# 1NC

### OFF 1

#### The affirmative rests upon a colonial history that makes war and violence inevitable. We propose a *competitive counterfactual* where the United States never was. This should be your first priority

Churchill 96 – Former Professor of Ethnic Studies at University of Colorado

Ward Churchill, 1996, Boulder, BA and MA in Communications from Sangamon State, From A Native Son pgs 520 – 530

I’ll debunk some of this nonsense in a moment, but first I want to take up the posture of self-proclaimed leftist radicals in the same connection. And I’ll do so on the basis of principle, because justice is supposed to matter more to progressives than to rightwing hacks. Let me say that the pervasive and near-total silence of the Left in this connection has been quite illuminating. Non-Indian activists, with only a handful of exceptions, persistently plead that they can’t really take a coherent position on the matter of Indian land rights because “unfortunately,” they’re “not really conversant with the issues” (as if these were tremendously complex). Meanwhile, they do virtually nothing, generation after generation, to inform themselves on the topic of who actually owns the ground they’re standing on. The record can be played only so many times before it wears out and becomes just another variation of “hear no evil, see no evil.” At this point, it doesn’t take Albert Einstein to figure out that the Left doesn’t know much about such things because it’s never wanted to know, or that this is so because it’s always had its own plans for utilizing land it has no more right to than does the status quo it claims to oppose. The usual technique for explaining this away has always been a sort of pro forma acknowledgement that Indian land rights are of course “really important stuff” (yawn), but that one” really doesn’t have a lot of time to get into it (I’ll buy your book, though, and keep it on my shelf, even if I never read it). Reason? Well, one is just “overwhelmingly preoccupied” with working on “other important issues” (meaning, what they consider to be more important issues). Typically enumerated are sexism, racism, homophobia, class inequities, militarism, the environment, or some combination of these. It’s a pretty good evasion, all in all./ Certainly, there’s no denying any of these issues their due; they are all important, obviously so. But more important than the question of land rights? There are some serious problems of primacy and priority imbedded in the orthodox script. To frame things clearly in this regard, lets hypothesize for a moment that all of the various non-Indian movements concentrating on each of these issues were suddenly successful in accomplishing their objectives. Lets imagine that the United States as a whole were somehow transformed into an entity defined by the parity of its race, class, and gender relations, its embrace of unrestricted sexual preference, its rejection of militarism in all forms, and its abiding concern with environmental protection (I know, I know, this is a sheer impossibility, but that’s my point). When all is said and done, the society resulting from this scenario is still, first and foremost, a colonialist society, an imperialist society in the most fundamental sense possible with all that this implies. This is true because the scenario does nothing at all to address the fact that whatever is happening happens on someone else’s land, not only without their consent, but through an adamant disregard for their rights to the land. Hence, all it means is that the immigrant or invading population has rearranged its affairs in such a way as to make itself more comfortable at the continuing expense of indigenous people. The colonial equation remains intact and may even be reinforced by a greater degree of participation, and vested interest in maintenance of the colonial order among the settler population at large. The dynamic here is not very different from that evident in the American Revolution of the late 18th century, is it? And we all know very well where that led, don’t we? Should we therefore begin to refer to socialist imperialism, feminist imperialism, gay and lesbian imperialism, environmental imperialism, African American, and la Raza imperialism? I would hope not. I would hope this is all just a matter of confusion, of muddled priorities among people who really do mean well and who’d like to do better. If so, then all that is necessary to correct the situation is a basic rethinking of what must be done., and in what order. Here, I’d advance the straightforward premise that the land rights of “First Americans” should serve as a first priority for everyone seriously committed to accomplishing positive change in North America. But before I suggest everyone jump off and adopt this priority, I suppose it’s only fair that I interrogate the converse of the proposition: if making things like class inequity and sexism the preeminent focus of progressive action in North America inevitably perpetuates the internal colonial structure of the United States, does the reverse hold true? I’ll state unequivocally that it does not. There is no indication whatsoever that a restoration of indigenous sovereignty in Indian Country would foster class stratification anywhere, least of all in In/dian Country. In fact, all indications are that when left to their own devices, indigenous peoples have consistently organized their societies in the most class-free manners. Look to the example of the Haudenosaunee (Six Nations Iroquois Confederacy). Look to the Muscogee (Creek) Confederacy. Look to the confederations of the Yaqui and the Lakota, and those pursued and nearly perfected by Pontiac and Tecumseh. They represent the very essence of enlightened egalitarianism and democracy. Every imagined example to the contrary brought forth by even the most arcane anthropologist can be readily offset by a couple of dozen other illustrations along the lines of those I just mentioned. Would sexism be perpetuated? Ask one of the Haudenosaunee clan mothers, who continue to assert political leadership in their societies through the present day. Ask Wilma Mankiller, current head of the Cherokee nation , a people that traditionally led by what were called “Beloved Women.” Ask a Lakota woman—or man, for that matter—about who it was that owned all real property in traditional society, and what that meant in terms of parity in gender relations. Ask a traditional Navajo grandmother about her social and political role among her people. Women in most traditional native societies not only enjoyed political, social, and economic parity with men, they often held a preponderance of power in one or more of these spheres. Homophobia? Homosexuals of both genders were (and in many settings still are) deeply revered as special or extraordinary, and therefore spiritually significant, within most indigenous North American cultures. The extent to which these realities do not now pertain in native societies is exactly the extent to which Indians have been subordinated to the mores of the invading, dominating culture. Insofar as restoration of Indian land rights is tied directly to the reconstitution of traditional indigenous social, political, and economic modes, you can see where this leads: the relations of sex and sexuality accord rather well with the aspirations of feminist and gay rights activism. How about a restoration of native land rights precipitating some sort of “environmental holocaust”? Let’s get at least a little bit real here. If you’re not addicted to the fabrications of Smithsonian anthropologists about how Indians lived, or George Weurthner’s Eurosupremacist Earth First! Fantasies about how we beat all the wooly mammoths and mastodons and saber-toothed cats to death with sticks, then this question isn’t even on the board. I know it’s become fashionable among Washington Post editorialists to make snide references to native people “strewing refuse in their wake” as they “wandered nomadically about the “prehistoric” North American landscape. What is that supposed to imply? That we, who were mostly “sedentary agriculturalists” in any event. Were dropping plastic and aluminum cans as we went? Like I said, lets get real. Read the accounts of early European arrival, despite the fact that it had been occupied by 15 or 20 million people enjoying a remarkably high standard of living for nobody knows how long: 40,000 years? 50,000 years? Longer? Now contrast that reality to what’s been done to this continent over the past couple of hundred years by the culture Weurthner, the Smithsonian, and the Post represent, and you tell me about environmental devastation. That leaves militarism and racism. Taking the last first, there really is no indication of racism in traditional Indian societies. To the contrary, the record reveals that Indians habitually intermarried between groups, and frequently adopted both children and adults from other groups. This occurred in precontact times between Indians, and the practice was broadened to include those of both African and European origin—and ultimately Asian origin as well—once contact occurred. Those who were naturalized by marriage or adoption were considered members of the group, pure and simple. This was always the Indian view. The Europeans and subsequent Euroamerican settlers viewed things rather differently, however, and foisted off the notion that Indian identity should be determined primarily by “blood quantum,” an outright eugenics code similar to those developed in places like Nazi Germany and apartheid South Africa. Now that’s a racist construction if there ever was one. Unfortunately, a lot of Indians have been conned into buying into this anti-Indian absurdity, and that’s something to be overcome. But there’s also solid indication that quite a number of native people continue to strongly resist such things as the quantum system. As to militarism, no one will deny that Indians fought wars among themselves both before and after the European invasion began. Probably half of all indigenous peoples in North America maintained permanent warrior societies. This could perhaps be reasonably construed as “militarism,” but not, I think, with the sense the term conveys within the European/Euro-American tradition. There were never, so far as anyone can demonstrate, wars of annihilation fought in this hemisphere prior to the Columbian arrival, none. In fact, it seems that it was a more or less firm principle of indigenous warfare not to kill, the object being to demonstrate personal bravery, something that could be done only against a live opponent. There’s no honor to be had in killing another person, because a dead person can’t hurt you. There’s no risk. This is not to say that nobody ever died or was seriously injured in the fighting. They were, just as they are in full contact contemporary sports like football and boxing. Actually, these kinds of Euro-American games are what I would take to be the closest modern parallels to traditional inter-Indian warfare. For Indians, it was a way of burning excess testosterone out of young males, and not much more. So, militarism in the way the term is used today is as alien to native tradition as smallpox and atomic bombs. Not only is it perfectly reasonable to assert that a restoration of Indian control over unceded lands within the United States would do nothing to perpetuate such problems as sexism and classism, but the reconstitution of indigenous societies this would entail stands to free the affected portions of North America from such maladies altogether. Moreover, it can be said that the process should have a tangible impact in terms of diminishing such oppressions elsewhere. The principles is this: sexism, racism, and all the rest arose here as a concomitant to the emergence and consolidation of the Eurocentric nation-state form of sociopolitical and economic organization. Everything the state does, everything it can do, is entirely contingent on its maintaining its internal cohesion, a cohesion signified above all by its pretended territorial integrity, its ongoing domination of Indian Country. Given this, it seems obvious that the literal dismemberment of the nation-state inherent to Indian land recovery correspondingly reduces the ability of the state to sustain the imposition of objectionable relations within itself. It follows that realization of indigenous land rights serves to undermine or destroy the ability of the status quo to continue imposing a racist, sexist, classist, homophobic, militaristic order on non-Indians.

## \*\*\*Off

### T—Restrictions

#### A. Topical restrictions are prohibitions on *place* and *amount*.

#### Energy production is distinct from the conversion process.

**Sagar, Hongyan, Ananth, 2005**

Ambuj Sagar, PhD materials science, Oliver Hongyan, PhD engineering, and Ananth, PhD physics, all 3 are research fellows, Kennedy School of Govt @ Harvard, 7 Vt. J. Envtl. L. 1

The energy sector encompasses activities relating to the production, conversion, and use of energy. Energy production includes the extraction of primary energy forms such as coal, oil, and natural gas, or growing biomass for energy uses. Energy conversion pertains to the transformation of energy into more useful forms: this includes the refining of petroleum to yield products such as gasoline and diesel; the combustion of coal in power plants to yield electricity; the production of alcohol from biomass, etc. Energy end-use encompasses the final use of energy forms in industrial, residential, commercial, transportation and other end-uses.

#### “Of” means the resolution’s energy source is the object of the production.

**Merriam-Webster’s Dictionary, 2013**

Online

of: used as a function word to indicate the object of an action denoted or implied by the preceding noun <love of nature>

#### Energy sources are not abstractions; they are real things (oil) even if some can be replenished quickly (one gust of wind, another gust of wind). Restrictions on energy production, then, must target these things directly.

**NEED, 20012**

National Energy Education Development Project, InfoBook Activities, need.org/needpdf/infobook\_activities/PriInfo/SourcesP.pdf

We use many different energy sources to do¶ work for us. Energy sources are classified into two groups—nonrenewable and renewable.¶ In the United States, most of our energy comes¶ from nonrenewable energy sources. Coal,¶ petroleum, natural gas, propane, and uranium¶ are nonrenewable energy sources. They are¶ used to make electricity, to heat our homes, to¶ move our cars, and to manufacture all kinds of¶ products.¶ These energy sources are called nonrenewable because their supplies are limited. Petroleum, for¶ example, was formed millions of years ago from¶ the remains of ancient sea plants and animals.¶ We cannot make more petroleum in a short time.¶ Renewable energy sources include biomass,¶ geothermal energy, hydropower, solar energy,¶ and wind energy. They are called renewable¶ energy sources because they are replenished in a short time. Day after day the sun shines, the wind¶ blows, and the rivers flow. We use renewable¶ energy sources mainly to make electricity.¶ Electricity is different from the other energy sources because it is a secondary source of energy. We have to use another energy source¶ to make electricity. In the United States, coal is¶ the number one energy source for generating¶ electricity.

#### B. Violation:

#### The AFF does not remove a restriction on the energy sources permitted to be produced. It removes a regulation or restriction on energy conversion.

**Anell, 1989**

Chairman, WTO panel¶ "To examine, in the light of the relevant GATT provisions, the matter referred to the¶ CONTRACTING PARTIES by the United States in document L/6445 and to make such findings as will¶ assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided¶ for in Article XXIII:2." 3. On 3 April 1989, the Council was informed that agreement had been reached on¶ the following composition of the Panel (C/164): Composition Chairman: Mr. Lars E.R. Anell Members: Mr.¶ Hugh W. Bartlett Mrs. Carmen Luz Guarda CANADA - IMPORT RESTRICTIONS ON ICE CREAM AND¶ YOGHURT Report of the Panel adopted at the Forty-fifth Session of the CONTRACTING PARTIES on 5¶ December 1989 (L/6568 - 36S/68)¶ http://www.wto.org/english/tratop\_e/dispu\_e/88icecrm.pdf

The United States argued that Canada had failed to demonstrate that it effectively restricted domestic production of milk. The differentiation between "fluid" and "industrial" milk was an artificial one for administrative purposes; with regard to GATT obligations, the product at issue was raw milk from the cow, regardless of what further use was made of it. The use of the word "permitted" in Article XI:2(c)(i) required that there be a limitation on the total quantity of milk that domestic producers were authorized or allowed to produce or sell. The provincial controls on fluid milk did not restrict the quantities permitted to be produced; rather dairy farmers could produce and market as much milk as could be sold as beverage milk or table cream. There were no penalties for delivering more than a farmer's fluid milk quota, it was only if deliveries exceeded actual fluid milk usage or sales that it counted against his industrial milk quota. At least one province did not participate in this voluntary system, and another province had considered leaving it. Furthermore, Canada did not even prohibit the production or sale of milk that exceeded the Market Share Quota. The method used to calculate direct support payments on within-quota deliveries assured that most dairy farmers would completely recover all of their fixed and variable costs on their within-quota deliveries. The farmer was permitted to produce and market milk in excess of the quota, and perhaps had an economic incentive to do so. 27. The United States noted that in the past six years total industrial milk production had consistently exceeded the established Market Sharing Quota, and concluded that the Canadian system was a regulation of production but not a restriction of production. Proposals to amend Article XI:2(c)(i) to replace the word "restrict" with "regulate" had been defeated; what was required was the reduction of production. The results of the econometric analyses cited by Canada provided no indication of what would happen to milk production in the absence not only of the production quotas, but also of the accompanying high price guarantees which operated as incentives to produce. According to the official publication of the Canadian Dairy Commission, a key element of Canada's national dairy policy was to promote self-sufficiency in milk production. The effectiveness of the government supply controls had to be compared to what the situation would be in the absence of all government measures.

#### C. Voting issue:

#### 1. Limits quagmire if we focus on broader production processes.

**Doub, 76**

Energy Regulation: A Quagmire for Energy Policy Annual Review of Energy Vol. 1: 715-725 (Volume publication date November 1976) DOI: 10.1146/annurev.eg.01.110176.003435 LeBoeuf, Lamb, Leiby & MacRae, 1757 N Street NW, Washington, DC 20036 annualreviews.org.library.lausys.georgetown.edu/doi/pdf/10.1146/annurev.eg.01.110176.003435 Mr. Doub is a principal in the law firm of Doub and Muntzing, which he formed in 1977. Previously he was a partner in the law firm of LeBoeuf, Lamb, Leiby and MacRae. He was a member of the U.S. Atomic Energy Commission in 1971 - 1974. He served as a member of the Executive Advisory Committee to the Federal Power Commission in 1968 - 1971 and was appointed by the President of the United States to the President's Air Quality Advisory Board in 1970. He is a member of the American Bar Association, Maryland State Bar Association, and Federal Bar Association. He is immediate past Chairman of the U.S. National Committee of the World Energy Conference and a member of the Atomic Industrial Forum. He currently serves as a member of the nuclear export policy committees of both the Atomic Industrial Forum and the American Nuclear Energy Council. Mr. Doub graduated from Washington and Jefferson College (B.A., 1953) and the University of Maryland School of Law in 1956. He is married, has two children, and resides in Potomac, Md. He was born September 3, 1931, in Cumberland, Md.)

FERS began with the recognition that federal energy policy must result from concerted efforts in all areas dealing with energy, not the least of which was the manner in which energy is regulated by the federal government. Energy selfsufficiency is improbable, if not impossible, without sensible regulatory processes, and effective regulation is necessary for public confidence. Thus, the President directed that "a comprehensive study be undertaken, in full consultation with Congress, to determine the best way to organize all energy-related regulatory activities of the government." An interagency task force was formed to study this question. With 19 different federal departments and agencies contributing, the task force spent seven months deciphering the present organizational makeup of the federal energy regulatory system, studying the need for organizational improvement, and evaluating alternatives. More than 40 agencies were found to be involved with making regulatory decisions on energy. Although only a few deal exclusively with energy, most of the 40 could significantly affect the availability and/or cost of energy. For example, in the field of gas transmission, there are five federal agencies that must act on siting and land-use issues, seven on emission and effluent issues, five on public safety issues, and one on worker health and safety issues-all before an onshore gas pipeline can be built. The complexity of energy regulation is also illustrated by the case of Standard Oil Company (Indiana), which reportedly must file about 1000 reports a year with 35 different federal agencies. Unfortunately, this example is the rule rather than the exception.

#### 2. Broader energy processes are bi-directional.

**McKie, 84**

Professor James W. McKie, distinguished member of the economics department at The University of Texas at Austin for many years ¶ McKie, J W ¶ Annual Review of Environment and Resource , Volume 9 (1)¶ Annual Reviews – Nov 1, 1984

THE MULTIPLE PURPOSES OF ENERGY REGULATION AND PROMOTION Federal energy policy since World War II has developed into a vast and multidirectional program of controls, incentives, restraints, and promotions. This development accelerated greatly during the critical decade after 1973, and has become a pervasive and sometimes controlling influence in the energy economy. Its purposes, responding to a multitude of interests and aims in the economy, have frequently been inconsistent, if not obscure, and the results have often been confusing or disappointing.

### DC

#### The D.C. circuit has jurisdiction over federal agencies and empirically strikes down regulations

Adler 2K

Jonathan Adler is a senior fellow in environmental policy at the Competitive Enterprise¶ Institute, a nonpartisan, nonprofit research and advocacy organization in Washington, D.C., where he¶ previously served as Director of Environmental Studies P o l i c y S t u d y N o . 2 6 9¶ No Intelligible Principles:¶ The EPA's Record in Federal Court¶ http://reason.org/files/3217ecd7bf37b4ea6aa81d4dc9f59a26.pdf

The U.S. Court of Appeals for the District of Columbia Circuit is, for all practical purposes, the second highest¶ court in the land when it comes to regulatory and administrative matters. The D.C. Circuit has¶ primary or exclusive jurisdiction over the regulatory activities of most federal agencies. In recent years, the¶ D.C. Circuit has disposed of over one-fifth of all agency appeals in the nation; agency appeals represent¶ approximately half of the court’s caseload.34 As a result, the D.C. Circuit has special expertise in evaluating¶ regulatory decisions. Environmental policy is no exception. Indeed, some have claimed that the D.C. Circuit “played a central role¶ in the development of environmental law.”35 This is the case in no small part because several environmental¶ statutes contain jurisdictional provisions that grant the D.C. Circuit exclusive venue over all challenges to¶ regulatory actions promulgated under those laws.36 Others, such as the Clean Air Act and Safe Drinking¶ Water Act, give the D.C. Circuit exclusive jurisdiction over challenges to rules of national application and¶ scope.37¶ The accompanying table analyzes challenges to EPA regulations and final agency actions in the D.C. Circuit¶ during the Clinton Administration.38 As Figure 1 illustrates, of the 69 cases analyzed, the EPA won 23, or¶ one-third (33.33 percent) of those in which the court considered the merits of the challenge. In over half of¶ the cases (53.62 percent), the D.C. Circuit struck down all, or a substantial portion of, the challenged rule. In¶ the remaining cases (13.04 percent) the court dismissed the challenges on ripeness or standing grounds, or¶ otherwise held the challenged EPA action to be unreviewable in federal court.39 In these latter cases, the¶ court never considered the substance of the challenge to the EPA’s rule, as there is “a checklist of hoops that¶ every potential appellant must go through to get to the merits.”40 Approximately one in four challenges to¶ agency actions, across the board, will fail to get through each hoop.41

#### The D.C. Court has the same precedential impact as the Supreme Court on agency rule making

Rossi 2K

JIM ROSSI is Associate Professor of State Administrative Procedure, Florida¶ State University College of Law; Visiting Associate Professor, University of Texas School of¶ Law, DOES THE SOLICITOR GENERAL ADVANTAGE¶ THWART THE RULE OF LAW IN THE¶ ADMINISTRATIVE STATE? http://www.law.fsu.edu/journals/lawreview/downloads/281/Rossi2.pdf

Linda Cohen and Matthew Spitzer’s study, The Government Litigant¶ Advantage,6 sheds important light on how the Solicitor General’s¶ litigation behavior may impact the Supreme Court’s decisionmaking¶ agenda and outcomes for regulatory and administrative law¶ cases. By emphasizing how the Solicitor General affects cases that¶ the Supreme Court decides, Cohen and Spitzer’s findings confirm that administrative law’s emphasis on lower appellate court decisions¶ is not misplaced. Some say that D.C. Circuit cases carry¶ equal—if not more—precedential weight than Supreme Court decisions¶ in resolving administrative law issues. Cohen and Spitzer use¶ positive political theory to provide a novel explanation for some of¶ this bias towards circuit court decisions in defining the rule of law in¶ administrative law practice and scholarship.¶

## TERA Negative

#### Text: You as a judge should vote negative to reject representations of the ecological native American.

#### TERA’s will increase the power of tribal governments

Quapaw Tribe of Oklahoma

TRIBAL ENERGY¶ DEVELOPMENT TEMPLATE http://teeic.anl.gov/documents/docs/QuapawTribalEnergyDevelopmentTemplate.pdf

The centerpiece of the new law is the authority provided to the Secretary of the Interior¶ to negotiate and enter agreements with willing Tribes that would govern energy and¶ related environmental activities on tribal lands. These agreements, known as Tribal¶ Energy Resource Agreements or “TERAs,” would scale back the role of the Secretary¶ and enhance the role of tribal governments on tribal trust lands --- but only if the Tribe¶ has the requisite financial, regulatory, and technical capacity to develop their resources¶ and regulate their physical environmental in a responsible manner. Once the Tribe has¶ an approved TERA, it (and not the Secretary) may negotiate and enter agreements with¶ outside parties without the review or approval of the Federal government.

#### Tribal Governments are a locus for corruption and domination of indigenous peoples

Morris 98

TESTIMONY OF ¶ MR. ROLAND MORRIS SR. ¶ BOARD MEMBER CITIZENS EQUAL RIGHTS ALLIANCE ¶ OVERSIGHT HEARING ¶ BEFORE THE COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE ¶ CONCERNING S. 1691 THE AMERICAN INDIAN EQUAL JUSTICE ACT PRESENTED ON ¶ APRIL 7, 1998 SEATTLE, WASHINGTON http://www.citizensalliance.org/links/pages/news/Testimony\_S1961\_Morris.html

Good afternoon Mr. Chairman and Members of the Committee. My name is Roland Morris Sr.. I am a board member of the Citizens Equal Rights Alliance (CERA) and president of All Citizens Equal, (ACE). Although opposition has labeled these groups harshly, both are grassroots, multi-racial groups dedicated to the promotion of equal rights for all citizens within Indian Country. ¶ I am also a full-blooded Anishinabe American citizen. Originally from the Leech Lake band of Minnesota Chippewa, I now live in Montana. Thank you for the opportunity to appear before you to testify on the American Indian Equal Justice Act. It is my hope you will discern the truthfulness of my message by examining both my heart, as well as my words. ¶ I believe current federal Indian policy coupled with tribal government behavior is taking a bigger toll on tribal members then most people admit. I am Indian. When I step foot onto a reservation, State and Federal constitutional rights can be denied me. I become a second class citizen. On a reservation there is no guarantee the United States Constitution and the Bill of Rights will control. There are no guarantees the Civil Rights Acts or legislation against age or gender discrimination will be honored. There are no guarantees of the Veterans Preference Act, no Civil Service classification to protect tribal government employees, no guarantees of the Americans with Disabilities Act, no guarantees against blanket nepotism or a fair and orderly process concerning access to reservation housing, and no guarantee of freedom of the press or freedom of speech. In other words, basic human rights other Americans take for granted, that allow people to live in dignity with their neighbors, are not guaranteed on Indian reservations under the present version of "sovereignty". ¶ Secondly, Tribes are dependent on Federal government help. Through this dependency, many tribal governments have become corrupt with unchecked power and money. Because of corruption and unwillingness to let go of power and money; tribal government themselves, in some cases, are keeping their people in the bondage of poverty and oppression. ¶ It cannot be denied that current federal policy is such that tribal governments financially benefit from the general membership's poverty level staying just as it is. The plight of the average Native American is what keeps money flowing into the coffers of those in charge of Tribal government. Thus, tribal government needs to keep in control of its members, even to the extent of demanding from this Congress that the "tribe shall retain exclusive jurisdiction over any ...Indian child...", as is written in the Indian Child Welfare Act, which states further that tribal interests are "independent of the interests of the birth parents".\par The Indian Civil Rights Act mandates that no Indian tribe in exercising powers of self government shall violate various basic civil rights. However, when there is no separation of powers within tribal governments and tribal sovereign immunity protects tribal government from civil rights claims, tribal members are left without recourse. ¶ But many tribal members say nothing publicly. Cronyism, nepotism and ballot box rigging are all part of political reality on many reservations. Everyone seems to accept it as a given and because tribal government controls tribal jobs, HUD housing, tribal loans and land leases, many members are reluctant to speak out. Tribal government controls most everyone's strings, not to mention the judicial system. Getting on the bad side of the government can mean the loss of ones job or home. Some have even been threatened that their family members would lose their jobs. ¶ Further disabling to membership outcry is the manipulation used to keep control. I have seen tribal governments pressure members to rally to their cause and political goals through misinformation, bullying, and even bribes. At a political rally two years ago, in order to portray a good show of force for the media, a tribal government gave its employees the day off and told the employees they were expected to attend the rally. In order to ensure the attendance, the tribal government offered transportation to the rally, free food, and distribution of the employees' pay checks. ¶ At the recent Montana gatherings held by Senator Conrad Burns in reference to tribal jurisdiction, the tribal governments transported students from the colleges and high schools, offered free food and dance before the hearings, and inflamed the large group with speeches about genocide. Prior to the busses leaving one of the schools on its way to the hearing, a student was told that unless he planned to speak at the hearing, he wouldn't be allowed on the bus. Again, a show of angry force was important for this media event, and it was highly unlikely that under those conditions many tribal members would get up and say anything in opposition to tribal government dogma. ¶ Actual bullying usually occurs on more of a one-on-one scale. In one case, a tribal member had been essentially share-cropping with a white neighbor. The tribal member shared his tribally leased land; the neighbor shared his tractors and other heavy equipment. Together, they both benefited. However, this arrangement angered the tribal government, which without warning revoked the tribal member's lease on the land in question, threatened to revoke other land he leased, and threatened him with forced eviction from his HUD home. The government eventually allowed him to keep his home and other land, but permanently revoked the land he had shared with a non-member. This tribal member, having a large family, has no intention of taking another chance of losing his home by speaking out. ¶ In another case, a person running for office in a recent tribal election was denied, by the tribal council, the right to advertise in the local tribal paper. ¶ I have had many tribal members come to me in confidence and relate their concerns and fears. I have even had a former tribal council member come to me to discuss these issues. I see true elders feeling defeated. Many of those within tribal government won't listen to the elders. Seeing this disrespect is hurtful to me and it pains many other tribal members that this is the way things are. ¶ It can be no wonder that Indian people are tired and depressed. Not only do many feel alienated from the United States Government and the rest of society, but many tribal governments can't be trusted either. This situation, having become a hopeless fact of life, along with poverty and other factors, has bred depression and loss of trust. ¶ With the current epidemic of corruption on Indian Reservations, how could tribal members be better protected? It is clear to us that something needs to change. We can't continue to sit back and watch relatives despair. Let us work together as brothers and sisters to correct the problem.

#### Tribal government control over energy production leads to corruption and exploitation of individual members who prefer federal government protection

Crane-Murdoch 12

Sierra Crane-Murdoch– Middlebury Fellow in Environmental Journalism

High Counter Times

[http://www.hcn.org/issues/44.6/on-the-fort-berthold-reservation-the-bakken-boom-brings-conflict/article\_view](http://www.hcn.org/issues/44.6/on-the-fort-berthold-reservation-the-bakken-boom-brings-conflict/article_view?utm_campaign=Feed%3A%20hcn/current-issue%20%28hcn.org%20-%20Current%20Issue%29&utm_medium=feed&utm_source=feedburner&b_start:int=0)

These are classic symptoms of a boom; north and west of Fort Berthold, it looks much the same. But there is one important difference: The reservation, having long been poor and unaccustomed to rapid development, was wholly unprepared. An estimated 400 Indian families lacked homes before the boom, and that number has only grown. The roads were not built for heavy traffic, nor are there enough to access remote areas. A lack of pipeline infrastructure has meant that natural gas is burned directly at wellheads, in open flares. When the boom began, the tribe had no transportation department and relied on the BIA's and the Bureau of Land Management's regulatory authority in environmental matters. The BIA has no fine structure in place for illegal dumping and has depended on the state, already overburdened, to penalize offenders.¶ ¶ Nor is the tribe, with only 13 police officers patrolling the reservation, able to fully enforce its own laws. Police calls have increased more than two-fold, and often it is an hour before officers respond. "Fires, explosions, gas leaks -- we never had to deal with these things before," Dawn White, a young tribal police officer, told me last May. White, who is short with a tight, gelled bun and military gait, has been an officer for three years. Oil spills and illegal dumping, she says, now occur almost weekly; the BLM, which oversees activity on wellpads, confirms the trend. Drunk driving and hard drug use are rampant, as is sex trafficking, according to a recent Department of Justice report. Just among tribal members, domestic violence incidents have doubled.¶ ¶ The lack of regulatory structure has promoted a culture of lawlessness. One night, a trucker grilling chicken by his RV in the casino parking lot told me, "You can get away with a hell of a lot more" on the reservation than off. In fact, he said, "You can do anything short of killing somebody." He earned $130 an hour overtime hauling water from wellpads to waste pits and once drove 36 hours without stopping. Normally, the U.S. Department of Transportation limits commercial truckers to 11 hours each day, but on Fort Berthold, there are no weigh stations to enforce the rule. "Keep your eyes open with toothpicks and you're making money. Another cup of coffee? You're making money."¶ ¶ To complicate matters, tribal police have no criminal jurisdiction over non-Indians. Due to a 1978 Supreme Court decision, only the state and the U.S. can prosecute crimes committed by non-Indians on reservations, depending on the transgression's severity. Fort Berthold's officers pass perpetrators on to county law enforcement. On several occasions, when White stopped drunk drivers and called the county, officers never came. At the end of her shift, with two kids at home, she had no choice but to let the offenders go. "It shouldn't be that someone calls for help and you ask, 'Are you enrolled or non-enrolled?' " said White. "Say a woman is assaulted by a worker. It's hard to walk away from that and look at a victim and have them say, 'Aren't you guys going to do anything?' "¶ ¶ It is difficult to take the reins of a boom driven by people over whom the tribe has little authority. And it complicates an old predicament: Tribal members have limited means to govern themselves and a federal government -- with a sordid history of guardianship -- to act as their primary guardian. In recent decades, BIA superintendents have changed frequently as each successive council chairman requests a replacement for the last. But it would be too easy to blame the BIA entirely; the real problem, perhaps, is in the relationship between nation, tribe and tribal member. "When you already have profound distrust, you're bound to have a lack of cooperation and communication, and also a lack of regulation," Paul Joffe, an international indigenous rights lawyer, told me. "And that's a situation that is very easy for corporations to exploit."¶ ¶ If distrust plagued the reservation before, now it is even more palpable. Many residents own little or no mineral rights other than those the tribe holds collectively. "People think that when there's more money floating around, our lives should be better," said tax director Mark Fox. "But the average person hasn't seen that happen." So far, the council has spent the better part of its oil income repairing roads, building houses to ease the shortage, and establishing regulatory structures to keep pace with the boom. Last year, when oil revenue generated a billion-dollar budget surplus in North Dakota, the Three Affiliated Tribes, despite earning $60 million from royalties, bonuses and taxes on oil production, remained $100 million in debt.¶ ¶ The debt is a popular point of rumor on the reservation. Before the boom, the tribe had hardly enough income -- even with $60 million-$70 million in annual federal assistance -- to pay for its projects and services, and it borrowed the difference. But councilmen have also been accused of mishandling funds. The council's spending records are classified, and according to a report commissioned by Tex Hall in 2010, most of its income is pooled into one account, from which councilmen annually draw several hundred thousand dollars apiece to spend on projects and grants at their discretion. Council positions turn over infrequently, and the seven members, including the chairman, have full authority. There are no checks and balances.¶ This is where tribal members see the BIA playing a valuable role. Many told me that they trusted the agency more than the council to protect their interests -- at least the BIA has a mandate to do so. Even Chairman Hall admitted that the tribe cannot manage the boom alone. "We don't want to get rid of the BIA," he told me. The agency is bound by treaty to protect the tribe. "If something goes wrong, we need the government to take responsibility, to safeguard our land and water."

#### Many indigenous peoples do not recognize the authority of tribal governments

McGuire 97

Randall McGuire Professor at Binghampton University in Indians and Anthropology

p. 81

The elected tribal councils¶ of most nations were established under the Indian Reorganization Act. In most¶ cases their authority is controversial, with a large faction of the nation not¶ recognizing them as the legitimate government of the people (Deloria and L¶ 1984). In some cases, a clear majority of people of the nation oppose the tribal¶ council. Thus, a dialogue carried out through NAGPRA may not include 1;¶ and important segments of Native American nations, and these segments¶ reject resolutions of controversies that come from NAGPRA. Archaeologists¶ will find themselves thrust into complex, and long-standing, local political¶ debates that they are ill prepared to deal with.

#### Sovereignty is a mask for empowering tribal governments not indigenous people

Shortridge 97

Julie Shortridge Citizens Equal Rights Alliance Sovereignty and Civil Rights

http://www.citizensalliance.org/links/pages/articles/Sovereignty\_&\_Civil.html

¶ "Tribal sovereignty," the notion that tribes are self-governing nations, and a concept that many people assume is beneficial to Indian people, actually benefits only a few individual tribal government leaders, and takes rights and freedoms away from Indian citizens.¶ ¶ Just like on a military reservation, there is no inherent, constitutional protection of speech, assembly and the press on Indian reservation land. Tribal chief executives and tribal councils get their authority from the Secretary of the Interior and the BIA, not from the voters who elect them. And because the tribal government controls all tribal businesses, services, housing and most employment, they are able to rule nearly all aspects of reservation life.¶ ¶ There are no checks and balances in the tribal system of government; no separation of the judicial, legislative and administrative branches of government. The Freedom of Information Act and Open Meeting Law do not apply on reservations. Neither does the Bill of Rights. In 1968 Congress enacted a separate "Indian Bill of Rights" in an effort to rectify this fact, but in 1978, a Supreme Court decision ruled that Indian tribal governments themselves could decide how and to what extent Indian civil rights would be applied, if at all.¶ ¶ The decision rendered the Indian Bill of Rights virtually worthless. A tribal chief and tribal council not only have full executive, legislative and judicial authority on the reservation, they also decide if and to what extent their citizens have any rights or freedoms. Tribal chief executives and tribal councils become dictators. They appoint and remove tribal judges as they wish, and can control the outcome of judicial decisions. Tribal chief executives and tribal councils can and do dictate if, how and against whom tribal laws are enforced.¶ ¶ One of this country's founding fathers, James Madison, wrote in the late 1700s, "The accumulation of all powers - legislative, executive, and judiciary - in the same hands, may justly be pronounced the very definition of tyranny." Madison was right, and tyranny is what we see today in tribal governments. Read a month's worth of Indian newspapers, such as Indian Country Today, News from Indian Country, and Native American Press/Ojibwe News, and it becomes evident that corruption in tribal governments is the norm, not the exception.¶ ¶ Tribal governments are not obligated to make their financial records available to the public, yet they control who on a reservation gets a job, a house, and health care services. This lack of accountability allows tribal officials to hide criminal conduct, incompetence, and corruption, and has resulted in tribal dictatorships. Several federal convictions of tribal leaders for theft, fraud, money-laundering, vote rigging and other crimes have barely scratched the surface of tribal government corruption. A full 80% of Indian people have left the reservation to escape these conditions.

## Politics

### 1NC

#### Will pass – House GOP bill gets bipartisan support

Donnelly 3/27

Kristin, Reporter and Author, “House group “very close” to putting forward immigration package”, http://tv.msnbc.com/2013/03/27/house-group-very-close-to-putting-forward-immigration-package/

A House bipartisan group working on a comprehensive immigration bill is “very close” to putting forward a package, according to one of its members.¶ “We’ve really resolved all the of the truly contentious issues,” said Rep. John Yarmuth, D-Ky., on Jansing & Co. Wednesday. ¶ Among the most contentious issues he mentioned: What to do with the 11 million undocumented immigrants who are already here, employer enforcement, a proper way to determine who is legal and who is not, border security, and a guest-worker program.¶ “One of the things that we’re dealing with is the issue of making sure House Republicans, who are in the majority, are comfortable with whatever package comes to the floor of the House,” Yarmuth said. “The sensitivity is, would House Republicans be open to a bill that comes from a Democratic-controlled Senate or a from a Democratic President. That’s why we think our effort is most important. If we can get one through the House than the odds of actually getting it signed into law improve a lot.”¶ Yarmuth said the House bipartisan group has been talking to the Senate’s “Gang of Eight”, also working on immigration reform. On Wednesday afternoon, four members of the Senate group, including Sens. McCain, Schumer, Flake and Bennet, are scheduled to tour the border.¶ President Obama has interviews scheduled with two Spanish language networks for Wednesday afternoon. No one expects any real movement until Congress returns from Easter break.¶ “I don’t know if we can achieve agreement or not we are working literally night and day,” Senator John McCain said during a town-hall in Arizona on Tuesday.¶ “I’m very optimistic…In our group, everybody is really committed to getting this done. We know we have to deal with the immigration issue and this is the best opportunity we’ve had in generations,” Yarmuth said.

#### Energy fights unite the GOP – undermine the push for immigration

Harder 2/6

Amy, “In Washington, Energy and Climate Issues Get Shoved in the Closet” [http://www.nationaljournal.com/columns/power-play/in-washington-energy-and-climate-issues-get-shoved-in-the-closet-20130206] //mtc

A week later, one senator, Republican Lisa Murkowski of Alaska, was standing at the podium in the same room to unveil her energy-policy blueprint. There were several open seats and just a few cameras. At least one reporter was there to ask the senator about her position on President Obama’s choice for Defense secretary, former Republican Sen. Chuck Hagel.¶ “I’m doing energy right now,” Murkowski responded. “I’m focused on that.”¶ Almost everyone else on Capitol Hill is focused on something else. Aside from the broad fiscal issues, Congress and the president are galvanizing around immigration reform.¶ Four years ago, the White House prioritized health care reform above comprehensive climate-change legislation. The former will go down in history as one of Obama’s most significant accomplishments. The latter is in the perpetual position of second fiddle. “To everything,” Murkowski interjected fervently when asked by National Journal Daily whether energy and climate policy was second to other policies in Washington’s pecking order.¶ Murkowski, ranking member of the Senate's Energy and Natural Resources Committee, said she hoped the Super Bowl blackout would help the public understand the importance of energy policy.¶ “This issue of immigration: Why are we all focused on that? Well, it’s because the Republicans lost the election because in part we did not have the Hispanic community behind us,” Murkowski said this week. “What is it that brings about that motivation? Maybe it could be something like a gap in the Super Bowl causes the focus on energy that we need to have. I can only hope.”¶ It will take more than hope. Elections have consequences, but so far the only kind of electoral consequence climate and energy policy has instigated is one that helped some lawmakers who supported cap-and-trade legislation to lose their seats in the 2010 midterm elections. For the pendulum to swing the other way—for lawmakers to lose their seats over not acting on climate and energy policy—seems almost unfathomable right now.¶ Billions of dollars are invested in the fossil-fuel power plants, refineries, and pipelines that the country depends on today. The companies that own this infrastructure have a business interest in keeping things the way they are. Immigration reform doesn’t face such formidable interests invested in the status quo.¶ “They [businesses] have employees—real, visible people—who they value and who they want to make legal as soon as possible,” said Chris Miller, who until earlier this year was the top energy and environment adviser to Senate Majority Leader Harry Reid, D-Nev.¶ On energy and climate-change policy, Miller added, “You’re probably never going to have anything like the fence in the Southwest or the border-control issue that pushes action and debate on immigration, because climate-change impacts will likely continue to be more abstract in the public's mind until those impacts are so crystal-clear it’s too late for us to do anything.”¶ Another, tactical reason helps build momentum on immigration and not on other issues. Obama can capitalize on immigration as it becomes more of a wedge issue within the GOP. On energy and climate policy, Obama faces a unified Republican Party.¶ “The president has cracked the code on how to push his agenda items through. He learned from his victories on the payroll tax and the fiscal cliff that the key is to stake out the political high ground on issues that poll in his favor while exploiting the divisions within the GOP,” said a former Republican leadership aide who would speak only on the condition of anonymity. “With this in mind, the next logical place for him to go is immigration. Unlike issues like energy or tax reform where the GOP is united, he can claim a big win on immigration reform while striking a political blow to Republicans.”¶ While Obama maneuvers for a big legislative win on immigration, he’s moving on a parallel track toward another win on climate change through Environmental Protection Agency rules controlling greenhouse-gas emissions, which don’t require congressional approval. Fresh off a strong reelection victory, Obama has more freedom to move unilaterally with EPA.¶ “He doesn't have to expend political capital or ask Democrats to extend their necks on this issue,” said Kevin Book, an energy analyst at the Washington-based consulting firm ClearView Energy Partners. “He already won. He can control the issue and move as fast or slow as he wants.”¶ The EPA action will only further polarize efforts, such as those by Murkowski on the Senate Energy panel, to move through Congress smaller bits of energy and environmental policy.

#### Their arguments are not situated within the current political narrative. The plan’s sudden shift will suck the oxygen out of Washington

Hirsch, 2/7

Michael Hirsch, National Journal, “There’s No Such Thing as Political Capital” 2013, http://www.nationaljournal.com/magazine/there-s-no-such-thing-as-political-capital-20130207

But the abrupt emergence of the immigration and gun-control issues illustrates how suddenly shifts in mood can occur and how political interests can align in new ways just as suddenly. Indeed, the pseudo-concept of political capital masks a larger truth about Washington that is kindergarten simple: You just don’t know what you can do until you try. Or as Ornstein himself once wrote years ago, “Winning wins.” In theory, and in practice, depending on Obama’s handling of any particular issue, even in a polarized time, he could still deliver on a lot of his second-term goals, depending on his skill and the breaks. Unforeseen catalysts can appear, like Newtown. Epiphanies can dawn, such as when many Republican Party leaders suddenly woke up in panic to the huge disparity in the Hispanic vote.¶ Some political scientists who study the elusive calculus of how to pass legislation and run successful presidencies say that political capital is, at best, an empty concept, and that almost nothing in the academic literature successfully quantifies or even defines it. “It can refer to a very abstract thing, like a president’s popularity, but there’s no mechanism there. That makes it kind of useless,” says Richard Bensel, a government professor at Cornell University. Even Ornstein concedes that the calculus is far more complex than the term suggests. Winning on one issue often changes the calculation for the next issue; there is never any known amount of capital. “The idea here is, if an issue comes up where the conventional wisdom is that president is not going to get what he wants, and he gets it, then each time that happens, it changes the calculus of the other actors” Ornstein says. “If they think he’s going to win, they may change positions to get on the winning side. It’s a bandwagon effect.”¶ ALL THE WAY WITH LBJ¶ Sometimes, a clever practitioner of power can get more done just because he’s aggressive and knows the hallways of Congress well. Texas A&M’s Edwards is right to say that the outcome of the 1964 election, Lyndon Johnson’s landslide victory over Barry Goldwater, was one of the few that conveyed a mandate. But one of the main reasons for that mandate (in addition to Goldwater’s ineptitude as a candidate) was President Johnson’s masterful use of power leading up to that election, and his ability to get far more done than anyone thought possible, given his limited political capital. In the newest volume in his exhaustive study of LBJ, The Passage of Power, historian Robert Caro recalls Johnson getting cautionary advice after he assumed the presidency from the assassinated John F. Kennedy in late 1963. Don’t focus on a long-stalled civil-rights bill, advisers told him, because it might jeopardize Southern lawmakers’ support for a tax cut and appropriations bills the president needed. “One of the wise, practical people around the table [said that] the presidency has only a certain amount of coinage to expend, and you oughtn’t to expend it on this,” Caro writes. (Coinage, of course, was what political capital was called in those days.) Johnson replied, “Well, what the hell’s the presidency for?”¶ Johnson didn’t worry about coinage, and he got the Civil Rights Act enacted, along with much else: Medicare, a tax cut, antipoverty programs. He appeared to understand not just the ways of Congress but also the way to maximize the momentum he possessed in the lingering mood of national grief and determination by picking the right issues, as Caro records. “Momentum is not a mysterious mistress,” LBJ said. “It is a controllable fact of political life.” Johnson had the skill and wherewithal to realize that, at that moment of history, he could have unlimited coinage if he handled the politics right. He did. (At least until Vietnam, that is.)¶ And then there are the presidents who get the politics, and the issues, wrong. It was the last president before Obama who was just starting a second term, George W. Bush, who really revived the claim of political capital, which he was very fond of wielding. Then Bush promptly demonstrated that he didn’t fully understand the concept either.¶ At his first news conference after his 2004 victory, a confident-sounding Bush declared, “I earned capital in the campaign, political capital, and now I intend to spend it. That’s my style.” The 43rd president threw all of his political capital at an overriding passion: the partial privatization of Social Security. He mounted a full-bore public-relations campaign that included town-hall meetings across the country.¶ Bush failed utterly, of course. But the problem was not that he didn’t have enough political capital. Yes, he may have overestimated his standing. Bush’s margin over John Kerry was thin—helped along by a bumbling Kerry campaign that was almost the mirror image of Romney’s gaffe-filled failure this time—but that was not the real mistake. The problem was that whatever credibility or stature Bush thought he had earned as a newly reelected president did nothing to make Social Security privatization a better idea in most people’s eyes. Voters didn’t trust the plan, and four years later, at the end of Bush’s term, the stock-market collapse bore out the public’s skepticism. Privatization just didn’t have any momentum behind it, no matter who was pushing it or how much capital Bush spent to sell it.¶ The mistake that Bush made with Social Security, says John Sides, an associate professor of political science at George Washington University and a well-followed political blogger, “was that just because he won an election, he thought he had a green light. But there was no sense of any kind of public urgency on Social Security reform. It’s like he went into the garage where various Republican policy ideas were hanging up and picked one. I don’t think Obama’s going to make that mistake.… Bush decided he wanted to push a rock up a hill. He didn’t understand how steep the hill was. I think Obama has more momentum on his side because of the Republican Party’s concerns about the Latino vote and the shooting at Newtown.” Obama may also get his way on the debt ceiling, not because of his reelection, Sides says, “but because Republicans are beginning to doubt whether taking a hard line on fiscal policy is a good idea,” as the party suffers in the polls.¶ THE REAL LIMITS ON POWER¶ Presidents are limited in what they can do by time and attention span, of course, just as much as they are by electoral balances in the House and Senate. But this, too, has nothing to do with political capital. Another well-worn meme of recent years was that Obama used up too much political capital passing the health care law in his first term. But the real problem was that the plan was unpopular, the economy was bad, and the president didn’t realize that the national mood (yes, again, the national mood) was at a tipping point against big-government intervention, with the tea-party revolt about to burst on the scene. For Americans in 2009 and 2010—haunted by too many rounds of layoffs, appalled by the Wall Street bailout, aghast at the amount of federal spending that never seemed to find its way into their pockets—government-imposed health care coverage was simply an intervention too far. So was the idea of another economic stimulus. Cue the tea party and what ensued: two titanic fights over the debt ceiling. Obama, like Bush, had settled on pushing an issue that was out of sync with the country’s mood.¶ Unlike Bush, Obama did ultimately get his idea passed. But the bigger political problem with health care reform was that it distracted the government’s attention from other issues that people cared about more urgently, such as the need to jump-start the economy and financial reform. Various congressional staffers told me at the time that their bosses didn’t really have the time to understand how the Wall Street lobby was riddling the Dodd-Frank financial-reform legislation with loopholes. Health care was sucking all the oxygen out of the room, the aides said.¶ Weighing the imponderables of momentum, the often-mystical calculations about when the historic moment is ripe for an issue, will never be a science. It is mainly intuition, and its best practitioners have a long history in American politics. This is a tale told well in Steven Spielberg’s hit movie Lincoln. Daniel Day-Lewis’s Abraham Lincoln attempts a lot of behind-the-scenes vote-buying to win passage of the 13th Amendment, banning slavery, along with eloquent attempts to move people’s hearts and minds. He appears to be using the political capital of his reelection and the turning of the tide in the Civil War. But it’s clear that a surge of conscience, a sense of the changing times, has as much to do with the final vote as all the backroom horse-trading. “The reason I think the idea of political capital is kind of distorting is that it implies you have chits you can give out to people. It really oversimplifies why you elect politicians, or why they can do what Lincoln did,” says Tommy Bruce, a former political consultant in Washington.¶ Consider, as another example, the storied political career of President Franklin Roosevelt. Because the mood was ripe for dramatic change in the depths of the Great Depression, FDR was able to push an astonishing array of New Deal programs through a largely compliant Congress, assuming what some described as near-dictatorial powers. But in his second term, full of confidence because of a landslide victory in 1936 that brought in unprecedented Democratic majorities in the House and Senate, Roosevelt overreached with his infamous Court-packing proposal. All of a sudden, the political capital that experts thought was limitless disappeared. FDR’s plan to expand the Supreme Court by putting in his judicial allies abruptly created an unanticipated wall of opposition from newly reunited Republicans and conservative Southern Democrats. FDR thus inadvertently handed back to Congress, especially to the Senate, the power and influence he had seized in his first term. Sure, Roosevelt had loads of popularity and momentum in 1937. He seemed to have a bank vault full of political capital. But, once again, a president simply chose to take on the wrong issue at the wrong time; this time, instead of most of the political interests in the country aligning his way, they opposed him. Roosevelt didn’t fully recover until World War II, despite two more election victories.¶ In terms of Obama’s second-term agenda, what all these shifting tides of momentum and political calculation mean is this: Anything goes. Obama has no more elections to win, and he needs to worry only about the support he will have in the House and Senate after 2014. But if he picks issues that the country’s mood will support—such as, perhaps, immigration reform and gun control—there is no reason to think he can’t win far more victories than any of the careful calculators of political capital now believe is possible, including battles over tax reform and deficit reduction.¶ Amid today’s atmosphere of Republican self-doubt, a new, more mature Obama seems to be emerging, one who has his agenda clearly in mind and will ride the mood of the country more adroitly. If he can get some early wins—as he already has, apparently, on the fiscal cliff and the upper-income tax increase—that will create momentum, and one win may well lead to others. “Winning wins.”¶ Obama himself learned some hard lessons over the past four years about the falsity of the political-capital concept. Despite his decisive victory over John McCain in 2008, he fumbled the selling of his $787 billion stimulus plan by portraying himself naively as a “post-partisan” president who somehow had been given the electoral mandate to be all things to all people. So Obama tried to sell his stimulus as a long-term restructuring plan that would “lay the groundwork for long-term economic growth.” The president thus fed GOP suspicions that he was just another big-government liberal. Had he understood better that the country was digging in against yet more government intervention and had sold the stimulus as what it mainly was—a giant shot of adrenalin to an economy with a stopped heart, a pure emergency measure—he might well have escaped the worst of the backlash. But by laying on ambitious programs, and following up quickly with his health care plan, he only sealed his reputation on the right as a closet socialist.¶ After that, Obama’s public posturing provoked automatic opposition from the GOP, no matter what he said. If the president put his personal imprimatur on any plan—from deficit reduction, to health care, to immigration reform—Republicans were virtually guaranteed to come out against it. But this year, when he sought to exploit the chastened GOP’s newfound willingness to compromise on immigration, his approach was different. He seemed to understand that the Republicans needed to reclaim immigration reform as their own issue, and he was willing to let them have some credit. When he mounted his bully pulpit in Nevada, he delivered another new message as well: You Republicans don’t have to listen to what I say anymore. And don’t worry about who’s got the political capital. Just take a hard look at where I’m saying this: in a state you were supposed to have won but lost because of the rising Hispanic vote.¶ Obama was cleverly pointing the GOP toward conclusions that he knows it is already reaching on its own: If you, the Republicans, want to have any kind of a future in a vastly changed electoral map, you have no choice but to move. It’s your choice.¶ The future is wide open.

### Competitiveness Impact

#### Reform key to competitiveness and growth

Trujillo and Melgoza 2/21

Mr. Trujillo is chairman of the Trujillo Group, LLC and co-chairman of the Latino Donor Collaborative. Mr. Melgoza is the CEO of Geoscape International Inc. The Economic—and Demographic—Case for Immigration Reform, 2/21/13, http://online.wsj.com/article/SB10001424127887323951904578290471589119346.html?mod=googlenews\_wsj

Since the November election, there has been much talk in Washington and on the pundit circuit about America's changing demographics, especially the "Latino vote" and the new realities of political campaigning. There has also been considerable wrangling over immigration and what it means for a country that is a nation of immigrants but is more crowded than it once was.¶ The immigration debate is significant to America's politics and culture, but it is also crucial to the country's economics, a subject that receives too little attention. Let's be blunt: The future wealth and well-being of the American people—the country's economic security, national security, business innovation, GDP growth and status in the global marketplace—require a comprehensive solution to the chronic problems caused by a broken immigration policy. In particular, the status of 11 million unauthorized Latino immigrants now living here must be resolved.¶ The economics are simple: Latinos spur demand. Seventy percent of the nation's gross domestic product is fueled by consumer spending. That means the Latino population—large, growing and increasingly prosperous—will play a key role in America's economic future.¶ Latinos are now by far the country's biggest minority-market segment. Including unauthorized residents, the Latino population now exceeds 54 million (not counting nearly four million in Puerto Rico). Blacks, in second place, number 39 million. The Latino population has increased by more than 52% since 2000. In the same period, the non-Latino white population grew less than 2% and blacks by 14%.¶ According to U.S. Census forecasts, the Latino population in America will reach 133 million by 2050. Those 133 million American Latinos will outnumber the populations of Japan and Russia, whose numbers are already in decline.¶ With growing numbers comes more spending: Latino purchasing power now exceeds $1.2 trillion and, according to the University of Georgia's Selig Center, will top $1.5 trillion by 2015. From a global perspective, that means America's Latino market would be the 11th-largest economy in the world—just below France, Italy and Mexico, and above South Korea, Spain and Indonesia. At $20,400 per capita, Latino America's purchasing power already exceeds the GDP per capita of all four BRIC countries—Brazil, Russia, India and China.¶ But Latinos' beneficial economic effect is hardly restricted to the demand side. A vital element of supply-side health is labor—workers, from the most talented who invent new products or start a business, to those just beginning to climb the ladder of self-improvement, whether through formal education or on-the-job training.¶ Nearly one in six American workers (16%) is Latino, with nearly 23 million Latinos in the U.S. holding jobs. You might not know it from media coverage of immigration issues, but Latinos have the highest labor-force participation rate (nearly 67%) of any American demographic group.¶ Slightly more than a quarter of children in the U.S. under age 18 are Latino. Based on existing trends, at least 1.1 million Latino youths will turn 18 each year for the next 20 years. Politicians may see 1.1 million new voters a year, but business owners see 1.1 million new workers with a strong work ethic. Given the aging of the country's baby boom generation—retiring at the rate of 10,000 a day for the next 18 years—the strength of the economy is increasingly linked to the promise of these younger workers.¶ Dire demographics threaten the economies in many developed nations, and the U.S. is not immune to the challenges posed by an aging population. But the problem will be considerably mitigated by immigrants who revitalize the workforce. The average later-life American, whose life expectancy nearly doubled during the 20th century, is already asking: Who is going to pay for the Social Security and Medicare promises of the federal government?¶ The answer: America's expanding, youthful immigrant population—another reason why ensuring educational opportunities at every level for all residents is in the national interest.¶ Getting the U.S. economy moving again requires action on many fronts: tax and regulatory reform, new approaches to energy, education and health care. But nothing is more important than immigration reform. Despite the impression left by much of the rhetoric in Washington, immigration reform is not just about politics. It's about jobs, growth and competitiveness—economic security, which in turn means national security.¶ To achieve these benefits, immigration policies and practices must be attuned to welcoming hardworking immigrants and to dealing fairly and smartly with those who are already in the U.S. regardless of their legal status. Legal immigration, including a guest-worker program that will bolster American business productivity, should be expanded in an intelligent way that is pro-investment and pro-growth. U.S. borders need to be secured against further illegal immigration.¶ Washington must send a clear signal—to the American people and to every level of government—that a coherent and enforceable immigration policy is in place and here to stay.

#### **Sustained decline causes nuclear war**

Harris and Burrows 9

Mathew, PhD European History @ Cambridge, counselor in the National Intelligence Council (NIC) and Jennifer is a member of the NIC’s Long Range Analysis Unit “Revisiting the Future: Geopolitical Effects of the Financial Crisis” <http://www.ciaonet.org/journals/twq/v32i2/f_0016178_13952.pdf>

Increased Potential for Global Conflict

Of course, the report encompasses more than economics and indeed believes the future is likely to be the result of a number of intersecting and interlocking forces. With so many possible permutations of outcomes, each with ample Revisiting the Future opportunity for unintended consequences, there is a growing sense of insecurity. Even so, history may be more instructive than ever. While we continue to believe that the Great Depression is not likely to be repeated, the lessons to be drawn from that period include the harmful effects on fledgling democracies and multiethnic societies (think Central Europe in 1920s and 1930s) and on the sustainability of multilateral institutions (think League of Nations in the same period). There is no reason to think that this would not be true in the twenty-first as much as in the twentieth century. For that reason, the ways in which the potential for greater conflict could grow would seem to be even more apt in a constantly volatile economic environment as they would be if change would be steadier. In surveying those risks, the report stressed the likelihood that terrorism and nonproliferation will remain priorities even as resource issues move up on the international agenda. Terrorism’s appeal will decline if economic growth continues in the Middle East and youth unemployment is reduced. For those terrorist groups that remain active in 2025, however, the diffusion of technologies and scientific knowledge will place some of the world’s most dangerous capabilities within their reach. Terrorist groups in 2025 will likely be a combination of descendants of long established groups\_inheriting organizational structures, command and control processes, and training procedures necessary to conduct sophisticated attacks\_and newly emergent collections of the angry and disenfranchised that become self-radicalized, particularly in the absence of economic outlets that would become narrower in an economic downturn. The most dangerous casualty of any economically-induced drawdown of U.S. military presence would almost certainly be the Middle East. Although Iran’s acquisition of nuclear weapons is not inevitable, worries about a nuclear-armed Iran could lead states in the region to develop new security arrangements with external powers, acquire additional weapons, and consider pursuing their own nuclear ambitions. It is not clear that the type of stable deterrent relationship that existed between the great powers for most of the Cold War would emerge naturally in the Middle East with a nuclear Iran. Episodes of low intensity conflict and terrorism taking place under a nuclear umbrella could lead to an unintended escalation and broader conflict if clear red lines between those states involved are not well established. The close proximity of potential nuclear rivals combined with underdeveloped surveillance capabilities and mobile dual-capable Iranian missile systems also will produce inherent difficulties in achieving reliable indications and warning of an impending nuclear attack. The lack of strategic depth in neighboring states like Israel, short warning and missile flight times, and uncertainty of Iranian intentions may place more focus on preemption rather than defense, potentially leading to escalating crises.

#### Great power conflict is possible – resource conflicts, environmental crises and rising powers could spark global war

Dyer 6

Gwynne Dyer is a London-based independent journalist, 'Has the world really changed since 9/11?,' September 7, http://www.straight.com/has-the-world-really-changed-since-9-11

Without 9/11 there would still be a “terrorist threat”, of course, because there is always some terrorism. It's rarely a big enough threat to justify expanding police powers, let alone launching a “global war” against it, but the fluke success of the 9/11 attacks (which has not been duplicated once in the subsequent five years) created the illusion that terrorism was a major problem. Various special interests climbed aboard the bandwagon, and off we all went. That is a pity, because without 9/11 there would have been no governments justifying torture in the name of fighting terrorism, no “special renditions”, no camps like GuantÃ¡namo. Tens of thousands of people killed in the various invasions of the past five years would still be alive, and western countries with large Muslim minorities would not now face a potential terrorist backlash at home from their own disaffected young Muslims. The United States would not be seen by most of the world as a rogue state. But that's as far as the damage goes. Current U.S. policy and the hostility it arouses elsewhere in the world are both transient things. The Sunni Muslim extremists””they would call themselves Salafis””who were responsible for 9/11 have not seized power in a single country since then, despite the boost they were given by the flailing U.S. response to that attack. The world is actually much the same as it would have been if 9/11 had never happened. Economically, 9/11 and its aftermath have had almost no discernible long-term impact: even the soaring price of oil is mostly due to rising demand in Asia, not to military events in the Middle East. The lack of decisive action on climate change is largely due to Bush policies that were already in place before 9/11. And, strategically, the relations between the great powers have not yet been gravely damaged by the U.S. response to 9/11. There may even be a hidden benefit in the concept of a “war on terror”. It is a profoundly dishonest concept, since it is actually directed mainly against Muslim groups that have grievances against the great powers: Chechens against Russia, Uyghurs against China, Kashmiri Muslims and their Pakistani cousins against India, and practically everybody in the Arab world against the U.S. and Britain. The terrorists' methods are reprehensible but their grievances are often real. However, the determination of the great powers to oppose not only their methods but their goals is also real. That gives them a common enemy and a shared strategy. The main risk at this point in history is that the great powers will drift back into some kind of alliance confrontation. Key resources are getting scarcer, the climate is changing, and the rise of China and India means that the pecking order of the great powers is due to change again

in the relatively near future. Any strategic analyst worth his salt, given those preconditions, could draw you up a dozen different scenarios of disaster by lunchtime.

## Anthro

Europeans sought to control the ontology of nature by imposing western norms of separating nature from society – these characteristictsc became the j for domination…like nature itself”

### Humans Good – Testing

#### Independently, this frame causes the affirmative’s fight against fascism to be *extended* to animals – prevents *animal testing*

Cohen 86 – Professor @ U of M

Carl, Professor @ U Mich, [http://spot.colorado.edu/~heathwoo/phil1200,Spr07/cohen.pdf](http://spot.colorado.edu/~heathwoo/phil1200%2CSpr07/cohen.pdf)

Humans owe to other humans a degree of moral regard that cannot be owed to animals. Some humans take on the obligation to support and heal others, both humans and animals, as a principal duty in their lives; the fulfillment of that duty may require the sacrifice of many animals. If biomedical investigators abandon the effective pursuit of their professional objectives because they are convinced that they may not do to animals what the service of humans requires, they will fail, objectively, to do their duty. Refusing to recognize the moral differences among species is a sure path to calamity. (The largest animal rights group in the country is People for the Ethical Treatment of Animals; its co- director, Ingrid Newkirk, calls research using animal subjects "fascism" and "supremacism." "Animal liberationists do not separate out the human animal," she says, "so there is no rational basis for saying that a human being has special rights. A rat is a pig is a dog is a boy. They're all mammals.") Those who claim to base their objection to the use of animals in biomedical research on their reckoning of the net pleasures and pains produced make a second error, equally grave. Even if it were true--as it is surely not--that the pains of all animate beings must be counted equally, a cogent utilitarian calculation requires that we weigh all the consequences of the use, and of the nonuse, of animals in laboratory research. Critics relying (however mistakenly) on animal rights may claim to ignore the beneficial results of such research, rights being trump cards to which interest and advantage must give way. But an argument that is explicitly framed in terms of interest and benefit for all over the long run must attend also to the disadvantageous consequences of not using animals in research, and to all the achievements attained and attainable only through their use.

#### That creates a chilling effect that prevents new medical breakthroughs – ensures hundreds of millions of deaths

Sperling 89 – PhD, President @ Chabot College

Susan, Unkind to Animals, http://www.nybooks.com/articles/4078

In his review of The Use of Laboratory Animals in Biomedical and Behavioral Research, which follows that of my book, Singer says he is glad that the animal rights movement has discouraged many young researchers from pursuing animal research. The movement's chilling effect upon future research with animals should be examined carefully. A UC Davis research virologist and veterinarian, Tilahun Yilma, has recently developed a vaccine which prevents a fatal disease affecting hundreds of thousands of cattle in East Africa. The vaccine was developed using research animals—far fewer in number than die annually of the disease. This vaccine will be produced by tribal herders, who have learned to inoculate their own animals and to use the scabs which form as a source of material for further inoculation. The potential repercussions of Singer's, and the movement's, smug ethnocentrism are frightening. Singer's unmitigated indictment of animal research may one day prevent the kind of research that developed this vaccine.¶ Some of the most promising research on the prevention of death from AIDS involves the use of animals. For the millions of people who will die of this disease, it is not a light matter that, included with the many reasonable assertions of the animal rights movement is a darker impulse towards the total suppression of all animal research, regardless of its potential merit.

#### Turns their morality claim

Cohen 86 – Professor @ U of M

Carl, Professor @ UMich, [http://spot.colorado.edu/~heathwoo/phil1200,Spr07/cohen.pdf](http://spot.colorado.edu/~heathwoo/phil1200%2CSpr07/cohen.pdf)

The sum of the benefits of their use is utterly beyond quantification. The elimination of horrible disease, the increase of longevity, the avoidance of great pain, the saving of lives, and the improvement of the quality of lives (for humans and for animals) achieved through research using animals is so incalculably geat that the argument of these critics, systematically pursued, esablishes not their condusion but its reverse: to refrain from using animals in biomedical research is, on utilitarian grounds, morally wrong.

## Case

### Extinction First—Bostrom

#### Extinction outweighs

Bostrom 12 (Nick, Professor of Philosophy at Oxford, directs Oxford's Future of Humanity Institute and winner of the Gannon Award, Interview with Ross Andersen, correspondent at The Atlantic, 3/6, “We're Underestimating the Risk of Human Extinction”, <http://www.theatlantic.com/technology/archive/2012/03/were-underestimating-the-risk-of-human-extinction/253821/>)

Bostrom, who directs Oxford's Future of Humanity Institute, has argued over the course of several papers that human extinction risks are poorly understood and, worse still, severely underestimated by society. Some of these existential risks are fairly well known, especially the natural ones. But others are obscure or even exotic. Most worrying to Bostrom is the subset of existential risks that arise from human technology, a subset that he expects to grow in number and potency over the next century.

Despite his concerns about the risks posed to humans by technological progress, Bostrom is no luddite. In fact, he is a longtime advocate of transhumanism---the effort to improve the human condition, and even human nature itself, through technological means. In the long run he sees technology as a bridge, a bridge we humans must cross with great care, in order to reach new and better modes of being. In his work, Bostrom uses the tools of philosophy and mathematics, in particular probability theory, to try and determine how we as a species might achieve this safe passage. What follows is my conversation with Bostrom about some of the most interesting and worrying existential risks that humanity might encounter in the decades and centuries to come, and about what we can do to make sure we outlast them.

Some have argued that we ought to be directing our resources toward humanity's existing problems, rather than future existential risks, because many of the latter are highly improbable. You have responded by suggesting that existential risk mitigation may in fact be a dominant moral priority over the alleviation of present suffering. Can you explain why?

Bostrom: Well suppose you have a moral view that counts future people as being worth as much as present people. You might say that fundamentally it doesn't matter whether someone exists at the current time or at some future time, just as many people think that from a fundamental moral point of view, it doesn't matter where somebody is spatially---somebody isn't automatically worth less because you move them to the moon or to Africa or something. A human life is a human life. If you have that moral point of view that future generations matter in proportion to their population numbers, then you get this very stark implication that existential risk mitigation has a much higher utility than pretty much anything else that you could do. There are so many people that could come into existence in the future if humanity survives this critical period of time---we might live for billions of years, our descendants might colonize billions of solar systems, and there could be billions and billions times more people than exist currently. Therefore, even a very small reduction in the probability of realizing this enormous good will tend to outweigh even immense benefits like eliminating poverty or curing malaria, which would be tremendous under ordinary standards.

#### Existence and choice come first. People should be able to choose their value to life

Kymlicka ‘3

(Will, professor of philosophy @ Queens University. Contemporary Political Thought: A Reader And Guide. Edited by Alan Finlayson, pp. 496-498)

The defining feature of liberalism is that it ascribes certain fundamental freedoms to each individual. In particular, it grants people a very wide freedom of choice in terms of how they lead their lives. It allows people to choose a conception of the good life, and then allows them to reconsider that decision, and adopt a new and hopefully better plan of life. Why should people be free to choose their own plan of life? After all, we know that some people will make imprudent decisions, wasting their time on hopeless or trivial pursuits. Why then should the government not intervene to protect us from making mistakes, and to compel us to lead the truly good life? There are a variety of reasons why this is not a good idea: governments may not be trustworthy; Some individuals have idiosyncratic needs which are difficult for even a well-intentioned government to take into account; supporting controversial conceptions of the good may lead to civil strife. Moreover, paternalistic restrictions on liberty often simply do not work — lives do not go better by being led from the outside, in accordance with values the person does not endorse. Dworkin calls this the ‘endorsement constraint’, and argues that ‘no component contributes to the value of a life without endorsement … it is implausible to think that someone can lead a better life against the grain of his profound ethical convictions than at peace with them’ (Dworkin 1989: 486). However, the fact that we can get it wrong is important, because (paradoxically) it provides another argument for liberty. Since we can be wrong about the worth or value of what we are currently doing, and since no one wants to lead a life based on false beliefs about its worth, it is of fundamental importance that we be able rationally to assess our conceptions of the good in the light of new information or experiences, and to revise them if they are not worthy of our continued allegiance. This assumption that our beliefs about the good life are fallible and revisable is widely endorsed in the liberal tradition — from John Stuart Mill to the most prominent contemporary American liberals, such as John Rawls and Ronald Dworkin. (Because of their prominence, I will rely heavily on the works of Rawls and Dworkin in the rest of this chapter.) As Rawls puts it, individuals ‘do not view themselves as inevitable tied to the pursuit of the particular conception of the good and its final ends which they espouse at any given time’. Instead, they are ‘capable of revising and changing this conception’. They can ‘stand back’ from their current ends to ‘survey and assess’ their worthiness (Rawls 1980: 544; cf. Mill 1912: 122; Dworkin 1913). So we have two preconditions for leading a good life. The first is that we lead our life from the inside, in accordance with our beliefs about what gives value to life. Individuals must therefore have the resources and liberties needed to lead their lives in accordance with their beliefs about value, without fear of discrimination or punishment. Hence the traditional liberal concern with individual privacy, and opposition to ‘the enforcement of morals’. The second precondition is that we be free to question those beliefs, to examine them in light of whatever information, examples, and arguments our culture can provide. Individuals must therefore have the conditions necessary to acquire an awareness of different views about the good life, and an ability to examine these views intelligently. Hence the equally traditional liberal concern for education, and freedom of expression and association. These liberties enable us to judge what is valuable, and to learn about other ways of life.

#### There is an infinite value to life- your framework causes extinction

Kateb 92

Kateb, Professor of Politics at Princeton University, ‘92 (George, The Inner Ocean, pg. 144)

To sum up the lines of thought that Nietzsche starts, I suggest first that it is epistemologically impossible for humanity to arrive at an estimation of the worth of itself or of the rest of nature: it cannot pretend to see itself from the outside or to see the rest, as it were, from the inside. Second, after allowance is made for this quandary, which is occasioned by the death of God and the birth of truth, humanity, placed in a position in which it is able to extinguish human life and natural life on earth, must simply affirm existence as such. Existence must go on but not because of any particular feature or group of features. The affirmation of existence refuses to say what worth existence has, even from just a human perspective, from any human perspective whatever. It cannot say, because existence is indefinite; it is beyond evaluating; being undesigned it is unencompassable by a defined and definite judgment. (The philosopher Frederick A. Olafson speaks of "the stubbornly unconceptualizable fact of existence.") The worth of the existence passed on to the unborn is not measurable but indefinite. The judgment is minimal: no human purpose or value within existence is worth more than existence and can ever be used to justify the risk of extinction. Third, from the moral point of view, existence seems unjustifiable because of the pain and ugliness in it, and therefore the moral point of view must be chastened if it is not to block attachment to existence as such. The other minimal judgment is that whatever existence is, it is better than nothing. For the first time, in the nuclear age, humanity can fully perceive existence from the perspective of nothing, which in part is the perspective of extinction.

### Structural violence

#### War generates structural violence

Rule ‘5

(James, Sociology Professor SUNY-Stony Brook, 'Above All, Do No Harm' The War in Iraq and Dissent, DISSENT, Summer, http://www.dissentmagazine.org/menutest/archives/2005/su05/rule.htm)

Why does the left traditionally stand against aggressive wars? This question should hardly need to be asked in a forum like this one. We don’t back such wars because the enormous costs that they entail—at home and abroad—are typically devoted to elite interests that we don’t share. These costs in life and treasure most predictably go to purchase control of foreign markets, or to enhance military hegemony for its own sake, or to install or maintain foreign regimes whose only virtue is their friendliness to the invader. Worse, such costs are disproportionately borne by those whose interests most need our concern—the Americans who start with the least going for them. Most often, they do the fighting and dying. And the vast resources devoted to war require the sacrifice of policies that might otherwise furnish a break for the most vulnerable.

 What’s worse, in public opinion, martial values rise like a miasma from the moral swamp of war-making, choking off the very critical public debate that people like us seek to foster. Public discourse is inevitably reduced to stultifying inquisitions as to who is doing the most to “support our men and women in the field.”

### 2AC Root Cause

#### No single cause of conflict

Barnett et al 7

Michael, Hunjoon Kim, Madalene O’Donnell, Laura Sitea, Global Governance, “Peacebuilding: What is in a Name?”, Questia

Because there are multiple contributing causes of conflict, almost any international assistance effort that addresses any perceived or real grievance can arguably be called "peacebuilding." Moreover, anyone invited to imagine the causes of violent conflict might generate a rather expansive laundry list of issues to be addressed in the postconflict period, including income distribution, land reform, democracy and the rule of law, human security, corruption, gender equality, refugee reintegration, economic development, ethnonational divisions, environmental degradation, transitional justice, and on and on. There are at least two good reasons for such a fertile imagination. One, there is no master variable for explaining either the outbreak of violence or the construction of a positive peace but merely groupings of factors across categories such as greed and grievance, and catalytic events. Variables that might be relatively harmless in some contexts can be a potent cocktail in others. Conversely, we have relatively little knowledge regarding what causes peace or what the paths to peace are. Although democratic states that have reasonably high per capita incomes are at a reduced risk of conflict, being democratic and rich is no guarantor of a positive peace, and illiberal and poor countries, at times, also have had their share of success. Second, organizations are likely to claim that their core competencies and mandates are critical to peacebuilding. They might be right. They also might be opportunistic. After all, if peacebuilding is big business, then there are good bureaucratic reasons for claiming that they are an invaluable partner.

#### Root causes are oversimplifications

May ‘2

Collin May 12-18-2002

http://innocentsabroad.blogspot.com/2002\_12\_15\_innocentsabroad\_archive.html#90069170

Unfortunately for our scholarly friends, there is a problem with root causes. Root causes assume something that is rarely mentioned. Root causes assume that humans can escape their moral obligations by standing outside the normal world. It assumes humans can abstract themselves from reality and go romping through history looking for the all-powerful distant cause that will explain each and every aspect of our current situation. Then, having discerned the historical secret, the wily scholar can, with a gentle wave of his hand, dismiss all those silly concerns about morality, responsibility and honor, while providing the road map for solving all our social ills. That this approach, which is really none other than the methodology of the social sciences, is simplistic in the extreme, reducing human decisions to little more than unthinking reactions to a single dominant stimulus, means little to its proponents. They accept all this because the root cause provides an immediate and simplistic explanation to impress the gullible and justify the foolish.

### Murray

#### Power politics is an inevitable manifestation of human nature. We can reform the current international system, but wishing it to vanish will not make it so.

Murray ‘97

(Alastair, Politics Department at the University of Wales, Swansea, RECONSTRUCTING REALISM, p. 195-96)

Perhaps the most famous realist refrain is that all politics are power politics. It is the all that is important here. Realism lays claim to a relevance across systems, and because it relies on a conception of human nature, rather than a historically specific structure of world politics, it can make good on this claim. If its observations about human nature are even remotely accurate, the problems that it addresses will transcend contingent formulations of the problem of political order. Even in a genuine cosmopolis, conflict might become technical, but it would not be eliminated altogether.67 The primary manifestations of power might become more economic or institutional rather than (para)military, but, where disagreements occur and power exists, the employment of the one to ensure the satisfactory resolution of the other is inevitable short of a wholesale transformation of human behaviour. Power is ultimately of the essence of politics; it is not something which can be banished, only tamed and restrained. As a result, realism achieves a universal relevance to the problem of political action which allows it to relate the reformist zeal of critical theory, without which advance would be impossible, with the problem-solver's sensible caution that, before reform is attempted, whatever measure of security is possible under contemporary conditions must first be ensured.

### 2AC Epistemology Kratchowil

#### Even incomplete knowledge is sufficient – specificity is key

Kratochwil 8 – professor of international relations – European University Institute

Friedrich, “The Puzzles of Politics,” pg. 200-213

The lesson seems clear. Even at the danger of “fuzzy boundaries”, when we deal with “practice” ( just as with the “pragmatic turn”), we would be well advised to rely on the use of the term rather than on its reference (pointing to some property of the object under study), in order to draw the bounds of sense and understand the meaning of the concept. My argument for the fruitful character of a pragmatic approach in IR, therefore, does not depend on a comprehensive mapping of the varieties of research in this area, nor on an arbitrary appropriation or exegesis of any specific and self-absorbed theoretical orientation. For this reason, in what follows, I will not provide a rigidly specified definition, nor will I refer exclusively to some prepackaged theoretical approach. Instead, I will sketch out the reasons for which a pragmatic orientation in social analysis seems to hold particular promise. These reasons pertain both to the more general area of knowledge appropriate for praxis and to the more specific types of investigation in the field. The follow- ing ten points are – without a claim to completeness – intended to engender some critical reflection on both areas. Firstly, a pragmatic approach does not begin with objects or “things” (ontology), or with reason and method (epistemology), but with “acting” (prattein), thereby preventing some false starts. Since, as historical beings placed in a specific situations, we do not have the luxury of deferring decisions until we have found the “truth”, we have to act and must do so always under time pressures and in the face of incomplete information. Pre- cisely because the social world is characterised by strategic interactions, what a situation “is”, is hardly ever clear ex ante, because it is being “produced” by the actors and their interactions, and the multiple possibilities are rife with incentives for (dis)information. This puts a premium on quick diagnostic and cognitive shortcuts informing actors about the relevant features of the situ- ation, and on leaving an alternative open (“plan B”) in case of unexpected difficulties. Instead of relying on certainty and universal validity gained through abstraction and controlled experiments, we know that completeness and attentiveness to detail, rather than to generality, matter. To that extent, likening practical choices to simple “discoveries” of an already independently existing “reality” which discloses itself to an “observer” – or relying on optimal strategies – is somewhat heroic. These points have been made vividly by “realists” such as Clausewitz in his controversy with von Bülow, in which he criticised the latter’s obsession with a strategic “science” (Paret et al. 1986). While Clausewitz has become an icon for realists, only a few of them (usually dubbed “old” realists) have taken seriously his warnings against the misplaced belief in the reliability and use- fulness of a “scientific” study of strategy. Instead, most of them, especially “neorealists” of various stripes, have embraced the “theory”-building based on the epistemological project as the via regia to the creation of knowledge. A pragmatist orientation would most certainly not endorse such a position. Secondly, since acting in the social world often involves acting “for” some- one, special responsibilities arise that aggravate both the incompleteness of knowledge as well as its generality problem. Since we owe special care to those entrusted to us, for example, as teachers, doctors or lawyers, we cannot just rely on what is generally true, but have to pay special attention to the particular case. Aside from avoiding the foreclosure of options, we cannot refuse to act on the basis of incomplete information or insufficient know- ledge, and the necessary diagnostic will involve typification and comparison, reasoning by analogy rather than generalization or deduction. Leaving out the particularities of a case, be it a legal or medical one, in a mistaken effort to become “scientific” would be a fatal flaw. Moreover, there still remains the crucial element of “timing” – of knowing when to act. Students of crises have always pointed out the importance of this factor but, in attempts at building a general “theory” of international politics analogously to the natural sci- ences, such elements are neglected on the basis of the “continuity of nature” and the “large number” assumptions. Besides, “timing” seems to be quite recalcitrant to analytical treatment.

### 2AC Reps Not First

#### Changing representational practices won’t alter policy—looking to structures and politics is more vital

-Foreign policymakers don’t care about discourse, kritik trades off with structural reform and contextualization

Tuathail 96

 Professor of Geography at Virginia Polytechnic Institute, 96 (Gearoid, Political Geography, Vol 15 No 6-7, p. 664, Science Direct)

While theoretical debates at academic conferences are important to academics, the discourse and concerns of foreign-policy decision- makers are quite different, so different that they constitute a distinctive problem- solving, theory-averse, policy-making subculture. There is a danger that academics assume that the discourses they engage are more significant in the practice of foreign policy and the exercise of power than they really are. This is not, however, to minimize the obvious importance of academia as a general institutional structure among many that sustain certain epistemic communities in particular states. In general, I do not disagree with Dalby’s fourth point about politics and discourse except to note that his statement-‘Precisely because reality could be represented in particular ways political decisions could be taken, troops and material moved and war fought’-evades the important question of agency that I noted in my review essay. The assumption that it is representations that make action possible is inadequate

by itself. Political, military and economic structures, institutions, discursive networks and leadership are all crucial in explaining social action and should be theorized together with representational practices. Both here and earlier, Dalby’s reasoning inclines towards a form of idealism. In response to Dalby’s fifth point (with its three subpoints), it is worth noting, first, that his book is about the CPD, not the Reagan administration. He analyzes certain CPD discourses, root the geographical reasoning practices of the Reagan administration nor its public-policy reasoning on national security. Dalby’s book is narrowly textual; the general contextuality of the Reagan administration is not dealt with. Second, let me simply note that I find that the distinction between critical theorists and post- structuralists is a little too rigidly and heroically drawn by Dalby and others. Third, Dalby’s interpretation of the reconceptualization of national security in Moscow as heavily influenced by dissident peace researchers in Europe is highly idealist, an interpretation that ignores the structural and ideological crises facing the Soviet elite at that time. Gorbachev’s reforms and his new security discourse were also strongly self- interested, an ultimately futile attempt to save the Communist Party and a discredited regime of power from disintegration. The issues raised by Simon Dalby in his comment are important ones for all those interested in the practice of critical geopolitics. While I agree with Dalby that questions of discourse are extremely important ones for political geographers to engage, there is a danger of fetishizing this concern with discourse so that we neglect the institutional and the sociological, the materialist and the cultural, the political and the geographical contexts within which particular discursive strategies become significant. Critical geopolitics, in other words, should not be a prisoner of the sweeping ahistorical cant that sometimes accompanies ‘poststructuralism nor convenient reading strategies like the identity politics narrative; it needs to always be open to the patterned mess that is human history.

# 2NC

## \*\*\*\*Courts

### Epist

#### Don’t prioritize ontology and epistemology over the interpretative power of the 1AC authors – force them to prove the 1AC claims are inaccurate.

Owen 2

David, Reader in Political Theory at the University of Southampton, Reorienting International Relations: On Pragmatism, Pluralism and Practical Reasoning”, Millennium: Journal of International Studies, Vol. 31, No. 3, <http://mil.sagepub.com/cgi/reprint/31/3/653>

Commenting on the ‘philosophical turn’ in IR, Wæver remarks that ‘[a] frenzy for words like “epistemology” and “ontology” often signals this philosophical turn’, although he goes on to comment that these terms are often used loosely.4 However, loosely deployed or not, it is clear that debates concerning ontology and epistemology play a central role in the contemporary IR theory wars. In one respect, this is unsurprising since it is a characteristic feature of the social sciences that periods of disciplinary disorientation involve recourse to reflection on the philosophical commitments of different theoretical approaches, and there is no doubt that such reflection can play a valuable role in making explicit the commitments that characterise (and help individuate) diverse theoretical positions. Yet, such a philosophical turn is not without its dangers and I will briefly mention three before turning to consider a confusion that has, I will suggest, helped to promote the IR theory wars by motivating this philosophical turn. The first danger with the philosophical turn is that it has an inbuilt tendency to prioritise issues of ontology and epistemology over explanatory and/or interpretive power as if the latter two were merely a simple function of the former. But while the explanatory and/or interpretive power of a theoretical account is not wholly independent of its ontological and/or epistemological commitments (otherwise criticism of these features would not be a criticism that had any value), it is by no means clear that it is, in contrast, wholly dependent on these philosophical commitments. Thus, for example, one need not be sympathetic to rational choice theory to recognise that it can provide powerful accounts of certain kinds of problems, such as the tragedy of the commons in which dilemmas of collective action are foregrounded. It may, of course, be the case that the advocates of rational choice theory cannot give a good account of why this type of theory is powerful in accounting for this class of problems (i.e., how it is that the relevant actors come to exhibit features in these circumstances that approximate the assumptions of rational choice theory) and, if this is the case, it is a philosophical weakness—but this does not undermine the point that, for a certain class of problems, rational choice theory may provide the best account available to us. In other words, while the critical judgement of theoretical accounts in terms of their ontological and/or epistemological sophistication is one kind of critical judgement, it is not the only or even necessarily the most important kind. The second danger run by the philosophical turn is that because prioritisation of ontology and epistemology promotes theory-construction from philosophical first principles, it cultivates a theory-driven rather than problem-driven approach to IR. Paraphrasing Ian Shapiro, the point can be put like this: since it is the case that there is always a plurality of possible true descriptions of a given action, event or phenomenon, the challenge is to decide which is the most apt in terms of getting a perspicuous grip on the action, event or phenomenon in question given the purposes of the inquiry; yet, from this standpoint, ‘theory-driven work is part of a reductionist program’ in that it ‘dictates always opting for the description that calls for the explanation that flows from the preferred model or theory’.5 The justification offered for this strategy rests on the mistaken belief that it is necessary for social science because general explanations are required to characterise the classes of phenomena studied in similar terms. However, as Shapiro points out, this is to misunderstand the enterprise of science since ‘whether there are general explanations for classes of phenomena is a question for social-scientific inquiry, not to be prejudged before conducting that inquiry’.6 Moreover, this strategy easily slips into the promotion of the pursuit of generality over that of empirical validity. The third danger is that the preceding two combine to encourage the formation of a particular image of disciplinary debate in IR—what might be called (only slightly tongue in cheek) ‘the Highlander view’—namely, an image of warring theoretical approaches with each, despite occasional temporary tactical alliances, dedicated to the strategic achievement of sovereignty over the disciplinary field. It encourages this view because the turn to, and prioritisation of, ontology and epistemology stimulates the idea that there can only be one theoretical approach which gets things right, namely, the theoretical approach that gets its ontology and epistemology right. This image feeds back into IR exacerbating the first and second dangers, and so a potentially vicious circle arises. It should be noted that I am not claiming that such a vicious circle has been established in IR by virtue of the philosophical turn, nor am I claiming that IR is alone in its current exposure to this threat; on the contrary, Shapiro’s remarks are directed at (primarily North American) political science. I am simply concerned to point out that the philosophical turn in IR increases its exposure to these dangers and, hence, its vulnerability to the kind of vicious circle that they can, collectively, generate.

#### Must evaluate consequences – the alternative is moral absolutism that generates evil

Isaac ‘2—Professor of Political Science at Indiana-Bloomington

Jeffery C., Director of the Center for the Study of Democracy and Public Life, PhD from Yale Dissent Magazine, Vol. 49, Iss. 2, “Ends, Means, and Politics,” p. Proquest.

As a result, the most important political questions are simply not asked. It is assumed that U.S. military intervention is an act of "aggression," but no consideration is given to the aggression to which intervention is a response. The status quo ante in Afghanistan is not, as peace activists would have it, peace, but rather terrorist violence abetted by a regime--the Taliban--that rose to power through brutality and repression. This requires us to ask a question that most "peace" activists would prefer not to ask: What should be done to respond to the violence of a Saddam Hussein, or a Milosevic, or a Taliban regime? What means are likely to stop violence and bring criminals to justice? Calls for diplomacy and international law are well intended and important; they implicate a decent and civilized ethic of global order. But they are also vague and empty, because they are not accompanied by any account of how diplomacy or international law can work effectively to address the problem at hand. The campus left offers no such account. To do so would require it to contemplate tragic choices in which moral goodness is of limited utility. Here what matters is not purity of intention but the intelligent exercise of power. Power is not a dirty word or an unfortunate feature of the world. It is the core of politics. Power is the ability to effect outcomes in the world. Politics, in large part, involves contests over the distribution and use of power. To accomplish anything in the political world, one must attend to the means that are necessary to bring it about. And to develop such means is to develop, and to exercise, power. To say this is not to say that power is beyond morality. It is to say that power is not reducible to morality. As writers such as Niccolo Machiavelli, Max Weber, Reinhold Niebuhr, and Hannah Arendt have taught, an unyielding concern with moral goodness undercuts political responsibility. The concern may be morally laudable, reflecting a kind of personal integrity, but it suffers from three fatal flaws: (1) It fails to see that the purity of one's intention does not ensure the achievement of what one intends. Abjuring violence or refusing to make common cause with morally compromised parties may seem like the right thing; but if such tactics entail impotence, then it is hard to view them as serving any moral good beyond the clean conscience of their supporters; (2) it fails to see that in a world of real violence and injustice, moral purity is not simply a form of powerlessness; it is often a form of complicity in injustice. This is why, from the standpoint of politics--as opposed to religion--pacifism is always a potentially immoral stand. In categorically repudiating violence, it refuses in principle to oppose certain violent injustices with any effect; and (3) it fails to see that politics is as much about unintended consequences as it is about intentions; it is the effects of action, rather than the motives of action, that is most significant. Just as the alignment with "good" may engender impotence, it is often the pursuit of "good" that generates evil. This is the lesson of communism in the twentieth century: it is not enough that one's goals be sincere or idealistic; it is equally important, always, to ask about the effects of pursuing these goals and to judge these effects in pragmatic and historically contextualized ways. Moral absolutism inhibits this judgment. It alienates those who are not true believers. It promotes arrogance. And it undermines political effectiveness.

#### Method focus causes endless paradigm wars

Wendt ‘98, professor of international security – Ohio State University

(Alexander, “On Constitution and Causation in International Relations,” British International Studies Association)

As a community, we in the academic study of international politics spend too much time worrying about the kind of issues addressed in this essay. The central point of IR scholarship is to increase our knowledge of how the world works, not to worry about how (or whether) we can know how the world works. What matters for IR is ontology, not epistemology. This doesn’t mean that there are no interesting epistemological questions in IR, and even less does it mean that there are no important political or sociological aspects to those questions. Indeed there are, as I have suggested above, and as a discipline IR should have more awareness of these aspects. At the same time, however, these are questions best addressed by philosophers and sociologists of knowledge, not political scientists. Let’s face it: most IR scholars, including this one, have little or no proper training in epistemology, and as such the attempt to solve epistemological problems anyway will inevitably lead to confusion (after all, after 2000 years, even the specialists are still having a hard time). Moreover, as long as we let our research be driven in an open-minded fashion by substantive questions and problems rather than by epistemologies and methods, there is little need to answer epistemological questions either. It is simply not the case that we have to undertake an epistemological analysis of how we can know something before we can know it, a fact amply attested to by the success of the natural sciences, whose practitioners are only rarely forced by the results of their inquiries to consider epistemological questions. In important respects we do know how international politics works, and it doesn’t much matter how we came to that knowledge. In that light, going into the epistemology business will distract us from the real business of IR, which is international politics. Our great debates should be about first-order issues of substance, like the ‘first debate’ between Realists and Idealists, not second-order issues of method. Unfortunately, it is no longer a simple matter for IR scholars to ‘just say no’ to epistemological discourse. The problem is that this discourse has already contamin- ated our thinking about international politics, helping to polarize the discipline into ‘paradigm wars’. Although the resurgence of these wars in the 1980s and 90s is due in large part to the rise of post-positivism, its roots lie in the epistemological anxiety of positivists, who since the 1950s have been very concerned to establish the authority of their work as Science. This is an important goal, one that I share, but its implementation has been marred by an overly narrow conception of science as being concerned only with causal questions that can be answered using the methods of natural science. The effect has been to marginalize historical and interpretive work that does not fit this mould, and to encourage scholars interested in that kind of work to see themselves as somehow not engaged in science. One has to wonder whether the two sides should be happy with the result. Do positivists really mean to suggest that it is not part of science to ask questions about how things are constituted, questions which if those things happen to be made of ideas might only be answerable by interpretive methods? If so, then they seem to be saying that the double-helix model of DNA, and perhaps much of rational choice theory, is not science. And do post-positivists really mean to suggest that students of social life should not ask causal questions or attempt to test their claims against empirical evidence? If so, then it is not clear by what criteria their work should be judged, or how it differs from art or revelation. On both sides, in other words, the result of the Third Debate’s sparring over epistemology is often one-sided, intolerant caricatures of science.

### Politics is a net benefit

#### Obama can’t get the blame for D.C. decisions—He hasn’t appointed a single member of the court and it is controlled by Republicans

Biskupic 10/5/12

Joan Biskupic Reporter for Reuters¶ WASHINGTON | Fri Oct 5, 2012 <http://www.reuters.com/article/2012/10/05/us-usa-obama-appealscourts-idUSBRE89405E20121005>

Notably, President Obama has not added a single judge to the powerful U.S. Court of Appeals for the District of Columbia Circuit, where there are three vacancies on an 11-member panel dominated by Republicans. He is about to become the first president in at least half a century to finish a full term without an appointment to the bench known as the nation's second highest. The D.C. Circuit often has the last word on a president's domestic agenda and has been a stepping-stone for Supreme Court justices

#### The media does not Focus on D.C. decisions

Unah 02

Isaac Unah University of North Carolina at Chapel Hill [The American Political Science Review](http://www.jstor.org.www2.lib.ku.edu:2048/action/showPublication?journalCode=amerpoliscierevi), Vol. 96, No. 1 (Mar., 2002), pp. 202-203 ¶ Published by: [American Political Science Association](http://www.jstor.org.www2.lib.ku.edu:2048/action/showPublisher?publisherCode=apsa)

For decadesthe U.S. courts of appeals were afflicted with the proverbial middle child syndrome. They were given less than deserved attention by legal scholars and political scientists, and their decisions commanded less media and popular attention than rulings by the Supreme Court and even decisions of federal district courts. To many observers**,** the appeals courts were relatively invisible.

### D.C. Court Has Jurisdiction Extensions

#### The D.C. Circuit has jurisdiction over federal agencies and empirically strikes down regulations

Adler 2K

Jonathan Adler is a senior fellow in environmental policy at the Competitive Enterprise¶ Institute, a nonpartisan, nonprofit research and advocacy organization in Washington, D.C., where he¶ previously served as Director of Environmental Studies P o l i c y S t u d y N o . 2 6 9¶ No Intelligible Principles:¶ The EPA's Record in Federal Court¶ http://reason.org/files/3217ecd7bf37b4ea6aa81d4dc9f59a26.pdf

Most challenges to EPA regulations are heard in the U.S. Court of Appeals for the D.C. Circuit. This court¶ has primary or exclusive jurisdiction over the regulatory activities of most federal agencies. Several¶ environmental statutes contain jurisdictional provisions that grant the D.C. Circuit exclusive venue over all¶ challenges to regulatory actions promulgated under those laws. An analysis of challenges to EPA regulations¶ and final agency actions in the D.C. Circuit during the Clinton Administration finds that the EPA wins fewer¶ than half of its cases before the D.C. Circuit.¶ ! Of the 69 cases analyzed, the EPA won only 23, or one-third (33.33 percent) of those in which the court¶ considered the merits of the challenge.¶ ! In over half of the cases (53.62 percent), the D.C. Circuit struck down all or a substantial portion of the¶ challenged rule. In the remaining cases (13.04 percent) the court dismissed the challenges on ripeness or standing¶ grounds, or otherwise held the challenged EPA action to be unreviewable in federal court. In these latter¶ cases, the court never considered the substance of the challenge to the EPA’s rule.¶ EPA’s record in the D.C. Circuit is substantially worse than one would expect given the judicial doctrines of¶ deference to agency fact-finding and policy preferences. Indeed, it is substantially worse than that of federal¶ agencies as a whole as found in prior analyses.

### D.C. Decisions Solve

#### D.C. Decisions solve nationally

Tobias 93

[University of Miami Law Review University of Miami](http://www.lexisnexis.com.www2.lib.ku.edu:2048/us/lnacademic/results/docview/docview.do?docLinkInd=true&risb=21_T8860751907&format=GNBFI&sort=BOOLEAN&startDocNo=26&resultsUrlKey=29_T8860751910&cisb=22_T8860751909&treeMax=true&treeWidth=0&csi=7371&docNo=33), September, 1993, 48 U. Miami L. Rev. 159, 14068 words, ESSAY: The D.C. Circuit as a National Court, Carl Tobias \*

Many aspects of the D.C. Circuit's caseload warrant reliance on nationwide pools. The court's docket, although not unique, differs significantly from the caseloads of the remaining circuit courts. Most appeals to the D.C. Circuit are national in several respects, particularly in terms of where the suits originate and the impact of the court's decisions. Much of this is attributable to the District of Columbia's position as the seat of the federal government.¶ In some statutes, Congress has specifically authorized individuals, who claim that the United States has harmed them anywhere in the country, to sue the government in Washington, D**.C**. [n87](http://www.lexisnexis.com.www2.lib.ku.edu:2048/us/lnacademic/frame.do?reloadEntirePage=true&rand=1269012519547&returnToKey=20_T8860797687&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.446911.698304175" \l "n87#n87) In other statutes, principally social legislation such as environmental measures, Congress requires persons challenging certain administrative decisions to appeal directly from the agency to the D.C. Circuit. [n88](http://www.lexisnexis.com.www2.lib.ku.edu:2048/us/lnacademic/frame.do?reloadEntirePage=true&rand=1269012519547&returnToKey=20_T8860797687&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.446911.698304175" \l "n88#n88) In the District of Columbia, parties also institute actions involving disputes between the three branches of the federal government and between those branches and state and local governments.¶ This federal inter-branch litigation includes bitter fights between the Congress and the Executive over raw political power, high principle, and questions of the respective branches' authority to act, especially in areas that trench on one another's power. Additional cases implicate disagreements over the country's most cherished symbols and sacred institutions, such as the flag, religion, delicate issues of national security, the authority to dispatch troops into international combat, and even the prosecution of high-ranking public officials. [n89](http://www.lexisnexis.com.www2.lib.ku.edu:2048/us/lnacademic/frame.do?reloadEntirePage=true&rand=1269012519547&returnToKey=20_T8860797687&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.446911.698304175" \l "n89#n89)¶ Nearly three-quarters of the D.C. Circuit's docket comprise exceedingly complex suits which seek reviewof federal administrative agency action. Many of these "cases arise under new statutory or regulatory regimes," have multiple issues or parties, present novel questions and [\*175] innovative arguments, and are extremely complicated. [n90](http://www.lexisnexis.com.www2.lib.ku.edu:2048/us/lnacademic/frame.do?reloadEntirePage=true&rand=1269012519547&returnToKey=20_T8860797687&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.446911.698304175" \l "n90#n90) A number of the actions involve cutting-edge issues of science, technology, economics, and ethics. Some of the lawsuits implicate difficult public policy choices about allocating scarce societal resources that Congress lacks either the substantive expertise or the political will to resolve. [n91](http://www.lexisnexis.com.www2.lib.ku.edu:2048/us/lnacademic/frame.do?reloadEntirePage=true&rand=1269012519547&returnToKey=20_T8860797687&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.446911.698304175" \l "n91#n91)¶ Thus, most of the D.C. Circuit's caseload contrasts markedly with the dockets of other appeals courts. Many of the D.C. Circuit's suitsbear little relationship to the geographic area where the court is situated and certain of the cases involve constitutional issues. These lawsuits, particularly those that seek review of federal administrative agency determinations**,** affect millions of Americans andhave national and international ramifications.

### AT Uncertainty

#### Uncertainty inevitable – companies can cope

-election cycles ensure uncertainty

Anderson 9/12

(Jared, “The Flawed US Energy Policy Discussion,”  <http://energy.aol.com/2012/09/12/the-flawed-us-energy-policy-discussion>, accessed 9-15-12, CMM)Are the energy industry and the business of politics incompatible?

It could be the simplest explanation for why the US does not have a comprehensive, efficient or constructive energy policy set. On the most basic level, two-year and four-year election cycles are problematic for an industry that needs to make decisions and investments over twenty- to thirty-year time horizons.¶ If it takes as much as 30 years to explore, discover, evaluate, produce, refine and transport oil or natural gas from a reservoir to a market in a profitable manner, that means more than seven presidential administration and 15 congressional reshuffles will occur during the project's lifetime. The likelihood that the regulatory landscape at the project's outset will resemble anything like the political topography at project completion is virtually nil.¶ Nevertheless, companies understand this is a fact of life when doing business in the US – which is a great place to operate, given a well-established rule of law, a strong resource base, liquid markets, access to capital, etc. – and have found ways to deal with the political and regulatory uncertainty for well over 100 years.¶ While this may be the case looking forward, the disconnect between election cycles and energy investment time horizons is even more difficult to reconcile when looking backward, as some industry observers have recently pointed out.¶ The current domestic oil and gas production renaissance that is garnering so much attention today has roots extending back decades. Substantial increases in oil and natural gas output from tight geologic formations began around the mid-2000's when companies started ramping up horizontal drilling and hydraulic fracturing operations in a big way, though the groundwork for these production increases was literally being laid for many years prior. Look at this Energy Information Administration animation depicting Barnett Shale drilling growth from 1997 to 2010 as one example.¶ But few are talking about that now, during the run-up to the elections this November. The rhetoric often focuses on what the current administration did over the past four years to accelerate or throttle back domestic oil and gas development, a trend that began in a (politically) distant era when regulations, policies, commodity prices, GDP growth, internal combustion engines and the environmental discussion were completely different, if not unrecognizable.¶ Now this may be a difficult concept to convey in a 30 second soundbite to a voting population that often has an incomplete picture of where their energy comes from. But oversimplification at best and misinformation at worst is not an optimal solution to the complicated challenge of balancing energy demand, environmental issues, employment needs and economic requirements within constantly shifting regulatory regimes. Energy project development moves at a different pace than government and is too complex to be evaluated in two or four year segments.

### Perm CP

#### If restrictions were MERELY pieces of papers then AFFs could repeal unenforced statutes that were ruled unconstitutional DECADES AGO.

**Treanor and Sperling, 1993**

William Michael Treanor, Associate Professor of Law, Fordham University; and Gene B. Sperling, J.D., Yale Law School, Columbia Law Review, December, lexis

Commentators have generally agreed with the overwhelming majority of courts that an overruling decision has the effect of automatically reviving statutes. For example, Erica Frohman Plave observed that revival was a necessary function of the limited scope of a judicial determination of unconstitutionality: "Such laws found unconstitutional are merely unenforceable until such time as they are found valid." 54 Professor Gerald Gunther has pronounced Attorney General Cummings's conclusion that Adkins "simply "suspended' enforcement" 55 of the District of Columbia minimum wage statute "persuasive," 56 and Professor Melville Nimmer similarly declared that "it seems clear that Attorney General Homer Cummings' opinion was correct." 57 Finally, Professor Oliver Field noted that a statute that has been found unconstitutional becomes enforceable when the case in which it was held unconstitutional is reversed because "a declaration of unconstitutionality does not operate as a repeal of a statute." 58 [\*1916]

## \*\*\*Case

### VTL

#### Value to life is intrinsic

Schwarz 2

Schwartz, Lecturer in Philosophy of Medicine at the Department of General Practice at the University of Glasgow ‘2 (Lisa, “Medical Ethic: A case-based approach, Chapter 6: A Value to Life: Who Decides and How?”)

The second assertion made by supporters of the quality of life as a criterion for decisionmaking is closely related to the first, but with an added dimension. This assertion suggests that the determination of the value of the quality of a given life is a subjective determination to be made by the person experiencing that life. The important addition here is that the decision is a personal one that, ideally, ought not to be made externally by another person but internally by the individual involved. Katherine Lewis made this decision for herself based on a comparison between two stages of her life. So did James Brady. Without this element, decisions based on quality of life criteria lack salient information and the patients concerned cannot give informed consent. Patients must be given the opportunity to decide for themselves whether they think their lives are worth living or not. To ignore or overlook patients’ judgement in this matter is to violate their autonomy and their freedom to decide for themselves on the basis of relevant information about their future, and comparative consideration of their past. As the deontological position puts it so well, to do so is to violate the imperative that we must treat persons as rational and as ends in themselves.

#### People will find their own value to life

Allport 92

Allport, Professor of Psychology at Harvard University, ’92 (Gordon, “Man’s Search for Meaning” preface)

Dr. Frankl, author-psychiatrist, sometimes asks his patients who suffer from a multitude of torments great and small, "Why do you not commit suicide?" From their answers he can find the guide-line for his psychotherapy: in one life there is love for one's children to tie to; in another life, a talent to be used; in a third, perhaps only lingering memories worth preserving. To weave these slender threads of a broken life into a firm pattern of meaning and responsibility is the object and challenge of logotherapy, which is Dr. Frankl's own version of modern existential analysis. In this book, Dr. Frankl explains the experience which led to his discovery of logotherapy. As a longtime prisoner in bestial concentraiton camps he found himself stripped to naked existence. His father, mother, brother, and his wife died in died in camps or were sent to the gas ovens, so that, excepting for his sister, his entire family perished in these camps. How could he - every possession lost, every value destroyed, suffering from hunger, cold and brutality, hourly expecting extermination - how could he find life worth preserving? A psychiatrist who personally has faced such extremity is a psychiatrist worth listening to. He, if anyone, should be able to view our human condition wisely and with compassion. Dr. Frankl's words have a profoundly honest ring, for they rest on experiences too deep for deception. What he has to say gains presitge because of his present position on the Medical Faculty of the University of Vienna and becuase of the renown of the logotherapy clinics that today are springing up in many lands, patterned on his own famous Neurological Policlinic in Vienna.

### 2AC Racism Not Root Cause

#### Racism isn’t a root cause

Mertus 99 - Professor, co-director of Ethics, Peace and Global Affairs, JD @ Yale,

Julia, “THE ROLE OF RACISM AS A CAUSE OF OR FACTOR IN WARS AND CIVIL CONFLICT”, http://www.ichrp.org/files/papers/167/112\_-\_The\_Role\_of\_Racism\_as\_a\_Cause\_of\_or\_Factor\_in\_Wars\_and\_Civil\_Conflict\_Mertus\_\_Julie\_\_1999.pdf

This paper examines the role of racism as a cause of or factor in wars and civil conflicts. “Racism” as understood here is defined broadly to encompass acts and processes of dehumanisation. The conflicts in Rwanda and Kosovo serve as case studies; the former illustrates a case where the racist nature of the conflict has been clear to most observers, and the latter represents a case where racism plays an important yet overlooked role. Racism did not cause either conflict. Rather, the conflicts were the outcome of political manipulation and enlargement of already existing group classification schemes and social polarisation, a history of real and imagined oppression and deprivation, the absence of the rule of law and democratic structures, and state monopoly over the provision of information. Under such conditions, political élites could use racist ideology

as a method of gaining power and, when necessary, waging war.

# 1NR

## 1NR

### War

#### Statistics prove

Royal 10 — Director of Cooperative Threat Reduction at the U.S. Department of Defense

Jedediah, “Economic Integration, Economic Signaling and the Problem of Economic Crises?”, Economics of War and Peace: Economic, Legal and Political Perspectives, ed. Goldsmith and Brauer, p. 213-215

Less intuitive is how periods of economic decline may increase the likelihood of external conflict. Political science literature has contributed a moderate degree of attention to the impact of economic decline and the security and defence behaviour of interdependent states. Research in this vein has been considered at systemic, dyadic and national levels. Several notable contributions follow. First, on the systemic level, Pollins (2008) advances Modelski and Thompson's (1996) work on leadership cycle theory, finding that rhythms in the global economy are associated with the rise and fall of a pre-eminent power and the often bloody transition from one pre-eminent leader to the next. As such, exogenous shocks such as economic crises could usher in a redistribution of relative power (see also Gilpin, 1981) that leads to uncertainty about power balances, increasing the risk of miscalculation (Fearon, 1995). Alternatively, even a relatively certain redistribution of power could lead to a permissive environment for conflict as a rising power may seek to challenge a declining power (Werner, 1999). Separately, Pollins (1996) also shows that global economic cycles combined with parallel leadership cycles impact the likelihood of conflict among major, medium and small powers, although he suggests that the causes and connections between global economic conditions and security conditions remain unknown. Second, on a dyadic level, Copeland's (1996, 2000) theory of trade expectations suggests that 'future expectation of trade' is a significant variable in understanding economic conditions and security behaviour of states. He argues that interdependent states are likely to gain pacific benefits from trade so long as they have an optimistic view of future trade relations. However, if the expectations of future trade decline, particularly for difficult to replace items such as energy resources, the likelihood for conflict increases, as states will be inclined to use force to gain access to those resources. Crises could potentially be the trigger for decreased trade expectations either on its own or because it triggers protectionist moves by interdependent states.4 Third, others have considered the link between economic decline and external armed conflict at a national level. Blomberg and Hess (2002) find a strong correlation between internal conflict and external conflict, particularly during periods of economic downturn. They write, The linkages between internal and external conflict and prosperity are strong and mutually reinforcing. Economic conflict tends to spawn internal conflict, which in turn returns the favour. Moreover, the presence of a recession tends to amplify the extent to which international and external conflicts self-reinforce each other. (Blomberg & Hess, 2002, p. 89) Economic decline has also been linked with an increase in the likelihood of terrorism (Blomberg, Hess, & Weerapana, 2004), which has the capacity to spill across borders and lead to external tensions. Furthermore, crises generally reduce the popularity of a sitting government. 'Diversionary theory' suggests that, when facing unpopularity arising from economic decline, sitting governments have increased incentives to fabricate external military conflicts to create a 'rally around the flag' effect. Wang (1996), DeRouen (1995), and Blomberg, Hess, and Thacker (2006) find supporting evidence showing that economic decline and use of force are at least indirectly correlated. Gelpi (1997), Miller (1999), and Kisangani and Pickering (2009) suggest that the tendency towards diversionary tactics are greater for democratic states than autocratic states, due to the fact that democratic leaders are generally more susceptible to being removed from office due to lack of domestic support. DeRouen (2000) has provided evidence showing that periods of weak economic performance in the United States, and thus weak Presidential popularity, are statistically linked to an increase in the use of force. In summary, recent economic scholarship positively correlates economic integration with an increase in the frequency of economic crises, whereas political science scholarship links economic decline with external conflict at systemic, dyadic and national levels.5 This implied connection between integration, crises and armed conflict has not featured prominently in the economic-security debate and deserves more attention. This observation is not contradictory to other perspectives that link economic interdependence with a decrease in the likelihood of external conflict, such as those mentioned in the first paragraph of this chapter. Those studies tend to focus on dyadic interdependence instead of global interdependence and do not specifically consider the occurrence of and conditions created by economic crises. As such, the view presented here should be considered ancillary to those views.

#### Slow growth leads to hegemonic wars – relative gap is key

Goldstein 7 - Professor of Global Politics and International Relations @ University of Pennsylvania,

Avery Goldstein, “Power transitions, institutions, and China's rise in East Asia: Theoretical expectations and evidence,” [Journal of Strategic Studies](http://www.informaworld.com/smpp/title~db%3Dall~content%3Dt713636064), Volume[30](http://www.informaworld.com/smpp/title~db%3Dall~content%3Dt713636064~tab%3Dissueslist~branches%3D30#v30), Issue [4 & 5](http://www.informaworld.com/smpp/title~db%3Dall~content%3Dg780703608)August, EBSCO

Two closely related, though distinct, theoretical arguments focus explicitly on the consequences for international politics of a shift in power between a dominant state and a rising power. In War and Change in World Politics, Robert Gilpin suggested that peace prevails when a dominant state’s capabilities enable it to ‘govern’ an international order that it has shaped. Over time, however, as economic and technological diffusion proceeds during eras of peace and development, other states are empowered. Moreover, the burdens of international governance drain and distract the reigning hegemon, and challengers eventually emerge who seek to rewrite the rules of governance. As the power advantage of the erstwhile hegemon ebbs, it may become desperate enough to resort to theultima ratio of international politics, force, to forestall the increasingly urgent demands of a rising challenger. Or as the power of the challenger rises, it may be tempted to press its case with threats to use force. It is the rise and fall of the great powers that creates the circumstances under which major wars, what Gilpin labels ‘hegemonic wars’, break out.13 Gilpin’s argument logically encourages pessimism about the implications of a rising China. It leads to the expectation that international trade, investment, and technology transfer will result in a steady diffusion of American economic power, benefiting the rapidly developing states of the world, including China. As the US simultaneously scurries to put out the many brushfires that threaten its far-flung global interests (i.e., the classic problem of overextension), it will be unable to devote sufficient resources to maintain or restore its former advantage over emerging competitors like China. While the erosion of the once clear American advantage plays itself out, the US will find it ever more difficult to preserve the order in Asia that it created during its era of preponderance. The expectation is an increase in the likelihood for the use of force – either by a Chinese challenger able to field a stronger military in support of its demands for greater influence over international arrangements in Asia, or by a besieged American hegemon desperate to head off further decline. Among the trends that alarm those who would look at Asia through the lens of Gilpin’s theory are China’s expanding share of world trade and wealth(much of it resulting from the gains made possible by the international economic order a dominant US established); its acquisition of technology in key sectors that have both civilian and military applications (e.g., information, communications, and electronics linked with to forestall, and the challenger becomes increasingly determined to realize the transition to a new international order whose contours it will define. the ‘revolution in military affairs’); and an expanding military burden for the US (as it copes with the challenges of its global war on terrorism and especially its struggle in Iraq) that limits the resources it can devote to preserving its interests in East Asia.14 Although similar to Gilpin’s work insofar as it emphasizes the importance of shifts in the capabilities of a dominant state and a rising challenger, the power-transition theory A. F. K. Organski and Jacek Kugler present in The War Ledger focuses more closely on the allegedly dangerous phenomenon of ‘crossover’– the point at which a dissatisfied challenger is about to overtake the established leading state.15 In such cases, when the power gap narrows, the dominant state becomes increasingly desperate. Though suggesting why a rising China may ultimately present grave dangers for international peace when its capabilities make it a peer competitor of America, Organski and Kugler’s power-transition theory is less clear about the dangers while a potential challenger still lags far behind and faces a difficult struggle to catch up. This clarification is important in thinking about the theory’s relevance to interpreting China’s rise because a broad consensus prevails among analysts that Chinese military capabilities are at a minimum two decades from putting it in a league with the US in Asia.16 Their theory, then, points with alarm to trends in China’s growing wealth and power relative to the United States, but especially looks ahead to what it sees as the period of maximum danger – that time when a dissatisfied China could be in a position to overtake the US on dimensions believed crucial for assessing power. Reports beginning in the mid-1990s that offered extrapolations suggesting China’s growth would give it the world’s largest gross domestic product (GDP aggregate, not per capita) sometime in the first few decades of the twentieth century fed these sorts of concerns about a potentially dangerous challenge to American leadership in Asia.17 The huge gap between Chinese and American military capabilities (especially in terms of technological sophistication) has so far discouraged prediction of comparably disquieting trends on this dimension, but inklings of similar concerns may be reflected in occasionally alarmist reports about purchases of advanced Russian air and naval equipment, as well as concern that Chinese espionage may have undermined the American advantage in nuclear and missile technology, and speculation about the potential military purposes of China’s manned space program.18 Moreover, because a dominant state may react to the prospect of a crossover and believe that it is wiser to embrace the logic of preventive war and act early to delay a transition while the task is more manageable, Organski and Kugler’s power-transition theory also provides grounds for concern about the period prior to the possible crossover.19

### Struct Violence

#### Decline leads to widespread violence – turns value to life

Strauss-Kahn 9 – Managing Director @ IMF

Dominique, “Economic Stability, Economic Cooperation, and Peace—the Role of the IMF,” http://www.

imf.org/external/np/speeches/2009/102309.htm

Let me stress that the crisis is by no means over, and many risks remain. Economic activity is still dependent on policy support, and a premature withdrawal of this support could kill the recovery. And even as growth recovers, it will take some time for jobs to follow suit. This economic instability will continue to threaten social stability.¶ The stakes are particularly high in the low-income countries. Our colleagues at the United Nations and World Bank think that up to 90 million people might be pushed into extreme poverty as a result of this crisis. In many areas of the world, what is at stake is not only higher unemployment or lower purchasing power, but life and death itself. Economic marginalization and destitution could lead to social unrest, political instability, a breakdown of democracy, or war. In a sense, our collective efforts to fight the crisis cannot be separated from our efforts guard social stability and to secure peace. This is particularly important in low-income countries.¶ War might justifiably be called “development in reverse”. War leads to death, disability, disease, and displacement of population. War increases poverty. War reduces growth potential by destroying infrastructure as well as financial and human capital. War diverts resources toward violence, rent-seeking, and corruption. War weakens institutions. War in one country harms neighboring countries, including through an influx of refugees.¶ Most wars since the 1970s have been wars within states. It is hard to estimate the true cost of a civil war. Recent research suggests that one year of conflict can knock 2-2½ percentage points off a country’s growth rate. And since the average civil war lasts 7 years, that means an economy that is 15 percent smaller than it would have been with peace. Of course, no cost can be put on the loss of life or the great human suffering that always accompanies war.¶ The causality also runs the other way. Just as wars devastate the economy, a weak economy makes a country more prone to war. The evidence is quite clear on this point—

income or slow economic growth increases the risk of a country falling into civil conflict. Poverty and economic stagnation lead people to become marginalized, without a stake in the productive economy. With little hope of employment or a decent standard of living, they might turn instead to violent activities. Dependence on natural resources is also a risk factor—competition for control over these resources can trigger conflict and income from natural resources can finance war.¶ And so we can see a vicious circle—war makes economic conditions and prospects worse, and weakens institutions, and this in turn increases the likelihood of war. Once a war has started, it’s hard to stop. And even if it stops, it’s easy to slip back into conflict. During the first decade after a war, there is a 50 percent chance of returning to violence, partly because of weakened institutions.

### 2NC AT Thumpers—Top Level

#### Obama will get his agenda now—he’s priced in major fights into his agenda and gets immigration—plan kills his momentum

Cillizza 2/6

Chris Cillizza, WaPo, 2/6/13, President Obama is enjoying a second political honeymoon. But how long will it last?, www.washingtonpost.com/blogs/the-fix/wp/2013/02/06/president-obama-is-enjoying-a-second-political-honeymoon-but-how-long-will-it-last/?print=1

President Obama is enjoying a sort of second political honeymoon in the wake of his re-election victory last November with a series of national polls showing his job approval rating climbing from the middling territory where it lagged for much of the last several years. In the latest Real Clear Politics rolling average of all national polling, Obama approval is at 52 percent while his disapproval is at 43 percent. That may not seem like much but it marks a significant improvement over where he was for much of 2010 and 2011. Here’s a look at Obama’s job approval trend line in Washington Post-ABC News polling from January 2011 until now: Judging from his actions of late — most notably his surprising confrontational (and liberal) inaugural address — President Obama is well aware of the fact that he is enjoying a polling boom at the moment. And, even Republicans are tacitly acknowledging that Obama is living in a second honeymoon period by backing down on major legislative fights like the fiscal cliff and the debt ceiling. The pertinent question then is how long it will last — and what the president can get done between now and when the good times (for him, at least) stop rolling. Gallup has done considerable work on the lengths of political honeymoons and has concluded that they ain’t what they used to be. Here’s their chart documenting the relative honeymoon lengths — as defined by a job approval rating above the 55 percent mark — of presidents in their first terms: As Gallup’s Jeffrey Jones wrote: “Only one of the last six presidents — George H.W. Bush — had a honeymoon that extended beyond his ninth month in office. Bush’s ratings actually climbed for much of his first year and a half in office as the economy remained strong, several communist regimes fell in Europe, and the U.S. military was able to capture Panamanian dictator Manuel Noriega and remove him from power.” The explanations for the shortening of presidential honeymoons vary. One theory is that modern presidents operate in a hyper-partisan world where the opposition party never rallies (or comes close to rallying) behind them. (In Gallup polling, nine of the ten most polarizing years of a presidency – as defined by the gap between presidential job approval among Democrats and job approval among Republicans — have come during the presidencies of George W. Bush and Obama.) Because of that partisan division, modern presidents’ approval ratings start at a lower high point; that means the pace at which they dip below the 56 percent “honeymoon” mark is significantly hastened. The one and only Nate Silver makes just that point when examining second term presidential honeymoons in this post and accompanying chart: Another factor contributing to the truncation of political honeymoons is that in the world of 24-hour cable networks, Twitter and the fracturing of the traditional media, the attention span of the American public is much shorter than it once was — meaning that momentum simply dies away much faster nowadays.Regardless of the reason, it’s clear that Obama has a limited time — six months perhaps? — to take legislative advantage of his second political honeymoon. He seems committed to taking on three separate and distinct fights during that time: 1) gun control 2) immigration reform 3) debt and spending. Each of those legislative scraps will shorten his honeymoon as he expends political capital to try to get what he wants out of a Congress — particularly in the House — that seems likely to be resistant.

### 2NC Top Priority

#### Immigration is top of agenda

Klein 3-22

Ezra, “Wonkbook: A gun control deal is in trouble,” http://www.washingtonpost.com/blogs/wonkblog/wp/2013/03/22/wonkbook-a-gun-control-deal-is-in-trouble/

Schumer says Senate is nearly ready for immigration reform. “A key member of a bipartisan Senate group said Thursday that the eight members are nearing agreement on a comprehensive plan to overhaul the nation’s immigration laws and will unveil a bill for consideration early next month…In addition to potential citizenship for undocumented migrants, the comprehensive bill is expected to include a new program for foreign workers that would add up to 200,000 visas per year depending on economic conditions and employment needs. However, lawmakers continued to negotiate Thursday over the terms of how much those workers would be paid, people familiar with the negotiations said. The legislation also is likely to increase significantly the number of visas for highly skilled tech workers, reduce some categories of family visas and increase border control and workplace security measures.” David Nakamura and Rosalind S. Helderman in The Washington Post.

#### **Immigration top of agenda and will pass**

USA Today 3/22

Susan Davis and Jackie Kucinich, USA Today, "Congress turns to domestic policy after budget battles," 3/22/13 www.usatoday.com/story/news/politics/2013/03/21/budget-congress-recess-immigration-guns/2006219/

Both chambers have made more progress toward consensus on immigration. The Senate is likely to unveil a bill next month, and a bipartisan group of eight House lawmakers is likely to unveil a framework for comprehensive immigration changes in April as well.¶ House GOP and Democratic leaders have been briefed on the plan. House Minority Whip Steny Hoyer, D-Md., said it includes the outlines of a pathway to citizenship for immigrants who are in the country illegally. "They are close, they've made real progress," he said.¶ Immigration continues to be a politically perilous issue for Republicans despite an official Republican National Committee report out this week that endorsed a comprehensive overhaul and increasing calls from GOP leaders, including former Florida governor Jeb Bush and Sen. Rand Paul, R-Ky., to find ways to legalize the nation's undocumented residents.¶ Immigration advocates are stepping up their engagement as the debate intensifies. A rally is scheduled for April 10 in Washington. "We have been sweet-talked and slow-danced before. The time is now," said Angelica Salas, executive director of the Coalition for Humane Immigration Rights of Los Angeles.

#### Top of the agenda

Strauss 3/14

Daniel, Reporter, The Hill, “Obama calls support for immigration reform good for GOP, lawmakers say”, http://thehill.com/blogs/blog-briefing-room/news/288115-gop-lawmakers-obama-said-supporting-immigration-reform-will-help-gop

During the meeting with the House Republican caucus, Obama told lawmakers present that passing immigration reform would benefit the GOP, according to The Associated Press. ¶ "He said that actually implementing immigration reform would actually benefit — I'm just stating what he said — that it would actually benefit Republicans more than it would Democrats," Rep. Scott Rigell (R-Va.) said, the news service reported.¶ Obama contended that it's in the GOP's "best interest" to pass immigration reform. ¶ Obama said that if Republicans supported immigration reform, they could steal some Hispanic voters away from Democrats, Rep. Pete King (D-N.Y.) said. Polling of the November 2012 presidential election showed Obama winning about 70 percent of the Hispanic vote. ¶ "Right now he gets 75 percent of the Hispanic vote because Republicans are against immigration reform," King said of Obama's argument. "So if we vote for it, he's not going to pick up any new votes in the Hispanic community, and we can."¶ Obama has made comprehensive reform a top priority of his second term in office. A group of lawmakers in the Senate plan on unveiling a bipartisan immigration reform bill in the next few months. A separate bipartisan group in the House has also been working on an immigration reform compromise.¶ Obama has said he will push his own bill if lawmakers fail to agree on a compromise soon. According to Rigell, Obama said that there is about a nine-month window for getting "anything really substantive done" on immigration reform.

### 2NC Will Pass—Momentum Key

#### \*Momentum key to immigration

Hesson 3/27

Ted, 3 Reasons Why an Immigration Reform Timeline Matters, 3/27/13, http://abcnews.go.com/ABC\_Univision/Politics/reasons-immigration-reform-timeline-matters/story?id=18822563#.UVWlUVuc5B9

The November presidential election -- where Obama housed Romney among Latinos, taking 71 percent of the vote -- got people in Washington talking about immigration reform as a way for the Republican party to win Latino voters.¶ But that was five months ago, and political memory can be short.¶ "Once the sting of the election starts to wear off a little bit, I think there's less of an impetus to act on this issue," said Marshall Fitz, immigration policy director at the liberal Center for American Progress. "You've got to act when the issue is fresh and everyone is very cognizant of the political implications...The political implications aren't going to change as we go further into this, but the calculus of the members may start to get obscured."

#### \*Immigration reform will pass – Big Senate vote key

CSM 3/14

David Grant, Reporter, “CPAC surprise: optimism about immigration reform”, http://www.csmonitor.com/USA/Politics/2013/0314/CPAC-surprise-optimism-about-immigration-reform

A top Republican pollster and a key House conservative on the immigration-reform debate have hit perhaps the most optimistic notes to date on the progress of immigration-reform legislation.¶ Lawmakers on both sides of the Capitol have been keen to keep their immigration discussions under wraps. That code of silence has persevered even as working groups in both chambers are fast approaching a loose deadline to deliver a bill, largely expected by sometime in April. Skepticism has grown that one or both chambers will be able to reach a deal, given the massive political and policy challenges on immigration.¶ But speaking on a panel at the Conservative Political Action Conference (CPAC) in Maryland on Thursday, Republican pollster Whit Ayres sounded confident about the prospects.¶ “I do know that some of the members of the ‘Gang of Eight’ in the Senate are very optimistic that they will be able to put together a bill that will gain about half the Republican votes and almost all the Democratic votes,” said Mr. Ayres, who counts Sen. Marco Rubio (R) of Florida, a member of the so-called Gang of Eight senators working on immigration reform, among his clients.¶ “If they’re able to do that, it would have a whale of a head of steam going into the House, and it would provide a lot of cover for those in the House who find a vote for immigration reform difficult,” Ayres continued at America's largest gathering of conservative activists. “I will tell you there are some people who are deeply involved in this in the Senate who believe that can happen.”¶ Rep. Raúl Labrador (R) of Idaho – a former immigration lawyer who has played a central role in closely held House deliberations on immigration – largely matched Ayres’s optimism.¶ The chances of reforming the immigration system are “the highest that we’ve had in a long time,” Representative Labrador said. “I actually think the House is going to be more proactive than the Senate and you’re going to see that in the near future.”¶ Labrador noted he feared that labor unions could derail a deal over conservative and business requests for a large program for guest workers.¶ In 2007, the last time immigration reform came before Congress, the defection of the AFL-CIO over guest-worker provisions helped sink a burgeoning deal.¶ But that may be less of a problem this time. The AFL-CIO, the nation’s largest labor union, and the Chamber of Commerce, the business community’s top dog in Washington, recently reached an agreement on principles to guide the future flow of low-skilled temporary workers.¶ Why are there reasons to be optimistic on immigration? Ayres, who has long warned his party about the political peril it risks by not reaching Hispanic voters, had a few theories after his panel discussion Thursday.¶ First is an idea others have voiced as well: “Conservatives thought we were going to win in November and we didn’t, and one of the reasons we didn’t was getting waxed among minorities while winning a landslide among non-Hispanic whites,” he told the Monitor. ¶ Now, Republicans are worried that unless they take the initiative and present their own plan, they will be painted once again as out-of-touch on immigration.¶ Republican senators “know that there will be some kind of plan coming out of the White House and they’re not likely to approve of that plan, so they’d like to see something else that’s rooted in conservative principles, that will allow them to get behind something they feel comfortable with,” Ayres says.¶ Finally, the idea that 12 million people living in the US illegally is “de facto amnesty” is catching on, Ayres argues. This idea, emphasized in public speeches and interviews by Senator Rubio, has led to calls to address the situation.¶ “We’ve got to do something different,” Ayres says. “It’s kind of a perfect storm of opinion-shifting since November.”

### 2NC AT UQ O/W Link—AT GoP Elections

#### No guarantee of passage

Roarty 2/21

Alex, politics writer for National Journal, There's Reason to Be Optimistic About Congress—Seriously, The Atlantic, 2/21/13, http://www.theatlantic.com/politics/archive/2013/02/theres-reason-to-be-optimistic-about-congress-seriously/273393/

What eventually passes and what doesn't will come down to the individual pieces of legislation. Observers believe that immigration reform, already being crafted by a bipartisan group of eight senators in the upper chamber, has the greatest chance for passage, because of the high stakes involved for the GOP. But many caution that success will still hinge on the yet-to-be determined details. Murkier still are the chances of passing gun-violence measures -- particularly banning assault rifles or high-capacity magazines, and strengthening background checks -- not to mention a grand bargain on deficit reduction.

#### House GOP are immune to election concerns mostly white districts

Cohen 2/3

Micah staff writer Five Thirty Eight “Which G.O.P. House Members Might Support Immigration Reform?” February 3, 2013

http://fivethirtyeight.blogs.nytimes.com/2013/02/03/which-g-o-p-house-members-might-support-immigration-reform/February 3, 2013

Last Monday, a bipartisan group of eight senators agreed to a set of overarching principles for immigration reform. On Tuesday, President Obama traveled to Las Vegas to outline his own proposals. Mr. Obama’s speech was followed by reports that a bipartisan group of representatives in the House were hashing out a set of measures.¶ Lawmakers have tried this before, of course. Efforts to overhaul the immigration system fell apart during George W. Bush’s administration and in 2010.¶ But prospects for the latest effort are considered improved. Mitt Romney’s dismal performance with Hispanic voters in November gave Republican legislators “a new appreciation” for change, as Senator John McCain, a Republican from Arizona who is one of the eight senators in the bipartisan group, has said.¶ That may be true for many politicians seeking to win national and statewide elections in places where the Hispanic share of the electorate has increased significantly. But the main hurdle is expected to be in the Republican-controlled House of Representatives, where a different set of political incentives apply.¶ Most Republicans in the House come not only from very conservative districts but also from overwhelmingly white districts.¶ Source: United States Census Bureau¶ In the 232 Congressional districts represented by Republicans, the average Hispanic share of each district is 11 percent (the 200 Congressional districts held by Democrats are, on average, 23 percent Hispanic). Just 40 of the 232 Republicans in the House come from districts that are more than 20 percent Hispanic, and just 16 from districts that are at least one-third Hispanic. At the other end of the spectrum, 142 districts represented by Republicans are less than 10 percent Hispanic.¶ In all, 84 percent of House Republicans represent districts that are 20 percent or less Hispanic.

### 2NC Link—Energy Must Read

#### No ev that lobbies like the plan and this evidence only says they can give money, not that it’s effective

#### No compromise on energy undermines Obama’s agenda

Kemp 2/6

John, Reuters analyst, Murkowski's energy report shows scope for compromise: Kemp, 2/6/13, http://www.reuters.com/article/2013/02/06/column-kemp-us-energyreport-idUSL5N0B67QI20130206

Ultras in his own party will urge the president to seize this moment to cement the transition from fossil fuels to clean energy with a raft of ambitious new regulations that burden oil, gas and coal industries to tilt the playing field in favour of zero-carbon technologies. Why compromise, they will say, if the other side is uninterested in reaching agreement.¶ But that would be a mistake. If the policymaking machinery in Washington is to be made to work and rescued from gridlock, both parties will have to show greater willingness to compromise on issues that matter to them (climate, taxes, energy, immigration, spending and entitlements). Zero compromise on energy issues will only encourage the president's opponents to block other parts of his agenda.

### Unpop

#### Costs PC

Geman and Colman 11/12

"Overnight energy: Congress returns to battles over wind, oil tax breaks," 11/12/12 thehill.com/blogs/e2-wire/e2-wire/267415-overnight-energy-congress-returns-to-battles-over-wind-oil-tax-breaks

Oil industry ramps up tax credit defense ¶ The American Petroleum Institute (API) will detail its new advertising and congressional outreach campaign to defend industry tax breaks in a Tuesday media call.¶ ¶ Democratic lawmakers will likely gun for the $4 billion in annual tax provisions awarded to oil and natural-gas companies as part of a fiscal cliff bargain.¶ ¶ API’s campaign is designed to counteract those moves. The lobby says going after the oil-and-gas industry would unfairly single it out before lawmakers dig into broad tax reform expected to begin in 2013.

### 2NC Will Pass—AT UQ O/W Link

#### Momentum building but easily derailed

Nowicki 2/9

Dan, The art of the deal on immigration reform, 2/9/13, http://www.azcentral.com/news/politics/articles/20130201immigration-reform-deal.html

Champions of immigration reform are thinking big with this year’s proposed bipartisan overhaul: a massive bill that would impose the most sweeping changes to the nation’s broken border system in more than a generation.¶ Capitol Hill lawmakers involved in negotiations say the big-gulp approach is necessary to strike a compromise between camps that passionately hold different priorities on immigration.¶ Experts argue that, besides being politically expedient, a holistic plan is needed to bring the out-of-date U.S. immigration system into the 21st century.¶ But such a far-reaching omnibus bill could be difficult to implement, with unforeseen expenses and unintended consequences, in addition to political pitfalls that could imperil passage. And even if it’s put into effect smoothly, advocates who envision reducing illegal immigration to a relative trickle, compared with the peak flows of the late 1990s and early 2000s, acknowledge that it and some related problems probably never will go away entirely.¶ “Big issues have big bills,” said Rep. Ed Pastor, D-Ariz., the senior member of the state’s House delegation. “The objective is to have a comprehensive bill because you want to ensure that you have all the components — border security, a pathway to legalization, visa improvements, maybe a guest-worker program — because in a way they’re all intertwined. You gain support and you gain opposition, but also it provides the opportunity to make deals and to compromise.”¶ It’s not uncommon for Congress to put off problematic issues for years before addressing them in one fell swoop. President Barack Obama’s 2010 health-care law is perhaps the best-known recent example.¶ Sometimes it takes public pressure that comes with a national crisis or scandal, such as the Enron Corp. debacle of the early 2000s, which led to a battery of new accounting regulations. Tide-turning elections that shifted control of Congress to the Democrats in 2006 and control of the House back to Republicans in 2010 add to a sense that once in power neither side has enough time to tend to big issues through a series of smaller-scale bills, even if they were so inclined.¶ The window of opportunity for Obama and his bipartisan allies on immigration is narrow, which is another argument to strike fast with a single comprehensive piece of legislation. But that also raises expectations and could make a failure that much more spectacular.¶ Most observers say Obama and Congress likely will have until the end of 2013 to pass an immigration bill. By then, lawmakers will be gearing up for the 2014 midterm elections and will avoid controversies. And then by 2015, presidential politics will be in full throat. In addition, Obama also has pressing fiscal matters and gun control on his agenda.¶ Because it already has some bipartisan momentum, immigration reform might be Obama’s best opportunity to enact landmark legislation in his second term to help establish his legacy. But there is no guarantee that a fragile compromise along the lines laid out last month by the Senate’s bipartisan “Gang of Eight” could even make it out of the Democrat-controlled Senate, let alone win passage in the Republican-controlled House, where opposition runs deeper to provisions that critics decry as “amnesty” for illegal immigrants.¶ The Senate Judiciary Committee will hold its first hearing on the issue Wednesday. The House held a hearing on it last week.¶ Some GOP players, including House Majority Leader Eric Cantor, have suggested taking small bites, starting with proposals that have broader support, such as the Dream Act. That legislation would allow young undocumented immigrants to earn citizenship by attending college or serving in the military. Others would prefer offering undocumented immigrants legal status with no direct path to citizenship.¶ “Presidents always want to make history, and you make history with big sweeping programs,” said Larry Sabato, director of the Center for Politics at the University of Virginia. “However, if you can’t get a big program passed, and (if) by proposing one you kill the opportunity for incremental reform, you’re in the worst possible world. That’s where judgment comes in.”¶ Obama was able to get a huge, complicated health-care-reform law passed during his first term, but even then only barely at a time when fellow Democrats ran both chambers on Capitol Hill. Other landmark programs, including Social Security and Medicare, started off on a smaller scale but expanded over the years.¶ In favor of comprehensive immigration reform: After years of indifference and, more recently, partisan bickering, both parties appear motivated to do something. The last major congressional overhaul of the system was in 1986, during President Ronald Reagan’s administration. Senate immigration-reform efforts in 2006 and 2007 did not result in new laws. Reform advocates also were disappointed at the lack of progress during Obama’s first term, but are hopeful that the issue may finally be reaching critical mass.¶ “It’s rare to find something that is so continually brought up and put to the side, and brought up and put to the side, as immigration reform,” said Kareem Crayton, a political scientist and associate professor of law at the University of North Carolina-Chapel Hill. “We may be at the breaking point.”

# 2NR

## 2NR

### 2NR AT Thumper—Keystone

#### Vote is symbolic, and Obama won’t make a decision for months

Reuters 3-23

“US Senate Budget Plan Embraces Keystone XL Approval,” http://www.newsmax.com/US/article/2013/03/23/id/496002

The Senate easily passed on Friday a symbolic measure approving the Canada to Texas Keystone XL oil pipeline, a move backers said showed strong support for a bill that would give Congress power to green light the project later in the year.¶ The amendment to the budget plan, sponsored by Senator John Hoeven, a Republican from North Dakota, passed 62 to 37.¶ It was symbolic because the budget is a blueprint that will not become law. But the measure was selected out of hundreds of others for a vote and was approved by a strong majority in the 100-seat chamber led by Democrats.¶ White House spokesman Jay Carney told reporters earlier this month that the approval process for pipelines crossing international borders belongs with the State Department.¶ The State Department must finalize an environmental assessment. Then it will have 90 days to decide whether the project is in the country's interest.¶ President Barack Obama is expected to make a final decision on the pipeline late this summer.

### 2NR Link

#### Hirsh concedes unpopular policies kill momentum – also pushes immigration off the agenda

-health care

-time/attention trade off

Hirsh 2/7

Michael, chief correspondent, There’s No Such Thing as Political Capital, 2/7/13, http://www.nationaljournal.com/magazine/there-s-no-such-thing-as-political-capital-20130207

Presidents are limited in what they can do by time and attention span, of course, just as much as they are by electoral balances in the House and Senate. But this, too, has nothing to do with political capital. Another well-worn meme of recent years was that Obama used up too much political capital passing the health care law in his first term. But the real problem was that the plan was unpopular, the economy was bad, and the president didn’t realize that the national mood (yes, again, the national mood) was at a tipping point against big-government intervention, with the tea-party revolt about to burst on the scene. For Americans in 2009 and 2010—haunted by too many rounds of layoffs, appalled by the Wall Street bailout, aghast at the amount of federal spending that never seemed to find its way into their pockets—government-imposed health care coverage was simply an intervention too far. So was the idea of another economic stimulus. Cue the tea party and what ensued: two titanic fights over the debt ceiling. Obama, like Bush, had settled on pushing an issue that was out of sync with the country’s mood.¶ Unlike Bush, Obama did ultimately get his idea passed. But the bigger political problem with health care reform was that it distracted the government’s attention from other issues

 that people cared about more urgently, such as the need to jump-start the economy and financial reform. Various congressional staffers told me at the time that their bosses didn’t really have the time to understand how the Wall Street lobby was riddling the Dodd-Frank financial-reform legislation with loopholes. Health care was sucking all the oxygen out of the room, the aides said.

### 2NC AT Restrictions = Enforcement (Berger 2001)

#### This is best for debate: If restrictions were MERELY statutes then AFFs could repeal unenforced statutes that were ruled unconstitutional DECADES AGO.

**Treanor and Sperling, 1993**

William Michael Treanor, Associate Professor of Law, Fordham University; and Gene B. Sperling, J.D., Yale Law School, Columbia Law Review, December, lexis

####  “Deed restrictions” are distinct from USFG restrictions.

Rich, 2005

Motoko Rich, New York Times, “Restrictive Covenants Stubbornly Stay on the Books” April 21, http://www.nytimes.com/2005/04/21/garden/21turf.html?\_r=0

The Supreme Court ruled against racially restrictive covenants in 1948, and they were outlawed by the federal Fair Housing Act of 1968. But because so many of them remain in deeds and neighborhood bylaws, some states, including California, have moved to eliminate them. Advocates for their removal reason that the restrictions, even if illegal, provide justification for subtle racism - or, as in Mr. Matthews's case, outright discrimination. (Mr. Matthews declined to comment.)¶ Evan McKenzie, a professor of political science at the University of Illinois at Chicago who has written about restrictive covenants in homeowner associations, said: "While the covenants are there, there is still room for people to think that although it cannot be legally enforced it is nonetheless a promise that they are morally obligated to keep. And that's an argument in my view for removing them."¶ In the early part of the 20th century, cities and towns used zoning to restrict African-Americans and ethnic minorities to certain neighborhoods. The Supreme Court ruled such zoning unconstitutional in 1917, so developers and neighborhood associations started inserting clauses in their bylaws and deeds. The clauses linger in such varied communities as Kansas City, Mo.; St., Petersburg, Fla.; and Chappaqua, N.Y.¶ Homeowners are often not aware that they exist, because title searches don't go back far enough, or real estate lawyers or title companies strike them out. Homeowners who do know about them figure that because the covenants are unenforceable, they can do no harm.¶ State Senator Yvonne S. Wilson, Democrat of Kansas City, argues for a more forceful approach. She sponsored a bill to remove race and ethnic restrictions from an estimated 1,200 covenants in Missouri - affecting renters and buyers alike - within 30 days of a complaint. The bill, which passed this month after the issue was covered in the local news media, is now before the state House. It would "help these associations deal with what many of them have described as an embarrassment," she said.¶ Until now, arcane rules have made it difficult to change covenants, which also regulate things like fence height and porch projection. John Sheets, the executive director of the Homes Associations of the Country Club District, an umbrella organization that manages 41 associations representing 22,000 homes in the Kansas City metropolitan area, said the covenants require a majority of the owners to approve any changes in notarized votes. Conducting such polls, he said, could cost thousands of dollars, and associations often don't want to spend the money.

#### The *possibility* of enforcement means it’s STILL a restriction.

Vicary, 2004

Paul S. Vicary, JD, Florida Journal of International Law, December, lexis

The district court denied the motion in August 2001, a few weeks after McNab was sentenced. 29 The court first reasoned that it need not give effect to the Honduran court's invalidation of the size restriction because the Honduran government was appealing the ruling and "continu[ing] to enforce" the regulation pending the appeal, and because the district judge [\*931] thought that the ruling voided the size restriction only prospectively. 30 The court concluded that the packaging restriction remained in effect despite the 1995 repeal of the authorizing statute, because a replacement statute could validate it and, again, because the government continued to enforce it. Finally, although given "pause" by the deletion of the egg-harvesting provision from the Honduran statute books, the district court concluded - based on Ms. Paz's assertion - that the restriction retained vitality under Honduran law. 31 In October 2001, two months after the district court rejected McNab's motion, the Honduran Court of Appeals of Administrative Law unanimously affirmed the lower-court decision invalidating the size regulation. 32 The Honduran government filed no further appeal.

#### Their definition of “restriction” is bad:

#### (a) It means there’s no topical AFF- unless a NEW restriction occurs on current production, there is no “restriction” that exists beyond “the paper.”

#### (b) Mixes burdens- it relies on inherency evidence to determine whether restrictions are currently being enforced.

#### (c) It conflates “restriction” with “form,” exploding the topic.

Schackleford, 17

justice – Supreme Court of Florida, 3/12/’17 J., “ATLANTIC COAST LINE RAILROAD COMPANY, A CORPORATION, *et al., Plaintiff in Error,* v. THE STATE OF FLORIDA, *Defendant in Error,”* 73 Fla. 609; 74 So. 595; 1917 Fla. LEXIS 487)

While it is undoubtedly true that the words, rule, regulation and order are frequently used as synonyms, as the dictionaries, both English and law, and the dictionaries of synonyms, such as Soule's show, it does not follow that these words always mean the same thing or are interchangeable at will. It is well known that the same word used in different contexts may mean a different thing by virtue of the coloring which the word [\*633] takes on both from what precedes it in the context and what follows after. Thus in discussing the proper constructions to be placed upon the words "restrictions and regulations" as used in the Constitution of this State, then in force, Chap. 4, Sec. 2, No. 1, of Thompson's Digest, page 50, this court in Curry v. Marvin, 2 Fla. 411, text 415, which case is cited to us and relied upon by both the parties litigant, makes the following statement: "The word restriction is defined by the best lexicographers to mean limitation, confinement within bounds, and would seem, as used in the constitution, to apply to the amount and to the time [\*\*\*33] within which an appeal might to be taken, or a writ of error sued out. The word regulation has a different signification -- it means method, and is defined by Webster in his Dictionary, folio 31, page 929, to be 'a rule or order prescribed by a superior for the management of some business, or for the government of a company or society.' This more properly perhaps applies to the mode and form of proceeding in taking and prosecuting appeals and writs of error. By the use of both of those terms, we think that something more was intended than merely regulating the mode and form of proceedings in such cases."

#### Makes debate impossible.

Stafford, 83

http://felj.org/elj/Energy%20Journals/Vol6\_No2\_1985\_Book\_Review2.pdf Associate, Ross, Marsh & Foster, Washington, D.C. The assistance of David L. Wallace, a third year student at the Georgetown University Law Center.

 FEDERAL REGULATION OF ENERGY by William F. Fox, Jr. Shepard'slMcGraw-Hill, 1983, 846 pages Reviewed by G. William Stafford\* It may safely be said that any effort to catalogue "the entire spectrum of federal regulation of energy"' in a single volume certainly requires an enterprising effort on the part of the author. In this regard, Mr. Willam F. Fox, Jr., an Associate Professor of Law at Catholic University of America, has undertaken an examination of a vital aspect of United States policy in Federal Regulation of Energy, published in 1983 with an annual pocket supplement available. Despite the complex nature of the subject of his work, Mr. Fox has prepared a text that provides a significant description of many aspects of federal energy regulatory policy. Initially, the book's title may prove somewhat misleading in that it approaches the subject from an historical perspective focused more on substantive than procedural issues. Although a reader gets the impression that the author at time has tried to do too much -at least frotn the standpoint of the energy practitioner- the historical and technical insights it offers the student of federal energy relation are valuable. Moreovel; its detailed explanations of the methods used to tneet federal energy goals are useful for those in the position of initiating energy policy. This strength notwithstanding, it appears unlikely that an energy law practitioner would benefit significantly from its use, other than from its historical point of view. A general impression is that the author may have been overly ambitious in his effort to undertake the monumental task of evaluating laws, regulations, and significant judicial decisions in a single work.

#### And bidirectional.

McKie, 84

Professor James W. McKie, distinguished member of the economics department at The University of Texas at Austin for many years ¶ McKie, J W ¶ Annual Review of Environment and Resource , Volume 9 (1)¶ Annual Reviews – Nov 1, 1984

THE MULTIPLE PURPOSES OF ENERGY REGULATION AND PROMOTION Federal energy policy since World War II has developed into a vast and multidirectional program of controls, incentives, restraints, and promotions. This development accelerated greatly during the critical decade after 1973, and has become a pervasive and sometimes controlling influence in the energy economy. Its purposes, responding to a multitude of interests and aims in the economy, have frequently been inconsistent, if not obscure, and the results have often been confusing or disappointing.