at Guantánamo Bay, Cuba — the prosecution faced significant legal hurdles even getting his case to trial.¶ On the eve of Mr. Ghailani’s trial last month, the government lost a key ruling that may have seriously damaged its chances of winning convictions.¶ In the ruling, the judge, [Lewis A. Kaplan](http://topics.nytimes.com/top/reference/timestopics/people/k/lewis_a_kaplan/index.html?inline=nyt-per) of Federal District Court in Manhattan, barred prosecutors from using [an important witness](http://www.nytimes.com/2010/10/15/nyregion/15ghailani.html) against Mr. Ghailani because the government had learned about the man through Mr. Ghailani’s [interrogation](http://topics.nytimes.com/top/reference/timestopics/organizations/c/central_intelligence_agency/cia_interrogations/index.html?inline=nyt-classifier) while he was in C.I.A. custody, where his lawyers say he was tortured.¶ The witness, Hussein Abebe, would have testified that he had sold Mr. Ghailani the TNT used to blow up the embassy in Dar es Salaam, prosecutors told the judge, calling him “a giant witness for the government.”¶ The judge himself recognized the significance of excluding the witness when he said in his ruling that Mr. Ghailani’s status of “enemy combatant” probably would permit his detention as something akin “to a prisoner of war until hostilities between the United States and [Al Qaeda](http://topics.nytimes.com/top/reference/timestopics/organizations/a/al_qaeda/index.html?inline=nyt-org) and the [Taliban](http://topics.nytimes.com/top/reference/timestopics/organizations/t/taliban/index.html?inline=nyt-org) end, even if he were found not guilty.”¶ Mr. Ghailani, who remains in custody, faces 20 years to life in prison when he is sentenced on Jan. 25.¶ The unexpected verdict by the anonymous six-man, six-woman jury came on the fifth day of deliberations. On Monday, the prospect of a deadlock was raised when a juror asked to be removed because she was alone in her view of the case and felt she was being attacked by other jurors. After the verdict on Wednesday, the jurors were to be taken from the courthouse by federal marshals and were unavailable for comment.¶ Mr. Ghailani’s lawyers, including Peter E. Quijano, Steve Zissou, Michael K. Bachrach and Anna N. Sideris, had argued that their client was innocent and had been duped into assisting in the terrorist conspiracy.¶ “This verdict is a reaffirmation that this nation’s judicial system is the greatest ever devised,” Mr. Quijano said outside the courthouse. “It is truly a system of laws and not men, where, in the shadow of the World Trade Center, this jury acquitted Ahmed Khalfan Ghailani of 284 out of 285 counts.”¶ Throughout the case, Mr. Ghailani seemed at ease with his lawyers, smiling frequently. After the verdict was read, he hugged them warmly.¶ The verdict came after a four-week trial in which prosecutors built a circumstantial case to try to establish that Mr. Ghailani had played a key logistical role preparing for the Tanzania attack.¶ They said the evidence showed that he helped to buy the Nissan Atlas truck that was used to carry the bomb, and gas tanks that were placed inside the truck to intensify the blast. He also stored an explosive detonator in an armoire he used, and his cellphone became the “operational phone” for the plotters before the attacks, prosecutors contended.¶ The attacks, orchestrated by Al Qaeda, killed 224 people, including 12 Americans, and injured thousands of others.¶ The Ghailani trial was the second stemming from the 1998 embassy attacks. In 2001, four Qaeda operatives were convicted of participating in the same conspiracy; in that trial, prosecutors were able to use three of the defendants’ statements, made to the [F.B.I.](http://topics.nytimes.com/top/reference/timestopics/organizations/f/federal_bureau_of_investigation/index.html?inline=nyt-org), in which they incriminated themselves in the plot.¶ In Mr. Ghailani’s trial, prosecutors chose not to introduce any of the statements Mr. Ghailani made when he was interrogated while in C.I.A. custody and at Guantánamo, although prosecutors told the judge the statements amounted “to a confession” of his role in the embassy plot. Defense lawyers argued that the statements had been coerced and were inadmissible.¶ [Preet Bharara](http://topics.nytimes.com/top/reference/timestopics/people/b/preet_bharara/index.html?inline=nyt-per), the United States attorney for the Southern District of New York, said that his office would seek a life sentence for Mr. Ghailani.¶ Mr. Bharara expressed his “deep appreciation for the unflagging commitment, dedication and talent of the agents who so thoroughly investigated this case and the prosecutors who so ably tried it.”¶ As the proceeding ended, the prosecutors, including Michael Farbiarz, Harry Chernoff, Nicholas Lewin and Sean S. Buckley, approached Mr. Ghailani’s lawyers, shaking hands and exchanging quiet words.¶ Although the government’s loss on significant counts will undoubtedly test the Obama administration’s resolve on using civilian courts, Judge Kaplan issued two major pretrial rulings that allowed Mr. Ghailani’s prosecution to go forward and could ease the way for future detainees, like [Khalid Shaikh Mohammed](http://topics.nytimes.com/top/reference/timestopics/people/m/khalid_shaikh_mohammed/index.html?inline=nyt-per), the professed 9/11 mastermind, to be tried in federal court.¶ In May, the judge rejected a motion by Mr. Ghailani’s lawyers seeking dismissal of charges on grounds that his torture while in C.I.A. custody was outrageous government misconduct. And in the summer, the judge ruled that Mr. Ghailani’s years of detention before being brought into the civilian system had not violated his constitutional right to a speedy trial.¶ Mr. Mohammed has been detained since 2003, and accusations of torture, including [waterboarding](http://topics.nytimes.com/top/reference/timestopics/subjects/t/torture/waterboarding/index.html?inline=nyt-classifier), would most certainly be raised in his case.¶ The verdict drew strong reaction from family members who had attended the trial. Susan F. Hirsch, whose husband, Abdurahman Abdalla, was killed in the Tanzania attack, said she was grateful for the jury’s efforts, but added, “I can’t help but feel that the evidence in the case would have been stronger had Ghailani been brought to trial when he was captured in 2004.”¶ Sue Bartley, who lost two family members in the Nairobi embassy attack — her husband, Julian L. Bartley Sr., the consul general; and her son, Julian L. Bartley Jr., a college student who was an intern — said she was “disappointed in the jury.”¶ “I think our prosecuting attorneys had the evidence,” she said. “I’m not sure that this jury understood what was in front of them.”¶ Judge Kaplan told the jurors they had demonstrated that “American justice can be rendered calmly, deliberately and fairly by ordinary people, people who are not beholden to any government, not even ours.”¶ “It can be rendered with fidelity to the Constitution,” he added. “You have a right to be proud of your service in this case.”

### Intel

**PRISM doesn’t matter**

**Paramaguru 9-27** (Kharunya, 9-27-13, “Three Months After Snowden’s NSA Revelations, Europe Has Moved On” Time Magazine) http://world.time.com/2013/09/27/three-months-after-snowdens-nsa-revelations-europe-has-moved-on/#ixzz2g969BszS

When Edward Snowden, a former National Security Agency contractor, disclosed details about some of the clandestine electronic surveillance programs run by the intelligence agencies of the United States government in June, it was widely seen as one of the biggest intelligence leaks in American history. The Guardian, the British paper Snowden leaked the information to, saw record surges in web traffic as it published his exposés. Its main article on Edward Snowden, in which the paper declared that Snowden “will go down in history as one of America’s most consequential whistleblowers,” has become the most popular article ever read on the website, with over 3.7 million page impressions and counting according to the Guardian. But, three months later, it’s **difficult** to see how consequential Snowden’s revelations have actually been. Despite immediate and widespread interest from the news media and diplomatic backlash from some parts of the world (mainly from foreign officials who found out that the U.S. had been intercepting their communications), the allegations of widespread spying conducted through the NSA’s PRISM program have not become the subject of any successful legislative efforts in Congress–an initial attempt in July to cut the NSA’s funding for its phone metadata program fell flat after a narrow defeat. And in some parts of the world, responses beyond the immediate surprise caused by the revelations have been **particularly muted**, with some British and French politicians suggesting that there was nothing in the leaks to cause the general public any concern. Some politicians, such as Conservative Member of Parliament David Davis, questioned if there was adequate oversight of intelligence operations. But in general, **Europeans have shrugged and moved on.**

#### Germany uses them –

Dempsey, 7/23 (Judy, “Germans Play for Time in the Debate on Drones.” NYT. http://www.nytimes.com/2013/07/23/world/europe/23iht-letter23.html?\_r=0

There is another reason why the Social Democrats are latching onto the drone issue. The party wants to embarrass the government, particularly Thomas de Maizière, the defense minister and one of Ms. Merkel’s most loyal lieutenants.¶ Mr. de Maizière had recently become embroiled in a scandal over the development of the Euro Hawk armed drone system, a version of the American Global Hawk drone.¶ After Germany’s armed forces had spent more than €600 million — or $790 million — on the project, it turned out that the Euro Hawk lacked certain technical capabilities that the Americans were not prepared to share. Furthermore, the drones had not been certified to fly in European civilian or military air space. As this story broke, it became clear that the German military had pursued its drone program with minimum transparency on costs and viability.

#### So does Britain –

Fox, 2013 (“Sharp rise in British drone use in Afghanistan” 8/6/2013. http://www.foxnews.com/world/2013/09/06/sharp-rise-in-british-drone-use-in-afghanistan/

LONDON (AFP) – The British military fired nearly seven times as many missiles from unmanned drones in Afghanistan last year as it did five years earlier, according to official data released on Friday.¶ In 2012 British drones flew 892 missions over Afghanistan -- firing missiles on 92 occasions -- more than 10 percent of all sorties, junior defence minister Andrew Robathan said in a written statement to parliament.¶ This compares to 2008 when the hi-tech unmanned Reaper aircraft flew 296 missions, firing weapons just five percent of the time, on 14 occasions.¶ Used to target suspected insurgents in Afghanistan, Britain's Reaper drones are capable of carrying laser-guided Hellfire missiles.

#### Global economic crisis causes nuclear war

Cesare Merlini 11, nonresident senior fellow at the Center on the United States and Europe and chairman of the Board of Trustees of the Italian Institute for International Affairs, May 2011, “A Post-Secular World?”, Survival, Vol. 53, No. 2

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

#### Nuclear terrorism is likely - al Qaeda is opportunistic and has WMD ambitions

Hoffman 13 (February 19, Bruce, Director of the Center for Security Studies and Director of the Security Studies Program at Georgetown, “Interview with Bruce Hoffman on today’s Global Terrorism Threat” interview by Bilal Y. Saab, Arms Control and Regional Security for the Middle East, <http://www.middleeast-armscontrol.com/2013/02/19/interview-with-bruce-hoffman-on-todays-global-terrorism-threat/>)

1- Many scholars, analysts, and government officials have viewed the Al Qaeda threat to U.S. interests as waning after the killing and capture of several terrorist leaders including Al Qaeda chief Osama bin Laden. How do you assess the threat today in light of the historic changes in the Middle East? Is it the same? Worse? It is dynamic. What we have seen is the decline of Core al Qaeda, but the rise of al Qaeda-ism. In other words, even while Core al Qaeda has suffered since bin Laden’s killing, its ideology and brand have clearly prospered. Today, al Qaeda’s affiliates and associates are present in more places than al Qaeda was ten years ago. And, as the French intervention in Northern Mali has again shown: once al Qaeda entrenches itself, Western intervention is invariably required to remove it. In sum, the historic changes in the Middle East and North Africa of the past two years have created new opportunities for the spread of al Qaeda-ism and, potentially, the resurrection of the threat that al Qaeda poses. In this respect, no al Qaeda affiliate or associate has ever remained completely local: all have eventually become regional players and have internationalized in one respect or another—whether by recruiting Westerners (including Americans) into its ranks or aspiring to attack beyond its local and even regional confines. 2- State capacity, specifically in the domain of counterterrorism, has always been a problem in the Middle East and other under-developed regions around the world. As nonproliferation analysts, we are interested in studying the capacity of Middle Eastern states to implement various measures related to WMD counterproliferation, and particularly United Nations Security Council Resolution 1540, which calls for the prevention of the spread of WMD to non-state actors. Do you see progress in that area or have Middle Eastern states lagged even farther behind given the unrest in the region? What can the United States realistically do to bolster the capabilities of states in the region? Iran’s continued development of a nuclear capability clearly shows the limits of international counterproliferation efforts in the region. As if that were not bad enough, the threat of Syria’s chemical and biological weapons stockpiles falling into the hands of both radical Sunni as well as Shi’a terrorists (mainly, respectively al Qaeda and Hezbollah) is fundamentally alarming. 3- With Syria burning and Al Qaeda elements actively involved in the fight, is the threat of the terrorist organization capturing chemical weapons and other WMD material overblown or very real? Is this the closest example we have in Al Qaeda’s history of the organization possibly acquiring WMD? What about any episodes of the jihadists’ history in Pakistan? Yes, this is a real and extremely serious threat. Al Qaeda sees Syria generally and its unconventional weapons stockpiles in particular as offering the best chance for it to revive its waning fortunes and once again become as threatening and consequential as it appeared in the aftermath of the September 11th 2001 attacks. Indeed, I would argue that al Qaeda has pinned its faith and hopes to the demise of the Assad regime and, in turn, its acquisition of deadly weapons from that country’s vast unconventional weapons arsenal. 4- There seems to be some confusion in the media about the dangers of failed states versus weak states. Which ones are worse in your judgment as far as terrorism formation and which ones are more likely to produce long-term terrorist threats? Can you please give us a brief comparison of the two with some real examples? A failed state is Somalia (or, more accurately, was Somalia). A weak state is Libya, for example, and a failing state is Syria. They all pose dangers of varying kinds and degrees. Failed states have neither the will nor the capacity to police their borders, maintain law and order internally, and fulfill even the most basic requirements of governance. They are generally incapable of receiving international assistance in support. Weak states may perhaps have the will, but not the capacity to discharge these same functions but are often amenable to international assistance and support. Failing states are the most dangerous categories because their only concern is holding onto power at whatever the cost. To survive they must by definition go rogue. Hopefully, as in Libya, the tide of history sweeps along the forces of revolution and reform, who can relatively quickly subdue the existing authorities and begin to establish a new order. Syria, with the external involvement of Iran and Hezbollah, and its stockpiles of chemical and biological weapons and vast conventional arsenal –on a scale that certainly eclipses Libya and likely surpasses Saddam’s Iraq–presents perhaps the ultimate nightmare scenario. 5- Overall and in your opinion, are we witnessing a resurgence of Al Qaeda in the Middle East and North Africa? It seems that every time we pronounce the organization dead it comes back with a vengeance. Is it more about its own capabilities or simply the result of the crisis conditions that have swept the Middle East since the Arab uprisings began? Or is it both? Yes, we are witnessing a resurgence of the al Qaeda ideology and brand across the Middle East and North Africa. It is of course limited to a small number of fanatics but that in essence is the appeal of terrorism: you don’t need divisions or brigades to have an impact or arguably even to change the course of history. Rather, a handful of persons can fundamentally do so if they are sufficiently disciplined and able to perpetrate even only one or two dramatic, significant, jarring acts of violence. That is the age-old conceit of terrorists and their driving motivation. What concerns me is that the threat of terrorism seems to have increased rather than diminished in the Maghreb and Levant in particular over the past two years and appears to be growing elsewhere as well. It is nascent today–but far more serious and salient than it was even a year ago. I shudder to think to what extent it may have grown by next year. Both in answer to the second question. Al Qaeda has always been as opportunistic as it is instrumental. That is, capable of taking advantage of whatever available opportunities for intervening in local conflicts and engaging in terrorism. Across the Middle East and North Africa the movement has demonstrated its ability repeatedly to seize and exploit opportunities either to re-entrench or establish itself in a variety of long-favored or new venues, to capitalize on the instability and uncertainty in the region’s countries, and create local toe-holds that it hopes to transform into regional foot-holds. Whether it will fail or be successful is the most pressing question today. How the US, the West, and regional governments react will determine the outcome.

### K

#### Individual solutions are bad – focusing on the individual over personalizes politics and causes false believe in change

LOBEL 7, Professor of Law, University of San Diego, (Orly, Harvard Law Review, 120 Harv. L. Rev. 937)

This **celebration of multiple micro-resistances** seems to rely on an aggregate approach - an idea that the multiplication of practices will **evolve into something substantial**. In fact, the myth of engagement obscures the actual lack of change being produced, while the broader pattern of **equating extralegal activism with social reform produces a** false belief in the potential of change. There are few instances of meaningful reordering of social and economic arrangements and macro-redistribution. Scholars write about decoding what is really happening, as though the scholarly narrative has the power to unpack more than the actual conventional experience will admit. [224](http://www.lexis.com/research/retrieve?_m=b7d531dcca7209b987833602ed6fbb4e&docnum=23&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAt&_md5=3f8bfd4662cb01d0d1bf9f28a63e1155&focBudTerms=lobel%20and%20harvard&focBudSel=all#n224) Unrelated efforts become related and part of a whole through mere reframing. At the same time, the elephant in the room - the rising level of economic inequality - is left unaddressed and comes to be understood as natural and inevitable. [225](http://www.lexis.com/research/retrieve?_m=b7d531dcca7209b987833602ed6fbb4e&docnum=23&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAt&_md5=3f8bfd4662cb01d0d1bf9f28a63e1155&focBudTerms=lobel%20and%20harvard&focBudSel=all#n225) This is precisely the problematic process that critical theorists decry as losers' self-mystification, through which marginalized groups come to see systemic losses as the  [\*986]  product of their own actions and thereby begin to focus on minor achievements as representing the boundaries of their willed reality.

#### Transforming institutional structures is always a work in progress. Using the norms of relationality and criticisms of instrumentalization – are critical to building a new politics that subverts the logic of security

Burke 7, University of New South Wales, (Anthony, BORDERLANDS VOLUME 6 NUMBER 2)

44. But can this balance be struck so easily? Is the lure of violence and control, the temptation to preserve unjust and exploitative structures through coercive means, too great? The necessity then is not merely to encourage relationship and reciprocity, but **to continually critique and transform the institutional structures**, technologies and powers of mediation that shape and condition encounters, and that limit and channel the possibilities for life—especially when they do so violently and coercively. Patriotism, identity, social role and the desire for acquisition are such powerful technologies of being that the conditions under which it is made possible to exist and relate must always be subject to critique. A politics that can enable a more creative and ethical exercise of individual and social agency must be combined with one that ethically transforms the overarching structures of power and political enclosure, corporate, administrative and social, within which life takes form. If security is a 'political double-bind' that works at simultaneously individualising and totalising levels, it must be undone and transformed at both. 45. This essay has sought to think and negotiate two fundamental paradoxes in modern inter-national life. While the nation-state—as the normative and legal core of the global system and an entrenched form of social organisation and governance—is not going to disappear, and may well constitute a source of hope for oppressed and marginalised communities like the East Timorese or the Palestinians, it is fundamentally janus-faced and ambivalent (Nimni, 2003: 120). In the face of globalisation and proliferating transnational problems such as refugees, terrorism, economic crisis or climate change its function as an exclusive container for identity and moral community is becoming ever more ethically suspect and practically ineffective. It is becoming just as clear that the dual basis of modern security—the indivisibly sovereign body-politic and the 'rational' exercise of coercion and violence against its others—fails to eliminate threats but tends, in practice, to constitute and worsen them; to wager national identity and survival on the permanence of insecurity and violence. 46. Such is the contemporary global politics of being. It is neither natural, inevitable nor bearable, especially for those who are its daily victims. Against this I have sought to illuminate a path beyond our current politics of security, by combining a series of theoretical arguments that advance the need to challenge and rethink the ways we are made into subjects, to reject images of being based on separation and mastery, and to privilege relations of reciprocity and responsibility over instrumental forms of life that reduce humans to things and politics to an endless struggle for hierarchy and control. In short, I have sought to outline a set of normative, ethical and political intuitions that can assist in building a new politics—if not exhaustively prescribe its forms. I am suggesting transformation at both the local and trans-national levels: transformations in the meaning and practice of 'statecraft' and strategic policy, in narratives and practices of identity, and in the way trans-national movements of 'democratic citizens' organise and act to support and negotiate the diversity of identities at stake in the path to peace. Ultimately, I hope that such a model of trans-national responsibility, ethics and agency will work as a profound subversion of the modern architectonic of security that might—and this is no paradox—in turn hold out a promise of genuine and sustainable security in which no one is sacrificed, and in which there are no permanent victims. 47. It is important to restate that such an ethics does not mean a totalising rejection of the state, but it does demand its transformation.

#### Alt fails - abandoning security impossible

Kavka ’87 (Gregory S., Prof – UC Irvine, Moral Paradoxes of Nuclear Deterrence, p. 86-87)

The lesson of the kidney case seems to be that one can, at most, actively impose substantially lesser risks or harms on other innocent people to protect oneself. Can this lesson be applied to national as well as individual self-defense? One might contend that it cannot be, appealing for support to the hallowed ought-implies-can principle. According to that principle agents, including nations, can only be obligated to act in ways they are capable of acting. But, it may be suggested, nations are **literally incapable** of refraining from taking steps believed to be necessary for national defense, even if these impose horrible risks or harms on outside innocents. For any government that failed to undertake the requisite defensive actions (e.g., any government that abandoned nuclear deterrence) would be quickly ousted and replaced by a government willing to under take them.

Securitization norms are only effective if there’s an audience to accept it.

Hartkorn 9 Siris, Lunds University Department of Political Science - Peace and Conflict Studies, In search for strength, A case study of regime (in)security in Yemen

#### Securitization is therefore the next level after politicization and it legitimizes breaking of the normal rules (Buzan, Wæver and Wilde 1998, pp. 23-25). The question then arises if anyone can securitize any issue and of course that is not the case. The securitization of an issue is only successful when the audience accepts it and thereby legitimizes the extraordinary measures, which the securitization demands (Buzan, Wæver and Wilde 1998, pp. 25). The acceptance from the audience does not necessarily have to rely on a free choice, it can be forced as well, but without any sign of acceptance among the audience, there will not be securitization but only a securitizing move (Buzan, Wæver and Wilde 1998, pp. 25).

#### Their ev is incoherent psychobabble – it sounds sophisticated but doesn’t mean anything

Mahrer 99Alvin R., professor emeritus at the University of Ottawa School of Psychology, “Embarrassing Problems for the Field of Psychotherapy” John Wiley

& Sons, Inc. J Clin Psychol 55: 1147–1156, 1999. p. 1153, via Wiley Inter Science

One of the main things that characterize psychotherapists and that distinguish them from others is their spouting psychobabble. They learn to say terms that give the illusion of genuine knowledge, of professionalism, of science (Illich, 1970; Schon, 1982). They are elite and specialized because they spout jargon terms like unconditioned positive regard, contingency control, transference, reframing, double bind, existential analysis, bioenergetics, phallic stage, archetype, multimodal therapy, systematic desensitization, cognitive schema, catharsis, impulse control, avoidance conditioning, stimulus control, ego diffusion, countertransference, logotherapy, and attribution theory. Psychotherapists are distinguished mainly by their using these terms with effortless ease, as if they knew what the terms meant. Then they can speak in impressive paragraphs such as this, taken from a table of random psychobabble phrases: “This client is characterized by free-floating anxiety in a borderline disorder, brought about by a traumatic childhood history of emotional abuse, lack of a stable support system, and inadequate cognitive development. Accordingly, the treatment of choice is systemic therapy, with reframing of core conceptual schemata, to heighten self-efficacy in a supportive therapist-client alliance emphasizing positive regard and minimizing interpretive probing into stressful pockets of serious psychopathology.” The speaker may have no idea what he or she is saying, or may even secretly know that he or she is playing the game of silly psychobabble, but if the speaker carries it off with professional aplomb, he or she probably can be accepted into the inner ranks of professional psychotherapists.

Multiple Conditional alternatives are evil - and a voting issue -

1. Skews strategy and time – we have to focus the 2ac on multiple alternatives to the plan - this gives the neg the ability to exploit aff time decisions - not make the best most educational decision.
2. Kills rejoinder & not reciprocal - the aff doesn't get to respond OR claim advantages from offense they've read – that kills debate and kills the affs ability to generate offense.
3. Ensures argumentative irresponsibility - that undermines education - kicking arguments and not defending them is anti-educational. Multiple conditional alts insures that it has to happen.
4. Counter-interpretation – the neg gets one conditional strategy and the status quo - this solves all of their offense.

### CP

#### CP causes circumvention and more detention.

Hammond, 2012, (J.D. Candidate 2013, University of Southern California Gould School of Law; B.S. Environmental Economics & Policy 2009, University of California, Berkeley. Southern California Interdisciplinary Law Journal. 22 S. Cal. Interdis. L.J. 193 “NOTE: THE NATIONAL DEFENSE AUTHORIZATION ACT AND THE UNBOUND AUTHORITY TO DETAIN: A CALL TO CONGRESS” Lexis.

¶ A. The Executive's Incentive to Over-Detain¶ ¶ The executive branch has little incentive to restrain its authority to detain - the executive has an incentive to over-detain suspected terrorists. n91 Terrorist attacks present the executive with an unpredictable and severe threat. Faced with such a tremendous threat, the executive is likely to "err on the side of the detention." n92 If an individual is erroneously detained and subsequently released, the executive's "error is invisible." n93 However, if an individual is not detained or erroneously released and proceeds to cause harm, "the error will be emblazoned across the front pages." n94 It is politically more desirable for the executive to push the boundaries of the detention authority than to risk suffering the "accusatory political backlash for having failed to take sufficient action." n95¶ The Bush Administration's detention polices provide a striking example of the executive's propensity to over-detain in the face of a terrorist threat. In the first two years after the September 11 terrorist attacks, over 5000 individuals were detained. n96 To this day, some of these detained individuals remain missing. n97

#### Court Creation DA – The executive cannot create a national security court, only Congress is vested with this power.

Schuck, Lecturer at Yale Law School, ‘4

[Peter, “Terrorism Cases Demand New Hybrid Courts”, LA Times, 7-9-2004,

<http://articles.latimes.com/2004/jul/09/opinion/oe-schuck9>, RSR]

The Supreme Court in its recent rulings has given U.S. citizens who are captives in the war on terror, as well as noncitizen Guantanamo detainees, the right to hearings. Now comes the hard part: what kinds of hearings, in what courts, by what process?¶ The court wisely refrained from answering these questions in detail. Arguments on the specifics had not been presented to the court, and the limited guidance that the justices did offer was more intuitive than analytical. Wisdom aside, this sort of self-restraint is constitutionally required: Article 1, Section 8, Clause 14 gives Congress -- not the judicial or the executive branch -- the authority to make rules for the armed forces, including the initial design of hearings for the prisoners.

#### Perm do both – The Executive cannot create remedies on its own- has to be passed as legislation by Congress

Bernstein, Law Prof-Chicago, 12 (ANYA BERNSTEIN, Bigelow Teaching Fellow and Lecturer in Law, The Universityof Chicago Law School, CONGRESSIONAL WILL AND THE ROLE OF THE EXECUTIVE IN BIVENS ACTIONS: WHAT IS SPECIAL ABOUT SPECIAL FACTORS, http://mckinneylaw.iu.edu/ilr/pdf/vol45p719.pdf)

Of course, the judiciary and the legislature are not the only branches that have a hand in crafting remedies. The modern executive branch, with its administrative remedial schemes and its prominent role in the process of legislation, also plays a part. However, as the Bivens case discussed throughout this Article indicates, the Executive’s role in remedy-creation is still subordinate to that of Congress. Administrative remedial schemes must be authorized through a delegation of congressional power to the Executive and are subject to legislative strictures and specifications. Although the President often plays a significant role in the crafting of legislation and must sign a bill into law, it is still Congress that debates and passes it. Responding to these realities, case law 16 regarding constitutional damages consistently looks to congressional will to ensure that judge-made remedies do not disturb the balance of authority between the judiciary and the legislature.

#### Net benefit is circumvention -

Posner 11 - Kirkland & Ellis Professor, University of Chicago Law School (Eric A. Posner, “Deference To The Executive In The United States After September 11: Congress, The Courts, And The Office Of Legal Counsel”, http://www.harvard-jlpp.com/wp-content/uploads/2012/01/PosnerFinal.pdf)

In the early years of the Bush Administration, the Office of Legal Counsel (OLC), an office within the Department of Jus‐ tice, issued a series of memoranda arguing that certain counter‐ terrorism practices—including surveillance of U.S. citizens and coercive interrogation—did not violate the law. 37 These memos were later leaked to the public, causing an outcry. 38 In 2011, the head of the OLC told President Obama that continued U.S. military presence in Libya would violate the War Powers Act. The President disregarded this advice, relying in part on contrary advice offered by other officials in the government.

These two events neatly encapsulate the dilemma for the OLC, and indeed all the President’s legal advisers. If the OLC tries to block the President from acting in the way he sees fit, it takes the risk that he will disregard its advice and marginalize the institution. If the OLC gives the President the advice that he wants to hear, it takes the risk that it will mislead him and fail to prepare him for adverse reactions from the courts, Congress, and the public.

Many scholars, most notably Professor Jack Goldsmith, argue that the OLC can constrain the executive. 39 The underlying idea here is that even if Congress and the courts cannot constrain the executive, perhaps offices within the executive can. The opposite view, advanced by Professor Bruce Ackerman, is that the OLC is a rubber stamp. 40 I advocate a third view: The OLC does not constrain the executive but enables him to accomplish goals that he would not otherwise be able to accomplish. It is more accurate to say that the OLC enables rather than constrains.

#### OLC has to be neutral- the solvency evidence means the CP links to politics

Posner 11 - Kirkland & Ellis Professor, University of Chicago Law School (Eric A. Posner, “Deference To The Executive In The United States After September 11: Congress, The Courts, And The Office Of Legal Counsel”, http://www.harvard-jlpp.com/wp-content/uploads/2012/01/PosnerFinal.pdf)

A question naturally arises about the OLC’s incentives. I have assumed that the OLC provides neutral advice, in the sense of trying to make accurate predictions about how other agents like Congress and the courts would react to proposed actions. It is possible that the OLC could be biased—either in favor of the President or against him. If the OLC were biased against the President, he would stop asking it for advice (or would ask for its advice privately and then ignore it). 50 This danger surely accounts for OLC jurisprudence being pro‐executive. 51 But it would be just as dangerous for OLC to be excessively biased in favor of the President because it would mislead him and lose its credibility with Congress. 52 As a result, the OLC could not help the President engage in L policies. So the OLC must be neither excessively pro‐President nor anti‐President. If it can avoid these extremes, it will be an enabler; if it cannot, it will be ignored. In no circumstance could it be a constraint. 53

#### Triggers litigation, OLC can’t speak to statutes, and White House Counsel Circumvents

Bruce **Ackerman 11**, Sterling Professor of Law and Political Science at Yale University, “LOST INSIDE THE BELTWAY: A REPLY TO PROFESSOR MORRISON,” Harvard Law Review Forum Vol 124:13, http://www.harvardlawreview.org/media/pdf/vol124forum\_ackerman.pdf

To see why, consider that the relationship between the WHC and the OLC is utterly mysterious to most lawyers, let alone to most Americans. So imagine the scene when some future White House Counsel issues a legal opinion, rubberstamping the President’s latest power- grab, with the peroration: “Ever since Lloyd Cutler assumed the position as White House Counsel in NVTV, this office has, from to time, taken the lead in explaining the constitutional foundations for major presidential initiatives . . . .” ¶ Given pervasive ignorance dealing with Beltway arcana, this famous precedent will go a long way toward legitimating the White House decision to cut out the OLC. Instead of conceding impropriety, our hypothetical Counsel can summon up the great spirit of Lloyd Cutler in support of his leading role. After establishing his distinguished pedigree, Counsel can reinforce his claim to authority with a host of additional arguments: After all, there’s nothing in the Constitution that requires the President to prefer the OLC to the WHC. Article II simply tells the President to “take Care that the Laws be faithfully executed”69 — it doesn’t tell him where to get his legal advice. Moreover, as Morrison acknowledges, the OLC’s traditional role is principally based on executive order, not Congressional statutes.70 If the President prefers to treat his Counsel as a modern-day Cutler, there can be no question that the bureaucracy and military will follow his lead — at least until the courts enter into the field. ¶ Undoubtedly, the Cutler precedent won’t stifle all grumbling from Beltway cognoscenti.71 But it will make it much tougher to convince the generality of lawyerdom, as well as the broader public, that they are witnessing a dreadful act of legal usurpation — even if that’s precisely what is happening.72

### Politics

#### Aff solves impact

#### Not even close to enough votes to override veto

JTA 2/6

“GOP senators press Reid on Iran sanctions vote” February 6, 2014

http://www.jta.org/2014/02/06/news-opinion/politics/gop-senators-press-reid-on-iran-sanctions-vote

WASHINGTON (JTA) — Forty-two Republican senators urged the Democratic-led Senate’s majority leader, Sen. Harry Reid, to bring to a vote a bill on new Iran sanctions.¶ “It’s time for the elected representatives of the American people to have a say in the future of Iran’s nuclear weapons program,” said the Feb. 4 letter first revealed by the Daily Beast and initiated by Sen. Mark Kirk (R-Ill.), a lead sponsor of the bill. “It’s time to vote.”¶ Reid (D-Nev.) has resisted bringing the bill to the floor. Proponents of the new sanctions say they would strengthen the West’s hand in Iran negotiations, adding that without new sanctions, the momentum in the talks between Iran and the major powers, including the United States, is moving in Iran’s favor.¶ “I stand with the majority of Americans who want Iran’s illicit nuclear infrastructure dismantled before economic sanctions are lifted,” Kirk said in a statement sent to JTA. “The American people deserve a vote on the bipartisan Nuclear Weapon Free Iran Act.”¶ Absent from the letter’s signatories are Sen. Bob Corker (R-Tenn.), the top Republican on the Senate Foreign Relations Committee, and the two Republican senators out of 45 in the caucus who are not sponsors of the bill: Sens. Rand Paul (R-Ky.) and Jeff Flake (R-Ariz.). Paul and Flake are also on the Foreign Relations Committee.¶ According to the Daily Beast, Republicans may attempt to attach the bill to must-pass legislation as an amendment and could refuse cooperation on other bills in order to force Reid to call a vote.¶ President Obama has said he would veto any new sanctions, which he says could scuttle talks aimed at keeping Iran from obtaining a nuclear weapon. Democratic support for the new bill, introduced in December, has waned considerably.¶ A number of top Democrats, including several who originally sponsored the bill, now say they do not want it to advance while talks are underway.¶ A sizable portion of the Democratic caucus in the U.S. House of Representatives is also now opposed to new sanctions, although the caucus overwhelmingly approved a similar bill last summer, months before the talks with Iran were launched.¶ The Senate bill has 59 co-sponsors, eight short of the 67 it would need to override an Obama veto.

#### Iran stand-off is political theater doesn’t strain PC or demonstrate Obama-base strain

Mascaro 1/14

Lisa Mascaro Covering Congress for the LA Times/Chicago Trib and others at the Tribune DC Bureau “Iran sanctions bill standoff may not amount to much”January 14, 2014

http://www.latimes.com/world/la-fg-iran-senate-20140115,0,4947167.story#ixzz2r8e1dGdo

WASHINGTON — In public, the White House has unleashed scathing criticism of Senate backers of a bill that would slap additional sanctions on Iran, calling the bipartisan effort a march toward war that could upend negotiations to halt the Islamic Republic's nuclear ambitions.¶ But privately the political divide between President Obama and his Democratic allies may be less dramatic than it appears and more an exercise in political theater.¶ Both the administration and the senators stand to benefit by staking out seemingly opposing views, which could work to achieve the common goal of a nuclear-free Iran without upsetting the delicate talks underway by the U.S., Iran and five major foreign powers.¶ The public standoff allows the White House to send a strong message to the Iranians that Obama is willing to confront allies in his party to protect the interim agreement reached in November, expected to go into effect Monday, which requires the Iranians to halt some of their nuclear activity in exchange for modest sanctions relief while a final deal is negotiated. It's also a not-so-subtle reminder to Iran that if it reneges on the deal, U.S. lawmakers are poised to get tougher.¶ At the same time, the senators who have signed on to the bill — a robust, nearly filibuster-proof majority of 59 that includes at least 16 Democrats — can bolster their national security credentials, boost their standing with constituents in an election year and curry favor with American Israel Public Affairs Committee, or AIPAC, a pro-Israel lobby.¶ But an actual vote on the bill does not appear imminent and, in fact, may never come.¶ Senate Majority Leader Harry Reid (D-Nev.) has no immediate plan to bring the bill for debate before the president's Jan. 28 State of the Union address, and the chamber's calendar is likely to prevent any action until February at the earliest, or even March, those involved say. Top Democrats in the Senate oppose the bill and even those who support it do not appear ready to force Obama to issue a rare veto over Iran. So Reid appears to have time on his side, aides say.¶ Neither Senate Foreign Relations Committee Chairman Robert Menendez of New Jersey, the bill's chief Democratic sponsor, nor Sen. Charles E. Schumer of New York, the No. 3 Democrat in the Senate and a key sponsor of the legislation, are engaged in the type of vote-whipping operation that would precede imminent action on the floor.¶ The fuzzy timeline appears to be fine with many Democratic senators who are backing the bill. Some say privately they would prefer to let the diplomatic efforts play out than to take a vote at all.¶ AIPAC continues to push Congress to act, but senators say they are not feeling the pressure from the Israel lobby that would force an immediate vote, those involved said.

**PC not key to prevent sanctions – Key Democratic Committee Chairs and Extensive Grassroots lobbying campaign**

**Inter Press Service 1/23**

“Top Israel Lobby Group Loses Battle on Iran, But War Not Over” 1/23/14

http://www.iede.co.uk/news/2014\_3874/top-israel-lobby-group-loses-battle-iran-war-not-over

Eight years later, the same official, Stephen Rosen, who was forced to resign from AIPAC after his indictment â€“ later dismissed -- for allegedly spying for Israel, told a Ron Kampeas of the Jewish Telegraphic Agency (JTA) that AIPAC needed to retreat from its confrontation with President Barack Obama after getting only 59 senators â€“ all but 16 of them Republicans â€“ to co-sponsor a new sanctions bill aimed at derailing nuclear negotiations between Iran and the so-called P5+1 (U.S., Britain, France, Russia, China plus Germany).¶ â€œThey donâ€™t want to be seen as backing downâ€¦ I donâ€™t believe this is sustainable, the confrontational posture,â€ he said.¶ If AIPAC had succeeded in getting 70 signatures on the bill, which the administration argued would have violated a Nov. 24 interim agreement between Iran and the P5+1 that essentially freezes Tehranâ€™s nuclear programme in exchange for easing some existing sanctions for a renewable six-month period, that would have been three more than needed to overcome a promised Obama veto.¶ But, after quickly gathering the 59 co-sponsors over the Christmas recess, AIPAC and the bill’s major sponsors, Republican Sen. Mark Kirk and Democratic Sen. Robert Menendez, appeared to **hit a solid wall of resistance led by 10 Democratic Committee chairs** and backed by an uncharacteristically determined White House with an uncharacteristically stern message.¶ If certain members of Congress want the United States to take military action, they should be up front with the American public and say so,â€ said Bernadette Meehan, a spokeswoman for the National Security Council. Otherwise, it’s not clear why any member of Congress would support a bill that possibly closes the door on diplomacy and makes it more likely that the United States will have to choose between military options or allowing Iranâ€™s nuclear program to proceed.â€¶ Combined with a grassroots lobbying campaign carried out by nearly 70 grassroots religious, anti-war, and civic-action groups that flooded the offices of nervous Democratic senators with thousands of emails, petitions, and phone calls, as well as endorsements of the administrationâ€™s position by major national and regional newspapers and virtually all but the neo-conservative faction of the U.S. foreign policy elite, the White House won a clear victory over AIPAC and thus raised anew the question of just how powerful the group really is.

#### Aff is popular

**Sibilla, 12** – Nick "Bipartisan effort to ban indefinite detention, amend the NDAA", May 18, www.constitutioncampaign.org/blog/?p=7479#.UjHhXz8uhuk

Democrats and Tea Party Republicans are advocating a new proposal to ban indefinite detention on American soil. After President Obama signed the National Defense Authorization Act (NDAA) last year, anyone accused of being a terrorist, committing any “belligerent act” or even providing “material support,” can now be detained indefinitely by the military without a trial. This includes American citizens.¶ Fortunately, a bipartisan coalition is working to stop the NDAA. Congressmen Adam Smith (D-WA), a Ranking Member of the House Armed Services Committee, and Justin Amash (R-MI), who Reason magazine called “the next Ron Paul,” have sponsored an amendment to the latest defense authorization bill, currently on the House floor.¶ If adopted, the Smith-Amash Amendment would make three significant changes to the NDAA. First, it would amend Section 1021 (which authorizes indefinite detention) to ensure that those detained will not be subject to military commissions, but civilian courts established under Article III of the Constitution. As Congressman Smith put it, this would “restore due process rights.”¶ Second, the Smith-Amash Amendment would ban “transfer to military custody:”¶ No person detained, captured, or arrested in the United States, or a territory or possession of the United States, may be transferred to the custody of the Armed Forces for detention…¶ Finally, their amendment would repeal Section 1022 of the NDAA, which mandates military custody for those accused of foreign terrorism.¶ Both Smith and Amash have criticized the NDAA. Amash blasted the NDAA as “one of the most anti-liberty pieces of legislation of our lifetime.” In a letter urging his Republican colleagues to support the amendment, Amash writes:¶ A free country is defined by the rule of law, not the government’s whim. Americans demand that we protect their right to a charge and trial.¶ Meanwhile, in an interview with The Hill, Smith was concerned about the potential abuses of power:¶ It is very, very rare to give that amount of power to the president [and] take away any person’s fundamental freedom and lock them up without the normal due process of law…Leaving this on the books is a dangerous threat to civil liberties.¶ The Smith-Amash Amendment is expected to be voted on later this week. So far, it has 60 co-sponsors in the House. Meanwhile, Senators Mark Udall (D-CO) and Patrick Leahy (D-VT) have introduced a similar bill in the Senate.

#### Turn – costs – federal trials are perceived as cheaper – and Congress knows it

Kaper December Stacy Kaper covers national security for National Journal. Previously Kaper covered financial services including the 2008 financial crisis and its resulting Wall Street reform law. National Journal December 23, 2013

Those cost concerns are changing the battle lines of the decade-old argument over the facility. Previously, closing Guantanamo was seen as an argument between defense hawks and civil libertarians. Obama and his allies argued the base—where neither the U.S. Constitution nor Cuban law applies—falls short of the standards of American society. Those arguments carried only limited currency in Congress, particularly among defense hawks. But now that proponents of closing Gitmo can point both to ideological concerns and arguments that it’s taking up funds that would be better spent elsewhere, many in Congress think the facility’s days are numbered. “The change in policy is significant,” said Rep. Adam Schiff, D-Calif.. “What it reflects is that we are past the high water mark of support for Guantanamo and that support in Congress is on the decline… It’s indicative of momentum to close the prison, but it is also an indication of how far we have yet to go.” Guantanamo spends about 80 times as much per prisoner as does a maximum-security federal prison, said Chris Anders, a senior legislative counsel with the American Civil Liberties Union. “You have these numbers that are just are absurdly high and they had been hidden by the Defense Department for years,” Anders said. “In lots of administration defense department visits to Senate offices and floor speeches those cost numbers were really highlighted, and I think for a lot of members of Congress who might not be as moved by the constitutional and human rights issue at Guantanamo Bay they are moved by the costs.” The expenses are especially significant expense considering 79 prisoners were cleared to leave four years ago. And the costs of Gitmo’s military commissions are far more inflated. They have resulted in seven convictions—two of which have been reversed—resulting in an expense of about $120 million per conviction, according to Anders. To put that into perspective, Anders said, that’s about 6,0000 times higher than the $18,000 average cost of a conviction in federal criminal courts in the U.S.

#### No agenda tradeoff – Too many trials have already occurred and Obama won’t engage in a fight

SULLIVAN 13 Eileen, Huffington Post, 10/15, http://www.huffingtonpost.com/2013/10/15/federal-courts-guantanamo\_n\_4100138.html

Ahmed Abdulkadir Warsame, a Somali citizen accused of helping support and train al-Qaida-linked militants, pleaded guilty earlier this year. Like al-Libi, he was questioned aboard a U.S. warship before being turned over to the civilian justice system. Each new trial brought fresh criticism from Republicans, but that criticism diminished each time. Some Republican lawmakers criticized Monday's announcement that al-Libi would face trial in court. They questioned whether interrogators questioned him long enough. "It certainly begs the question whether rushing foreign terrorists into U.S. courts is a strategy that is in the best interests of the United States," said Rep. Bob Goodlatte, R-Va., the chairman of the House Judiciary Committee. But in the midst of a major budget debate in Washington, the matter got little attention. The White House, which once fought back against such criticism, now shows little interest in renewing a debate that proved to be a political distraction.

#### Forcing controversial fights key to Obama’s agenda- try or die for the link turn

Dickerson 13 (John, Slate, Go for the Throat!, 1/18 www.slate.com/articles/news\_and\_politics/politics/2013/01/barack\_obama\_s\_second\_inaugural\_address\_the\_president\_should\_declare\_war.single.html)

On Monday, President Obama will preside over the grand reopening of his administration. It would be altogether fitting if he stepped to the microphone, looked down the mall, and let out a sigh: so many people expecting so much from a government that appears capable of so little. A second inaugural suggests new beginnings, but this one is being bookended by dead-end debates. Gridlock over the fiscal cliff preceded it and gridlock over the debt limit, sequester, and budget will follow. After the election, the same people are in power in all the branches of government and they don't get along. There's no indication that the president's clashes with House Republicans will end soon. Inaugural speeches are supposed to be huge and stirring. Presidents haul our heroes onstage, from George Washington to Martin Luther King Jr. George W. Bush brought the Liberty Bell. They use history to make greatness and achievements seem like something you can just take down from the shelf. Americans are not stuck in the rut of the day. But this might be too much for Obama’s second inaugural address: After the last four years, how do you call the nation and its elected representatives to common action while standing on the steps of a building where collective action goes to die? That bipartisan bag of tricks has been tried and it didn’t work. People don’t believe it. Congress' approval rating is 14 percent, the lowest in history. In a December Gallup poll, 77 percent of those asked said the way Washington works is doing “serious harm” to the country. The challenge for President Obama’s speech is the challenge of his second term: how to be great when the environment stinks. Enhancing the president’s legacy requires something more than simply the clever application of predictable stratagems. Washington’s partisan rancor, the size of the problems facing government, and the limited amount of time before Obama is a lame duck all point to a single conclusion: The president who came into office speaking in lofty terms about bipartisanship and cooperation can only cement his legacy if he destroys the GOP. If he wants to transform American politics, he must go for the throat. President Obama could, of course, resign himself to tending to the achievements of his first term. He'd make sure health care reform is implemented, nurse the economy back to health, and put the military on a new footing after two wars. But he's more ambitious than that. He ran for president as a one-term senator with no executive experience. In his first term, he pushed for the biggest overhaul of health care possible because, as he told his aides, he wanted to make history. He may already have made it. There's no question that he is already a president of consequence. But there's no sign he's content to ride out the second half of the game in the Barcalounger. He is approaching gun control, climate change, and immigration with wide and excited eyes. He's not going for caretaker. How should the president proceed then, if he wants to be bold? The Barack Obama of the first administration might have approached the task by finding some Republicans to deal with and then start agreeing to some of their demands in hope that he would win some of their votes. It's the traditional approach. Perhaps he could add a good deal more schmoozing with lawmakers, too. That's the old way. He has abandoned that. He doesn't think it will work and he doesn't have the time. As Obama explained in his last press conference, he thinks the Republicans are dead set on opposing him. They cannot be unchained by schmoozing. Even if Obama were wrong about Republican intransigence, other constraints will limit the chance for cooperation. Republican lawmakers worried about primary challenges in 2014 are not going to be willing partners. He probably has at most 18 months before people start dropping the lame-duck label in close proximity to his name. Obama’s only remaining option is to pulverize. Whether he succeeds in passing legislation or not, given his ambitions, his goal should be to delegitimize his opponents. Through a series of clarifying fights over controversial issues, he can force Republicans to either side with their coalition's most extreme elements or cause a rift in the party that will leave it, at least temporarily, in disarray.

#### Intrinsicness - Logical policy votes to do both

#### non link uniqueness and Obama won’t push- Obama aids have been pushing plan relentlessly

Klaidman, 7/31 (Daniel, national political correspondent for Newsweek and The Daily Beast and the author of [Kill or Capture: The War on Terror and the Soul of the Obama Presidency](http://www.amazon.com/Kill-Capture-Terror-Obama-Presidency/dp/0547547897/ref=as_at?tag=thedailybeast-autotag-20&linkCode=as2&), “Obama’s Secret Gitmo plan” Newsweek. Web, Acc 8/31/2013)

Ever since Obama vowed to “go back at” the Guantánamo challenge in a major national security policy address in May, his aides have gamely thrown themselves into the effort. There is more White House activity swirling around Gitmo now than there has been in three years. Numerous people are working on the project, either part time or full time, under the leadership of Lisa Monaco, Obama’s chief counterterrorism adviser. White House lobbyists have been all over Capitol Hill, meeting with members of Congress. And yet, despite all this, Obama aides quietly admit that unless the political climate changes dramatically, Guantánamo will likely be open for business for many years to come.

#### Vote no – plans introduction in this debate is its introduction in Congress

#### Aff gets McCain on board – he sees it a specific plan.

Hunt, 7/28 (Albert, “McCain Goes Maverick Again as Obama’s Republican Ally. Bloomberg View. Web, Acc 8/19/2013. http://www.bloomberg.com/news/2013-07-28/mccain-goes-maverick-again-as-obama-s-republican-ally.html

McCain also wants to help Obama fulfill his promise to close the detainee camp for terrorism suspects at Guantanamo Bay, Cuba. He says political conditions are much different than they were four years ago when there was a similar effort.¶ “The difference between 2009 and 2013 is the administration now has a plan,” he says.¶ Closing Guantanamo¶ Last month, the five-term senator traveled to Guantanamo with Senate Intelligence Committee Chairman [Dianne Feinstein](http://topics.bloomberg.com/dianne-feinstein/) and the White House chief of staff, [Denis McDonough](http://topics.bloomberg.com/denis-mcdonough/).¶ McDonough, who McCain knew as a mid-level aide to former Democratic Senate Leader Tom Daschle, is a glue that binds the Republican and the administration. He and McCain talk as often as five times a day. In addition, the Republican senator has a great fondness for Vice President [Joe Biden](http://topics.bloomberg.com/joe-biden/), a good working relationship with Secretary of State [John Kerry](http://topics.bloomberg.com/john-kerry/) and is a fan of United Nations Ambassador-designate Samantha Power.

#### McCain is key to getting GOP on board for the agenda – especially for immigration

Hunt, 7/28 (Albert, “McCain Goes Maverick Again as Obama’s Republican Ally. Bloomberg View. Web, Acc 8/19/2013. http://www.bloomberg.com/news/2013-07-28/mccain-goes-maverick-again-as-obama-s-republican-ally.html

The association between Obama and McCain is different. But it may be Washington’s most important since Reagan and O’Neill.¶ McCain, 76, whose political resiliency is rivaled only by such luminaries as [Bill Clinton](http://topics.bloomberg.com/bill-clinton/) and [Richard Nixon](http://topics.bloomberg.com/richard-nixon/), is the most pivotal figure in the Senate today. He often is more central than the party leaders, [Mitch McConnell](http://topics.bloomberg.com/mitch-mcconnell/), the Kentucky Republican, or [Harry Reid](http://topics.bloomberg.com/harry-reid/), a Nevada Democrat, or the self-styled new power broker, the New York Democrat Chuck Schumer.¶ When McCain is with the president -- on immigration and in brokering the recent deal to secure Senate approval of stalled Obama nominees -- they usually can trump the political right. When he’s against him -- sabotaging Obama’s plan last year to nominate [Susan Rice](http://topics.bloomberg.com/susan-rice/) as secretary of state -- the White House rarely prevails.

#### Feinstein is on board with the plan and no link - plan get’s bundled with 2014 defense authorization bill

Feinstein and Durbin, 8/14 (Dianne and Dick, United States Senators. “How to close Gitmo.” Los Angeles Times. Web, Acc at <http://www.latimes.com/news/opinion/la-oe-feinstein-durbin-close-gitmo-20130814,0,432429.story>

The 2014 [Senate](http://www.latimes.com/topic/politics/government/u.s.-senate-ORGOV0000134.topic) defense authorization bill will come up for debate on the Senate floor this fall. Congress must pass the provisions that streamline procedures for transferring detainees abroad and allow transfers to the U.S. for trial or detention under international law until the end of hostilities.¶ As chairwoman of the [Senate Intelligence Committee](http://www.latimes.com/topic/politics/espionage-intelligence/u.s.-senate-select-committee-on-intelligence-ORGOV000350.topic) and chairman of the defense appropriations subcommittee, respectively, we are committed to preventing terrorist attacks. We believe terrorists deserve swift and sure justice, and severe prison sentences. But holding detainees on an island off U.S. shores for years — without charge — is an abomination. It is not an effective administration of justice, does not serve our national security interests and is not consistent with our country's history as a champion of human rights.¶ It is time to close Guantanamo.

#### She’s key to getting GOP votes for his agenda

**SF Gate 12** (“Dianne Feinstein: 4 decades of influence”, <http://www.sfgate.com/politics/article/Dianne-Feinstein-4-decades-of-influence-3968314.php>)

She revels in split-the-baby deal making: "I think my greatest strength is finding a solution when there are opposing sides." It was Feinstein, an ally of [Hillary Rodham Clinton](http://www.sfgate.com/?controllerName=search&action=search&channel=politics&search=1&inlineLink=1&query=%22Hillary+Rodham+Clinton%22) against Barack [Obama](http://www.sfgate.com/barack-obama/) in the 2008 Democratic presidential primary, who brought the warring candidates to a secret rendezvous at her Washington home to bury the hatchet in private. In a chamber riven by partisanship, **Republicans like and respect her.** "She thinks through issues and makes what she thinks is a rational and correct decision," said Sen. Saxby Chambliss, R-Ga., the top Republican on the Intelligence Committee. "Unfortunately t**here are some Republicans who, if it's a Democratic idea, immediately jump up and they're opposed to it,** and that happens on the other side of the aisle too. **But with Dianne, that does not happen."** '

1. Political capital is fabricated- you can’t predict momentum or uplanned events. There’s only a risk the plan is a win.

Hirsh, Chief Correspondent National Journal, 2-7-’13 (Michael, “There’s No Such Thing as Political Capital” National Journal, http://www.nationaljournal.com/magazine/there-s-no-such-thing-as-political-capital-20130207)

On Tuesday, in his State of the Union address, President Obama will do what every president does this time of year. For about 60 minutes, he will lay out a sprawling and ambitious wish list highlighted by gun control and immigration reform, climate change and debt reduction. In response, the pundits will do what they always do this time of year: They will talk about how unrealistic most of the proposals are, discussions often informed by sagacious reckonings of how much “political capital” Obama possesses to push his program through.¶ Most of this talk will have no bearing on what actually happens over the next four years.¶ Consider this: Three months ago, just before the November election, if someone had talked seriously about Obama having enough political capital to oversee passage of both immigration reform and gun-control legislation at the beginning of his second term—even after winning the election by 4 percentage points and 5 million votes (the actual final tally)—this person would have been called crazy and stripped of his pundit’s license. (It doesn’t exist, but it ought to.) In his first term, in a starkly polarized country, the president had been so frustrated by GOP resistance that he finally issued a limited executive order last August permitting immigrants who entered the country illegally as children to work without fear of deportation for at least two years. Obama didn’t dare to even bring up gun control, a Democratic “third rail” that has cost the party elections and that actually might have been even less popular on the right than the president’s health care law. And yet, for reasons that have very little to do with Obama’s personal prestige or popularity—variously put in terms of a “mandate” or “political capital”—chances are fair that both will now happen.¶ What changed? In the case of gun control, of course, it wasn’t the election. It was the horror of the 20 first-graders who were slaughtered in Newtown, Conn., in mid-December. The sickening reality of little girls and boys riddled with bullets from a high-capacity assault weapon seemed to precipitate a sudden tipping point in the national conscience. One thing changed after another. Wayne LaPierre of the National Rifle Association marginalized himself with poorly chosen comments soon after the massacre. The pro-gun lobby, once a phalanx of opposition, began to fissure into reasonables and crazies. Former Rep. Gabrielle Giffords, D-Ariz., who was shot in the head two years ago and is still struggling to speak and walk, started a PAC with her husband to appeal to the moderate middle of gun owners. Then she gave riveting and poignant testimony to the Senate, challenging lawmakers: “Be bold.”¶ As a result, momentum has appeared to build around some kind of a plan to curtail sales of the most dangerous weapons and ammunition and the way people are permitted to buy them. It’s impossible to say now whether such a bill will pass and, if it does, whether it will make anything more than cosmetic changes to gun laws. But one thing is clear: The political tectonics have shifted dramatically in very little time. Whole new possibilities exist now that didn’t a few weeks ago.¶ Meanwhile, the Republican members of the Senate’s so-called Gang of Eight are pushing hard for a new spirit of compromise on immigration reform, a sharp change after an election year in which the GOP standard-bearer declared he would make life so miserable for the 11 million illegal immigrants in the U.S. that they would “self-deport.” But this turnaround has very little to do with Obama’s personal influence—his political mandate, as it were. It has almost entirely to do with just two numbers: 71 and 27. That’s 71 percent for Obama, 27 percent for Mitt Romney, the breakdown of the Hispanic vote in the 2012 presidential election. Obama drove home his advantage by giving a speech on immigration reform on Jan. 29 at a Hispanic-dominated high school in Nevada, a swing state he won by a surprising 8 percentage points in November. But the movement on immigration has mainly come out of the Republican Party’s recent introspection, and the realization by its more thoughtful members, such as Sen. Marco Rubio of Florida and Gov. Bobby Jindal of Louisiana, that without such a shift the party may be facing demographic death in a country where the 2010 census showed, for the first time, that white births have fallen into the minority. It’s got nothing to do with Obama’s political capital or, indeed, Obama at all.¶ The point is not that “political capital” is a meaningless term. Often it is a synonym for “mandate” or “momentum” in the aftermath of a decisive election—and just about every politician ever elected has tried to claim more of a mandate than he actually has. Certainly, Obama can say that because he was elected and Romney wasn’t, he has a better claim on the country’s mood and direction. Many pundits still defend political capital as a useful metaphor at least. “It’s an unquantifiable but meaningful concept,” says Norman Ornstein of the American Enterprise Institute. “You can’t really look at a president and say he’s got 37 ounces of political capital. But the fact is, it’s a concept that matters, if you have popularity and some momentum on your side.”¶ The real problem is that the idea of political capital—or mandates, or momentum—is so poorly defined that presidents and pundits often get it wrong. “Presidents usually over-estimate it,” says George Edwards, a presidential scholar at Texas A&M University. “The best kind of political capital—some sense of an electoral mandate to do something—is very rare. It almost never happens. In 1964, maybe. And to some degree in 1980.” For that reason, political capital is a concept that misleads far more than it enlightens. It is distortionary. It conveys the idea that we know more than we really do about the ever-elusive concept of political power, and it discounts the way unforeseen events can suddenly change everything. Instead, it suggests, erroneously, that a political figure has a concrete amount of political capital to invest, just as someone might have real investment capital—that a particular leader can bank his gains, and the size of his account determines what he can do at any given moment in history.¶ Naturally, any president has practical and electoral limits. Does he have a majority in both chambers of Congress and a cohesive coalition behind him? Obama has neither at present. And unless a surge in the economy—at the moment, still stuck—or some other great victory gives him more momentum, it is inevitable that the closer Obama gets to the 2014 election, the less he will be able to get done. Going into the midterms, Republicans will increasingly avoid any concessions that make him (and the Democrats) stronger.¶ But the abrupt emergence of the immigration and gun-control issues illustrates how suddenly shifts in mood can occur and how political interests can align in new ways just as suddenly. Indeed, the pseudo-concept of political capital masks a larger truth about Washington that is kindergarten simple: You just don’t know what you can do until you try. Or as Ornstein himself once wrote years ago, “Winning wins.” In theory, and in practice, depending on Obama’s handling of any particular issue, even in a polarized time, he could still deliver on a lot of his second-term goals, depending on his skill and the breaks. Unforeseen catalysts can appear, like Newtown. Epiphanies can dawn, such as when many Republican Party leaders suddenly woke up in panic to the huge disparity in the Hispanic vote.¶ Some political scientists who study the elusive calculus of how to pass legislation and run successful presidencies say that political capital is, at best, an empty concept, and that almost nothing in the academic literature successfully quantifies or even defines it. “It can refer to a very abstract thing, like a president’s popularity, but there’s no mechanism there. That makes it kind of useless,” says Richard Bensel, a government professor at Cornell University. Even Ornstein concedes that the calculus is far more complex than the term suggests. Winning on one issue often changes the calculation for the next issue; there is never any known amount of capital. “The idea here is, if an issue comes up where the conventional wisdom is that president is not going to get what he wants, and he gets it, then each time that happens, it changes the calculus of the other actors” Ornstein says. “If they think he’s going to win, they may change positions to get on the winning side. It’s a bandwagon effect.”¶ ALL THE WAY WITH LBJ¶ Sometimes, a clever practitioner of power can get more done just because he’s aggressive and knows the hallways of Congress well. Texas A&M’s Edwards is right to say that the outcome of the 1964 election, Lyndon Johnson’s landslide victory over Barry Goldwater, was one of the few that conveyed a mandate. But one of the main reasons for that mandate (in addition to Goldwater’s ineptitude as a candidate) was President Johnson’s masterful use of power leading up to that election, and his ability to get far more done than anyone thought possible, given his limited political capital. In the newest volume in his exhaustive study of LBJ, The Passage of Power, historian Robert Caro recalls Johnson getting cautionary advice after he assumed the presidency from the assassinated John F. Kennedy in late 1963. Don’t focus on a long-stalled civil-rights bill, advisers told him, because it might jeopardize Southern lawmakers’ support for a tax cut and appropriations bills the president needed. “One of the wise, practical people around the table [said that] the presidency has only a certain amount of coinage to expend, and you oughtn’t to expend it on this,” Caro writes. (Coinage, of course, was what political capital was called in those days.) Johnson replied, “Well, what the hell’s the presidency for?”¶ Johnson didn’t worry about coinage, and he got the Civil Rights Act enacted, along with much else: Medicare, a tax cut, antipoverty programs. He appeared to understand not just the ways of Congress but also the way to maximize the momentum he possessed in the lingering mood of national grief and determination by picking the right issues, as Caro records. “Momentum is not a mysterious mistress,” LBJ said. “It is a controllable fact of political life.” Johnson had the skill and wherewithal to realize that, at that moment of history, he could have unlimited coinage if he handled the politics right. He did. (At least until Vietnam, that is.)¶ And then there are the presidents who get the politics, and the issues, wrong. It was the last president before Obama who was just starting a second term, George W. Bush, who really revived the claim of political capital, which he was very fond of wielding. Then Bush promptly demonstrated that he didn’t fully understand the concept either.¶ At his first news conference after his 2004 victory, a confident-sounding Bush declared, “I earned capital in the campaign, political capital, and now I intend to spend it. That’s my style.” The 43rd president threw all of his political capital at an overriding passion: the partial privatization of Social Security. He mounted a full-bore public-relations campaign that included town-hall meetings across the country.¶ Bush failed utterly, of course. But the problem was not that he didn’t have enough political capital. Yes, he may have overestimated his standing. Bush’s margin over John Kerry was thin—helped along by a bumbling Kerry campaign that was almost the mirror image of Romney’s gaffe-filled failure this time—but that was not the real mistake. The problem was that whatever credibility or stature Bush thought he had earned as a newly reelected president did nothing to make Social Security privatization a better idea in most people’s eyes. Voters didn’t trust the plan, and four years later, at the end of Bush’s term, the stock-market collapse bore out the public’s skepticism. Privatization just didn’t have any momentum behind it, no matter who was pushing it or how much capital Bush spent to sell it.¶ The mistake that Bush made with Social Security, says John Sides, an associate professor of political science at George Washington University and a well-followed political blogger, “was that just because he won an election, he thought he had a green light. But there was no sense of any kind of public urgency on Social Security reform. It’s like he went into the garage where various Republican policy ideas were hanging up and picked one. I don’t think Obama’s going to make that mistake.… Bush decided he wanted to push a rock up a hill. He didn’t understand how steep the hill was. I think Obama has more momentum on his side because of the Republican Party’s concerns about the Latino vote and the shooting at Newtown.” Obama may also get his way on the debt ceiling, not because of his reelection, Sides says, “but because Republicans are beginning to doubt whether taking a hard line on fiscal policy is a good idea,” as the party suffers in the polls.¶ THE REAL LIMITS ON POWER¶ Presidents are limited in what they can do by time and attention span, of course, just as much as they are by electoral balances in the House and Senate. But this, too, has nothing to do with political capital. Another well-worn meme of recent years was that Obama used up too much political capital passing the health care law in his first term. But the real problem was that the plan was unpopular, the economy was bad, and the president didn’t realize that the national mood (yes, again, the national mood) was at a tipping point against big-government intervention, with the tea-party revolt about to burst on the scene. For Americans in 2009 and 2010—haunted by too many rounds of layoffs, appalled by the Wall Street bailout, aghast at the amount of federal spending that never seemed to find its way into their pockets—government-imposed health care coverage was simply an intervention too far. So was the idea of another economic stimulus. Cue the tea party and what ensued: two titanic fights over the debt ceiling. Obama, like Bush, had settled on pushing an issue that was out of sync with the country’s mood.¶ Unlike Bush, Obama did ultimately get his idea passed. But the bigger political problem with health care reform was that it distracted the government’s attention from other issues that people cared about more urgently, such as the need to jump-start the economy and financial reform. Various congressional staffers told me at the time that their bosses didn’t really have the time to understand how the Wall Street lobby was riddling the Dodd-Frank financial-reform legislation with loopholes. Health care was sucking all the oxygen out of the room, the aides said.¶ Weighing the imponderables of momentum, the often-mystical calculations about when the historic moment is ripe for an issue, will never be a science. It is mainly intuition, and its best practitioners have a long history in American politics. This is a tale told well in Steven Spielberg’s hit movie Lincoln. Daniel Day-Lewis’s Abraham Lincoln attempts a lot of behind-the-scenes vote-buying to win passage of the 13th Amendment, banning slavery, along with eloquent attempts to move people’s hearts and minds. He appears to be using the political capital of his reelection and the turning of the tide in the Civil War. But it’s clear that a surge of conscience, a sense of the changing times, has as much to do with the final vote as all the backroom horse-trading. “The reason I think the idea of political capital is kind of distorting is that it implies you have chits you can give out to people. It really oversimplifies why you elect politicians, or why they can do what Lincoln did,” says Tommy Bruce, a former political consultant in Washington.¶ Consider, as another example, the storied political career of President Franklin Roosevelt. Because the mood was ripe for dramatic change in the depths of the Great Depression, FDR was able to push an astonishing array of New Deal programs through a largely compliant Congress, assuming what some described as near-dictatorial powers. But in his second term, full of confidence because of a landslide victory in 1936 that brought in unprecedented Democratic majorities in the House and Senate, Roosevelt overreached with his infamous Court-packing proposal. All of a sudden, the political capital that experts thought was limitless disappeared. FDR’s plan to expand the Supreme Court by putting in his judicial allies abruptly created an unanticipated wall of opposition from newly reunited Republicans and conservative Southern Democrats. FDR thus inadvertently handed back to Congress, especially to the Senate, the power and influence he had seized in his first term. Sure, Roosevelt had loads of popularity and momentum in 1937. He seemed to have a bank vault full of political capital. But, once again, a president simply chose to take on the wrong issue at the wrong time; this time, instead of most of the political interests in the country aligning his way, they opposed him. Roosevelt didn’t fully recover until World War II, despite two more election victories.¶ In terms of Obama’s second-term agenda, what all these shifting tides of momentum and political calculation mean is this: Anything goes. Obama has no more elections to win, and he needs to worry only about the support he will have in the House and Senate after 2014. But if he picks issues that the country’s mood will support—such as, perhaps, immigration reform and gun control—there is no reason to think he can’t win far more victories than any of the careful calculators of political capital now believe is possible, including battles over tax reform and deficit reduction.¶ Amid today’s atmosphere of Republican self-doubt, a new, more mature Obama seems to be emerging, one who has his agenda clearly in mind and will ride the mood of the country more adroitly. If he can get some early wins—as he already has, apparently, on the fiscal cliff and the upper-income tax increase—that will create momentum, and one win may well lead to others. “Winning wins.”¶ Obama himself learned some hard lessons over the past four years about the falsity of the political-capital concept. Despite his decisive victory over John McCain in 2008, he fumbled the selling of his $787 billion stimulus plan by portraying himself naively as a “post-partisan” president who somehow had been given the electoral mandate to be all things to all people. So Obama tried to sell his stimulus as a long-term restructuring plan that would “lay the groundwork for long-term economic growth.” The president thus fed GOP suspicions that he was just another big-government liberal. Had he understood better that the country was digging in against yet more government intervention and had sold the stimulus as what it mainly was—a giant shot of adrenalin to an economy with a stopped heart, a pure emergency measure—he might well have escaped the worst of the backlash. But by laying on ambitious programs, and following up quickly with his health care plan, he only sealed his reputation on the right as a closet socialist.¶ After that, Obama’s public posturing provoked automatic opposition from the GOP, no matter what he said. If the president put his personal imprimatur on any plan—from deficit reduction, to health care, to immigration reform—Republicans were virtually guaranteed to come out against it. But this year, when he sought to exploit the chastened GOP’s newfound willingness to compromise on immigration, his approach was different. He seemed to understand that the Republicans needed to reclaim immigration reform as their own issue, and he was willing to let them have some credit. When he mounted his bully pulpit in Nevada, he delivered another new message as well: You Republicans don’t have to listen to what I say anymore. And don’t worry about who’s got the political capital. Just take a hard look at where I’m saying this: in a state you were supposed to have won but lost because of the rising Hispanic vote.¶ Obama was cleverly pointing the GOP toward conclusions that he knows it is already reaching on its own: If you, the Republicans, want to have any kind of a future in a vastly changed electoral map, you have no choice but to move. It’s your choice.¶ The future is wide open.