## 2AC

### CP

#### CP doesn’t solve- legal certainty is key

Guiora 12 (Professor of Law, S.J. Quinney College of Law, University of Utah; author of Freedom from Religion: Rights and National Security (2009). DUE PROCESS AND COUNTERTERRORISM EMORY INTERNATIONAL LAW REVIEW [Vol. 26 pg Lexis Nexis]

While President Obama signed an Executive Order ordering the closure of the Guantanamo Bay detention center26 for the purpose of discontinuing trials before Military Commissions, in April 2010 the Obama Administration reinstituted the Military Commissions.27 It is unclear whether this represents reversal of a policy previously articulated but not implemented, or a stopgap measure. Whatever the explanation, the Obama Administration has largely failed to satisfactorily address the rule-of-law questions essential to creating and implementing counterterrorism policy that ensures implementation of due process guarantees and obligations. For example, the Administration has failed to resolve whether Article III courts are the proper judicial forums for suspected terrorists.28 Perhaps this continuing failure is reflective of political infighting, as demonstrated in the backtracking with respect to Khalid Sheikh Mohammed’s trial.29 The result is a disturbing failure to ensure due process for individuals suspected of involvement in terrorism. More fundamentally, the status of individuals detained post-9/11 has not been uniformly or consistently articulated or applied. That is, varying definitions have been articulated at different times, reflecting legal and policy uncertainty directly affecting the ability to establish and consistently apply a legal regime based on due process.30 For thousands of individuals whose initial detention was based on questionable intelligence and subsequent, inadequate habeas protections, the current regime is inherently devoid of due process.31 I propose that detainees are neither prisoners of war nor criminals in the traditional sense; rather, they are a hybrid of both. To that end, I propose that the appropriate term for post-9/11 detainees is a combination—a convergence of the criminal law and law of war paradigms—best described as a hybrid paradigm.

#### SCOTUS would have to review the CP- either the CP links to the net-benefit, or the CP is struck down and doesn’t solve- durable fiat only applies to the agency taking action

Howell 5 (William G. Howell, Associate Prof Gov Dep @ Harvard 2005 (Unilateral Powers: A Brief¶ Overview; Presidential Studies Quarterly, Vol. 35, Issue: 3, Pg 417)

Plainly, presidents cannot institute every aspect of their policy agenda by decree. The checks and balances that define our system of governance are alive, though not always well, when presidents contemplate unilateral action. Should the president proceed without statutory or constitutional authority, the courts stand to overturn his actions, just as Congress can amend them, cut funding for their operations, or eliminate them outright. (4) Even in those moments when presidential power reaches its zenith--namely, during times of national crisis--judicial and congressional prerogatives may be asserted (Howell and Pevehouse 2005, forthcoming; Kriner, forthcoming; Lindsay 1995, 2003; and see Fisher's contribution to this volume). In 2004, as the nation braced itself for another domestic terrorist attack and images of car bombings and suicide missions filled the evening news, the courts extended new protections to citizens deemed enemy combatants by the president, (5) as well as noncitizens held in protective custody abroad. (6) And while Congress, as of this writing, continues to authorize as much funding for the Iraq occupation as Bush requests, members have imposed increasing numbers of restrictions on how the money is to be spent.

#### Self-restraint doesn’t provide clarity or certainty for future due process decisions- this risks future liberty violations

Policy Mic ’12 [Henry Zheng. <http://www.policymic.com/articles/14856/ndaa-terrorism-law-obama-and-his-unchecked-power-grab> ETB]

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

### Obama Flex DA

#### Domestic issues make supremacy unsustainable

Cohen 2012 (Michael, ow at the Century Foundation, February 21, "Rotting from the Inside Out", http://www.foreignpolicy.com/articles/2012/02/21/rotting\_from\_the\_inside\_out?page=full)jn

There is, however, one serious problem with this analysis. Any discussion of American national security that focuses solely on the issue of U.S. power vis-à-vis other countries -- and ignores domestic inputs -- is decidedly incomplete. In Kagan's New Republic article, for example, he has little to say about the country's domestic challenges except to obliquely argue that to focus on "nation-building" at home while ignoring the importance of maintaining U.S. power abroad would be a mistake. In fact, in a recent FP debate with the Financial Times' Gideon Rachman on the issue of American decline, Kagan diagnoses what he, and many other political analysts, appear to believe is the country's most serious problem: "enormous fiscal deficits driven by entitlements." Why is this bad? It makes it harder, says Kagan, for the United States to "continue playing its vital role in the world" and will lead to significant cutbacks in defense spending. However, a focus on U.S. global dominance or suasion that doesn't factor in those elements that constitute American power at home ignores substantial and worsening signs of decline. Indeed, by virtually any measure, a closer look at the state of the United States today tells a sobering tale of rapid and unchecked decay and deterioration in a host of areas. While not all of them are generally considered elements of national security, perhaps they should be. Let's start with education, which almost any observer would agree is a key factor in national competitiveness. The data is not good. According to the most recent OECD report on global education standards, the United States is an average country in how it educates its children -- 12th in reading skills, 17th in science, and 26th in math. The World Economic Forum ranks the United States 48th in the quality of its mathematics and science education, even though we spend more money per student than almost any country in the world. America's high school graduation rate is lower today that it was in the late 1960s and "kids are now less likely to graduate from high school than their parents," according to an analysis released last year by the Editorial Projects in Education Research Center. In fact, not only is the graduation rate worse than many Western countries, the United States is now the only developed country where a higher percentage of 55 to 64-year-olds have a high school diploma than 25 to 34-year-olds. While the United States still maintains the world's finest university system, college graduation rates are slipping. Among 25 to 34-year-olds, America trails Australia, Belgium, Canada, Denmark, France, Ireland, Israel, Japan, South Korea, Luxembourg, New Zealand, Norway, Sweden, and the United Kingdom in its percentage of college graduates. This speaks, in some measure, to the disparities that are endemic in the U.S. education system. If you are poor in America, chances are you attend a school that underperforms, are taught by teachers that are not as effective, and have test scores that lag far behind your more affluent counterparts (the same is true if you are black or Hispanic -- you lag behind your white counterparts). Can a country be a great global power if its education system is fundamentally unequal and is getting steadily worse? What about national infrastructure -- another key element of national economic power and global competitiveness? First, the nation's broadband penetration rates remain in the middle of the global pack and there is growing divide in the United States between digital haves and have nots. Overall, its transportation networks are mediocre compared to similarly wealthy countries and according to the World Economic Forum, the United States ranks 23rd in the OECD for infrastructure quality -- a ranking that has steadily declined over the past decade. American commuters spend more time in traffic than Western Europeans, the country's train system and high-speed rail lines in general pale next to that of other developed nations, and even the number of people killed on American highways is 60 percent higher than the OECD average. Part of the problem is that the amount of money the U.S. government spends on infrastructure has steadily declined for decades and now trails far behind other Western nations. In time, such infrastructure disadvantages have the potential to undermine the U.S. economy, hamstring productivity and competitiveness, and put the lives of more Americans at risk -- and this appears to be happening already. Finally, a closer look at the U.S. health care system is enough to make one ill. Even after the passage of Obama's 2010 health care reform bill (which every Republican presidential candidate wants to repeal) the United States is far from having a health care system that meets the needs of its citizens. According to a July 2011 report by the Commonwealth Fund, "the U.S. has fewer hospital beds and physicians, and sees fewer hospital and physician visits, than in most other countries" even though it spends far more on health care per capita than any other country in the world. In addition, "prescription drug utilization, prices, and spending all appear to be highest in the U.S., as does the supply, utilization, and price of diagnostic imaging." Long story short, the United States spends more for less on health care than pretty much any other developed nation in the world. That might also explain why life expectancy in America trails far behind most OECD countries. The United States also has the unique distinction of having one of the highest rates of income inequality in the world, on par with such global powerhouses as Cameroon, Madagascar, Rwanda, Uganda, and Ecuador. It has the fourth worst child poverty rate and trails only Mexico and Turkey in overall poverty rate among OECD countries. And when it comes to infant mortality, the U.S. rate is one of the worst in the developing world. But not to fear, the United States still maintains some advantages. For example, it is one of the fattest countries in the world, with approximately one-third of the country considered obese (including one out of every six children). In addition, the United States has, by far, the largest prison population -- more than China, Iran, and Cuba -- one of the highest homicide rates in the world, and one of the highest rates of death from child abuse and neglect. This steady stream of woe is certainly dispiriting, but the more optimistic might be inclined to respond that America had has problems before and has always found a way to right the ship. Certainly, this is a legitimate counter-point. The problem is that anyone looking to Washington today would have a hard time imagining that Congress and the White House will lock arms anytime soon and fix these various national crises. And this political gridlock is the biggest reason to be concerned about decline. Perhaps at no point in recent American history has the country's politics been less capable of dealing with serious challenges. Certainly, when one party basically rejects any role for the federal government in providing health care, improving educational opportunity, or strengthening the social safety net, the chances for compromise appear even slimmer. As Harold Pollack, a professor at the University of Chicago, said to me, "What future president, witnessing Barack Obama's difficulties over health reform, will make an equivalent political investment regarding climate change or another great national concern? I fear that we are headed for a kind of legislative Vietnam syndrome in which our leaders will shy away from the large things that must be done."

#### More flex can’t solve ----

COHEN 2013 - fellow of the Century Foundation, foreign policy columnist for the Guardian (Michael Cohen, “Contrary to popular belief, President Obama doesn't have a magic wand”, May 8, http://www.theguardian.com/commentisfree/2013/may/08/obama-not-lame-duck-gop-obstructs-everything)

Yet, the belief that the president carries a leadership magic wand to convince recalcitrant political opponents (and some allies) to do his bidding is not merely restricted to Congressional relations, it's evident in foreign policy as well.

As death tolls have mounted in the Syrian civil war perhaps the loudest criticism of President Obama is that he won't act to stop violence. But this is based on the dubious notion that the US military can stop the violence in Syria. Consider, for example, the "plan" put forward by Bill Keller in the New York Times. The US should move "to assert control of the arming and training of rebels … cultivating insurgents who commit to negotiating an orderly transition to a nonsectarian Syria." In addition, the US must

"make clear to President Assad that if he does not cease his campaign of terror and enter negotiations on a new order, he will pay a heavy price. When he refuses, we send missiles against his military installations until he, or more likely those around him, calculate that they should sue for peace."

What can President Obama be thinking in rejecting an idea as elegantly simple as this one?

Indeed, virtually every argument for the use of force in Syria – chronicled in great detail here by Micah Zenko – including maintaining US credibility, sending a message to Iran or North Korea, winning back the confidence of the Arab league, maintaining influence with the Syrian rebels all lead in one direction … success! **If** **only the president will show leadership, then good things will happen**. Yet, if **there is any lesson** that could be drawn **from the** wars fought by the US over the **past 10 years, it is that America's ability to shape events** in foreign locales **is limited and rarely works** ffffout well as the proponents of military force promise.

To be sure, foreign policy is one of the few places where presidents can exercise significant institutional power (and largely because Congress has abdicated its oversight responsibilities). But **being able to act with greater flexibility does not equal an optimal outcome** – a point that the presidencies of Truman, Johnson, Nixon and Bush amply demonstrate.

In the end, presidents, like all of us, are prisoners to events outside their control. At home and abroad they are hamstrung both by the interests of other actors in our political system and by the national interests of other nations – and of course by adherence to a Constitution that was purposely written to prevent any president from becoming too powerful. If you want to blame anyone for why the president can't do what you believe he should, blame them. Obama just works here.

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### Politics

#### 1.Economic collapse is inevitable for several reasons- expert predictions

Investment bank over-loaning, billionaires dumping stocks, global recessions spillover now

**Shjarback 9-13**-13 [Jeff, M.B.A. from Pfeiffer University, Award winning internet marketing consultant specializing in SEO Search Engine Optimization, “Is A Financial Collapse Imminent For U.S. Economy?” http://wallstreetsectorselector.com/2013/09/is-a-financial-collapse-imminent-for-u-s-economy/]

The American government and economy is in rather dire circumstances due to an overwhelming series of decisions which are shaping our entire country for the next few decades and likely beyond. As we take a look at the overall track record of our economy, we find that a financial collapse is more than just likely – it may be highly imminent. But why? Why is our government, as massive and established as it is, finding itself in a downward trajectory with little to stop it? Since 1776, we have continuously built up efforts towards being a global powerhouse, and circa-1944 around the close of World War II, we arguably achieved it. Reinstating Israel. Destroying the Nazis. Rebuilding Japan. The United States became the heartfelt center of our entire world. However, politics continued and finances became less stable, causing inflation to rise to astounding rates. Our financial collapse could be quite imminent and three core trends lead us to this theory. Billionaires Dumping Their Stocks A financial collapse would undoubtedly consist of billionaires unloading their stocks in droves. Unfortunately, this is already occurring. On the surface, the stock market (NYSEARCA:DIA) is surfacing from an ugly few years. Numbers are steadily rising, and the stability in the stock market is starting to be set once again. But this trickle-down effect applies in the market. Arguably, the greatest stock investor is Warren Buffet. For better or worse, millions follow his steps because he is so unbelievably successful, and billionaire stock investors follow his investment moves. So when Warren Buffet sells $19 million worth of stock in Johnson & Johnson (NYSE:JNJ) and 21% of his overall stock in consumer spending, others follow suit with the same general strategies. Billionaire, John Paulson, also unloaded 14 million shares in JPMorgan Chase (NYSE:JPM), as reported at Money News. The World is Suffering Financially The overall predictions state that the stock market may witness a 90% overall collapse. Though many are aghast at the numbers, those who predicted this have been notoriously accurate in the past. Robert Weidemer, PHD is open about this prediction. His acclaimed team predicted the sub prime mortgage crisis and consumer spending collapse a few years earlier. When the financial system collapses, other countries will follow suit with their own level of disaster. Unfortunately, again, this is already occurring at alarming rates. Greece has been essentially bankrupt for close to five years running. According to Simon Black of the Economic Collapse Blog, the situation is dire in the country. ‘There are roughly 11 million people in this country. 3.4 million of them are employed, of which roughly one third work for the government.’ These unemployment rates are shocking. Italy is no better off. The country’s unemployment rate is currently 12.2%, the highest in 35 years. Furthermore, Italy witnesses 134 retail closings each and every day. Doing the math, one can calculate close to 1,000 employees are becoming not-so-much employed every single day. Investment Bank Over-Loaning and Over-Spending This specific situation is astonishingly convoluted, and would take a series of books and essays and documentaries to even scratch the surface. But in its purest form, the investment banking companies are simply spending money they do not have. Due to excessive loan expenditures in the last decade plus, banks found they were not earning the income back. This, of course, caused the massive mortgage crisis that almost ended the country financially, however, the banks are not out of the situation yet. They still spend more than what is being brought in, and their overall closing of the doors for loans is destroying small businesfffffs. Furthermore, Jim Willie, popular economist, is reporting that Deutsche Bank is on the brink of a full collapse. Considering their magnitude in the financial sphere, this could send momentous shockwaves throughout the economy. There is a light at the end of the tunnel, if we take serious steps immediately to rectify the situation. However, with each passing day, the light closes and we are further left in the dark emptiness of financial ruin if we continue on this path.

#### No impact to econ collapse; recession proves.

Thomas P.M. Barnett, senior managing director of Enterra Solutions LLC, “The New Rules: Security Remains Stable Amid Financial Crisis,” 8/25/2009, http://www.aprodex.com/the-new-rules--security-remains-stable-amid-financial-crisis-398-bl.aspx

When the global financial crisis struck roughly a year ago, the blogosphere was ablaze with all sorts of scary predictions of, and commentary regarding, ensuing conflict and wars -- a rerun of the Great Depression leading to world war, as it were. Now, as global economic news brightens and recovery -- surprisingly led by China and emerging markets -- is the talk of the day, it's interesting to look back over the past year and realize how globalization's first truly worldwide recession has had virtually no impact whatsoever on the international security landscape. None of the more than three-dozen ongoing conflicts listed by GlobalSecurity.org can be clearly attributed to the global recession. Indeed, the last new entry (civil conflict between Hamas and Fatah in the Palestine) predates the economic crisis by a year, and three quarters of the chronic struggles began in the last century. Ditto for the 15 low-intensity conflicts listed by Wikipedia (where the latest entry is the Mexican "drug war" begun in 2006). Certainly, the Russia-Georgia conflict last August was specifically timed, but by most accounts the opening ceremony of the Beijing Olympics was the most important external trigger (followed by the U.S. presidential campaign) for that sudden spike in an almost two-decade long struggle between Georgia and its two breakaway regions. Looking over the various databases, then, we see a most familiar picture: the usual mix of civil conflicts, insurgencies, and liberation-themed terrorist movements. Besides the recent Russia-Georgia dust-up, the only two potential state-on-state wars (North v. South Korea, Israel v. Iran) are both tied to one side acquiring a nuclear weapon capacity -- a process wholly unrelated to global economic trends. And with the United States effectively tied down by its two ongoing major interventions (Iraq and Afghanistan-bleeding-into-Pakistan), our involvement elsewhere around the planet has been quite modest, both leading up to and following the onset of the economic crisis: e.g., the usual counter-drug efforts in Latin America, the usual military exercises with allies across Asia, mixing it up with pirates off Somalia's coast). Everywhere else we find serious instability we pretty much let it burn, occasionally pressing the Chinese -- unsuccessfully -- to do something. Our new Africa Command, for example, hasn't led us to anything beyond advising and training local forces. So, to sum up: \* No significant uptick in mass violence or unrest (remember the smattering of urban riots last year in places like Greece, Moldova and Latvia?); \* The usual frequency maintained in civil conflicts (in all the usual places); \* Not a single state-on-state war directly caused (and no great-power-on-great-power crises even triggered); \* No great improvement or disruption in great-power cooperation regarding the emergence of new nuclear powers (despite all that diplomacy); \* A modest scaling back of international policing efforts by the system's acknowledged Leviathan power (inevitable given the strain); and \* No serious efforts by any rising great power to challenge that Leviathan or supplant its role. (The worst things we can cite are Moscow's occasional deployments of strategic assets to the Western hemisphere and its weak efforts to outbid the United States on basing rights in Kyrgyzstan; but the best include China and India stepping up their aid and investments in Afghanistan and Iraq.) Sure, we've finally seen global defense spending surpass the previous world record set in the late 1980s, but even that's likely to wane given the stress on public budgets created by all this unprecedented "stimulus" spending. If anything, the friendly cooperation on such stimulus packaging was the most notable great-power dynamic caused by the crisis. Can we say that the world has suffered a distinct shift to political radicalism as a result of the economic crisis? Indeed, no. The world's major economies remain governed by center-left or center-right political factions that remain decidedly friendly to both markets and trade. In the short run, there were attempts across the board to insulate economies from immediate damage (in effect, as much protectionism as allowed under current trade rules), but there was no great slide into "trade wars.ffff" Instead, the World Trade Organization is functioning as it was designed to function, and regional efforts toward free-trade agreements have not slowed. Can we say Islamic radicalism was inflamed by the economic crisis? If it was, that shift was clearly overwhelmed by the Islamic world's growing disenchantment with the brutality displayed by violent extremist groups such as al-Qaida. And looking forward, austere economic times are just as likely to breed connecting evangelicalism as disconnecting fundamentalism. At the end of the day, the economic crisis did not prove to be sufficiently frightening to provoke major economies into establishing global regulatory schemes, even as it has sparked a spirited -- and much needed, as I argued last week -- discussion of the continuing viability of the U.S. dollar as the world's primary reserve currency. Naturally, plenty of experts and pundits have attached great significance to this debate, seeing in it the beginning of "economic warfare" and the like between "fading" America and "rising" China. And yet, in a world of globally integrated production chains and interconnected financial markets, such "diverging interests" hardly constitute signposts for wars up ahead. Frankly, I don't welcome a world in which America's fiscal profligacy goes undisciplined, so bring it on -- please! Add it all up and it's fair to say that this global financial crisis has proven the great resilience of America's post-World War II international liberal trade order.

#### Courts shield

Whittington 5 Keith E., Cromwell Professor of Politics – Princeton University, ““Interpose Your Friendly Hand”: Political Supports for the Exercise of Judicial Review by the United States Supreme Court”, American Political Science Review, 99(4), November, p. 585, 591-592

There are some issues that politicians cannot easily handle. For individual legislators, their constituents may be sharply divided on a given issue or overwhelmingly hostile to a policy that the legislator would nonetheless like to see adopted. Party leaders, including presidents and legislative leaders, must similarly sometimes manage deeply divided or cross-pressured coalitions. When faced with such issues, elected officials may actively seek to turn over controversial political questions to the courts so as to circumvent a paralyzed legislature and avoid the political fallout that would come with taking direct action themselves. As Mark Graber (1993) has detailed in cases such as slavery and abortion, elected officials may prefer judicial resolution of disruptive political issues to direct legislative action, especially when the courts are believed to be sympathetic to the politician’s own substantive preferences but even when the attitude of the courts is uncertain or unfavorable (see also, Lovell 2003). Even when politicians do not invite judicial intervention, strategically minded courts will take into account not only the policy preferences of well-positioned policymakers but also the willingness of those potential policymakers to act if doing so means that they must assume responsibility for policy outcomes. For cross-pressured politicians and coalition leaders, shifting blame for controversial decisions to the Court and obscuring their own relationship to those decisions may preserve electoral support and coalition unity without threatening active judicial review (Arnold 1990; Fiorina 1986; Weaver 1986). The conditions for the exercise of judicial review may be relatively favorable when judicial invalidations of legislative policy can be managed to the electoral benefit of most legislators. In the cases considered previously, fractious coalitions produced legislation that presidents and party leaders deplored but were unwilling to block. Divisions within the governing coalition can also prevent legislative action that political leaders want taken, as illustrated in the following case.

#### PC theory is wrong

Hirsh 13 – National Journal chief correspondent, citing various political scientists

[Michael, former Newsweek senior correspondent, "There’s No Such Thing as Political Capital," National Journal, 2-9-13, www.nationaljournal.com/magazine/there-s-no-such-thing-as-political-capital-20130207, accessed 2-8-13, mss]

The idea of political capital—or mandates, or momentum—is so poorly defined that presidents and pundits often get itwrong. 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 **shift**ed **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 [they]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 [they’re]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.)

#### No deal and Obama won’t use capital because he doesn’t want to lose it

**Becker 10-8**-13 [Bernie, The Hill, “Who’ll blink first, Obama or Boehner?” <http://thehill.com/homenews/house/327079-wholl-blink-obama-or-boehner>]

President Obama and Speaker John Boehner (R-Ohio) are showing no signs of caving in the fiscal fight gripping Washington, raising worries the standoff will bring the economy to its knees.¶ The White House has made clear it thinks it has the upper hand in the fight over opening the government and raising the $16.7 trillion debt ceiling, especially after Boehner’s comments — in public and to his conference —that he wants to avoid a default on the U.S. debt. Obama and Senate Majority Leader Harry Reid (D-Nev.) have yet to budge from their stance that budget negotiations be kept separate from measures opening the government and raising the debt ceiling.¶ Allies of the Speaker, however, insist that Obama has the highest personal stakes in the standstill, giving the president more motivation to cave.¶ The risk that neither side will blink first is apparent to partisans on both sides, with Treasury saying the debt limit needs to be raised by Oct. 17.¶ “I hope they have something else up their sleeve,” said Jamal Simmons, a Democratic strategist, of the White House strategy.¶ “I know they’re counting on John Boehner blinking, but no one knows where the exit ramp is,” he said. “I don’t think anybody knows where we are or where we’re going. It feels like we’re flying in uncharted territory.”¶ As the government shutdown enters its second week, both Democrats and Republicans have reason to believe the other side might stand down first.¶ Republicans say that they believe that Democrats’ tough rhetoric will soften as the debt-limit deadline — and the potential dent to Obama’s legacy — comes closer.¶ One GOP lawmaker noted to The Hill that people are far more likely to remember who the president is in times of crisis — as in the Great Depression or World War II — than the Speaker of the House.¶ “Obama cannot allow the nation to default because of the impact on our economy and his presidential legacy,” said Ron Bonjean, a GOP strategist who served as an aide to former Speaker Dennis Hastert (R-Ill.). ¶ “He will likely negotiate as long as Republicans would allow for short-term clean extensions of lifting the debt ceiling in order to get a brokered deal.”¶ Republicans also think they’re making some headway with their recent strategy of passing bills that open specific areas of the government, with dozens of House Democrats supporting at least one of those proposals. Obama and Senate Democrats have brushed aside those measures and called on the House GOP to reopen the entire government.¶ Democrats, for their part, believe Boehner is presiding over a divided conference that is losing the public opinion fight over the shutdown.¶ A Washington Post/ABC News poll released Monday found that 7 in 10 disapproved of the congressional GOP’s handling of the shutdown.¶ “They’re at the point where it’s just about checkmate,” one former senior administration official said of the House GOP.¶ “Their approval ratings are in the tank, they’re changing their message from healthcare to spending and they can’t seem to find a logical reason for why they would keep the government shut down,” the source said.¶ The GOP argument has shifted over the last week or so from seeking to roll back the president’s healthcare reform law in the fiscal showdown to seeking broader changes to the tax code and entitlement programs.¶ Even some Tea Party-backed lawmakers — who were sent to Washington in large part because of their opposition to ObamaCare — are willing to fight another day on the healthcare law. But others in the party — and highly influential conservative organizations — are warning not to back off the fight against the healthcare overhaul.¶ The White House believes its efforts to cast the GOP as the party of obstruction are working.¶ “That has completely stiffened the spine of President Obama and congressional Democrats,” the official said.¶ Democrats also believe that Obama has internalized the lessons from the 2011 debt-limit negotiations, in which even a last-second deal could not avert a historic downgrade of the country’s credit.¶ Obama lost political capital in that set of negotiations with Republicans, and is determined not to go down that path again.¶ Obama has openly said that he would be doing a disservice to those who follow him in the Oval Office if he were to continue to hold high-stakes negotiations that could threaten the country’s full faith and credit.¶ At the same time, some GOP lawmakers say that Republicans come under increasing pressure each day Washington doesn’t strike a deal.¶ All that led another former senior administration official to say that, while Obama will ultimately come out the winner in the standoff, an end is nowhere in sight.¶ “I think it’s getting worse,” the former official said. “These guys aren’t backing down. No one is backing down. I don’t think they see any reason to.” ¶ “Negotiations only work if there are two people at the table,” the former official said. “You can’t negotiate with someone who isn’t empowered to negotiate.”

### Nietzsche

#### Threats are real

**Schweller 4** [Randall L. Schweller, Associate Professor in the Department of Political Science at The Ohio State University, “Unanswered Threats A Neoclassical RealistTheory of Underbalancing,” International Security 29.2 (2004) 159-201, Muse]

Despite the historical frequency of underbalancing, little has been written on the subject. Indeed, Geoffrey Blainey's memorable observation that for "every thousand pages published on the causes of wars there is less than one page directly on the causes of peace" could have been made with equal veracity about overreactions to threats as opposed to underreactions to them.92 Library shelves are filled with books on the causes and dangers of exaggerating threats, ranging from studies of domestic politics to bureaucratic politics, to political psychology, to organization theory. By comparison, there have been few studies at any level of analysis or from any theoretical perspective that directly explain why states have with some, if not equal, **regularity underestimated dangers to their survival**. There may be some cognitive or normative bias at work here. Consider, for instance, that there is a commonly used word, paranoia, for the unwarranted fear that people are, in some way, "out to get you" or are planning to do oneharm. I suspect that just as many people are afflicted with the opposite psychosis: the delusion that everyone loves you when, in fact, they do not even like you. Yet, we do not have a familiar word for this phenomenon. Indeed, I am unaware of any word that describes this pathology (hubris and overconfidence come close, but they plainly define something other than what I have described). That noted, international relations theory does have a frequently used phrase for the pathology of states' underestimation of threats to their survival, the so-called Munich analogy. The term is used, however, in a disparaging way by theorists to ridicule those who employ it. The central claim is that the naïveté associated with Munich and the outbreak of World War II has become an overused and inappropriate analogy because few leaders are as evil and unappeasable as Adolf Hitler. Thus, the analogy either mistakenly causes leaders [End Page 198] to adopt hawkish and overly competitive policies or is deliberately used by leaders to justify such policies and mislead the public. A more compelling explanation for the paucity of studies on underreactions to threats, however, is the tendency of theories to reflect contemporary issues as well as the desire of theorists and journals to provide society with policy- relevant theories that may help resolve or manage urgent security problems. Thus, born in the atomic age with its new balance of terror and an ongoing Cold War, the field of security studies has naturally produced theories of and prescriptions for national security that have had little to say about—and are, in fact, heavily biased against warnings of—the dangers of underreacting to or underestimating threats. After all, the nuclear revolution was not about overkill but, as Thomas Schelling pointed out, speed of kill and mutual kill.93 Given the apocalyptic consequences of miscalculation, accidents, or inadvertent nuclear war, small wonder that theorists were more concerned about overreacting to threats than underresponding to them. At a time when all of humankind could be wiped out in less than twenty-five minutes, theorists may be excused for stressing the benefits of caution under conditions of uncertainty and erring on the side of inferring from ambiguous actions overly benign assessments of the opponent's intentions. The overwhelming fear was that a crisis "might unleash forces of an essentially military nature that overwhelm the political process and bring on a war thatnobody wants. Many important conclusions about the risk of nuclear war, and thus about the political meaning of nuclear forces, rest on this fundamental idea."94 Now that the Cold War is over, we can begin to redress these biases in the literature. In that spirit, I have offered a domestic politics model to explain why threatened states often fail to adjust in a prudent and coherent way to dangerous changes in their strategic environment. The model fits nicely with recent realist studies on imperial under- and overstretch. Specifically, it is consistent with Fareed Zakaria's analysis of U.S. foreign policy from 1865 to 1889, when, he claims, the United States had the national power and opportunity to expand but failed to do so because it lacked sufficient state power (i.e., the state was weak relative to society).95 Zakaria claims that the United States did [End Page 199] not take advantage of opportunities in its environment to expand because it lacked the institutional state strength to harness resources from society that were needed to do so. I am making a similar argument with respect to balancing rather than expansion: incoherent, fragmented states are unwilling and unable to balance against potentially dangerous threats because elites view the domestic risks as too high, and they are unable to mobilize the required resources from a divided society. The arguments presented here also suggest that elite fragmentation and disagreement within a competitive political process, which Jack Snyder cites as an explanation for overexpansionist policies, are more likely to produce underbalancing than overbalancing behavior among threatened incoherent states.96 This is because a balancing strategy carries certain political costs and risks with few, if any, compensating short-term political gains, and because the strategic environment is always somewhat uncertain. Consequently, logrolling among fragmented elites within threatened states is more likely to generate overly cautious responses to threats than overreactions to them. This dynamic captures the underreaction of democratic states to the rise of Nazi Germany during the interwar period.97 In addition to elite fragmentation, I have suggested some basic domestic-level variables that regularly intervene to thwart balance of power predictions

#### The alt does nothing - individual rejection fails

**Milbrath 96** (Lester, Professor of PoliSci and Sociology at SUNY-Buffalo, “In Building Sustainable Societies,” p.289)

In some respects personal change cannot be separated from societal change. Societal transformation will not be successful without change at the personal level; such change is a necessary but not sufficient step on the route to sustainability. People hoping to live sustainably must adopt new beliefs, new values, new lifestyles, and new worldview. But lasting personal change is unlikely without simultaneous transformation of the socioeconomic/political system in which people function. Persons may solemnly resolve to change, but that resolve is likely to weaken as they perform day-to-day within a system reinforcing different beliefs and values. Change agents typically are met with denial and great resistance. Reluctance to challenge mainstream society is the major reason most efforts emphasizing education to bring about change are ineffective. If societal transformation must be speedy, and most of us believe it must, pleading with individuals to change is not likely to be effective.

**This recognition of violence creates an infinite responsibility for us to push for justice regardless of the consequences.**

**Smith**, dept phil Berry, **03** <**Dr. Michael Smith, Depts of Religion and Philosophy at Berry College, “Emmanuel Levinas's Ethics of Responsibility," Mike Ryan Lecture Series, Kennesaw State College, October 7, 2003 (**[**http://www.kennesaw.edu/clubs/psa/pdfs/Smith\_2003\_PSA.pdf**](http://www.kennesaw.edu/clubs/psa/pdfs/Smith_2003_PSA.pdf)**) (GENDER MODIFIED)>**

One of the most surprising aspects of Levinas’s ethics—perhaps “meta-ethics,” or better yet “proto-ethics,” would be a preferable term, since Levinas’s philosophical work is really a revamping of philosophy that replaces ontology by ethics: his “ethics” is not simply layered onto thinking-as-usual—one of the most surprising aspects of this protoethics, then, is that there is no parity between my situation and yours from an ethical standpoint. You are always better than me. I am responsible, not only for my transgressions, but for yours as well! There are two aspects or stages of Levinas’s ethical thought: my relation to you (as if you were the only other person in the world) and my relation to you seen in relation to the other of you, my other. Your other may have conflicting claims, so that I am put in the position of comparing incomparables, to the extent that each person is a world. From the relation of me to my other, you, love is enough. To realize the intention of love in a broader sociality, justice is necessary. Justice, the harsh name of love, must realize love’s intentions, and in doing so may lose sight of its original intent, become alienated into a self-serving institution. This risk, in Levinas’s view, is one that must be taken. 8 Here Levinas seldom develops his thought along the lines of strict reasoning. One senses that the stays of being are relaxed and we would have no possible means of directing our thought beyond this point without a certain “inspiration.” Knowledge is no longer sought after: it is inescapable. We are the “hostage” of the other. No discussion, even as brief a one as this, can be complete without some mention of the face. This is a term that Levinas elevates to status of a philosopheme, a term endowed with a specific philosophical role. The face does not refer to the plasticity of a visual form in Levinas, nor is it just the look of the other, since the face speaks in Levinas. It is perhaps the phenomenal basis, or as Levinas sometimes says, the “mise-enscène” or theatrical “production” of the appearance of the person, and it is the way in which we may become aware of God. I quote: “The face puts into question the sufficiency of my identity as an I, it compels me to an infinite responsibility.”4 It is by substitution for the other, or by taking on the fate of the other, that I embrace a responsibility for which I never signed up. Here Levinas diverges from the usual notion of responsibility, since the ethical meaning of responsibility is bound up with the notion of freedom. We are not to imagine that Levinas is involved in some sort of Skinnerian “beyond freedom,” but Levinas does enter a realm that is distinct from the dialectic of promise and promise-keeping and freedom such as we find in the thinking of Jean-Paul Sartre, for example. This taking up of responsibility is not a virtue (virtue in the sense of strength), nor is it a weakness (as suggested by the late Michel de Certeau), but precisely the carrying out of the mitzvah, or commandment of God. We should not expect gratitude, for this would entangle us in an endless dialectic of quid pro quos. (It is interesting to note in passing that Levinas praises the institution of money, despite its possible abuses, because if frees us from having to have a personal relation with each person with whom we deal in life. We can carry on without this burden.) If we should expect anything, it is rather ingratitude. There is an impersonal—transpersonal?—sense in which action, good conduct, is nothing more nor less than a going beyond the bog of being. What is ethical behavior? It is (I quote) “the original goodness of [hu]man toward the other in which, in an ethical dis-inter-estedness—word of God—the inter-ested effort of brute being persevering in its being is interrupted.”5 This “ethics of ethics,” as it has been termed (by Jacques Derrida in his critical essay on Levinas, “Violence and Metaphysics” in 1964), is not only so called because it does not prescribe any specific acts, but also because Levinas’s ethics of responsibility cannot, as the philosopher himself states, be preached. Is it because humility (which is not listed among the virtues by Aristotle) permeates Levinas’s manner? No doubt, but it is also the case for what could be called a technical reason. We noted that the I-Thou relation in Levinas is not symmetrical. The other is always greater than I, and my responsibility cannot be transferred to anyone else. This responsibility extends to and includes responsibility for the evil perpetrated against me! In commenting on Philippe Nemo’s book Job and the Excess of Evil, Levinas ventures a surprising interpretation of a well-known biblical verse of the book of Job (Job 38: 4). “Where were you when I laid the foundations of the earth?” The usual interpretation is that God is reprimanding the creature for questioning His ways, and perhaps also implying that if man knew the whole story a theodicy would be possible—and this would be seen as being the best of all possible worlds after all. Levinas: Can one not hear in this “Where were you?” a statement of deficiency (constat de carence) that cannot have meaning unless the humanity of man is fraternally bound up with creation, that is, responsible for that which has been neither his I (son moi) nor his work? Might this solidarity and this responsibility for any and all—which cannot be without pain—be spirit itself?6 A remarkable interpretation indeed, worthy of the Talmudic spirit of interpretation Levinas studied and admired so ardently. I liken the observation to the following extraordinary remark made by a child to his mother, spontaneously metaphysical: “Mother, when did we have me?” This retrogressive movement of being is very close to the sense of retrogressive and all-encompassing responsibility Levinas finds in this passage from Job. Neither his “I” nor his work. “I” in the sense of his ego, that limited “moi” that must, in Levinas’s view, be transcended by the ethical self toward responsibility for the other.

**There’s always value to life**

**Frankl (Holocaust Survivor) 46** (Victor Frankl, Professor of Neurology and Psychiatry at the University of Vienna, Man’s Search for Meaning, 1946, p. 104)

But I did not only talk of the future and the veil which was drawn over it. I also mentioned the past; all its joys, and how its light shone even in the present darkness. Again I quoted a poet—to avoid sounding like a preacher myself—who had written, “Was Dii erlebst, k,ann keme Macht der Welt Dir rauben.” (What you have experienced, no power on earth can take from you.) Not only our experiences, but all we have done, whatever great thoughts we may have had, and all we have suffered, all this is not lost, though it is past; we have brought it into being. Having been is also a kind of being, and perhaps the surest kind. Then I spoke of the many opportunities of giving life a meaning. I told my comrades (who lay motionless, although occasionally a sigh could be heard) that human life, under any circumstances, never ceases to have a meaning, and that this infinite meaning of life includes suffering and dying, privation and death. I asked the poor creatures who listened to me attentively in the darkness of the hut to face up to the seriousness of our position. They must not lose hope but should keep their courage in the certainty that the hopelessness of our struggle did not detract from its dignity and its meaning. I said that someone looks down on each of us in difficult hours—a friend, a wife, somebody alive or dead, or a God—and he would not expect us to disappoint him. He would hope to find us suffering proudly—not miserably—knowing how to die.

**Value is individually determined and inevitable**

**Frankl 46** (Victor Frankl, Professor of Neurology and Psychiatry at the University of Vienna, Man’s Search for Meaning, 1946, p. 104)

These efforts were usually concerned with the prevention of suicides. A very strict camp ruling forbade any efforts to save a man who attempted suicide. It was forbidden, for example, to cut down a man who was trying to hang himself. Therefore, it was all important to prevent these attempts from occurring. I remember two cases of would-be suicide, which bore a striking similarity to each other. Both men had talked of their intentions to commit suicide. Both used the typical argument......they had nothing more to expect from life. In both cases it was a question of getting them to realize that life was still expecting something from them; something in the future was expected of them. We found, in fact, that for the one it was his child whom he adored and who was waiting for him in a foreign country. For the other it was a thing, not a person. This man was a scientist and had written a series of books which still needed to be finished. His work could not be done by anyone else, any more than another person could ever take the place of the father in his child’s affections. This uniqueness and singleness which distinguishes each individual and gives a meaning to his existence has a bearing on creative work as much as it does on human love. When the impossibility of replacing a person is realized, it allows the responsibility which a man has for his existence and its continuance to appear in all its magnitude. A man who becomes conscious of the responsibility he bears toward a human being who affectionately waits for him, or to an unfinished work, will never be able to throw away his life. He knows the “why” for his existence, and will be able to bear almost any “how.”

**Perm solves, The ethical and the political are not separated-politics is the ethical relationship between more than one Other. Infusing Levinasian ethics into politics will create a more ethical, less violent state.**

**Simmons, associate prof social sciences ASU, 2003**

William Paul Simmons, associate professor of social sciences at Arizona State University, 2003, “An-Archy and Justice: An Introduction to Emmanuel Levinas’s Political Thought”

Therefore, Levinas distinguishes the ethical relationship with the Other from justice which involves three or more people.2° The an-archical relationship with the Other is the pre-linguistic world of the saying. Language is unnecessary to respond to the Other. The Third, however, demands an explanation. "In its frankness it [language] refuses the clandestinity of love, where it loses its frankness and meaning and turns into laughter or cooing. The third party looks at me in the eyes of the Other-.language is justice."2' In order to judge between Others, they must be co-present, or synchronous. Thus, the Third also opens up the world of knowledge and consciousness. "Here is the hour and birthplace of the question: a demand for justice! Here is the obligation to compare unique and incomparable others; here is the hour of knowledge and, then, of the objectivity beyond or on the hither side of the nudity of the face; here is the hour of consciousness and intentionality."22 Finally, the Third introduces the realm of politics. The ego's infinite responsibility must be extended to all humanity, no matter how far off. Ethics must be universalized and institutionalized to affect the others. "To the extent that someone else's Face brings us in relation with a third party, My metaphysical relation to the Other is transformed into a We, and works toward a State, institutions and laws which form the source of universality." Before delving into the relationship between ethics and politics, several implications of Levinas's move from the Other to the Third need to be addressed. First, does the ego still have an infinite responsibility for the Other? In Otherwise than Being, Levinas defines justice as "the limit of responsibility and the birth of the question?'24 However, in the same work, he also claims that "in no way is justice a degradation of obsession, a degeneration of the for-the-other, a diminution, a limitation of anarchic responsibility.us How can these conflicting statements be resolved? Either justice limits the responsibility for the Other or it does not. The contradiction is resolved by considering, once again, Levinas's theoretical emphasis on the separation between the saying and the said. Ethics is found in the an-archical realm of the saying,jjjj while justice is a part of the totalizing realm of the said. Ethics and justice exist in both relation and separation. Neither can be reduced to the other. Thus, justice cannot diminish the infinite responsibility for the Other the ego remains infinitely, asymmetrically, and concretely responsible for the Other. This responsibility always maintains its potency. However, the ego is also invariably transported by the Third into the realm of the said. The ego must weigh its obligations. It is not possible to respond infinitely to all Others. The original demand for an infinite responsibility remains, but it cannot be fulfilled. Ethics must be universalized, but in attempting to do so, the ego has already reneged on its responsibility for the Other. Thus, Levinas's peculiar formulation; justice is un-ethical and violent "Only justice can wipe it [ethical responsibility] away by bringing this giving-oneself to my neighbor under measure, or moderating it by thinking in relation to the third and the fourth, who are also my 'others,' but justice is already the first violence."

**Turn,** **Fear of nuclear war is good, this fear prevents nuclear war from actually being started.**

**Futterman '94** Dr. J. A. H. Futterman, tech at Lawrence Livermore National Lab, "Meditations on the Morality of Nuclear Weapons Work, Obscenity and Peace, 1994, http://www.dogchurch.org/scriptorium/nuke.html

But the inhibitory effect of reliable nuclear weapons goes deeper than Shirer's deterrence of adventurer-conquerors. It changes the way we think individually and culturally, preparing us for a future we cannot now imagine. Jungian psychiatrist Anthony J. Stevens states, [15] "History would indicate that people cannot rise above their narrow sectarian concerns without some overwhelming paroxysm. It took the War of Independence and the Civil War to forge the United States, World War I to create the League of Nations, World War II to create the United Nations Organization and the European Economic Community. Only catastrophe, it seems, forces people to take the wider view. Or what about fear? Can the horror which we all experience when we contemplate the possibility of nuclear extinction mobilize in us sufficient libidinal energy to resist the archetypes of war? Certainly, the moment we become blasé about the possibility of holocaust we are lost. As long as horror of nuclear exchange remains uppermost we can recognize that nothing is worth it. War becomes the impossible option. Perhaps horror, the experience of horror, the consciousness of horror, is our only hope. Perhaps horror alone will enable us to overcome the otherwise invincible attraction of war." Thus I also continue engaging in nuclear weapons work to help fire that world-historical warning shot I mentioned above, namely, that as our beneficial technologies become more powerful, so will our weapons technologies, unless genuine peace precludes it. We must build a future more peaceful than our past, if we are to have a future at all, with or without nuclear weapons — a fact we had better learn before worse things than nuclear weapons are invented. If you're a philosopher, this means that I regard the nature of humankind as mutable rather than fixed, but that I think most people welcome change in their personalities and cultures with all the enthusiasm that they welcome death — thus, the fear of nuclear annihilation of ourselves and all our values may be what we require in order to become peaceful enough to survive our future technological breakthroughs.[16]

**Trying to stop suffering is inevitable. Humans are biologically made to fear death. It’s a natural product of evolution.**

**Pyszczynski et al ‘6** (Tom, Prof. Psych. – U. Colorado, Sheldon Solomon, Prof. Psych. – Skidmore College, Jeff Greenberg, Prof. Psych. – U. Arizona, and Molly Maxfield, U. Colorado, Psychological Inquiry, “On the Unique Psychological Import of the Human Awareness of Mortality: Theme and Variations” 17:4, Ebsco)

Kirkpatrick and Navarette’s (this issue) first specific complaint with TMT is that it is wedded to an outmoded assumption that human beings share with many other species a survival instinct. They argue that natural selection can only build instincts that respond to specific adaptive challenges in specific situations, and thus could not have designed an instinct for survival because staying alive is a broad and distal goal with no single clearly defined adaptive response. Our use of the term survival instinct was meant to highlight the general **orientation toward continued life** that is expressed in many of an organism’s bodily systems (e.g., heart, liver, lungs, etc) and the diverse approach and avoidance **tendencies that promote its survival** and reproduction, ultimately leading to genes being passed on to fu- ture generations. Our use of this term also reflects the classic psychoanalytic, biological, and anthropological influences on TMT of theorists like Becker (1971, 1973, 1975), Freud (1976, 1991), Rank (1945, 1961, 1989), Zilborg (1943), Spengler (1999), and Darwin (1993). We concur that natural selection, at least initially, is unlikely to design a unitary survival instinct, but rather, a series of specific adaptations that have tended over evolutionary time to promote the survival of an organism’s genes. However, whether one construes these adaptations as a series of discrete mechanisms or a general overarching tendency that encompasses many specific systems, we think it hard to argue with the claim that natural selection usually orients organisms to approach things that facilitate continued existence and to avoid things that would likely cut life short. This is not to say that natural selection doesn’t also select for characteristics that facilitate gene survival in other ways, or that all species or even all humans, will always choose life over other valued goals in all circumstances. Our claim is simply that a general orientation toward continued life exists because staying alive is essential for reproduction in most species, as well as for child rearing and support in mammalian species and many others. Viewing an animal as a loose collection of independent modules that produce responses to specific adaptively-relevant stimuli may be useful for some purposes, but it overlooks the point that adaptation involves a variety of inter-related mechanisms working together to insure that genes responsible for these mechanisms are more numerously represented in future generations (see, e.g., Tattersall, 1998). For example, although the left ventricle of the human heart likely evolved to solve a specific adaptive problem, this mechanism would be useless unless well-integrated with other aspects of the circulatory system. We believe it useful to think in terms of the overarching function of the heart and pulmonary-circulatory system, even if specific parts of that system evolved to solve specific adaptive problems within that system. In addition to specific solutions to specific adaptive problems, over time, natural selection favors integrated systemic functioning(Dawkins, 1976; Mithen, 1997). It is the improved survival rates and reproductive success of lifeformspossessing integrated systemic characteristics that determine whether those characteristics become widespread in a population. Thus, we think it is appropriate and useful to characterize a glucose-approaching amoeba and a bear-avoiding salmon as oriented toward self-preservation and reproduction, even if neither species possesses one single genetically encoded mechanism designed to generally foster life or insure reproduction, or cognitive representations of survival and reproduction. This is the same position that Dawkins (1976) took in his classic book, The selfish gene: **The obvious first priorities of a survival machine, and of the brain that takes the decisions for it, are individual survival and reproduction**. … Animals therefore go to elaborate lengths to find and catch food; to avoid being caught and eaten themselves; to avoid disease and accident; to protect themselves from unfavourable climatic conditions; to find members of the opposite sex and persuade them to mate; and to confer on their children advantages similar to those they enjoy themselves. (pp. 62–63) All that is really essential to TMT is the proposition that humans fear death. Somewhat ironically, in the early days of the theory,we felt compelled to explain this fear by positing a very basic desire for life, because many critics adamantly insisted, for reasons that were never clear to us, that most people do not fear death. Our explanation for the fear of death is that knowledge of the inevitability of death is frightening because people know they are alive and because they want to continue living. **Do Navarrete and Fessler** (2005) **really believe that humans do not fear death**? **Although people sometimes claim that they are not afraid of death**, and on rare occasions volunteer for suicide missions and approach their death, **this requires extensive psychological work, typically a great deal of anxiety, and preparation and immersion in a belief system that makes this possible** (see TMT for an explanation of how belief systems do this). Where this desire for life comes from is an interesting question, but not essential to the logic of the theory. Even if Kirkpatrick and Navarrete (this issue) were correct in their claims that a unitary self-preservation instinct was not, in and of itself, selected for, it is indisputable that many discrete and integrated mechanisms that keep organisms alive were selected for. A desire to stay alive, and a fear of anything that threatens to end one’s life, are likely emergent properties of these many discrete mechanisms that result from the evolution of sophisticated cognitive abilities for symbolic, future- oriented, and self-reflective thought. As Batson and Stocks (2004) have noted, it is because we are so intelligent, and hence so aware of our limbic reactions to threats of death and of our many systems oriented toward keeping us alive that we have a general fear of death. Here are three quotes that illustrate this point. First, for psychologists, Zilboorg (1943), an important early source of TMT: **“Such constant expenditure of psychological energy on the business of preserving life would be impossible if the fear of death were not as constant**” (p. 467). For literature buffs, acclaimed novelist Faulkner (1990) put it this way: If aught can be more painful to any intelligence above that of a child or an idiot than a slow and gradual confronting with that which over a long period of bewil- derment and dread it has been taught to regard as an irrevocable and unplumbable finality, I do not know it. (pp. 141–142) And perhaps most directly, for daytime TV fans, from The Young and the Restless (2006), after a rocky plane flight: Phyllis: I learned something up in that plane Nick: What? Phyllis: I really don’t want to die. An important consequence of the emergence of this general fear of death is that **humans are susceptible to anxiety due to events or stimuli that are not immediately present and novel threats to survival that did not exist for our ancestors, such as** AIDS, guns, or **nuclear weapons**. Regardless of how this fear originates, it is abundantly clear that humans do fear death. Anyone who has ever faced a man with a gun, a doctor saying that the lump on one’s neck is suspicious and requires further diagnostic tests, or a drunken driver swerving into one’s lane can attest to that. If humans only feared evolved specific death-related threats like spiders and heights, then a lump on an x-ray, a gun, a crossbow, or any number of weapons pointed at one’s chest would not cause panic; but obviously these things do. Of what use would the sophisticated cortical structures be if they didn’t have the ability to instigate fear reactions in response to such threats?

## 1AR

#### Best study proves no conflict from econ decline

**Brandt and Ulfelder ‘11** (\*Patrick T. Brandt, Ph.D. in Political Science from Indiana University, is an Assistant Professor of Political Science in the School of Social Science at the University of Texas at Dallas. \*\*Jay Ulfelder, Ph.D. in political science from Stanford University, is an American political scientist whose research interests include democratization, civil unrest, and violent conflict, April, 2011, “Economic Growth and Political Instability,” Social Science Research Network)

These statements anticipating political fallout from the global economic crisis of 2008–2010 reflect a widely held view that economic growth has rapid and profound effects on countries’ political stability. When economies grow at a healthy clip, citizens are presumed to be too busy and too content to engage in protest or rebellion, and governments are thought to be flush with revenues they can use to enhance their own stability by producing public goods or rewarding cronies, depending on the type of regime they inhabit. When growth slows, however, citizens and cronies alike are presumed to grow frustrated with their governments, and the leaders at the receiving end of that frustration are thought to lack the financial resources to respond effectively. The expected result is an increase in the risks of social unrest, civil war, coup attempts, and regime breakdown. Although it is pervasive, the assumption that countries’ economic growth rates strongly affect their political stability **has not been subjected to** a great deal of careful **empirical analysis, and evidence from social science research** to date **does not** unambiguously **support it.** Theoretical models of civil wars, coups d’etat, and transitions to and from democracy often specify slow economic growth as an important cause or catalyst of those events, but empirical studies on the effects of economic growth on these phenomena have produced mixed results. Meanwhile, the effects of economic growth on the occurrence or incidence of social unrest seem to have **hardly** been **studied in recent years**, as empirical analysis of contentious collective action has concentrated on political opportunity structures and dynamics of protest and repression. This paper helps fill that gap by rigorously re-examining the effects of short-term variations in economic growth on the occurrence of several forms of political instability in countries worldwide over the past few decades. In this paper, we do not seek to develop and test new theories of political instability. Instead, we aim to subject a hypothesis common to many prior theories of political instability to more careful empirical scrutiny. The goal is to provide a detailed empirical characterization of the relationship between economic growth and political instability in a broad sense. In effect, we describe the conventional wisdom as seen in the data. We do so with statistical models that use smoothing splines and multiple lags to allow for nonlinear and dynamic effects from economic growth on political stability. We also do so with an instrumented measure of growth that explicitly accounts for endogeneity in the relationship between political instability and economic growth. To our knowledge, **ours is the first statistical study** of this relationship to simultaneously address the possibility of **nonlinearity and** problems of **endogeneity**. As such, we believe this paper offers what is probably the most rigorous general **evaluation** of this argument **to date**. As the results show, some of our findings are surprising. Consistent with conventional assumptions, we find that social unrest and civil violence are more likely to occur and democratic regimes are more susceptible to coup attempts around periods of slow economic growth. At the same time, our analysis shows no significant relationship between variation in growth and the risk of civil-war onset, and results from our analysis of regime changes contradict the widely accepted claim that economic crises cause transitions from autocracy to democracy. While we would hardly pretend to have the last word on any of these relationships, our findings do suggest that the relationship between economic growth and political stability is **neither as uniform nor as strong as** the **conventional wisdom**(s) **presume**(s). We think **these findings** also help **explain why the** global **recession** of 2008–2010 **has failed** thus far to **produce** the wave of coups and regime failures that some observers had anticipated, in spite of the expected and apparent uptick in social **unrest** associated with the crisis.

#### No diversionary theory or increased probability of war

**Jervis ’11** (Robert Jervis 11, Professor in the Department of Political Science and School of International and Public Affairs at Columbia University, December 2011, “Force in Our Times,” Survival, Vol. 25, No. 4, p. 403-425

Even if war is still seen as evil, the security community could be dissolved if severe conflicts of interest were to arise. Could the more peaceful world generate new interests that would bring the members of the community into sharp disputes? 45 A zero-sum sense of status would be one example, perhaps linked to a steep rise in nationalism. More likely would be a worsening of the current economic difficulties, which could itself produce greater nationalism, undermine democracy and bring back old-fashioned beggar-my-neighbor economic policies. While these dangers are real, it is hard to believe that the conflicts could be great enough to lead the members of the community to contemplate fighting each other. It is not so much that economic interdependence has proceeded to the point where it could not be reversed – states that were more internally interdependent than anything seen internationally have fought bloody civil wars. Rather it is that **even if** the more extreme versions of **free trade and** economic **liberalism become discredited**, **it is hard to see how** without building on a preexisting high level of political conflict **leaders and mass opinion would come to believe that their countries could prosper by** **impoverishing or** even **attacking others**. Is it possible that problems will not only become severe, but that people will entertain the thought that they have to be solved by war? While a pessimist could note that this argument does not appear as outlandish as it did before the financial crisis, an optimist could reply (correctly, in my view) that **the** very fact that **we have seen** **such a sharp economic down-turn** **without anyone suggesting** that **force** of arms is the solution shows that **even if bad times bring about greater economic conflict**, **it will not make war thinkable**.

#### No conflicts

**Katoch ‘9** (Rajan Katoch, Institute for Defence Studies and Analyses, New Delhi The Global Economic Crisis Some Strategic Implications, First Published: August 2009)

Despite the above factors, the situation isnot the same as in **the** 19**30s**, and in today’s world, **it is** highly improbable **that** the **global economic crisis could lead to a world war** as it did then. The international order is relatively **more stable, with all major powers** working with **greater coordination**, and mostly seeking to stick to the status quo. **Learning from experience**, the current national economic policy responses **are better formulated**, and therefore the economic crisis is unlikely to reach the **severity of and linger on for as long as** the Great **Depression**. The greater role being played by fora like the G20 in seeking solutions to the crisis indicates the recognition amongst the key players from both industrialised and developing countries that a broad consensus is needed to move forward. And finally, **all this is backed by the hard fact of the overwhelming military dominance of the US;** this **acts as a force for stability.** Localised conflicts remain possible; perhaps a serious threat arising out of collapse of critical states at worst, **but a world war—most unlikely.**

#### Economic decline doesn’t cause war

**Miller 00** (Morris, Economist, Adjunct Professor in the Faculty of Administration – University of Ottawa, Former Executive Director and Senior Economist – World Bank, “Poverty as a Cause of Wars?”, Interdisciplinary Science Reviews, Winter, p. 273)

The question may be reformulated. Do wars spring from a popular reaction to a sudden economic crisis that exacerbates poverty and growing disparities in wealth and incomes? Perhaps one could argue, as some scholars do, that it is some dramatic event or sequence of such events leading to the exacerbation of poverty that, in turn, leads to this deplorable denouement. This exogenous factor might act as a catalyst for a violent reaction on the part of the people or on the part of the political leadership who would then possibly be tempted to seek a diversion by finding or, if need be, fabricating an enemy and setting in train the process leading to war. According to a study undertaken by Minxin Pei and Ariel Adesnik of the Carnegie Endowment for International Peace, there would not appear to be any merit in this hypothesis. After studying ninety-three episodes of economic crisis in twenty-two countries in Latin America and Asia in the years since the Second World War they concluded that:19 Much of the conventional wisdom about the political impact of economic crises may be wrong ... The severity of economic crisis – as measured in terms of inflation and negative growth - bore **no relationship** to the collapse of regimes ... (or, in democratic states, rarely) to an outbreak of violence ... In the cases of dictatorships and semidemocracies, the ruling elites responded to crises by increasing repression (thereby using one form of violence to abort another).

#### Interest rates cause collapse

Reeves, 13 -- Raleigh Metro Magazine editor

[Bernie, "The Debt Ceiling Is a Red Herring," American Thinker, 9-27-13, www.americanthinker.com/2013/09/the\_debt\_ceiling\_is\_a\_red\_herring.html, accessed 10-4-13, mss]

The Debt Ceiling Is a Red Herring

Federal Reserve chairman Ben Bernanke announced last week the US central bank will continue its "quantitative easing" program, basically printing money like an African dictatorship to buy US debt. The harsh truth behind Bernanke's action makes the upcoming debate on raising the **debt ceiling a red herring** that diverts attention away from reality: the US ship of state has hit a giant financial iceberg. Captain Bernanke's response is to continue to bail water. The Federal Reserve buys billions of dollars of US debt at near-zero interest to fund the ever-increasing deficit to keep up the charade that the good faith and credit of the nation is intact. In effect, Fed policy is a lie surrounding a bigger lie -- that Obama's economic recovery plan is on course. If the Fed does not step up and purchase US debt at ridiculously low interest, rates would have to float upwards dramatically to attract the usual buyers. Interest on the debt is already running at $26 billion per month; an increase caused by allowing rates to equate to investor requirements could easily double the staggering current monthly outlay. And what is the effect of squandering the US money supply on US debt that provides scant return? The rate the US should have to pay in the real world to sell our debt would translate to rates charged to Fed member banks, who add vigorish for themselves and lend it out. But despite Fed rates artificially kept below one percent by Bernanke's sleight-of-hand, lending in the US to small businesses is at a 12-year low. If the Fed rate followed the appropriate level needed to attract buyers of our national debt, **interest rates** on bank lending will rise dramatically. The already suffering **small business** sector, which represents **90 percent of the economy** and provides **all new jobs**, will be facing ruin.

#### Global short-term alt causes- China, Europe, commodity prices

Korea Herald, 13 -- citing Harry Dent, financial newsletter writer

["Next global crash could come next year," 8-13-13, l/n, accessed 10-4-13, mss]

Despite the continued economic stimulus policies across the world since the 2008 financial crisis, the global economy is likely to face another crash next year, according to U.S.-based economic forecaster Harry Dent. He says the world faces three major short-term risks: falling commodity prices, a depression in southern Europe and the bursting of China's real estate bubble. Regarding the outlook for the U.S. economy, Dent, who has for decades followed the booms and busts of the global economy, remained skeptical. Baby boomers who led consumption will cut back their spending with retirement, regardless of any kind of stimulus packages. Falling consumption linked with the changing demographic trends will dampen the U.S. economy once again, Dent predicted. In response to rising concerns over an imminent exit plan by the U.S. Federal Reserve, he said it was not likely that the U.S. Fed would drop its quantitative easing policies soon, as it was not certain that the housing market, a key indicator of economic recovery, would remain as strong as it had been. Dent also predicted a hard landing for the Chinese economy, pointing to over-investments in every type of infrastructure, in particular the real estate sector and its shadow banking system. He said China may be the most likely trigger for the next global financial crisis. When it comes to the outlook for the Japanese economy, Dent, who predicted Japan's decade-long slump in the late 1980s, forecast that the government's expansionary economic policies, dubbed Abenomics, would have a temporary positive effect on its economy because its demographic trends do point up into 2020. But he warned that continued high levels of stimulus would be dangerous, especially if inflation did rise to Japan's targeted 2 percent. Japanese bond rates would rise, and then Japan would feel the weight of its massive debt. Based on his famous demographics method, Dent said Korea shows similar demographic trends with those of Japan, but 22 years behind. Korea's demographic trends plateau into 2018, then turn negative decades, he added. The high level of debt of Korean households, will challenge positive short-term demographic trends, Dent noted, saying the 136 percent debt-to-GDP ratio in Korea's household sector is higher than in most other advanced nations. To cope with remaining uncertainties, Dent advised Korean companies to get lean and mean quickly. He advised companies to cut fixed costs as much as possible and weed out weak product lines or sell marginal businesses before the next crash. Cash and cash flow are king in a deflationary downturn such as in the 1930s or 2008-2009, he added. Following are excerpts of an email interview with Harry Dent on the outlook for the global and Korean economy based on demographic trends and economic cycles. Harry Dent Outlook for global economy Q: U.S. Federal Reserve Chairman Ben Bernanke mentioned a possible exit plan from the Fed's monetary easing policy in June for the first time. When do you expect the U.S. Fed to move toward the exit policy? What does the Fed's exit mode mean for the U.S. and the global economy? A: The U.S. Fed will only exit if the economy stays strong and it is not clear yet whether housing will stay as strong as it has been as investors seem to be backing away from housing, and rising mortgage rates are likely to hurt sales to consumers. If the economy slows a bit then the Fed will not taper its $85 billion per month; it may even increase it. But an increase in stimulus would likely cause interest rates to keep rising and that would not be good for housing or stocks. Hence, I think that the Fed is getting boxed in here. If the economy grows too fast, it will have to taper its quantitative easing policies, and the demographic trends are such that the economy would slow and stocks would correct if the Fed does taper. If the economy slows, then it is a sign that the quantitative easing is not working, more like in Europe, and that could cause market weakness. Q: The risk of a hard landing of China's economy was not envisaged at the latest Group of 20 ministerial meeting. Do you agree with the G20's stance? What are some implications of slower growth of China for the global economy? A: I think China may be the most likely trigger for the next global financial crash that I see as very likely in 2014. China has been seriously overbuilding everything â€• factories, housing, offices, malls, roads, railways, etc. Now their shadow banking system is getting out of control, like the U.S. into 2008. There is a vicious cycle of falling commodity prices that hurt the export growth of emerging countries, and that in turn hurts China's exports to such countries. Then China slows, and that causes commodity prices to fall further and so on.

#### Financial sector

Wilbanks, 13 -- CBS News MoneyWatch

[Charles, "Lehman is gone but new financial crises may await," CBS News MoneyWatch, 9-14-13, www.cbsnews.com/8301-505123\_162-57602957/lehman-is-gone-but-new-financial-crises-may-await/, accessed 10-4-13, mss]

Lehman is gone but new financial crises may await

It's been five years since the collapse of Lehman Brothers. Has anything changed? Far from being jailed, bankers who presided over the frauds that brought down the U.S. economy in 2008 have kept their money and are living large. "Too big to fail" is now part of the national lexicon, describing banks that remain so big and leveraged that their collapse could imperil economies around the world. An overhaul of financial laws is in limbo as regulators tasked with writing the rules move at a glacial pace. And the apparent front-runner for the country's next central banker is a man who helped create and defend many of the policies blamed for creating the mess in the first place. With the major pieces of the previous crisis still in place, many experts worry that it's just a question of time before another crisis occurs. A bit of history is in order. In the run-up to the meltdown, the world's biggest banks, unencumbered by Depression-era legislation separating commercial banking from investment banking, began creating and selling bonds backed by thousands of mortgages. As investor demand for these derivatives, a security whose value derives from another asset, Wall Street banks urged mortgage lenders to issue more and more loans. Standards for evaluating whether borrowers qualified for a mortgage, such as income and employment, were jettisoned, resulting in what came to be known as "liar loans." Exempt from regulation, subprime lenders such as Ameriquest, First Alliance Mortgage and Countrywide turned their businesses into assembly lines of bad loans. Fraud was rife. As the banks packaged loans into derivatives that neither the firms' own CEOs nor investors fully understood, the idea of risk went out the window. As the crisis erupted the country's largest financial institutions, swollen with debt used to buy and sell worthless financial products, were at the heart of the scandal. While there were voices warning of disaster as the housing bubble inflated, the country's regulators and other institutions were sanguine. Credit ratings agencies such as Standard & Poor's and Moody's (MCO) -- paid by the banks to evaluate the securities -- gave them clean bills of health. As for the government, deregulation and lax supervision ruled the day. Instead, top officials across the agencies charged with policing the banks preached the merits of laissez-faire. It was inevitable that the securitized garbage would ignite. After Bear Stearns collapsed in 2008 and was sold to JP Morgan Chase (JPM) with government aid, political pressure on the Bush administration by Republicans who opposed bailouts helped prompt officials to refuse any such help to Lehman. But the experiment in selective free market consequences ended badly: Insurance giant AIG (AIG), which had guaranteed many of the mortgage-backed securities issued by Wall Street, was swamped with red ink, money market funds plunged in value and global panic set in. "Lehman was a systemically dangerous institution which was allowed to fail," said William Black, a former banking regulator and prosecutor who now teaches law and economics at the University of Missouri in Kansas City. "It prompted the largest run in history on money market mutual funds -- over $30 billion in two days. They absolutely lost their minds at Treasury and the Fed. Then when AIG went down, they had no clue what the risk was." "The regulators had created such a regulatory black hole that they had no clue how to even get information about what was going on," he added. "They were scared. Five years later? **We've made the problem worse** -- Bear Stearns, CountryWide, Washington Mutual have all been acquired by banks that were already systemically dangerous." For Black, whose investigations led to prison terms for such people such as Charles Keating during the savings and loan crisis in the 1980s, the size of the banks isn't the only problem. He argues that the structure encouraging fraudulent behavior in finance is still firmly in place. One active ingredient: massive executive compensation. The outsized pay on Wall Street not only spurs top executives to take dangerous risks, but also filters down to rank-and-file employees, discouraging whistle-blowing and encouraging dishonesty. "You can't go to thousands of Enron employees and say, 'I want you to engage in fraud.' But you can say that through compensation," he said. As such problems continue to fester on the Street, the federal watchdogs tasked with overseeing Big Finance remain mostly toothless. "When you look at who has been hired at the SEC recently, starting with Mary Jo White, every last one of them worked for a Wall Street defense firm," said Former U.S. Senator Ted Kaufman, author of defeated legislation to break up the big banks. Dodd-Frank, the massive law passed in 2010 and touted as a safeguard against future financial crises, is by many lights a deeply flawed bill that failed to address fundamental issues, such as the conflict of interest between ratings agencies, the size of banks or their fundamental structure. In any case, it remains largely dormant, with more than half the rules yet to be written by the SEC. Meanwhile, even Dodd-Frank's biggest proponents, including President Barack Obama, acknowledged that additional legislation would be required to protect the financial system. But for now the door to further reform is shut -- despite the broad consensus across the political spectrum that the biggest banks are over-leveraged and as dangerous as ever. "There's nothing moving," Kaufman said. "As long as Congress and the administration don't want to do anything, nothing is going to happen. There's an unholy alliance between Wall Street, Obama and Congress." Kaufman is gratified that the Federal Reserve under Ben Bernanke has sought to raise capital requirements for banks. That effectively makes them smaller since they must keep more money on hand to offset potential losses and makes it harder to borrow recklessly. But he and others believe another crisis is entirely possible, perhaps inevitable. "I was an engineer," said Kaufman, who began his career working at DuPont before becoming a top aide to then Sen. Joe Biden and later a senator representing Delaware himself. "If you build a rocket and it falls on its side and blows up, and then you build an identical rocket, it will fall on its side and blow up, too." Kaufman thinks the next problem could take years to surface -- or happen at any moment. If the cause isn't another real estate frenzy fueled by dishonest lending, he said the trigger could come from abroad, say, if a eurozone country defaults or because of an economic meltdown in China. And where are the people who were at the heart of the scandal now? Lawrence Summers, an acolyte of former Treasury Secretary Robert Rubin and one of the most strident advocates of financial deregulation, is now being touted as Mr. Obama's leading candidate to lead the Fed. "Rubin and Summers were the chief architects of the crisis," Black said. "The idea that you would bring back the leading architect of the crisis and promote him, precisely because he's a failure and will do the will of the banks, is the ultimate embracing of crony captialsim by the Obama administration." As for the others, the Center for Public Integrity has compiled a deeply reported series detailing their post-crisis lives, noting dryly that "none of them are hurting for money." Among the regulators, ex-SEC chief Christopher Cox, ridiculed for doing nothing in the run-up to the crisis, now advises and defends companies that run into regulatory trouble. Former Treasury Secretary Henry Paulson, who argued strenuously against government rules that would hobble the "competitiveness" of the nation's biggest banks, was already rich from his role as head of Goldman Sachs (GS). He has written a book and takes in even more money on the lecture circuit. Mr. Obama's recently departed Treasury chief, Timothy Geithner, who two years before the crisis claimed that banks regulated themselves, is working on a memoir and is a member of the Council on Foreign Relations. As for the bankers, Kaufman notes that none, in contrast to the stock market collapse of 1929, have jumped out of windows from shame. Jimmy Cayne, Bear Stearns' CEO at the time of the 2008 crisis, who famously played in a bridge tournament while his firm was going down in flames, is still playing bridge and living in a multi-million dollar condo in New York's storied Plaza Hotel. The Center for Public Integrity estimates he brought home about $375 million. Former Lehman CEO Dick Fuld repaired to his Greenwich, Conn., mansion, where he maintains contacts with some former colleagues and underlings. Among mortgage bankers, former CountryWide CEO Angelo Mozillo exited the business with well over $100 million. By contrast, CPI reports that senior executives with the 25 biggest subprime lenders during the bubble remain in the mortgage racket. "The fact is, we have demonstrated that you can get extremely wealthy with immunity from criminal laws and virtual immunity from civil laws," Black said. "We've proven that fraud pays. That makes the next fraud much more likely."

#### Recently released NSA decision thumps all links

Gallagher 9/17 (Ryan, slate magazine. How the Surveillance Court Ruled the NSA's Domestic Snooping Was Legal http://www.slate.com/blogs/future\_tense/2013/09/17/claire\_eagan\_fisc\_how\_surveillance\_court\_ruled\_the\_nsa\_s\_domestic\_snooping.html)

The secret court that oversees NSA surveillance has declassified documents that reveal for the first time the legal justification for the spy agency’s daily collection of virtually all Americans’ phone records. On Tuesday, a previously top-secret opinion and order signed off by Foreign Intelligence Surveillance Court Judge Claire Eagan was [published](http://www.uscourts.gov/uscourts/courts/fisc/br13-09-primary-order.pdf). The opinion, dated Aug. 29, shows how the court decided to deem the NSA’s mass collection of domestic phone records constitutional and in line with section 215 of the Patriot Act, which allows the government to secretly grab so-called “business records.” The NSA’s operation of a vast database storing metadata on millions of calls made by Americans daily was [first revealed](http://www.slate.com/blogs/future_tense/2013/06/06/nsa_verizon_phone_records_national_security_agency_order_collects_metadata.html) by the Guardian in June, based on documents leaked by former NSA contractor Edward Snowden. The release of the court opinion and order on the phone records program comes after a declassification review of the secret legal files was conducted, primarily due to the huge backlash prompted by Snowden’s leaks. The opinion shows that the court is relying on a Supreme Court case from 1979 to conclude that the bulk collection of phone records is not a violation of the Fourth Amendment, which protects against unreasonable searches and seizures. In [Smith v. Maryland](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=442&invol=735), at issue was the warrantless monitoring of a robbery suspect’s phone calls. The Supreme Court judges in Smith found that the monitoring was permissible because “a person has no legitimate expectation of privacy in information he voluntarily turns over to third parties” and that they doubted “people in general entertain any actual expectation of privacy in the numbers they dial.” Grounded in the same logic, the newly released FISC opinion states: In sum, because the application at issue here concerns only the production of call detail records or "telephone metadata" belonging to a telephone company, and not the contents of communications, Smith v. Maryland compels the conclusion that there is no Fourth Amendment impediment to the collection. Furthermore, for the reasons stated in [REDACTED] and discussed above, this Court finds that that the volume of records being acquired does not alter this conclusion. Aside from the bizarre redaction here, which appears to have censored a crucial detail for inexplicable reasons, the reliance on Smith v. Maryland is contentious. The 1979 case concerned the monitoring of a single individual, already a criminal suspect, for a period of only a few days. The NSA’s metadata program involves the daily mass collection of billions of phone records from millions of Americans not suspected of committing any crime. These records can be mined using sophisticated software that draws relationships between people, and they can be used to conduct retrospective surveillance of people dating back several years. This raises constitutional questions that were simply not a consideration in the Maryland case more than three decades ago. Notably, the opinion also indicates that no company that was ordered to turn over the bulk metadata has challenged its legality in the court, despite having the ability to do so. The publication of the legal documents will add fuel to the already simmering debate about the phone records program, which several lawmakers have blasted since it was revealed in June. According to the ACLU, there are at least 19 NSA-related bills are pending in Congress, with some of them aimed at reforming and effectively shutting down the phone records database in its current form. Last week, [separately released documents](http://www.slate.com/blogs/future_tense/2013/09/11/dni_surveillance_documents_show_how_badly_nsa_managed_phone_database.html) about the phone records program showed how the NSA had unlawfully violated court rules governing the use of the database, while providing the court false information about how it was being operated for a period of almost three years.

The court will rule on all of the things

Pieklo 9/17 ([Jessica Mason Pieklo](http://rhrealitycheck.org/author/jessica-pieklo/), Senior Legal Analyst, RH Reality Check. “6 Supreme Court Cases to Watch This Term” http://rhrealitycheck.org/article/2013/09/17/six-supreme-court-cases-to-watch-this-term/)

The United States Supreme Court term begins in October, and while the entire docket has not yet been set, already it’s shaping up to be a historic term, with decisions on abortion protests, legislative prayer, and affirmative action, just to name a few. Here are the key cases we’re keeping an eye on as the term starts up. 1. Cline v. Oklahoma Coalition for Reproductive Justice The Supreme Court looks poised to re-enter the abortion debate, and it could do so as early as this year if it takes up Cline, the first of the recent wave of state-level restrictions to reach the high court. Cline involves a [challenge to an Oklahoma statute](http://rhrealitycheck.org/article/2013/06/28/scotus-poised-to-enter-medical-abortion-ban-debate/) that requires abortion-inducing drugs, including [RU-486](http://rhrealitycheck.org/tag/ru-486/), to be administered strictly according to the specific Food and Drug Administration labeling despite the fact that new research and best practices make that labeling out of date. Such “off-label” use of drugs is both legal and widespread in the United States as science, standards of care, and clinical practice often supercede the original FDA label on a given drug. In the case of cancer drugs, for example, the American Cancer Society [notes](http://www.cancer.org/treatment/treatmentsandsideeffects/treatmenttypes/chemotherapy/off-label-drug-use) that “New uses for [many] drugs may have been found and there’s often medical evidence from research studies to support the new use [even though] the makers of the drugs have not put them through the formal, lengthy, and often costly process required by the FDA to officially approve the drug for new uses.” Off-label use of RU-486 is based on the most recent scientific findings that suggest lower dosages of the drug and higher rates of effectiveness when administered in conjunction with a follow-up drug (Misoprostol). According to trial court findings, the alternative protocols are safer for women and more effective. But, according to the state and defenders of the law, there is great uncertainty about these off-label uses and their safety. When the issue reached the supreme court of Oklahoma, the court held in a very brief opinion that the Oklahoma statute was facially invalid under [Planned Parenthood v. Casey](http://www.oyez.org/cases/1990-1999/1991/1991_91_744). In Casey, a plurality of justices held that a state may legitimately regulate abortions from the moment of gestation as long as that regulation does not impose an undue burden on a woman’s right to choose an abortion. Later, in [Gonzales v. Carhart](http://www.oyez.org/cases/2000-2009/2006/2006_05_380), a majority of the Supreme Court, led by Justice Anthony Kennedy, interpreted Casey to allow state restrictions on specific abortion procedures when the government “reasonably concludes” that there is medical uncertainty about the safety of the procedure and an alternative procedure is available. Cline, then, could present an important test on the limits of Casey and whether, under Gonzales, the Court will permit states to ban medical abortions. But it’s not entirely clear the Court will actually take up Cline. At the lower court proceedings, the challengers argued that the Oklahoma statute bars the use of RU-486’s follow-up drug (Misoprostol) as well as the use of Methotrexate to terminate an ectopic pregnancy. If so, the statute then bars both any drug-induced abortion and eliminates the preferred method for ending an ectopic pregnancy. Attorneys defending the restriction deny the law has those effects, and do not argue that if it did such restrictions would be constitutional. With this open question of state law—whether the statute prohibits the preferred treatment for ectopic pregnancies—the Supreme Court told the Oklahoma Supreme Court those disputed questions of state law. So a lot depends on how the Oklahoma Supreme Court proceeds. Should the Oklahoma Supreme Court hold that the Oklahoma statute is unconstitutional because it prohibits the use of Misoprostol and Methotrexate, this case could be over without the Supreme Court weighing in. But if the Oklahoma Supreme Court invalidates the law insofar as it prohibits alternative methods for administering RU-486, the Supreme Court will almost certainly take a look. 2. Town of Greece v. Galloway The Roberts Court is set to weigh in on the issue of when, and how, [government prayer](http://rhrealitycheck.org/article/2013/05/24/reason-for-concern-as-roberts-court-agrees-to-hear-government-prayer-case/) practices can exist without violating the Establishment Clause’s ban on the intermingling of church and state. In [Marsh v. Chambers](http://www.oyez.org/cases/1980-1989/1982/1982_82_23), the Supreme Court upheld Nebraska’s practice of opening each legislative session with a prayer, based largely on an unbroken tradition of that practice dating back to the framing of the Constitution. In Marsh, the Court adopted two apparent limits to a legislative prayer practice: The government may not select prayer-givers based on a discriminatory motive, and prayer opportunities may not be exploited to proselytize in favor of one religion or disparage another. Prior to 1999, the town of Greece, New York, opened every legislative session with a moment of silence. Then, in 1999 and at the request of the town’s supervisor, the town switched to opening its legislative sessions with a prayer. Nearly all of those prayers were delivered by Christian clergy members and, unlike other city councils, there was no requirement that the prayers be inclusive or non-denominational. City officials selected speakers off a list of local religious leaders provided by the Greece Chamber of Commerce. From 1999 through 2007, Christians delivered every single invocation prayer, in part because the list provided by the area Chamber of Commerce included only Christian religious officials despite the fact that other denominations exist in the community. The practice was challenged by a group of citizens who argued it violated the Establishment Clause. The U.S. Court of Appeals for the Second Circuit acknowledged that the Town of Greece had not violated either of Marsh’s limits in its practices, but still invalidated the town’s practices. Applying the “reasonable observer” standard drawn from [County of Allegheny v. American Civil Liberties Union, Greater Pittsburgh Chapter](http://www.oyez.org/cases/1980-1989/1988/1988_87_2050), the court concluded that a reasonable observer would view the town as endorsing Christianity over other religions, because its process of composing a list of prayer-givers from clergy within its geographic boundaries and volunteers virtually guaranteed the person delivering the prayer would be a Christian, because most of the prayers contained uniquely Christian references, and because prayer-givers invited participation and town officials participated in the prayers. The reasonable observer test appears headed for a fall. In County of Alleghany, Justice Kennedy in his dissent criticized the reasonable observer test as insensitive to traditions and unworkable for governments and courts to apply. He argued that religious accommodations are consistent with the Establishment Clause as long as they do not coerce attendance at, or participation in, a religious observance, or directly fund religion. Justice Kennedy’s perspective is an important one. To begin with, the makeup of the Court is different now than the last time it considered these issues. Justice Sandra Day O’Connor has been replaced by Justice Samuel Alito, for example, and the Court has veered hard to the right. It is conceivable then that the Court could view this case as an opportunity to abandon, or at least reconsider and revise, the reasonable observer test. If so, the decision could affect not only the constitutionality of legislative prayers, but also all religious accommodations, including the public display of religious symbols. It could also offer a glimpse into the Court’s thinking on another religious accommodation likely to come before it this term: the challenges under the [Religious Freedom Restoration Act](http://www.law.cornell.edu/uscode/text/42/chapter-21B) to the [contraception benefit](http://rhrealitycheck.org/tag/birth-control-benefit/) in the Affordable Care Act. 3. McCullen v. Coakley Regardless of whether or not the Supreme Court ultimately takes up Cline v. Oklahoma Coalition for Reproductive Justice, the Court will take up the issue of abortion clinic protests in [McCullen v. Coakley](http://www.scotusblog.com/case-files/cases/mccullen-v-coakley/), a challenge that looks at the constitutionality of Massachusetts’ clinic buffer zone law. The last time the Supreme Court looked at the issue of clinic buffer zones was in [Hill v. Colorado](http://www.oyez.org/cases/1990-1999/1999/1999_98_1856). In Hill, the Court held that a law limiting protest and “sidewalk counseling” within eight feet of a person entering a health-care facility in order to protect persons entering the facility from unwanted speech did not violate the First Amendment. Critical to the Court’s decision in Hill was its conclusion that the prohibition was content neutral because it arguably prevented both pro-choice and anti-choice speakers from entering the eight-foot zone. The Massachusetts statute at issue in McCullen takes a different approach to get to the same purpose as the law upheld in Hill. The Massachusetts law prohibits anyone from entering a public sidewalk within 35 feet of a reproductive health-care facility, but exempts from that buffer employees of the facility acting within the scope of employment. The Massachusetts statute raises questions not resolved in Hill, including whether the employee exemption renders the Massachusetts statute content-based, meaning that it places a limitation on free speech depending on the subject matter, since arguably employees can use the exemption to deliver pro-choice messages. The Massachusetts statute differs in two other potentially significant differences also. First it applies only to reproductive health-care facilities, making its abortion-specific purpose more apparent, and has a larger buffer zone, making conversational speech more difficult. Ultimately, this case may end up being more about whether the Supreme Court sympathizes with anti-abortion protestors rather than the differences between the Massachusetts statute and Hill. In Hill, the justices in the majority were especially sympathetic to the plight of patients who want to undergo a private medical procedure in peace, without being subjected to the emotional turmoil of confrontational protests. The dissenters in Hill now find themselves in the conservative majority under the Roberts Court, a fact that could drive the outcome here. In Hill, conservative justices like Antonin Scalia ignored the plight of patients and instead accused the majority of creating a special brand of reduced First Amendment protection for abortion protesters that would be viewed as intolerable if applied to any other speaker. And that perspective shift—from concerns over patients’ rights to concerns over protesters’ rights—could make all the difference in this case. 4. McCutcheon v. Federal Election Commission If you thought Citizens United was bad, just wait until you hear about [McCutcheon v. Federal Election Commission](http://www.scotusblog.com/case-files/cases/mccutcheon-v-federal-election-commission/) (FEC). In [Citizens United v. FEC](http://www.oyez.org/cases/2000-2009/2008/2008_08_205), the Court held that restrictions on independent campaign expenditures that prohibited corporations from direct election spending violate the First Amendment. As bad as that decision was, it left intact the underlying holding in [Buckley v. Valeo](http://www.oyez.org/cases/1970-1979/1975/1975_75_436) that Congress may limit campaign contributions on the reasoning that limits on campaign contributions are thought to impinge less on First Amendment freedoms and have a stronger nexus to preventing corruption. At issue in McCutcheon is this underlying holding in Buckley when the Court considers the constitutionality of federal aggregate contribution limits—that is, the total amount that can be contributed to all candidates, party committees, or political action committees (PACs). Those are in contrast to base limits on candidate contributions that set limits on individual donations. In Buckley, the Court summarily upheld aggregate contribution limits as a means of preventing circumvention of the base limits on candidate contributions. The rationale was that, without aggregate limits, persons could circumvent the base limits on candidate contributions through massive un-earmarked contributions to political committees likely to contribute to a person’s favored candidate. The Roberts Court appears eager to take up aggregate limits because they limit not only the amount a person can contribute to a candidate, but the number of persons to whom a person can make a full base-level contribution. These kinds of restrictions appear all but certain to fall in a post-Citizens United world. At the time Buckley was decided, there were no base limits on party committees or PACs. Now there are. If the Supreme Court feels those new base limits adequately address the risk of circumvention that justified Buckley’s upholding aggregate contribution limits, then by Supreme Court logic there’s no reason to keep the aggregate limits in place. The Obama administration is defending the aggregate limits, arguing it is just as easy now to circumvent the base limits as when Buckley was decided, which is why the aggregate limits are necessary. Given the slow unwind of campaign finance law by the Roberts Court, it seems unlikely they will be persuaded by the Obama administration’s reasoning. 5. Schuette v. Coalition to Defend Affirmative Action If the Roberts Court appears set on dismantling individual contribution limits, it also appears set to strike another blow to affirmative action plans. Last summer, in [Fisher v. University of Texas at Austin](http://www.law.cornell.edu/supct/cert/11-345), the Court held that universities have limited authority to consider race in admissions to further diversity. At issue in [Schuette](http://www.scotusblog.com/case-files/cases/schuette-v-coalition-to-defend-affirmative-action/) is whether or not Michigan violated the Equal Protection Clause by amending its constitution to prohibit race- and sex-based discrimination or preferential treatment in public university admissions decisions. In 2006, Michigan voters approved the Michigan Civil Rights Initiative (MCRI), a measure that amended the state constitution to prohibit all use of race in public university admissions, as well as in public contracting and employment. A coalition of African-American student groups, faculty members, and public-sector labor unions immediately challenged the MCRI as a violation of the Fourteenth Amendment. In answering that question, the Court will have to tackle the restricting doctrine. Under the restricting doctrine, a state may not remove authority to decide a racial issue from one political entity and lodge it in another when doing so creates a more burdensome political hurdle. The Court has applied that doctrine only twice, first in [Hunter v. Erickson](http://holmes.oyez.org/cases/1960-1969/1968/1968_63), to invalidate a reallocation of authority over the decision to prohibit racial discrimination in housing, and then in [Washington v. Seattle School District No. 1](http://www.oyez.org/cases/1980-1989/1981/1981_81_9), to invalidate a reallocation of authority over the decision whether to bus students to achieve racial integration in the schools. The question before the Roberts Court is whether the political restructuring doctrine invalidates the MCRI. The Sixth Circuit Court of Appeals held that it did, because affirmative action is a racial issue of particular concern to racial minorities, and it is more difficult for minorities to obtain favorable action through the constitutional amendment process. In defending the MCRI, Michigan argues the political restructuring doctrine applies to reallocations of authority over measures to ensure equal opportunity, not those that give racial preference. It’s difficult to see the distinction, especially given the connection between graduating college and economic opportunity, but it is a distinction Michigan stands by. Michigan also argues that the political restructuring doctrine should not apply to admission decisions made by unelected university officials because they are not part of any “political process” as envisioned in earlier decisions. Should the Court accept Michigan’s argument, voters in any state dissatisfied with the affirmative action policies at their state universities could follow Michigan’s lead and vote to eliminate them through constitutional amendment. On the other hand, a decision finding the MCRI did in fact violate equal protection guarantees of the 14th Amendment would protect current policies from falling victim to voter dissatisfaction like in Michigan. 6. Township of Mount Holly v. Mount Holly Gardens Citizens in Action The Supreme Court is also poised to gut federal housing discrimination protections when it considers [whether to limit the federal housing discrimination law](http://www.scotusblog.com/case-files/cases/mount-holly-v-mt-holly-gardens-citizens-in-action-inc/) to cases of actual and proven bias against racial minorities. Mount Holly, New Jersey, argues it cannot be held liable for housing discrimination for redeveloping a depressed neighborhood and reducing the number of homes that are available to African Americans and Latinos. Specifically, the Roberts Court will examine whether the Fair Housing Act forbids actions by cities or mortgage lenders that have a “discriminatory effect” on racial minorities. According to census data, Mount Holly has a white majority. The town council decided that one neighborhood of about 330 homes was “in need of redevelopment.” Known as Mount Holly Gardens, this neighborhood was home to most of the Black and Latino residents in the town. The town council then voted to buy all the homes in the Gardens area for prices ranging from $32,000 to $49,000. They were to be replaced with new homes ranging from $200,000 to $250,000. In 2008, a community group representing the Gardens residents sued the city, arguing that its redevelopment plan was discriminatory and illegal because it would have a disparate impact on low-income African Americans and Latinos. City officials counter that they were not trying to displace minorities—rather, they were trying to improve a blighted part of town, not engage in illegal discrimination. Furthermore, they claim, the [Fair Housing Act](http://www.justice.gov/crt/about/hce/title8.php) does not cover these kinds of discrimination claims. Given the Roberts Court’s willingness to severely restrict the scope of other key pieces of civil rights legislation, like Title VII and the Voting Rights Act, there’s plenty of reason to believe the Fair Housing Act is the next to get gutted. In addition to these high-profile challenges, the Supreme Court will also look at whether individual government workers can be held liable for [age discrimination claims](http://www.scotusblog.com/case-files/cases/madigan-v-levin/), whether or not federal labor laws allow employees to [change clothes at work](http://www.scotusblog.com/case-files/cases/sandifer-v-united-states-steel-corporation/), and the extent of President Obama’s [recess appointment powers](http://www.scotusblog.com/case-files/cases/national-labor-relations-board-v-noel-canning/). In many ways, the Roberts Court is picking up right where it left off last term—with an eye toward narrowing as much as possible the reach and effect of the greatest achievements of the civil rights movement.

#### Hedges appeal coming out- the court will rule on INDEFINITE DETENTION

RT 9/3 (Supreme Court to rule on fate of indefinite detention for Americans under NDAA http://rt.com/usa/ndaa-scotus-hedges-suit-359/)

The United States Supreme Court is being asked to hear a federal lawsuit challenging the military’s legal ability to indefinitely detain persons under the National Defense Authorization Act of 2012, or NDAA. According to Pulitzer Prize-winning journalist Chris Hedges — a co-plaintiff in the case — attorneys will file paperwork in the coming days requesting that the country’s high court weigh in on Hedges v. Obama and determine the constitutionality of a controversial provision that has continuously generated criticism directed towards the White House since signed into law by President Barack Obama almost [two years ago](http://rt.com/trends/national-defense-authorization-act-indefinite-detention/) and defended adamantly by his administration in federal court in the years since.