# AFF ADA Round 1

### Inherency – 1AC

#### **Contention One is Inherency –**

#### Obama’s five year plan is insufficient – 85% of OCS is still locked up

Vorberger 13 (Jeff, Vice President of Political Affairs – National Ocean Industries Association, “Harness the Energy: Deliver the Prosperity,” Marine Link, 1-22, http://www.marinelink.com/news/prosperity-deliver350940.aspx)

Now, what else could Congress do? Congress and the Administration should add more offshore areas for oil and natural gas exploration and development. Federal policies limit exploration and development to about 15% of the outer continental shelf (OCS). That means 85% of the OCS is closed to exploration. Are there marketable amounts of oil and natural gas in that 85%? If the Gulf of Mexico is any indication, there certainly is. But we don’t know the true amounts, and won’t know, without looking. The current five year plan does not open up any new areas for oil and natural gas exploration, but Congress could open up more areas through legislation and should do so. There is strong political support for opening up areas off the coasts of Virginia and South Carolina. Those areas would be a good start. Opponents of increased offshore oil and natural gas development often claim that it would take ten years or more before we saw any production from those new areas. In some cases that might be true, but had we started ten years ago, we wouldn’t be having this argument. In addition, energy forecasts indicate that oil and natural gas will continue to be dominant components of our energy supply for generations to come. We will need those presently untapped supplies, not only for our energy reliability and security, but also to fulfill predictions that the U.S. will become a leader in oil and natural gas production around the end of this decade. Opening up new areas, coupled with increased development of nontraditional sources of energy, such as offshore wind, wave and current will contribute greatly to our long term economic stability and well-being.

#### Gas production on federal lands is declining

Bastasch 13 (Michael, Research Associate – Cascade Policy Institute, “Interior Secretary Ken Salazar to leave Obama administration in March,” Daily Caller, 1-16, <http://dailycaller.com/2013/01/16/interior-secretary-ken-salazar-to-leave-obama-administration-in-march/#ixzz2K2gztFOI>)

However, critics of the administration’s federal lands policies argue that oil and gas production on federal lands have suffered while less reliable renewable sources flourish. “President Obama and Interior Secretary Ken Salazar have presided over the most abysmal stewardship of public lands in recent history,” said Dan Kish of the Institute for Energy Research in October. “Oil production on federal lands declined last year,” Kish added. “Natural gas production on federal lands is in a free fall. Western oil shale is under an Obama embargo, and our vast offshore energy resources must now wait another 5 years for development thanks to the president’s most recent 5 year OCS plan.” As recently as November, Salazar’s Interior Department closed off 1.6 million acres originally slated for shale development, at a time when oil and gas production on federal lands are falling.

### Plan

#### The United States federal judiciary should invalidate production restrictions on federal lands in the Outer Continental Shelf for conventional gas on the grounds that they violate the Outer Continental Shelf Lands Act

### Helium

#### Contention Two is Helium

#### Gas is key to overall helium supply – it’s the linchpin to numerous industries

Kammerzell 11 (Jaime – Energy Writer, “Helium to Move from Byproduct to Primary Drilling Target“, 11/18, <http://rigzone.com/news/article.asp?a_id=112735>)

Helium is likely to move from a derived product of natural gas production in the United States to a primary drilling target in the next five years. Historically produced as a byproduct of natural gas, the U.S. helium supply is declining, which has caused alarm throughout the industry. Why is helium so important? Most people associate helium with party balloons and squeaky cartoon voices; however, there is a very serious side of the helium industry that few people comprehend. Without helium, MRI machines don't function, NASA rockets aren't launchedand semiconductor manufacturing grinds to a halt. Helium is simply indispensible to these and various other critical applications, and its increasing scarcity has many people nervous. According to Bo Sears, president of Inter-American Corporation, U.S. helium extraction from natural gas has been declining since 2000. The fast depleting Hugoton gas field, which covers parts of Kansas, Oklahoma and Texas, is yielding lower and lower volumes natural gas and helium. "Throughout the 20th Century, the Hugoton field was the source of most of the world's helium production. Hugoton gas contains concentrations of helium ranging from 0.3 percent to 1.9 percent and it represents about 75 percent of all domestic helium production," Bo Sears explained. ExxonMobil's LaBarge field in western Wyoming started producing helium in 1986 and represents the other 25 percent. As per the U.S. Helium Act of 1960, the government built a crude helium pipeline through the Texas and Oklahoma Panhandles and Kansas to collect enriched helium volumes from the Hugoton field that were being vented from nitrogen treating facilities. Multiple nitrogen rejection facilities filled the Federal Helium Reserve at the Cliffside field near Amarillo, TX with enriched off-gas, the gas that is removed from the natural gas. The Hugoton hit peak production in the late 1970s. The Bureau of Land Management (BLM), a division of the US Department of the Interior, manages the Cliffside reserve and related helium infrastructure. Cliffside is the only significant storage facility for crude helium in the world. As per the Helium Privatization Act of 1996, the BLM is now tasked with selling the helium reserve to pay down debt incurred since the enactment of the Helium Act of 1960. By virtually all accounts, the disposition price for crude helium sold, as stipulated by the 1996 Act, is substantially below the actual market price for helium. This dynamic is leading to shortages of helium to end users and an opportunity cost to the U.S. Treasury. Industrial gas companies with strap-on plants (attached to the BLM helium pipeline running from Cliffside to Bushton, KS) purchase crude helium from the Cliffside reserve via stipulated annual allocations. The composition of this crude helium is roughly 80% helium and 20% nitrogen. At these plants, engineers refine, liquefy, transport and sell the crude helium to any number of domestic and international customers. For most of the 1900s, conventional gas **treating operations captured helium as a byproduct**. For natural gas to meet rigid sales specifications, engineers must purify it to "something close to 1,000 Btu," Scott Sears, CEO of IACX Energy, explained. "Most pipeline interconnections have specifications that limit the quantity of inert gases being pushed into the line. A typical sales line specification is no more than 4% total inerts. And, where large nitrogen rejection facilities were placed in high-helium bearing reservoirs such as Hugoton, the nitrogen waste gas was found to contain high percentages of helium. This helium byproduct was and is further refined and sold. IACX Energy builds small scale helium purification and nitrogen rejection facilities that can be used in tandem to realize multiple profit centers for a gas treating project". "Helium sales can really augment a project's economics, an especially appealing proposition given today's low prices for natural gas," Scott Sears said. "When used in tandem, small scale helium and nitrogen rejection facilities can reap considerable value, even at lower pressures and volumes. When we started this venture late in 2006, we had no treating units in operation. Now, we have 17 units treating gas streams in seven different states." "If a producer is curious about whether or not he has helium in his gas," Scott said, "he can start by looking for high nitrogen levels – there appears to be a correlation between high helium and high nitrogen. Moreover, if any high nitrogen gas is observed from reservoirs at or near any deep-seated Precambrian uplifting events, the chances of having economic levels of helium gas is relatively good. Lastly, just because a gas analysis shows 0 percent doesn't make it so. Most gas chromatographs use helium as a carrier gas and the device cannot measure for the carrier gas. You must specifically ask the testing company for measure for helium, though not all companies are set up to do so," Scott advised. The government "formula price" for the crude helium sold from the Cliffside field (set by the Helium Privatization Act of 1996) is equal to "the total cost of the government helium program, plus accrued interest, divided by the estimated recoverable helium in the reserve," Bo Sears explained. Currently, the formula price sits at $75.75 per thousand cubic feet. What is Helium? Although helium is the second most abundant element in the universe, behind hydrogen, it is quite rare on Earth, Bo Sears explained. "It comes from two different sources, which is cause for the discrepancy. The helium that makes up nearly a quarter of the known universe is of primordial origin, meaning it has been here since the Big Bang. The helium on Earth, however, is solely the result of millions upon millions of years of radioactive decay of three isotopes (Uranium-238, Uranium-235, and Thorium-232)," Bo Sears said. The helium found on Earth is very mobile and accumulates in natural gas reservoirs. "Virtually all of the commercially extractable helium in the U.S. is found in the mid-continent," Bo Sears said. The Hugoton field has been the primary source for global helium since U.S. helium production began. "Most natural gas in the U.S., and elsewhere for that matter, does not contain economic concentrations of helium," Bo Sears said. Incidences of high helium in natural gas are almost always associated with high percentages of nitrogen as well. "As helium concentrations rise, so too does the nitrogen component," Bo Sears said. "However, the opposite is not always true. If you have nitrogen in a gas stream, it does not necessarily imply a high helium concentration." For substantial helium gas to develop, three important geological events must be present, Bo Sears explained. "First, there must be adequate concentrations of helium-generating isotopes in the basement rock. Second, there must be adequate fractures and fissures so that helium can escape the tight granite lattices of crustal rock. And lastly, there must be a caprock tight enough to hold any helium in appreciable quantities." The helium atom is so small that an average caprock holding hydrocarbons likely would not hold helium. "If any one of these three events is missing, there will be no accumulation of helium," Bo Sears said. History of U.S. Helium The U.S. became interested in helium during World War I as a substitute for highly flammable hydrogen for use in military dirigibles and blimps. The first commercial plant, however, did not come onstream until 1921 -- three years after the war ended. In October 1918, the Linde Company signed a contract to build the first commercial helium plant in Fort Worth to process gas from the Petrolia field near Wichita Falls, TX. After Petrolia's depletion, a larger production plant was constructed in 1929 for the Cliffside field near Amarillo, TX. Since then, Amarillo has been the epicenter of the global helium industry. Until the early 1950s, helium's primary purpose was for military dirigibles and blimps but it was also playing an increasingly significant role in magnesium welding applications. Helium played a very important role in World War II as the non-flammable lifting gas for these vessels that escorted naval ships and identified enemy submarines. Demand increased dramatically through the 1950s after engineers developed more applications for helium, such as arc welding and breathing mixtures. Demand grew so much, in fact, that Congress passed the Helium Act of 1960, which it designed primarily for the U.S. to buy (with borrowed money) and store crude helium for future use in the Cliffside field. The Helium Act offered incentives for private natural gas producers to strip helium from natural gas and sell it to the government. The principal purpose was to prevent wastage of valuable helium that would otherwise be vented by private producers. From 1929 to 1960 the federal government was virtually the only domestic producer of helium. However, in 1971, Congress terminated the storage contracts created by the 1960 Act because private producers were processing helium with greater efficiencies. Thus, the U.S. incurred an enormous helium debt. In 1996, President Bill Clinton signed the Helium Privatization Act, which would ultimately remove the U.S. from the helium industry and place it into private hands. Congress designed this Act to sell most of the remaining stored helium reserves out of Cliffside by the year 2015, while paying off the Helium Debt incurred by the 1960 Act. Future of Helium The U.S. is not only the largest supplier of helium but also the largest consumer. The U.S. consumes about 39 percent or 2.45 Bcf/yr of the worldwide helium demand, compared to Asia, which represents about 27 percent 1.65 Bcf/yr, according to Maura D. Garvey's article in the October 2011 CyroGas International newsletter. Europe represents about 21 percent (1.3 Bcf/yr) of the worldwide demand, while the rest of the world (Canada, Latin American, and Middle East) represent about 13 percent. A new helium plant is due to come online near Big Piney, Wyo., soon. The Air Products and Matheson Tri-Gas helium purifier and liquefaction plant will process 0.6 percent (0.006) helium content out of a constituent gas stream of roughly 20 percent methane, 65 percent CO2, 5 percent H2S and 7 percent nitrogen from the Riley Ridge field. The plant is designed to produce 200 MMcf of helium per year at start up with possible expansion capacity to 400 MMcf per year. Nevertheless, international helium plants are more likely future sources. There are currently seven international helium plants and more are planned. Most recently, the Darwin, Australia, plant came online in March 2010 and more are planned in Algeria, Qatar, and Russia during the next three years. "Production from these sources should be sufficient to meet worldwide demand for the next five years," Garvey wrote. "Substantial worldwide helium reserves in North America, the Middle East, Africa, and Russia could sustain the helium industry for hundreds of years," Garvey wrote, "but those reserves are typically more difficult and costly to develop, which is why they have remained undeveloped to date." The future of the U.S. Helium Reserve is uncertain, Bo Sears said. The reserve has a short life span and new reserves need to be found so that the U.S. is not importing the gas from Qatar and Algeria in the near future. "Besides Cliffside and Riley Ridge, there are no other domestic helium projects currently online. All of the industrial gas company helium assets (ie, large cryogenic facilities) are on the Hugoton field … and there they will sit until there is no more gas to run through them. There has been no push by any industrial gas company to locate and secure new sources." "If we are going to secure our domestic helium supply, we need to find new sources and these will have to come from smaller fields. Those new sources are going to have to come from areas where helium is the primary target as opposed to secondary or tertiary. Our company is focused on exploiting these new sources." "If the U.S. ultimately becomes an importer of helium, I cannot even fathom what helium would cost. You certainly wouldn't see any more toy balloons at birthday parties. They would simply cost too much. Besides, helium is far more important for science, industry and academia."

#### **Shale gas doesn’t solve – conventional gas is key**

Clarke 12 (Richard H – cryogenics and helium specialist at the Culham Centre for Fusion Energy, “Should we ban helium balloons?”, 12/11, <http://www.guardian.co.uk/discussion/user-comments/richardhclarke>)

Most shale gas contains no helium - **helium diffuses through the shale** - and **to the extent that shale displaces 'conventional' gas** that is probably not good news for helium supply. On the other hand, if the US starts to export LNG (made from a mixture of shale and conventional gas) that could help the helium market if the liquefaction ‘purge gas’ is captured and refined into liquid helium. As L1ma says, helium is continuously produced by radioactive decay in the Earth's crust. Unfortunately most of the gas diffuses out of the crust and into the atmosphere where, on average, each molecule spends about a million years in the atmosphere before being ejected into space by the solar wind. At present there is a massive 3.8 billion tonnes of helium in the atmosphere but the concentration is so small (5.2 ppm) that it would be hugely expensive and energy consuming to recover industrial quantities from the air. In those natural gas fields where helium is trapped by the cap rock it has been estimated that only HALF the helium molecules 'unearthed' during natural gas production are refined into pure helium gas or liquid helium. Helium balloons comprise about 8% of the global helium market. About 30% is used in cryogenics including medical imaging or MRI equipment, while the remainder is used in science, welding, chip or optic fibre manufacturing, and aerospace.

#### Supply’s on the brink now---no excess global capacity

Nelson 12 (Walter Nelson – Director, Helium Sourcing and Supply Chain Air Products and Chemicals, Inc, 7/20/12, Helium: Supply Shortages Impacting our Economy, National Defense and Manufacturing, Congressional Documents & Publications, lexis )

There have been planned and unplanned maintenance outages at natural gas processing plants, as well as continuing pipeline allocations on the BLM system during well maintenance that have restricted the supply of crude helium to the U.S. refiners. In Algeria and Qatar, production of helium has decreased due to the fragile worldwide economy, as well as maintenance work at gas palnts. In addition, new helium refining projects have been slow to develop. The delayed start-up of one particular plant in Wyoming has postponed access to major new supplies of helium. Combined, these issues have reduced the global helium supply by as much as 5% to 10%. On top of this, the industry will experience an unprecedented helium shortage this summer. Beyond the developments cited above, there are currently three US plant outages or curtailments that are severely limiting the short-term supply of helium today. First, one company reduced its helium production in Wyoming by approximately 20% beginning early June while performing critical maintenance activities. Full production is not expected to resume until sometime later this summer. The impact of this curtailment is almost five percent of global supply capacity. Second, the crude helium enrichment plant that supplies the BLM pipeline system was shut down July 15th for a planned 10 day safety critical outage. During this outage helium deliveries are limited to pipeline inventory reducing global supply capacity by an additional 25%. Third, a nautral gas plant in Kansas experienced an unplanned helium equipment outage at the end of June and that outage continued through this week. The impact of this outage was another five percent reduction in global supply capacity. In helium circles this has been "the perfect storm." The combination of these issues has resulted in a significant short-term reduction in global helium supply capacity over the summer months. Global inventories would have normally served as a buffer during short-term outage events, minimizing the supply impacts. Unfortunately that's not the case this time. Air Products has had to allocate our customers and I suspect that all helium suppliers have had to do the same. We are caught in a cruch not of our making. We expect some relief soon. Most of the maintenance outages will be completed within weeks, in the U.S. and abroad.That said, it will most probably take months for the global helium supply chains to recover from these summer outages. Helium supplies will continue to remain tight through 2012 and into 2013, when new helium production is expected in Wyoming and Qatar. The Wyoming project is expected to add four percent helium capacity and the Qatar II project may add up to 18% capacity. Only after these two new plants are operational in 2013 and existing plants are running back at full output will the global supply begin to fully stabilize.

#### That destroys U.S. science leadership

Ong 12 (Phuan Ong – the Eugene Higgins Professor of Physics Director, Princeton Center for Complex Materials Department of Physics Princeton University, 7/20/12, Helium: Supply Shortages Impacting our Economy, National Defense and Manufacturing, Congressional Documents & Publications, lexis )

The 2 main reasons why liquid helium is vital for research are: 1) Helium is the only fluid available for cooling samples to temperatures close to absolute zero. All objects follow the universal laws of quantum mechanics. However, at room temperature, large thermal agitations of molecules and atoms largely obscure or destroy the manifestations of quantum physics. Hence quantum behavior seems bizarre and unfamiliar to all of us. Cooling a sample suppresses the thermal agitations, allowing the quantum phenomena to become apparent. Put more directly, liquid helium is the "royal road" to discovery. 2) Helium is used to cool the superconducting wires in superconducting magnets. At present, superconducting magnets using niobium-tin (and tentatively high-Tc cuprates) provide the only known means for producing intense magnetic fields over human-sized volumes. They have to be cooled to 4 Kelvin above absolute zero to remain superconducting. With increasing demands worldwide (in research, MRI machines and in future transport), the demand for liquid helium is expected to rise sharply. To mix metaphors, we may say that liquid helium is the vital "oxygen" that nourishes the large, dynamic U.S. research community. Disrupting this vital flow will deliver a crippling body blow to a large segment of the community, and jeopardize the leadership role of the U.S. in the coming decades. Increasingly, the pre-eminence of the U.S. in this field of physics has come under stiff challenges from groups in Germany, Japan, Netherlands, China and S. Korea. These countries have steeply increased their investments in these areas and "grown" a new generation of physicists, mostly trained in the U.S. The investment stems from the universal consensus that, in contrast to many other fundamental scientific areas, the results here underpin important future technologies. In an increasingly flat world, it is prudent for the U.S. to safeguard the availability of this valuable national resource. From the RandD viewpoint, strong fluctuations in the price of helium or in the supplywould be very harmful to the U.S. national interest.

#### That’s key to the legitimacy of U.S. hegemony---it blunts resentment of the power gap and solves conflict

Coletta 9 (Damon Coletta – Professor of Political Science at the United States Air Force Academy, September 2009, “Science, Technology, and the Quest for International Influence,” <http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA536133&Location=U2&doc=GetTRDoc.pdf>)

Less appreciated is how scientific progress facilitates diplomatic strategy in the long run, how it contributes to Joseph Nye‘s soft power, which translates to staying power in the international arena. One possible escape from the geopolitical forces depicted in Thucydides‘ history for all time is for the current hegemon to maintain its lead in science, conceived as a national program and as an enterprise belonging to all mankind. Beyond the new technologies for projecting military or economic power, the scientific ethos conditions the hegemon‘s approach to social-political problems. It effects how the leader organizes itself and other states to address well-springs of discontent—material inequity, religious or ethnic oppression, and environmental degradation. The scientific mantle attracts others‘ admiration, which softens or at least complicates other societies‘ resentment of power disparity. Finally, for certain global problems—nuclear proliferation, climate change, and financial crisis—the scientific lead ensures robust representation in transnational epistemic communities that can shepherd intergovernmental negotiations onto a conservative, or secular, path in terms of preserving international order. In today‘s order, U.S. hegemony is yet in doubt even though military and economic indicators confirm its status as the world‘s lone superpower. America possesses the material wherewithal to maintain its lead in the sciences, but it also desires to bear the standard for freedom and democracy. Unfortunately, patronage of basic science does not automatically flourish with liberal democracy. The free market and the mass public impose demands on science that tend to move research out of the basic and into applied realms. Absent the lead in basic discovery, no country can hope to pioneer humanity‘s quest to know Nature. There is a real danger U.S. state and society could permanently confuse sponsorship of technology with patronage of science, thereby delivering a self-inflicted blow to U.S. leadership among nations.

#### Legitimacy’s key to global stability---prevents great power war

Fujimoto 12 (Kevin Fujimoto 12, Lt. Colonel, U.S. Army, January 11, 2012, “Preserving U.S. National Security Interests Through a Liberal World Construct,” online: <http://www.strategicstudiesinstitute.army.mil/index.cfm/articles/Preserving-US-National-Security-Interests-Liberal-World-Construct/2012/1/11>)

The emergence of peer competitors, not terrorism, presents the greatest long-term threat to our national security. Over the past decade, while the United States concentrated its geopolitical focus on fighting two land wars in Iraq and Afghanistan, China has quietly begun implementing a strategy to emerge as the dominant imperial power within Southeast Asia and the Indian Ocean. Within the next 2 decades, China will likely replace the United States as the Asia-Pacific regional hegemonic power, if not replace us as the global superpower.1 Although China presents its rise as peaceful and non-hegemonic, its construction of naval bases in neighboring countries and military expansion in the region contradict that argument. With a credible threat to its leading position in a unipolar global order, the United States should adopt a grand strategy of “investment,” building legitimacy and capacity in the very institutions that will protect our interests in a liberal global construct of the future **when** we are no longer the dominant imperial power. Similar to the Clinton era's grand strategy of “enlargement,”2 investment supports a world order predicated upon a system of basic rules and principles, however, it differs in that the United States should concentrate on the institutions (i.e., United Nations, World Trade Organization, ASEAN, alliances, etc.) that support a world order, as opposed to expanding democracy as a system of governance for other sovereign nations. Despite its claims of a benevolent expansion, China is already executing a strategy of expansion similar to that of Imperial Japan's Manchukuo policy during the 1930s.3 This three-part strategy involves: “(i) (providing) significant investments in economic infrastructure for extracting natural resources; (ii) (conducting) military interventions (to) protect economic interests; and, (iii) . . . (annexing) via installation of puppet governments.”4 China has already solidified its control over neighboring North Korea and Burma, and has similarly begun more ambitious engagements in Africa and Central Asia where it seeks to expand its frontier.5 Noted political scientist Samuel P. Huntington provides further analysis of the motives behind China's imperial aspirations. He contends that “China (has) historically conceived itself as encompassing a “‘Sinic Zone'. . . (with) two goals: to become the champion of Chinese culture . . . and to resume its historical position, which it lost in the nineteenth century, as the hegemonic power in East Asia.”6 Furthermore, China holds one quarter of the world's population, and rapid economic growth will increase its demand for natural resources from outside its borders as its people seek a standard of living comparable to that of Western civilization. The rise of peer competitors has historically resulted in regional instability and one should compare “the emergence of China to the rise of. . . Germany as the dominant power in Europe in the late nineteenth century.”7 Furthermore, the rise of another peer competitor on the level of the Soviet Union of the Cold War ultimately threatens U.S. global influence, challenging its concepts of human rights, liberalism, and democracy; as well as its ability to co-opt other nations to accept them.8 This decline in influence, while initially limited to the Asia-Pacific region, threatens to result in significant conflict if it ultimately **leads to a paradigm shift** in the ideas and principles that govern the existing world order. A grand strategy of investment to address the threat of China requires investing in institutions, addressing ungoverned states, and building legitimacy through multilateralism. The United States must build capacity in the existing institutions and alliances accepted globally as legitimate representative bodies of the world's governments. For true legitimacy, the United States must support these institutions, not only when convenient, in order to avoid the appearance of unilateralism, which would ultimately undermine the very organizations upon whom it will rely when it is no longer the global hegemon. The United States must also address ungoverned states, not only as breeding grounds for terrorism, but as conflicts that threaten to spread into regional instability, thereby drawing in superpowers with competing interests. Huntington proposes that the greatest source of conflict will come from what he defines as one “core” nation's involvement in a conflict between another core nation and a minor state within its immediate sphere of influence.9 For example, regional instability in South Asia10 threatens to involve combatants from the United States, India, China, and the surrounding nations. Appropriately, the United States, as a global power, must apply all elements of its national power now to address the problem of weak and failing states, which threaten to serve as the principal catalysts of future global conflicts.11 Admittedly, the application of American power in the internal affairs of a sovereign nation raises issues. Experts have posed the question of whether the United States should act as the world's enforcer of stability, imposing its concepts of human rights on other states. In response to this concern, The International Commission on Intervention and State Sovereignty authored a study titled, The Responsibility to Protect,12 calling for revisions to the understanding of sovereignty within the United Nations (UN) charter. This commission places the responsibility to protect peoples of sovereign nations on both the state itself and, more importantly, on the international community.13 If approved, this revision will establish a precedent whereby the United States has not only the authority and responsibility to act within the internal affairs of a repressive government, but does so with global legitimacy if done under the auspices of a UN mandate. Any effort to legitimize and support a liberal world construct requires the United States to adopt a multilateral doctrine **which** avoids **the precepts of** the previous administration: “preemptive war, democratization, and U.S. primacy of unilateralism,”14 which have resulted in the alienation of former allies worldwide. Predominantly Muslim nations, whose citizens had previously looked to the United States as an example of representative governance, viewed the Iraq invasion as the seminal dividing action between the Western and the Islamic world. Appropriately, any future American interventions into the internal affairs of another sovereign nation must first seek to establish consensus by gaining the approval of a body representing global opinion, and must reject military unilateralism as a threat to that governing body's legitimacy. Despite the long-standing U.S. tradition of a liberal foreign policy since the start of the Cold War, the famous liberal leviathan, John Ikenberry, argues that “the post-9/11 doctrine of national security strategy . . . has been based on . . . American global dominance, the preventative use of force, coalitions of the willing, and the struggle between liberty and evil.”15 American foreign policy has misguidedly focused on spreading democracy, as opposed to building a liberal international order based on universally accepted principles that actually set the conditions for individual nation states to select their own system of governance. Anne-Marie Slaughter, the former Dean of the Woodrow Wilson School of Public and International Affairs, argues that true Wilsonian idealists “support liberal democracy, but reject the possibility of democratizing peoples . . .”16 and reject military primacy in favor of supporting a rules-based system of order. Investment in a liberal world order would also set the conditions for the United States to **garner support from noncommitted regional powers** (i.e., Russia, India, Japan, etc.), or “swing civilizations,” in countering China's increasing hegemonic influence.17 These states reside within close proximity to the Indian Ocean, which will likely emerge as the geopolitical focus of the American foreign policy during the 21st century, and appropriately have the ability to offset China's imperial dominance in the region.18 Critics of a liberal world construct argue that idealism is not necessary, based on the assumption that nations that trade together will not go to war with each other.19 In response, foreign affairs columnist Thomas L. Friedman rebukes their arguments, acknowledging the predicate of commercial interdependence as a factor only in the decision to go to war, and argues that while globalization is creating a new international order, differences between civilizations still create friction that may overcome all other factors and lead to conflict.20 Detractors also warn that as China grows in power, it will no longer observe “the basic rules and principles of a liberal international order,” which largely result from Western concepts of foreign relations. Ikenberry addresses this risk, citing that China's leaders already recognize that they will gain more authority within the existing liberal order, as opposed to contesting it. China's leaders “want the protection and rights that come from the international order's . . . defense of sovereignty,”21 from which they have benefitted during their recent history of economic growth and international expansion. Even if China executes a peaceful rise and the United States overestimates a Sinic threat to its national security interest, the emergence of a new imperial power will challenge American leadership in the Indian Ocean and Asia-Pacific region. That being said, it is more likely that China, as evidenced by its military and economic expansion, will displace the United States as the regional hegemonic power. Recognizing this threat now, the United States must prepare for the eventual transition and immediately begin building the legitimacy **and support of a system of rules that will protect its interests later when we are no longer the world's only superpower**.

#### Helium is key to the fibre optics

DiChristina 10 (Mariette – Editor in Chief of Scientific American, “The coming shortage of helium”, 6/30, <http://blogs.scientificamerican.com/observations/2010/06/30/the-coming-shortage-of-helium/>)

LINDAU, Germany—Quick: What do MRI machines, rockets, fiber optics, LCDs, food production and welding have in common? They all require the inert, or noble, gas helium for their use or at some stage of their production. And that helium essentially could be gone in less than three decades, Robert C. Richardson, winner, along with Douglas Osheroff and David Lee, of the 1996 Nobel Prize in Physics, said at the 60th annual Nobel Laureate Lectures at Lindau today. “Once it is released into the atmosphere, say, in the form of party balloons, it is lost to the Earth forever—it is lost to the Earth forever ,” he added. Helium molecules, produced by the sun’s energy, naturally make up only about five parts per million of the Earth’s atmosphere. The rest of the gas—the second lightest element in the universe after hydrogen—escaped our planet 4.7 billion years ago. The U.S. holds vast majority of the world helium stocks, managed by the U.S. Bureau of Land Management; the gas sits underground in natural salt domes atop granite in the Great Plains. Congress passed a law in 1996 dictating the sale of all U.S. stocks by 2015 to compensate the government for its investment in the helium and its storage. A 2000 study conducted by the National Research Council concluded that a helium surplus would exist for the foreseeable future. Soon after that report, however, helium usage skyrocketed, as the gas yielded many benefits for industry and medicine. In a January 2010 report for the National Research Council, “Selling the Nation’s Helium Reserve,” Richardson and committee cochair Charles G. “Chip” Groat, a University of Texas at Austin geologist, described the pitfalls of the current U.S. strategy. Many industrial processes rely on helium. In 2007, the most recent year for which figures are available, said Richardson, 28 percent of helium use went to cryogenics for MRI and nuclear magnetic resonance machines—nearly all of it for clinical purposes (scientific cryogenic uses are only 3 percent of that total). Some 26 percent of helium is used in pressurizing and purging of rockets; another 20 percent for welding; and 13 provides inert atmospheres in the production of fiberoptics, LCDs and food.

#### That’s key to effective aerospace innovation

Howard 11 (Courtney E., senior technical editor at Computer Graphics World, "Optical technology: at the speed of light," 4-1-11, <http://www.militaryaerospace.com/articles/print/volume-22/issue-4/technology-focus/optical-technology-at-the-speed-of-light.html>)

Optical advantages Optical components and systems are attractive for airborne applications, ranging from a flight-critical databus to a video or sensor link, given the desire for the reduction of SWaP, ease of installation, and EMI immunity, Powers says. In ground-based applications-such as secure bunker-to-bunker communications, electro-optic (EO) sensor mast-to-control station links, or RF over fiber antennae links-the advantage of optics over distance often is the deciding factor, followed by EMI immunity, security, and reduced weight. "The big thing we're seeing is in a lot of aircraft, they want to reduce weight," observes Kirk Lussier, program and account manager at DiCon Fiberoptics in Richmond, Calif. "Fiber weighs a lot less [than copper]-that's a big advantage of moving to fiber-optic systems. "In telecom, fiber deployment started with the longest networks, where optical technology proved itself quickly from a cost perspective," says Robert Schleicher, vice president of product development at DiCon Fiberoptics. "Over the years, it has spread out and proven itself in smaller and smaller networks-regional and then local networks, even within office networks-and to some extent, the same trend is now extending itself to the networks within planes, ships, and land vehicles." Farther and faster Optical components hold the potential for higher performance, an attractive attribute given the amount of data being acquired and exchanged on the digital battlefield. "Optical interconnects allow faster data transmission and, thus, higher processing speeds," admits Andreas Gerster, worldwide business development manager of optics at Agilent Technologies in Santa Clara, Calif. "As transceivers that are usable on aircraft become faster and faster, designers want higher data rates," Lussier notes. "It's not a problem for optical technology. Our switches are all-optical; there's no OEO (optical-electrical-optical) conversion, so it can handle any data rate." Optical technologies provide the ability to transport high volumes of data over significant distances. Copper backplanes and cable assemblies, as are deployed throughout mil-aero environments, are extremely length sensitive. "The greater the distance, the higher the attenuation and the lower the data rate," Powers explains. "Optical fiber has much, much lower attenuation, thereby eliminating distance as a primary design constraint. Computers that need to communicate can be hundreds of meters apart and interact as though they are in the same chassis."

#### That’s the lynchpin of air power – suppliers are on the brink

Thompson 9 (David, President – American Institute of Aeronautics and Astronautics, “The Aerospace Workforce”, Federal News Service, 12-10, Lexis)

Aerospace systems are of considerable importance to U.S. national security, economic prosperity, technological vitality, and global leadership. Aeronautical and space systems protect our citizens, armed forces, and allies abroad. They connect the farthest corners of the world with safe and efficient air transportation and satellite communications, and they monitor the Earth, explore the solar system, and study the wider universe. The U.S. aerospace sector also contributes in major ways to America's economic output and high- technology employment. Aerospace research and development and manufacturing companies generated approximately $240 billion in sales in 2008, or nearly 1.75 percent of our country's gross national product. They currently employ about 650,000 people throughout our country. U.S. government agencies and departments engaged in aerospace research and operations add another 125,000 employees to the sector's workforce, bringing the total to over 775,000 people. Included in this number are more than 200,000 engineers and scientists -- one of the largest concentrations of technical brainpower on Earth. However, the U.S. aerospace workforce is now facing the most serious demographic challenge in his 100-year history. Simply put, today, many more older, experienced professionals are retiring from or otherwise leaving our industrial and governmental aerospace workforce than early career professionals are entering it. This imbalance is expected to become even more severe over the next five years as the final members of the Apollo-era generation of engineers and scientists complete 40- or 45-year careers and transition to well-deserved retirements. In fact, around 50 percent of the current aerospace workforce will be eligible for retirement within just the next five years. Meanwhile, the supply of younger aerospace engineers and scientists entering the industry is woefully insufficient to replace the mounting wave of retirements and other departures that we see in the near future. In part, this is the result of broader technical career trends as engineering and science graduates from our country's universities continue a multi-decade decline, even as the demand for their knowledge and skills in aerospace and other industries keeps increasing. Today, only about 15 percent of U.S. students earn their first college degree in engineering or science, well behind the 40 or 50 percent levels seen in many European and Asian countries. Due to the dual-use nature of aerospace technology and the limited supply of visas available to highly-qualified non-U.S. citizens, our industry's ability to hire the best and brightest graduates from overseas is also severely constrained. As a result, unless effective action is taken to reverse current trends, the U.S. aerospace sector is expected to experience a dramatic decrease in its technical workforce over the next decade. Your second question concerns the implications of a cutback in human spaceflight programs. AIAA's view on this is as follows. While U.S. human spaceflight programs directly employ somewhat less than 10 percent of our country's aerospace workers, its influence on attracting and motivating tomorrow's aerospace professionals is much greater than its immediate employment contribution. For nearly 50 years the excitement and challenge of human spaceflight have been tremendously important factors in the decisions of generations of young people to prepare for and to pursue careers in the aerospace sector. This remains true today, as indicated by hundreds of testimonies AIAA members have recorded over the past two years, a few of which I'll show in brief video interviews at the end of my statement. Further evidence of the catalytic role of human space missions is found in a recent study conducted earlier this year by MIT which found that 40 percent of current aerospace engineering undergraduates cited human space programs as the main reason they chose this field of study. Therefore, I think it can be predicted with high confidence that a major cutback in U.S. human space programs would be substantially detrimental to the future of the aerospace workforce. Such a cutback would put even greater stress on an already weakened strategic sector of our domestic high-technology workforce. Your final question centers on other issues that should be considered as decisions are made on the funding and direction for NASA, particularly in the human spaceflight area. In conclusion, AIAA offers the following suggestions in this regard. Beyond the previously noted critical influence on the future supply of aerospace professionals, administration and congressional leaders should also consider the collateral damage to the space industrial base if human space programs were substantially curtailed. Due to low annual production rates and highly-specialized product requirements, the domestic supply chain for space systems is relatively fragile. Many second- and third-tier suppliers in particular operate at marginal volumes today, so even a small reduction in their business could force some critical suppliers to exit this sector. Human space programs represent around 20 percent of the $47 billion in total U.S. space and missile systems sales from 2008. Accordingly, a major cutback in human space spending could have large and highly adverse ripple effects throughout commercial, defense, and scientific space programs as well, potentially triggering a series of disruptive changes in the common industrial supply base that our entire space sector relies on.

#### Global nuclear war

Tellis 98 (Ashley, Senior Political Scientist, “Sources of Conflict in the 21st Century”, http://www.rand. org/publications/MR/MR897/MR897.chap3.pdf)

This subsection attempts to synthesize some of the key operational implications distilled from the analyses relating to the rise of Asia and the potential for conflict in each of its constituent regions. The first key implication derived from the analysis of trends in Asia suggests that American air and space power will continue to remain critical for conventional and unconventional deterrence in Asia. This argument is justified by the fact that several subregions of the continent still harbor the potential for full-scale conventional war. This potential is most conspicuous on the Korean peninsula and, to a lesser degree, in South Asia, the Persian Gulf, and the South China Sea. In some of these areas, such as Korea and the Persian Gulf, the United States has clear treaty obligations and, therefore, has preplanned the use of air power should contingencies arise. U.S. Air Force assets could also be called upon for operations in some of these other areas. In almost all these cases, U.S. air power would be at the forefront of an American politico-military response because (a) of the vast distances on the Asian continent; (b) the diverse range of operational platforms available to the U.S. Air Force, a capability unmatched by any other country or service; (c) the possible unavailability of naval assets in close proximity, particularly in the context of surprise contingencies; and (d) the heavy payload that can be carried by U.S. Air Force platforms. These platforms can exploit speed, reach, and high operating tempos to sustain continual operations until the political objectives are secured. The entire range of warfighting capability—fighters, bombers, electronic warfare (EW), suppression of enemy air defense (SEAD), combat support platforms such as AWACS and J-STARS, and tankers—are relevant in the Asia-Pacific region, because many of the regional contingencies will involve armed operations against large, fairly modern, conventional forces, most of which are built around large land armies, as is the case in Korea, China-Taiwan, India-Pakistan, and the Persian Gulf. In addition to conventional combat, the demands of unconventional deterrence will increasingly confront the U.S. Air Force in Asia. The Korean peninsula, China, and the Indian subcontinent are already arenas of WMD proliferation. While emergent nuclear capabilities continue to receive the most public attention, chemical and biological warfare threats will progressively become future problems. The delivery systems in the region are increasing in range and diversity. China already targets the continental United States with ballistic missiles. North Korea can threaten northeast Asia with existing Scud-class theater ballistic missiles. India will acquire the capability to produce ICBM-class delivery vehicles, and both China and India will acquire long-range cruise missiles during the time frames examined in this report.

### Federalism

#### Contention Three is Cooperative Federalism

#### Removing the offshore moratorium is key to reinvigorate cooperative federalism

Weaver 2 (Sierra B., Senior Staff Attorney with Expertise in Climate Change, Forests and Public Lands, and Marine Conservation – Defenders of Wildlife (Litigation Group in Washington, DC), “NOTE: Local Management of Natural Resources: Should Local Governments be Able to Keep Oil Out?,” The Harvard Environmental Law Review, 26 Harv. Envtl. L. Rev. 231, Lexis)

 [\*231] The system that governs offshore oil and natural gas development of the Outer Continental Shelf ("OCS") has been called one of "cooperative federalism." In practice, however, this system has been anything but cooperative. Although leasing authority is technically divided between state and federal tiers of government, ongoing jurisdictional battles between state and federal agencies, between state and federal political figures, and within the tiers of government themselves **have made the regulatory land-scape incredibly complex** and controversial. This conflict between coastal states and the federal government over offshore development is often referred to as "the Seaweed Rebellion" and has concerned lawyers, activists, scientists, and politicians since the 1940s. Recently, the Seaweed Rebellion has engaged a new set of actors who are also fighting for jurisdictional control--city and county governments. While these local interests have long shaped the terms of political debate on this topic, during the past two decades they have gone on to influence not only the debate, but also the legal framework in which it occurs. This Note examines the various legal tools that local governments have used to carve out their own areas of control over the management of OCS resources. It also examines the desirability of inserting local interests into this debate, given the nationally important economic and social value of natural resources such as the nation's coastal vistas, marine fisheries, and offshore energy supply. Although this battle directly affects every coastal region in the United States, this Note focuses on the experiences of California's Central Coast and the tactics local residents have developed in response to the community's struggle. This region has had extensive experience with offshore drilling and the fight against it. Not only was Santa Barbara County, California, the site where offshore oil was first discovered in the United States, it was also the site of the country's first major oil disaster, the infamous blowout of Union Oil's Platform A in 1969. Some consider the Santa Barbara blowout to be one of the primary catalysts for resistance to offshore drilling in California in particular, and for the development of the modern environmental movement generally. Moreover, the [\*232] battle between California and the federal government over offshore control has been one of the most intense and publicized of all the coastal states. Simply the number of major offshore oil cases that feature California and national officials as opposing parties indicates the extent of this tension. Localities in California have also taken an active role in attempting to control development activities, and to this date the State has strongly supported and encouraged their efforts. The California example may go beyond the average state's efforts to influence offshore drilling, but using it as the most extreme example of how the Seaweed Rebellion has played out will highlight the tensions in the current OCS resource management system. Part I of this Note provides a brief history of the management conflict between California and the federal government. It moves from the origins of the problem, to the federal/state solution, and then to the undoing of this solution by federal agencies and courts. Part II examines local government responses to the current federal system and what these local efforts have meant to natural resources management. Finally, Part III of this Note suggests additional considerations that are currently missing from the debate, but which should be included within the management scheme in order to resolve the dilemmas posed by the Seaweed Rebellion. Ultimately, this Note seeks to demonstrate that the federal government's failure to address state and local concerns over offshore drilling has hindered the development of an environmentally sound and socially effective energy policy. By focusing on oil and gas extraction to the detriment of other OCS resources, the federal government has, in fact, hindered itself from gaining access to the energy supply it has so aggressively pursued. This ineffectiveness can be directly attributed to the innovation of state and local governments that have taken it upon themselves to assert their interests through a variety of nonfederal legal means. Thus, **the system of "cooperative federalism" that Congress originally envisioned has devolved into one of intense competition**, subordinating thoughtful energy and environmental policies to the power dynamics of the moment. I. THE ROOTS OF THE SEAWEED REBELLION A. Origins of the Struggle The first offshore oil wells in the United States, and perhaps the world, were drilled from piers in Summerland, Santa Barbara County, California, at the turn of the twentieth century. n1 The few known details of [\*233] these early years reveal an absence of formal record-keeping and of formal public control over the young industry. Santa Barbara journalist Robert Sollen reports that during the first five years of drilling, twenty-two companies built fourteen piers that housed 412 wells with nothing more than the approval of oceanfront property owners and the County. n2 With almost uncontrolled access to offshore oil for those who had the money and the technology, Summerland exploded as the oil industry flocked to the area. The city soon became a violent and polluted eyesore. n3 This explosion of development, pollution, and crime spurred almost instant resistance to drilling from the City of Santa Barbara, just a few miles up the coast. The Santa Barbara Daily Press reported in 1899 that it would be an unfortunate disaster if the beach front near Santa Barbara's waterfront should be disfigured with the ugly derricks of oil wells. An attempt to force these unsightly creatures upon the shore beyond Castle Point should be met by united resistance on the part of the people as a whole and the individual owners of adjoining property. n4 Likely due to local opposition, the immediate community of Santa Barbara remained untouched in 1921 as the first official order emerged out of California's unregulated leasing chaos. It was in this year that California issued the nation's first offshore drilling lease, pursuant to the recently enacted California Mineral Leasing Act. n5 The Leasing Act authorized the State to grant offshore oil and gas prospecting permits, though not in front of cities, which retained jurisdiction over their coastlines. Any order that emerged from the Leasing Act was short-lived, however. The California Supreme Court soon held that the State had no authority to deny lease applications under the terms of the 1921 Act. n6 Thus, the State was forced to approve hundreds of leasing applications to unregulated operators. As Sollen reports, "after about three hundred fifty unsupervised wells had been drilled under the 1921 act, legislators in 1929 said 'enough!' Impelled by overproduction, coastal pollution, and visual blight, the legislature repealed the law and banned further leasing." n7 [\*234] Federal interest in claiming offshore lands was sparked in 1937, but several failed attempts in Congress, plus a lack of federal interest and resources during World War II, precluded the federal government from taking control from the states until the 1940s. n8 In 1945, the federal government finally took action to claim its coastline. Largely in response to national security concerns, President Harry S Truman proclaimed U.S. jurisdiction over "the natural resources of the subsoil and seabed of the continental shelf beneath the high seas but contiguous to the coasts of the United States." n9 Truman's declaration failed to respond to concerns about what this would mean for pre-existing state leasing programs, and it did little to settle domestic tension. In United States v. California, the Supreme Court in 1947 took the step Truman's declaration had not taken, holding that the federal government maintained "paramount rights" over all offshore lands beyond the low-water mark. n10 Tension and confusion turned to political outrage as coastal states fought back through their congressional representatives, who argued for increased state control over coastal resources. In 1953, the coastal states and the federal government finally reached a legislative compromise. First, the Federal Submerged Lands Act ("FSLA") returned to state jurisdiction a zone known as the tidelands, which in most cases extends three miles from the shoreline. n11 Next, the federal government benefited from the second major piece of oil legislation in the compromise, the Outer Continental Shelf Lands Act ("OCSLA"), which authorizes the Department of the Interior ("Interior") to leaseand regulate ocean parcels beyond the state jurisdiction line. n12 Political compromise, however, did little to prepare any level of government for the problems on the ground that shortly ensued. In 1967, the federal government through Interior exercised its authority and approved the first federal OCS leases in the Santa Barbara Channel. n13 Then, on January 28, 1969, less than two years later, the blowout of Union Oil's Platform A became the nation's first oil disaster. n14 While the local community had objected to leasing in the Channel on aesthetic and environmental grounds from the start, the blowout was of catastrophic proportions. [\*235] The disaster resulted in the release of approximately 3.25 million gallons of oil into the ecologically sensitive area. n15 The Platform A blowout served as a dramatic example of what could go wrong with offshore drilling. The disaster not only created a dedicated community of activists in Santa Barbara, but also spurred environmental legislation at both the state and national levels. In 1972, a statewide referendum created the California Coastal Commission and authorized it to devise a statewide coastal development plan and to review almost all development within the three-mile tidelands zone. n16 Although the scope and intent of the referendum went well beyond oil and gas development, the creation of the Commission facilitated dialogue about this topic and created a system that allowed for local participation in issues related to coastal development. n17 Thus, the activists that were spawned from the Platform A blowout quickly had a responsive public forum in which to air their objections to offshore development. Over time, the activists themselves were transformed into savvy political players. B. Cooperative Federalism In the 1970s, the ramifications of the Santa Barbara disaster and the larger environmental movement became apparent at the national level. In 1969, Congress passed the National Environmental Policy Act ("NEPA"), n18 as well as two major pieces of legislation that established the scheme of cooperative federalism applicable to offshore oil drilling. First, OCSLA was significantly amended to provide for more environmental safeguards. n19 Second, Congress passed the Coastal Zone Management Act ("CZMA"), n20 which gave special protection to delicate coastal areas. OCSLA and the CZMA by their language and intent respond to environmental concerns, energy concerns, and the concerns of states like California that seek greater control over their coastlines. Both statutes allow states a great deal of substantive input and control over actions that affect their coastal areas. Critics calling for reform have argued that federal agencies and courts have ignored this inclusiveness, leaving coastal [\*236] states in a defensive, rather than cooperative, mode. n21 For example, OCSLA's "Congressional declaration of policy" states that since exploration, development, and production of the minerals of [OCS] will have significant impacts on . . . the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments . . . such States and . . . local governments are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and the production of, minerals of the [OCS]. n22 Further, the statute specifically instructs the Secretary of the Interior to consider state and local mechanisms through which the statutory purpose can be achieved. n23 Section 18 of OCSLA governs the leasing program itself, establishing principles the Secretary is to follow in preparing a leasing program n24 and instructing that the Secretary "shall invite and consider suggestions" from affected state governments and "may also invite or consider suggestions" from local governments. n25 After the Secretary has prepared a proposed leasing program, he or she is required to submit it to the governors of affected states for review and comment. n26 The Secretary must respond in writing to any requests for modifications received within the statutory timeline, either granting or denying such requests and stating the reasons for each determination. n27 A similar process of comment and response is repeated after the Federal Register publishes the proposal. n28 Section 19 of OCSLA specifically applies to coordination and consultation with state and local governments over the "size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan." n29 Seeming to give states even more control over this part of the process than over the leasing program, Section 19 directs that the Secretary [\*237] shall accept recommendations of the Governor and may accept recommendations of the executive of any affected local government if he determines, after having provided the opportunity for consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. n30 The national interest in Section 19 is to be "based on the desirability of obtaining oil and gas supplies in a balanced manner, and on the findings, purposes, and policies of this subchapter." n31 The Secretary's determination regarding the reasonableness of the balance a state has struck is final and only subject to an "arbitrary and capricious" judicial standard of review. n32 Turning to the CZMA, we find a statute that was passed with the primary purpose and intent of increasing state involvement in federal efforts to protect the coastal zone. n33 In order to effectuate this purpose, the statute employs two different incentives to encourage state involvement through the development of a state Coastal Management Plan ("CMP"). First, the Secretary of Commerce is authorized to make grants to assist participating states in preparing and implementing such plans. n34 Second, and more importantly for our purposes, participating states are allowed to review federal and federally permitted activities to determine whether they are consistent with the state CMP. n35 The "consistency provisions" of the CZMA direct that each federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforcement policies of approved State [CMPs]. n36 Under the statute, applicants for federal permits or licenses must certify to both the permitting federal agency and the affected state that the activity complies with the state's CMP. n37 The state may either concur with or object to certification, and the federal agency is prohibited from [\*238] granting any license or permit until such determination is made or the statutory deadline expires. However, the Secretary of Commerce may overrule a state's objection if he or she finds that the activity is consistent with the objectives of the statute or is otherwise necessary in the interest of national security. n38 In addition, the President can also preempt state consistency review by exempting certain activities that federal courts have determined are inconsistent with the state's CMP. n39 In such instances, the President must determine that the activity is in the paramount interest of the United States. n40 The sweeping changes in coastal resources law brought about by the passage of the CZMA and the amendments to OCSLA showed great promise as tools for both the environmental community and the nonfederal tiers of government. Both statutes provided broad guidelines for balancing the competing values and resources of the OCS and explicitly incorporated state and local substantive input into federal frameworks designed to facilitate this comprehensive management goal. Building on the 1950s legislative compromise that brought about the passage of OCSLA and the FSLA, n41 "cooperative federalism" on the OCS again seemed possible. C. Cooperative Federalism in the Agencies and Courts The promise of cooperation embodied in OCSLA and the CZMA **has not come to pass.** Despite the new legislation and explicit changes to OCSLA during the late 1970s, federal and state governments have continued to work largely at cross-purposes. The federal government has remained interested primarily in energy security and has refused to abandon the large revenues it gains from OCS leasing by scaling back development. n42 The state governments, on the other hand, have looked to preserve their citizens' oceanfront property values, environmental health, and local economies based on fishing or tourism--interests that have historically conflicted with energy development. OCSLA and the CZMA have thus walked the two tiers of government through the procedural motions of cooperation, but OCS management decisions have ultimately remained with the federal government. As a result, state and local interests not represented by the federal government have been forced to turn to other means of protection. [\*239] Over the course of program implementation, federal agencies and courts have been called on to mediate between **both** the competing resources of the OCS and the competing levels of government. Almost universally, they have favored federal, and hence, extractive interests above all others. For example, during the early 1980s, the Reagan administration's Interior Department pursued a vigorous expansion of OCS exploration and developmentover the vehement objections of several coastal states, most notably California. Courts came into this debate as arbiters and interpreters of how the competing interests of energy and environment, national and local, were to be balanced. With the first decisions coinciding with the birth of "Chevron deference," n43 courts were, not surprisingly, supportive of federal interests as expressed through the agencies. Moreover, courts upheld the expansion of federal leasing by reading deferentially the statutory purpose of "expeditious and orderly development" of the OCS, thereby failing to give equal weight to the competing purposes recognized in the same subchapter of OCSLA. n44 Although OCSLA appears to provide states with a significant advisory role in the offshore leasing process, a series of early federal court decisions effectively dismantled state control in favor of deference to the Secretary of the Interior. Section 18, as described above, sets out principles with which all federal actions must be consistent, requiring full consideration of competing interests on the OCS. n45 It further purports to give governors of affected states input and substantive review of proposed leasing programs. n46 For each of the first three five-year leasing programs following the 1978 amendments to OCSLA, n47 the State of California used the Section 18 provisions to comment on the proposed programs but was unsatisfied with the federal response. Eventually, the State sued Interior for its refusal to give legal effect to the governor's comments. n48 This litigation set the stage for subsequent legal challenges to offshore energy development under OCSLA, making it clear that although the states might play a role in the leasing process, the Secretary would be given the utmost deference in the decision to accept or reject state recommendations. n49 The law now stands that so long as the Secretary responds to [\*240] comments from state officials, no evidence of actual consideration, attempt at incorporation, or proof of any other substantive effect is required. We are thus left with a toothless and nontransparent balancing test in which states, despite the intent of OCSLA, have no greater opportunity to affect policy than any other party in notice-and-comment rulemaking. Section 19's even greater promise of substantive state input was also stripped of force by the federal agencies and courts. Despite the provision's mandate that the Secretary "shall accept recommendations of the Governor" if he or she determines they provide a reasonable balance between the local and national interests, n50 and despite legislative history that identifies a "leading role" for governors of states affected by OCS decisions, n51 states have fared no better under Section 19 than they have under Section 18 of OCSLA. The first challenge to a leasing program under Section 19 came from California in 1981, when Secretary James Watt declined to follow Governor Jerry Brown's recommendation to delete thirty-one tracts from Lease Sale 53. n52 Instead of recognizing the statutory purpose and requirement that the Secretary accept reasonable recommendations from state governors, the district court blindly applied the last part of Section 19, which states that all secretarial decisions shall be final unless found to be arbitrary and capricious. n53 In reaching its decision, the district court stated that taking into consideration all of the foregoing factors, the Court must conclude that the Secretary has complied, although minimally, with the necessary procedural requirements under [Section 19]. Although the Secretary quite clearly violated the spirit of the Act, giving due deference to his judgment, it cannot be said that his determination to reject the recommendations submitted by Governor Brown was legally "arbitrary and capricious." n54 The Ninth Circuit affirmed the district court's decision in all respects. n55 [\*241] In 1988, the Ninth Circuit took this reasoning a step further. In Tribal Village of Akutan v. Hodel the court unabashedly declared: "Even if we agreed that the Governor's recommendations were reasonable, we could not conclude the Secretary was arbitrary or capricious simply because he chose to reject them." n56 Again, despite the strong language and statutory scheme of OCSLA, the role of states was essentially reduced to that of a right to notice and comment. In examining the history of the CZMA, we find that the courts' misinterpretation was great enough to prompt Congress to amend the statute and provide further clarification. Perhaps the strongest impetus for passage of the 1990 CZMA Amendments was the decision in Secretary of the Interior v. California, in which the Supreme Court held that the consistency provisions of Section 307(c)(1) did not apply to review of five-year leasing programs. n57 In its analysis, the Court determined that lease sales did not "directly affect" the coastal zone, as the statute originally required. n58 Thus, the Court concluded that the sales themselves were beyond Congress's authorization of state review. n59 The Court based its reasoning, first, on Congress's intent to limit the provision's geographic scope to the coastal zone, n60 and second, on a finding that only Section 307(c)(3)(B) provided consistency in the leasing process. n61 Furthermore, because OCSLA had separated the leasing program into distinct stages, and because 307(c)(3)(B) provided for consistency review at the later stages of exploration, development, and production--all of which involve considerable risk of direct environmental impacts--the Court determined that actions at the lease sale stage were not likely to directly affect the coastal zone. n62 Although Congress legislatively overruled the main holding of Interior v. California through the 1990 Amendments, explicitly returning to states the authority to review five-year leasing programs for consistency with state CMPs, this change did not fully mitigate the detrimental impacts of this significant decision. The Court's focus on stage-by-stage development, in particular, helped begin a trend of undervaluing initial leasing decisions by failing to give weight to the practical point that leases convey property rights, which must be compensated for if diminished. n63 The Court, and Congress in turn, simply ignored the strong disincentive [\*242] this property right creates for the federal government to impose additional restrictions or in any way address consistency issues that arise beyond the initial leasing stage. This approach undermines not only consistency review under the CZMA, but also any environmental review for which comprehensiveness is essential to the integrity of the findings. n64 The major failings of the offshore energy development scheme reflect a tendency of federal agencies and courts to break down statutory elements into stages and specific procedures. While this tendency is understandable given the complexity of the scheme, such simplification and procedural tunnel vision do not comport with the original spirit of cooperation that Congress intended and that states and localities have demanded. As mentioned above, these cases clearly follow the Chevron doctrine in their strong deference to agency interpretation and action. While this standard of review is now undoubtedly a mainstay of administrative law, its mechanical application to this system of "cooperative federalism" highlights the inability of the doctrine to adjust to situations in which the federal agency is not the only "expert agency" involved. Simply put, without more explicit statutory mandates to actually implement state and local recommendations, federal agencies will retain almost absolute discretion to "cooperate" with state and local governments or not. II. WHAT LOCAL CONTROL LOOKS LIKE--THE PROBLEM AT HAND A. The Landscape of Local Government Initiatives Since the statutory scheme, as interpreted by federal agencies and courts, has left state and local governments with little protection from federal leasing policies, California and its coastal communities have looked to other ways of controlling offshore development. At the state level, congressional delegations from California and other coastal states have used their powers over appropriations to rein in the relevant federal agencies. n65 This tactic has proven extremely effective in blocking leasing on a year-to-year basis and has sent a clear message to the federal government that these states oppose drilling off their coasts. n66 By 1990, this [\*243] message was loud enough to cause President George H. W. Bush, and then President Bill Clinton in 1998, to protect much of the nation's coastline. n67 The use of appropriations control as a tool, however, requires that such battles be fought on a yearly basis and by no means guarantees victory for anti-oil forces. For example, in the winter of 1985, Congress lifted the moratorium on offshore leasing that had protected the California coast since fiscal year 1982. n68 Despite the California congressional delegation's effort to reinstate the moratorium, the effort lost by one vote in the House Appropriations Committee. n69 In the midst of an aggressively pro-oil Reagan administration, the people of California decided to try another approach, moving their advocacy efforts from the state level down to their local governments. In 1985, in the face of new threatened lease sales, offshore development projects, and a proposal by Chevron to build a large processing plant just north of the city of Santa Barbara at Gaviota, a Santa Barbara group called "Concerned About Oil" placed Measure A on the county ballot. n70 The local initiative specifically provided for three main protections against increased development. First, Measure A would restrict oil and gas development by limiting new construction of onshore processing facilities to just one site on Santa Barbara County's already industrialized southern coast, effectively eliminating the threat of the Gaviota processing facility. n71 Second, it would phase out oil tankering in favor of more environmentally safe pipelining, blocking the construction of marine terminals then being pursued by many of the Santa Barbara oil companies. n72 [\*244] Third, it would strengthen county air quality standards in another attempt to gain control over the offshore activities that were negatively impacting the onshore environment. n73 This initial grassroots effort at local control was defeated, however, by the competing Measure B, which was promoted by the Santa Barbara County Board of Supervisors. According to Linda Krop, Chief Counsel with the Environmental Defense Center in Santa Barbara, who started her career working on Measure A, the initiative failed in part because of its complexity. n74 The comprehensiveness of the three-tiered approach that was so appealing to its proponents simply "looked like a lot of technical mumbo-jumbo" to many lay people casting their votes on the measure. n75 Proponents of Measure B also outspent those of Measure A by a large amount, especially during the final weeks of the campaign when polls showed Measure A might pass. n76 Finally, Measure A suffered from a lack of support by moderate environmentalists who felt it was too strict, and was soundly rejected by the northern section of the county, which was politically conservative and less oil-traumatized. n77 In contrast to the strict requirements of Measure A, Measure B provided weaker environmental protections and left control with the Board of Supervisors essentially unchanged. Measure B allowed for processing facilities at two cites, instead of one, and split the county into North and South from Point Conception to California's eastern border in order to provide for the siting of the two plants. n78 Measure B also expressed pipelining as a preference but not a requirement, and its air quality restrictions were not as strict. n79 As implemented, however, the nonbinding policy recommendations of Measure B proved to be an effective tool to guide the decisions of the Board of Supervisors, and even many Measure A proponents considered it to be a success. This first effort at using local initiatives to control energy development was significant in both its innovation and its determination to escape the impasse that states and the federal government had found themselves in since the Seaweed Rebellion began. By exercising the local government's traditional zoning power to manage conflicting land uses, anti-drilling interests were able to influence offshore development without raising traditional challenges to jurisdictional or legal authority. Oil processing facilities were, in one sense, just like any other undesirable [\*245] land use that a local government would want to avoid--they were noisy, unattractive, foul-smelling, polluting, and a safety risk. However, in the oil context, the land use power went beyond controlling the cities' commercial makeup. Technological constraints and imposition of extra costs on the oil industry meant that land use controls onshore could limit, or in some cases, effectively prohibit drilling offshore. Despite Measure A's failure in Santa Barbara, Central Coast communities became even more determined to prevent expansion of the oil and gas industries in their areas. Rather than initiatives such as Measure A, which merely imposed environmental protections and limited onshore development to a specific area, some localities opted for initiatives and resolutions that completely banned onshore development. n80 In other coastal communities, residents demanded that any oil- or gas-related development approved by the local zoning authority also be approved by an affirmative vote of the public. n81 By March 15, 1987, fourteen California coastal cities and counties had approved measures to completely ban or require public approval for the construction of onshore processing facilities. n82 By 1990, that number had increased to twenty-six. n83 The average [\*246] popular vote in favor of initiatives enacting such measures was seventy-two percent. n84 The speed with which many of these communities acted, the rates at which these local initiatives passed, and the number of communities that pursued them indicate that opposition to oil and gas development in these localities was sincere and broadly felt. Many people in areas such as San Luis Obispo, the county directly up the coast from Santa Barbara, claim that offshore oil is the one issue that unites the entire community. n85 As a result, individuals and community organizations continually use every means possible to reiterate this message to the Minerals Management Service ("MMS"), the branch of Interior that is primarily responsible for both onshore and offshore minerals extraction. n86 For example, at an MMS public hearing held January 22, 2001, in Santa Barbara County, numerous representatives of San Luis Obispo organizations spent over four hours testifying to their opposition to any advancement of oil development on the Central Coast. n87 In 1998, the San Luis Obispo Chamber of Commerce and the Environmental Center of San Luis Obispo ("EcoSlo") issued their first ever cooperative position paper, jointly criticizing the federal government's California Offshore Oil, Gas, and Energy Reserves Study ("COOGER") for its inadequate evaluation of environmental and socioeconomic effects on the County. n88 Actions like these have sent a clear message that the oil industry is not welcome in San Luis Obispo County. [\*247] B. The Threat of NIMBYism What should this local political resolve count for in a debate over the disposition of national resources? The brief history sketched in Part I shows that in prior battles between states and the federal government, the federal government has won. Leaving aside for the moment whether the federal government has used this power to best manage the OCS resources or in the best interest of the nation generally, there are strong policy reasons to favor national control in this instance. First, the OCS is a national resource to be used in the interests of the country, rather than only in the interests of people who live in the affected coastal communities. Second, and more importantly, the national government is in the best position to compare different options for mineral extraction and energy development. It should not be impeded from making these difficult decisions by parochial interests that lack both the information and the public mandate unique to the federal government. Senator Mary Landrieu of Louisiana recently expressed this view when discussing the oil drilling controversy in Florida. Advocating an easing of offshore development restrictions in order to combat the nation's high energy prices, Landrieu asked, "Is it fair for one state or a handful of states to drive up the [energy] costs for everyone else?" n89 We must also inquire about the fairness of a decision-making process that favors the political power of individual states over environmental safety and social equity. For example, in the use of appropriations to block drilling off the coasts of certain states, offshore energy development may be completely divorced from either environmental or energy policy, existing only as a potential financial allocation to be bargained over in the political sphere. With regard to presidential moratoria, or even executive agency action on the standard five-year leasing plans, political power can play a major role. When asked during his presidential campaign whether he would pursue drilling off the Florida coast, George W. Bush tipped his hat to Florida Governor and family member Jeb Bush when he promised that he "would not mess with 'little brother over there.'" n90 President Bush's advisors later noted that family ties would have to take a back seat if he was to fulfill his campaign promise to increase the country's energy supply. n91 As Senator Landrieu's comment suggests, the public generally regards it as unacceptable that a few powerful states, including Florida and [\*248] California, receive political preference at the expense of fulfilling national needs. In the energy context, as well as in the environmental context, the general public simply feels that burdens and benefits should be distributed equitably and be based on legitimate concerns of environmental risks, socioeconomic effects, and physical compatibility. n92 Both our sense of fairness and the law of offshore development require this policy foundation. The California coast unquestionably enjoys a dedicated national base of public interested support for preserving its unique beauty and ecological significance, but because many of the issues in California have evolved into local zoning matters, anti-oil activists have become vulnerable to criticism that they are acting purely out of self interest. Derogatory terms like "NIMBY," standing for "Not In My Backyard," have come to dominate the debate. n93 In some respects the Central Coast looks like the stereotypical NIMBY culprit--relatively wealthy, politically powerful, and socially privileged. n94 The counties of Santa Cruz, Sonoma, Monterey, San Luis Obispo, Mendocino, and Santa Barbara, all of which have protective ordinances that limit energy development within their boundaries, n95 contain few of the economic and environmental problems of Los Angeles County or inland agricultural Bakersfield County. Thus, one is left to wonder whether these communities' conservation efforts are advanced in the spirit of public or private interests. From a policy perspective, one is left with an even more basic question of whether to allow local governments to put up walls around their communities, regardless of their motivations. The NIMBY attacks strike on two levels. First, as articulated by Senator Landrieu's sentiment, local interest-based opposition to siting decisions may hurt the rest of the country, which depends on the resource [\*249] use enabled by the unwanted facilities. Second, this focus on local interests and oil development's potential immediate impacts causes anti-oil advocates to stop short of asking where those seeking extraction might turn to next when some communities close their doors. Localizing the energy debate has, in effect, caused communities to play off each other, continually pushing the risk of development not to the areas better suited for it, but to those most politically welcoming or least able to deter it. The incentive structure of NIMBYism encourages those seeking to site locally undesirable land uses to choose communities where they will face the least resistance, often turning their attention to lower-income and minority areas. This may create a positive outcome if a chosen community desires the development and believes economic benefits will outweigh the costs. Many times, however, this incentive structure simply directs developers to the communities with the least economic and political power, creating the complex social, environmental, and economic problems now commonly addressed in the environmental justice movement. n96 In the latter scenario, the community does not want the facility, but it lacks the power to override decisions made by higher levels of government or wealthy business interests. The tensions between local and federal control over offshore development look very similar to the concerns that arose from the now discredited approach to selecting sites for hazardous waste facilities. n97 The environmental justice debate provides insight into the importance of empowering local communities, particularly those that have been traditionally underrepresented and excluded from the decision-making process. In another sense, however, the environmental justice debate also focuses heavily on leveling the playing field to ensure that the burdens of waste management, natural resource development, and other environmentally destructive or dangerous land uses are spread more evenly to all those who benefit from such development. The current system for developing offshore energy resources does not empower local communities, nor does it benefit from the broad vantage point that responsible top-down siting can contribute. The current system instead relies on ad hoc decision-making and political infighting. This situation is unfair from a justice and equality perspective for the underprivileged people who oppose oil, but are unable to force it out politically. Moreover, it is environmentally unsound to leave the fate of natural resources, which hold significant ecological value to the nation, dependent upon their value to and the power of the local community that houses them. [\*250] C. Conflicting Resources and Conflicting Expertise If one was concerned only with managing the extraction of oil and gas from the OCS and appropriately spreading the burdens of this production, simple fairness and distributive justice would require that communities like those on California's Central Coast be held accountable for their share of the national energy burden. The OCS has more to offer than opportunities for oil and gas extraction, however, and the federal government has shown itself inadequate at multiple-use management of the OCS as a whole. The case law discussed above demonstrates how the federal agencies and courts have consistently prioritized oil extraction over other values of the OCS, which has forced supporters of non-extractive uses to look outside the legal structures of OCSLA and the CZMA. As discussed above, the language and intent of the statutes reflect the need to balance and provide for multiple uses of the OCS. While there is still hope that the statutory mandates will be given effect, it will likely take legislative reform to change the direction of the courts and federal agencies. n98 This gap between the statutes' intent and their implementation is where local governments have stepped in. Despite the appearance of NIMBYism, their role has, in fact, advanced the public interest in protecting California's coast. In this sense, local governments have not been purely protectionist or selfishly warping the distribution of responsibility for energy facilities. Rather, they have instead fulfilled the mandates of OCSLA and the CZMA that the federal government has neglected. n99 Just as the federal government is invested in the current leasing program because of the benefits it provides in the forms of national energy supply and leasing revenues, n100 local governments are invested in the other non-oil resources in the OCS. The deep connection that local communities have to fisheries as local economic resources, wildlife as scientific and recreational resources, and unbroken ocean vistas as tourism [\*251] and quality-of-life resources may put them in the best position to act as stewards for these non-oil resources. One strong example of this type of local expertise can be found in the longstanding commercial and recreational fishing industries. For many coastal communities, fishing has historically been a major component of both their economic and cultural bases. This food and income supply may be just as important, if not more important, to both coastal communities and the country than the need for offshore petroleum resources. n101 Fishermen have objected to oil development because of the noise, the heavy equipment that gets in the way of fishing nets and dredges, and of course, the pollution. They have reported that places along the ocean bottom look like they have been strip-mined, "where the dumping of drill muds has suffocated all life on the bottom." n102 While offshore oil development can find a near perfect substitute in onshore drilling, with potentially less environmental damage, there is no substitute for the oceans' fisheries resources. The Magnuson-Stevens Fisheries Conservation and Management Act ("Magnuson-Stevens Act") reflects this interest at the national level and provides for efficient and sustainable use of this resource. n103 Despite the national and local interests in fisheries resources, however, federal law has largely neglected them in the context of offshore energy development. OCSLA and the Magnuson-Stevens Act instead function independently, doing nothing to legally resolve an economic and resource management conflict that reverberates from the local to the national levels. Resource management decisions are again left to the politics of the moment, and as federal policy has consistently favored oil and gas development over other concerns affecting local economies, many local governments have taken it upon themselves to resolve this conflict between competing oil and non-oil interests. Another example of the failure to coordinate the conflicting resources of the OCS at the national level, leaving the fate of non-oil resources to be protected by state and local governments, can be found in the application of the Marine Protection, Research and Sanctuaries Act of 1972. n104 In 1978, Santa Barbara County attempted to take advantage of the this federal program, which authorizes the National Oceanic and Atmospheric Administration ("NOAA") to designate selected sites as marine sanctuaries for biological, research, recreational, or aesthetic purposes. n105 [\*252] The County submitted a detailed nomination, requesting that the Santa Barbara Islands and Channel be designated a federally protected marine sanctuary, just as nine major energy projects were being planned and expansion of OCS development was expected. In this case, the County acted on a determination that the Channel's non-oil resources were invaluable to the local community and the nation. n106 Predictably, the conflict with oil interests created problems for the County's proposal. Researcher Elizabeth Kaplan notes that nearly 70 percent of the comments on the [Draft Environmental Impact Statement for the Channel Islands Marine Sanctuary] were in favor of prohibiting energy development in the entire channel, but [NOAA], responsible for designating marine sanctuaries, bowed to industry pressure and limited it to six miles, approximately one-half to one-third the original size requested. The muscle of the oil and gas industry was felt heavily in Washington, but had little impact at the state and local level. n107 This example is just one of many instances in which those closest to the non-oil resources have valuable perspectives to contribute to the national debate surrounding offshore development, yet may lack the political power to influence the decision-making process effectively. Although the federal government's broad geographic perspective may provide it with the best position from which to evaluate the nation's energy needs and potential sources of supply, local interests often have special expertise regarding the impacts of oil and gas development on the other resources of the OCS. This is, of course, why Congress encouraged state participation in the CZMA program in the first place. Several federal laws have recognized and incorporated local expertise in environmental protection and natural resources management, but this expertise has not been effectively incorporated into the management of the OCS. Local interests have accordingly suffered at two levels. At the most basic level, local interests have suffered from lack of control over offshore drilling itself. They have also suffered through lack of integration in the federal programs that have granted them the opportunity to [\*253] provide substantive input. For example, under the Clean Air Act the State of California has granted Local Air Quality Management Districts jurisdiction over offshore platforms in order to integrate such offshore air pollution sources into regional air quality schemes. n108 The Magnuson-Stevens Act provides another example. Under this statutory scheme, Regional Fisheries Management Councils determine which fishing gear types are permissible, based on fishing needs and the negative impacts of certain fishing practices on other ocean resources. n109 OCSLA's lack of similar local control measures, however, undermines these avenues for real local input and relegates them to purely mitigatory measures--helping local governments cope with other resource issues once the fundamental OCS development decisions have already been made. The local control measures in the statutes just mentioned provide hope and direction for a reformation of OCSLA. Independently, they recognize the importance of local input in complex resource management decisions. Moreover, they provide avenues of local control that are sanctioned by statute, are guided by a national framework, and work in concert with societal interests in preserving and valuing clean air, endangered species, and the economic and recreational value of our fisheries resources. These examples of local, state, and federal cooperation have made apparent that local interests can advance the public interest in protecting the OCS's non-oil resources. OCSLA and the rest of the OCS management scheme, including the Clean Air Act and the Magnuson-Stevens Act, must now be integrated to truly incorporate the diverse values and interests at stake at each stage of the management decision-making process. D. Making Sense of the Seaweed Rebellion While local control of land use planning has long been a key tenet of federalism, with local governments acting as a kind of public/private hybrid that is enabled by state law, n110 it is undeniable that coastal communities' local energy development policies can directly and indirectly affect the rest of the nation and the world. At its most basic level, the OCS is a national resource that should be subject to national control. Although Congress has to some degree allowed for state and local input in federal decision-making, it could, if it so desired, preempt the entire field. As a [\*254] political matter, this would likely be unfeasible due to strong public commitment to local participation in resource management decisions. n111 In today's world of diminishing resources, local environments and ecosystems have become major national concerns. Protection of the California coast, or any other location, cannot remain simply a matter of local land use preferences. While the nation's energy resources are important, society has also recognized other equally important values in preserving wilderness areas, endangered species, areas of cultural and historic significance, and marine areas of significant productivity, just to name a few. Ignoring these values when oil extraction is at issue both undervalues and undermines national environmental commitments. Because support for these environmental values is deeply rooted in society, it is not surprising that individuals and organizations continue to discover and develop new legal tools to use for environmental protection. Nevertheless, encouraging a system in which state and local governments are forced to work outside the federal framework simply exacerbates the tensions and inconsistencies inherent in OCS management. Throughout the different phases of the Seaweed Rebellion, state and local interests have reacted to what they experience as the federal government's lack of respect for competing values and competing voices in the debate over offshore energy development. With little regard for local priorities, the federal government has pushed ahead with oil and gas extraction as its primary goal for the OCS. This shortsighted and narrow view, however, has in fact prevented the federal government from achieving the extraction it desires. The executive and judicial branches have failed to recognize the public will as it was originally expressed by Congress in OCSLA and the CZMA. Consequently, the federal government has also failed to balance effectively national environmental concerns against its energy interests. As a result, those expressing the public will at the state and local levels have been forced to find other ways to incorporate local control into the federal OCS oil and gas development scheme. The following discussion presents a proposal for a more integrated approach to federal management of OCS energy development. This proposed integrated oil development scheme incorporates concerns regarding energy needs, environmental protection, and local participation, which have been highlighted throughout this Note. It also restores the [\*255] original intent of current laws and policies and reconciles their conflicting purposes in a new way. Although this proposal is specifically aimed at giving greater weight to environmental concerns and the non-oil resources of the OCS, its underlying purpose is to better respect both national energy priorities and local participation concerns. III. ESSENTIAL ELEMENTS FOR A WORKABLE FEDERAL ENERGY POLICY A. Serious Concern for National Laws and Environmental Interests As discussed above, the current offshore energy extraction system fails to take proper account of environmental concerns at the national level. This failure leaves major environmental concerns primarily in the hands of local governments and activists, divorcing them from the offshore development system itself. To mend this broken system and encourage comprehensive management of the OCS, the federal leasing program must seriously consider environmental and other state and local concerns at the outset of leasing decisions. In particular, Interior must prepare five-year leasing programs that comply with the statutory mandate to best meet national energy needs, consider environmental sensitivity and marine productivity, and equitably share the benefits and environmental risks of OCS development. n112 In taking the competing values of the OCS seriously, Congress should simply forbid leasing in areas that meet a certain level of environmental sensitivity or purity. This baseline determination would equalize the priorities of OCS management, allowing respect for the different purposes of different areas of the ocean, rather than presuming extraction wherever resources exist. Beyond the leasing decision, federal agencies and courts must enforce existing environmental laws without compromise, respecting the full intent of the laws and resolving that oil development must not be given special privileges. Only by making environmental concerns a top priority can the federal government implement a national energy policy that truly considers all relevant factors. Moreover, the federal government would then be able to regain control of a system that must be run at the federal level in order to best deal with the nation's energy and environmental needs. To resolve the problems of the existing federal minerals leasing system, **we must first address Interior's** and the courts' **failure to heed OCSLA's mandate that Interior consider the economic**, environmental, and **social consequences of OCS development**, especially on the immediate communities, when making initial leasing decisions. Since **the initial decision to grant a lease affords the greatest single opportunity for states** and local communities to influence offshore drilling projects, the requirements [\*256] of OCSLA's Section 18 must be made a top priority and truly allow for grass-roots level input. While the Secretary of the Interior has the authority to cancel or modify leases for environmental reasons, n113 this has proven to be an unreliable form of environmental protection. The Secretary has rarely used this power n114 and it is generally discouraged on account of the government's legal duty to compensate oil companies for such breaches. n115

#### Rulings on federal lands are key -- sets a precedent that spills over

Comer 4 (Robert, D., Regional Solicitor in the Rocky Mountain Region – Department of the Interior, “Constitutional Conflicts on Public Lands: Cooperative Conservation: The Federalism Underpinnings to Public Involvement in the Management of Public Lands,” University of Colorado Law Review, Fall, 75 U. Colo. L. Rev. 1133, Lexis,

In contrast, individuals actively involved with on-the-ground public land management issues in the West are calling for more local involvement in the federal land management decision process. Even those who might be characterized as being on opposite sides of the philosophical spectrum have argued forcefully for approaches to conservation that recognize and incorporate local cooperative conservation processes. n133 Advocates of cooperative conservation are hopeful that these decision processes will **break through the paralysis and litigation** borne of the current conflicts in federal land and water resource management to yield improved resource decisions informed by local knowledge. In essence, they see value in local involvement and seem not to share the fear that the local interests will dominate the process, make unlawful decisions, or [\*1155] unduly influence federal land managers. n134 Cooperative conservation group involvement in federal land management is considered to be "an experiment in new governance, a revival in Jeffersonian democracy." n135 Thus, cooperative conservation should not be viewed as a political effort when advanced administratively. n136 Some may view these broad grants of authority to invoke cooperative federalism as diminishing the authority of the Secretary and abdicating federal management responsibilities. n137 However, these grants provide **more latitude** in the exercise of discretion and create potentially important options in public land management and decision processes. Congress and the courts have provided guidance on permissible delegations of authority, the contours of which may be more limited when undertaken through executive discretion rather than through legislation. But, the underlying concept remains the same. Cooperative conservation is one of many tools available to federal land managers, a tool that should be used when it will serve the essential purpose of better conserving our land, water, and wildlife resources. The Department of the Interior has recognized the importance of cooperative conservation. n138 When local partners are enlisted to assist with federal resource management activities, federal dollars go further, as do the efforts, energy, and contributions of local participants - those with the most immediately at stake from federal land management decisions and actions; those who live in the communities directly affected by federal land management decisions. Examples and reasons abound to create consensus through collaboration. Some of these reasons are financial in nature. For instance, during the last two years of the Clinton Administration, funding diminished by nearly fifty percent in the Land and Water Conservation Fund n139 and has subsequently declined even further. In addition, federal dollars can be stretched by partnering, which brings private resources to bear. The Department of the Interior is developing a partnership initiative and has instituted a Cooperative Conservation Initiative. n140 Federal properties, such as the California Coastal National Monument, are actively involved in partnering on a day-to-day basis. [\*1156] Some examples are noteworthy. The U.S. Fish and Wildlife Service and the Consolidated Salish and Kootenai Tribes have proposed tribal management of some maintenance, educational, and visitor service activities for the National Bison Range in Montana. n141 In Colorado, citizens have proposed an important regional land management experiment called the Northwest Colorado Stewardship Partnership. n142 Local government and interested community members have an interest in broader day-to-day management responsibility over certain nearby federal lands. A wide-ranging collaboration of BLM, Moffat County and other stakeholders are seeking to identify federal land stewardship priorities and methods for implementation. n143 The objective is to demonstrate new innovative methods for federal land management that ensure responsible use of natural resources while maintaining or enhancing the area's custom and culture. n144 The concept is worthy of detailed consideration to determine how best to utilize community-based planning in the federal land management process. Another initiative is the Eastern Nevada Landscape Restoration Project. n145 This initiative seeks to develop consensus on the overall health of ten million acres in the Great Basin ecosystem in Eastern Nevada and to implement actions to restore ecosystem health where lacking. BLM has formed a partnership with seventy-five independent nongovernmental partners in an effort to guide its activities and develop broad-based goals and objectives. Other reasons to support cooperative federalism as a tool in public land management involve good stewardship. Diverse parties are working to improve the quality of riverine habitat along the Duck Trap River in Maine and Buffalo Creek in Pennsylvania. Similarly, the Malpai Borderlands Group is seeking to improve grazing practices, restore the Prairie, and create a grass bank in Arizona and New Mexico. In Alaska, scientists and fishermen are partnering to improve fishing techniques to protect the albatross population. n146 Ripe for collaboration are the harvest of timber fuels and public safety activities that arise under President Bush's [\*1157] Health Forests Initiative. These partnership initiatives supplement federal dollars with private money, initiative, knowledge, and enthusiasm for locally based land management and protection.

#### Supreme Court is key – creates a trickle-down effect

Aroney 6 (Nicholas – Senior Lecturer in Law, T.C. Beirne School of Law and Fellow, Centre for Public, International and Comparative Law, The University of Queensland, Australia, “Formation, Representation and Amendment in Federal Constitutions”, 2006, lexis)

A further complicating factor is that the powers allocated by the four constitutions under consideration are in some instances "exclusive" to the recipient polity, while in other cases the powers are "concurrently" exercised by both the federation and the States, with federal laws prevailing in the event of inconsistency. n84 Thus, in Australia and the United States, federal legislative powers are mostly concurrent with the States, and inconsistency between State and federal laws is resolved in favor of the federal legislature. n85 This principle of concurrency is qualified, particularly in the case of Australia, by a small but significant number of exclusive powers explicitly conferred upon the federal Parliament, n86 as well as a number of competences specifically removed from the States. n87 In both countries, there has also been judicial consideration of the possibility that certain formally concurrent powers are in effect exclusive to the federation, usually explained as a result of some inherent limitation in the capacity of the States to address a particular subject matter. n88 In Switzerland, a similar distinction between concurrent and exclusive competences applies, but is further complicated by the fact that some concurrent federal powers extend only to the enactment of "framework" laws (in the context of which the Cantons then legislate), n89 as [\*294] well as by the system of so-called "administrative federalism," typical of European federations, n90 under which the federal legislature enacts laws that are subsequently enforced by the executive authorities of the various Cantons, rather than solely by federal government agencies. n91 Swiss federalism thus places greater emphasis upon the formulation of consensus-based government policy through a unique combination of inter-governmental cooperation, federal representation and popular referendum. **n92 While cooperative federalism is certainly not absent in the** United States, Canada and Australia, the relatively greater emphasis given in these countries to the "division" of powers adjudicated through judicial review reinforces the tendency to resolve policy disagreements in legalistic terms by recourse to litigation. n93 The history of judicial interpretation of federal legislative power in the United States is a long and complex one. n94 At times, the Supreme Court has emphasised the fact that the Constitution in Article 1, 8 confers only "limited and expressly delegated powers" upon the United States Congress and, at the same time, in the Tenth Amendment "reserves" to the States all powers not "delegated" to the United States, with the result that the explicit legislative powers of Congress must be "construed strictly." n95 However, at other times - and indeed for much of the 20th century - the Supreme Court has been prepared to interpret federal legislative power in rather expansive terms, notwithstanding the impact on the so-called "residual" powers of the States. n96 The Supreme Court has also at times - under the conception of federal and State governments as each "sovereign" within their respective "spheres" n97 - adopted a relatively strict doctrine of [\*295] "intergovernmental immunities," under which the State legislatures are prohibited from interfering with the federal government and the federal Congress is prohibited from taxing the instrumentalities of the States. n98 Particularly over the course of the twentieth century, however, this doctrine has also progressively been narrowed. n99 Yet, both in terms of the interpretation of federal legislative powers and the immunity of the States from federal interference, the Supreme Court has recently become relatively more solicitous of the interests of the States than it used to be. n100

#### Now is key – Court decisions clarify legal doctrine and set precedent

Burce 8 (Simon B. – Solicitations Editor, BOSTON COLLEGE ENVIRONMENTAL AFFAIRS LAW REVIEW, 2007-08, “WILD RIVERS AND THE BOUNDARIES OF COOPERATIVE FEDERALISM: THE WILD AND SCENIC RIVERS ACT AND THE ALLAGASH WILDERNESS WATERWAY”, 2008, 35 B.C. Envtl. Aff. L. Rev. 77, lexis)

The tradition of dividing power between the federal and state governments in environmental regulation traces its roots to the founding of the Nation. n105 The Supremacy Clause of Article VI of the Constitution states that the "Constitution, and the Laws of the United States which shall be made in Pursuance there of . . . shall be the supreme Law of the Land." n106 Also, the Tenth Amendment declares that "[t] he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." n107 Throughout the history of the United States, the ongoing effort to interpret this balance of power between the federal and state governments has inspired both creativity and conflict. n108 While the phrase "cooperative federalism" has its jurisprudential roots in a 1950 decision of the U.S. Court of Appeals for the Ninth Circuit, a symposium published by the Iowa Law Review in 1938 traced the mechanics of cooperative federalism to the middle of the nineteenth century. n109 The symposium identified "an entirely new field of experiment characterized by the participation of several governments in cooperative legislative or administrative action." n110 In subsequent case law, courts have characterized cooperative federalism in different ways, but have not significantly deviated from this initial description. n111 Yet for as long as this form of cooperation has been an operative principle in government, scholars and **statespersons** have struggled to identify the allocations of power specific **to the federal and state governments in this "field of experiment**." n112 Indeed, some [\*92] commentators have argued that the ambiguity over these power assignments is an advantage deliberately built into the Republic by the Framers themselves. n113 A. Cooperative Federalism in Environmental Regulation 1. Federal Regulation in Pollution Control and Resource Management The history of a significant federal government presence in the arena of pollution control began in 1970. n114 Until then, the regulation of the environment was an area left largely to the states. n115 Acting through their residuary Tenth Amendment police powers to protect the health, safety, and welfare of their citizens, the states took primary responsibility for regulating pollution through local land use laws, elementary pollution control statutes, and common law litigation. n116 The federal government intervened only after it became clear that pollution did not conform neatly within state boundaries, and that states could not regulate pollution effectively on their own. n117 In 1970, the federal government embarked on an initiative to take control of pollution regulation. n118 That year, Congress enacted the Clean Air Act (CAA), and President Nixon issued an executive order creating the Environmental Protection Agency. n119 In the following decade, Congress enacted more than twenty federal environmental laws, exercising its authority under the Commerce Clause to absorb the responsibilities of the states in the arena of national pollution [\*93] control. n120 The development of strong federal legislation during this period was due to a public recognition that the states could not by themselves address the problem of pollution. n121 Not only was the federal government better equipped to provide resources to confront national pollution problems, but it also was immune to interstate competition for pollution control restrictions that devolved into a "race to the bottom" among states vying to attract business. n122 As a result, when states challenged Congress's authority to regulate under the Commerce Clause, they often lost. n123 In comparison to the field of pollution control, the federal presence in the arena of resource management is significantly older. n124 Dating from 1849, when Congress created the Department of the Interior to regulate the transfer of public lands to private parties, the federal environmental policy in the mid-nineteenth century focused on the development of natural resources. n125 This period saw a flurry of congressional activity designed to encourage private development of the federal government's massive land holdings. n126 However, as the century drew to a close, scientific studies challenged the wisdom of unchecked exploitation of natural resources. n127 Federal policy shifted from resource development to resource conservation, resulting in a conflict between federal and state interests that had previously been aligned under development policies. n128 While the conservation movement was not without initial controversy, the Supreme Court ultimately validated the power of the federal government as preempting state laws that conflicted with federal policy. n129 2. Recent Supreme Court Jurisprudence The expansive power granted to the federal government in the field of environmental regulation corresponded with a broad interpretation [\*94] of the Commerce Clause by the Supreme Court. n130 During the period from 1937 until 1995, the Supreme Court did not strike down a single federal law for exceeding Congress's power under the Commerce Clause. n131 However, in 1995 in United States v. Lopez, and in 2000 in United States v. Morrison, the Court invalidated two federal statutes as exceeding the scope of Congress's commerce power. n132 These statutes were invalidated on the grounds that the activities that they regulated did not substantially affect interstate commerce. n133 Since 2000, the Court has not invalidated any further laws as exceeding congressional commerce power. n134 Yet the specter of Lopez and Morrison overshadows all contemporary considerations of Congress's power to regulate the activities of state and local governments. n135 Another significant development in constitutional law affecting contemporary conceptions of cooperative federalism is the Supreme [\*95] Court's recent jurisprudence on federal preemption of state laws. n136 In addition to express preemption, in which Congress explicitly preempts state law on the face of a statute, the Court has found three types of implied preemption: field preemption, conflict preemption, and a state law impeding a federal objective. n137 In determining if a federal statute preempts state law, courts must ascertain the statute's congressional purpose. n138 While the Supreme Court has found preemption in many recent cases, the Court has also emphasized the importance of determining the "clear and manifest purpose of Congress" when the federal government regulates an area of traditional state concern, such as land use. n139 Since every regulatory arrangement is unique, there is no bright-line test for determining when the federal government purposefully preempts state law. n140 Rather, the statutes at issue must be considered on a case-by-case basis to determine how the federal government intended its regulatory framework to function. n141 [\*96] B. Federal and State Power Is Unclear from Statutory Language That Explicitly Provides for State Participation While many federal environmental statutes explicitly delineate the cooperative relationship that they seek to establish among the levels of government, the enforcement of these statutes often reveals different relationships in practice. n142 In the pollution control context, most statutes reflect congressional mindfulness of the traditional role assumed by states for protecting public health, safety, and welfare. n143 The Clean Water Act, for example, states that "[i]t is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution . . . ." n144 Many environmental statutes buttress this policy by allowing states to regulate at stricter levels than the federal government if they choose to do so. n145 However, notwithstanding this deferential language to state regulation, the federal government retains significant, and often primary, enforcement power under these statutes. n146 In the context of resource management, many statutes emphasize the principal role of the federal government. n147 Rather than recognizing the primary authority of state governments, as pollution control statutes do, these **resource management statutes conceive of the federal government sharing its own power with the states**. n148 However, many of these statutes simultaneously carve out specific provisions for [\*97] state power in federal management processes. n149 In statutes that contain language identifying concurrent federal and state power, the assignment of power can be ambiguous on the face of the statute. n150 The language of power arrangements in these statutes does not ring hollow, and courts often use this language to inform their interpretations of the substantive provisions of these statutes. n151 Yet the language of the statutes themselves offer little insight into the sources of power **from which they draw their authority because** courts use traditional conceptions of federal and state power to inform their statutory interpretation. n152 Therefore, **rather than examining statutory language,** **a more useful method for analyzing** the balance of power in **cooperative federalism** is to consider how courts have articulated the interaction of the sources of federal and state power when confronted with questions of statutory interpretation. n153

#### Scenario One is South Asia

#### US Supreme Court decisions are modeled by Pakistan

Khan 11 (Amjad Mahmood, Senior Litigation Associate – Latham & Watkins LLP, Postgraduate Research Fellow – Harvard Law School, JD – Harvard Law School, “Misuse and Abuse of Legal Argument by Analogy in Transjudicial Communication: the Case of Zaheeruddin v. State,” Richmond Journal of Global Law & Business, 10(4), http://muslimwriters.org/wp-content/uploads/2012/06/khan\_10-4-2.pdf)

This article explores the risks and limits of transjudicial communication. In particular, I critique the scholarly contention that transjudicial communication can be built upon commonly accepted methods of legal reasoning. I argue that transnational courts do not uniformly understand or apply commonly accepted methods of legal reasoning, especially legal argument by analogy. As a result, transnational courts that utilize transjudicial communication can and do render specious, even destructive, judicial opinions. I analyze the case of Zaheeruddin v. State—a controversial decision by the Supreme Court of Pakistan that upheld the constitutionality of Pakistan’s antiblasphemy ordinances. The Supreme Court of Pakistan poorly analogized to numerous U.S. Supreme Court authorities to bolster and legitimize its deeply flawed decision. INTRODUCTION In his 2009 majority opinion in Graham v. Florida, U.S. Supreme Court Justice Anthony Kennedy cited to foreign law as persuasive authority to hold that life-without-parole sentences for juveniles convicted of non-homicide crimes were unconstitutional. 2 In his 2003 majority opinion in Lawrence v. Texas, Justice Kennedy cited a decision by the European Court of Human Rights as persuasive authority to hold that a Texas statute criminalizing acts of sodomy was unconstitutional. 3 The recent and rising trend of U.S. courts to rely on foreign law for constitutional adjudication, particularly for contentious issues, illustrates more generally the globalization of modern constitutionalism. Indeed, as legal problems become more common across more common law systems in the world, courts increasingly rely on the legal opinions of outside jurisdictions as a powerful source of persuasive authority. Professor Anne-Marie Slaughter describes such cross-court citation and deliberation on common legal problems as “transjudicial communication.” 4 Her typology suggests the relative merits of this communication and even describes its increasing trend as an emergence of a new and promising “global community of courts.” 5 Transjudicial communication, argues Slaughter, fosters cross-fertilization of legal ideas and becomes a “pillar of a compelling vision of global legal relations” where “national differences would be recognized, but would not obscure common legal problems nor block the adoption of foreign solutions.” 6 For Slaughter, what helps develop this cross-fertilization of legal ideas is a common judicial identity and legal methodology, including among other tools, common methods of legal reasoning across legal systems. 7 This article explores some of the risks and limits of transjudicial communication. I call into question Slaughter’s contention that common methods of legal reasoning necessarily advance cross-fertilization of ideas between courts of competing systems. I argue that transnational courts do not uniformly understand methods of legal reasoning. To this end, I focus my critique on one particular method of legal reasoning that Slaughter would deem to be “common” to transjudicial communication: legal argument by analogy. Proper legal argument by analogy is a less common, or a less consistently applied, judicial methodological tool to work with. To encourage transjudicial communication through legal argument by analogy is problematic not only because the mode of analogy itself is more rigorous than it appears, but also because legal argument by analogy carries special risks in the transjudicial setting. Part I details Slaughter’s typology of transjudicial communication. Part II introduces the basic principles and methodology underlying legal argument by analogy. Here, I contrast the views of two prominent scholars of jurisprudence—Professor Cass Sunstein and Professor Scott Brewer—concerning the rational force of legal argument by analogy. I also outline the basic problems associated with legal argument by analogy and highlight what Sunstein refers to as the “distinctive illogic of bad analogical reasoning.” 8 Finally, Part III illustrates the troubling consequences of poor analogical reasoning in the transjudicial context by way of an analysis of Zaheeruddin v. State 9 —a controversial and extant 1993 decision by the Supreme Court of Pakistan that relies principally on U.S. constitutional and trademark law as persuasive authority. PART I: SLAUGHTER’S TYPOLOGY OF TRANSJUDICIAL COMMUNICATION A. Horizontal and Vertical Communications Slaughter’s typology of transjudicial communication succinctly summarizes the characteristics and relative merits of certain courts citing and deferring to courts outside their national jurisdiction. She outlines two major types of transjudicial communication: horizontal and vertical. She defines horizontal communication as communication between courts of the same authority and stature across national and regional borders (e.g., the U.S. Supreme Court referencing decisions of the Supreme Court of Zimbabwe, or vice versa). 10 Horizontal communication consists of a court’s tacit emulation of a court of another jurisdiction by way of cross-citation of decisions. 11 Horizontal communication usually operates as a “monologue” where neither the originating nor the sharing court has any direct and formal links, nor do they directly converse with one another. 12 The originating court is wholly unaware that its views have a foreign audience; the listening court manufactures the foreign audience. Slaughter defines vertical communication as communication between courts of different statures across national and regional borders (e.g., the U.S. Supreme Court referencing decisions by the Inter- American Court, or vice versa). 13 Like horizontal communication, vertical communication consists of cross-citation between courts, but usually involves more formal deference on the part of a court of narrow jurisdiction towards a court of wider jurisdiction. Vertical communication can operate as a “dialogue” where both the originating and sharing courts recognize and acknowledge each other’s cross-citations. 14

#### Pakistani cooperative federalism over natural resources is key to prevent separatism and Taliban resurgence

Rais 9 (Dr Rasul Bakhsh Rais – Professor of Political Science in the Department of Humanities and Social Sciences, LUMS, , “The Balochistan Package; Redefining Federalism in Pakistan”, 2009, http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&ved=0CCMQFjAB&url=http%3A%2F%2Fwww.forumfed.org%2Fen%2Fpubs%2Fpakistan%2FBalochistan%2520Package%2520paper%2520DrBakhshRais%2520LUMSfinalDec09.doc&ei=hUuZUM3MOpTo9gTGzIDwBQ&usg=AFQjCNFVJVwbn1RXEJ6OUzQYnuYMMzt-4Q&sig2=X4rfcoAc\_tWOuVQqUZFmPw)

Introduction Federalism, the constitutional distribution of power between the centre and the provinces, **remains largely an unsettled issue in Pakistan for number of reasons**. But chief among them is a historic tendency on the part of the **federal government**s, both military as well civilians, **to assume greater responsibilities**, and thus, greater powers than especially the smaller units in the federation would be comfortable with. From the very beginning, the political design of state and national building strategy placed greater trust and powers with the federal structure than the provinces, even ignoring their genuine identity, economic and political concerns. Far from achieving any meaningful integration, centralization of powers only alienated the provinces **and resulted into disputes that involved use of force**. The failure of keeping East Pakistan, now Bangladesh in the union, was primarily a failure in structuring a federal system that would balance the requirements of an effective national government **with the aspirations of autonomy and self-empowerment of the provinces**. Balochistan presents another case of troubled federalism where the Baloch ethnic sentiments have repeatedly surged, **showing deep distrust of the federal government** over distribution of powers and rights over natural resources. At the moment, the province is going through a third insurgency in the past sixty-two years that **adds tremendous difficulties for Pakistan’s security infrastructure that is struggling to put down the Taliban insurgency** in the western tribal borderlands. Much of the problems that Pakistan is facing today are inherited troubled legacy of the military rule, including insurgency in Balochistan that both the character of the regime and its political manipulation triggered. Historically, military regimes have depended on centralizing agency of the armed forces, federal bureaucracy and selective political cooptation of provincial elites that accepted constitutional deviations. But that suppressed genuine political representation and pushed the democratic forces in the provinces to the sidelines, generating a deep feeling against the federal government and the Punjab, the largest province of the federation from where the great bulk of the armed forces is drawn. This is not to suggest that the civilian governments across the board have handled federal-province relations more prudently or have addressed provincial demands of more powers empathetically. Pakistan’s experience is patchy in this respect, but the democratic governments have inherently greater political capacity to negotiate, compromise and accommodate provincial rights than the military regimes. In the present case of Balochistan, the political debris that appears to be so toxic accumulated for a decade and mainly due to non-democratic and highly centralized military rule of Pervez Musharraf. On the contrary, in less than two years term, the elected government has taken first important steps, if not decisive or entirely to the satisfaction of Baloch nationalists. The first is the Balochistan Package that this paper focuses on, and the second, perhaps greater in significance, is a national consensus on the new National Finance commission Award. Our argument is that significance of handling the federal question in relation to Balochistan proactively and according to popular aspiration lies in three inter-related political facts. The first fact is Pakistan’s national character as a multi-ethnic society. But the understanding of this character needs to be more nuanced than many studies on this subject reflect. This multi-ethnic character is like a marble shape, more intricate, inter-woven and complex than is commonly understood or recognized. This development, that has taken place through migration, old and new, does not diminish the ethnic character of the provinces, their own ethnic mix notwithstanding. As it has become clearer through painful experiences, the issue of provincial rights is one Pakistan can ignore only at the cost of damaging the federation. The second political fact is that a multi-ethnic state like Pakistan requires a democratic, and consociational federal framework of governance, because many of the problems plaguing federal-province relations are about who exercises what political power. Democracy is a natural tool of handling ethnic diversity because popular participation gives peoples and their representatives a sense of ownership in the power structure and a stake in the political system, while federalism, in true spirit, would give them political, economic and cultural autonomy. As we know, the theoretical foundations of a federal system lie in the concept of dual sovereignty, as it creates two sets of political authority: an effective and efficient national government, and state or provincial governments with separate and well-defined areas of jurisdiction. Empirically, federalism has proved the best arrangement for ethnically diverse societies. Its recognition of social and political pluralism integrates different communities together in a single nationhood. Unfortunately, successive generations of politicians and policymakers in Pakistan have failed to demonstrate true understanding of ethnic pluralism and how to accommodate it in the political system. Maybe they understood the issue of ethnic diversity but fudged it by representing genuine ethnic and regional demands as opposed to the interests of the federation. This falsification had another sinister purpose: to legitimize themselves as true patriots while labeling ethnic leaders and groups as traitors. Pakistan’s national leaders, both civilian and military, never came to grips with the ethnic and regional realities of the country, which were presented as more of a problem than an opportunity to build inclusive, participatory nationalism. The use of religion to create national solidarity that would cut through ethnic identities was too idealistic to be a pragmatic solution to the real political problem. The third political fact is that ethnic identities of regional social groups are rooted deep in history, culture, language and folklore. The illusory assumption that these identities could be wished away or instantly substituted with another politically engineered identity was proved absolutely false in the case of East Pakistan. And if Pakistan continues to ignore the ethnic factor in reshaping federal political order, it will only add further pressures and demands on the political system that is already overloaded with demands and pressures. The problem is that most of Pakistani political leaders have been uncomfortable in recognizing ethnic identity as a legitimate human feeling. It is also lost on them that ethnic difference is and can be a legitimate basis on which regional groups can claim their share in national resources, power and decision-making. Ethnicity in Pakistan or in other countries is not inherently antagonistic to building a nation-state. Those who make the opposite argument are fixated on the European notion of culture-based nations, which were formed after many years of immeasurable bloodshed for powerful groups, often minorities, to impose their cultural hegemony on less fortunate, weaker groups. Most of the post-colonial states are ethnically diverse, and by necessity have to go through a painful process of adjustment, mutual accommodation and co-existence by mutual acknowledgement, respect and inclusive politics. Pakistan, compared to many other countries, has an ethnic complex more conducive to nation building than in many other places. It has many layers of integrative forces that it could have used, and still can intelligently use, in weaving a rich composite nationhood. Ethnic pluralism of the Indus valley region, that now forms the geographical core of Pakistan, historically was never separatist in orientation but rather interactive and integrationist for thousands of years under local kingdoms and great empires. There cannot be better evidence for this than in the historical pattern of migration and voluntary relocation of populations, regional commerce and trade. This historical pattern, which has continued over the past six decades, has further transformed the ethnic landscape of Pakistan into a marble shape that presents a diffused, patchy and inter-woven image of ethnic colors and cultures. This has happened, though, without any assistance from the country’s politics, which was divisive rather than integrative in its refusal to accept regional autonomy and ethnic rights as one of the guiding principles of Pakistan’s secular nationhood. Let me clarify the idea of secular nationhood: shared powers, responsibility and political significance among all regions and ethnic groups. Never in any situation is social diversity an obstruction to evolution into cohesive nationhood. It requires a different kind of politics, which must be dictated by the logic of ethnic diversity and built on the well established and widely practiced universal principles of federalism. It is a kind of national solidarity that needs to be built from below upward by listening to concerns and voices from the constituent regions; not by merely acknowledging them as rightful players but giving them a real say and a stake in national power and decision-making. The trust deficit that Pakistan has accumulated between the centre and the provinces is in proportion to defective national politics, which has not been appropriate for or responsive to the ethnic mosaic that is Pakistan. The successive authoritarian rules that Pakistan has been through for decades have alienated some ethnic groups, particularly the Balochis, fuelling anger and frustration among them. Military rule by nature has a centralizing tendency, and in Pakistan’s case, in popular regional perceptions, it has become associated with the dominance of the majority ethnic group, the Punjabis. It violated the spirit of federalism and the national consensus. It took Pakistan a quarter century to reach national consensus on the 1973 Constitution, somewhat settling the federal issue as the regional political parties accepted distribution of powers between the center and the provinces. But the successive regimes in Pakistan have not lived up to that promise, further eroding the trust of the provinces in the federation. The questions that we raise and try to answer in this paper generally relate to reshaping federalism with a focus on the Balochistan Package. The Package is part of larger efforts to transition centre-tilted cooperative federalism that Pakistan has practiced **to a more balanced one that would address the grievances of the smaller provinces**. In developing this line of argument we will raise the following questions regarding the Balochistan Package: Does it give a good political signal to the disaffected Baloch leaders about the willingness of the federation and the mainstream political parties to renegotiate centre-province relationship? Has the process of formulating the Package been inclusive? How is this package different from an earlier attempt in 2005? Why have Baloch nationalist parties rejected the Package? How likely the federation is to succeed in selling the package as a beginning of recognition of the rights of Balochistan and engage the Baloch leaders into a dialogue on resolving tricky issues of provincial autonomy, empowerment and rights of the provinces over their natural resources?

#### Pakistan collapse causes global nuclear conflict – draws in China, India and Russia

Pitt 9 (William - a New York Times and internationally bestselling author of two books: "War on Iraq: What Team Bush Doesn't Want You to Know" and "The Greatest Sedition Is Silence.", “Unstable Pakistan Threatens the World,” 5/8, http://www.arabamericannews.com/news/index.php?mod=article&cat=commentary&article=2183)

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

#### Pakistan-modeled federalism promotes economic growth – solves terrorism and Indo-Pak nuclear war

Sokolski 9 (Henry, Executive Director of the Nonproliferation Policy Education Center, “PAKISTAN’S NUCLEAR FUTURE: REINING IN THE RISK,” Strategic Studies Institute, December, http://www.strategicstudiesinstitute.army.mil/pdffiles/pub963.pdf)

With any attempt to assess security threats, there is a natural tendency to focus first on the worst. Consider the most recent appraisals of Pakistan’s nuclear program. Normally, the risk of war between Pakistan and India and possible nuclear escalation would be bad enough. Now, however, most American security experts are riveted on the frightening possibility of Pakistani nuclear weapons capabilities falling into the hands of terrorists intent on attacking the United States. 1 Presented with the horrific implications of such an attack, the American public and media increasingly have come to view nearly all Pakistani security issues through this lens. Public airing of these fears, in turn, appear now to be influencing terrorist operations in Pakistan. 2 Unfortunately, a nuclear terrorist act is only one— and hardly the most probable—of several frightening security threats Pakistan now faces or poses. We know that traditional acts of terrorism and conventional military crises in South West Asia have nearly escalated into wars and, more recently, even threatened Indian and Pakistani nuclear use. Certainly, the war jitters that attended the recent terrorist attacks against Mumbai highlighted the nexus between conventional terrorism and war. For several weeks, the key worry in Washington was that India and Pakistan might not be able to avoid war. 3 Similar 2 concerns were raised during the Kargil crisis in 1999 and the Indo-Pakistani conventional military tensions that arose in 2001 and 2002—crises that most analysts (including those who contributed to this volume) believe could have escalated into nuclear conflicts. This book is meant to take as long a look at these threats as possible. Its companion volume, Worries Beyond War, published last year, focused on the challenges of Pakistani nuclear terrorism. 4 These analyses offer a window into what is possible and why Pakistani nuclear terrorism is best seen as a lesserincluded threat to war, and terrorism more generally. Could the United States do more with Pakistan to secure Pakistan’s nuclear weapons holdings against possible seizure? It is unclear. News reports indicate that the United States has already spent $100 million toward this end. What this money has bought, however, has only been intimated. We know that permissive action link (PAL) technology that could severely complicate unauthorized use of existing Pakistani weapons (and would require Pakistan to reveal critical weapons design specifics to the United States that might conceivably allow the United States to remotely “kill” Pakistani weapons) was not shared. Security surveillance cameras and related training, on the other hand, probably were. 5 Meanwhile, the Pakistani military—anxious to ward off possible preemptive attacks against its nuclear weapons assets—remains deeply suspicious of the United States or any other foreign power trying to learn more about the number, location, and physical security of Pakistan’s nuclear weapons holdings. 6 Conducting secret, bilateral workshops to discuss nuclear force vulnerabilities and how best to manage different terrorist and insider threat scenarios has 3 been proposed. It seems unlikely, however, that the Pakistanis would be willing to share much. 7 Destroying or retrieving Pakistani nuclear assets is another option that might prevent terrorists seizing them in a crisis. But the United States would have extreme difficulty succeeding at either mission even assuming the Pakistani government invited U.S. troops into their territory. 8 What else might help? If policymakers view the lack of specific intelligence on Pakistani nuclear terrorist plots against the United States as cold comfort and believe that such strikes are imminent—then, the answer is not much. 9 If, on the other hand, they believe conventional acts of terrorism and war are far more likely than acts of nuclear terrorism, then there is almost too much to do. In the later case, nuclear terrorism would not be a primary, stand alone peril, but, a lesser included threat—i.e., a danger that the Pakistani state could be expected to avert assuming it could mitigate the more probable threats of conventional terrorism and war. What sort of Pakistan would that be? A country that was significantly more prosperous, educated, and far more secure against internal political strife and from external security threats than it currently is. How might one bring about such a state? The short answer is by doing more to prevent the worst. Nuclear use may not be the likeliest bad thing that might occur in Pakistan, but it is by far the nastiest. Certainly in the near- to mid-term, it is at least as likely as any act of nuclear terrorism. More important, it is more amenable to remediation. This last point is the focus of this volume’s first two chapters. Neil Joeck, now the U.S. National Intelligence Officer for South West Asia, and Feroz 4 Hassan Khan, Pakistan’s former director of Arms Control and Disarmament Affairs, examine just how easily conventional wars between India and Pakistan might be ignited and go nuclear. The first observation both analysts make is that keeping the peace between India and Pakistan is now a serious issue for U.S. security officials. With 55,000 American troops in Afghanistan, Washington can ill afford increased military tensions and nuclear rivalries between Islamabad and New Delhi that deflect or reduce Pakistan’s own anti-terror operations along Afghanistan’s southern border. More worrisome is their second shared assessment: India and Pakistan have developed military doctrines that increase the prospects of nuclear use. Although India has pledged not to use nuclear weapons first, it has increased its readiness to launch shallow “Cold Start” conventional military strikes against Pakistan calibrated to deter Pakistani military or terrorist incursions. Meanwhile, Pakistani military planners insist that Pakistan will use nuclear weapons immediately if India attacks Pakistan’s nuclear forces, conventional forces, and territory, or if it strangles Pakistan’s economy. Unfortunately, each of these countries’ plans to deter war are too prone to fail. Precisely how does India intend to attack Pakistani territory either in a shallow or temporary fashion without tripping Pakistan’s nuclear trip wires? U.S. interventions, following terrorist acts that the Indian public has accused Pakistan’s intelligence service of having backed, kept India from attacking Pakistan, but will such U.S. interventions work in the future? Indian military planners claim that they want to be able to punish Pakistan for any future perceived provocations well before any U.S. intervention has a chance to succeed. 5 Given India’s interest in escalating its schedule of conventional military retribution, will Pakistan decide to intensify its own nuclear deployment efforts to persuade New Delhi that it is serious about its nuclear first use doctrine? How can Islamabad adjust its forward deployed nuclear forces to be credibly on the ready without also increasing the odds of unauthorized use or military miscalculation? Then, there is the larger problem of nuclear rivalry. India claims the size and quality of its nuclear forces are driven by what China has; Pakistan, in turn, claims that the size and quality of its nuclear forces are driven by what India has. As one enlarges its forces, so must the other. In an attempt to disrupt an action-reaction nuclear arms race while still ambling ahead, New Delhi recently persuaded the United States and other leading nuclear supplier states to allow India to expand its civilian nuclear and space launch sectors with imported foreign technologies and nuclear fuel. India’s hope here is not to ramp up its domestic rocket and reactor production directly so much as to upgrade these programs and free up and supplement its own domestic missile technology and nuclear fuel production efforts with peaceful foreign assistance. 10 Although subtle, this approach has failed to calm tensions with Pakistan. Instead, Islamabad has used U.S. and foreign nuclear and space cooperation with India as an argument for enlarging its own nuclear arsenal. Thus, in 2007, Pakistan’s National Command Authority warned that if the U.S.-India nuclear deal altered the nuclear balance, the command would have to reevaluate Pakistan’s commitment to minimum deterrence and review its nuclear force requirements. Reports then leaked out that Islamabad had begun construction of a new plutonium production reactor 6 and a new reprocessing plant. Shortly thereafter, Pakistan announced plans to expand its own civilian nuclear power sector roughly 20-fold by the year 2030 to 8.8 gigawatts generating capacity. The idea here is to expand Pakistan’s ability to make nuclear electricity that would also afford it a larger nuclear weaponsmaking mobilization base it could use if India ramps up its own nuclear weapons-making efforts. 11 This brings us to this volume’s third chapter by Peter Tynan and John Stephenson of Dalberg Global Development Advisors. Just how economically sensible is expanding Pakistan’s civilian nuclear sector over the next 2 decades? The short answer is not very. As Tynan and Stephenson explain in their analysis, “Even under Pakistan’s most ambitious growth plans, nuclear energy will continue to contribute a marginal amount [3 to 6 percent] of electricity to meet the country’s economic goals.” 12 More important, building the number of large reactors that this level of expansion would require would be extremely difficult to achieve. Expansion of alternative energy sources, decentralized micro hydro, increased energy efficiency, coal, and natural gas, they conclude, would be far less risky. In fact, they conclude that Pakistan could save considerable money over the next 2 decades and achieve its energy goals sooner by not building more nuclear power plants. The political salience of this point is magnified when paired with earlier analyses that Tynan and Stephenson did of India’s planned nuclear power expansion. In India’s case, Dalberg’s conclusions were much the same: India could not meet its energy goals even under its most ambitious nuclear expansion plans, and there were a number of cheaper, quicker alternatives that make near- and mid-term investment in nuclear expansion a bad buy. 13 Bottom line: In both the Pakistani and Indian cases, expanding nuclear power only makes sense if one is willing to lose money or is eager to make many more bombs. Judging from the state of its current finances, Pakistan can ill afford to do either. This much is clear from the economic analyses of Shavid Javed Burki and S. Akbar Zaidi presented in Chapters Four and Five. Pakistan, Burki writes, faces a “grim economic situation”: “There is likely to be a sharp reduction in the rate of economic growth, an unprecedented increase in rate of inflation, a significant increase in the incidence of poverty, a widening in the already large regional income gap, and increases to unsustainable levels of the fiscal and balance of payments gaps.” 14 Moving the nation away from foreign charity funding toward an economic growth agenda will not be easy. Certainly, all unnecessary public spending, excessive military support, and consumer subsidies (e.g., for energy) must be cut. Pakistan, moreover, must assume a significant portion of the backend financing of its own planned growth. Investments in education and the agricultural sector must be increased substantially. Taxes will have to be increased without increasing the poverty rate or the already significant economic disparities between Pakistan’s key regions. None of this can come without political pains. To be specific, they will require political reforms that cannot simply be made top down from Islamabad, but will require a decentralization of powers to the localities. The good news is that some of this change may be pushed by modernizing trends, which both Burki and Zaidi note, are already under way. These include the urbanization of Pakistan, the dramatic growth in electronic communications (e.g., cell phone use has increased 10-fold to roughly 50 percent of the population in the last 5 years, the number of private TV 8 stations from one to more than 30), and the emerging domination of higher education by women (perhaps by a factor now as high as four-to-one) and their entry into Pakistan’s work force. In addition to these generally positive trends, there is increased investment in Pakistan and remittances from the oil-rich Persian Gulf, increasing trade with India (now Pakistan’s seventh largest source of imports), and the prospect of a demographic dividend, which Craig Cohen details in Chapter Six. This demographic dividend, which will afford Pakistan a large labor supply relative to its young and old, Craig predicts, will continue to grow through the year 2050. This, he argues, has the potential to power significant economic growth “because the dependency burden is low,” increasing savings and “allowing development of human capital.” 15 All of this should help stabilize Pakistan’s economy and society. None of these trends, however, can possibly help if the government cannot reduce inflation (pegged at 28 percent in the first quarter of 2009), educate and feed its population, power its businesses and homes, and attend to its growing (and potentially violent) adolescent population. Achieving these objectives, in turn, requires political stability, domestic security, and increased domestic and foreign trade and investment. It is unclear if this requisite stability will finally be achieved. What is clear, though, is that any successful attempt will only be possible if Pakistan and its friends focus less in the near term on direct forms of democratization and more on ethnic reconciliation and regional accommodation. Maya Chadda details how one might go about this in Chapter Seven. She makes a key recommendation that those assisting Pakistan— principally the United States—distinguish between 9 violence that is driven by ethnic differences and that which is driven by Islamist terrorist organizations. Professor Chada argues that the United States should do more to help Pakistan integrate its ethnic groups while letting Pakistan and its military take the lead in fighting Islamic fundamentalism. What this requires, in turn, is an understanding of the key ethnic groups—the Punjabis, Sindhis, Pashtuns, Balochis, and others—and establishing metrics for safeguarding these groups’ rights. Reforming Pakistan’s federal model toward this end will not entail the promotion of direct, liberal democracy, but it will create the key building blocks necessary to create such a system. More important, it will give the key religious and ethnic groups the power and the interest needed to **shape Pakistan’s economic and social order** and to keep them vested in Pakistan’s future. What, then, should the United States do? With regard to Pakistan reformulating its federal model, the United States might help to focus and condition economic assistance and freer access to U.S. markets and encourage Islamabad to foster greater equality among Pakistan’s key regions and ethnic and religious groups. One suggestion that this book’s authors discussed was giving each of Pakistan’s provinces greater power to promote trade directly with India and focusing foreign investment to expand such commerce. The aim here is to moderate Indian-Pakistani relations by bolstering Pakistan’s growing middle class. Pakistan, however, must take the first steps: If Islamabad does not want to reformulate its federal model to accommodate its various regions and ethnic and religious groups, Washington is in no position to help.

#### Pakistani economic collapse causes nuclear war

Walayat 10 (Nadeem, Editor – Market Oracle, “Pakistan Collapse Could Trigger Global Great Depression and World War III”, The Market Oracle, 1-16, http://www.marketoracle.co.uk/Article16543.html)

During 2009 the 2600 terrorist attacks resulted in the number of deaths soaring to more than 12,000 casualties in Pakistan, compared to the number killed in Iraq falling to 2,800 from the 2008 total of 5,900. The U.S. War in Afghanistan pushed the Taliban and Al-Qeeda over the border into Pakistan that has sparked an escalating insurgency and Pakistan's own U.S. backed un-popular "War on Terror" which is going just as badly as that in Afghanistan, only without the deep financial pockets to embark up on an never ending war that is increasingly sapping what little strength the Pakistan Economy had out of it and now seriously risks the collapse of the state due to the stress of the conflict on the economy and society. The world appears to be sleep walking towards a mega-crisis during 2010 and beyond resulting from that of continuing and escalating terrorist insurgency fed by U.S. policy, that is spreading like a cancer across Pakistan resulting in the disintegration of the Pakistani economy and by consequence the disintegration of many areas of the state into lawless areas despite the size of the Pakistani Army, this would result in fallout across the whole region and the wider world on a scale of several magnitudes greater than that which followed the collapse of Iraq following the 2003 invasion. Pakistan populated by more than 170 million people could turn into a black hole that could swallow many more trillions of dollars in an escalating but ultimately unwinnable war on terror that would disrupt not only the economies of the west with hundreds of thousands more boots on the ground, but also the economies of the neighbouring states, especially India, Iran and China much as the war in Afghanistan had increasingly impacted on the Pakistani state and economy over the past few years. Not only is Pakistan's vast military industrial complex and arms stock piles at risk, but far more deadly than the IED's or klashnikovs are Pakistan's nuclear and chemical weapons that could greatly increase the risks of a series of dirty bombs emerging from within a failed state even if the nuclear weapons themselves remained secure. Therefore the Pakistan crisis has the potential for becoming a very significant factor when determining the direction of the global economy over the coming years due to both a mega refugee crisis that would emerge from a failed state and the conflagration of conflict across the region, unless action is taken to stabilise the situation in Pakistan towards which the following could form part of: 1. First world military technology such as drone air-craft and satellite surveillance made available to the Pakistan army to enable it to fight a more precise war against the Taliban Leadership without unpopular blanket warfare across regions of the country that only results in the conflict spreading and new recruits for the insurgency. Therefore Pakistan's War Against Terror needs to be greatly de-escalated rather than escalated, basically a strategy of containment of the Taliban in the Pushtoon areas rather invite more Pushtoon's to join the Taliban as a consequence of Pakistani Army actions. This would allow the rest of a more ethnically and culturally diverse Pakistan to stabilise rather than become sucked into an ever widening conflict. 2. To financially support and reform the Pakistan Government and economy into a self sustaining secular growth machine and as a far less corrupt entity than at present, much as the United States succeeded in turning the collapsed economies of Germany and Japan around following the second world war that would seek to pull Pakistan's people out of poverty and illiteracy, especially aimed at the impoverished youth that are increasingly falling pray to the Taliban ideology of holy war. The alternative of remaining on the present path risks the already debt saddled western worlds economies sowing the seeds of a Pakistan Collapse triggered Great Depression, much as many aspects of today's economic and financial crisis have their roots in both Afghanistan and Iraq and with even far worse consequences for the neighbouring states of Iran, India, China and perhaps Russia as the conflict falls out of Pakistan's borders. However at present U.S. and Western focus is primarily focused on bombing the Taliban and Al-Qeeda from the air and enticing the Pakistani army to embark on huge military expeditions against large regions of Pakistan, therefore not learning a single lesson from either Iraq or Afghanistan that the real solution is to win hearts and minds which cannot be done through carpet bombing of towns and cities but rather through building civil society and infrastructure. Unless action is taken now to change course then we may look back at the present in a few years time and say why did we not do something when we had the chance to prevent the Great Hyper-Inflationary Depression and resulting Global War much as the 1930's Great Deflationary Depression ultimately resulted in the Second World War.

#### Indo/Pak war goes nuclear

**Hundley**, 9/5/**2012** (Tom – Pulitzer Center staff, Pakistan and India: Race to the End, Pulitzer Center, p. <http://pulitzercenter.org/reporting/pakistan-nuclear-weapons-battlefield-india-arms-race-energy-cold-war>)

Nevertheless, military analysts from both countries still say that a nuclear exchange triggered by miscalculation, miscommunication, or panic is far more likely than terrorists stealing a weapon -- and, significantly, that the odds of such an exchange increase with the deployment of battlefield nukes. As these ready-to-use weapons are maneuvered closer to enemy lines, the chain of command and control would be stretched and more authority necessarily delegated to field officers. And, if they have weapons designed to repel a conventional attack, there is obviously a reasonable chance they will use them for that purpose. "It lowers the threshold," said Hoodbhoy. "The idea that tactical nukes could be used against Indian tanks on Pakistan's territory creates the kind of atmosphere that greatly shortens the distance to apocalypse." Both sides speak of the possibility of a limited nuclear war. But even those who speak in these terms seem to understand that this is fantasy -- that once started, a nuclear exchange would be almost impossible to limit or contain. "The only move that you have control over is your first move; you have no control over the nth move in a nuclear exchange," said Carnegie's Tellis. The first launch would create hysteria; communication lines would break down, and events would rapidly cascade out of control. Some of the world's most densely populated cities could find themselves under nuclear attack, and an estimated 20 million people could die almost immediately. What's more, the resulting firestorms would put 5 million to 7 million metric tons of smoke into the upper atmosphere, according to a new model developed by climate scientists at Rutgers University and the University of Colorado. Within weeks, skies around the world would be permanently overcast, and the condition vividly described by Carl Sagan as "nuclear winter" would be upon us. The darkness would likely last about a decade. The Earth's temperature would drop, agriculture around the globe would collapse, and a billion or more humans who already live on the margins of subsistence could starve. This is the real nuclear threat that is festering in South Asia. It is a threat to all countries, including the United States, not just India and Pakistan. Both sides acknowledge it, but neither seems able to slow their dangerous race to annihilation.

#### Terrorism causes extinction

Ayson 10 (Robert, Professor of Strategic Studies and Director of the Centre for Strategic Studies: New Zealand – Victoria University of Wellington, “After a Terrorist Nuclear Attack: Envisaging Catalytic Effects”, Studies in Conflict & Terrorism, 33(7), July)

*A Catalytic Response: Dragging in the Major Nuclear Powers*

A terrorist nuclear attack, and even the use of nuclear weapons in response by the country attacked in the first place, would not necessarily represent the worst of the nuclear worlds imaginable. Indeed, there are reasons to wonder whether nuclear terrorism should ever be regarded as belonging in the category of truly existential threats. A contrast can be drawn here with the global catastrophe that would come from a massive nuclear exchange between two or more of the sovereign states that possess these weapons in significant numbers. Even the worst terrorism that the twenty-first century might bring would fade into insignificance alongside considerations of what a general nuclear war would have wrought in the Cold War period. And it must be admitted that as long as the major nuclear weapons states have hundreds and even thousands of nuclear weapons at their disposal, there is always the possibility of a truly awful nuclear exchange taking place precipitated entirely by state possessors themselves. But these two nuclear worlds—a non-state actor nuclear attack and a catastrophic interstate nuclear exchange—are not necessarily separable. It is just possible that some sort of terrorist attack, and especially an act of nuclear terrorism, could precipitate a chain of events leading to a massive exchange of nuclear weapons between two or more of the states that possess them. In this context, today's and tomorrow's terrorist groups might assume the place allotted during the early Cold War years to new state possessors of small nuclear arsenals who were seen as raising the risks of a catalytic nuclear war between the superpowers started by third parties. These risks were considered in the late 1950s and early 1960s as concerns grew about nuclear proliferation, the so-called n+1 problem. It may require a considerable amount of imagination to depict an especially plausible situation where an act of nuclear terrorism could lead to such a massive inter-state nuclear war. For example, in the event of a terrorist nuclear attack on the United States, it might well be wondered just how Russia and/or China could plausibly be brought into the picture, not least because they seem unlikely to be fingered as the most obvious state sponsors or encouragers of terrorist groups. They would seem far too responsible to be involved in supporting that sort of terrorist behavior that could just as easily threaten them as well. Some possibilities, however remote, do suggest themselves. For example, how might the United States react if it was thought or discovered that the fissile material used in the act of nuclear terrorism had come from Russian stocks,[40](http://www.informaworld.com.proxy-remote.galib.uga.edu/smpp/section?content=a923238837&fulltext=713240928#EN0040) and if for some reason Moscow denied any responsibility for nuclear laxity? The correct attribution of that nuclear material to a particular country might not be a case of science fiction given the observation by Michael May et al. that while the debris resulting from a nuclear explosion would be “spread over a wide area in tiny fragments, its radioactivity makes it detectable, identifiable and collectable, and a wealth of information can be obtained from its analysis: the efficiency of the explosion, the materials used and, most important … some indication of where the nuclear material came from.”[41](http://www.informaworld.com.proxy-remote.galib.uga.edu/smpp/section?content=a923238837&fulltext=713240928#EN0041) Alternatively, if the act of nuclear terrorism came as a complete surprise, and American officials refused to believe that a terrorist group was fully responsible (or responsible at all) suspicion would shift immediately to state possessors. Ruling out Western ally countries like the United Kingdom and France, and probably Israel and India as well, authorities in Washington would be left with a very short list consisting of North Korea, perhaps Iran if its program continues, and possibly Pakistan. But at what stage would Russia and China be definitely ruled out in this high stakes game of nuclear Cluedo? In particular, if the act of nuclear terrorism occurred against a backdrop of existing tension in Washington's relations with Russia and/or China, and at a time when threats had already been traded between these major powers, would officials and political leaders not be tempted to assume the worst? Of course, the chances of this occurring would only seem to increase if the United States was already involved in some sort of limited armed conflict with Russia and/or China, or if they were confronting each other from a distance in a proxy war, as unlikely as these developments may seem at the present time. The reverse might well apply too: should a nuclear terrorist attack occur in Russia or China during a period of heightened tension or even limited conflict with the United States, could Moscow and Beijing resist the pressures that might rise domestically to consider the United States as a possible perpetrator or encourager of the attack? Washington's early response to a terrorist nuclear attack on its own soil might also raise the possibility of an unwanted (and nuclear aided) confrontation with Russia and/or China. For example, in the noise and confusion during the immediate aftermath of the terrorist nuclear attack, the U.S. president might be expected to place the country's armed forces, including its nuclear arsenal, on a higher stage of alert. In such a tense environment, when careful planning runs up against the friction of reality, it is just possible that Moscow and/or China might mistakenly read this as a sign of U.S. intentions to use force (and possibly nuclear force) against them. In that situation, the temptations to preempt such actions might grow, although it must be admitted that any preemption would probably still meet with a devastating response. As part of its initial response to the act of nuclear terrorism (as discussed earlier) Washington might decide to order a significant conventional (or nuclear) retaliatory or disarming attack against the leadership of the terrorist group and/or states seen to support that group. Depending on the identity and especially the location of these targets, Russia and/or China might interpret such action as being far too close for their comfort, and potentially as an infringement on their spheres of influence and even on their sovereignty. One far-fetched but perhaps not impossible scenario might stem from a judgment in Washington that some of the main aiders and abetters of the terrorist action resided somewhere such as Chechnya, perhaps in connection with what Allison claims is the “Chechen insurgents' … long-standing interest in all things nuclear.”[42](http://www.informaworld.com.proxy-remote.galib.uga.edu/smpp/section?content=a923238837&fulltext=713240928#EN0042) American pressure on that part of the world would almost certainly raise alarms in Moscow that might require a degree of advanced consultation from Washington that the latter found itself unable or unwilling to provide.

#### Scenario Two is Russian Forest Fires

#### Cooperative federalism solves Russia forest fires – the Interior Department’s key

Wilkson 5 (Jim, “Up in Smoke: Using Cooperative U.S. Forest Fire Management Policies as a Model for Implementing an Effective Forest Fire Prevention Program in the Russia Far East,” Pacific Rim Law & Policy Journal, 14(2), p. 575-606, <https://digital.lib.washington.edu/dspace-law/bitstream/handle/1773.1/676/14PacRimLPoly> J575.pdf?sequence=1)

2. The U.S. NFP Is a Working Example of "Cooperative Federalism" and Could Provide a Workable Model for Wildfire Prevention in the RFE After fires burned millions of acres across the American West during the severe 2000 wildfire season, President Bill Clinton directed the Secretaries of Agriculture and **the Interior Department** to prepare a report recommending how best to respond to severe fires, reduce the impacts of wildfires on rural communities, and ensure sufficient firefighting resources for the future. 125 This report became known as the NFP, 126 a cooperative, intergovernmental fire management program aimed at preventing wildfires. 127 The NFP prioritizes federal and local community cooperation to reduce fire danger, in part through fuel reduction projects and prescribed burning.1 28 It expands community participation in fire management and improves local fire protection capabilities through financial and technical assistance to state, local, and volunteer firefighting efforts. 129 The Wildland Fire Leadership Council, an oversight committee composed of federal, state, tribal, and county officials, coordinates and implements the NFP. 3 ° Reducing fire danger in the wildland/urban interface is a major goal of the NFP. 13 1 Federal land management agencies are implementing community-assistance programs that focus on "building state and community capacity to develop and implement citizen-driven solutions that will lessen local vulnerability to risks associated with wildland fires."' 32 For example, federal and state agencies in Oregon, using NFP funds, are working with local fire departments and community officials to complete preventative hazardous fuels reduction projects. 133 In California, a state-led process identified more than seven hundred communities as high risk for extreme fires. Local crews are now working to reduce hazardous fuels on adjacent federal forest lands and NFP funds are partially funding the project. 134 If adequately funded and implemented in an ecologically sensitive manner, cooperative fire management programs like the NFP have the potential to provide local governments and communities with the tools necessary to better prevent forest fires. Programs created under cooperative fire management policies like the Cooperative Forestry Assistance Act and the NFP have resulted in measurable success reducing the risk of severe fires.' 35 As of 2001, the Forest Service had released $118 million of NFP grants for community fire-assistance programs.' 36 These NFP grants have funded numerous projects, including state fire readiness plans, community fire prevention education programs, and hazardous fuels elimination. 137 Russia would be better equipped to prevent wildfires in the RFE if it implemented a similar fire management framework. This approach should be mandated in the Draft Forest Code. Like the RFE, the American West has experienced catastrophic wildfire seasons in recent years, in large part due to historically misguided fire suppression policies. 138 Unlike the Russian government, however, the U.S. government has responded to the crisis through legally-mandated fire management programs that emphasize cooperative solutions to reducing the fire danger at the community level. The common thread running between the two countries is the need for cooperative fire management programs between the federal and local levels. The United States has created a workable framework for coordinated fire management through programs like the NFP, which integrates federal agencies, state governments, and communities into the fire management process. Applying a similar framework in Russian forestry laws would help fire protection agencies and local citizens establish effective fire prevention programs in the RFE. Implementing a cooperative fire management framework would also move Russia towards compliance with international forestry guidelines, as discussed in the following section.

#### US federal lands policy is key

Wilkson 5 (Jim, “Up in Smoke: Using Cooperative U.S. Forest Fire Management Policies as a Model for Implementing an Effective Forest Fire Prevention Program in the Russia Far East,” Pacific Rim Law & Policy Journal, 14(2), p. 575-606, <https://digital.lib.washington.edu/dspace-law/bitstream/handle/1773.1/676/14PacRimLPoly> J575.pdf?sequence=1)

FIRE MANAGEMENT IN THE UNITED STATES PROVIDES A MODEL FOR COOPERATIVE FIRE PREVENTION IN THE RFE The forest fire environment and fire management strategies in the United States and Russia share many parallels. Unlike Russia, however, laws in the United States have provided for cooperative fire control at all levels of government for nearly a century. 99 As with Soviet fire suppression in the RFE, most of these early cooperative efforts focused on heavy-handed fire suppression programs.' 00 In response to the recognition of the natural role of fire in forest ecosystems, coupled with an acknowledgment that complete exclusion of fire from the forest simply has not worked, fire management laws and policies in the United States have undergone a significant transformation in recent years. 101 Severe fire seasons in recent years have provided the impetus behind the creation of new programs like the National Fire Plan ("NFP"), which coordinates federal, state, and local **fire prevention** efforts. 102 In order to better cope with the severe threat that human-caused fires pose to the RFE, Russia should replace its jurisdictionally fragmented fire management responsibilities with a cooperative approach akin to the NFP. A. Historic U.S. Public Lands Management Laws Provided a Framework for Cooperative Fire Management, But Prevention and Suppression Programs Failed to Recognize the Ecological Necessity of Fire in Some Landscapes Like the Russian Constitution, the U.S. Constitution provides the framework for shared federal and state decision-making power over a wide range of issues, including natural resource management. 03 Unlike Russia, however, the United States has benefited from nearly a century of a cooperative, inter-governmental approach to fire prevention and suppression. Congress has consistently worked to facilitate a cooperative approach to fire management starting with the passage of the Weeks Act in 1911, which authorized the Forest Service to cooperate with state governments to organize and maintain fire protection systems for state lands. 1 0 4 The ClarkeMcNary Act of 1924 extended the Weeks Act to include provisions for allocating federal money to help states finance their forest protection programs.' 0 5 The Cooperative Forestry Assistance Act of 1978 further expanded the cooperative principles embodied in the Clarke-McNary Act and, for the first time, endorsed the use of prescribed fires to prevent forest fires. 1° 6 The 1995 Federal Fire Policy further recognized that wildland fire is "a critical natural process [and] must be reintroduced into the ecosystem" and stressed the importance of cooperative, inter-governmental fire management. 01 7 Finally, in 2002, Congress endorsed the NFP, which expanded the ability of federal and local agencies, working alongside local communities, to prevent forest fires in fire-prone communities through reduction of hazardous fuels. 108 This shifting emphasis-from one of complete fire suppression to one of prescribed burning and fuels thinninghas ironically been necessitated by the success of programs like the Smokey Bear campaign.

#### Forest fires collapse Russia’s economy – it’s key to investment

Wilkson 5 (Jim, “Up in Smoke: Using Cooperative U.S. Forest Fire Management Policies as a Model for Implementing an Effective Forest Fire Prevention Program in the Russia Far East,” Pacific Rim Law & Policy Journal, 14(2), p. 575-606, <https://digital.lib.washington.edu/dspace-law/bitstream/handle/1773.1/676/14PacRimLPoly> J575.pdf?sequence=1)

II. FOREST FIRES ARE **THE LARGEST SOURCE OF DEFORESTATION** IN THE GLOBALLY IMPORTANT BOREAL FORESTS OF THE RFE The RFE's forests are a rich economic resource." Even more importantly, they play a crucial role in maintaining global environmental health. These forests face a variety of environmental threats, but wildfires are the single largest source of deforestation in the RFE. 12 A number of historic and current trends have combined to create the perennially severe fire danger in the RFE. The people of the RFE have lit the proverbial match to this powder keg, as the vast majority of the fires that are threatening these forests are set by humans. 13 The direct costs to humans are destroyed timber resources, and even destroyed communities. The indirect costs come from the severe toll the fires take on the environment. A. The RFE's Vast Forests Possess Great Environmental Importance But Face Many Threats The RFE encompasses a vast geographic area between Siberia and the shores of the North Pacific. This region comprises thirty-six percent of Russia's landmass,' 4 totaling more than 6215.9 million square kilometers,' 5 containing twenty percent of the world's forested areas, and fifty percent of its coniferous forest stock. 16 The RFE's rich reserves of timber 7 are extremely important both to Russia and the **world's economic, ecological, and environmental wellbeing**.' 8 For instance, the forests of the RFE act as a massive global carbon sink' -potentially mitigating global warming-and provide habitat to a large variety of animals, including the critically endangered Siberian tiger 2 and Far Eastern leopard. 2 ' The RFE has long been considered critical to the Soviet and Russian economies, providing timber and natural resources to the industries located in the West. 2 2 This trend is expected to continue, as evidenced by the high priority placed by Russian President Vladimir Putin on paving the trans- Siberian highway 23 in order to increase the accessibility of these resources. Russia is also making serious efforts to solicit new bids to exploit the RFE's economic potential as a source of raw timber. Finally, Russia's new Draft Forest Code is primarily aimed at making Russian forest management regulations more business friendly. 25 Despite these efforts, internal forces, such as corruption, political instability, and a "frontier mentality" threaten to destroy the very resource base that Russia promotes to foreign investors. 26

#### Extinction

**Filger 9** (Sheldon, Columnist and Founder – Global EconomicCrisis.com, “Russian Economy Faces Disasterous Free Fall Contraction”, <http://www.huffingtonpost.com/sheldon-filger/russian-economy-faces-dis_b_201147.html>)

In Russia, historically, economic health and political stability are intertwined to a degree that is rarely encountered in other major industrialized economies. It was the economic stagnation of the former Soviet Union that led to its political downfall. Similarly, Medvedev and Putin, both intimately acquainted with their nation's history, are unquestionably alarmed at the prospect that Russia's economic crisis will endanger the nation's political stability, achieved at great cost after years of chaos following the demise of the Soviet Union. Already, strikes and protests are occurring among rank and file workers facing unemployment or non-payment of their salaries. Recent polling demonstrates that the once supreme popularity ratings of Putin and Medvedev are eroding rapidly. Beyond the political elites are the financial oligarchs, who have been forced to deleverage, even unloading their yachts and executive jets in a desperate attempt to raise cash. Should the Russian economy deteriorate to the point where economic collapse is not out of the question, the impact will go far beyond the obvious accelerant such an outcome would be for the Global Economic Crisis. There is a geopolitical dimension that is even more relevant then the economic context. Despite its economic vulnerabilities and perceived decline from superpower status, Russia remains one of only two nations on earth with a nuclear arsenal of sufficient scope and capability to destroy the world as we know it. For that reason, it is not only President Medvedev and Prime Minister Putin who will be lying awake at nights over the prospect that a national economic crisis can transform itself into a virulent and destabilizing social and political upheaval. It just may be possible that U.S. President Barack Obama's national security team has already briefed him about the consequences of a major economic meltdown in Russia for the peace of the world. After all, the most recent national intelligence estimates put out by the U.S. intelligence community have already concluded that the Global Economic Crisis represents the greatest national security threat to the United States, due to its facilitating political instability in the world. During the years Boris Yeltsin ruled Russia, security forces responsible for guarding the nation's nuclear arsenal went without pay for months at a time, leading to fears that desperate personnel would illicitly sell nuclear weapons to terrorist organizations. If the current economic crisis in Russia were to deteriorate much further, how secure would the Russian nuclear arsenal remain? It may be that the financial impact of the Global Economic Crisis is its least dangerous consequence.

#### Russian forest fires cause irreversible warming

**Green 11** (Andy, “Boreal Forests: Our Threatened Carbon Sinks,” Green Answers, 11-30, http://greenanswers.com/news/268702/boreal-forests-our-threatened-carbon-sinks)

In the world of climate science, much study exists concerning climate tipping points. Tipping points refer to event(s) that indicates that the earth’s climate has irreversibly changed; possibly the most well known proposed tipping points are the melting of the Arctic and Greenland ice sheets or rising global temperatures. In climate change scenarios, tipping points launch positive feedback loops where climate disruption effects trigger furthering and worsening events, which in-turn, trigger even worse events, and so on. Though melting ice receives a large portion of study and media attention, other climate change events receive little to no media attention. One such event is **boreal forest dieback**. Boreal forests, also known as the taiga, are the world’s largest terrestrial biome, covering about 15% of the earth’s surface. Boreal forest biomes act as carbon sinks for the world’s atmosphere, which means that the biome actually sequesters carbon from the air. However, as climate disruption worsens, boreal forests switch from being carbon sinks to huge greenhouse gas emitters. Unfortunately, these events have already begun, particularly in the Eurasian boreal forest. Several indicators have shown that the world’s taiga is in trouble. El Niño and Arctic Oscillation play a big role in determining temperatures and how much precipitation the taiga will receive. Global temperature rise have caused both Arctic oscillations and El Niño to bring lower rainfall and higher temperatures throughout the year. This has led to a more active fire season in Eurasian boreal forests; additionally longer fall and spring seasons have shortened the winter freeze and led to more sun exposure on methane filled permafrost and ice. Between 2001 and 2003, forest fire activity tripled in area from 27,000 square kilometers to 81,000 square kilometers; burn areas have only continued to grow since then. The world was exposed to the devastating effects of boreal forest burns in 2010 when Russian forest fire air quality killed an estimated 56,000 people in Moscow and surrounding areas over the span of several months. Boreal forest fires not only affect local air quality, they release higher volumes of methane from melted permafrost which speeds up climate disruption processes. Methane persists in the atmosphere for less time than carbon dioxide (which is also released during forest fires), but it has 24 times the insulting power of carbon dioxide. In addition to methane from melted permafrost, frozen taiga lakes trap methane air bubbles in the ice which are released into the atmosphere when ice melts. Rising global temperatures create the necessary conditions for ice and permafrost to release their methane. Though the Eurasian boreal forests are extremely damaged, the Canadian boreal forests remain in decent health. Unlike the Russian taiga, the Canadian boreal forests still acts as a carbon sink, but for how long? Global temperature rise poses the same risk to Canadian boreal forests as Eurasian forests; also, mining development in tar-sand deposits in Northern Canada stand as a huge threat to the health of the biome. Boreal forest dieback must become a better known issue for the general public; their deterioration has already begun, but efforts to save the biome have been limited. If conservation efforts do not improve, climate disruption could become unstoppable and boreal forest could become a thing of the past.

#### Extinction

Mazo 10 (Jeffrey Mazo – PhD in Paleoclimatology from UCLA, Managing Editor, Survival and Research Fellow for Environmental Security and Science Policy at the International Institute for Strategic Studies in London, 3-2010, “Climate Conflict: How global warming threatens security and what to do about it,” pg. 122)

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

#### Forest fires causes timber scarcity – destroys China’s economy

CWM 8 (China Wood Monthly, “China: Short Supply of Timber Threatens Economic Security and It is Imperative to Establish Timber Security System,” 1-1, http://www.illegal-logging.info/item\_single.php?it\_id=2506&it=news)

China now has become a giant in the world's forest industry: The output of wood-based panels of China ranked top one in the world for the past immediate three consecutive years; and in 2006, the output of wood flooring ranked first around the globe; the output and consumption of paper and cardboards both ranked second; the output and exports of furniture were also in the front rank. In the meantime, the demand for wood and forest products is surging in China, which imports over 100 million m3 (roundwood equivalent) or USD20 billion plus of wood-based products each year. In particular, the gap between timber demand and supply will be 160180 million m3 in 2010 and reach 300 million m3 or so by 2015. The contradiction is increasingly intense between the scarcity of forest resources and the huge demand for timber with the continuous economic development, and therefore it is now really imperative for China to solve the problem of timber supply by establishing a long-run timber security system. According to Duan Xinfang, a researcher from Chinese Academy of Forestry, timber security has become a key factor affecting the economic security of China. Timber security denotes a state of balanced supply and demand of timber resources, harmonized logging and forest ecological environment protection, and medium reliance on timber imports, a state in which the supply of timber can guarantee the security of national economic operation. Timber security includes the security of timber resources supply, the security of timber trade and the security of timber environment. The security of timber resources supply refers to a balance between timber resources supply and the basic needs of national forestry industry and related industries. China consumed 330 million m3 of timber in 2006 and has been the second largest timber consumption country only next to the US. However, there are several problems regarding the timber supply in China: The total volume of home-produced timber supplied falls short seriously. In 2000-2005, the domestic output of commercial timber only accounted for 16.923.9% of the total timber supplied. In addition, this proportion has been declining. The forest area per capita in China is less than one fourth of the world's average level; the stock volume of forests per capita less than one sixth of the world average. The breeding of large-diameter quality timber, as an important strategic resource used mainly in construction, decoration,furniture and manufacturing, has not been attached decent importance to. In the past, it was primarily logged from natural forests, and now it has to be imported. But the supply is rather short. The comprehensive utilization rate of timber is low and the recycle of timber is not efficient. In China, the utilization rate of timber is about 63%, while in some developed counties the rate is around 90%. It's estimated that there is about 8.5 million m3 of waste timber in China's cities. Timber trade is said to be secure when a country's reliance on imported timber and wood-based products in international trade is below the warning line, the price of imported timber and the risks of transportation are moderate, and countries exporting timber to the country are evenly distributed around the world. But as a matter of fact, China's imports of timber sourced mainly form a few countries like Russia have accounted for over 40% for four consecutive years. Uncertain timber trade will greatly threaten the security of national economic operation in the long run, because many enterprises will have to shut down or even exit the market due to severely short supply of timber. More over, under the pressure from international environmental organizations, countries such as Russia, Southeast Asia, South America, and Africa where China's imported timber is mainly sourced are restricting the export of logs and theryby timber import for China may come to a stop at any time.

#### Global nuclear war

**Kaminski 7** (Antoni Z., Professor – Institute of Political Studies, “World Order: The Mechanics of Threats (Central European Perspective)”, Polish Quarterly of International Affairs, 1, p. 58)

As already argued, the economic advance of China has taken place with relatively few corresponding changes in the political system, although the operation of political and economic institutions has seen some major changes. Still, tools are missing that would allow the establishment of political and legal foundations for the modem economy, or they are too weak. The tools are efficient public administration, the rule of law, clearly defined ownership rights, efficient banking system, etc. For these reasons, many experts fear an economic crisis in China. Considering the importance of the state for the development of the global economy, the crisis would have serious global repercussions. Its political ramifications could be no less dramatic owing to the special position the military occupies in the Chinese political system, and the existence of many potential vexed issues in East Asia (disputes over islands in the China Sea and the Pacific). A potential hotbed of conflict is also Taiwan's status. Economic recession and the related destabilization of internal policies could lead to a political, or even military crisis. The likelihood of the global escalation of the conflict is high, as the interests of Russia, China, Japan, Australia and, first and foremost, the US clash in the region.

### Solvency

#### Court should overturn the OCS moratorium – they have already ruled against various OCS restrictions

Spakosvky and Loris 12 (Hans A. von Spakovsky is a Senior Legal Fellow in the Center for Legal and Judicial Studies, and Nicolas D. Loris is the Herbert and Joyce Morgan Fellow in the Thomas A. Roe Institute for Economic Policy Studies, at The Heritage Foundation, “Offshore Drilling: Increase Access, Reduce the Risk, and Stop Hurting American Companies”, 8/13, http://www.heritage.org/research/reports/2012/08/offshore-drilling-increase-access-reduce-the-risk-and-stop-hurting-american-companies)

But while this sale was a positive development for American energy production, the Obama Administration **is doing everything in its power to prevent companies that obtain offshore leases** from actually drilling and producing oil—a fact evidenced by a new lawsuit recently filed in the U.S. Court of Federal Claims by an independent U.S. oil and gas company. Preparing for Growth By March 2010, ATP Oil & Gas Corporation had obtained oil leases and necessary permits to drill in the Gulf of Mexico. In fact, after installing state-of-the art drilling and processing equipment, ATP was poised to double its oil production. This massive increase in production was made possible, in part, by the ATP Titan—a platform in 4,000 feet of water in the Gulf of Mexico that was designed to allow ATP to safely drill deeper into already-penetrated oil reservoirs. The first, and only, deepwater platform built entirely in America by a U.S. labor force, the Titan was constructed over the course of three years, creating a number of much-needed jobs in the process. And while the Titan’s price tag was steep—ATP secured $1.5 billion in financing from J.P. Morgan—the ability to safely and securely drill into already-penetrated oil reservoirs promised to produce a steady stream of oil and revenue for the company, thereby allowing ATP to pay back this enormous investment. On April 20, 2010, however, America’s offshore drilling industry was thrown in chaos when, while drilling an exploration well into an unknown reservoir, **the BP-operated Deepwater Horizon rig exploded.** This explosion occurred when BP was drilling a wildcat well with a dynamically positioned, semi-submersible rig, in formations never before explored—an operation that, according to ATP, is completely distinct from development drilling into already-penetrated reservoirs, a process where complete information is available about every aspect of the area being explored, from pressure gradients to rock properties. But in the aftermath of the BP explosion, the **Obama Administration arbitrarily ordered the entire deepwater industry** to cease drilling, **issuing two industry-wide moratoria on drilling activities** and barring consideration of new permits. Even though ATP not only had no connection to the BP rig or any of the equipment being used there, but was proposing to drill in an entirely different area of the Gulf than where the BP disaster occurred, **the Titan operation was shut down**. ATP’s Litigation and the Cost to the American Economy Development of offshore oil and gas takes years of operational and financial planning. As illustrated by ATP’s Titan project, labor and equipment must be secured far in advance of actual drilling, and enormous investments are required before a single dollar is earned through production of oil and gas. While the government’s moratorium curtailed ATP’s ability to generate revenue, it did not reduce ATP’s costs or expenses. In fact, for ATP—which had already borrowed $1.5 billion and spent years preparing to drill these deepwater wells and constructing the safety-redundant Titan platform—the nightmare had just begun: In addition to the expensive ATP Titan platform, the company was burdened with paying for two other drilling rigs idled by the government’s arbitrary moratoria. As a result of the government’s actions, ATP filed suit in federal court. In ATP Oil & Gas Corporation v. U. S., ATP alleges that **the Interior Department: Improperly and illegally suspended all deepwater offshore drilling activities and** imposed two illegal moratoria on the deepwater drilling permit application process **and then unreasonably and unlawfully delayed the issuance of drilling permits** after the lifting of the formal moratoria. Essentially, ATP is asserting that the government breached its offshore leases with ATP by violating the Administrative Procedure Act in two ways: 1) by issuing overbroad moratoria; and 2) by manipulating seven experts from the National Academy of Engineering (NAE) to bolster a recommendation for the moratoria. ATP’s prospects for legal vindication appear strong: All seven of the NAE experts denied supporting moratoria recommendations and, in Hornbeck Offshore Services v. Salazar, a case addressing the government’s first six-month moratorium, the court concluded that “a White House official had changed” the report on which the moratorium was based “which created the misleading appearance of scientific peer review.” ATP also says the government “**breached the implied covenant of good faith and fair dealing**” under the leases that ATP paid the government when it prevented ATP from exploring, drilling, and producing oil. Furthermore, in Hornbeck Offshore Services, a federal district court concluded that the government’s first six-month moratorium was “arbitrary and capricious” and, therefore, illegal, and **found the government in contempt for issuing a second moratorium** **after the court had ordered the first one dissolved**.[1] As a result of the Administration’s defiant behavior, taxpayers ended up paying more than half a million dollars in attorneys’ fees awarded to the plaintiffs. In another case involving ATP and other oil industry vendors**, the** same **federal court** in Louisiana also found that the Interior Department acted unlawfully by unreasonably delaying the processing of drilling permits in Ensco Offshore Company v. Salazar.[2] The court held that the Outer Continental Shelf Lands Act (OCSLA), in addition to the Administrative Procedure Act, “establishes a nondiscretionary duty on the Department of the Interior to act on OCSLA drilling permit applications within a reasonable time.” Yet, despite this duty, the court determined that the Obama Administration had “**unreasonably delayed” action on** nine **different permit applications** from the various companies that had sued Ken Salazar, the Secretary of the Department of the Interior.[3]

#### Certainty is key – and no link to environment DA

Griles 3 (Lisa, Deputy Secretary – Department of the Interior, “Energy Production on Federal Lands,” Hearing before the Committee on Energy and Natural Resources, United States Senate, 4-30)

Mr. GRILES. America’s public lands have an abundant opportunity for exploration and development of renewable and nonrenewable energy resources. Energy reserves contained on the Department of the Interior’s onshore and offshore Federal lands are very important to meeting our current and future estimates of what it is going to take to continue to supply America’s energy demand. Estimates suggest that these lands contain approximately 68 percent of the undiscovered U.S. oil resources and 74 percent of the undiscovered natural gas resources. President Bush has developed a national energy policy that laid out a comprehensive, long-term energy strategy for America’s future. That strategy recognizes we need to raise domestic production of energy, both renewable and nonrenewable, to meet our dependence for energy. For oil and gas, the United States uses about 7 billion barrels a year, of which about 4 billion are currently imported and 3 billion are domestically produced. The President proposed to open a small portion of the Arctic National Wildlife Refuge to environmentally responsible oil and gas exploration. Now there is a new and environmentally friendly technology, similar to directional drilling, with mobile platforms, self-containing drilling units. These things will allow producers to access large energy reserves with almost no footprint on the tundra. Each day, even since I have assumed this job, our ability to minimize our effect on the environment continues to improve to where it is almost nonexistent in such areas as even in Alaska. According to the latest oil and gas assessment, ANWR is the largest untapped source of domestic production available to us. The production for ANWR would equal about 60 years of imports from Iraq. The National Energy Policy also encourages development of cleaner, more diverse portfolios of domestic renewable energy sources. The renewable policy in areas cover geothermal, wind, solar, and biomass. And it urges research on hydrogen as an alternate energy source. To advance the National Energy Policy, the Bureau of Land Management and the DOE’s National Renewable Energy Lab last week announced the release of a renewable energy report. It identifies and evaluates renewable energy resources on public lands. Mr. Chairman, I would like to submit this for the record.\* This report, which has just come out, assess the potential for renewable energy on public lands. It is a very good report that we hope will allow for the private sector, after working with the various other agencies, to where can we best use renewable resource, and how do we take this assessment and put it into the land use planning that we are currently going, so that right-of-ways and understanding of what renewable resources can be done in the West can, in fact, have a better opportunity. The Department completed the first of an energy inventory this year. Now the EPCA report, which is laying here, also, Mr. Chairman, is an estimate of the undiscovered, technically recoverable oil and gas. Part one of that report covers five oil and gas basins. The second part of the report will be out later this year. Now this report, it is not—there are people who have different opinions of it. But the fact is we believe it will be a good guidance tool, as we look at where the oil and gas potential is and where we need to do land use planning. And as we update these land use plannings and do our EISs, that will help guide further the private sector, the public sector, and all stakeholders on how we can better do land use planning and develop oil and gas in a sound fashion. Also, I have laying here in front of me the two EISs that have been done on the two major coal methane basins in the United States, San Juan Basis and the Powder River Basin. Completing these reports, which are in draft, will increase and offer the opportunity for production of natural gas with coal bed methane. Now these reports are in draft and, once completed, will authorize and allow for additional exploration and development. It has taken 2 years to get these in place. It has taken 2 years to get some of these in place. This planning process that Congress has initiated under FLPMA and other statutes allows for a deliberative, conscious understanding of what the impacts are. We believe that when these are finalized, that is in fact what will occur. One of the areas which we believe that the Department of the Interior and the Bureau of Land Management is and is going to engage in is coordination with landowners. Mr. Chairman, the private sector in the oil and gas industry must be good neighbors with the ranchers in the West. The BLM is going to be addressing the issues of bonding requirements that will assure that landowners have their surface rights and their values protected. BLM is working to make the consultation process with the landowners, with the States and local governments and other Federal agencies more efficient and meaningful. But we must assure that the surface owners are protected and the values of their ranches are in fact assured. And by being good neighbors, we can do that. In the BLM land use planning process, we have priorities, ten current resource management planning areas that contain the major oil and gas reserves that are reported out in the EPCA study. Once this process is completed, then we can move forward with consideration of development of the natural gas. We are also working with the Western Governors’ Association and the Western Utilities Group. The purpose is to identify and designate right-of-way corridors on public lands. We would like to do it now as to where right-of-way corridors make sense and put those in our land use planning processes, so that when the need is truly identified, utilities, energy companies, and the public will know where they are Instead of taking two years to amend a land use plan, hopefully this will expedite and have future opportunity so that when the need is there, we can go ahead and make that investment through the private sector. It should speed up the process of right-of-way permits for both pipelines and electric transmission. Now let me switch to the offshore, the Outer Continental Shelf. It is a huge contributor to our Nation’s energy and economic security. The CHAIRMAN. Mr. Secretary, everything you have talked about so far is onshore. Mr. GRILES. That is correct. The CHAIRMAN. You now will speak to offshore. Mr. GRILES. Yes, sir, I will. Now we are keeping on schedule the holding lease sales in the areas that are available for leasing. In the past year, scheduled sales in several areas were either delayed, canceled, or **put under moratoria**, even though they were in the 5-year plan. It undermined certainty. It made investing, particularly in the Gulf, more risky. We have approved a 5-year oil and gas leasing program in July 2002 that calls for 20 new lease sales in the Gulf of Mexico and several other areas of the offshore, specifically in Alaska by 2007. Now our estimates indicate that these areas contain resources up to 22 billion barrels of oil and 61 trillion cubic feet of natural gas. We are also acting to raise energy production from these offshore areas by providing royalty relief on the OCS leases for new deep wells that are drilled in shallow water. These are at depths that heretofore were very and are very costly to produce from and costly to drill to. We need to encourage that exploration. These deep wells, which are greater than 15,000 feet in depth, are expected to access between 5 to 20 trillion cubic feet of natural gas and can be developed quickly due to existing infrastructure and the shallow water. We have also issued a final rule in July 2002 that allows companies to apply for a lease extension, giving them more time to analyze complex geological data that underlies salt domes. That is, where geologically salt overlays the geologically clay. And you try to do seismic, and the seismic just gets distorted. So we have extended the lease terms, so that hopefully those companies can figure out where and where to best drill. Vast resources of oil and natural gas lie, we hope, beneath these sheets of salt in the OCS in the Gulf of Mexico. But it is very difficult to get clear seismic images. We are also working to create a process of reviewing and permitting alternative energy sources on the OCS lands. We have sent legislation to Congress that would give the Minerals Management Service of the Department of the Interior clear authority to lease parts of the OCS for renewable energy. The renewables could be wind, wave, or solar energy, and related projects that are auxiliary to oil and gas development, such as offshore staging facilities and emergency medical facilities. We need this authority in order to be able to **truly give the private sector what are the rules to play from and buy**, so they can have certainty about where to go.

#### Demand for offshore rigs is up – NEWEST EVIDENCE

Pickerell 12/31/12 (Emily, “Demand for offshore rigs up, while onshore count keeps falling”, http://fuelfix.com/blog/2012/12/31/demand-for-offshore-rigs-up-while-onshore-count-keeps-falling/)

While demand for onshore rigs declined as the result of less natural gas drilling, demand for offshore rigs continues to flourish, driven by Gulf of Mexico demand, industry analysts said Monday. The Gulf of Mexico rig count has increased slightly in the last three months, with 33 floating rigs and 29 jackups for the fourth quarter, up from 27 floating rigs and 27 jackups for the third quarter, according to a Tudor Pickering analyst’s note. Likewise, demand for offshore rigs grew from 73 in January 2012 to 80 by the end of November, as improved technology, such as water flooding, has provided new opportunities to extract oil from maturing wells. The relatively strong price of oil, which closed on Friday on the New York Mercantile Exchange at $90.80 for West Texas Intermediate Crude, compared with natural gas, which closed on Friday at $3.46 per million cubic feet, has been an additional driver. Oil and gas services companies are working hard to meet the offshore demand: Ensco, for example, has three ultra-deepwater rigs that will be available in 2013. Demand has dipped in onshore drilling, as the big operators have shifted away from chasing natural gas exploration, resulting in a 61 percent decline for onshore rigs in 2012, down from 2,082 in January to 1,841 at the end of November 2011. The downturn comes after 13 quarters of increased drilling activity, Tudor Pickering said in its report. The Permian and the Eagle Ford basins have been the hardest hit by the decline, according to Tudor Pickering, while East Texas and North Louisiana have held up the best. Companies are also trending **towards the newer and more efficient alternating-current technology for drilling rigs.** Alternating-current engines allow for greater mobility and control over the drilling process, and are considered to be safer and more environmentally friendly. The older mechanical rigs have made up 72 percent of the rig decline, according to Tudor Pickering, who noted that “as activity trended lower during the quarter, we noticed operators clearly holding onto and/or high-grading their fleets.” Chesapeake continues to have the highest U.S. natural gas rig count, with 37 rigs, while Exxon and Devon have 31 and 30, respectively. Likewise, Chesapeake also has by far the biggest number of onshore oil rigs, 73, while Anadarko has 47 and Devon has 42.

## 2AC

### T – Only Congress – 2AC

#### Counter-interpretation --- courts make law

Meese 86 (Edwin III, Distinguished Fellow in Public Policy and Chair of the Center for Legal and Judicial Studies – Heritage Foundation, “The Tulane Speech: What I Meant”, Washington Post, 11-13, Lexis)

The burden of The Post's editiorial concerned what I believe about the force of Supreme Court decisions. Does a ruling have general applicability beyond the case itself? May public officials and private citizens choose to ignore them at will? Putting the worst construction on what I did not say, The Post wondered whether the speech might be "an invitation to constitutional chaos and an expression of contempt for the federal judiciary and the rule of law." I believe it is important not only to put these concerns to rest but also to emphasize again the point of the speech -- that our Constitution is the supreme or paramount law of the land. Supreme Court decisions do, of course, have general applicability. In addition to binding the parties in the case at hand, a decision is binding precedent on lower federal courts as well as state courts. Further, such decisions, as Lincoln once said, are "entitled to very high respect and consideration in all parallel cases" by the other departments of government, both federal  [\*1004]  and state. Arguments from prudence, the need for stability in the law, and respect for the judiciary will and should persuade officials of these other institutions to abide by a decision of the Court. It would be highly irresponsible for them not to conform their behavior to precedent. I quite agree with The Post that, for example, the general principle laid down in Brown v. Board of Education [1](http://www.lexis.com/research/retrieve?cc=&pushme=1&tmpFBSel=all&totaldocs=&taggedDocs=&toggleValue=&numDocsChked=0&prefFBSel=0&delformat=XCITE&fpDocs=&fpNodeId=&fpCiteReq=&brand=&_m=69fd26de46e9a965404a3178eeeee7a4&docnum=2&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAW&_md5=0bd49b81389e2ea6efa18e8fc1a0908a&focBudTerms=Supreme+Court+decisions+do%2C+of+course%2C+have+general+applicability.+In+addition+to+binding&focBudSel=all#n1) governed not only Kansas, whence the case arose, but also all other states that had segregated schools. Or to use an example of a decision with which I do not agree, Roe v. Wade [2](http://www.lexis.com/research/retrieve?cc=&pushme=1&tmpFBSel=all&totaldocs=&taggedDocs=&toggleValue=&numDocsChked=0&prefFBSel=0&delformat=XCITE&fpDocs=&fpNodeId=&fpCiteReq=&brand=&_m=69fd26de46e9a965404a3178eeeee7a4&docnum=2&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAW&_md5=0bd49b81389e2ea6efa18e8fc1a0908a&focBudTerms=Supreme+Court+decisions+do%2C+of+course%2C+have+general+applicability.+In+addition+to+binding&focBudSel=all#n2) struck down Texas abortion law, but also contained a principle that officials in other states were obliged to apply. Constitutional decisions by the Court are not "the supreme law of the land" in the sense that the Constitution is. But they are law, as I said at Tulane, and they are the law of the land in the sense that they do indeed have general applicability and deserve the greatest respect from all Americans.

#### Reducing restrictions can mean not enforcing them

Berger 1 Justice Opinion, INDUSTRIAL RENTALS, INC., ISAAC BUDOVITCH and FLORENCE BUDOVITCH, Appellants Below, Appellants, v. NEW CASTLE COUNTY BOARD OF ADJUSTMENT and NEW CASTLE COUNTY DEPARTMENT OF LAND USE, Appellees Below, Appellees. No. 233, 2000SUPREME COURT OF DELAWARE776 A.2d 528; 2001 Del. LEXIS 300April 10, 2001, Submitted July 17, 2001, Decided lexis

We disagree. Statutes must be read as a whole and all the words must be given effect. 3 The word "restriction" means "a limitation (esp. in a deed) placed on the use or enjoyment of property." 4 If a deed restriction has been satisfied, and no longer limits the use or enjoyment of the property, then it no longer is a deed restriction -- even though the paper on which it was written remains. [\*\*6] Thus, the phrase "projects containing deed restrictions requiring phasing…," in Section 11.130(A)(7) means presently existing deed restrictions. As of June 1988, the Acierno/Marta Declaration contained no remaining deed restrictions requiring phasing to coincide with improvements to the transportation system. As

### Deterrence

#### Terrorist attacks undermine deterrence --- causes conflicts to escalate.

**Perkovich**, 11/13/**2012** (George – Vice President for Studies at the Carnegie Endowment for International Peace, The Non-Unitary Model And Deterrence Stability In South Asia, p. http://carnegieendowment.org/2012/11/13/non-unitary-model-and-deterrence-stability-in-south-asia/eihm#)

Social scientists have observed, of course, that complex systems such as states are often riven by competing organizations, interest groups and personalities. The internal dynamics within “normal” states render the unitary rational actor model an ideal type rather than a descriptive reality. Nevertheless, when it comes to functions as portentous and centrally controlled as initiating and managing warfare between nuclear-armed states, it is generally assumed that a tight, coherent line of authority operates approximately in ways consistent with the unitary model. If a state is not functioning as a unitary actor, or claims not to be when it is convenient, or is not perceived to be by those who seek to deter it, the implications for deterrence stability are profound. When India is attacked by actors emanating from Pakistan and with ties to Pakistani intelligence services, it naturally infers that such actions represent the intentions and policies of Pakistani authorities. The projection of violence from Pakistan into India means that deterrence (through non-nuclear means as well as nuclear) has failed to prevent aggression. The task then remains for India to threaten or undertake punishment to compel Pakistan to redress the offense and to deter Pakistan from repeating it and from escalating the conflict.4 If Pakistan does not redress the original instigation of violence – for example, by genuinely seeking to detain and prosecute the perpetrators – pressure mounts for India to demonstrate through force that it will not be deterred from escalating the conflict in self-defense. But this intertwined process of deterrence and compellence is dangerously complicated by uncertainties over the unitariness of Pakistani authority which arises when terrorism or sub-conventional aggression occur. For example, while India could perceive that the terrorist attacks it attributes to Pakistan signal Pakistani aggressiveness, Pakistani leaders (and the public) could perceive the initial terrorist attacks as a signal that the Pakistani state does not seek a wider conflict but is merely signaling resolve to press India to make political accommodations, in Kashmir or more broadly. This signaling process becomes all the more difficult and precarious if the Pakistani leaders who are presumed to be the authors of Pakistan’s signals and actions deny that the perpetrators of the conflict-triggering violence actually do manifest the policies of the state. Indian leaders then face a highly unstable dilemma. They could act as if the initial violence reflects the intentions of Pakistan’s chain of command, and send countervailing signals of retaliatory action according to normal models of deterrence, in which greater credibility and righteousness tend to reside with the defender.5 But if Pakistani leaders believe or claim that the perpetrators were not carrying out state policies, and India does escalate, Pakistani leaders will feel that India is the aggressor, significantly changing the dynamics of crisis and deterrence stability. “Normal” models of deterrence do not hold in such a situation.

### Exemption CP – 2AC

#### Reduce means to diminish the strength of

OED 89 (Oxford English Dictionary, “Reduce,” Volume 13, p. 433)

21. e. **to diminish the strength of** (spirit).

#### The counterplan is a reduction – restrictions must be enforced – if it’s on paper but not enforced it is NOT a restriction

Berger 1 Justice Opinion, INDUSTRIAL RENTALS, INC., ISAAC BUDOVITCH and FLORENCE BUDOVITCH, Appellants Below, Appellants, v. NEW CASTLE COUNTY BOARD OF ADJUSTMENT and NEW CASTLE COUNTY DEPARTMENT OF LAND USE, Appellees Below, Appellees. No. 233, 2000SUPREME COURT OF DELAWARE776 A.2d 528; 2001 Del. LEXIS 300April 10, 2001, Submitted July 17, 2001, Decided lexis

We disagree. Statutes must be read as a whole and all the words must be given effect. 3 The word "restriction" means "a limitation (esp. in a deed) placed on the use or enjoyment of property." 4 If a deed restriction has been satisfied, and no longer limits the use or enjoyment of the property, then it no longer is a deed restriction -- even though the paper on which it was written remains. [\*\*6] Thus, the phrase "projects containing deed restrictions requiring phasing…," in Section 11.130(A)(7) means presently existing deed restrictions. As of June 1988, the Acierno/Marta Declaration contained no remaining deed restrictions requiring phasing to coincide with improvements to the transportation system. As a result, the Acierno/Marta projects should not have been included in the scope of the Budovitches' TIS.

#### Predictability and certainty are key to cooperative federalism – this slays their counterplan

Weaver 2 (Sierra B., Senior Staff Attorney with Expertise in Climate Change, Forests and Public Lands, and Marine Conservation – Defenders of Wildlife (Litigation Group in Washington, DC), “NOTE: Local Management of Natural Resources: Should Local Governments be Able to Keep Oil Out?,” The Harvard Environmental Law Review, 26 Harv. Envtl. L. Rev. 231, Lexis)

If we reject the local veto approach just described, there still remains a need for a clear default rule in this reformed federal framework. Part of the problem with the current scheme under OCSLA is that so many of the oil development decisions are made on the basis of balancing tests or consultations. The **amount of litigation and political wrangling** in this flexible approach **is extreme**, and since courts lack clear guidance about how to facilitate a program of "cooperative federalism," they follow standard administrative law practice **and defer to the federal government**. Although the ideal arrangement would be a truly cooperative system in which the state and local governments, the federal government, and the oil and gas industry could work together to determine the appropriate mitigation efforts that would make drilling acceptable, a decision about offshore drilling ultimately has to be made. Just as in other areas of administrative law, efficiency and predictability in future planning and development projects **demand a rule that produces a final decision.** n124 Given the long, contentious history of "cooperative federalism" in the oil drilling context, we must ultimately identify a default rule that encourages bargaining, adequately protects the environment, and respects all local interests regardless of political power.

#### Destroys solvency – empirically proven

Pierce Jr. 4 (Richard – George W. Hutchison Professor of Energy Law, Southern Methodist University; B.S., 1965. Lehigh University; J.D., 1972, University of Virginia., “Reconstituting the Natural Gas Industry from Wellhead to Burnertip”, 2004, 25 Energy L. J. 57, lexis)

Within days of the enactment of the PIFUA, the DOE announced the existence of a national gas surplus. n146 A few months later, the DOE and Congress viewed with alarm the Iranian revolution and its effects on the supply [\*89] and price of oil. It became universally apparent that Congress had acted on the basis of a serious misunderstanding of energy markets in 1978, and that full enforcement of the PIFUA would have the disastrous effect of shifting a substantial portion of the demand for gas to imported oil. n147 Congress tacitly acquiesced in the DOE's decision to attempt to nullify the PIFUA administratively. The DOE began to issue exemptions from the gas to oil provisions of the PIFUA to anyone who applied. n148 Still, the statute reduced the demand for gas and increased the demand for oil. The process of obtaining a PIFUA exemption required time and money. n149 Moreover, firms were reluctant to invest in combustion equipment designed to burn gas knowing that the DOE could render the investment worthless at any time by beginning to enforce the PIFUA. In 1981, Congress amended the PIFUA by deleting the automatic limitations and prohibitions on gas use in preexisting combustion equipment, but retained the prohibitions on gas use in new equipment and on construction of new equipment designed to burn gas. n151 After nine years of gas surplus, Congress eliminated the artificial constraints on gas demand it imposed in 1978. This is another critical step in the process of eliminating regulatory distortion and creating a competitive gas sales market. For the first time in nine years, electric utilities and industrial consumers are free to build gas fired plants when they determine that to be the most efficient means of producing their products. Over the next decade, gas demand will increase as consumers react to their new-found freedom.

#### Here’s specific evidence

Blitz 11 (George, Vice President of Energy and Climate Change – Dow Chemical Company, “Natural Gas,” S. Hrg. 112-146, 7-19, http://www.gpo.gov/fdsys/pkg/CHRG-112shrg71211/html/CHRG-112shrg71211.htm)

Finally, the study noticeably lacks any recommendations for a streamlined, timely process for exploration and production permitting to ensure access to supply despite the report stating ``a robust domestic market for natural gas and NGLs will improve competitiveness of manufacturing industries dependent on these inputs.'' In our view, it is imperative that increased demand not precede increased supply. Access to offshore natural gas and crude oil is essential for U.S. energy security. Political and regulatory uncertainty threatens to significantly reduce the amount of natural gas that can be extracted. These issues, including regulations around the use of hydraulic fracturing, **must be resolved for companies to invest capital in the U.S. based on the new natural gas discoveries**. A Potential Renaissance for US Chemical Manufacturers What does the promise of increased domestic supply of natural gas mean to US manufacturers? We believe an increase in the natural gas resource base, especially ethane-rich gas such as that in the Marcellus and Eagle Ford regions, could be a ``game changer'' for US manufacturers.

#### No environmental harm – offshore drilling has a 100% safety record and reduces leakages

Thornley 9 (Drew – Independent policy analyst focused primarily on energy, teaches business law at Concordia University in Austin, Texas. graduated summa cum laude with a B.A. in economics from The University of Alabama in 2002 and received a J.D. from Harvard Law School in 2005, “ENERGY & ENVIRONMENTAL MYTHS”, April 2009, http://www.manhattan-institute.org/energymyths/myth8.htm)

Since 1975, offshore drilling in the Exclusive Economic Zone (within 200 miles of U.S. coasts) has a safety record of 99.999 percent, meaning that only 0.0001 percent of the oil produced has been spilled.[103] With regard to the Outer Continental Shelf (U.S. waters under federal, rather than state, jurisdiction),[104] between 1993 and 2007 there were 651 oil spills, releasing 47,800 barrels of oil. Given 7.5 billion barrels of oil produced during that period, one barrel of oil has been spilled in the OCS per 156,900 barrels produced.[105] Research published in 2000 by the U.S. Minerals Management Service (MMS)[106] documents the decreasing occurrence of crude-oil spills in the OCS. Revising previous estimates first published in 1994, the authors analyzed data through 1999 and concluded that oil-spill rates for OCS platforms, tankers, and barges continued to decline.[107] Additionally, the number of oil spills from platforms, tankers, and pipelines is small, relative to the amount of oil extracted and transported. Even so, oil spills remain an unpleasant reality of offshore oil drilling. Certainly, any amount of oil spilled into the ocean is undesirable, but offshore oil operations contribute relatively little of the oil that enters ocean waters each year. For example, ocean floors naturally seep more oil into the ocean than do oil-drilling accidents and oil-tanker spills combined. (However, such seepage generally does not rise to the surface or reach the coastlines and, thus, is not as apparent as oil-drilling spills.) According to the National Academies’ National Research Council, natural processes are responsible for over 60 percent of the petroleum that enters North American ocean waters and over 45 percent of the petroleum that enters ocean waters worldwide.[108] Thus, in percentage terms, North America’s oil-drilling activities spill less oil into the ocean than the global average, suggesting that our drilling is comparatively safe for the environment. Ironically, research shows that drilling can actually reduce natural seepage, as it relieves the pressure that drives oil and gas up from ocean floors and into ocean waters. In 1999, two peer-reviewed studies found that natural seepage in the northern Santa Barbara Channel was significantly reduced by oil production. The researchers documented that natural seepage declined 50 percent around Platform Holly over a twenty-two-year period, concluding that, as oil was pumped from the reservoir, the pressure that drives natural seepage dropped.[109] Offshore oil drilling is carefully monitored for environmental safety. Using state-of-the-art technology and employing a range of procedural safeguards, U.S. offshore drilling has a track record of minimal environmental impact. Modern oil drilling is even designed to withstand hurricanes and tropical storms. According to the MMS, 3,050 of the Gulf of Mexico’s 4,000 platforms and 22,000 of the 33,000 miles of the Gulf’s pipelines were in the direct path of either Hurricane Katrina or Hurricane Rita. The hurricanes destroyed 115 drilling platforms, damaged 52 others, and damaged 535 pipeline segments, yet “there was no loss of life and no major oil spills attributed to either storm.”[110] All forms of energy production come with risks, both to humans and to the environment. Offshore oil drilling is no exception. Spills from offshore drilling and tankers undoubtedly will continue to occur, but they are rare and are decreasing in frequency; and the amount of oil spilled from rigs and tankers is small, compared with the amount of oil extracted and with the amount of oil that enters ocean waters naturally from ocean floors. As technology continues to advance, and as companies find themselves accountable to a public increasingly concerned about environmental stewardship, drilling for oil in our coastal waters will continue to be conducted in a safe and environmentally conscious manner.

#### Environment is resilient

Easterbrook 95 (Gregg, Distinguished Fellow – Fullbright Foundation, A Moment on Earth, p. 25)

In the aftermath of events such as Love Canal or the Exxon Valdez oil spill, every reference to the environment is prefaced with the adjective "fragile." "Fragile environment" has become a welded phrase of the modern lexicon, like "aging hippie" or "fugitive financier." But the notion of a fragile environment is profoundly wrong. Individual animals, plants, and people are distressingly fragile. The environment that contains them is close to indestructible. The living environment of Earth has survived ice ages; bombardments of cosmic radiation more deadly than atomic fallout; solar radiation more powerful than the worst-case projection for ozone depletion; thousand-year periods of intense volcanism releasing global air pollution far worse than that made by any factory; reversals of the planet's magnetic poles; the rearrangement of continents; transformation of plains into mountain ranges and of seas into plains; fluctuations of ocean currents and the jet stream; 300-foot vacillations in sea levels; shortening and lengthening of the seasons caused by shifts in the planetary axis; collisions of asteroids and comets bearing far more force than man's nuclear arsenals; and the years without summer that followed these impacts. Yet hearts beat on, and petals unfold still. Were the environment fragile it would have expired many eons before the advent of the industrial affronts of the dreaming ape. Human assaults on the environment, though mischievous, are pinpricks compared to forces of the magnitude nature is accustomed to resisting.

#### Forest fires causes timber scarcity – destroys China’s economy

CWM 8 (China Wood Monthly, “China: Short Supply of Timber Threatens Economic Security and It is Imperative to Establish Timber Security System,” 1-1, http://www.illegal-logging.info/item\_single.php?it\_id=2506&it=news)

China now has become a giant in the world's forest industry: The output of wood-based panels of China ranked top one in the world for the past immediate three consecutive years; and in 2006, the output of wood flooring ranked first around the globe; the output and consumption of paper and cardboards both ranked second; the output and exports of furniture were also in the front rank. In the meantime, the demand for wood and forest products is surging in China, which imports over 100 million m3 (roundwood equivalent) or USD20 billion plus of wood-based products each year. In particular, the gap between timber demand and supply will be 160180 million m3 in 2010 and reach 300 million m3 or so by 2015. The contradiction is increasingly intense between the scarcity of forest resources and the huge demand for timber with the continuous economic development, and therefore it is now really imperative for China to solve the problem of timber supply by establishing a long-run timber security system. According to Duan Xinfang, a researcher from Chinese Academy of Forestry, timber security has become a key factor affecting the economic security of China. Timber security denotes a state of balanced supply and demand of timber resources, harmonized logging and forest ecological environment protection, and medium reliance on timber imports, a state in which the supply of timber can guarantee the security of national economic operation. Timber security includes the security of timber resources supply, the security of timber trade and the security of timber environment. The security of timber resources supply refers to a balance between timber resources supply and the basic needs of national forestry industry and related industries. China consumed 330 million m3 of timber in 2006 and has been the second largest timber consumption country only next to the US. However, there are several problems regarding the timber supply in China: The total volume of home-produced timber supplied falls short seriously. In 2000-2005, the domestic output of commercial timber only accounted for 16.923.9% of the total timber supplied. In addition, this proportion has been declining. The forest area per capita in China is less than one fourth of the world's average level; the stock volume of forests per capita less than one sixth of the world average. The breeding of large-diameter quality timber, as an important strategic resource used mainly in construction, decoration,furniture and manufacturing, has not been attached decent importance to. In the past, it was primarily logged from natural forests, and now it has to be imported. But the supply is rather short. The comprehensive utilization rate of timber is low and the recycle of timber is not efficient. In China, the utilization rate of timber is about 63%, while in some developed counties the rate is around 90%. It's estimated that there is about 8.5 million m3 of waste timber in China's cities. Timber trade is said to be secure when a country's reliance on imported timber and wood-based products in international trade is below the warning line, the price of imported timber and the risks of transportation are moderate, and countries exporting timber to the country are evenly distributed around the world. But as a matter of fact, China's imports of timber sourced mainly form a few countries like Russia have accounted for over 40% for four consecutive years. Uncertain timber trade will greatly threaten the security of national economic operation in the long run, because many enterprises will have to shut down or even exit the market due to severely short supply of timber. More over, under the pressure from international environmental organizations, countries such as Russia, Southeast Asia, South America, and Africa where China's imported timber is mainly sourced are restricting the export of logs and theryby timber import for China may come to a stop at any time.

#### Global nuclear war

**Kaminski 7** (Antoni Z., Professor – Institute of Political Studies, “World Order: The Mechanics of Threats (Central European Perspective)”, Polish Quarterly of International Affairs, 1, p. 58)

As already argued, the economic advance of China has taken place with relatively few corresponding changes in the political system, although the operation of political and economic institutions has seen some major changes. Still, tools are missing that would allow the establishment of political and legal foundations for the modem economy, or they are too weak. The tools are efficient public administration, the rule of law, clearly defined ownership rights, efficient banking system, etc. For these reasons, many experts fear an economic crisis in China. Considering the importance of the state for the development of the global economy, the crisis would have serious global repercussions. Its political ramifications could be no less dramatic owing to the special position the military occupies in the Chinese political system, and the existence of many potential vexed issues in East Asia (disputes over islands in the China Sea and the Pacific). A potential hotbed of conflict is also Taiwan's status. Economic recession and the related destabilization of internal policies could lead to a political, or even military crisis. The likelihood of the global escalation of the conflict is high, as the interests of Russia, China, Japan, Australia and, first and foremost, the US clash in the region.

### Heidegger K – 2AC

#### Case turns the K – global natural gas extraction is inevitable – other countries view nature as a standing reserve – the sends a global signal to other countries to use environment-friendly tech – that’s Schneider.

#### The Aff’s a prerequisite to the Alt – only innovative responses to tech-induced environmental destruction enable reconceptualization of technology as more than an instrument and of nature as more than standing reserve. The Alt’s passive refusal leaves prevailing worldviews intact.

Feenberg 7 (Andrew, Canada Research Chair in the Philosophy of Technology in the School of Communication at Simon Fraser University, Danish Yearbook of Philosophy, Volume 42, “Between Reason and Experience,” p. 24-27, http://www.sfu.ca/~andrewf/books/Between\_Reason\_and\_Experience\_DYP42.pdf)

As I reformulate this social version of the technical revealing, it has political consequences. Political protests arise as feedback from disastrous technical projects and designs reaches those excluded from the original networks of control. These protests are often based on scientific knowledge of the devastation caused by technology designed in indifference to human needs. This is the point at which objective facts enter experience as motives for distrust and fear of technology and technical authority. The subjects become aware of the contingency of the technically structured world on choices and decisions that do not proceed from a supposedly pure rationality. The lifeworld reacts back on technology through the objective contents of knowledge of its side effects. There have been many attempts to articulate the implications of this new situation. My approach is closest to that of Ulrich Beck. Like him I argue that we are entering a new phase of technological development in which the externalities associated with the prevailing technologies threaten the survival of the industrial system (Beck, 1992). This threat has begun to force redesign of many technologies and changes in the disciplines and training underlying the technical professions. Beck explains the transition from a capitalism based on distinct spheres with little interaction, to a “reflexive modernity” in which interaction between spheres becomes the norm. Multiple approaches and cross disciplinary conceptions increasingly shape the design process in response. He develops the social consequences of the resultant changes while I have focused primarily on the technological dimension of the new phase. In this phase, what Gilbert Simondon calls “concretizing” innovations emerge designed to accommodate a wider range of social influences and contextual factors.12 As design is pulled in different directions by actors attempting to impose their differing functional requirements on devices, the winning design strategies are often those that reconcile multiple functions in simple and elegant structures capable of serving them all. Examples abound: hybrid engines in automobiles, refrigerants and propellants that do not damage the ozone layer, substitutes for lead in consumer products, and so on. In the process of developing these technologies environmental, medical and other concerns are brought to bear on design by new actors excluded from the original technological regime. Of course, no small refinements such as these can resolve the environmental crisis, but the fact that they are possible at all removes the threat of technological regression as a major alibi for doing nothing. The emergence of a radically new technical politics requires us to rethink the basic concept of rationality that has supplied the existing industrial society with its highest philosophical sanction. Heidegger and Marcuse help us to understand the limitations of the prevailing concept. They remind us that the hypostatization of a reason fragmented into specializations and differentiated from a broader cultural and normative context is not inevitable but belongs to a specific historical era, an era that may well be approaching its end. A new understanding of rationality is possible based not on a return to a teleological worldview in which we can no longer believe but on recognition of the complexity of experiences that have been cast in artificially narrow instrumental schemas. Concrete experience is thus the touchstone of this ontology because it is only there that the world reveals itself in its multifarious and unpredictable connections and potentialities. From this new standpoint specialization and differentiation will not disappear, but they will be treated as methodologically useful rather than as ontologically fundamental. The resultant breaching of the boundaries between disciplines and between the technical realm and the lifeworld responds to the crisis of industrial society. We may learn to bound the cosmos in modern forms by attending to the limits that emerge from the unintended interactions of domains touched by powerful modern technologies. This is the form in which the lived world we have discovered in the thought of Heidegger and Marcuse becomes active in the structure of a rationality that still has for its mission the explanation of objective nature. The discovery of a limit reveals the significance of that which is threatened beyond it. This dialectic of limitation is most obvious in the case of threats to human health or species survival. On the one side, the experienced world gains a ground in respect for an object, in this case the human body or a threatened species. On the other side, a concrete technical response is solicited employing the means at hand in new combinations or inventing new ones. From this standpoint no return to a qualitative science is possible or necessary. Modern science objectifies and reifies by its very nature but it could operate within limits standing in for the lost essences of antiquity and like them referring us to an irreducible truth of experience. As we encounter this truth we are reminded of the necessity of restraint. This must be a productive restraint leading to a process of transformation, not a passive refusal of a reified system. The forward looking Janus face is fundamental and grants hope not by rejecting scientific-technical achievements but by revealing their essential nature as processes in which human action can intervene.13 Innovative responses to the new limits can serve in the reconstruction of both technical disciplines and technology. To be sure, the process character and full complexity of reality cannot be reflected immediately in the scientific-technical disciplines, but the disciplines can be deployed in fluid combinations that reflect the complexity of reality as it enters experience through humanly provoked disasters of all sorts and through the consciousness of new threats of which we ourselves are the ultimate source. The goal is not merely to survive but to reconstruct modern technology around a new model of wealth that is environmentally compatible and that draws on human capacities suppressed or ignored in the present dispensation. Marcuse interpreted this in terms of the surrealist “hazard objectif,” the rather fantastic notion of an aesthetically formed world in which “human faculties and desires ... appear as part of the objective determinism of nature – coincidence of causality through nature and causality through freedom” (Marcuse, 1969: 31).

#### Perm – do the plan and non-competitive parts of the alternative. It solves best.

**McWhorter 92** (Ladelle, Assistant Professor of Philosophy – Northeast Missouri State University, Heidegger and the Earth, p. 3)

Heidegger's work is a call to reflect, to think in some way other than calculatively, technologically, pragmatically. Once we begin to move with and into Heidegger's call and begin to see our trying to seize control and solve problems as itself a problematic approach, if we still believe that thinking's only real purpose is to function as a prelude to action, we who attempt to think will twist within the agonizing grip of paradox, feeling nothing but frustration, unable to conceive of ourselves as anything but paralyzed. However, as so many peoples before us have known, paradox is not only a trap; it is also a scattering point and passageway. Paradox invites examination of its own constitution (hence of the patterns of thinking within which it occurs) and thereby breaks a way of thinking open, revealing the configurations of power that propel it and hold it on track. And thus it makes possible the dissipation of that power and the deflection of thinking into new paths and new possibilities.

#### -- No extinction – tech and calculation have existed forever – and the world is getting better

#### -- Extinction outweighs – pre-requisite to Being

**Zimmerman 93** (Michael E., Professor of Philosophy – University of Tulane, Contesting Earth’s Future: Radical Ecology and Postmodernity, p. 119-120)

Heidegger asserted that human self assertion, combined with the eclipse of being, threatens the relation between being and human Dasein. Loss of this relation would be even more dangerous than a nuclear war that might “bring about the complete annihilation of humanity and the destruction of the earth.” This controversial claim is comparable to the Christian teaching that it is better to forfeit the world than to lose one’s soul by losing ones relation to God. Heidegger apparently thought along these lines: it is possible that after a nuclear war, life might once again emerge, but it is far less likely that there will ever again occur in an ontological clearing through which life could manifest itself. Further, since modernity’s one dimensional disclosure to entities virtually denies that any “being” at all, the loss of humanity’s openness for being is already occurring. Modernity’s background mood is horror in the face of nihilism, which is consistent with the aim of providing material happiness for everyone by reducing nature into pure energy. The unleashing of vast quantities of energy in a nuclear war would be equivalent to modernity’s slow destruction of nature: unbounded destruction would equal limitless consumption. If humanity avoided a nuclear war only to survive as contended clever animals, Heidegger believed we would exist in a state of ontological damnation: hell on earth, masquerading as material paradise. Deep ecologists might agree that a world of material human comfort purchased at the price of everything wild would not be a world worth living in, for in killing wild nature, people would be as good as dead. **But most** of them **could not agree that the loss of humanity’s relation to being would be worse than nuclear omnicide**, for it is wrong to suppose that the lives of millions of extinct and unknown species are somehow lessened because they were never “disclosed” by humanity.

#### Framework – evaluate the aff vs. status quo or a competitive policy option. That’s best for fairness and predictability – there are too many frameworks to predict and they moot all of the 1ac – makes it impossible to be aff. Only our framework solves activism.

#### -- Alt fails – ‘letting be’ and waiting for metaphysical transformation dooms us to extinction

**Santoni 85** (Ronald E., Professor of Philosophy – Denison, Nuclear War, Ed. Fox and Groarke, p. 156-157)

To be sure, Fox sees the need for our undergoing “certain fundamental changes” in our “thinking, beliefs, attitudes, values” and Zimmerman calls for a “paradigm shift” in our thinking about ourselves, other, and the Earth. But it is not clear that what either offers as suggestions for what we can, must, or should do in the face of a runaway arms race are sufficient to “wind down” the arms race before it leads to **omnicide**. In spite of the importance of Fox’s analysis and reminders it is not clear that “admitting our (nuclear) fear and anxiety” to ourselves and “identifying the mechanisms that dull or mask our emotional and other responses” represent much more than examples of basic, often. stated principles of psychotherapy. Being aware of the psychological maneuvers that keep us numb to nuclear reality may well be the road to transcending them but it must only be a “first step” (as Fox acknowledges), during which we **simultaneously act** to eliminate nuclear threats, break our complicity with the arms race, get rid of arsenals of genocidal weaponry, and create conditions for international goodwill, mutual trust, and creative interdependence. Similarly, in respect to Zimmerman: in spite of the challenging Heideggerian insights he brings out regarding what motivates the arms race, many questions may be raised about his prescribed “solutions.” Given our need for a paradigm shift in our (distorted) understanding of ourselves and the rest of being, are we merely left “to prepare for a possible shift in our self-understanding? (italics mine)? Is this all we can do? Is it necessarily the case that such a shift “cannot come as a result of our own will?” – and work – but only from “a destiny outside our control?” Does this mean we leave to God the matter of bringing about a paradigm shift? Granted our fears and the importance of not being controlled by fears, as well as our “anthropocentric leanings,” should we be as cautious as Zimmerman suggests about our disposition “to want to do something” or “to act decisively in the face of the current threat?” In spite of the importance of our taking on the anxiety of our finitude and our present limitation, does it follow that “we should be willing for the worst (i.e. an all-out nuclear war) to occur”? Zimmerman wrongly, I contend, equates “resistance” with “denial” when he says that “as long as we resist and deny the possibility of nuclear war, that possibility will persist and grow stronger.” He also wrongly perceives “resistance” as presupposing a clinging to the “order of things that now prevails.” Resistance connotes opposing, and striving to defeat a prevailing state of affairs that would allow or encourage the “worst to occur.” I submit, against Zimmerman, that we should not, in any sense, be willing for nuclear war or omnicide to occur. (This is not to suggest that we should be numb to the possibility of its occurrence.) Despite Zimmerman’s elaborations and refinements his Heideggerian notion of “letting beings be” continues to be **too permissive** in this regard. In my judgment, an individual’s decision not to act against and resist his or her government’s preparations for nuclear holocaust is, as I have argued elsewhere, to be **an early accomplice to** the most horrendous crime against life imaginable – its **annihilation**.

#### That’s especially true for the environment

**Levy 99** (Neil, Ph.D. in Comparative Literature and Critical Theory – Monash University, and Currently Tutor, Centre for Critical Theory, Monash University, (Discourses of the Environment edited by Eric Darier) p. 214-215)

If our current situation can really be accurately characterized as the extension of bio-power from the realm of population to that of all life, does that entail that the strategies we should be adopting are those of management of the non-human world, as well as that of the human? I believe that **it does**. But I do not believe that this necessitates, or even makes possible, the genetically engineered, artificial world which McKibben and many others who have advocated non-anthropocentric ethics have feared, the replacement of the natural world with `a space station' (McKibben 1989: 170). And not just for the reason that, after the end of nature, the artificial/natural distinction is impossible to maintain. The world McKibben fears, in which forests are replaced by trees designed by us for maximum efficiency at absorbing carbon, and new strains of genetically engineered corn flourish in the new conditions brought about by global warming, seems to me unlikely in the extreme. The systems with which we are dealing, the imbrication of a huge variety of forms of life with chemical processes, with meteorological and geographic processes, are so complex, and occur on such scale, that I can see no way in which they could be replaced by artificial systems which would fulfil the same functions. Every intervention we make in' that direction has consequences which are so far-reaching, and involve so many variables and as yet undetected connections between relatively independent systems, that they are practically unforeseeable. To replace non-human systems with mechanisms of our own devising would involve thousands of such interventions, each of which would then require follow-up interventions in order to reverse or control their unintended consequences. Even when, and if, our knowledge of the environment were to reach a stage at which we were able to predict the consequences of our interventions, it would be likely to be far easier, and, in the long run, cheaper, simply to turn the already functioning, `natural' systems to our advantage. No method of reducing the amount of carbon dioxide in our atmosphere is likely to be more effective than preserving the Amazonian rain forest. For this reason, I believe, environmentalists **have nothing to fear from** such **an apparently instrumental approach.** If the `technological fix' is unlikely to be more successful than strategies of limitation of our use of resources, we are nevertheless **unable simply to leave the environment as it is.** There is a real and pressing need for more, and more accurate, technical and scientific information about the non-human world. For we are faced with a situation in which the processes we have **already set in train** will continue to impact upon that world, and therefore us, for centuries. It is therefore necessary, not only to stop cutting down the rain forests, but to **develop** real, **concrete proposals for action**, to reverse, or at least limit, the effects of our previous interventions. Moreover, there is another reason why our behaviour towards the non-human cannot simply be a matter of leaving it as it is, at least in so far as our goals are not only environmental but also involve social justice. For if we simply preserve what remains to us of wilderness, of the countryside and of park land, we also **preserve patterns of very unequal access to their resources** and their consolations (Soper 1995: 207). In fact, **we risk exacerbating these inequalities**. It is not us, but the poor of Brazil, who will bear the brunt of the misery which would result from a strictly enforced policy of leaving the Amazonian rain forest untouched, in the absence of alternative means of providing for their livelihood. It is the development of policies to provide such ecologically sustainable alternatives which we require, as well as the development of technical means for replacing our current green-house gas-emitting sources of energy. Such policies and proposals **for concrete action** must be formulated by ecologists, environmentalists, people with expertise concerning the functioning of ecosystems and the impacts which our actions have upon them. Such proposals are, therefore, **very much the province of Foucault's specific intellectual,** the one who works `within specific sectors, at the precise points where their own conditions of life or work situate them' (Foucault 1980g: 126). For who could be more fittingly described as `the strategists of life and death' than these environmentalists? After the end of the Cold War, it is in this sphere, more than any other, that man's `politics places his existence as a living being in question' (Foucault 1976: 143). For it is in facing the consequences of our intervention in the non-human world that the **fate of our species**, and of those with whom we share this planet, **will be decided**.

#### -- Fracking and technology makes all your impacts inevitable – it will exist in some form of another – makes technological forms inevitable

#### -- The alt rejects humanism – dooming the planet to extinction

**Davies 97** (Tony, Professor of English – Birmingham University, Humanism, p. 130-132)

So there will not after all be, nor indeed could there be, any tidy definitions. The several humanisms – the civic humanism of the quattrocento Italian city-states, the Protestant humanism of sixteenth century northern Europe, the rationalistic humanism that attended at the revolutions of enlightened modernity, and the romantic and positivistic humanisms through which the European bourgeoisies established their hegemony over it, the revolutionary humanism that shook the world and the liberal humanism that sought to tame it, the humanism of the Nazis and the humanism of their victims and opponents, the antihumanist humanism of Heidegger and the humanist antihumanism of Foucault and Althusser – are not reducible to one, or even to a single line or pattern. Each has its distinctive historical curve, its particular discursive poetics, its own problematic scansion of the human. Each seeks, as all discourses must, to impose its own answer to the question of ‘which is to be master’. Meanwhile, the problem of humanism remains, for the present, an inescapable horizon within which all attempts to think about the ways in which human being have, do, might live together in and on the world are contained. Not that the actual humanisms described here necessarily provide a model, or even a useful history, least of all for those very numerous people, and peoples, for whom they have been alien and oppressive. Some, at least, offer a grim warning. Certainly it should no longer be possible to formulate phrases like ‘the destiny of man’ or ‘the triumph of human reason’ without an instant consciousness of the folly and brutality they drag behind them. All humanisms, until now, have been imperial. They speak of the human in the accents and the interests of a class, a sex, a ‘race’. Their embrace suffocates those whom it does not ignore. The first humanists scripted the tyranny of Borgias, Medicis and Tudors. Later humanisms dreamed of freedom and celebrated Frederick II, Bonaparte, Bismarck, Stalin. The liberators of colonial America, like the Greek and Roman thinkers they emulated, owned slaves. At various times, not excluding the present, the circuit of the human has excluded women, those who do not speak Greek or Latin or English, those whose complexions are not pink, children, Jews. It is almost impossible to think of a crime that has not been committed in the name of humanity. At the same time, though it is clear that the master narrative of transcendental Man has outlasted its usefulness, **it would be unwise** simply **to abandon the ground occupied by** the historical **humanisms**. For one thing, some variety of humanism remains, on many occasions, the only available alternative to bigotry and persecution. The freedom to speak and write, to organize and campaign in defence of individual or collective interests, to protest and disobey: all these, and the prospect of a world in which they will be secured, can only be articulated in humanist terms. It is true that the Baconian ‘Knowledge of Causes, and Secrett Motions of Things’, harnessed to an overweening rationality and an unbridled technological will to power, has enlarged the bounds of human empire to the point of **endangering the survival of the** violated **planet** on which we live. But how, if not by mobilizing collective resources of human understanding and responsibility of ‘enlightened self-interest’ even, can that danger be turned aside?

#### Existence is a pre-requisite to examining ontology

Wapner 3 (Paul, Associate Professor and Director of the Global Environmental Policy Program – American University, “Leftist Criticism of”, Dissent, Winter, http://www.dissentmagazine.org/article/?article=539)

THE THIRD response to eco-criticism would require critics to acknowledge the ways in which they themselves silence nature and then to respect the sheer otherness of the nonhuman world. Postmodernism prides itself on criticizing the urge toward mastery that characterizes modernity. But isn't mastery exactly what postmodernism is exerting as it captures the nonhuman world within its own conceptual domain? Doesn't postmodern cultural criticism deepen the modernist urge toward mastery by eliminating the ontological weight of the nonhuman world? What else could it mean to assert that there is no such thing as nature? I have already suggested the postmodernist response: yes, recognizing the social construction of "nature" does deny the self-expression of the nonhuman world, but how would we know what such self-expression means? Indeed, nature doesn't speak; rather, some person always speaks on nature's behalf, and whatever that person says is, as we all know, a social construction. All attempts to listen to nature are social constructions-except one. Even the most radical postmodernist must acknowledge the distinction between physical existence and non-existence. As I have said, postmodernists accept that there is a physical substratum to the phenomenal world even if they argue about the different meanings we ascribe to it. This acknowledgment of physical existence is crucial. We can't ascribe meaning to that which doesn't appear. What doesn't exist can manifest no character. Put differently, yes, the postmodernist should rightly worry about interpreting nature's expressions. And all of us should be wary of those who claim to speak on nature's behalf (including environmentalists who do that). But we need not doubt the simple idea that **a prerequisite of expression is existence**. This in turn suggests that preserving the nonhuman world-in all its diverse embodiments-must be seen by eco-critics as a fundamental good. Eco-critics must be supporters, in some fashion, of environmental preservation. Postmodernists reject the idea of a universal good. They rightly acknowledge the difficulty of identifying a common value given the multiple contexts of our value-producing activity. In fact, if there is one thing they vehemently scorn, it is the idea that there can be a value that stands above the individual contexts of human experience. Such a value would present itself as a metanarrative and, as Jean-François Lyotard has explained, postmodernism is characterized fundamentally by its "incredulity toward meta-narratives." Nonetheless, I can't see how postmodern critics can do otherwise than accept the value of preserving the nonhuman world. The nonhuman is the extreme "other"; it stands in contradistinction to humans as a species. In understanding the constructed quality of human experience and the dangers of reification, postmodernism inherently advances an ethic of respecting the "other." At the very least, respect must involve ensuring that the "other" actually continues to exist. In our day and age, this requires us to take responsibility for protecting the actuality of the nonhuman. Instead, however, we are running roughshod over the earth's diversity of plants, animals, and ecosystems. Postmodern critics should find this particularly disturbing. If they don't, they deny their own intellectual insights and compromise their fundamental moral commitment. NOW, WHAT does this mean for politics and policy, and the future of the environmental movement? Society is constantly being asked to address questions of environmental quality for which there are no easy answers. As we wrestle with challenges of global climate change, ozone depletion, loss of biological diversity, and so forth, we need to consider the economic, political, cultural, and aesthetic values at stake. These considerations have traditionally marked the politics of environmental protection. A sensitivity to eco-criticism requires that we go further and include an ethic of otherness in our deliberations. That is, we need to be moved by our concern to make room for the "other" and hence fold a commitment to the nonhuman world into our policy discussions. I don't mean that this argument should drive all our actions or that respect for the "other" should always carry the day. But it must be a central part of our reflections and calculations. For example, as we estimate the number of people that a certain area can sustain, consider what to do about climate change, debate restrictions on ocean fishing, or otherwise assess the effects of a particular course of action, we must think about the lives of other creatures on the earth-and also the continued existence of the nonliving physical world. We must do so not because we wish to maintain what is "natural" but because we wish to act in a morally respectable manner.

### Legitimacy – 2AC

#### Controversy inevitable – numerous blockbusters

Liptak 12 (Adam – New York Times, “Supreme Court Faces Weighty Cases and a New Dynamic”, 9/29, http://www.nytimes.com/2012/09/30/us/supreme-court-faces-crucial-cases-in-new-session.html?pagewanted=all)

 WASHINGTON — The Supreme Court returns to the bench on Monday to confront not only a docket studded with momentous issues but also a new dynamic among the justices. The coming term will probably include major decisions on affirmative action in higher education admissions, same-sex marriage and a challenge to the heart of the Voting Rights Act of 1965. Those rulings could easily rival the last term’s as the most consequential in recent memory. The theme this term is the nature of equality, and it will play out over issues that have bedeviled the nation for decades. “Last term will be remembered for one case,” said Kannon K. Shanmugam, a lawyer with Williams & Connolly. “**This term will be remembered for several**.” The term will also provide signals about the repercussions of Chief Justice John G. Roberts Jr.’s surprise decision in June to join the court’s four more liberal members and supply the decisive fifth vote in the landmark decision to uphold President Obama’s health care law. **Every decision of the new term will be scrutinized** for signs of whether Chief Justice Roberts, who had been a reliable member of the court’s conservative wing, has moved toward the ideological center of the court. “The salient question is: Is it a little bit, or is it a lot?” said Paul D. Clement, a lawyer for the 26 states on the losing side of the core of the health care decision. The term could clarify whether the health care ruling will come to be seen as the case that helped Chief Justice Roberts protect the authority of his court against charges of partisanship while accruing a mountain of political capital in the process. He and his fellow conservative justices might then run the table on the causes that engage him more than the limits of federal power ever have: cutting back on racial preferences, on campaign finance restrictions and on procedural protections for people accused of crimes. It is also possible that the chief justice will become yet another disappointment to conservatives, who are used to them from the Supreme Court, and that he will join Justice Anthony M. Kennedy as a swing vote at the court’s center. There is already some early evidence of this trend: in each of the last three terms, only Chief Justice Roberts and Justice Kennedy were in the majority more than 90 percent of the time. “We all start with the conventional wisdom that Justice Kennedy is going to decide the close cases,” said Mr. Clement, who served as United States solicitor general under President George W. Bush. “We’ve all been reminded that that’s not always the case.” The texture of the new term will be different, as the court’s attention shifts from federalism and the economy to questions involving race and sexual orientation. The new issues before the court are concrete and consequential: Who gets to go to college? To get married? To vote? On Oct. 10, the court will hear Fisher v. University of Texas, No. 11-345, **a major challenge** to affirmative action in higher education. The case was brought by Abigail Fisher, a white woman who says she was denied admission to the University of Texas based on her race. The university selects part of its class by taking race into account, as one factor among many, in an effort to ensure educational diversity. Just nine years ago, the Supreme Court endorsed that approach in a 5-to-4 vote. The majority opinion in the case, Grutter v. Bollinger, was written by Justice Sandra Day O’Connor, who said she expected it to last for a quarter of a century. But Justice O’Connor retired in 2006. She was succeeded by Justice Samuel A. Alito Jr., who was appointed by Mr. Bush and who has consistently voted to limit race-conscious decision making by the government. Chief Justice Roberts, another Bush appointee, has made no secret of his distaste for what he has called “a sordid business, this divvying us up by race.” Justices Kennedy, Antonin Scalia and Clarence Thomas all dissented in the Grutter case, and simple math suggests that there may now be five votes to limit or overturn it. The reach of such a decision could be limited by the idiosyncrasies of the admissions system in Texas. The university provides automatic admission to students in Texas who graduate in roughly the top 10 percent of their high school classes. That approach generates substantial diversity, partly because many Texas high schools remain racially homogeneous. Ms. Fisher narrowly missed the cutoff at a high school whose students have above-average test scores for the state. She was rejected for one of the remaining spots under the part of the admissions program that considers applicants’ race. The court may uphold the Texas system under Grutter, or it may rule against it on narrow grounds by saying, for instance, that race-conscious admissions are forbidden where a race-neutral method — like the 10 percent program — can be said to be working. But the court may also follow the health care ruling with a second landmark decision, this one barring racial preferences in admissions decisions altogether. Given persistent achievement gaps, even after controlling for family income, such a ruling would make the student bodies of many colleges less black and Hispanic and more white and Asian. The court will probably also take on same-sex marriage. “I think it’s most likely that we will have that issue before the court toward the end of the current term,” Justice Ruth Bader Ginsburg said at the University of Colorado on Sept. 19. She was referring to challenges to an aspect of the federal Defense of Marriage Act, which bars the federal government from providing benefits to same-sex couples married in states that allow such unions. The federal appeals court in Boston struck down that part of the law, and both sides have urged the court to hear the case. More than 1,000 federal laws deny tax breaks, medical coverage and burial services, among other benefits, to spouses in same-sex marriages. The justices will also soon decide whether to hear a more ambitious marriage case filed in California by Theodore B. Olson and David Boies. It seeks to establish a federal constitutional right to same-sex marriage. Chief Justice Roberts has not yet voted in a major gay rights case. Justice Kennedy wrote the majority opinions in both Lawrence v. Texas, a 2003 decision that struck down a Texas law making gay sex a crime, and Romer v. Evans, a 1996 decision that struck down a Colorado constitutional amendment that banned the passage of laws protecting gay men and lesbians. Most observers see him as the decisive vote in same-sex marriage cases. The justices are also quite likely to take another look at the constitutionality of a signature legacy of the civil rights era, the Voting Rights Act of 1965. In 2009, the court signaled that it had reservations about the part of the law that requires the federal review of changes in election procedures in parts of the country with a history of discrimination, mostly the South. “We are now a very different nation” than the one that first enacted the Voting Rights Act, Chief Justice Roberts wrote for himself and seven other justices. “Whether conditions continue to justify such legislation is a difficult constitutional question we do not answer today.” The chief justice seemed to invite Congress to revise the law, but lawmakers have taken no action. Challenges to the law have arisen in several lawsuits in the current election season, including ones concerning redistricting and voter identification requirements. “It will be interesting to see if the justices worry half as much about the emerging restrictions on voting as they worried about restrictions on political spending,” said Pamela S. Karlan, a law professor at Stanford. On Monday, the new term will start with a case of great interest to business groups, Kiobel v. Royal Dutch Petroleum, No. 10-1491. The case was brought by 12 Nigerian plaintiffs who said the defendants, foreign oil companies, had been complicit in human rights violations committed against them by the Abacha dictatorship in Nigeria. The question in the case is whether American courts have jurisdiction over such suits, and business groups are hoping the answer is no.

#### Legitimacy is tanked already

Rosen 12 (Jeffrey – Legal Affairs Editor at New Republic, “The Supreme Court Has a Legitimacy Crisis, But Not For the Reason You Think “, 2012, http://www.tnr.com/article/politics/103987/the-supreme-court-has-legitimacy-crisis-not-the-reason-you-think)

Last week, a New York Times/CBS poll found that only 44 percent of Americans approve of the Supreme Court’s job performance and 75 percent say the justices are sometimes influenced by their political views. But although the results of the poll were striking, commentators may have been too quick to suggest a direct link between the two findings. In the Times article on the poll, for example, Adam Liptak and Allison Kopicki suggested that the drop in the Court's 66 percent approval ratings in the late 1980s “could reflect a sense that the court is more political, after the ideologically divided 5-to-4 decisions in Bush v. Gore and Citizens United.” At the beginning of his tenure, Chief Justice John Roberts said that he subscribed to a similar theory. “I do think the rule of law is threatened by a steady term after term after term focus on 5-4 decisions,” Roberts told me. But a new study by Nathaniel Persily of Columbia Law School and Stephen Ansolabehere of Harvard suggests that the relationship between the Court’s declining approval ratings and increased perceptions of the Court’s partisanship may be more complicated than the New York Times and the Chief Justice suggest. According to the study, Americans already judge the Court according to political criteria: They generally support the Court when they think they would have ruled the same way as the justices in particular cases, or when they perceive the Court overall to be ruling in ways that correlate with their partisan views. If this finding is correct, the most straightforward way for the Court to maintain its high approval ratings is to hand down decisions that majorities of the public agree with. And, like its predecessors, the Roberts Court has, in fact, managed to mirror the views of national majorities more often than not. In a 2009 survey, Persily and Ansolabehere found that the public strongly supported many of the Supreme Court’s recent high-profile decisions, including conservative rulings recognizing gun rights and upholding bans on partial birth abortions, as well as liberal rulings upholding the regulation of global warming and striking down a Texas law banning sex between gay men. But if the public agrees with most of the Court's decisions, why is it more unpopular than ever? Part of the answer has to do with the fact that there are a handful of high profile decisions on which the Court is out of step with public opinion, including the Kelo decision allowing a local government to seize a house under eminent domain and the Boumediene case extending habeas corpus to accused enemy combatants abroad, and recent First Amendment decisions protecting unpopular speakers, such as funeral protesters, manufacturers of violent video games, and corporations (in the Citizens United case.) All of these decisions were unpopular with strong majorities of the public. But Persily and Ansolabehere also found that even decisions that closely divide the public **can lead to a decrease in the Court’s approval rating over time**, by increasing the perception among half the public that the Court is out of step with its partisan preferences. Bush v. Gore is perhaps the clearest example. In the short term, the Court’s overall approval ratings didn’t suffer: Republicans liked the decision, while Democrats didn’t, and the two effects canceled each other out. But Persily and his colleagues found that ten years later, Bush v. Gore continues to define the Court for many citizens, destroying confidence in the Court among Democrats while reinvigorating it among Republicans. Since an important component of the Court’s overall approval rating is whether Americans perceive themselves to be in partisan agreement with the Court as an institution, Bush v. Gore has led to a statistically significant decline in approval among Democrats as a whole.

#### Legitimacy resilient – single decisions don’t matter

Grosskopf 98 (Anke and Jeffrey Mondak, Professor of Political Science – University of Pittsburgh and Florida State University, “Do Attitudes Toward Specific Supreme Court Decisions Matter? The Impact of Webster and Texas v. Johnson on Public Confidence in the Supreme Court”, Political Research Quarterly, 51(3), September)

Opinion about the Supreme Court may influence opinion about the Court’s decisions, but is the opposite true? Viewed from the perspective of the Court’s justices, it would be preferable if public reaction to rulings did not shape subsequent levels of support for the Court. If opinion about the Court were fully determined by early political socialization and deeply rooted attachments to democratic values, then justices would be free to intervene in controversial policy questions without risk that doing so would expend political capital. Consistent with this perspective, a long tradition of scholarship argues that the Supreme Court is esteemed partly because it commands a bedrock of public support or a reservoir of goodwill, which helps it to remain legitimate despite occasional critical reaction to unpopular rulings (Murphy and Tanenhaus 1958; Easton 1965, 1975; Caldeira 1986; Caldiera and Gibson 1992). The sources of this diffuse support are usually seen as rather stable and immune from short-term influences, implying that evaluations of specific decisions are of little or no broad importance. For instance, Caldeira and Gibson (1992) find that basic democratic values, not reactions to decisions, act as the strongest determinants of institutional support.

#### Offshore drilling has massive support with the public

**Dixon**, 3/19/**2012** (Darius – energy reporter at Politico, Poll: Support rises for offshore drilling, Politico, p. http://www.politico.com/news/stories/0312/74185.html)

Interest in alternative energy sources like wind and solar over has waned among Americans the last year, while support for offshore oil and gas drilling has climbed back up to pre-BP oil spill levels, according to a poll released Monday. Fifty-two percent of those surveyed by the Pew Research Center support alternative energy, down 11 percent compared with March 2011. However, interest in developing oil, coal and natural gas resources rose by 10 percent, while the remainder to those who said they supported both or didn’t know. Support for offshore oil and gas drilling in U.S. waters has also recovered to its levels prior to the 2010 BP oil spill in the Gulf of Mexico. Nearly two-thirds of those surveyed now favor allowing increased offshore drilling, up from 57 percent a year ago and 44 percent in June 2010, during the spill. The partisan divide on renewable energy versus oil, coal and natural gas development has also become more pronounced over the last year. Eighty-nine percent of Republicans favor allowing more offshore oil and gas drilling while only half of Democrats agree, according the survey. However, a 64 percent of independents support increased drilling off the U.S. coast

### Politics – Obama Good (Court) – 2AC

#### Case outweighs –

#### Won’t pass- grassroots and thumpers

Gonzalez 3/7

[Daniel, USA Today, Foes of immigration 'amnesty' mobilizing, 3/7/13, http://www.usatoday.com/story/news/nation/2013/03/07/foes-of-immigration-amnesty-mobilizing/1972487/]

As lawmakers get closer to introducing a comprehensive immigration-reform bill, opponents are gearing up to flood Congress with calls condemning any legislation that allows illegal immigrants to gain legal status or citizenship. The same tactic helped defeat immigration reform the last time lawmakers considered passing bills in 2006 and especially 2007, when a flood of angry calls shut down the switchboard in Congress. That prompted supporters to pull the plug on immigration reform in favor of beefing up border security first. Groups opposed to immigration reform say legalizing illegal immigrants is a form of "amnesty" that rewards people who broke the country's immigration laws and encourages more people to enter illegally or remain unlawfully after their visas have expired. Once legislation is introduced -- lawmakers anticipate late March or early April -- opponents plan to take advantage of the country's high unemployment rate and conservative discontent with President Barack Obama's policies to fuel a grassroots campaign against the bill that includes phone calls, emails, faxes and online petitions to lawmakers. "It's just starting to percolate," said Rusty Childress, a former Phoenix auto-dealership owner who has founded several anti-illegal immigration groups, including United for a Sovereign America, American Freedom Riders and Riders USA. Childress and others who oppose any form of legalization for undocumented immigrants acknowledge that, so far, the issue hasn't generated as much heat as it did in 2006 and 2007, even though Obama has made immigration reform a top priority this year and a bipartisan group of lawmakers is moving fast to get a bill passed as quickly as possible, perhaps this summer. "I am trying to light a fire here and get the passions burning again, and I know that, in the end, Americans will melt down the phone lines in Washington against amnesty," Childress said. "We are not there yet." They blame fatigue for sucking some of the life out of the "anti-amnesty" movement. Opponents also say there is a feeling that passage of an immigration-reform bill may now be inevitable given the renewed push by key Republicans to pass immigration reforms to attract increasingly influential Latino voters following the drubbing GOP nominee Mitt Romney received from them in November. "It is tiring. There may be a sense that people are a little worn out," said Roy Beck, executive director of NumbersUSA. The Washington, D.C., group advocates for restrictions on immigration and has organized campaigns in the past urging its members to call, fax or email lawmakers to oppose immigration reform. "And I think there is a little bit of sense right now that maybe they can't stop it, so why bother," Beck said. Diminished influence A sharp drop in illegal immigration since 2007 has slowed some of the momentum behind the "anti-amnesty" movement, Beck said. Since 2006, Border Patrol apprehensions on the southern border with Mexico have dropped 66 percent, from 1.07 million to 356,873 last year. In the Tucson Sector, which covers most of Arizona, Border Patrol apprehensions are down 69 percent since 2006, from 393,074 to 120,000. "In that sense, the conditions don't feel probably as dire or raw," Beck said. In 2006 and 2007, the last time Congress seriously considered immigration reform, illegal immigration was a major topic on talk radio and conservative hosts played a major role in fanning public opposition. Now, immigration reform has not gained as much traction on talk radio, said Michael Harrison, publisher of Talkers, a trade industry magazine, which conducts a weekly survey of the most frequently discussed issues on talk-radio stations nationwide. According to the magazine's weekly survey, immigration was the No. 1 issue on talk radio at the end of January, when a bipartisan group of eight senators, including Republicans John McCain and Jeff Flake from Arizona, announced a set of principles for crafting a reform bill. The "Gang of Eight" plan includes creating a pathway to citizenship for the nation's estimated 11 million undocumented immigrants, contingent on making sure the border has been adequately secured. But since then, immigration has been overshadowed by other issues such as the automatic spending cuts known as the sequester, gun-control legislation and rising gas prices. Last week, immigration did not even rank among the top 10 issues, according to the Talkers survey.

#### Obama has zero leverage

Feehery 3-4 (John, President – Quinn Gillespie Communications, “Tag-teaming Obama,” The Hill, 2013, http://thehill.com/opinion/columnists/john-feehery/286101-tag-teaming-obama)

Don’t tell the Tea Party, but the tag team of John Boehner and Mitch McConnell are currently mopping the floor with Barack Obama. The president convincingly won a second term in November, but since that time, the congressional Republican leadership has outfoxed, outmaneuvered and plain out-strategized him on just about every issue. On taxes, McConnell (R-Ky.) just flat-out beat Joe Biden. He preserved 98 percent of the Bush tax cuts in perpetuity, which from a policy perspective is huge. He also made sure that the payroll tax holiday came to a conclusion, thereby making sure that every American would feel the tax increase that President Obama has long been fighting for. By agreeing on a smaller tax increase, McConnell also inoculated Republicans from Obama’s demands for higher taxes later on. Hey, Mr. President, we just raised taxes, and you want to raise taxes again? That dog simply doesn’t hunt with most voters, and Obama has taken to the less politically explosive position of closing tax loopholes. Boring. On spending, the Republicans haven’t gotten everything they wanted. But they did get the rebranding opportunity that they so desperately needed. They are once again champions of spending cuts, and the American people now believe them. And thanks to Boehner’s (R-Ohio) nimble reshuffling, they were able to get rebranded as spending cutters without having to resort to defaulting on the debt or closing down the government. For those who have forgotten, Boehner agreed to a short-term debt increase — setting up the crisis to hit after the sequester went into effect and before the continuing resolution expired at the end of March. The president took the bait by warning darkly about the apocalypse that would surely result if the government cut the growth of government spending by 5 percent. My good friend Ray LaHood, the U.S. Transportation secretary, complained about long airport lines related to the already unpopular TSA, Homeland Security Secretary Janet Napolitano warned that she would have to let illegal immigrants out of jail, and Attorney General Eric Holder assured voters that America would be less safe if government spending growth were curtailed. And for their efforts, Team Obama was roundly mocked. “Saturday Night Live” did a hilarious skit over the weekend that had the president trot out the Village People to show how deep the cuts would hurt. When they are laughing at you, Mr. President, you aren’t winning. On immigration reform, the president stepped on the efforts of the Senate to come up with a comprehensive bill by leaking out his own plans just as the immigration gang was nearing an agreement. His administration looked foolish, and he got the blame for the delay. Even on guns, Republicans have outmaneuvered the president by insisting on a Senate-first strategy. The White House, not knowing how to legislate, immediately decided to launch a new outside-the-Beltway campaign presumably aimed at GOP members, when just about everybody knows that Senate Majority Leader Harry Reid (D-Nev.) was the real immovable force against more gun control. How do you campaign against your own majority leader? Good question. As a result, the White House has gotten nowhere on its two biggest non-fiscal legislative agenda items, immigration and gun control. On the fiscal issues, the Republicans have succeeded in getting 98 percent of the Bush tax cuts made permanent. On spending, they have been successful in rolling back spending to 2009 levels. And what has the president achieved in these first two months of the new year? Outside of putting new Cabinet secretaries in place — and not without some controversy — he hasn’t accomplished much. The Tea Party might not know it, but the congressional Republican leadership is doing an amazing job of outmaneuvering this president on issue after issue. They deserve a pat on the back.

#### Obama will nominate Moniz – ensures gas fights that thump the DA

Geman 2/22/13 (Ben, The Hill, "Rumored Energy pick stirs fears on the left," http://thehill.com/blogs/e2-wire/e2-wire/284331-rumored-energy-pick-stirs-fears-on-left)

President Obama’s rumored choice for Energy secretary is giving heartburn to some in the environmental movement.¶ Ernest Moniz, a physicist at the Massachusetts Institute of Technology and familiar presence in Washington, has emerged as the front-runner to replace Steven Chu as Obama’s energy chief.¶ That’s not sitting well with green advocates, who say Moniz’s support for natural gas is at odds with the risks of “fracking,” the controversial drilling process, and the need for tough steps to address climate change.¶ “Moniz is a status quo pick at a time when we can’t afford the status quo,” said Tyson Slocum, who heads the energy program at Public Citizen.¶ Sources tracking the selection process say Obama is leaning strongly toward picking Moniz, who served as undersecretary of Energy in the Clinton administration and currently directs the MIT Energy Initiative.¶ The Cabinet decision arrives at time when environmentalists are putting intense pressure on the president to confront global warming. They held a major rally last weekend in Washington, D.C., urging Obama to reject the Keystone XL pipeline and take steps to reduce carbon emissions.¶ Moniz has argued that natural gas can play a major role in curbing greenhouse gas emissions and serve as a “bridge” to a low-carbon future, riling activists who believe that fracking creates risks to water supplies and other harms.¶ A major 2011 study the MIT energy program released said that environmental risks of developing gas from shale formations, which is achieved through fracking, are “challenging but manageable.”¶ Bill Snape, the senior counsel with the Center for Biological Diversity, said he’s concerned that Moniz’s support for natural gas could bring a shift in focus away from the development of renewable electricity and smart-grid technologies.¶ “The concern I have with him is, he has the veneer of this MIT PhD scientist, that somehow he is going to be objective, and in reality he could very well be a political hack for the natural gas industry,” Snape said.¶ The group Food & Water Watch has launched a petition urging Obama not to nominate Moniz.¶ “Moniz is a proponent of using natural gas as a ‘bridge fuel’ to renewable energy. But in reality, fracking for natural gas only prolongs our dependence on fossil fuels, while contributing to global climate change and polluting our scarce fresh water resources,” the group said.¶ The tensions over Moniz’s possible nomination reflect a broader conflict over natural gas and its impact on climate change.

#### Budget debate and nominations thump

MSNBC 3-4 (Obama Agenda: No Leverage?, Lexis)

It wasn’t supposed to be like this for the White House and a re-elected president with political capital to spend, Roll Call writes. But President Barack Obama is in a position of supplication to Hill Republicans, talking loudly and often about the harm of automatic budget cuts but lacking the leverage to get the GOP to buckle. The Hill: The first months of President Obama’s second term are being built around a simple premise: No caving. From the sequester to immigration reform to the broader debate about the role of government in American life, Obama is in an ultra-assertive mood, practically daring Republicans to defy his wishes. President Barack Obama has tapped Wal-Mart’s Sylvia Mathews Burwell as his next budget chief, thrusting her into the center of Washington’s heated partisan budget battles and is filling vacancies at the Energy Department and Environmental Protection Agency, an official says the AP writes. A White House official said Obama will announce Burwell’s nomination to lead the Office of Management and Budget during a White House ceremony Monday morning, a White House official said.

#### Courts shield

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

Political leaders in such a situation will have reason to support or, at minimum, tolerate the active exercise of judicial review. In the American context, the presidency is a particularly useful site for locating such behavior. The Constitution gives the president a powerful role in selecting and speaking to federal judges. As national party leaders, presidents and presidential candidates are both conscious of the fragmented nature of American political parties and sensitive to policy goals that will not be shared by all of the president’s putative partisan allies in Congress. We would expect political support for judicial review to make itself apparent in any of four fields of activity: (1) in the selection of “activist” judges, (2) in the encouragement of specific judicial action consistent with the political needs of coalition leaders, (3) in the congenial reception of judicial action after it has been taken, and (4) in the public expression of generalized support for judicial supremacy in the articulation of constitutional commitments. Although it might sometimes be the case that judges and elected officials act in more-or-less explicit concert to shift the politically appropriate decisions into the judicial arena for resolution, it is also the case that judges might act independently of elected officials but nonetheless in ways that elected officials find congenial to their own interests and are willing and able to accommodate. Although Attorney General Richard Olney and perhaps President Grover Cleveland thought the 1894 federal income tax was politically unwise and socially unjust, they did not necessarily therefore think judicial intervention was appropriate in the case considered in more detail later (Eggert 1974, 101– 14). If a majority of the justices and Cleveland-allies in and around the administration had more serious doubts about the constitutionality of the tax, however, the White House would hardly feel aggrieved. We should be equally interested in how judges might exploit the political space open to them to render controversial decisions and in how elected officials might anticipate the utility of future acts of judicial review to their own interests.

[CONTINUES]

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

#### Plan’s announced in June

Ward 10 (Jake, “Bilski Decision Tomorrow (Thursday, June 17th)? Maybe?”, Anticipate This! (Patent and Trademark Law Blog), 6-17, http://anticipatethis.wordpress.com/2010/06/16/bilski-decision-tomorrow-thursday-june-17th-maybe/)

In mid-May until the end of June, the Supreme Court of the United States (SCOTUS) releases orders and opinions.  SCOTUS has yet to issue a number of decisions this term, however, and it is rapidly moving toward summer recess.  Most notable from a patent law perspective is that the decision in [Bilski v. Kappos](http://anticipatethis.wordpress.com/?s=bilski), which was argued in November 2009, has yet to be decided.

## 1AR

### Impact

#### Life has intrinsic value that is unattached to instrumental capacity

Penner 5 (Melinda, Director of Operations – STR, “End of Life Ethics: A Primer”, Stand to Reason, http://www.str.org/site/News2?page=NewsArticle&id=5223)

Intrinsic value is very different. Things with intrinsic value are valued for their own sake. They don’t have to achieve any other goal to be valuable. They are goods in themselves. Beauty, pleasure, and virtue are likely examples. Family and friendship are examples. Something that’s intrinsically valuable might also be instrumentally valuable, but **even if it loses its instrumental value**, its intrinsic value remains. Intrinsic value is what people mean when they use the phrase "the sanctity of life." Now when someone argues that someone doesn’t have "quality of life" they are arguing that life is only valuable as long as it obtains something else with quality, and when it can’t accomplish this, it’s not worth anything anymore. It's only instrumentally valuable. The problem with this view is that it is entirely subjective and changeable with regards to what might give value to life. Value becomes a completely personal matter, and, as we all know, our personal interests change over time. There is no grounding for objective human value and human rights if it’s not intrinsic value. Our legal system is built on the notion that humans have intrinsic value. The Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that each person is endowed by his Creator with certain unalienable rights...." If human beings only have instrumental value, then slavery can be justified because there is nothing objectively valuable that requires our respect. There is nothing other than intrinsic value that can ground the unalienable equal rights we recognize because there is nothing about all human beings that is universal and equal. Intrinsic human value is what binds our social contract of rights. So if human life is intrinsically valuable, then it remains valuable even when our capacities are limited. Human life is valuable even with tremendous limitations. Human life remains valuable because its value is not derived from being able to talk, or walk, or feed yourself, or even reason at a certain level. Human beings don’t have value only in virtue of states of being (e.g., happiness) they can experience.

#### Value to life can’t be calculated

Schwartz 2 (Lisa, M.D., Associate Professor of Medicine – Dartmouth College Medical School, et al., Medical Ethics: A Case Based Approach, www.fleshandbones.com/readingroom/pdf/399.pdf)

The first criterion that springs to mind regarding the value of life is usually the quality of the life or lives in question: The quality of life ethic puts the emphasis on the type of life being lived, not upon the fact of life. Lives are not all of one kind; some lives are of great value to the person himself and to others while others are not. What the life means to someone is what is important. Keeping this in mind it is not inappropriate to say that some lives are of greater value than others, that the condition or meaning of life does have much to do with the justification for terminating that life.1 Those who choose to reason on this basis hope that if the quality of a life can be measured then the answer to whether that life has value to the individual can be determined easily. This raises special problems, however, because the idea of quality involves a value judgment, and value judgments are, by their essence, subject to indeterminate relative factors such as preferences and dislikes. Hence, quality of life is difficult to measure and will vary according to individual tastes, preferences and aspirations. As a result, no general rules or principles can be asserted that would simplify decisions about the value of a life based on its quality.

### Framework

#### Ontology must be secondary to the prior question of political practice

Jarvis 00 (Darryl, Senior Lecturer in International Relations – University of Sydney, International Relations and the Challenge of Postmodernism, p. 128-9)

More is the pity that such irrational and obviously abstruse debate should so occupy us at a time of great global turmoil. That it does and continues to do so reflect our lack of judicious criteria for evaluating theory and, more importantly, the lack of attachment theorists have to the real world. Certainly it is right and proper that we ponder the depths of our theoretical imaginations, engage in epistemological and ontological debate, and analyze the sociology of our knowledge. But to support that this is the only task of international theory, let alone the most important one, **smacks of intellectual elitism** and **displays** a certain **contempt** for those who search for guidance in their daily struggle as actors in international politics. What does Ashley’s project, his deconstructive efforts, or valiant fight against positivism say to the truly marginalized, oppressed, and destitute? How does it help solve the plight of the poor, the displaced refugees, the casualties of war, or the émigrés of death squads? Does it in any way speak to those whose actions and thoughts comprise the policy and practice of international relations? On all these questions one must answer **no**. This is not to say, of course, that all theory should be judged by its technical rationality and problem-solving capacity as Ashley forcefully argues. But to support that problem-solving technical theory is not necessary—or in some way bad—is a **contemptuous position** that abrogates any hope of solving some of the **nightmarish realities that millions confront daily**. As Holsti argues, we need ask of these theorists and their theories the ultimate question, **“So what?”** To what purpose do they deconstruct, problematize, destabilize, undermine, ridicule, and belittle modernist and rationalist approaches? Does this get us any further, make the world any better, or enhance the human condition? In what sense can this “debate toward [a] bottomless pit of epistemology and metaphysics” be judged pertinent, relevant, helpful, or cogent to anyone other than those foolish enough to be scholastically excited by abstract and recondite debate. Contrary to Ashley’s assertions, then, a poststructural approach fails to empower the marginalized and, in fact, abandons them. Rather than analyze the political economy of power, wealth, oppression, production, or international relations and render and intelligible understanding of these processes, Ashley succeeds in ostracizing those he portends to represent by delivering an obscure and highly convoluted discourse. If Ashley wishes to chastise structural realism for its abstractness and detachment, he must be prepared also to face similar criticism, especially when he so adamantly intends his work to address the real life plight of those who struggle at marginal places.

### Alt

#### Alternative fails – critical theory has no mechanism to translate theory into practice

**Jones 99** (Richard Wyn, Lecturer in the Department of International Politics – University of Wales, Security, Strategy, and Critical Theory, CIAO, http://www.ciaonet.org/book/wynjones/wynjones06.html)

Because emancipatory political practice is central to the claims of critical theory, one might expect that proponents of a critical approach to the study of international relations would be reflexive about the relationship between theory and practice. Yet their thinking on this issue thus far does not seem to have progressed much beyond **grandiose statements of intent**. There have been no systematic considerations of how critical international theory can help generate, support, or sustain emancipatory politics beyond the seminar room or conference hotel. Robert Cox, for example, has described the task of critical theorists as providing “a guide to strategic action for bringing about an alternative order” (R. Cox 1981: 130). Although he has also gone on to identify possible agents for change and has outlined the nature and structure of some feasible alternative orders, he has not explicitly indicated whom he regards as the addressee of critical theory (i.e., who is being guided) and thus how the theory can hope to become a part of the political process (see R. Cox 1981, 1983, 1996). Similarly, Andrew Linklater has argued that “a critical theory of international relations must regard the practical project of extending community beyond the nation–state as its most important problem” (Linklater 1990b: 171). However, he has little to say about the role of theory in the realization of this “practical project.” Indeed, his main point is to suggest that the role of critical theory “is not to offer instructions on how to act but to reveal the existence of unrealised possibilities” (Linklater 1990b: 172). But the question still remains, reveal to whom? Is the audience enlightened politicians? Particular social classes? Particular social movements? Or particular (and presumably particularized) communities? In light of Linklater’s primary concern with emancipation, one might expect more guidance as to whom he believes might do the emancipating and how critical theory can impinge upon the emancipatory process. There is, likewise, little enlightenment to be gleaned from Mark Hoffman’s otherwise important contribution. He argues that critical international theory seeks not simply to reproduce society via description, but to understand society and change it. It is both descriptive and constructive in its theoretical intent: it is both an intellectual and a social act. It is not merely an expression of the concrete realities of the historical situation, but also a force for change within those conditions. (M. Hoffman 1987: 233) Despite this very ambitious declaration, once again, Hoffman gives no suggestion as to how this “force for change” should be operationalized and what concrete role critical theorizing might play in changing society. Thus, although the critical international theorists’ critique of the role that more conventional approaches to the study of world politics play in reproducing the contemporary world order may be persuasive, their account of the relationship between their own work and emancipatory political practice is unconvincing. Given the centrality of practice to the claims of critical theory, this is a very significant weakness. Without some plausible account of the **mechanisms** by which they hope to aid in the achievement of their emancipatory goals, proponents of critical international theory are hardly in a position to justify the assertion that “it represents the next stage in the development of International Relations theory” (M. Hoffman 1987: 244). Indeed, without a more convincing conceptualization of the theory–practice nexus, one can argue that critical international theory, by its own terms, has no way of redeeming some of its central epistemological and methodological claims and thus that it is a **fatally flawed** enterprise.

### Court Politics – General – Monsato Thumper

#### Monsanto court case requires capital and thumps the DA

Gillam 13 (Carey – Reuters, “U.S. agriculture wary as Monsanto heads to Supreme Court”, 2/15, http://www.reuters.com/article/2013/02/15/us-monsanto-seeds-idUSBRE91E06Q20130215)

(Reuters) - A 75-year-old Indiana grain farmer will take on global seed giant Monsanto Co at the U.S. Supreme Court next week in a patent battle that could have ramifications for the biotechnology industry and possibly the future of food production. The highest court in the United States will hear arguments on Tuesday in the dispute, which started when soybean farmer Vernon Bowman bought and planted a mix of unmarked grain typically used for animal feed. The plants that grew turned out to contain the popular herbicide-resistant genetic trait known as Roundup Ready that Monsanto guards closely with patents. The St. Louis, Mo.-based biotech giant accused Bowman of infringing its patents by growing plants that contained its genetics. But Bowman, who grows wheat and corn along with soybeans on about 300 acres inherited from his father, argued that he used second-generation grain and not the original seeds covered by Monsanto's patents. A central issue for the court is the extent that a patent holder, or the developer of a genetically modified seed, can control its use through multiple generations of seed. The Supreme Court's decision to hear the dispute has sparked broad concerns in the biotech industry as a range of companies fear it will result in limits placed on their own patents of self-replicating technologies. At the same time, many farmer groups and biotech crop critics hope the Supreme Court might curb what they say is a patent system that gives too much power to biotech seed companies like Monsanto. "I think the case has enormous implications," said Dermot Hayes, an Iowa State University agribusiness and economics professor who believes Monsanto should prevail. "If Monsanto were to lose, many companies would have a reduced incentive for research in an area where we really need it right now. The world needs more food." The court battle has ballooned into a show-down that **merges** contentious matters **of patent law with an ongoing national debate** about the merits and pitfalls of genetically altered crops and efforts to increase food production. **More than 50 organizations** - from environmental groups to intellectual property experts - as well as the U.S. government, have filed legal briefs hoping to sway the high court. Companies developing patented cell lines and tools of molecular biotechnology could lose their ability to capture the ongoing value of these technologies if the Supreme Court sides with Bowman, said Hans Sauer, deputy general counsel for the Biotechnology Industry Organization. The case also is important to regenerative medicine that relies on stem cell technologies. A stem cell by definition is a cell that can self-replicate, thus the case may answer the question of whether a patentee can control progeny of a patented stem cell, according to Antoinette Konski, a partner with Foley & Lardner's intellectual property practice group. Monsanto, a $13 billion behemoth in agricultural seed and chemical sales, also sees the case as much bigger than itself. "This case really centers on the question of twenty-first century technology such as what we bring in agriculture and other companies bring for say stem cell research or nanotechnology.... and how they're going to be handled under principles of intellectual property law," said Monsanto general counsel Dave Snively.

### Politics – OCS Popular LT – 2AC

#### Plan gets spun as jobs- shields blame

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[Elahe is a writer for the National Journal. “Former Sen. Trent Lott, Ex-Rep. Jim Davis Bemoan Partisanship on Energy Issues,” 8/29/12, <http://www.nationaljournal.com/2012-election/former-members-bemoan-partisanship-on-energy-issues-20120829>]

In a climate where everything from transportation issues to the farm bill have gotten caught in political gridlock, it will take serious willingness to compromise to get formerly bipartisan energy issues moving from the current partisan standstill. “If we get the right political leadership and the willingness to put everything on the table, I don’t think this has to be a partisan issue,” former Rep. Jim Davis, D-Fla., said during a Republican National Convention event on Wednesday in Tampa hosted by National Journal and the American Petroleum Institute. Former Senate Republican Leader Trent Lott of Mississippi said that “Republicans who want to produce more of everything have to also be willing to give a little on the conservation side.” The event focused on the future of energy issues and how they are playing out in the presidential and congressional races. Four years ago, the major presidential candidates both agreed that climate change needed to be addressed. However, since then, the science behind global warming has come into question by more and more Republicans. But casting energy as a defense or jobs issue, in the current political climate, will allow debates between lawmakers to gain some steam, Lott and Davis agreed. The export of coal and natural gas, hydraulic fracturing, and how tax reform will affect the energy industries are all issues that will have to be dealt with by the next president and Congress. “The job of the next president is critical on energy and many of these issues, and the job is very simple: adult supervision of the Congress,” Davis said.

### Politics

#### Obama losing immigration still results in high-skill reform

Matthew Yglesias, Slate, 1/15/13, How the GOP Can Roll Obama on Immigration, www.slate.com/blogs/moneybox/2013/01/15/immigration\_reform\_will\_obama\_get\_rolled.html

Of the major policy issues under discussion in Washington, "immigration reform" stands out for having unusually undefined content. For the major immigration-advocacy groups, the goal is clear, a comprehensive bill that includes a path to citizenship for the overwhelming majority of unauthorized migrants already living in the United States. But many other aspects of immigration law are in the mix as part of a proposed deal, and it seems to me that there's a fair chance that a nimble Republican Party could essentially roll the Democratic coalition and pass an "immigration reform" bill that doesn't offer the path Latino advocacy groups are looking for.

Elise Foley has the key line from her briefing on the administration's thinking about immigration, namely that a piecemeal approach "could result in passage of the less politically complicated pieces, such as an enforcement mechanism and high-skilled worker visas, while leaving out more contentious items such as a pathway to citizenship for undocumented immigrants."

And indeed it could. But how can they stop it? The last House GOP effort to split the high-tech visas question from the path to citizenship question was an absurd partisan ploy. If Republicans want to get serious about it they should be able to make it work. The centerpiece would be something on increased immigration of skilled workers. That's something the tech industry wants very much, it's a great idea on the merits, and few influential people have any real beef with it. High tech visas will easily generate revenue to pay for some stepped-up enforcement. Then instead of adding on a poison pill so Democrats will block the bill, you need to add a sweetener. Not the broad path to citizenship, but something small like the DREAM Act. Now you've got a package that falls massively short of what Latino groups are looking for, but that I think Democrats will have a hard time actually blocking. After all, why would they block it? It packages three things—more skilled immigration, more enforcement, and help for DREAMers—they say they want. Blocking it because it doesn't also do the broad amnesty that liberals want and conservatives hate would require the kind of fanaticism that is the exact opposite of Obama's approach to politics

#### Democracy doesn’t solve war --- it’s multilateral institutions and historical patterns

Schwartz and Skinner '01Thomas and Kiron K (Research Fellow at the Hoover Institution at Stanford University, associate professor of history and political science at Carnegie Mellon University); December 22, 2001; “The Myth of Democratic Peace”; JAI Press; ORBIS

Here we show that neither the historical record nor the theoretical arguments advanced for the purpose provide any support for democratic pacifism. It does not matter how high or low one sets the bar of democracy. Set it high enough to avoid major exceptions and you find few, if any, democracies until the Cold War era. Then there were no wars between them, of course. But that fact is better explained by NATO and bipolarity than by any shared form of government. Worse, the peace among the high-bar democracies of that era was part of a larger pacific pattern: peace among all nations of the First and Second Worlds. As for theoretical arguments, those we have seen rest on implausible premises. Why, then, is the belief that democracies are mutually pacific so widespread and fervent? The explanation rests on an old American tendency to slip and slide unawares between two uses of the word "democracy": as an objective description of regimes, and as a term of praise--a label to distinguish friend from foe. Because a democracy (term of praise) can do no wrong--or so the thinking seems to run--at least one side in any war cannot be a democracy (regime description). There lies the source of much potential mischief in foreign policy. The Historical Problem Democratic pacifism combines an empirical generalization with a causal attribution: democracies do not fight each other, and that is because they are democracies. Proponents often present the former as a plain fact. Yet regimes that were comparatively democratic for their times and regions have fought each other comparatively often--bearing in mind, for the purpose of comparison, that most states do not fight most states most of the time. The wars below are either counter-examples to democratic pacifism or borderline cases. Each is listed with the year it started and those combatants that have some claim to the democratic label. American Revolutionary War, 1775 (Great Britain vs. U.S.) Wars of French Revolution (democratic period), esp. 1793, 1795 (France vs. Great Britain) Quasi War, 1798 (U.S. vs. France) War of 1812 (U.S. vs. Great Britain) Texas War of Independence, 1835 (Texas vs. Mexico) Mexican War, 1846 (U.S. vs. Mexico) Roman Republic vs. France, 1849 American Civil War, 1861 (Northern Union vs. Southern Confederacy) Ecuador-Columbia War, 1863 Franco-Prussian War, 1870 War of the Pacific, 1879 (Chile vs. Peru and Bolivia) Indian Wars, much of nineteenth century (U.S. vs. various Indian nations) Spanish-American War, 1898 Boer War, 1899 (Great Britain vs. Transvaal and Orange Free State) World War I, 1914 (Germany vs. Great Britain, France, Italy, Belgium, and U.S.) Chaco War, 1932 (Chile vs. Argentina) Ecuador-Peru, 1941 Palestine War, 1948 (Israel vs. Lebanon) Dominican Invasion, 1967 (U.S. vs. Dominican Republic) Cyprus Invasion, 1974 (Turkey vs. Cyprus) Ecuador-Peru, 1981 Nagorno-Karabakh, 1989 (Armenia vs. Azerbaijan) Yugoslav Wars, 1991 (Serbia and Bosnian-Serb Republic vs. Croatia and Bosnia; sometimes Croatia vs. Bosnia) Georgia-Ossetia, 1991 (Georgia vs. South Ossetia) Georgia-Abkhazia, 1992 (Georgia vs. Abkhazia and allegedly Russia) Moldova-Dnestr Republic, 1992 (Moldova vs. Dnestr Republic and allegedly Russia) Chechen War of Independence, 1994 (Russia vs. Chechnya) Ecuador-Peru, 1995 NATO-Yugoslavia, 1999 India-Pakistan, 1999

#### Previous budget battles have ALREADY cost PC – new fights are even worse

Examiner 3-2 (Budget cuts battle leaves President Obama bruised heading into coming clashes, <http://washingtonexaminer.com/budget-cuts-battle-leaves-president-obama-bruised-heading-into-coming-clashes/article/2523024>)

President Obama has risked weakening his hand in future fiscal battles with Republicans as the across-the-board budget cuts arrived without triggering the cataclysm his administration spent weeks forecasting, experts said. Virtually no Americans felt immediate changes in their lives after Obama and congressional leaders failed to reach a pact to avoid the start of $85 billion in cuts beginning March 1. Although he walked back his characterization of the cuts, saying, "This is not going to be an apocalypse," Obama had already devoted ample political capital to selling a doomsday scenario. Conservatives ultimately called Obama's bluff, and now the start of the president's second term looks a lot like the end of his first -- gridlocked. "He's certainly come down from his post-election high," said Charles Walcott, a Virginia Tech political scientist who focuses on the presidency. "This amounts to a setback and weakens him going forward. He misread his ability to pry higher taxes from Republicans." Obama assumed the prospect of deep cuts, particularly to the Pentagon, would force Republicans to give in to his demands for more taxes, even after securing a rate increase for the wealthiest Americans earlier this year. He was wrong -- and Obama has already signaled that he's opposed to using the next fiscal conflict to get his way on closing tax loopholes for corporate jet owners and oil companies. Obama and lawmakers face a March 27 deadline to reach a deal to keep the federal government funded. The White House says Obama would not veto a continuing resolution for the budget because of sequester demands, meaning the cuts could be here to stay, at least in the short term. According to House Speaker John Boehner's office, Obama and congressional leaders agreed legislation should be enacted to prevent a government shutdown separately from the fight over the $85 billion in cuts. Then the president faces another game of chicken with Republicans over raising the nation's debt ceiling. With the across-the-board cuts having already gone into effect, some conservatives say they have little motivation to turn them off during talks to increase the nation's borrowing capacity. And in light of his inability to restructure the indiscriminate cuts, Obama is now forced to re-evaluate his public pitch and plan for converting Republicans dead set against any tax increases. "It's going to have a drag effect," Republican pollster Glen Bolger said of the fallout from Obama's public campaign against the spending cuts. "He was nothing more than a spectator during the whole process. The public dissatisfaction will be like a snowball rolling [downhill] -- it's just going to get bigger and bigger." But Democrats counter that the most recent episode of Washington dysfunction demonstrates just how unwilling Republicans are to compromise, and will cement Obama's claim that his political opponents are obstructionists. "Republicans don't seem to know or care that they are in deep trouble with the public, that this only reinforces their strong negatives," said Democratic pollster Mark Mellman. "But I'll admit, it's hard for Obama to be in a strong position with people oblivious to everything going on around them."