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### 1

#### Using national security to justify restraints on the executive is self-defeating. Security discourse consolidates authoritarian politics.

RANA 11

[Aziz Rana received his A.B. summa cum laude from Harvard College and his J.D. from Yale Law School. He also earned a Ph.D. in political science at Harvard, where his dissertation was awarded the university's Charles Sumner Prize. He was an Oscar M. Ruebhausen Fellow in Law at Yale; “Who Decides on Security?”; 8/11/11; Cornell Law Library; <http://scholarship.law.cornell.edu/clsops_papers/87/> pg 1-7]

Today politicians and legal scholars routinely invoke fears that the balance between liberty and security has swung drastically in the direction of government’s coercive powers. In the post-September 11 era, such worries are so commonplace that in the words of one commentator, “it has become part of the drinking water of this country that there has been a trade-off of liberty for security.”1 According to civil libertarians, centralizing executive power and removing the legal constraints that inhibit state violence (all in the name of heightened security) mean the steady erosion of both popular deliberation and the rule of law. For Jeremy Waldron, current practices, from coercive interrogation to terrorism surveillance and diminished detainee rights, provide government the ability not only to intimidate external enemies but also internal dissidents and legitimate political opponents. As he writes, “We have to worry that the very means given to the government to combat our enemies will be used by the government against its enemies.”2 Especially disconcerting for many commentators, executive judgments—due to fears of infiltration and security leaks—are often cloaked in secrecy. This lack of transparency undermines a core value of democratic decisionmaking: popular scrutiny of government action. As U.S. Circuit Judge Damon Keith famously declared in a case involving secret deportations by the executive branch, “Democracies die behind closed doors. . . . When government begins closing doors, it selectively controls information rightfully belonging to the people. Selective information is misinformation.”3 In the view of no less an establishment figure than Neal Katyal, now the Principal Deputy Solicitor General, such security measures transform the current presidency into “the most dangerous branch,” one that “subsumes much of the tripartite structure of government.”4 Widespread concerns with the government’s security infrastructure are by no means a new phenomenon. In fact, such voices are part of a sixty-year history of reform aimed at limiting state (particularly presidential) discretion and preventing likely abuses. What is remarkable about these reform efforts is that, every generation, critics articulate the same basic anxieties and present virtually identical procedural solutions. These procedural solutions focus on enhancing the institutional strength of both Congress and the courts to rein in the unitary executive. They either promote new statutory schemes that codify legislative responsibilities or call for greater court activism. As early as the 1940s, Clinton Rossiter argued that only a clearly established legal framework in which Congress enjoyed the power to declare and terminate states of emergency would prevent executive tyranny and rights violations in times of crisis.5 After the Iran-Contra scandal, Harold Koh, now State Department Legal Adviser, once more raised this approach, calling for passage of a National Security Charter that explicitly enumerated the powers of both the executive and the legislature, promoting greater balance between the branches and explicit constraints on government action.6 More recently, Bruce Ackerman has defended the need for an “emergency constitution” premised on congressional oversight and procedurally specified practices.7 As for increased judicial vigilance, Arthur Schlesinger argued nearly forty years ago, in his seminal book The Imperial Presidency (1973), that the courts “had to reclaim their own dignity and meet their own responsibilities” by abandoning deference and by offering a meaningful check to the political branches.8 Today, Lawrence Tribe and Patrick Gudridge once more imagine that, by providing a powerful voice of dissent, the courts can play a critical role in balancing the branches. They write that adjudication can “generate[]—even if largely (or, at times, only) in eloquent and cogently reasoned dissent—an apt language for potent criticism.”9 The hope—returned to by constitutional scholars for decades—has been that by creating clear legal guidelines for security matters and by increasing the role of the legislative and judicial branches, government abuse can be stemmed. Yet despite this reformist belief, presidential and military prerogatives continue to expand even when the courts or Congress intervene. Indeed, the ultimate result has primarily been to entrench further the system of discretion and centralization. In the case of congressional legislation (from the 200 standby statutes on the books to the postSeptember 11 and Iraq War Authorizations for the Use of Military Force to the Detainee Treatment Act and the Military Commissions Acts), this has often entailed Congress self-consciously playing the role of junior partner—buttressing executive practices by providing its own constitutional imprimatur to them. Thus, rather than rolling back security practices, greater congressional involvement has tended to further strengthen and internalize emergency norms within the ordinary operation of politics.10 As just one example, the USA PATRIOT Act, while no doubt controversial, has been renewed by Congress a remarkable ten consecutive times without any meaningful curtailments.11 Such realities underscore the dominant drift of security arrangements, a drift unhindered by scholarly suggestions and reform initiatives. Indeed, if anything, today’s scholarship finds itself mired in an argumentative loop, re-presenting inadequate remedies and seemingly incapable of recognizing past failures. What explains both the persistent expansion of the federal government’s security framework as well as the inability of civil libertarian solutions to curb this expansion? In this article I argue that the current reform debate ignores the broader ideological context that shapes how the balance between liberty and security is struck. In particular, the very meaning of security has not remained static but rather has changed dramatically since World War II and the beginning of the Cold War. This shift has principally concerned the basic question of who decides on issues of war and emergency. And as the following pages explore, at the center of this shift has been a transformation in legal and political judgments about the capacity of citizens to make informed and knowledgeable decisions in security domains. Yet, while underlying assumptions about popular knowledge—its strengths and limitations—have played a key role in shaping security practices in each era of American constitutional history, this role has not been explored in any sustained way in the scholarly literature. As an initial effort to delineate the relationship between knowledge and security, I will argue that throughout most of the American experience, the dominant ideological perspective saw security as grounded in protecting citizens from threats to their property and physical well-being (especially those threats posed by external warfare and domestic insurrection). Drawing from a philosophical tradition extending back to John Locke, politicians and thinkers—ranging from Alexander Hamilton and James Madison at the founding to Abraham Lincoln and Roger Taney—maintained that most citizens understood the forms of danger that imperiled their physical safety. The average individual knew that securing collective life was in his or her own interest, and also knew the institutional arrangements and practices that would fulfill this paramount interest. A widespread knowledge of security needs was presumed to be embedded in social experience, indicating that citizens had the skill to take part in democratic discussion regarding how best to protect property or to respond to forms of external violence. Thus the question of who decides was answered decisively in favor of the general public and those institutions—especially majoritarian legislatures and juries—most closely bound to the public’s wishes. What marks the present moment as distinct is an increasing repudiation of these assumptions about shared and general social knowledge. Today the dominant approach to security presumes that conditions of modern complexity (marked by heightened bureaucracy, institutional specialization, global interdependence, and technological development) mean that while protection from external danger remains a paramount interest of ordinary citizens, these citizens rarely possess the capacity to pursue such objectives adequately. Rather than viewing security as a matter open to popular understanding and collective assessment, in ways both small and large the prevailing concept sees threat as sociologically complex and as requiring elite modes of expertise. Insulated decision-makers in the executive branch, armed with the specialized skills of the professional military, are assumed to be best equipped to make sense of complicated and often conflicting information about safety and self-defense.12 The result is that the other branches—let alone the public writ large—face a profound legitimacy deficit whenever they call for transparency or seek to challenge presidential discretion. Not surprisingly, the tendency of procedural reform efforts has been to place greater decision-making power in the other branches and then to watch those branches delegate such power back to the very same executive bodies. How did the governing, expertise-oriented concept of security gain such theoretical and institutional dominance and what alternative formulations exist to challenge its ideological supremacy? In offering an answer to these questions, I begin in Part II by examining the principal philosophical alternatives that existed prior to the emergence of today’s approach, one of which grounded early American thought on security issues. I refer to these alternatives in the Anglo-American tradition as broadly ‘Hobbesian’ and ‘Lockean’ and develop them through a close reading of the two thinkers’ accounts of security. For all their internal differences, what is noteworthy for my purposes is that each approach rejected the idea—pervasive at present—that there exists a basic divide between elite understanding and mass uncertainty. In other words, John Locke and even Thomas Hobbes (famous as the philosopher of absolutism) presented accounts of security and self-defense that I argue were normatively more democratic than the current framework. Part III will then explore how the Lockean perspective in particular took constitutional root in early American life, focusing especially on the views of the founders and on the intellectual and legal climate in the mid nineteenth century. In Part IV, I will continue by detailing the steady emergence beginning during the New Deal of our prevailing idea of security, with its emphasis on professional expertise and insulated decision-making. This discussion highlights the work of Pendleton Herring, a political scientist and policymaker in the 1930s and 1940s who co-wrote the National Security Act of 1947 and played a critical role in tying notions of elite specialization to a new language of ‘national security.’ Part V will then show how Herring’s ‘national security’ vision increasingly became internalized by judicial actors during and after World War II. I argue that the emblematic figure in this development was Supreme Court Justice Felix Frankfurter, who not only defended security expertise but actually sought to redefine the very meaning of democracy in terms of such expertise. For Frankfurter, the ideal of an ‘open society’ was one premised on meritocracy, or the belief that decisions should be made by those whose natural talents make them most capable of reaching the technically correct outcome. According to Frankfurter, the rise of security expertise meant the welcome spread of meritocratic commitments to a critical and complex arena of policymaking. In this discussion, I focus especially on a series of Frankfurter opinions, including in Ex parte Quirin (1942), Hirabayashi v. United States (1943), Korematsu v. United States (1944), and Youngstown Steel & Tube Co. v. Sawyer (1952), and connect these opinions to contemporary cases such as Holder v. Humanitarian Law Project (2010). Finally, by way of conclusion, I note how today’s security concept—normatively sustained by Frankfurter’s judgments about merit and elite authority—shapes current discussions over threat and foreign policy in ways that often inhibit rather than promote actual security. I then end with some reflections on what would be required to alter governing arrangements. As a final introductory note, a clarification of what I mean by the term ‘security’ is in order. Despite its continuous invocation in public life, the concept remains slippery and surprisingly under-theorized. As Jeremy Waldron writes, “Although we know that ‘security’ is a vague and ambiguous concept, and though we should suspect that its vagueness is a source of danger when talk of trade-offs is in the air, still there has been little or no attempt in the literature of legal and political theory to bring any sort of clarity to the concept.”13 As a general matter, security refers to protection from those threats that imperil survival—both of the individual and of a given society’s collective institutions or way of life. At its broadest, these threats are multidimensional and can result from phenomena as wide-ranging as environmental disasters or food shortages. Thus, political actors with divergent ideological commitments defend the often competing goals of social security, economic security, financial security, collective security, human security, food security, environmental security, and—the granddaddy of them all—national security. But for my purposes, when invoked without any modifier the word ‘security’ refers to more specific questions of common defense and physical safety. These questions, emphasizing issues of war and peace, are largely coterminous with what Franklin Delano Roosevelt famously referred to in his “Four Freedoms” State of the Union Adresss as “the freedom from fear”: namely ensuring that citizens are protected from external and internal acts of “physical aggression.”14 This definitional choice is meant to serve two connected theoretical objectives. First, as a conceptual matter it is important to keep the term security analytically separate from ‘national security’—a phrase ubiquitous in current legal and political debate. While on the face of it, both terms might appear synonymous, my claim in the following pages is that ‘national security’ is in fact a relatively novel concept, which emerged in the mid twentieth century as a particular vision of how to address issues of common defense and personal safety. Thus national security embodies only one of a number of competing theoretical and historical approaches to matters of external violence and warfare. Second, and relatedly, it has become a truism in political philosophy that the concept of liberty is plural and multifaceted.15 In other words, different ideals of liberty presuppose distinct visions of political life and possibility. Yet far less attention has been paid to the fact that security is similarly a plural concept, embodying divergent assumptions about social ordering. In fact, competing notions of security—by offering different answers to the question of “who decides?”—can be more or less compatible with democratic ideals. If anything, the problem of the contemporary moment is the dominance of a security concept that systematically challenges those sociological and normative assumptions required to sustain popular involvement in matters of threat and safety.

#### The logic of security makes violence inevitable, and is the root cause of destructive features of contemporary modernity

Burke 7 (Anthony, Senior Lecturer in Politics and International Relations at UNSW, Sydney, “Ontologies of War: Violence, Existence and Reason”, Theory and Event, 10.2, Muse)

My argument here, whilst normatively sympathetic to Kant's moral demand for the eventual abolition of war, militates against excessive optimism.86 Even as I am arguing that **war is not an enduring historical or anthropological feature, or a neutral and rational instrument of policy** -- that it is **rather the** product of hegemonic forms of knowledge **about political action and community** -- my analysis does suggest some sobering conclusions about its power as an idea and formation. **Neither the progressive flow of history nor the pacific tendencies of an international society of republican states will save us. The violent ontologies** I have described here in fact **dominate the conceptual and policy frameworks of modern republican states** and have come, against everything Kant hoped for, to stand in for progress, modernity and reason. Indeed what Heidegger argues, I think with some credibility, is that **the enframing world view has come to stand in for being itself. Enframing**, argues Heidegger, **'does not simply endanger man in his relationship to himself and to everything that is...it drives out every other possibility of revealing.**..the rule of Enframing threatens man with the possibility that it could be denied to him to enter into a more original revealing and hence to experience the call of a more primal truth.'87 What I take from Heidegger's argument -- one that I have sought to extend by analysing the militaristic power of modern ontologies of political existence and security -- is a view that **the challenge is posed not merely by a few varieties of weapon, government, technology or policy, but by an overarching system of thinking and understanding that lays claim to our entire space of truth and existence. Many of the** most destructive features of contemporary modernity **-- militarism, repression, coercive diplomacy, covert intervention, geopolitics, economic exploitation and ecological destruction -- derive not merely from particular choices by policymakers based on their particular interests, but from calculative, 'empirical' discourses of** scientific and **political truth rooted in powerful enlightenment images of being. Confined within such an epistemological and cultural universe,** policymakers' choices become necessities**, their actions become inevitabilities, and humans suffer and die**. Viewed in this light, **'rationality' is the name we give the chain of reasoning which builds one structure of truth on another until a course of action, however violent or dangerous, becomes preordained through that reasoning's very operation and existence. It creates both discursive constraints -- available choices may simply not be seen as credible or legitimate -- and material constraints that derive from the mutually reinforcing cascade of discourses and events which then preordain militarism and violence as necessary policy responses**, however ineffective, dysfunctional or chaotic. The force of my own and Heidegger's analysis does, admittedly, tend towards a deterministic fatalism. On my part this is quite deliberate; it is important to allow this possible conclusion to weigh on us. **Large sections of modern societies -- especially parts of the media, political leaderships and national security institutions -- are utterly trapped within the Clausewitzian paradigm, within the instrumental utilitarianism of 'enframing'** and the stark ontology of the friend and enemy. They are certainly tremendously aggressive and energetic in continually stating and reinstating its force. But is there a way out? Is there no possibility of agency and choice? Is this not the key normative problem I raised at the outset, of how **the modern ontologies of war efface agency, causality and responsibility from decision making**; the responsibility that comes with having choices and making decisions, with exercising power? (In this I am much closer to Connolly than Foucault, in Connolly's insistence that, **even in the face of the anonymous power of discourse to produce and limit subjects, selves remain capable of agency and thus incur responsibilities.**88) There seems no point in following Heidegger in seeking a more 'primal truth' of being -- that is to reinstate ontology and obscure its worldly manifestations and consequences from critique. However we can, while refusing Heidegger's unworldly89 nostalgia, appreciate that he was searching for a way out of the modern system of calculation; that he was searching for a 'questioning', 'free relationship' to technology that would not be immediately recaptured by the strategic, calculating vision of enframing. Yet his path out is somewhat chimerical -- his faith in 'art' and the older Greek attitudes of 'responsibility and indebtedness' offer us valuable clues to the kind of sensibility needed, but little more. **When we consider the problem of policy, the force of this analysis suggests that choice and agency can be all too often limited; they can remain confined** (sometimes quite wilfully) **within the overarching strategic and security paradigms.** Or, more hopefully, policy choices could aim to bring into being **a more enduringly inclusive, cosmopolitan and peaceful logic of the political.** But this **cannot be done without seizing alternatives** from outside the space of enframing and utilitarian strategic thought, by being aware of its presence and weight and activating a very different concept of existence, security and action.90 This would seem to hinge upon 'questioning' as such -- on the questions we put to the real and our efforts to create and act into it. Do security and strategic policies seek to exploit and direct humans as material, as energy, or do they seek to protect and enlarge human dignity and autonomy? Do they seek to impose by force an unjust status quo (as in Palestine), or to remove one injustice only to replace it with others (the U.S. in Iraq or Afghanistan), or do so at an unacceptable human, economic, and environmental price? **Do we see our actions within an instrumental, amoral framework (of 'interests') and a linear chain of causes and effects (the idea of force), or do we see them as folding into a complex interplay of languages, norms, events and consequences which are less predictable and controllable**?91 And most fundamentally: Are we seeking to coerce or persuade? Are less violent and more sustainable choices available? Will our actions perpetuate or help to end the global rule of insecurity and violence? Will our thought?

#### The alternative is to reject the security discourse of the 1ac.

#### We need to question the assumptions and language that frame policies. The alternative is a prerequisite to effective policies in the future

Bruce 96

(Robert, Associate Professor in Social Science – Curtin University and Graeme Cheeseman, Senior Lecturer – University of New South Wales, Discourses of Danger and Dread Frontiers, p. 5-9)

This goal is pursued in ways which are still unconventional in the intellectual milieu of international relations in Australia, even though they are gaining influence worldwide as traditional modes of theory and practice are rendered inadequate by global trends that defy comprehension, let alone policy. The inability to give meaning to global changes reflects partly the enclosed, elitist world of professional security analysts and bureaucratic experts, where entry is gained by learning and accepting to speak a particular, exclusionary language. The contributors to this book are familiar with the discourse, but accord no privileged place to its ‘knowledge form as reality’ in debates on defence and security. Indeed, they believe that debate will be furthered only through a long overdue critical re-evaluation of elite perspectives. Pluralistic, democratically-oriented perspectives on Australia’s identity are both required and essential if Australia’s thinking on defence and security is to be invigorated. This is not a conventional policy book; nor should it be, in the sense of offering policy-makers and their academic counterparts sets of neat alternative solutions, in familiar language and format, to problems they pose. This expectation is in itself a considerable part of the problem to be analysed. It is, however, a book about policy, one that questions how problems are framed by policy-makers. It challenges the proposition that irreducible bodies of real knowledge on defence and security exist independently of their ‘context in the world’, and it demonstrates how security policy is articulated authoritatively by the elite keepers of that knowledge, experts trained to recognize enduring, universal wisdom. All others, from this perspective, must accept such wisdom or remain outside the expert domain, tainted by their inability to comply with the ‘rightness’ of the official line. But it is precisely the official line, or at least its image of the world, that needs to be problematised. If the critic responds directly to the demand for policy alternatives, without addressing this image, he or she is tacitly endorsing it. Before engaging in the policy debate the critics need to reframe the basic terms of reference. This book, then, reflects and underlines the importance of Antonio Gramsci and Edward Said’s ‘critical intellectuals’.15 The demand, tacit or otherwise, that the policy-maker’s frame of reference be accepted as the only basis for discussion and analysis ignores a three thousand year old tradition commonly associated with Socrates and purportedly integral to the Western tradition of democratic dialogue. More immediately, it ignores post-seventeenth century democratic traditions which insist that a good society must have within it some way of critically assessing its knowledge and the decisions based upon that knowledge which impact upon citizens of such a society. This is a tradition with a slightly different connotation in contemporary liberal democracies which, during the Cold War, were proclaimed different and superior to the totalitarian enemy precisely because there were institutional checks and balances upon power. In short, one of the major differences between ‘open societies’ and their (closed) counterparts behind the Iron Curtain was that the former encouraged the critical testing of the knowledge and decisions of the powerful and assessing them against liberal democratic principles. The latter tolerated criticism only on rare and limited occasions. For some, this represented the triumph of rational-scientific methods of inquiry and techniques of falsification. For others, especially since positivism and rationalism have lost much of their allure, it meant that for society to become open and liberal, sectors of the population must be independent of the state and free to question its knowledge and power. Though we do not expect this position to be accepted by every reader, contributors to this book believe that critical dialogue is long overdue in Australia and needs to be listened to. For all its liberal democratic trappings, Australia’s security community continues to invoke closed monological narratives on defence and security. This book also questions the distinctions between policy practice and academic theory that inform conventional accounts of Australian security. One of its major concerns, particularly in chapters 1 and 2, is to illustrate how theory is integral to the practice of security analysis and policy prescription. The book also calls on policy-makers, academics and students of defence and security to think critically about what they are reading, writing and saying; to begin to ask, of their work and study, difficult and searching questions raised in other disciplines; to recognise, no matter how uncomfortable it feels, that what is involved in theory and practice is not the ability to identify a replacement for failed models, but a realisation that terms and concepts – state sovereignty, balance of power, security, and so on – are contested and problematic, and that the world is indeterminate, always becoming what is written about it. Critical analysis which shows how particular kinds of theoretical presumptions can effectively exclude vital areas of political life from analysis has direct practical implications for policy-makers, academics and citizens who face the daunting task of steering Australia through some potentially choppy international waters over the next few years. There is also much of interest in the chapters for those struggling to give meaning to a world where so much that has long been taken for granted now demands imaginative, incisive reappraisal. The contributors, too, have struggled to find meaning, often despairing at the terrible human costs of international violence. This is why readers will find no single, fully formed panacea for the world’s ills in general, or Australia’s security in particular. There are none. Every chapter, however, in its own way, offers something more than is found in orthodox literature, often by exposing ritualistic Cold War defence and security mind-sets that are dressed up as new thinking. Chapters 7 and 9, for example, present alternative ways of engaging in security and defence practice. Others (chapters 3, 4, 5, 6 and 8) seek to alert policy-makers, academics and students to alternative theoretical possibilities which might better serve an Australian community pursuing security and prosperity in an uncertain world. All chapters confront the policy community and its counterparts in the academy with a deep awareness of the intellectual and material constraints imposed by dominant traditions of realism, but they avoid dismissive and exclusionary terms which often in the past characterized exchanges between policy-makers and their critics. This is because, as noted earlier, attention needs to be paid to the words and the thought processes of those being criticized. A close reading of this kind draws attention to underlying assumptions, showing they need to be recognized and questioned. A sense of doubt (in place of confident certainty) is a necessary prelude to a genuine search for alternative policies. First comes an awareness of the need for new perspectives, then specific policies may follow. As Jim George argues in the following chapter, we need to look not so much at contending policies as they are made for us but at challenging ‘the discursive process which gives [favoured interpretations of “reality”] their meaning and which direct [Australia’s] policy/analytical/military responses’. This process is not restricted to the small, official defence and security establishment huddled around the US-Australian War Memorial in Canberra. It also encompasses much of Australia’s academic defence and security community located primarily though not exclusively within the Australian National University and the University College of the University of New South Wales. These discursive processes are examined in detail in subsequent chapters as authors attempt to make sense of a politics of exclusion and closure which exercises disciplinary power over Australia’s security community. They also question the discourse of ‘regional security’, ‘security cooperation’, ‘peacekeeping’ and ‘alliance politics’ that are central to Australia’s official and academic security agenda in the 1990s. This is seen as an important task especially when, as is revealed, the disciplines of International Relations and Strategic Studies are under challenge from critical and theoretical debates ranging across the social sciences and humanities; debates that are nowhere to be found in Australian defence and security studies. The chapters graphically illustrate how Australia’s public policies on defence and security are informed, underpinned and legitimised by a narrowly-based intellectual enterprise which draws strength from contested concepts of realism and liberalism, which in turn seek legitimacy through policy-making processes. Contributors ask whether Australia’s policy-makers and their academic advisors are unaware of broader intellectual debates, or resistant to them, or choose not to understand them, and why?

### 2

#### The United States federal judiciary should hold that

#### -the Bevins doctrine creates a cause of action, including supervisory liability, allowing civil suits against federal officials and their superiors, by those unlawfully injured by indefinite detention, their heirs, or their estates in security cleared legal proceedings, independent of any statutory cause of action

#### -the doctrines of political question, immunity, state secrets and other nonjusticiability doctrines are not applicable, and may not be applied, to bevins suits brought on these specific grounds

#### -the federal judiciary’s jurisdiction over bevins suits in this area is a part of the courts constitutionally mandated obligations and may not be terminated or limited by any statutory or executive action

#### Constitutional Torts solve exactly same as the aff – court can enforce without any additional statutes

Brown, 9

George D. Brown, Professor of Law, Boston College Law School, Southern Cal LR, July, 9

The war on terror cases will force the Supreme Court to confront several issues. The first is whether to retain its current position on Bivens - [\*847] the prudential-deferential model. As an alternative, it might return to the Marbury-rights model or seek a compromise approach that allows some suits to proceed. n21 Deterring rogue agents is one thing, but individual liability for those who are protecting the nation in accordance with government policy should give us pause. While it would be consistent with our constitutional tradition for the judiciary to use Bivens constitutional tort actions as a means of "checking" official policy, n22 there may be a lack of fit between the "A v. B" tort configuration of suits like the original Bivens case and broad challenges to government programs. Yet individual suits will often be the only available vehicle. They also highlight the issue of supervisory liability, including the potential for holding liable officials at the highest level. In such a case, the individual non-official-capacity suit becomes an attack on the policy itself. The Court must confront an additional issue: the extent to which its recent habeas corpus decisions portend a broader judicial role in the war on terror. The cases certainly point in this direction. In her plurality opinion in Hamdi v. Rumsfeld, Justice O'Connor stated: While we accord the greatest respect and consideration to the judgments of military authorities in matters relating to the actual prosecution of a war, and recognize that the scope of that discretion necessarily is wide, it does not infringe on the core role of the military for the courts to exercise their own time-honored and constitutionally mandated roles of reviewing and resolving claims like those presented here. n23 Thus, a question arises as to how much this approach, with its strong tilt toward the Marbury-rights model, will carry over to the Bivens doctrine when the inevitable war on terror suits arise.

### 3

#### Immigration reform will pass – PC is key

Lopez 1/1/14 (Oscar, Latin Times, "New Year 2014: 4 Reasons Immigration Reform Will Pass In 2014," http://www.latintimes.com/new-year-2014-4-reasons-immigration-reform-will-pass-2014-141778)

Immigration reform is set to be the key issue of 2014. Following Mitt Romney's dismal performance among Latino voters in the 2012 election, both sides of the Government woke up to the necessity for comprehensive reform on immigration. Indeed, in his State of the Union address in February, President Obama declared that “the time has come to pass comprehensive immigration reform.” Yet with the House divided over Obamacare and the budget crisis, the Government Shutdown let immigration reform die. 2014 will change that: and here are 4 Reasons Why.¶ 1. Republican Support: A fundamental lack of support from the GOP has always been one of the major obstacles for passing comprehensive reform legislation, and indeed this seemed to be the case this year after the Bill passed by the Senate was struck down by Congress. However, more and more GOP members are realizing the significance of the Latino vote and understanding that passing comprehensive immigration reform is the most significant way of securing support from Latino voters. ¶ A July poll from Latino Decisions found that immigration reform was the most important issue facing the Latino community for 60 percent of those surveyed. The poll also found that 70 percent of those questioned were dissatisfied with the job Republicans were doing on the issue. The survey also found the 39 percent would be more likely to support a Republican congressional candidate if immigration reform was passed with Republican leadership. ¶ Republican candidates have become aware of the significance of immigration reform for the party. Even in traditionally conservative Republican strongholds like Texas, candidates are turning towards immigration reform. According to Republican strategist and CNN en Español commentator Juan Hernandez, "it also wouldn’t surprise me if after the primary, the candidates move to the center and support reform. For Republicans to stay in leadership in Texas, we must properly address immigration.”¶ The March 2014 primaries will be a key moment in determining how reform progresses: Republican Strategist John Feehery suggests, “The timing on this is very important. What was stupid to do becomes smart to do a little bit later in the year.” Once the primaries are over, GOP members will have the chance to implement reform legislation without fear of challenges from the right. ¶ 2. Legalization Over Citizenship: While the Senate’s 2013 immigration reform bill was struck down by Congress, GOP party members have indicated that they will support legislation which favors legalization of undocumented immigrants over a path to citizenship.¶ Meanwhile, a recent survey from Pew Research Hispanic Trends Project demonstrated that 55 percent of Hispanic adults believe that legalizing immigrants and removing the fear of deportation is more important than a pathway to citizenship (although citizenship is still important to 89 percent of Latinos surveyed.)¶ As CBS suggests, “Numbers like these could give leverage to lawmakers who are interested in making some reforms to the legal immigration system, but not necessarily offering any kind of citizenship.”¶ If House Republicans offered legalization legislation for the undocumented community, this could put pressure on the President to compromise. And while this kind of reform would not be as comprehensive as the Senate’s bill, a bipartisan agreement would be a significant achievement towards accomplishing reform.¶ 3. Activism Steps Up: 2013 saw one of the biggest surges in grassroots activism from immigration supporters, and political leaders started to listen. The hunger strike outside the White House was a particularly significant demonstration and drew visits of solidarity from a number of leaders from both sides of Congress, including the President and First Lady.¶ Immigration reform activists have promised "we will be back in 2014." Indeed, 2014 promises to be a year of even greater activism. Activist Eliseo Medina has pledged that immigrant advocacy groups would visit “as many congressional districts as possible” in 2014 to ensure further support.¶ Protests, rallies and marchers are likely to increase in 2014, putting greater pressure on Congress to pass legislation. Such visual, vocal protests will be key in ensuring comprehensive reform.¶ 4. Leadership: As immigration reform comes to the fore, party leaders will step up in 2014 to ensure change is achieved. While President Obama has made clear his support for comprehensive reform, House Speaker John Boehner previously stated that he had “no intention” of negotiating with the Senate on their comprehensive immigration bill. ¶ However, towards the end of 2013, it seemed that Representative Boehner was changing his tune. In November, President Obama revealed that “the good news is, just this past week Speaker Boehner said that he is “hopeful we can make progress” on immigration reform.” As if to prove the point, Boehner has recently hired top aide Rebecca Tallent to work on immigration reform.¶ With bipartisan leadership firmly focused on immigration reform and party members on both sides realizing the political importance of the issue, comprehensive legislation is one thing we can be sure of in 2014.

#### Fighting to defend his war power will sap Obama’s capital, trading off with rest of agenda

**Kriner, 10** --- assistant professor of political science at Boston University

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

**While congressional support leaves the president’s reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president’s foreign policies is capital that is unavailable for his future policy initiatives**. Moreover, any weakening in the president’s political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races.59 Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War. 60 **In addition to boding ill for the president’s perceived political capital and reputation, such partisan losses in Congress only further imperil his programmatic agenda, both international and domestic.** Scholars have long noted that President Lyndon **Johnson’s dream of a Great Society also perished in the rice paddies of Vietnam. Lacking** the requisite funds in a war-depleted treasury and **the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away** as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, **many of** President **Bush’s highest second-term domestic proprieties, such as Social Security and immigration reform, failed perhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq.**61 **When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies.** If congressional opposition in the military arena stands to derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena.

#### Reform key to biotech leadership

Schuster 13

(Dr. Sheldon – President @ Keck Graduate Institute, “Immigration Reform Could Lead to Great Things, Including Better Science and Better Science Education” 02/17/2013, http://www.huffingtonpost.com/dr-sheldon-schuster/immigration-reform-could-\_b\_2706832.html)

These students and young researchers not only do amazing things while they're here but their ideas and their drive enhances the quality of education for all of our students and the quality of life for all of our citizens. There can be a multiplying effect to innovation when international knowledge and ideas gain their own traction in homegrown academic institutions and industries. German rocket scientists who came to work in the U.S. in the wake of World War II were not solely responsible for landing Neil Armstrong on the moon. But they were the core from which a great international community of scholars and engineers were able to take NASA to astounding heights. The input of international students teaches all of our students how to integrate ideas that may vary greatly from their own and how to approach problems from a global perspective -- two skills that are required for success in the life science industry and that we need if we are to continue to remain the world leader in the rapidly advancing biotechnologies, such as individualized human genome sequencing. Reforming our immigration system so that more young professionals like these have the option to work in the United States not only boosts the national economy and strengthens the biotech hubs here in Southern California, which are so important to my state's economy, it also improves the quality of U.S. academic institutions, and, ultimately, is likely to hasten the pace of scientific discovery and innovation. It will certainly go a long way toward keeping the U.S. and its academic institutions at the center of such discovery and innovation.

#### Biotech key to solve bioterror attacks

**Bailey 1** [Ronald, award-winning science correspondent for Reason magazine and Reason.com, where he writes a weekly science and technology column. Bailey is the author of the book Liberation Biology: The Moral and Scientific Case for the Biotech Revolution (Prometheus, 2005), and his work was featured in The Best American Science and Nature Writing 2004. In 2006, Bailey was shortlisted by the editors of Nature Biotechnology as one of the personalities who have made the "most significant contributions" to biotechnology in the last 10 years. 11/7/1, “The Best Biodefense,” Reason, <http://reason.com/archives/2001/11/07/the-best-biodefense>]

But Cipro and other antibiotics are just a small part of the arsenal that could one day soon be deployed in defending America against biowarfare. Just consider what’s in the pipeline now that could be used to protect Americans against infectious diseases, including bioterrorism. A Pharmaceutical Manufacturers and Research Association survey found 137 new medicines for infectious diseases in drug company research and development pipelines, including 19 antibiotics and 42 vaccines. With regard to anthrax, instead of having to rush a sample to a lab where it takes hours or even days to culture, biotech companies have created test strips using antibody technologies that can confirm the presence of anthrax in 15 minutes or less, allowing decontamination and treatment to begin immediately. Similar test strips are being developed for the detection of smallpox as well. The biotech company EluSys Therapeutics is working on an exciting technique which would "implement instant immunity." EluSys joins two monoclonal antibodies chemically together so that they act like biological double-sided tape. One antibody sticks to toxins, viruses, or bacteria while the other binds to human red blood cells. The red blood cells carry the pathogen or toxin to the liver for destruction and return unharmed to the normal blood circulation. In one test, the EluSys treatment reduced the viral load in monkeys one million-fold in less than an hour. The technology could be applied to a number of bioterrorist threats, such as dengue fever, Ebola and Marburg viruses, and plague. Of course, the EluSys treatment would not just be useful for responding to bioterrorist attacks, but also could treat almost any infection or poisoning. Further down the development road are technologies that could rapidly analyze a pathogen’s DNA, and then guide the rapid synthesis of drugs like the ones being developed by EluSys that can bind, or disable, segments of DNA crucial to an infectious organism's survival. Again, this technology would be a great boon for treating infectious diseases and might be a permanent deterrent to future bioterrorist attacks. Seizing Bayer’s patent now wouldn’t just cost that company and its stockholders a little bit of money (Bayer sold $1 billion in Cipro last year), but would reverberate throughout the pharmaceutical research and development industry. If governments begin to seize patents on the pretext of addressing alleged public health emergencies, the investment in research that would bring about new and effective treatments could dry up. Investors and pharmaceutical executives couldn’t justify putting $30 billion annually into already risky and uncertain research if they couldn’t be sure of earning enough profits to pay back their costs. Consider what happened during the Clinton health care fiasco, which threatened to impose price controls on prescription drugs in the early 1990s: Growth in research spending dropped off dramatically from 10 percent annually to about 2 percent per year. A far more sensible and farsighted way to protect the American public from health threats, including bioterrorism, is to encourage further pharmaceutical research by respecting drug patents. In the final analysis, America’s best biodefense is a vital and profitable pharmaceutical and biotechnology industry.

#### Extinction

Steinbrenner 97

John Steinbrenner, Senior Fellow – Brookings, Foreign Policy, 12-22-1997, Lexis  
Although human pathogens are often lumped with nuclear explosives and lethal chemicals as potential weapons of mass destruction, there is an obvious, fundamentally important difference: Pathogens are alive, weapons are not. Nuclear and chemical weapons do not reproduce themselves and do not independently engage in adaptive behavior; pathogens do both of these things. That deceptively simple observation has immense implications. The use of a manufactured weapon is a singular event. Most of the damage occurs immediately. The aftereffects, whatever they may be, decay rapidly over time and distance in a reasonably predictable manner. Even before a nuclear warhead is detonated, for instance, it is possible to estimate the extent of the subsequent damage and the likely level of radioactive fallout. Such predictability is an essential component for tactical military planning. The use of a pathogen, by contrast, is an extended process whose scope and timing cannot be precisely controlled. For most potential biological agents, the predominant drawback is that they would not act swiftly or decisively enough to be an effective weapon. But for a few pathogens - ones most likely to have a decisive effect and therefore the ones most likely to be contemplated for deliberately hostile use - the risk runs in the other direction. A lethal pathogen that could efficiently spread from one victim to another would be capable of initiating an intensifying cascade of disease that might ultimately threaten the entire world population. The 1918 influenza epidemic demonstrated the potential for a global contagion of this sort but not necessarily its outer limit.

### Adv 1

#### First, US-European Relations high despite foreign policy differences

Goodenough ‘12

[Patrick, overed government and politics in South Africa and the Middle East before joining CNSNews.com in 1999. Since then he has launched foreign bureaus for CNSNews.com in Jerusalem, London and the Pacific Rim. From October 2006 to July 2007, Patrick served as Managing Editor at the organization's world headquarters in Alexandria, Va. Now back in the Pacific Rim, as International Editor he reports on politics, international relations, security, terrorism, ethics and religion, and oversees reporting by CNSNews.com's roster of international stringers, “Polls Show Erosion of U.S. Image Abroad Over the Past Four Years,” 12.18.2012. <<http://cnsnews.com/news/article/polls-show-erosion-us-image-abroad-over-past-four-years>>//wyo-hdm]

The last four years have witnessed a decline in the image of the United States around the world, and President Obama’s approval rating has also taken a hit in some regions abroad, according to a series of polls this year. The survey results call into question the assertion, touted by administration officials and echoed in much media reporting, that Obama’s foreign policy has been an unqualified success and that his “engagement” with the international community, especially through the United Nations, has boosted America’s image significantly. Particularly striking in some of the polls is the negative trend in key Islamic countries, despite Obama’s efforts to reach out to the Muslim world. The most recent of the polls, [Transatlantic Trends 2012](http://trends.gmfus.org/), gave mixed results. Released last week, it found that Obama’s foreign policy approval rate has dropped in most countries in Europe since 2009, albeit from a high starting point following the Bush years. In all but one of 12 European countries polled in both 2009 and 2012, approval for Obama’s handling of international affairs dropped over that period – by 21 points in Bulgaria, 17 in Italy, 16 in Spain, 16 in Slovakia, 15 in Britain, 13 in Germany, 11 in the Netherlands, 11 in Portugal, eight in Turkey, seven in France and six in Poland. The sole exception was Romania, where his approval ratings climbed eight points from 2009 to 2012. On the other hand, opinions of U.S. favorability in the 14 European countries surveyed remained high, ranging from lows of 34 percent in Turkey and 50 percent in Russia to highs of 84 percent in Romania and 81 percent in France. The poll also found that if Europeans could vote in the U.S. presidential election, 75 percent of European Union residents would vote for Obama, and only eight percent for his Republican challenger, Mitt Romney. (Asked whether their view of the former Massachusetts governor was favorable or otherwise, a sizable segment, 38 percent, said they did not know or refused to answer.) The poll, an annual survey of U.S. and European public opinion, is a project of the German Marshall Fund of the United States and several other groups. Addressing a survey release event at the German Marshall Fund’s Washington offices last Wednesday, assistant secretary of state for European affairs Philip Gordon pointed to the president’s overall ratings. “[W]hat I think that underscores is, that this wasn’t just an initial burst of what you called ‘Obamania,’ but a consistent and sustained reaction to what the United States has been trying to do in the world, in particular with our European allies,” he said. In a Gallup poll released in July, a majority or plurality of respondents in six key Muslim countries said they believed the U.S. opposes democracy in the Middle East: Jordan (67 percent said the U.S. opposes democracy), Turkey (58 percent), Tunisia (57 percent), Egypt (52 percent), Lebanon (47 percent) and Pakistan (37 percent). Meanwhile a Pew Global Attitudes Project [report](http://www.pewglobal.org/2012/06/13/global-opinion-of-obama-slips-international-policies-faulted/) in June found that U.S. favorability ratings had dropped in nine out of 14 countries surveyed between 2009 and this year, and only rose in four. (The last country, Spain, remained the same at 58 percentage points.) Countries where favorability ratings declined over the four years were Jordan (down 13 points to 12), Mexico (down 13 points to 56), Germany (down 12 points to 52), Britain (down nine points to 60), Egypt (down eight points to 19), Lebanon (down seven points to 48), France (down six points to 69), Pakistan (down four points to 12) and China (down four points to 43). The four countries where U.S. favorability ratings rose over the same period were Japan (up 13 points to 72), Russia (up eight points to 52), Poland (up two points to 69) and Turkey (up one point to 15). Ironically, given Obama’s outreach to the Muslim world launched in his June 2009 address in Cairo entitled “A new beginning,” Islamic countries – Pakistan, Jordan, Egypt and Lebanon – were the only ones in the Pew poll where U.S. favorable ratings in 2012 were found to be lower than they were in 2008, the last year of the Bush administration. The poll in total surveyed more than 26,000 people in 21 countries. Pew found Americans most popular in Japan (80 points) and in Europe, where majorities in every country except Greece held favorable ratings – ranging from 56 percent in the Czech Republic to 75 percent in France. Majorities viewed Americans unfavorably in Pakistan (73 points), Turkey (69 points), Jordan (67 points), Egypt (62 points), Greece (53 points) and China (51 points). Kenyans’ views of US positive, Pakistanis negative Another [major poll](http://www.globescan.com/images/images/pressreleases/bbc2012_country_ratings/2012_bbc_country%20rating%20final%20080512.pdf), released last May, found mixed results when seeking the opinions of more than 24,000 people in 22 countries about the influence the United States has on the world. European countries produced the biggest jumps in positive views of the U.S. between 2011 and 2012, including a 16-point hike in France, 14 points in Britain, 10 points in Spain and seven points in Germany. Moving in the other direction were countries including Chile (a 15-point drop), Russia (down 14 points), Brazil (down nine) and Peru (down seven). Countries with the most positive views of the U.S. in 2012 – regardless of changes since 2011 – were Kenya (79 percent positive), Nigeria (69 percent) and South Korea and France (both 62 percent). Countries accounting for the biggest negative views of the U.S. were Pakistan (61 percent negative), China (48 percent), Russia (47 percent) and Germany and Egypt (both 45 percent). The poll was conducted for the BBC World Service by GlobeScan and the University of Maryland’s Program on International Policy Attitudes.

#### Second, Alt cause to US-European relations decline- Iran, Mali, Syria, and defense cuts

Euronews ‘13

[“Joe Biden balms US-European relations,” 2.02.2013. <<http://www.euronews.com/2013/02/02/joe-biden-balms-us-european-relations/>>//wyo-hdm]

As US President Barak Obama begins his second term his number two Joe Biden has been in Germany to reaffirm US-European relations. Speaking at the Munich Security Conference, a key foreign policy forum, Biden said that “Europe is the cornerstone of US engagement with the rest of the world.” “Maintaining our capabilities is what enables us to advance our common global agenda. That’s just one reason why a strong and capable Europe is profoundly in America’s interest and, I might add, in the world’s interest,” said the vice president. Iran, Mali and the civil war in Syria represent the current challenges facing Europe and the US. US contributions to NATO are vital and Secretary General Anders Fogh Rasmussen called on Europe to play a greater role in the organisation: “I would like to see us moving towards the day when no single ally provides more than 50% of certain critical capabilities. This will require European allies to do more. And it shows why initiatives by European allies are so vital. Because a strong European contribution to NATO’s capabilities will sustain a strong US commitment to NATO,” Our correspondent in Munich is James Franey: “Washington’s main concern is that their European allies risk losing global influence if defence spending is cut any further, especially as China appears set on becoming a military superpower, but Biden’s warning is unlikely to change policy in Europe anytime soon. British Prime Minster David Cameron refused to rule out further defence cuts if he is re-elected in 2015.”

**No impact to terrorism – too hard to pull off post 9/11, not enough personnel to carry out an attack, too much pressure because of security restrictions**

**Schneier 10**

(Bruce, a security technologist and author of "Beyond Fear: Thinking Sensibly About Security in an Uncertain World.", “Opinion: Where Are All the Terrorist Attacks?”, March 2010, <http://www.aolnews.com/opinion/article/opinion-why-arent-there-more-times-square-style-terrorist-attacks/19463843>)

Hard to Pull Off **Terrorism sounds easy**, but the actual attack is the easiest part. **Putting together the people, the plot and the materials is hard. It's hard to sneak terrorists into the U.S. It's hard to grow your own inside the U.S. It's hard to operate; the general population, even the Muslim population, is against you.** Movies and television make terrorist plots look easier than they are. It's hard to hold conspiracies together. It's easy to make a mistake. **Even 9/11, which was planned before the climate of fear that event engendered, just barely succeeded. Today, it's much harder to pull something like that off without slipping up and getting arrested.** Few Terrorists **But even more important than the difficulty of executing a terrorist attack, there aren't a lot of terrorists out there. Al-Qaida isn't a well-organized global organization** with movie-plot-villain capabilities; it's a loose collection of people using the same name. **Despite the post-9/11 rhetoric, there isn't a terrorist cell in every major city. If you think about the major terrorist plots we've foiled in the U.S. -- the JFK bombers, the Fort Dix plotters -- they were mostly** [**amateur terrorist wannabes**](http://www.schneier.com/essay-174.html) **with no connection to any sort of al-Qaida central command, and mostly no ability to effectively carry out the attacks they planned. The successful terrorist attacks** -- the Fort Hood shooter, the guy who flew his plane into the Austin IRS office, the anthrax mailer -- **were largely nut cases operating alone**. Even the unsuccessful shoe bomber, and the equally unsuccessful Christmas Day underwear bomber, had minimal organized help -- and that help originated outside the U.S. **Terrorism doesn't occur without terrorists, and they are far rarer than popular opinion would have it.**

### Adv 2

#### Deference is always in flux

BERGER 11 Assistant Professor of Law, University of Nebraska [Eric Berger, INDIVIDUAL RIGHTS, JUDICIAL DEFERENCE, AND ADMINISTRATIVE LAW NORMS IN CONSTITUTIONAL DECISION MAKING, December, 2011, Boston University Law Review, 91 B.U.L. Rev. 2029]

The theory presented here also has the advantage of taking account of the numerous and complicated variables surrounding the exercise of governmental power. Critics might contend that a multi-factor inquiry like the one proposed here will only sow uncertainty into the law and give too much power to courts. n397 But the world is complicated, and legal doctrine should be nuanced enough to appreciate important differences. n398 In particular, agencies exist in many shapes and take many kinds of actions, and a one-size-fits-all approach to deference does not take proper account of those differences. As the Supreme Court explained, "Although we all accept the position that the Judiciary should defer to at least some of this multifarious administrative action, we have to decide how to take account of the great range of its variety." n399 Thus, just as the Court in Mead reinvigorated Skidmore v. Swift Co. and allowed for judicial deference to agency action based upon "those factors which give [the agency] the power to persuade," n400 the theory proposed here allows courts to consider various factors cutting for or against deference. [\*2096] Such an approach might be especially useful for constitutional challenges to state administrative action, given the great "variety among state administrative laws." n401

Moreover, to the extent that the Court already offers deference to government agencies in some individual rights cases, this theory does not complicate the judicial inquiry so much as it encourages more systematic, consistent examination. While the numerous factors considered here admittedly will give judges flexibility that may result in uncertainty, the Court's current approach to deference entertains numerous (sometimes unarticulated) factors and is far from predictable. More explicit attention to the variety of agency action, then, would encourage courts to discuss more transparently what they already do anyway.

#### Data disproves hegemony impacts

Fettweis, 11

Christopher J. Fettweis, Department of Political Science, Tulane University, 9/26/11, Free Riding or Restraint? Examining European Grand Strategy, Comparative Strategy, 30:316–332, EBSCO

It is perhaps worth noting that there is no evidence to support a direct relationship between the relative level of U.S. activism and international stability. In fact, the limited data we do have suggest the opposite may be true. During the 1990s, the United States cut back on its defense spending fairly substantially. By 1998, the United States was spending $100 billion less on defense in real terms than it had in 1990.51 To internationalists, defense hawks and believers in hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities,” argued Kristol and Kagan, “doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace.”52 On the other hand, if the pacific trends were not based upon U.S. hegemony but a strengthening norm against interstate war, one would not have expected an increase in global instability and violence. The verdict from the past two decades is fairly plain: The world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable United States military, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums, no security dilemmas drove insecurity or arms races, and no regional balancing occurred once the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in U.S. capabilities. Most of all, the United States and its allies were no less safe. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and kept declining as the Bush Administration ramped the spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated. Military spending figures by themselves are insufficient to disprove a connection between overall U.S. actions and international stability. Once again, one could presumably argue that spending is not the only or even the best indication of hegemony, and that it is instead U.S. foreign political and security commitments that maintain stability. Since neither was significantly altered during this period, instability should not have been expected. Alternately, advocates of hegemonic stability could believe that relative rather than absolute spending is decisive in bringing peace. Although the United States cut back on its spending during the 1990s, its relative advantage never wavered. However, even if it is true that either U.S. commitments or relative spending account for global pacific trends, then at the very least stability can evidently be maintained at drastically lower levels of both. In other words, even if one can be allowed to argue in the alternative for a moment and suppose that there is in fact a level of engagement below which the United States cannot drop without increasing international disorder, a rational grand strategist would still recommend cutting back on engagement and spending until that level is determined. Grand strategic decisions are never final; continual adjustments can and must be made as time goes on. Basic logic suggests that the United States ought to spend the minimum amount of its blood and treasure while seeking the maximum return on its investment. And if the current era of stability is as stable as many believe it to be, no increase in conflict would ever occur irrespective of U.S. spending, which would save untold trillions for an increasingly debt-ridden nation. It is also perhaps worth noting that if opposite trends had unfolded, if other states had reacted to news of cuts in U.S. defense spending with more aggressive or insecure behavior, then internationalists would surely argue that their expectations had been fulfilled. If increases in conflict would have been interpreted as proof of the wisdom of internationalist strategies, then logical consistency demands that the lack thereof should at least pose a problem. As it stands, the only evidence we have regarding the likely systemic reaction to a more restrained United States suggests that the current peaceful trends are unrelated to U.S. military spending. Evidently the rest of the world can operate quite effectively without the presence of a global policeman. Those who think otherwise base their view on faith alone.

#### No challengers

Kaplan, senior fellow – Center for a New American Security, and Kaplan, frmr. vice chairman – National Intelligence Council, ‘11

(Robert D and Stephen S, “America Primed,” *The National Interest*, March/April)

But in spite of the seemingly inevitable and rapid diminution of U.S. eminence, to write America’s great-power obituary is beyond premature. The United States remains a highly capable power. Iraq and Afghanistan, as horrendous as they have proved to be—in a broad historical sense—are still relatively minor events that America can easily overcome. The eventual demise of empires like those of Ming China and late-medieval Venice was brought about by far more pivotal blunders. Think of the Indian Mutiny against the British in 1857 and 1858. Iraq in particular—ever so frequently touted as our turning point on the road to destruction—looks to some extent eerily similar. At the time, orientalists and other pragmatists in the British power structure (who wanted to leave traditional India as it was) lost some sway to evangelical and utilitarian reformers (who wanted to modernize and Christianize India—to make it more like England). But the attempt to bring the fruits of Western civilization to the Asian subcontinent was met with a violent revolt against imperial authority. Delhi, Lucknow and other Indian cities were besieged and captured before being retaken by colonial forces. Yet, the debacle did not signal the end of the British Empire at all, which continued on and even expanded for another century. Instead, it signaled the transition from more of an ad hoc imperium fired by a proselytizing lust to impose its values on others to a calmer and more pragmatic empire built on international trade and technology.1 There is no reason to believe that the fate of America need follow a more doomed course. Yes, the mistakes made in Iraq and Afghanistan have been the United States’ own, but, though destructive, they are not fatal. If we withdraw sooner rather than later, the cost to American power can be stemmed. Leaving a stable Afghanistan behind of course requires a helpful Pakistan, but with more pressure Washington might increase Islamabad’s cooperation in relatively short order. In terms of acute threats, Iran is the only state that has exported terrorism and insurgency toward a strategic purpose, yet the country is economically fragile and politically unstable, with behind-the-scenes infighting that would make Washington partisans blanch. Even assuming Iran acquires a few nuclear devices—of uncertain quality with uncertain delivery systems—the long-term outlook for the clerical regime is itself unclear. The administration must only avoid a war with the Islamic Republic. To be sure, America may be in decline in relative terms compared to some other powers, as well as to many countries of the former third world, but in absolute terms, particularly military ones, the United States can easily be the first among equals for decades hence. China, India and Russia are the only major Eurasian states prepared to wield military power of consequence on their peripheries. And each, in turn, faces its own obstacles on the road to some degree of dominance. The Chinese will have a great navy (assuming their economy does not implode) and that will enforce a certain level of bipolarity in the world system. But Beijing will lack the alliance network Washington has, even as China and Russia will always be—because of geography—inherently distrustful of one another. China has much influence, but no credible military allies beyond possibly North Korea, and its authoritarian regime lives in fear of internal disruption if its economic growth rate falters. Furthermore, Chinese naval planners look out from their coastline and see South Korea and a string of islands—Japan, Taiwan and Australia—that are American allies, as are, to a lesser degree, the Philippines, Vietnam and Thailand. To balance a rising China, Washington must only preserve its naval and air assets at their current levels. India, which has its own internal insurgency, is bedeviled by semifailed states on its borders that critically sap energy and attention from its security establishment, and especially from its land forces; in any case, India has become a de facto ally of the United States whose very rise, in and of itself, helps to balance China. Russia will be occupied for years regaining influence in its post-Soviet near abroad, particularly in Ukraine, whose feisty independence constitutes a fundamental challenge to the very idea of the Russian state. China checks Russia in Central Asia, as do Turkey, Iran and the West in the Caucasus. This is to say nothing of Russia’s diminishing population and overwhelming reliance on energy exports. Given the problems of these other states, America remains fortunate indeed. The United States is poised to tread the path of postmutiny Britain. America might not be an empire in the formal sense, but its obligations and constellation of military bases worldwide put it in an imperial-like situation, particularly because its air and naval deployments will continue in a post-Iraq and post-Afghanistan world. No country is in such an enviable position to keep the relative peace in Eurasia as is the United States—especially if it can recover the level of enduring competence in national-security policy last seen during the administration of George H. W. Bush. This is no small point. America has strategic advantages and can enhance its power while extricating itself from war. But this requires leadership—not great and inspiring leadership which comes along rarely even in the healthiest of societies—but plodding competence, occasionally steely nerved and always free of illusion.

### solvency

#### Courts are biased against foreigners—state secrets is a barrier

Murphy and Radsan – Their Author – 9 (Richard, AT&T Professor of Law – Texas Tech University School of Law, and Afsheen John, Professor – William Mitchell College of Law; Assistant General Counsel – Central Intelligence Agency, “Due Process and Targeted Killing of Terrorists,” Cardozo Law Review, November, 32 Cardozo L. Rev. 405, Lexis)

As to legal hurdles, Boumediene itself poses a high one to lawsuits by non-U.S. citizens for overseas attacks. Here we may seem to contradict our earlier insistence that Boumediene presupposes some form of constitutional protection worldwide for everyone.212 Yet Boumediene shows that the requirement of judicial process depends on a pragmatic analysis.213 As part of its balancing, Boumediene made clear that courts should favor the interests of American citizens and of others with strong connections to the United States.214 Although the Boumediene petitioners lacked the preference in favor of citizens, they persuaded a slim majority of the Court to extend constitutional habeas to non-resident aliens detained at Guantanamo. This result, however, took place under exceptional circumstances: among them, Guantanamo is de facto United States territory;215 the executive had held detainees there for years and claimed authority to do so indefinitely; and the Supreme Court doubted the fairness and accuracy of the CSRTs.216 Absent such circumstances, Boumediene leaves courts to follow their habit of deferring to the executive on national security. For targeted killing, that may mean cutting off non-citizens from American courts.

The state-secrets privilege poses another barrier to Bivens-style actions. This privilege allows the government to block the disclosure of information in court that would damage national security.217 It could prevent a case from proceeding in any number of ways. For instance, the government could block plaintiffs from accessing or using information needed to determine whether a Predator attack had a sound basis through human or technical sources of intelligence.218 By this trump card, the government could prevent litigation from seriously compromising intelligence sources and methods.219

#### Prez will circumvent-

#### [1.] invokes state secrets to avoid oversight

Posner and Vermeule 2010 [Eric A. , Professor of Law at the University of Chicago Law School and Editor of The Journal of Legal Studies; Adrian , Harvard Law Professor, The Executive Unbound: After the Madisonian Republic, Oxford Press, p. 24//wyo-sc]

Monitoring the executive requires expertise in the area being monitored. In many cases, Congress lacks the information necessary to monitor discretionary policy choices by the executive. Although the committee system has the effect, among others, of generating legislative information and expertise,18 and although Congress has a large internal staff, there are domains in which no amount of legislative expertise suffices for effective oversight. Prime among these are areas of foreign policy and national security. Here the relative lack of legislative expertise is only part of the problem; what makes it worse is that the legislature lacks the raw information that experts need to make assessments. The problem would disappear if legislators could cheaply acquire information from the president, but they cannot. One obstacle is a suite of legal doctrines protecting executive secrecy and creating deliberative privileges— doctrines that may or may not be justified from some higher-order systemic point of view as means for producing optimal deliberation within the executive branch. Although such privileges are waivable, the executive often fears to set a bad institutional precedent. Another obstacle is the standard executive claim that Congress leaks like a sieve, so that sharing secret information with legislators will result in public disclosure. The problem becomes most acute when, as in the recent controversy over surveillance by the National Security Agency, the executive claims that the very scope or rationale of a program cannot be discussed with Congress, because to do so would vitiate

the very secrecy that makes the program possible and beneficial. In any particular case the claim might be right or wrong; legislators have no real way to judge, and they know that the claim might be made either by a wellmotivated executive or by an ill-motivated executive, albeit for very different reasons.

# 2nc

### 2NC- Bioterror=Extinction

#### Impending bioterror attacks cause extinction

Mhyrvold 13

Nathan, Began college at age 14, BS and Masters from UCLA, Masters and PhD, Princeton “Strategic Terrorism: A Call to Action,” Working Draft, The Lawfare Research Paper Series

Research paper NO . 2 – 2013

As horrible as this would be, such a pandemic is by no means the worst attack one can imagine, for several reasons. First, most of the classic bioweapons are based on 1960s and 1970s technology because the 1972 treaty halted bioweapons development efforts in the United States and most other Western countries. Second, the Russians, although solidly committed to biological weapons long after the treaty deadline, were never on the cutting edge of biological research. Third and most important, the science and technology of molecular biology have made enormous advances, utterly transforming the field in the last few decades. High school biology students routinely perform molecular-biology manipulations that would have been impossible even for the best superpower-funded program back in the heyday of biological-weapons research. The biowarfare methods of the 1960s and 1970s are now as antiquated as the lumbering mainframe computers of that era. Tomorrow’s terrorists will have vastly more deadly bugs to choose from. Consider this sobering development: in 2001, Australian researchers working on mousepox, a nonlethal virus that infects mice (as chickenpox does in humans), accidentally discovered that a simple genetic modification transformed the virus.10, 11 Instead of producing mild symptoms, the new virus killed 60% of even those mice already immune to the naturally occurring strains of mousepox. The new virus, moreover, was unaffected by any existing vaccine or antiviral drug. A team of researchers at Saint Louis University led by Mark Buller picked up on that work and, by late 2003, found a way to improve on it: Buller’s variation on mousepox was 100% lethal, although his team of investigators also devised combination vaccine and antiviral therapies that were partially effective in protecting animals from the engineered strain.12, 13 Another saving grace is that the genetically altered virus is no longer contagious. Of course, it is quite possible that future tinkering with the virus will change that property, too. Strong reasons exist to believe that the genetic modifications Buller made to mousepox would work for other poxviruses and possibly for other classes of viruses as well. Might the same techniques allow chickenpox or another poxvirus that infects humans to be turned into a 100% lethal bioweapon, perhaps one that is resistant to any known antiviral therapy? I’ve asked this question of experts many times, and no one has yet replied that such a manipulation couldn’t be done. This case is just one example. Many more are pouring out of scientific journals and conferences every year. Just last year, the journal Nature published a controversial study done at the University of Wisconsin–Madison in which virologists enumerated the changes one would need to make to a highly lethal strain of bird flu to make it easily transmitted from one mammal to another.14 Biotechnology is advancing so rapidly that it is hard to keep track of all the new potential threats. Nor is it clear that anyone is even trying. In addition to lethality and drug resistance, many other parameters can be played with, given that the infectious power of an epidemic depends on many properties, including the length of the latency period during which a person is contagious but asymptomatic. Delaying the onset of serious symptoms allows each new case to spread to more people and thus makes the virus harder to stop. This dynamic is perhaps best illustrated by HIV , which is very difficult to transmit compared with smallpox and many other viruses. Intimate contact is needed, and even then, the infection rate is low. The balancing factor is that HIV can take years to progress to AIDS , which can then take many more years to kill the victim. What makes HIV so dangerous is that infected people have lots of opportunities to infect others. This property has allowed HIV to claim more than 30 million lives so far, and approximately 34 million people are now living with this virus and facing a highly uncertain future.15 A virus genetically engineered to infect its host quickly, to generate symptoms slowly—say, only after weeks or months—and to spread easily through the air or by casual contact would be vastly more devastating than HIV . It could silently penetrate the population to unleash its deadly effects suddenly. This type of epidemic would be almost impossible to combat because most of the infections would occur before the epidemic became obvious. A technologically sophisticated terrorist group could develop such a virus and kill a large part of humanity with it. Indeed, terrorists may not have to develop it themselves: some scientist may do so first and publish the details. Given the rate at which biologists are making discoveries about viruses and the immune system, at some point in the near future, someone may create artificial pathogens that could drive the human race to extinction. Indeed, a detailed species-elimination plan of this nature was openly proposed in a scientific journal. The ostensible purpose of that particular research was to suggest a way to extirpate the malaria mosquito, but similar techniques could be directed toward humans.16 When I’ve talked to molecular biologists about this method, they are quick to point out that it is slow and easily detectable and could be fought with biotech remedies. If you challenge them to come up with improvements to the suggested attack plan, however, they have plenty of ideas. Modern biotechnology will soon be capable, if it is not already, of bringing about the demise of the human race— or at least of killing a sufficient number of people to end high-tech civilization and set humanity back 1,000 years or more. That terrorist groups could achieve this level of technological sophistication may seem far-fetched, but keep in mind that it takes only a handful of individuals to accomplish these tasks. Never has lethal power of this potency been accessible to so few, so easily. Even more dramatically than nuclear proliferation, modern biological science has frighteningly undermined the correlation between the lethality of a weapon and its cost, a fundamentally stabilizing mechanism throughout history. Access to extremely lethal agents—lethal enough to exterminate Homo sapiens—will be available to anybody with a solid background in biology, terrorists included.

#### None of their impact defense applies-newest developments take out all impact defense

Jordans, 2011

[Frank, Associated Press, 12-7-11, Clinton warns of bioweapon threat from gene tech, http://www.nbcnews.com/id/45584359/ns/#.UkkMV2T72Ik] /Wyo-MB

GENEVA — New gene assembly technology that offers great benefits for scientific research could also be used by terrorists to create biological weapons, U.S. Secretary of State Hillary Rodham Clinton warned Wednesday.¶ The threat from bioweapons has drawn little attention in recent years, as governments focused more on the risk of nuclear weapons proliferation to countries such as Iran and North Korea.¶ But experts have warned that the increasing ease with which bioweapons can be created might be used by terror groups to develop and spread new diseases that could mimic the effects of the fictional global epidemic portrayed in the Hollywood thriller "Contagion."¶ Speaking at an international meeting in Geneva aimed at reviewing the 1972 Biological Weapons Convention, Clinton told diplomats that the challenge was to maximize the benefits of scientific research and minimize the risks that it could be used for harm.¶ "The emerging gene synthesis industry is making genetic material more widely available," she said. "This has many benefits for research, but it could also potentially be used to assemble the components of a deadly organism."¶ Gene synthesis allows genetic material — the building blocks of all organisms — to be artificially assembled in the lab, greatly speeding up the creation of artificial viruses and bacteria.¶ The U.S. government has cited efforts by terrorist networks such as al-Qaeda to recruit scientists capable of making biological weapons as a national security concern.¶ Advertise¶ "A crude but effective terrorist weapon can be made using a small sample of any number of widely available pathogens, inexpensive equipment, and college-level chemistry and biology," Clinton told the meeting.¶ "Less than a year ago, al-Qaeda in the Arabian Peninsula made a call to arms for, and I quote, 'brothers with degrees in microbiology or chemistry ... to develop a weapon of mass destruction,'" she said.¶ Clinton also mentioned the Aum Shinrikyo cult's attempts in Japan to obtain anthrax in the 1990s, and the 2001 anthrax attacks in the United States that killed five people.¶ Washington has urged countries to be more transparent about their efforts to clamp down on the threat of bioweapons. But U.S. officials have also resisted calls for an international verification system — akin to that for nuclear weapons — saying it is too complicated to monitor every lab's activities.

### 2NC- CIR Turns Heg

**Reform’s key to heg**

**Nye 12.** [Joseph S., a former US assistant secretary of defense and chairman of the US National Intelligence Council, is University Professor at Harvard University. “Immigration and American Power,” December 10, Project Syndicate, http://www.project-syndicate.org/commentary/obama-needs-immigration-reform-to-maintain-america-s-strength-by-joseph-s--nye]

CAMBRIDGE – **The U**nited **S**tates **is a nation of immigrants.** Except for a small number of Native Americans, everyone is originally from somewhere else, and even recent immigrants can rise to top economic and political roles. President Franklin Roosevelt once famously addressed the Daughters of the American Revolution – a group that prided itself on the early arrival of its ancestors – as “fellow immigrants.”¶ **In recent years**, however, **US politics has had a strong anti-immigration slant**, and the issue played an important role in the Republican Party’s presidential nomination battle in 2012. **But** Barack Obama’s re-election demonstrated the electoral power of Latino voters, who rejected Republican presidential candidate Mitt Romney by a 3-1 majority, as did Asian-Americans.¶ As a result, **several prominent Republican politicians are now urging their party to reconsider its anti-immigration policies, and plans for immigration reform will be on the agenda at the beginning of Obama’s second term. Successful reform will be an important step in preventing the decline of American power.¶** Fears about the impact of immigration on national values and on a coherent sense of American identity are not new. The nineteenth-century “Know Nothing” movement was built on opposition to immigrants, particularly the Irish. Chinese were singled out for exclusion from 1882 onward, and, with the more restrictive Immigration Act of 1924, immigration in general slowed for the next four decades.¶ During the twentieth century, the US recorded its highest percentage of foreign-born residents, 14.7%, in 1910. A century later, according to the 2010 census, 13% of the American population is foreign born. But, despite being a nation of immigrants, more Americans are skeptical about immigration than are sympathetic to it. Various opinion polls show either a plurality or a majority favoring less immigration. The recession exacerbated such views: in 2009, one-half of the US public favored allowing fewer immigrants, up from 39% in 2008.¶ Both the number of immigrants and their origin have caused concerns about immigration’s effects on American culture. Demographers portray a country in 2050 in which non-Hispanic whites will be only a slim majority. Hispanics will comprise 25% of the population, with African- and Asian-Americans making up 14% and 8%, respectively.¶ But mass communications and market forces produce powerful incentives to master the English language and accept a degree of assimilation. Modern media help new immigrants to learn more about their new country beforehand than immigrants did a century ago. Indeed, most of the evidence suggests that the latest immigrants are assimilating at least as quickly as their predecessors.¶ While too rapid a rate of immigration can cause social problems, over the long term, **immigration strengthens US power.** It is estimated that **at least 83 countries and territories currently have fertility rates that are below the level needed to keep their population constant.** Whereas most developed countries will experience a shortage of people as the century progresses, **America is one of the few that may avoid demographic decline and maintain its share of world population.¶** For example, to maintain its current population size, Japan would have to accept 350,000 newcomers annually for the next 50 years, which is difficult for a culture that has historically been hostile to immigration. In contrast, the Census Bureau projects that the US population will grow by 49% over the next four decades.¶ **Today, the US is the world’s third most populous country; 50 years from now it is still likely to be third** (after only China and India). **This is highly relevant to economic power: whereas nearly all other developed countries will face a growing burden of providing for the older generation, immigration could help to attenuate the policy problem for the US.¶** In addition, though studies suggest that the short-term economic benefits of immigration are relatively small, and that unskilled workers may suffer from competition**, skilled immigrants can be important to** particular sectors – and to **long-term growth. There is a strong correlation between the number of visas for skilled applicants and patents filed in the US. At the beginning of this century, Chinese- and Indian-born engineers were running one-quarter of Silicon Valley’s technology businesses**, which accounted for $17.8 billion in sales; and, in 2005, immigrants had helped to start one-quarter of all US technology start-ups during the previous decade. **Immigrants or children of immigrants founded roughly 40% of the 2010 Fortune 500 companies.**¶ **Equally important are immigration’s benefits for America’s soft power. The fact that people want to come to the US enhances its appeal, and immigrants’ upward mobility is attractive to people in other countries. The US is a magnet, and many people can envisage themselves as Americans, in part because so many successful Americans look like them.** Moreover, **connections between immigrants and their families and friends back home help to convey accurate and positive information about the US.**¶ Likewise, because the presence of many cultures creates avenues of connection with other countries, **it helps to broaden Americans’ attitudes and views of the world in an era of globalization. Rather than diluting hard and soft power, immigration enhances both.¶** Singapore’s former leader, Lee Kwan Yew, an astute observer of both the US and China, argues that **China will not surpass the US as the leading power of the twenty-first century, precisely because the US attracts the best and brightest** from the rest of the world and melds them into a diverse culture of creativity. China has a larger population to recruit from domestically, but, in Lee’s view, its Sino-centric culture will make it less creative than the US.¶ That is a view that Americans should take to heart. **If Obama succeeds in enacting immigration reform in his second term, he will have gone a long way toward fulfilling his promise to maintain the strength of the US.**

### 2NC-Will Pass

#### Immigration reform is passing now but it is close- Republican support is building because of pressure from Obama, but its close. Lopez 1-1

**Passage of immigration reform is likely, both sides agree it is a top priority and congress is willing to cooperate**

**Clifford, 12/30** (Mike, 12/30/2013, “Immigration Reform Supporters: “Positive Signs” Headed into 2014,” <http://www.publicnewsservice.org/2013-12-30/immigrant-issues/immigration-reform-supporters-positive-signs-headed-into-2014/a36538-1)>)

NEW YORK - **Supporters of comprehensive immigration reform fell short of their goal in 2013, but several things happened in December to swing momentum in their direction**, they say. **The first positive sign**, according to Jim Wallis, Sojourners president and founder, **was the House and Senate working together to pass a budget bill**. **And**, while Speaker Boehner has said immigration reform would have to wait until next year, Wallis said **there are signs Republicans are ready to act**. **"I hear Republican leaders - Goodlatte from Judiciary - saying this will be a top priority in 2014,"** Wallis said. "John **Boehner has hired a really talented aide to help with immigration - she knows the topic well, and she's for reform."** At his final 2013 news conference, President **Obama called on House members to pass** the **immigration reform** measure approved by the Senate, but Speaker Boehner has said he won't bring that version up for a vote.

**top of the docket and will pass**

**Walsh 12/31/13** (Kenneth T., US News and World report, "Muscues of 2013 Loom over 2014 for Obama")

**As he prepares for the political battles of 2014**, President **Obama is taking a more populist approach** and combining it with a more combative attitude toward his adversaries.¶ **He is advocating policies that have long been popular on the political left,** such as scaling back the economic and social advantages enjoyed by the rich and big corporations, and he has served notice that he will address the problems of income inequality and lack of social mobility in a more aggressive way – all to the consternation of conservatives.¶ Obama is expected to describe his 2014 agenda in his State of the Union address on Jan. 28. **But he has already indicated that he will be pushing hard for some long-standing priorities**, **such as overhauling the immigration laws to give millions of people who entered the United States illegally** the chance to gain legal residency or citizenship.

#### Immigration reform will pass now – momentum is building and the GOP is on board

Best 12/30/13 (Tony, "Immigration Reform Logjam on Capitol Hill Can End Early in New Year" AERO)

There may be some light at the end of the long stalled comprehensive immigration reform tunnel in Washington, a development that can bring relief to hundreds of thousands of Caribbean immigrants in the U.S.  And the Black Institute, the New York Immigration Coalition, members of the Congressional Black Caucus in New York City — Hakeem Jeffries and Yvette Clarke in Brooklyn, Gregory Meeks in Queens and Charlie Rangel in Manhattan – along with millions of foreign-born residents across the U.S. are keeping their proverbial fingers crossed that at last the immigration measure that has been bottled up by Republicans in the House of Representatives may spring to life in 2014.  The civil war that has broken out between America’s conservative lawmakers and their financial backers outside of the House of Representatives and the Senate is likely to have the salutary effect of breaking the logjam that has prevented the House leadership from bringing the immigration bill to the floor of the chamber for debate and ultimately a vote, say analysts and lawmakers.  There is now talk of a bipartisan deal to legalize the more than 11 million people living in the country as undocumented immigrants, residents who are out of status.  Although House Speaker John Boehner (D-Ohio), the person mainly responsible for the immigration bottleneck has not spoken about his intention but has chastised extremist conservative forces in and out of Congress for their opposition to the recent budget deal agreed to by the Republicans and the Democrats, outside Republican groups have complained that his sharp attacks on the right was simply clearing the way for immigration reform to be placed high on the Congressional agenda in the New Year when Congress reconvenes after the Christmas recess.  Indeed, Heritage Action, a fund-raising and lobbying group that has supported many tea party representatives complained openly that Boehner’s verbal assault on certain right-wing backers of his party, accusing them of losing “all credibility” with the American people said in a statement that the House leader was clearing the political deck to place immigration reform on the docket for consideration.  Just as important, Boehner added a prominent immigration expert, Becky Tallent, to his staff, presumably to pave the way for a debate on the reform proposals. She had worked with Sen. John McCain (R-Ariz.) on his immigration reform plan that eventually failed to gain traction several years ago.  “It seems very unlikely that Becky would have gone to work for the Speaker on this unless there was a serious plan to move on this in the New Year,” said Ted Alden, a specialist on immigration at the Council on Foreign Relations. Rep. Luis Gutierrez (D-Ill.), a major Hispanic immigration voice on Capitol Hill, has hinted that that his party would consider a deal in order to get the immigration bill moving.

### thump

**Obama is not pushing-Senate democrats are doing the heavy lifting and will get the blame for fights**

**Lewis and Rushe 1-2**

(Paul Lewis in Washington and Dominic Rushe in New York, both writers for the Guardian. “Senate Democrats plan fast-track fix to reinstate lost unemployment benefits” 1-2-14 http://www.theguardian.com/world/2014/jan/02/senate-democrats-bill-reinstate-unemployment-benefits//wyoccd)

**Democratic leaders in the Senate are planning to fast-track legislation to extend unemployment insurance**, a move that would provide a lifeline to more than a million jobless Americans who lost their benefits five days ago.¶ Senator Jack **Reed,** a Democrat from Rhode **Island whose bipartisan bill will ensure a three-month extension of the federal benefits program**, told the Guardian **the measure would stimulate the economy and alleviate what he called the “mental torment” suffered by those long-term unemployed who now feel abandoned.**¶ The benefits, which apply to people who are unemployed for longer than six months, were left to expire on Saturday after a bipartisan budget deal on federal spending for the next two years failed to include a reauthorisation of the program.¶ “On a human level, many of these people are desperate,” Reed said in an interview on Thursday. “It is the difference between being able to pay their mortgage or not. Many of these are people who have worked for decades. They had good jobs, and they’ve been sending out sending out thousands of résumés, but they’re in a job market that is terrible.”¶ **Reed’s bill**, **which is co-authored by** the Nevada Republican Dean **Heller,** will only extend the federal benefits until the end of March – a temporary fix designed to allow congressional committees to work on a more permanent solution for the long-term unemployed. It would be applied retroactively, reimbursing those who lost benefits over the last week.¶ **In a clear sign that Democrats plan to make poverty and inequality major issues in this year’s Congressional mid-term elections,** Harry Reid, the Senate majority leader, told a reporter in his home state of Nevada earlier this week that the bill will be put to a vote when the Senate reconvenes on Monday.¶ A senior Democratic aide involved in the legislation said any vote may now be pushed back to Tuesday or Wednesday, to make room for the Senate’s confirmation of Janet Yellen as the chair of the Federal Reserve. But the bill remains a priority.¶ “We have a commitment that the the unemployment insurance bill be one of the first things the Senate moves on,” the aide said.¶ Reed and Heller represent the two states – Rhode Island and Nevada – with the highest unemployment rates in the US. ¶ Reed said 49,000 people – many of whom once had successful, managerial jobs – had lost benefits in Rhode Island over the last week. “Their suffering is the kind of mental torment of someone whose future is suddenly uncertain,” he said. “You’re 40 or 50 years old and you’ve worked all your life, and suddenly you’re thinking: I may never get a job anything like the one I had when I was laid off.”

**Won’t Thump – Focus**

**The Root 1/3**/14 [David Swerdlick, associate editor, “Obama’s Last Year Wasn’t as Bad as They Say”, <http://www.theroot.com/articles/politics/2014/01/five_things_obama_got_right_last_year.html>]

Unless you opted for your own news blackout during the holiday season, by now you’ve probably read one of the many year-end recaps that described 2013 as President Barack Obama’s worst year. If not, just read here, here, here, here and here.¶ Reviews were bad, with even Chris Matthews—of “thrill going up my leg when Obama speaks” fame—lamenting that last year “feels like the seventh or eighth year of a presidency,” not the fifth.¶ The overall gist, of course, is that between Edward Snowden’s National Security Agency leaks, the administration’s clumsy messaging on Syria, Congress’ inability to enact background-check legislation and the lousy rollout of Obamacare—including PolitiFact’s naming “If you like your health care plan, you can keep it” as its lie of the year—the president heads into 2014 digging himself out of a hole.¶ Indeed, the last 12 months were far from stellar.¶ The president and his key surrogates have failed to capitalize on an improving economic picture, with their seeming inability to proactively communicate to the American electorate where they’re trying to take it from day to day and year to year. And as my The Root colleague Keli Goff explains, he’s still battling persistently high unemployment, particularly among African Americans.¶ But the first year of his second term wasn’t quite as bad as everyone says. Background-check legislation didn’t happen, but that wasn’t on Obama’s agenda until the Sandy Hook massacre in Newtown, Conn. Immigration reform only got through the Senate, but it’s not completely dead in the House. His approval numbers took a hit, but in last week's Gallup poll, they made a modest five-point rebound.¶ He deserves criticism, sure, but also some credit. Here are five good moves he made last year:¶ Syria¶ It wasn’t pretty watching Obama send Secretary of State John Kerry out to make a full-throated case for military action in Syria, only to pull back days later and call for Congress to weigh in—we’re used to seeing commanders in chief go to war without reservation. But you could argue that one of the main reasons Obama was elected in the first place was that Americans wanted a president who was willing to pull back from the brink if that was what circumstances called for.¶ The Government Shutdown¶ There’ll be more fights ahead between the White House and Congress, but the president scored a win (later squandered) when he forced House Republicans to blink first in the standoff that led to the government shutdown, and got—temporarily, at least—Washington’s political fever to break. When the dust settled, the path cleared for Sen. Patty Murray (D-Wash.) and Rep. Paul Ryan (R-Wis.)—budget chairs in their respective legislative chambers—to come to terms on a deal.¶ Janet Yellen¶ The same president who tripled the number of women on the Supreme Court went on to nominate respected economist and current Federal Reserve Vice Chair Janet Yellen as the Fed’s first female chair, and she's expected to be confirmed by the Senate this month.¶ Civil Rights¶ He hasn’t really done much that’s new on gay civil rights, but over the course of his tenure repealing “Don’t ask, don’t tell,” and Obama's public support of same-sex marriage helped make the high court’s decisions to strike down provisions of the so-called Defense of Marriage Act and not to reinstate California’s Proposition 8 seem inevitable.¶ Obamacare (Seriously)¶ And, OK, for now, keep Obamacare in the fail column. For reasons that can’t adequately be explained, team Obama—including Sec. Kathleen Sebelius and the president himself—kept their eye off the ball for four years while overpaid contractors botched a rollout that The Root’s development team could have handled in their sleep with one hand tied behind their keyboards.¶ Policywise, the Affordable Care Act works—and premiums come down—only if enough healthy enrollees sign up to offset the cost of covering those who already need care. That hasn’t happened yet, and we won’t know if it does for a year. ¶ Without cost savings to individuals, or a bending of the infamous “cost curve,” the law is a loser. ¶ **On the politics**, though, **Obama is playing a longer game.** As of this week, more than 6 million people have signed up for Medicaid or for coverage on the ACA exchanges—nowhere near the planned enrollment goals, but not the fiasco of two months ago. To the degree that he’s failing, he’s doing it while trying to bring health care to the uninsured. In time, politically, that might wind up being a win.

**Schiliro is saving Obama PC by smoothing over the political impact**

**Brown and Allen 1-3**

(CARRIE BUDOFF BROWN and JONATHAN ALLEN, reporters for Politico. “The Obamacare fixer” 1-3-14 http://www.politico.com/story/2014/01/the-obamacare-fixer-101737.html?hp=f1//wyoccd)

**Phil Schiliro’s work on Obamacare has come full circle**.¶ As President Barack Obama’s legislative director, Schiliro helped get the Affordable Care Act through Congress**. Now, he’s back as the fixer.**¶ **With the website now working, many Democrats have run out of patience with an administration that has failed to anticipate and address problems** before they become political disasters. Every day seems to bring a fresh challenge for the White House, from worries that new insurance policies wouldn’t work on Jan. 1 to Justice Sonia Sotomayor’s New Year’s Eve stay of a limited portion of the contraception mandate.¶ (Also on POLITICO: Sotomayor faces health law contraception decision)¶ Shortly after his unexpected return last month, **Schiliro met with more than a dozen Democratic senators to convince them the White House gets it**. His message, according to a Senate aide present: I understand your frustration, and that’s why I’m here — to streamline coordination with the Hill, fix problems, deal with issues before they blow up. **He told the senators to reach out whenever they needed him — morning, noon or night, on his mobile phone, at home, by email or any other means necessar**y.¶ Senators have heard the call-me line before, from White House chief of staff Denis McDonough and other officials. They just didn’t always think anyone was listening on the other end of the line.¶ Schiliro’s allies say this time is different — or, more important, this guy is different. **His sole focus**, unlike McDonough**, is to run point on the politics and policy of the Obamacare implementation.** It’s the mirror to the tech-side troubleshooting job filled first by Jeff Zients and now by Kurt DelBene. Before Schiliro, there was no single person at his level tasked with thinking strategically across the board and managing all the moving parts — from the Hill to the federal agencies to the White House, administration officials said.¶ (Also on POLITICO: Full health care policy coverage)¶ “It is a consuming project that involves really complicated policy, difficult politics and lot of stakeholders from pharmacies to hospitals to insurers as well as elected officials,” said Jennifer Palmieri, the White House communications director who has spent most of her time in recent months managing Obamacare. “**He is the one guy here at the White House making sure that it all gets done and is moving on track and each task has 100 percent completion**.”

### 2NC Link

#### Reducing war powers will end Obama’s credibility with Congress – it causes stronger GOP pushback

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

Unless President Obama can totally change a reluctant public's perception of another Middle-Eastern conflict, it seems unlikely that he can get 218 votes in the House, though he can probably still squeak out 60 votes in the Senate. This defeat would be totally unprecedented as a President has never lost a military authorization vote in American history. To forbid the Commander-in-Chief of his primary power renders him all but impotent. At this point, a rebuff from the House is a 67%-75% probability.¶ I reach this probability by looking within the whip count. I assume the 164 declared "no" votes will stay in the "no" column. To get to 218, Obama needs to win over 193 of the 244 undecided, a gargantuan task. Within the "no" column, there are 137 Republicans. Under a best case scenario, Boehner could corral 50 "yes" votes, which would require Obama to pick up 168 of the 200 Democrats, 84%. Many of these Democrats rode to power because of their opposition to Iraq, which makes it difficult for them to support military conflict. The only way to generate near unanimity among the undecided Democrats is if they choose to support the President (recognizing the political ramifications of a defeat) despite personal misgivings. The idea that all undecided Democrats can be convinced of this argument is relatively slim, especially as there are few votes to lose. In the best case scenario, the House could reach 223-225 votes, barely enough to get it through. Under the worst case, there are only 150 votes. Given the lopsided nature of the breakdown, the chance of House passage is about one in four.¶ While a failure in the House would put action against Syria in limbo, I have felt that the market has overstated the impact of a strike there, which would be limited in nature. Rather, investors should focus on the profound ripple through the power structure in Washington, which would greatly impact impending battles over spending and the debt ceiling.¶ Currently, the government loses spending authority on September 30 while it hits the debt ceiling by the middle of October. Markets have generally felt that Washington will once again strike a last-minute deal and avert total catastrophe. Failure in the Syrian vote could change this. For the Republicans to beat Obama on a President's strength (foreign military action), they will likely be emboldened that they can beat him on domestic spending issues.¶ Until now, consensus has been that the two sides would compromise to fund the government at sequester levels while passing a $1 trillion stand-alone debt ceiling increase. However, the right wing of Boehner's caucus has been pushing for more, including another $1 trillion in spending cuts, defunding of Obamacare, and a one year delay of the individual mandate. Already, Conservative PACs have begun airing advertisements, urging a debt ceiling fight over Obamacare. With the President rendered hapless on Syria, they will become even more vocal about their hardline resolution, setting us up for a showdown that will rival 2011's debt ceiling fight.¶ I currently believe the two sides will pass a short-term continuing resolution to keep the government open, and then the GOP will wage a massive fight over the debt ceiling. While Obama will be weakened, he will be unwilling to undermine his major achievement, his healthcare law. In all likelihood, both sides will dig in their respective trenches, unwilling to strike a deal, essentially in a game of chicken. If the House blocks Syrian action, it will take America as close to a default as it did in 2011. Based on the market action then, we can expect massive volatility in the final days of the showdown with the Dow falling 500 points in one session in 2011.¶ As markets panicked over the potential for a U.S. default, we saw a massive risk-off trade, moving from equities into Treasuries. I think there is a significant chance we see something similar this late September into October. The Syrian vote has major implications on the power of Obama and the far-right when it comes to their willingness to fight over the debt ceiling. If the Syrian resolution fails, the debt ceiling fight will be even worse, which will send equities lower by upwards of 10%. Investors must be prepared for this "black swan" event.¶ Looking back to August 2011, stocks that performed the best were dividend paying, less-cyclical companies like Verizon (VZ), Wal-Mart (WMT), Coca-Cola (KO) and McDonald's (MCD) while high beta names like Netflix (NFLX) and Boeing (BA) were crushed. Investors also flocked into treasuries despite default risk while dumping lower quality bonds as spreads widened. The flight to safety helped treasuries despite U.S. government issues. I think we are likely to see a similar move this time.¶ Assuming there is a Syrian "no" vote, I would begin to roll back my long exposure in the stock market and reallocate funds into treasuries as I believe yields could drop back towards 2.50%. Within the stock market, I think the less-cyclical names should outperform, making utilities and consumer staples more attractive. For more tactical traders, I would consider buying puts against the S&P 500 and look toward shorting higher-beta and defense stocks like Boeing and Lockheed Martin (LMT). I also think lower quality bonds would suffer as spreads widen, making funds like JNK vulnerable. Conversely, gold (GLD) should benefit from the fear trade.¶ I would also like to address the potential that Congress does not vote down the Syrian resolution. First, news has broken that Russia has proposed Syria turn over its chemical stockpile. If Syria were to agree (Syria said it was willing to consider), the U.S. would not have to strike, canceling the congressional vote. The proposal can be found here. I strongly believe this is a delaying tactic rather than a serious effort. In 2005, Libya began to turn over chemical weapons; it has yet to complete the hand-off. Removing and destroying chemical weapons is an exceptionally challenging and dangerous task that would take years, not weeks, making this deal seem unrealistic, especially because a cease-fire would be required around all chemical facilities. The idea that a cease-fire could be maintained for months, essentially allowing Assad to stay in office, is hard to take seriously. I believe this is a delaying tactic, and Congress will have to vote within the next two weeks.¶ The final possibility is that Democrats back their President and barely ram the Syria resolution through. I think the extreme risk of a full-blown debt stand-off to dissipate. However, Boehner has promised a strong fight over the debt limit that the market has largely ignored. I do believe the fight would still be worse than the market anticipates but not outright disastrous. As such, I would not initiate short positions, but I would trim some longs and move into less cyclical stocks as the risk would still be the debt ceiling fight leading to some drama not no drama.¶ Remember, in politics everything is connected. Syria is not a stand-alone issue. Its resolution will impact the power structure in Washington. A failed vote in Congress is likely to make the debt ceiling fight even worse, spooking markets, and threatening default on U.S. obligations unless another last minute deal can be struck.

#### President has to spend political capital defending war powers

Samples, 1 --- director of the Center for Representative Government at CATO

(10/27/2011, John, “Congress Surrenders the War Powers: Libya, the United Nations, and the Constitution,” <http://www.cato.org/sites/cato.org/files/pubs/pdf/pa687.pdf>))

But political representation has other fac-ets. It has given voice to public dissatisfaction about wars proper and limited wars. Con-gress “has historically been actively engaged in debates over the proper conduct of major military initiatives. It has proposed, publicly debated, and voted on various legislative initiatives to authorize or curtail the use of force.” Congress has also held hearings about the conduct of limited and proper wars. 215 Many believe that such legislative actions have little effect on the president. Yet such ac-tions can affect the cost-benefit calculations of the president in pursuing or failing to pur-sue a limited war. Congress can raise the costs of a policy by shaping and mobilizing public opinion against a war, thereby increasing the cost in political capital a president must pay to sustain a policy. Congressional actions also signal disunity (or unity) to foreign actors, who in turn act on their expectations, thereby raising the costs of a limited war. Congres-sional actions also affect presidential expec-tations about how the conduct of a war will be received in the legislature; Congress can thus influence presidential policies without directly overturning them. 216 Systematic evi-dence indicates that since 1945 Congress has been able to influence presidential policies through these means. 217 Although short of constitutional propriety, congressional voice can matter in war-making.

#### Obama is fighting hard for detention powers—defeat in courts or congress wrecks his agenda.

Kelley 12

~Michael, Military and defense reporter, "Why Losing Indefinite Detention Powers Would Be a Disaster for Obama," Business Insider, 10/24, http://www.businessinsider.com/why-losing-indefinite-detention-powers-would-be-a-disaster-for-obama-2012-10- ~~

There's a big story by [Greg Miller](http://www.businessinsider.com/blackboard/greg-miller) in the [Washington Post](http://www.businessinsider.com/blackboard/washington-post) on how the Obama administration [has expanded its powers in the War on Terror](http://www.washingtonpost.com/world/national-security/plan-for-hunting-terrorists-signals-us-intends-to-keep-adding-names-to-kill-lists/2012/10/23/4789b2ae-18b3-11e2-a55c-39408fbe6a4b_story.html). Miller notes that the legal foundation for U.S. counterterrorism strategy is partially based on "the Congressional authorization to use military force" (AUMF) that was passed after 9/11. Specifically it seems to be based on an interpretation of the AUMF that was "reaffirmed" by the indefinite detention clause of the National Defense Authorization Act (NDAA). This explains why Obama is [fighting so hard](http://www.businessinsider.com/obama-administration-fights-for-the-ndaa-2012-9) to keep the indefinite detention clause in effect. In court the government [argued](https://www.documentcloud.org/documents/357323-preliminary-injunction-against-ndaas-indefinite.html) that the indefinite detention clause is simply a "reaffirmation" of the Authorization Use Of Military Force (AUMF), which gives the president authority "to use all necessary and appropriate force against those ... [who] aided the terrorist attacks that occurred on September 11, 2001 or harbored such organizations or persons." In the NDAA lawsuit, the government [argued](https://www.documentcloud.org/documents/357323-preliminary-injunction-against-ndaas-indefinite.html) that the NDAA §1021 is simply an "affirmation" or "reaffirmation" of the AUMF. But the NDAA adds language to the AUMF when it says "The President also has the authority to detain persons who were part of or substantially supported, Taliban or al-Qaida forces or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act, or has directly supported hostilities, in the aid of such enemy forces." That extra part is what Judge Katherine Forrest [ruled unconstitutionally vague](http://www.businessinsider.com/no-americans-indefinitely-detained-without-due-process-2012-6). And since Judge Forrest was [careful to protect the AUMF](http://www.businessinsider.com/why-you-should-be-outraged-about-the-ruling-to-keep-the-national-defense-authorization-in-effect-2012-10) in her permanent injunction, the government should be OK with that decision if the AUMF and NDAA indefinite detention powers are precisely the same. Tangerine Bolen, an activist and plaintiff on the NDAA lawsuit, told us that the government's reaction raised "significant red flags" that the indefinite detention clause is "a retroactive legislative fix ...[that] allows them to continue to [arbitrarily apply indefinite detention](http://www.aljazeera.com/indepth/opinion/2012/09/201291872137626701.html) to whomever they wish, whenever they wish, for whatever reasons they wish without being held accountable." Thus a victory for the plaintiffs in the NDAA lawsuit would strike down unjustified indefinite detention powers that the government has been claiming for years. "Our lawsuit is the lock on Pandora's box," Bolen said. "And Pandora's box is the overly broad application of the AUMF… [BlockingNDAA §1021] is to suddenly and sharply delimit powers upon which President Obama has come to rely wrongfully. He never should've had these powers. Bush never should've had these powers." The Post notes that critics of [Obama's secret drone war](http://www.nytimes.com/2012/05/29/world/obamas-leadership-in-war-on-al-qaeda.html?_r=3&pagewanted=1&) argue that its legal justifications have become much weaker as "the drone campaign has expanded far beyond the core group of al-Qaeda operatives ... [and] officials see an array of emerging threats beyond Pakistan, Yemen and Somalia — the three countries where almost all U.S. drone strikes have occurred." Bolen argues that the "irreparable harm" is that the permanent injunction would possibly be "exposing illegal activities for the last decade. It could have such a set of ripple consequences: we could see people in the Bush administration, Obama administration and security agencies be investigated for how they have applied the AUMF. Obama could finally be forced to release all the prisoners at Guantanamo Bay who have been cleared for years. It's an incredible headache for him."

### 2NC—A/T Wins General

#### Third, Wins don’t overwhelm the link—takes time for the win to manifest itself and damage will have already been done—Obamacare proves.

Porter, Slant staff writer, 2009  
[Ethan, “Obama’s political capital problem,” Slant, 9/25/09, <http://trueslant.com/ethanporter/2009/09/22/obamas-political-capital-problem/> ]

I had assumed that, following health care’s passage, the rest of the progressive agenda would be turned into law rather quickly. Health care, then climate change, then the completion of Iraq withdrawal and the rollback of the Bush tax cuts. But it all hinged on health care. Call it the progressive domino theory. I’m pretty sure the Administration subscribed to it. Yet if the substance of the first domino doesn’t fall for several years, then the president might be in trouble. For politicians, creating entitlement programs has immense political benefits–namely, such programs disburse resources to voters. (The political value of entitlement programs in part explains why Bush couldn’t privatize social security.) But if there’s a significant lag between the passage of a law and the disbursement of resources, then all we’ll be left hearing about is the cost of a bill, the resultant increase to the deficit, etc. Meanwhile, Obama’s political capital will already have been spent. And that’s not the kind of thing that’s easy to get back.

### 2NC PC Key

**Capital’s key but limited – the plan disrupts Obama’s careful strategy**

**Eilperin and Tumulty 12/10** (Juliet, House of Representatives reporter for Washington Post, and Karen, national political correspondent for The Washington Post, “Podesta, Schiliro to return to White House,”<http://www.washingtonpost.com/politics/podesta-schiliro-to-return-to-white-house/2013/12/10/194b22f4-61a7-11e3-94ad-004fefa61ee6_story.html>)

President **Obama is embarking on his biggest organizational overhaul** of the White House **since 2010, bringing in Washington veterans and rethinking the way he approaches** some of the most pressing policy **decisions** he will make during the remainder of his second term. **The decision to enlist influential Democratic strategist John D. Podesta, just days after bringing back** his former legislative affairs chief Phil **Schiliro, signals a larger shift in how the White House will operate i**n coming months. Eager to salvage his landmark health-care law and advance climate-change policy before he leaves office, Obama and his aides are open to empowering a handful of advisers with broader policy portfolios to ensure the administration achieves its goals. The president and his aides have been discussing a possible reorganization with some trusted outside advisers for at least a month, according to a senior White House official, who spoke on the condition of anonymity because of the topic’s sensitive nature. The staff ­changes will continue in the coming weeks, the official said. **The moves mark a recognition by the White House that it needed to change its operations in light of the botched Oct. 1 rollout of the health-care law,** particularly given that Pete Rouse, the president’s longest-serving aide, will be leaving by the end of the year. Obama has been hesitant to replace many within his small inner circle operating in the West Wing, in part because his limited time in Washington before the presidency left him with relatively few trusted advisers. While he replaced several key members of his Cabinet after his 2012 re­election — including his secretaries of state, Treasury and defense — it is a measure of how static White House staff has been that the recruitment of two former advisers, on a temporary basis, amounts to a staff shake-up. “**Obama still has an opportunity to get one or two major initiatives through Congress, possibly immigration reform, but he doesn’t have much gas left in the tank,” New York University public affairs professor Paul C. Light wrote in an e-mail. “Podesta and Schiliro may be able to ration Obama’s declining political capital, and hold the line on House Republican attacks. The door is closing on Obama’s presidency** — these two advisers know how to do it as well as it can be done.” The White House’s handling of the health-care law’s implementation, Obama’s lack of knowledge about the scope of the National Security Agency’s eavesdropping program and other missteps have damaged the president’s credibility and raised questions about the West Wing’s competence. Republican critics and Democratic allies have called on Obama to fire at least one senior staff member, a step Obama has so far resisted. Podesta has done multiple stints on Capitol Hill and served twice in the Clinton White House, taking over as chief of staff in 1998 and steering the ship through Clinton’s House impeachment. After Clinton left office, Podesta founded the Center for American Progress (CAP), a liberal think tank, and managed Obama’s transition team in 2008. Obama officials emphasized that the two recent hires were distinct: Schiliro will serve only for a few months and is focused exclusively on steering the administration’s health-care policy. But the moves, along with Rouse’s imminent departure, mark one of the most significant shifts in White House staffing since the ­changes Obama made in the wake of Democratic losses in the 2010 midterms. After that election, senior aides David Axelrod, Jim Messina and Mona Sutphen left and the political director’s job occupied by Patrick Gaspard was eliminated. Obama political strategist David Plouffe came on as a senior adviser, and William Daley took over as chief of staff. Former White House deputy senior adviser Stephanie Cutter, now a partner at the consulting firm Precision Strategies, wrote in an e-mail that adding **the two advisers “brings some fresh thinking and brain power, because they haven’t been in the foxhole these last several months or even years.” “They also bring institutional knowledge of the workings of the West Wing” and other parts of Washington, she added. Several former administration officials and Obama supporters said the realignment amounts to an acknowledgment that the current policy and legislative affairs operations have key vulnerabilities**. The president felt the need to quiet “the chattering classes” who have suggested his team needs “more inside Washington experience,” the senior White House aide said. One former White House official, who asked for anonymity in order to speak frankly, said the ­changes reflect a recognition that the White House’s insular leadership was no longer capable of managing the administration’s myriad problems. Much of the key decision making rests with White House Chief of Staff Denis McDonough, Rouse and senior adviser Valerie Jarrett. Several White House officials said recruiting Podesta was McDonough’s idea. Schiliro will be focused on bolstering the administration’s relationship with lawmakers who are nervous about the health-care law’s impact and head off any further problems with the law’s implementation. The decision to bring in Podesta reflects the president’s intent to exercise his executive authority on several key fronts. White House communications director Jennifer Palmieri said Podesta will help the administration strategize about “how do you leverage all the resources you have in the federal government to advance your agenda in a political year.” In an interview with The Washington Post this fall, Podesta said Obama’s “path to success is going to come through every single place that you can squeeze some authority which he has. That is **where you’ve got to focus your attention and where you could spend your political capital.”**

**Support for immigration reform is building now due to Obama pressure**

**Scher 12-13**

(Bill, reporter for The Week. “How the budget deal could pave the way for immigration reform” 12-13-13 http://theweek.com/article/index/254049/how-the-budget-deal-could-pave-the-way-for-immigration-reform//wyoccd)

**The two-year bipartisan budget deal passed by the House Thursday night potentially will do more than just dispel the atmosphere of chronic crisis in Washington**, which has driven Congress' approval rating to record lows**. The Capitol stage is now set for an even bigger bipartisan achievement: Immigration reform.**¶ The immigration issue was set to come to a head last fall, after immigration advocates ran circles around the Tea Party during the August recess to whip up support for the bipartisan Senate bill. While Speaker John Boehner (R-Ohio) was resistant to the Senate’s comprehensive approach, he could not completely snub public pressure and promised the House would take action.¶ But instead of immigration, the fall season gave us the Syrian crisis, the government shutdown, and the HealthCare.gov botch, all of which demanded media attention that deprived immigration activists of the ability to maximize grassroots pressure. Momentum appeared to stall. The Hill even ran a two-part series in mid-November called "How Immigration Died."¶ But a funny thing happened two weeks after that obituary: President **Obama publicly accepted Boehner's position that the House pass a series of piecemeal immigration bills instead of a single comprehensive bill like the Senate’s. Obama removed a political roadblock, putting the burden on Boehner to either follow through on his own pledge or shoulder all the political consequences for failure**.¶ Boehner may not be eager to force his party to vote on an issue that divides its members, but neither does he want Republicans to take the blame for inaction and lose an entire generation of Latino voters.¶ A few days later, **Boehner surprised Washington by hiring a new immigration policy aide from the Bipartisan Policy Center who supports what Democrats insist on but what many Republicans resist: A pathway to citizenship** for the currently undocumented.¶ This week’s deal is another signal that congressional leaders are ready to close the curtains on the budget kabuki and bring immigration back to center stage. Rep. Paul **Ryan** (R-Wisc.), **who negotiated the budget deal, already has made clear his support for reform that includes a pathway to citizenship, and has an interest in lowering the political temperature through this agreement**. In turn, his negotiating partner Sen. Patty Murray (D-Wash.) made sure to point out that the reduced tensions should help get immigration done.¶ Also of note, Boehner raised eyebrows this week by lashing out at conservative groups that opposed the budget deal before it was announced. After declaring they have "lost all credibility," Boehner was asked at a press conference if he wanted them to "stand down." He coldly responded, "I don't care what they do."¶ The public display of anger by the normally poker-faced speaker suggests he is less inclined to bow to those on his right flank after they drove the GOP into the shutdown ditch, which should free Boehner up to compromise on immigration. In fact, prominent conservative pundit Erick Erickson fretted on Twitter, "Is Boehner picking this fight with conservatives to lay battle lines for the immigration fight?"¶ Congress doesn’t have a lot of time left. The deeper we get into the 2014 campaign season, the more the two parties will be focused on drawing blood, not cutting deals.¶ But they certainly have until the spring, when filing deadlines for primary challengers begin to expire, reducing far-right, anti-immigrant pressure on incumbent Republicans inclined to deal.¶ **Skepticism and cynicism have clouded the immigration reform effort for months. But where there’s a will, there’s a way. And the actions of Boehner and Ryan this month suggest there is a will.**

#### Political capital is key

**Orlando Sentinel 11-1**-13 "What we think: It'll take both parties to clear immigration logjam" articles.orlandosentinel.com/2013-11-01/news/os-ed-immigration-reform-congress-20131031\_1\_immigration-reform-comprehensive-reform-house-republicans

For those who thought the end of the government shutdown would provide a break from the partisan bickering in Washington, think again. The battle over comprehensive immigration reform could be every bit as contentious. **Polls show the popular momentum is there for comprehensive reform, which would include a path to citizenship** for many of the nation's 11 million undocumented immigrants. **But it'll take plenty of political capital from President Obama** and leaders in both parties on Capitol Hill **to make it happen.** Immigration-reform activists, who have been pushing for reform for years, are understandably impatient. This week police arrested 15 who blocked traffic at a demonstration in Orlando. **There are plenty of selling points for comprehensive immigration reform. An opportunity for millions of immigrants to get on the right side of the law. Stronger border security. The chance for law enforcement to focus limited resources on real threats to public safety, instead of nannies and fruit pickers. A more reliable work force to meet the needs of key industries. Reforms to let top talent from around the world stay here after studying in U.S. universities. The Senate passed its version of comprehensive immigration in June. It includes all of the benefits above.** Its path to citizenship requires undocumented immigrants to pay fines, learn English, pass a criminal background check and wait more than a decade. **So far, House Republicans have balked**, taking a piecemeal rather than comprehensive approach. Many members fear being challenged from the right for supporting "amnesty." **Yet polls show the public supports comprehensive reform**. In June, a Gallup poll found 87 percent of Americans — **including 86 percent of Republicans — support a pathway to citizenship** like the one outlined in the Senate bill. Florida Republican Sen. Marco Rubio took flak from tea-party supporters for spearheading the comprehensive bill. Now, apparently aiming to mend fences, he says immigration should be handled piecemeal. He's politically savvy enough to know that's a dead end. But **comprehensive reform won't have a chance without** President **Obama making full use of his bully pulpit to promote it, emphasizing in particular all that undocumented immigrants would need to do to earn citizenship.** House Democratic leaders will have to underscore the president's message.

# 1nr

### 2NC Framework

#### AND COHERENCE – ONLY INCORPORATION OF REPRESENTATIONS CAN MAKE SENSE OF POLITICAL REALITY

Jourde 6 – Cedric Jourde \* Ph.D., Political Science, University of Wisconsin-Madison, Madison, 2002 \* M.A., Political Science, University of Wisconsin-Madison, Madison, 1996 \* B.Sc., Political Science, Université de Montréal, Montréal, 1995 Hegemony or Empire?: The redefinition of US Power under George W Bush Ed. David and Grondin p. 182-3 2006

Relations between states are, at least in part, constructed upon representations. Representations are interpretative prisms through which decision-makers make sense of a political reality, through which they define and assign a subjective value to the other states and non-state actors of the international system, and through which they determine what are significant international political issues.2 For instance, officials of a given state will represent other states as 'allies', 'rivals', or simply 'insignificant', thus assigning a subjective value to these states. Such subjective categorizations often derive from representations of these states' domestic politics, which can for instance be perceived as 'unstable\*, 'prosperous', or 'ethnically divided'. It must be clear that representations are not objective or truthful depictions of reality; rather they are subjective and political ways of seeing the world, making certain things 'seen' by and significant for an actor while making other things 'unseen' and 'insignificant'.3 In other words, they are founded on each actor's and group of actors' cognitive, cultural-social, and emotional standpoints. Being fundamentally political, representations are the object of tense struggles and tensions, as some actors or groups of actors can impose on others their own representations of the world, of what they consider to be appropriate political orders, or appropriate economic relations, while others may in turn accept, subvert or contest these representations. Representations of a foreign political reality influence how decision-making actors will act upon that reality. In other words, as subjective and politically infused interpretations of reality, representations constrain and enable the policies that decision-makers will adopt vis-a-vis other states; they limit the courses of action that are politically thinkable and imaginable, making certain policies conceivable while relegating other policies to the realm of the unthinkable.4 Accordingly, identifying how a state represents another state or non-state actor helps to understand how and why certain foreign policies have been adopted while other policies have been excluded. To take a now famous example, if a transnational organization is represented as a group of 'freedom fighters', such as the multi-national mujahideen in Afghanistan in the 1980s, then military cooperation is conceivable with that organization; if on the other hand the same organization is represented as a 'terrorist network', such as Al-Qaida, then military cooperation as a policy is simply not an option. In sum. the way in which one sees, interprets and imagines the 'other\* delineates the course of action one will adopt in order to deal with this 'other'.

#### **THEIR FRAMEWORK CAUSES SERIAL POLICY FAILURE- Their violent ontologies lays claim to know the entirety of truth and existence. Those ontologies are the root cause of security and inevitably the failure of their policies as they become self-fulfilling prophecies**

Biswas 7 (Shampa, Professor of Politics – Whitman College, “Empire and Global Public Intellectuals: Reading Edward Said as an International Relations Theorist”, Millennium, 36(1), p. 117-125)

**The most serious threat to the ‘intellectual vocation’**, he argues, **is** ‘professionalism’ and mounts a pointed attack on the proliferation of ‘specializations’ and **the ‘cult of expertise’ with their focus on** ‘relatively narrow areas of knowledge’, ‘technical formalism’, ‘**impersonal** theories and **methodologies’, and** most worrisome of all, their ability and **willingness to be** **seduced by power**.17 Said mentions in this context the funding of academic programmes and research which came out of the exigencies of the Cold War18, an area in which there was considerable traffic of political scientists (largely trained as IR and comparative politics scholars) with institutions of policy-making. Looking at various influential US academics as ‘organic intellectuals’ involved in a dialectical relationship with foreign policy-makers and examining the institutional relationships at and among numerous think tanks and universities that create convergent perspectives and interests, Christopher Clement has studied US intervention in the Third World both during and after the Cold War made possible and justified through various forms of ‘intellectual articulation’.19 **This is** not simply a matter of scholars working for the state, but indeed a larger **question of** intellectual orientation. It is not uncommon for IR **scholars** to **feel the need to formulate their** scholarly **conclusions** in terms of its relevance for global politics, where ‘relevance’ is measured **entirely in terms of policy wisdom**. Edward Said’s searing indictment of US intellectuals – policy-experts and Middle East experts - in the context of the first Gulf War20 is certainly even more resonant in the contemporary context preceding and following the 2003 invasion of Iraq. The space for a critical appraisal of the motivations and conduct of this war has been considerably diminished by the expertise-framed national debate wherein certain kinds **of ethical questions** irreducible **to formulaic ‘for or against’ and** ‘costs and benefits’ analysis **can** simply **not be raised**. In effect, what Said argues for, and IR scholars need to pay particular heed to, is an understanding of ‘**intellectual relevance’** that is larger and more worthwhile, that **is about the posing of critical, historical, ethical** and perhaps unanswerable **questions rather than** the **offering** of recipes and **solutions**, that **is about** politics**(rather than techno-expertise**) in the most fundamental and important senses of the vocation.21

### AT: Perm

#### No Reform - THE PLAN CANNOT BE DETACHED FROM IT’S DISCURSIVE UNDERPINNINGS

Burke 07

Anthony Burke, Senior Lecturer @ School of Politics & IR @ Univ. of New South Wales, ‘7 [Beyond Security, Ethics and Violence, p. 3-4]

These frameworks are interrogated at the level both of their theoretical conceptualisation and their practice: in their influence and implementation in specific policy contexts and conflicts in East and Central Asia, the Middle East and the 'war on terror', where their meaning and impact take on greater clarity. This approach is based on a conviction that the meaning of powerful political concepts cannot be abstract or easily universalised: they all have histories, often complex and conflictual; their forms and meanings change over time; and they are developed, refined and deployed in concrete struggles over power, wealth and societal form. While this should not preclude normative debate over how political or ethical concepts should be defined and used, and thus be beneficial or destructive to humanity, it embodies a caution that the meaning of concepts can never be stabilised or unproblematic in practice. Their normative potential must always be considered in relation to their utilisation in systems of political, social and economic power and their consequent worldly effects. Hence this book embodies a caution by Michel Foucault, who warned us about the 'politics of truth . . the battle about the status of truth and the economic and political role it plays', and it is inspired by his call to 'detach the power of truth from the forms of hegemony, social, economic and cultural, within which it operates at the present time'.1 It is clear that traditionally coercive and violent approaches to security and strategy are both still culturally dominant, and politically and ethically suspect. However, the reasons for pursuing a critical analysis relate not only to the most destructive or controversial approaches, such as the war in Iraq, but also to their available (and generally preferable) alternatives. There is a necessity to question not merely extremist versions such as the Bush doctrine, Indonesian militarism or Israeli expansionism, but also their mainstream critiques - whether they take the form of liberal policy approaches in international relations (IR), just war theory, US realism, optimistic accounts of globalisation, rhetorics of sensitivity to cultural difference, or centrist Israeli security discourses based on territorial compromise with the Palestinians. The surface appearance of lively (and often significant) debate masks a deeper agreement about major concepts, forms of political identity and the imperative to secure them. Debates about when and how it may be effective and legitimate to use military force in tandem with other policy options, for example, mask a more fundamental discursive consensus about the meaning of security, the effectiveness of strategic power, the nature of progress, the value of freedom or the promises of national and cultural identity. As a result, political and intellectual debate about insecurity, violent conflict and global injustice can become hostage to a claustrophic structure of political and ethical possibility that systematically wards off critique.

### A/T Realism

#### AND REALISM DOESN’T LIMIT WAR- IT’S THE ROOT CAUSE

Burke 07

(Anthony, Senior Lecturer in Politics and International Relations at UNSW, Sydney, “Ontologies of War: Violence, Existence and Reason”, Theory & Event, Volume 10, Issue 2, 2007, pMUSE, cheek)

I was motivated to begin the larger project from which this essay derives by a number of concerns. I felt that the available critical, interpretive or performative languages of war -- realist and liberal international relations theories, just war theories, and various Clausewitzian derivations of strategy -- failed us, because they either perform or refuse to place under suspicion the underlying political ontologies that I have sought to unmask and question here. Many realists have quite nuanced and critical attitudes to the use of force, but ultimately affirm strategic thought and remain embedded within the existential framework of the nation-state. Both liberal internationalist and just war doctrines seek mainly to improve the accountability of decision-making in security affairs and to limit some of the worst moral enormities of war, but (apart from the more radical versions of cosmopolitanism) they fail to question the ontological claims of political community or strategic theory.82