# ASU Aff Cards Round 5

## 1AC

### Plan Text

#### The United States Congress should establish a National Security Court with sole jurisdiction over cases pursuant to Section 1021 of the National Defense Authorization Act for Fiscal Year 2012.

### Inherency

#### Contention 1 is inherency

#### D.C. courts are shaping detention policy now but lack of Supreme Court action means detention is here to stay.

Horowitz, J.D. Candidate at Fordham University, ‘13

[Colby, “CREATING A MORE MEANINGFUL ¶ DETENTION STATUTE: LESSONS LEARNED ¶ FROM HEDGES V. OBAMA”, Fordham Law Review, Vol. 81, 2013, RSR]

The Supreme Court has not decided the merits of a detention case since ¶ Boumediene in 2008.144 Additionally, in 2011 the Supreme Court denied ¶ certiorari to six different Guantanamo detainee cases appealed from the D.C. Circuit.145 As a result of its continued abstention, the Supreme Court ¶ has had little impact in shaping the substantive parameters of executive ¶ detention.146¶ The substantive law of executive detention has been primarily created by ¶ the D.C. District Court and the D.C. Circuit as they evaluate habeas corpus ¶ petitions from detainees held at Guantanamo Bay.147 As the law has ¶ evolved since 2008, the D.C. courts have often applied different or ¶ changing standards, and some believe that “the D.C. Circuit’s opinions ¶ almost uniformly favor the government.”148 Additionally, some ¶ commentators have expressed concerns about “the habeas process as a ¶ lawmaking device” and fear that the standards established by the D.C. ¶ Courts are “interim steps” or “a kind of draft” until the Supreme Court ¶ eventually steps in to resolve the issues.149¶ The judges of the D.C. courts recognize that they are creating law. In ¶ their opinions, they have often commented on the lack of guidance from the ¶ Supreme Court150 and their significant role in shaping substantive detention ¶ law with each decision.151

#### The NDAA of 2012 codifies the right of the president to indefinitely detain – expands on the AUMF.

Greenwald, Columnist for the Guardian, ‘11

[Glenn, “Three myths about the detention bill”, Salon, 12-16-11,

<http://www.salon.com/2011/12/16/three_myths_about_the_detention_bill/>, RSR]

Section 1021 of the NDAA governs, as its title says, “Authority of the Armed Forces to Detain Covered Persons Pursuant to the AUMF.” The first provision — section (a) — explicitly “affirms that the authority of the President” under the AUMF ”includes the authority for the Armed Forces of the United States to detain covered persons.” The next section, (b), defines “covered persons” — i.e., those who can be detained by the U.S. military — as “a person who was a part of or substantially supported al-Qaeda, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partners.” With regard to those “covered individuals,” this is the power vested in the President by the next section, (c): It simply cannot be any clearer within the confines of the English language that this bill codifies the power of indefinite detention. It expressly empowers the President — with regard to anyone accused of the acts in section (b) – to detain them “without trial until the end of the hostilities.” That is the very definition of “indefinite detention,” and the statute could not be clearer that it vests this power. Anyone claiming this bill does not codify indefinite detention should be forced to explain how they can claim that in light of this crystal clear provision.¶ It is true, as I’ve pointed out repeatedly, that both the Bush and Obama administrations have argued that the 2001 AUMF implicitly (i.e., silently) already vests the power of indefinite detention in the President, and post-9/11 deferential courts have largely accepted that view (just as the Bush DOJ argued that the 2001 AUMF implicitly (i.e., silently) allowed them to eavesdrop on Americans without the warrants required by law). That’s why the NDAA can state that nothing is intended to expand the 2001 AUMF while achieving exactly that: because the Executive and judicial interpretation being given to the 20o1 AUMF is already so much broader than its language provides.¶ But this is the first time this power of indefinite detention is being expressly codified by statute (there’s not a word about detention powers in the 2001 AUMF). Indeed, as the ACLU and HRW both pointed out, it’s the first time such powers are being codified in a statute since the McCarthy era Internal Security Act of 1950, about which I wrote yesterday.

### Terrorism

#### Contention 2 is terrorism

#### Indefinite detention leads to terrorism – multiple warrants

#### First, motivation – comparative studies prove that indefinite detention increases the motivation for terrorism and the likelihood of an attack.

Roberts, Associate Professor of Philosophy at East Carolina University, ‘11

[Rodney, “Utilitarianism and the Morality of Indefinite Detention”, Criminal Justice Ethics, Vol. 30, No. 1, RSR]

Finally, ‘‘there is no evidence that preventive detention works. Comparative studies of terrorism stretching back more than 20 years have concluded that draconian measures\* such as prolonged detention without trial\*are not proven to reduce violence, and can actually be counterproductive.’’ 30 Since it may contribute to the ‘‘underlying factors [that] are fueling the spread of the jihadist movement,’’ namely, ‘‘injustice and fear of Western domination, leading to anger, humiliation, and a sense of powerlessness,’’ there is a sense in which indefinite detention can be selfdefeating\*it may increase the likelihood of future attacks.31

#### Second, distrust – indefinite detention generates resentment that kills effective community cooperation within counter terrorism efforts.

Hathaway, et al, ‘13

[Oona (Gerard C. and Bernice Latrobe Smith Professor of International Law, Yale Law School); Samuel Adelsberg (J.D. candidate at Yale Law School); Spencer Amdur (J.D. candidate at Yale Law School); Freya Pitts (J.D. candidate at Yale Law School); Philip Levitz (J.D. from Yale Law School); and Sirine Shebaya (J.D. from Yale Law School), “The Power To Detain: Detention of Terrorism Suspects After 9/11”, The Yale Journal of International Law, Vol. 38, 2013, RSR]

Legitimacy of the trial process is important not only to the individuals charged but also to the fight against terrorism. As several successful habeas corpus petitions have demonstrated, insufficient procedural protections create a real danger of erroneous imprisonment for extend periods. 249 Such efforts can generate resentment and distrust of the United States that undermine the effectiveness of counterterrorism efforts. Indeed, evidence suggests that populations are more likely to cooperate in policing when they believe they have been treated fairly.250 The understanding that a more legitimate detention regime will be a more effective one is reflected in recent statements from the Department of Defense and the White House.251

#### Third, signaling – use of indefinite detention hinders allied cooperation over counterterrorism – security experts overwhelmingly vote aff.

Pearlstein, Visiting Research Scholar and Lecturer in Public and International Affairs, Woodrow

Wilson School of Public and International Affairs, Princeton University, ‘9

[Deborah, “WE'RE ALL EXPERTS NOW:¶ A SECURITY CASE AGAINST SECURITY DETENTION”, Case Western Journal of International Law, Vol. 40, 2009, RSR]

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

#### Intelligence cooperation is crucial to quell the threat of terrorism.

Cordesman, Arleigh A. Burke Chair in Strategy at CSIS, ‘10

[Anthony, “The True Lessons of Yemen and Detroit: How the US Must Expand and Redefine International Cooperation in Fighting Terrorism”, CSIS, 2010, RSR]

The second answer is to put even more emphasis on international cooperation in counterterrorism. Our first line of defense lies in the capabilities and actions of other states – particularly our friends and allies in Muslim states and states with large Muslim populations. Defeating terrorism locally -- before it can establish major sanctuaries, create international networks, escalate to insurgency, take control of governments – is critical to any broad success. The US must continue to work with other states, and strengthen formal international efforts in counterterrorism – in spite of their limits – but that much more is required. Informal efforts will be as important. One has only to consider what would have happened if we had not steadily improved counterterrorism cooperation and support from countries like Egypt, Jordan, and Saudi Arabia to realize how much more often the US would be under direct threat; how much more often our other allies would be attacked, and how many of our global economic and strategic interests would face far more serious threats.

#### The risk of a nuclear terrorist attack is high – top UN officials concede.

Sturdee, AFP, ‘13

[Simon, “UN atomic agency sounds warning on 'nuclear terrorism'”, Fox News, 7-1-13,

<http://www.foxnews.com/world/2013/07/01/un-atomic-agency-sounds-warning-on-nuclear-terrorism/>, RSR]

VIENNA (AFP) – The head of the UN atomic agency warned Monday against complacency in preventing "nuclear terrorism", saying progress in recent years should not lull the world into a false sense of security. "Much has been achieved in the past decade," Yukiya Amano of the International Atomic Energy Agency told a gathering in Vienna of some 1,200 delegates from around 110 states including 35 ministers to review progress on the issue. "Many countries have taken effective measures to prevent theft, sabotage, unauthorised access, illegal transfer, or other malicious acts involving nuclear or other radioactive material. Security has been improved at many facilities containing such material." Partly as a result, he said, "there has not been a terrorist attack involving nuclear or other radioactive material." "But this must not lull us into a false sense of security. If a 'dirty bomb' is detonated in a major city, or sabotage occurs at a nuclear facility, the consequences could be devastating. "Nuclear terrorism" comprises three main risks: an atomic bomb, a "dirty bomb" -- conventional explosion spreading radioactive material -- and an attack on a nuclear plant. The first, using weapons-grade uranium or plutonium, is generally seen as "low probability, high consequence" -- very difficult to pull off but for a determined group of extremists, not impossible. There are hundreds of tonnes of weapons-usable plutonium and uranium -- a grapefruit-sized amount is enough for a crude nuclear weapon that would fit in a van -- around the world. A "dirty bomb" -- a "radiological dispersal device" or RDD -- is much easier but would be hugely less lethal. But it might still cause mass panic. "If the Boston marathon bombing (in April this year) had been an RDD, the trauma would be lasting a whole lot longer," Sharon Squassoni from the Center for Strategic and International Studies (CSIS) told AFP. Last year alone, the IAEA recorded 17 cases of illegal possession and attempts to sell nuclear materials and 24 incidents of theft or loss. And it says this is the "tip of the iceberg". Many cases have involved former parts of the Soviet Union, for example Chechnya, Georgia and Moldova -- where in 2011 several people were arrested trying to sell weapons-grade uranium -- but not only. Nuclear materials that could be used in a "dirty bomb" are also used in hospitals, factories and university campuses and are therefore seen as easy to steal.

#### An attack breaks the nuclear taboo – leads to nuclear war.

Bin, director of Arms Control Program at the Institute of International Studies, Tsinghua University, ‘9

[5-22-09 About the Authors Prof. Li Bin is a leading Chinese expert on arms control and is currently the director of Arms Control Program at the Institute of International Studies, Tsinghua University. He received his Bachelor and Master Degrees in Physics from Peking University before joining China Academy of Engineering Physics (CAEP) to pursue a doctorate in the technical aspects of arms control. He served as a part-time assistant on arms control for the Committee of Science, Technology and Industry for National Defense (COSTIND).Upon graduation Dr. Li entered the Institute of Applied Physics and Computational Mathematics (IAPCM) as a research fellow and joined the COSTIND technical group supporting Chinese negotiation team on Comprehensive Test Ban Treaty (CTBT). He attended the final round of CTBT negotiations as a technical advisor to the Chinese negotiating team. Nie Hongyi is an officer in the People’s Liberation Army with an MA from China’s National Defense University and a Ph.D. in International Studies from Tsinghua University, which he completed in 2009 under Prof. Li Bin]

**The nuclear taboo is a** kind **of international norm and this type of norm is supported by the promotion of the norm through international social exchange.** **But at present the increased threat of nuclear terrorism has lowered people’s confidence that nuclear weapons will not be used**. **China and the United States have a broad common interest in combating nuclear terrorism.** **Using technical and institutional measures to break the foundation of nuclear terrorism and lessen the possibility of a nuclear terrorist attack can not only weaken the danger of nuclear terrorism itself but also** strengthen people’s confidence in the nuclear taboo**, and in this way preserve an international environment beneficial to both China and the United States.** **In this way even if there is crisis in China-U.S. relations caused by conflict, the nuclear taboo can also help both countries reduce suspicions about the nuclear weapons problem, avoid miscalculation and thereby reduce the** danger of a nuclear war**.**

#### Independently, an attack on US soil causes extinction.

Ayson, Professor of Strategic Studies at Oxford, 10

[Robert, Director of Strategic Studies: New Zealand, Senior Research Associate with Oxford’s Centre for International Studies. “After a Terrorist Nuclear Attack: Envisaging Catalytic Effects. Studies in Conflict and Terrorism, Volume 33, Issue 7, July 2010, pages 571-593]

But these two nuclear worlds—a non-state actor nuclear attack and a catastrophic interstate nuclear exchange—are not necessarily separable. It is just possible that some sort of terrorist attack, and especially an act of nuclear terrorism, could precipitate a chain of events leading to a massive exchange of nuclear weapons between two or more of the states that possess them. In this context, today’s and tomorrow’s terrorist groups might assume the place allotted during the early Cold War years to new state possessors of small nuclear arsenals who were seen as raising the risks of a catalytic nuclear war between the superpowers started by third parties. These risks were considered in the late 1950s and early 1960s as concerns grew about nuclear proliferation, the so-called n+1 problem. It may require a considerable amount of imagination to depict an especially plausible situation where an act of nuclear terrorism could lead to such a massive inter-state nuclear war. For example, in the event of a terrorist nuclear attack on the United States, it might well be wondered just how Russia and/or China could plausibly be brought into the picture, not least because they seem unlikely to be fingered as the most obvious state sponsors or encouragers of terrorist groups. They would seem far too responsible to be involved in supporting that sort of terrorist behavior that could just as easily threaten them as well. Some possibilities, however remote, do suggest themselves. For example, how might the United States react if it was thought or discovered that the fissile material used in the act of nuclear terrorism had come from Russian stocks,40 and if for some reason Moscow denied any responsibility for nuclear laxity? The correct attribution of that nuclear material to a particular country might not be a case of science fiction given the observation by Michael May et al. that while the debris resulting from a nuclear explosion would be “spread over a wide area in tiny fragments, its radioactivity makes it detectable, identifiable and collectable, and a wealth of information can be obtained from its analysis: the efficiency of the explosion, the materials used and, most important … some indication of where the nuclear material came from.”41 Alternatively, if the act of nuclear terrorism came as a complete surprise, and American officials refused to believe that a terrorist group was fully responsible (or responsible at all) suspicion would shift immediately to state possessors. Ruling out Western ally countries like the United Kingdom and France, and probably Israel and India as well, authorities in Washington would be left with a very short list consisting of North Korea, perhaps Iran if its program continues, and possibly Pakistan. But at what stage would Russia and China be definitely ruled out in this high stakes game of nuclear Cluedo? In particular, if the act of nuclear terrorism occurred against a backdrop of existing tension in Washington’s relations with Russia and/or China, and at a time when threats had already been traded between these major powers, would officials and political leaders not be tempted to assume the worst? Of course, the chances of this occurring would only seem to increase if the United States was already involved in some sort of limited armed conflict with Russia and/or China, or if they were confronting each other from a distance in a proxy war, as unlikely as these developments may seem at the present time. The reverse might well apply too: should a nuclear terrorist attack occur in Russia or China during a period of heightened tension or even limited conflict with the United States, could Moscow and Beijing resist the pressures that might rise domestically to consider the United States as a possible perpetrator or encourager of the attack? Washington’s early response to a terrorist nuclear attack on its own soil might also raise the possibility of an unwanted (and nuclear aided) confrontation with Russia and/or China. For example, in the noise and confusion during the immediate aftermath of the terrorist nuclear attack, the U.S. president might be expected to place the country’s armed forces, including its nuclear arsenal, on a higher stage of alert. In such a tense environment, when careful planning runs up against the friction of reality, it is just possible that Moscow and/or China might mistakenly read this as a sign of U.S. intentions to use force (and possibly nuclear force) against them. In that situation, the temptations to preempt such actions might grow, although it must be admitted that any preemption would probably still meet with a devastating response.

### Leadership

#### Contention 3 is Leadership

#### Indefinite deficits fuels authoritarian crackdowns in Russia---destroys US-Russia engagement.

Mendelson, director, Human Rights and Security Initiative, CSIS, ‘9

[Sarah, "U.S.-Russian Relations and the Democracy and Rule of Law Deficit" tcf.org/assets/downloads/tcf-russiarelations.pdf, DOA: 7-23-13, y2k]

Since the collapse of the Soviet Union in 1991, every U.S. administration has considered Russia’s political trajectory a national security concern.1 Based on campaign statements and President Barack Obama’s early personnel choices, this perspective likely will affect policy toward Russia in some way for the foreseeable future.2 While the Obama administration plans to cooperate with Moscow on a number of issues, it will find that Russia’s current deficit in the areas of democracy and the rule of law complicate the relationship and may, in some cases, undermine attempts at engagement. The organizers of the Century Foundation Russia Working Group have labeled this policy problem “coping with creeping authoritarianism.” Results from nearly a dozen large, random sample surveys in Russia since 2001 that examine the views and experiences of literally thousands of Russians, combined with other research and newspaper reporting, all suggest the current democracy and rule of law deficit is rather stark.3 The deficit does not diminish the importance of Russia in international affairs, nor is it meant to suggest the situation is unique to Russia. The internal conditions of many states have negative international security implications. As Europeans repeatedly pointed out during the administration of George W. Bush, U.S. departures from the rule of law made the United States increasingly problematic as a global partner, whether through the use of force in Iraq or the manner in which the United States pursued and handled terrorist suspects. In fact, coping with authoritarian trends in Russia (and elsewhere) will involve changes in U.S. policies that have, on the surface, nothing to do with Russia. Bush administration counterterrorism policies that authorized torture, indefinite detention of terrorist suspects, and the rendering of detainees to secret prisons and Guantánamo have had numerous negative unintended consequences for U.S. national security, including serving as a recruitment tool for al Qaeda and insurgents in Iraq.4 Less often recognized, these policies also have undercut whatever leverage the United States had, as well as limited the effectiveness of American decision-makers, to push back on authoritarian policies adopted by, among others, the Putin administration. At its worst, American departures from the rule of law may have enabled abuse inside Russia. These departures certainly left human rights defenders isolated.5 Repairing the damage to U.S. soft power and reversing the departure from human rights norms that characterized the Bush administration’s counterterrorism policies will provide the Obama administration strategic and moral authority and improve the ability of the United States to work with allies. It also can have positive consequences for Obama’s Russia policy. The changes that need to be made in U.S. counterterrorism policies, however politically sensitive, are somewhat more straightforward than the adjustments that must be made to respond to the complex issues concerning Russia. The Obama administration must determine how best to engage Russian leaders and the population on issues of importance to the United States, given Russia’s poor governance structures, the stark drop in oil prices, Russia’s continued aspirations for great power status, and the rather serious resentment by Russians concerning American dominance and prior policies. The policy puzzle, therefore, is how to do all this without, at the same time, sacrificing our values and undercutting (yet again) U.S. soft power.

#### Now is key - bolstering democratic reform in Russia prevents violent revolution.

Freeland and Gutterman, ‘12

[Chrystia and Steve, Writers for Reuters, January 17, 2012, “Russia faces violent revolution if it doesn’t embrace democracy, billionaire Putin challenger declares”, <http://news.nationalpost.com/2012/01/17/russia-faces-violent-revolution-if-it-doesnt-embrace-democracy-billionaire-putin-challenger-declares/>]

MOSCOW — Mikhail Prokhorov, a super-rich tycoon challenging Vladimir Putin for Russia’s presidency in March, said his country faced the danger of violent revolution if it did not break conservative resistance and move quickly to democracy. Prokhorov, a billionaire bachelor long seen more as playboy than politician, told The Freeland File on reuters.com Russians had shaken off a post-Soviet apathy and were now “just crazy about politics.” He denied accusations he was a Kremlin tool, let into the race to split the opposition and lend democratic legitimacy to a vote Putin seems almost certain to win. Putin is seeking to return to the Kremlin and rule until at least 2018, but protests against alleged fraud in a December 4 parliamentary vote have exposed growing discontent with the system he has dominated for 12 years. “What worked before does not work now. Look in the streets. People are not happy,” Prokhorov, 46, said in the interview beneath the windowed dome that soars above his spacious office on a central Moscow boulevard close to the Kremlin. “It is time to change,” said Prokhorov, ranked by Forbes magazine as Russia’s third-richest person, with an $18-billion metals-to-banking empire that includes the New Jersey Nets basketball team in the United States. “Stability at any price is no longer acceptable for Russians.” But Prokhorov made clear he considers revolution equally unacceptable for a country with grim memories of a century of hardship, war and upheaval starting with Vladimir Lenin’s 1917 Bolshevik Revolution, instead calling for “very fast evolution.” “I am against any revolution, because I know the history of Russia. Every time we have revolution, it was a very bloody period,” he said. The son of a Soviet sports official, Prokhorov has a basketball player’s 204-cm (6-foot-8) frame, a narrow face and a head of short-cut hair graying around the edges. In a dark suit and blue shirt that looked modest for a Russian tycoon, he sat straight and spoke in English. Public political consciousness is on the rise after years of apathy. The Soviet mentality is fading as a generation of Russians who “don’t know who Lenin was” grows up, he said. The country was finally ripe for change. “We now have all the pieces in place to move very fast to being a real democracy,” Prokhorov said. But he suggested there was a mounting battle in the ruling elite between liberals like himself and conservatives “ready to pay any price” to maintain the status quo. Russia, he said, could face a bloody revolution if opponents of reform prevail. “If there are no changes in Russia, from day to day this risk will increase,” Prokhorov said. “Because 15, 20 percent of the population, the most active ones living in the big cities, want to live in a democratic country.”

#### That causes miscalculation and nuclear war

Pry, Former US Intelligence Operative, ‘99

[Peter Vincent, War Scare: U.S.-Russia on the Nuclear Brink, netlibrary]

Russian internal troubles—such as a leadership crisis, coup, or civil war—could aggravate Russia’s fears of foreign aggression and lead to a miscalculation of U.S. intentions and to nuclear overreaction. While this may sound like a complicated and improbable chain of events, Russia’s story in the 1990s is one long series of domestic crises that have all too often been the source of nuclear close calls. The war scares of August 1991 and October 1993 arose out of coup attempts. The civil war in Chechnya caused a leadership crisis in Moscow, which contributed to the nuclear false alarm during Norway’s launch of a meteorological rocket in January 1995. Nuclear war arising from Russian domestic crises is a threat the West did not face, or at least faced to a much lesser extent, during the Cold War. The Russian military’s continued fixation on surprise-attack scenarios into the 1990s, combined with Russia’s deepening internal problems, has created a situation in which the United States might find itself the victim of a preemptive strike for no other reason than a war scare born of Russian domestic troubles. At least in nuclear confrontations of the 1950s–1970s—during the Berlin crisis, Cuban missile crisis, and 1973 Middle East war—both sides knew they were on the nuclear brink. There was opportunity to avoid conflict through negotiation or deescalation. The nuclear war scares of the 1980s and 1990s have been one-sided Russian affairs, with the West ignorant that it was in grave peril.

#### US-Russia relations key to solve extinction.

Allison, Director of the Belfer Center for Science and International Affairs at Harvard’s Kennedy School of Government, ‘11

[Graham, 10-30-11, “10 reasons why Russia still matters,” <http://dyn.politico.com/printstory.cfm?uuid=161EF282-72F9-4D48-8B9C-C5B3396CA0E6>]

That central point is that Russia matters a great deal to a U.S. government seeking to defend and advance its national interests. Prime Minister Vladimir Putin’s decision to return next year as president makes it all the more critical for Washington to manage its relationship with Russia through coherent, realistic policies. No one denies that Russia is a dangerous, difficult, often disappointing state to do business with. We should not overlook its many human rights and legal failures. Nonetheless, Russia is a player whose choices affect our vital interests in nuclear security and energy. It is key to supplying 100,000 U.S. troops fighting in Afghanistan and preventing Iran from acquiring nuclear weapons. Ten realities require U.S. policymakers to advance our nation’s interests by engaging and working with Moscow. First, Russia remains the only nation that can erase the United States from the map in 30 minutes. As every president since John F. Kennedy has recognized, Russia’s cooperation is critical to averting nuclear war. Second, Russia is our most consequential partner in preventing nuclear terrorism. Through a combination of more than $11 billion in U.S. aid, provided through the Nunn-Lugar [CTR] Cooperative Threat Reduction program, and impressive Russian professionalism, two decades after the collapse of the “evil empire,” not one nuclear weapon has been found loose. Third, Russia plays an essential role in preventing the proliferation of nuclear weapons and missile-delivery systems. As Washington seeks to stop Iran’s drive toward nuclear weapons, Russian choices to sell or withhold sensitive technologies are the difference between failure and the possibility of success. Fourth, Russian support in sharing intelligence and cooperating in operations remains essential to the U.S. war to destroy Al Qaeda and combat other transnational terrorist groups. Fifth, Russia provides a vital supply line to 100,000 U.S. troops fighting in Afghanistan. As U.S. relations with Pakistan have deteriorated, the Russian lifeline has grown ever more important and now accounts for half all daily deliveries. Sixth, Russia is the world’s largest oil producer and second largest gas producer. Over the past decade, Russia has added more oil and gas exports to world energy markets than any other nation. Most major energy transport routes from Eurasia start in Russia or cross its nine time zones. As citizens of a country that imports two of every three of the 20 million barrels of oil that fuel U.S. cars daily, Americans feel Russia’s impact at our gas pumps. Seventh, Moscow is an important player in today’s international system. It is no accident that Russia is one of the five veto-wielding, permanent members of the U.N. Security Council, as well as a member of the G-8 and G-20. A Moscow more closely aligned with U.S. goals would be significant in the balance of power to shape an environment in which China can emerge as a global power without overturning the existing order. Eighth, Russia is the largest country on Earth by land area, abutting China on the East, Poland in the West and the United States across the Arctic. This territory provides transit corridors for supplies to global markets whose stability is vital to the U.S. economy. Ninth, Russia’s brainpower is reflected in the fact that it has won more Nobel Prizes for science than all of Asia, places first in most math competitions and dominates the world chess masters list. The only way U.S. astronauts can now travel to and from the International Space Station is to hitch a ride on Russian rockets. The co-founder of the most advanced digital company in the world, Google, is Russian-born Sergei Brin. Tenth, Russia’s potential as a spoiler is difficult to exaggerate. Consider what a Russian president intent on frustrating U.S. international objectives could do — from stopping the supply flow to Afghanistan to selling S-300 air defense missiles to Tehran to joining China in preventing U.N. Security Council resolutions.

#### Second, blanket indefinite detention violates the Geneva Convention – doesn’t differentiate between types of combatants nor the different durations of conflict.

Murphy, Law Professor at George Washington University Law School, ‘7

[Sean, “Evolving Geneva Convention Paradigms in the¶ 'War on Terrorism': Applying the Core Rules to the¶ Release of Persons Deemed 'Unprivileged¶ Combatants'”, GW Law Faculty Publications & Other Works, 2007, RSR]

The general assertion that all detainees at Guantánamo Bay may be detained for the “duration¶ of hostilities” is doubtful. First, that assertion may be overbroad in covering all persons detained¶ worldwide in the “war on terrorism.” While detention of persons on the battlefield in Afghanistan,¶ whether the person is associated with the Taliban or with Al Qaeda, seems fairly to fall within the¶ scope of the evolving laws of war, the detention of persons outside Afghanistan who are suspected¶ of connections to global terrorism is more problematic. The laws of war operate within temporal and¶ geographic realms; considerable attention is given to when it can be said that an “armed conflict”¶ has arisen and ended, and to where it is that protected persons are located (in enemy territory, in¶ occupied territory, in neutral territory, etc.) These rules do not fit well the new paradigm of an armed¶ conflict between a state and a non-state actor that is transnational in nature, especially when that nonstate actor is not a centralized organization. Links to Al Qaeda may be found in numerous countries,¶ not because the indigenous factions there are actively engaged in a coordinated fight against the¶ United States, but because Al Qaeda attracts movements that seek to reduce Western influence in their countries or region, be it Somalia, Algeria, or elsewhere.135 A principal architect of the radical¶ thinking that came to characterize Al Qaeda, Abu Musab al-Suri, has written that Al Qaeda is not¶ an organization, it is not a group, nor do we want it to be. . . . It is a call, a reference, a¶ methodology.”136 If that is correct, it becomes very strained to view all persons suspected of ties to¶ Al Qaeda as unlawful combatants engaged in an armed conflict with the United States. It would be¶ as if, during the Cold War, the United States decided to treat all persons suspected of being¶ communists as combatants because communist groups were fighting the United States in places like¶ Vietnam or Korea.¶ While it may be the case that Al Qaeda persons detained outside Afghanistan fall within the¶ same rules at those detained on the battlefield, it may also be the case that the rules are different.¶ Perhaps in recognition of this fact, the Supreme Court in Hamdi, after stating the general principle¶ of the law of war that detention may last no longer than active hostilities, went on to note that “[i]f¶ the practical circumstances of a given conflict are entirely unlike those of the conflicts that informed¶ the development of the law of war, that understanding may unravel.”137 Indeed, the Court appears¶ to have been influenced by the fact that Hamdi allegedly took up arms with the Taliban and that¶ active fighting against Taliban forces remained ongoing in Afghanistan. ¶ If Al Qaeda suspects picked up in places other than the battlefield in Afghanistan are not¶ regarded as combatants under the laws of war, then they would fall under the same rules that apply¶ to any transnational criminal; they could be arrested and tried in regular courts for transnational¶ crime, and otherwise could be closely monitored by law enforcement authorities. They could not,¶ however, simply be detained without trial indefinitely.¶ Second, even if one assumes that all the detainees at Guantánamo Bay should be treated¶ alike, the general assertion that they may be detained for the “duration of hostilities” still is¶ problematic. That general assertion appears based on Article 118 of Geneva Convention III¶ (“[p]risoners of war shall be released and repatriated without delay after the cessation of active¶ hostilities”), and perhaps on the analogous Article 133 of Geneva Convention IV (any internment¶ of civilians “shall cease as soon as possible after the close of hostilities”). Persons who have been¶ prosecuted in accordance with the conventions, of course, may be held even after the cessation of¶ hostilities, but they remain under the protections of the conventions until the completion of their sentences and their release.¶ The sentiment expressed by the 1949 Geneva Convention provisions in favor of expeditious¶ release after the cessation of hostilities was animated by the problems that were experienced prior¶ to 1949. The 1907 Hague Regulations138 and the 1929 Geneva Conventions on Prisoners of War139¶ were interpreted as allowing a detaining power not to repatriate until either the conclusion of an¶ armistice agreement or even a final peace agreement. Since those agreements might take months or¶ even years after the cessation of active hostilities, the repatriation of millions of prisoners of war in¶ both the world wars were considerably delayed.140 Consequently, the1949 Geneva Conventions (and¶ Protocol I) sought to detach the issue of repatriation from the conclusion of a formal agreement, and¶ instead tie the matter to core justification for detention—i.e., whether the individual would pose a¶ threat to the detaining power after release. In this sense, the obligation became a unilateral one¶ imposed on the detaining power, and not one contingent on some formal of consent from the¶ opposing belligerent. For the 1949 Geneva Conventions, the threat no longer existed once the¶ hostilities were over.¶ Yet, regardless of the duration of the conflict, Geneva Convention III and Geneva Convention¶ IV are oriented toward an individualized assessment of the circumstances arising with respect to¶ individual POWs and civilian internees. Under Geneva Convention III, a detaining power may¶ release a particular POW on “parole or promise,”141 and may also “conclude agreements with a view¶ to the direct repatriation or interment in a neutral country of able-bodied prisoners of war who have¶ undergone a long period of captivity.”142 Likewise, the standard set forth in Geneva Convention IV¶ for release of civilian internees is not tied to the cessation of hostilities; it provides that civilian¶ internees “shall be released by the Detaining Power as soon as the reasons which necessitated his¶ internment no longer exist.”143

#### Adapting to the public conscience regarding international law is necessary to regain US credibility of compliance.

Murphy, Law Professor at George Washington University Law School, ‘7

[Sean, “Evolving Geneva Convention Paradigms in the¶ 'War on Terrorism': Applying the Core Rules to the¶ Release of Persons Deemed 'Unprivileged¶ Combatants'”, GW Law Faculty Publications & Other Works, 2007, RSR]

The dominant paradigms of the 1949 Geneva Conventions, which concern either inter-state¶ or internal armed conflict, do not sit well with the new face of armed conflict presented by Al Qaeda.¶ The non-state actor who engages in heinous conduct has been an outcast to the laws of war, whether¶ one looks at the terrorism of William Quantrill in the 1860's or the terrorism of Al Qaeda today. For¶ that reason, it is understandable that the full protections envisaged by those conventions were not¶ applied in the types of conflicts that emerged after 9/11. Nevertheless, influenced by developments¶ in the fields of human rights and international criminal law, the laws of war have now evolved to a¶ point where the “public dictates of conscience” compel the application of core protections even for¶ the outcast. Those protections are reflected in both conventional and customary international law,¶ and may be seen in common Article 3 of the 1949 Geneva Conventions, and Article 75 of their¶ Additional Protocol I. If the United States wishes to act in accordance with international law, such standards should guide the United States in the conditions of the detention and the mechanisms by¶ which detainees are prosecuted for crimes.¶ Moreover, those standards should guide the United States in its decision-making on the¶ release of detainees. Detainees in the “war on terror” may not be held until the “cessation of¶ hostilities.” They may only be held so long as the particular detainee at issue represents a danger or¶ threat to the detaining power. The detaining power is obligated to undertake periodic reviews, by an¶ appropriate court or administrative board, of whether that threat continues to exist. Once the detainee¶ is determined not to be a threat, or their mental or physical fitness has been gravely diminished, the¶ detainee must be released immediately. If the detainee will likely be exposed to abuse by being sent¶ back to his country of origin, he may not be returned. In that case, or in the case of a detainee whose¶ country of origin will not accept his return or recognize his nationality, the United States is obligated¶ to release the detainee in the United States until an appropriate alternative place for relocation can¶ be resolved. Continued detention of persons deemed not to be a threat is unlawful and¶ unconscionable.

#### Failure of the U.S. to adhere to the Geneva Conventions undermines the entire Geneva regime

Beard, Lecturer at UCLA 7

[Jack, former Deputy General Counsel at the D.o.D., “The Geneva Boomerang: The Military Commissions Act of 2006 And US Counterterror operations,” The American Journal of International Law, KM]

At a fundamental level, unilateral revision of the Geneva Conventions by the United States undermines the credibility of the U.S. commitment to the existing Geneva regime. In an international setting that lacks effective external enforcement mechanisms, allowing the easy violation of agreements, a state may seek to send a signal of credible commitment to other states by constraining its own ability to act in ex ante legal structures, institutions, or procedures that reduce ex post incentives for such noncompliance. n58 A legislative act that restrains or makes it [\*66] costly to exercise such discretionary power and reduces the attractiveness of breaching an agreement can serve such a signaling function. n59 To the extent, however, that the MCA is perceived as unilaterally revising key obligations in the Geneva Conventions and providing the president with the discretion to issue further reinterpretations, it undermines the credible commitment of the United States to other states in the international community. n60 And to the extent that the U.S. commitment is perceived as increasingly less credible, theory suggests that other countries are unlikely to maintain the stringency of their own commitments.

#### The Geneva Conventions are key to prevent the development and use of chemical and biological weapons.

GCSP 5

[Geneva Centre for Security Policy, “Biological and Chemical Weapons Seminar,” June 2005, <http://www.gcsp.ch/e/meetings/Security_Challenges/WMD/Meeting_Conf/2005/BC%20Weapons%20Seminar/summary.htm>, KM]

On 9-10 June 2005, the GCSP hosted an international seminar initiated by France and Switzerland on the occasion of the 80th anniversary of the signing of the Geneva Protocol prohibiting the Use of Chemical and Bacteriological Weapons in collaboration with the United Nations Institute for Disarmament Research (UNIDIR). Over 100 participants attended the event, representing 39 States Parties, 8 UN agencies and the European Union, 12 non-governmental organisations and 10 media organisations. Ambassador Raimund Kunz, Head of the Directorate of Security Policy of the Swiss Defence Department, and Ambassadors François Rivasseau and Jürg Streuli, respectively the French and Swiss Permanent Representatives to the Conference on Disarmament, opened the seminar. The first session considered the historical background to the adoption of the 1925 Geneva Protocol and why its prohibition was extended to include bacteriological weapons, and the philosophical and ethical reasons for preserving humankind from the scourge of weapons of mass destruction. The second session considered the current situation and why there is a continuing threat from biological weapons, including from non-State actors, as well as the measures that should be taken to counter this threat, including inter-governmental cooperation through Interpol. The WHO presented the global health response to epidemics, caused naturally, accidentally or deliberately, and the International Organisation for Animal Health (OIE) described its policies to prevent or cure animal epidemics. The session also considered the implications of industrial and scientific developments in biology and biotechnology as well as legal and ethical measures in relation to bio-security. The third session examined the possible responses of international law, including the classical rules of humanitarian law relating to poisoning and the deliberate spread of disease as related to modern responsibilities, and responses that could be based on traditional instruments of disarmament, namely the 1972 Biological Weapons Convention and the 1993 Chemical Weapons Convention. The final session considered emergency responses to the threat of biological and chemical weapons. The French Head of the MFA Disarmament Unit took stock of the implementation of the Chemical Weapons Convention and the UK Permanent Representative to the Conference on Disarmament, President of the Biological and Toxin Weapons Convention Review Process, envisaged what the States Parties to the Convention might do at the Sixth Review Conference in 2006. Then the seminar considered the actions taken by groups of States such as the G8 (Global Partnership against Weapons of Mass Destruction) and the European Union (Common Strategy on the Non-Proliferation of WMD) to strengthen the regimes prohibiting chemical and biological weapons, as well as the implementation of the UN Security Council Resolution 1540 (2004). Thanks in particular to the active presence of NGOs, think tanks and journalists, the seminar was lively with a rich debate following the presentations that covered much ground and led to the recognition of a number of conclusions and points for further consideration: The 1925 Geneva Protocol was the cornerstone of a multilateral regime that now, through the 1972 Biological Weapons Convention and the 1993 Chemical Weapons Convention, totally prohibits not only the use but also the production and possession of both chemical and biological weapons.

#### New gene manipulation takes out your bioweapons defense.

MSNBC ‘11

[“Clinton warns of bioweapon threat from gene tech,” pg online @ http://www.msnbc.msn.com/id/45584359/ns/… “For an international verification system — akin to that for nuclear weapons — saying it is too complicated to monitor every lab's activities.”]

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

#### Risk of bioterror is high – results in extinction.

Matheny, research associate at Oxford University’s Future of Humanity Institute, ‘7

[Jason, previously worked at the Center for Biosecurity and holds an MBA from Duke University, “Reducing the Risk of Human Extinction,” Risk Analysis Vol. 27, No. 5, <http://users.physics.harvard.edu/~wilson/pmpmta/Mahoney_extinction.pdf>]

Of current extinction risks, the most severe may be bioterrorism.The knowledge needed to engineer a virus is modest compared to that needed to build a nuclear weapon; the necessary equipment and materials are increasingly accessible and because biological agents are self-replicating, a weapon can have an exponential effect on a population (Warrick, 2006; Williams, 2006). 5 Current U.S. biodefense efforts are funded at $5 billion per year to develop and stockpile new drugs and vaccines, monitor biological agents and emerging diseases, and strengthen the capacities of local health systems to respond to pandemics (Lam, Franco, & Shuler, 2006).

#### The plan solves – the creation of a national security court would solve US perception of compliance with international law.

McCarthy and Velshi, ‘9

[Andrew (Director of the Center for Law & Counterterrorism at the Foundation for the Defense of Democracies) and Alykhan (staff attorney at the Center for Law & Counterterrorism, where he focuses on the international law of armed conflict and the use of force), “We Need a National Security Court”, Submission for AEI, 2009, RSR]

To be clear, this is not to suggest that the United States has not honored its treaty obligations. Indeed, it ¶ has, for example, correctly construed al Qaeda to be outside the Geneva prisoner-of-war standards. The¶ point here is that a judicial tribunal, following the law publicly and faithfully from outside the executive ¶ branch, would do much to educate the public on what U.S. obligations actually are, would correct the ¶ misinformation which has been pervasive since military operations began after the 9/11 attacks, and would ¶ – in the same way criminal trials now do – provide a credible barometer for government to meet. ¶ Government’s anticipated success in doing so would do much to enhance America’s reputation for ¶ honoring its international commitments, which has been battered – for the most part, inaccurately and ¶ unfairly – for the past five year.

#### The creation of a national security court would meet the tribunal requirement of the Geneva Convention - allows for oversight process to review the individual circumstances of each detention.

McCarthy and Velshi, ‘9

[Andrew (Director of the Center for Law & Counterterrorism at the Foundation for the Defense of Democracies) and Alykhan (staff attorney at the Center for Law & Counterterrorism, where he focuses on the international law of armed conflict and the use of force), “We Need a National Security Court”, Submission for AEI, 2009, RSR]

The NSC would oversee a new process for ¶ monitoring and reviewing the detention of alien enemy combatants captured by our ¶ military (and allied forces) outside U.S. territory and detained wherever the military ¶ chooses to detain them (including within the United States). The district court division of ¶ the NSC would perform, primarily, a monitoring function. As already noted, judicial ¶ review would principally proceed at the appellate level, as it now does under the DTA ¶ and MCA. The process would work as follows. Within a reasonable time after capture, the ¶ Justice Department would report to the NSC the fact that an alleged unlawful combatant ¶ had been captured in a particular theater of combat and was being detained.69¶ Presumptively within one year of capture, the military would hold a CSRT pursuant to ¶ the procedures currently in place.70 Assuming the detainee is designated an alien enemy¶ combatant, the appeal process would proceed, first in the military system and, ultimately, ¶ to the appellate tribunal of the NSC. ¶ Review in the NSC would proceed in a manner similar to that envisioned by the ¶ MCA. In creating the NSC, Congress would (a) make a finding that aliens who are nonU.S. persons (i.e., who are neither American citizens nor lawful permanent resident aliens ¶ of the United States) have no entitlements under the Constitution, and (b) provide that ¶ such aliens have no enforceable entitlements against detention during wartime under any ¶ U.S. statute or treaty if found by a properly constituted CSRT to be enemy combatants. ¶ Consequently, review in the NSC would be limited to challenging compliance at the ¶ appellant’s CSRT with the military’s standards and procedures for CSRTs. To avoid the empirical problem of judicial activism, the Congress would make clear that the grounds it ¶ has set forth are the only available grounds for judicial review.71¶ In connection with each certified combatant, the Justice Department would also ¶ certify to the NSC (at the district court level) that hostilities were ongoing in the war on ¶ terror, that hostilities were ongoing in the theater of combat relevant to the particular ¶ enemy combatant (which, of course, will not necessarily be the place where the ¶ combatant was captured), and that it was in the national security interest of the United ¶ States that the combatant continue to be held because of the likelihood that he would ¶ resume operations against the United States if released. The CSRT determination would ¶ be reviewed annually, as would DOJ’s certification.¶ The government’s certification would be unreviewable as long as the executive ¶ branch represented that combat operations were still ongoing in the theater which was the ¶ predicate (or were the predicates) for finding the particular detainee an alien enemy ¶ combatant. Here, it is worth pausing to rehearse that, once prospects for useful ¶ intelligence have been exhausted, the sole justification for holding enemy combatants is ¶ to prevent them from rejoining the battle. While it is often observed that the global war ¶ on terror may go on indefinitely, this does not mean it will go on throughout the world ¶ indefinitely. ¶ Of course, some detainees will be a credible threat to join the battle wherever it ¶ rages. However, the evidence that would make such a threat credible will frequently ¶ provide grounds for charging the terrorist-combatant with war crimes and prosecuting ¶ him – such that it will not be necessary to detain him interminably merely as an enemy ¶ combatant (which is the principal international objection to current U.S. policy). Other ¶ detainees will only be credible local threats, and will not be a continuing national security ¶ challenge for the United States once combat operations have been completed in the place ¶ where they were captured. Such combatants should be repatriated once combat operations ¶ in their region have wound down (and it bears mention here that the United States has, in fact, released hundreds of combatants from Guantanamo Bay).72 Moreover, as progress is ¶ made in the war on terror, and particularly if functioning governments replace tyrannical ¶ regimes, it will increasingly be possible to repatriate combatants with the confidence that ¶ they will be treated appropriately (including by prosecution, if grounds exist) by the new ¶ governments in their home countries (or in countries where they have committed crimes). ¶

### Solvency

#### Contention 4 is solvency

#### The national security court solves – preserves national security while providing the appropriate international signal.

Sulmasy, Commander and associate professor of law at the U.S. Coast Guard Academy, ‘6

[Glenn, “THE LEGAL LANDSCAPE AFTER HAMDAN:¶ THE CREATION OF HOMELAND SECURITY¶ COURTS”, NEW ENG. J.INT'L & COMP.L., Vol. 13, RSR]

Article I judges with law of armed conflict expertise would proceed¶ over the trials. Theses judges will be appointed by the President and¶ possess the educational background necessary to determine the lawfulness¶ of intelligence gathering, terrorist surveillance, and other necessary areas in¶ the field of terrorism and homeland security. Several scholars, advocating¶ against judicial intervention in the war, correctly note that those who are¶ making such decisions now are not necessarily versed in this unique area of¶ the law.43 Whether you agree or disagree, the nature of this war seems to¶ necessitate judicial intervention more than has been custom or standard in¶ previous U.S. military wars and operations. As it stands now, the system¶ allows for judges who have no background in warfare or national security¶ to intervene, hear, and decide cases with little or no understanding of the¶ issues because they are beyond the scope of their expertise.4 The threat¶ we face demands these procedures as a minimum requirement.¶ Prosecutors, assigned by the Department of Justice (hereinafter¶ referred to as "DOJ") would represent the government and exercise¶ prosecutorial discretion on whether or not to proceed in cases. Oversight¶ would be conducted by the Chief, Criminal Division of DOJ. 45 The powers¶ of these prosecutors, as in other nations, would be great, but they would¶ still operate under the ethical rules standard for all U.S. government¶ attorneys.¶ Judge advocates (military lawyers) would serve as government¶ provided defense counsel. This group would be similar to what has been¶ provided for the detainees in the military commissions. The judge¶ advocates would be made available by the Department of Homeland Security46 and the Department of Defense. Initially, a pool of ten judge¶ advocates would serve on defense teams. If desired, the accused may¶ employ, at his expense, civilian counsel as long as they have requisite¶ classified document clearance(s). This would ensure alleged international¶ terrorists with a defense capable of handling their cases. Further, this¶ would help satisfy some international concern about lack of representation.¶ As a result of the sensitive nature of intelligence gathering and¶ methods employed as well as ensuring such hearings do not become¶ propaganda tools for the enemy,47 the trials would be closed to the public.¶ Reasons for closed trials include disallowing access to the media, an action¶ that was not taken in the trials of the perpetrators of the World Trade¶ Center bombings in 1993 and the recent Moussaoui case.48 However,¶ representatives from several appointed NGO's and the United Nations¶ would be permitted to attend as "observers" to ensure fairness of the trial¶ and to witness the procedural protections expected of a nation dedicated to¶ upholding the rule of law.¶ The trials would be held on military bases located within the¶ continental United States. This would keep the detainees held in a location¶ that is secure, like GITMO, but with less controversy. This would, in part,¶ also remove some of the international concerns about the detention centers¶ located in GITMO. Under this proposal, our own armed forces, alleged¶ and convicted criminals, are held at the same location as the terrorist. Fort¶ Leavenworth in Kansas, or even Fort Belvoir in Washington D.C., would¶ be appropriate locations to detain, try, and imprison persons accused of¶ engaging in international terror. Since Eisentrager has been essentially¶ overruled by recent cases, 49 the extraterritoriality needs are no longer¶ applicable and, in essence, are moot.50¶ As noted previously, military brigs are the most appropriate place to detain accused terrorists because it is both a secure place and it affords the¶ same protection against abuse given to those in the U.S. service members¶ who are tried, convicted, and sentenced under the UCMJ by courts-martial.¶ Having the detainees alongside members of the U.S. military would go a¶ long way toward reducing international concerns of torture and unfair¶ tribunals. In addition, it seems as though keeping the detainees within our¶ nation would provide an additional appearance of process and certainly¶ remove the taint of being held in the base at GITMO. Remaining¶ consistent with the theme of the homeland security courts being a hybrid,¶ any appeals would go through the Courts of Appeals of the Armed Forces¶ (CAAF)." This limited right of appeal would ensure the cases were heard¶ by an outside panel of judges versed in military law, the laws of war, and¶ have some background in the procedural nuances of national security law.¶ Appellate counsel would be provided by Air Force, Coast Guard, Navy-¶ Marine Corps, and the Army.¶ Under this system, the death penalty would still be an authorized¶ punishment. This penalty would only be authorized in those cases deemed¶ egregious enough and ones that severely impact the homeland security of¶ the United States. Certain aggravating factors would have to be developed¶ and codified to distinguish between what cases are appropriate for a life¶ sentence or those better suited as capital cases. Recognizing that this¶ would still cause concern among our European and other international¶ colleagues, this proposal certainly requires further elaboration prior to¶ implementation.

#### Congressional action on detention is the only way to make the executive accountable – empirically proven, the court will back them up and preserves executive flexibility.

Harvard Law Review, ‘12

[“RECENT LEGISLATION”, Vol. 125, 2012, RSR]

Just as the Commander-in-Chief power is not preclusive with respect to detainee transfers in general (sections 1026 through 1028), the ¶ President’s foreign affairs powers are also not preclusive with respect ¶ to transfers to foreign countries (section 1028). The Court has long ¶ recognized that the President’s foreign affairs powers go beyond those ¶ explicitly granted in the Constitution and that the President has a ¶ unique role as “the sole organ of the federal government in the field of ¶ international relations.”59 Yet the Court has not held that the President enjoys preclusive power over the whole foreign affairs arena;60¶ nor has it ever invalidated an act of Congress as infringing upon the ¶ President’s foreign affairs power.61 Even strong foreign affairs ¶ presidentialists concede that Congress retains those powers granted by ¶ the constitutional text.62 Congress’s constitutionally granted foreign affairs powers include not only those facially related to foreign affairs — ¶ such as ratifying treaties, confirming ambassadors, and regulating foreign commerce63 — but also those that clearly affect foreign relations, ¶ such as declaring and regulating war.64 History and custom also support ¶ the constitutionality of congressional restrictions on detainee transfers to ¶ foreign states.65 Congress has long helped shape immigration and deportation policies,66 and — most relevant for the detainee-transfer con- text — has regulated extradition, both by treaty and by legislation.67¶ As the Court has recognized, extradition is “not confided to the Executive in the absence of treaty or legislative provision.”68¶ Despite Congress’s constitutional authority to regulate detainee ¶ transfers, President Obama’s policy criticisms of the specific restrictions in the NDAA were valid. The statute eliminates the flexibility to try Guantánamo detainees in civilian courts (a practice used to ¶ great effect by the Bush administration with other terrorism suspects69), makes it impossible to close Guantánamo Bay,70 and abandons many of the detainees whom the administration no longer views ¶ as dangerous but is barred by statute from transferring.71¶ Nevertheless, Congress’s general involvement in detention policy ¶ may be positive for its own sake, even if it missteps in individual cases. ¶ Congress not only legitimates and helps make accountable executive ¶ branch actions,72 but it is also the only branch capable of fashioning a ¶ comprehensive legal regime for military detention of terrorist suspects.73 In addition, institutional constraints such as the bicameralism ¶ requirement and the presidential veto74 limit the potential damage of ¶ congressional meddling in tactical wartime decisions.75 Although the ¶ President is right to work with Congress to repeal the problematic ¶ NDAA provisions,76 he should respect its role in this policy arena and ¶ neither ignore the restrictions nor interpret them out of existence in the ¶ name of avoiding constitutional difficulties.77 Just because a congressional policy choice is wrong does not make it unconstitutional.

#### State engagement is the best methodology ---- refusal to engage in the methodical politics of democratic citizenship makes every impact inevitable.

Dietz, Professor of Political Science and Gender Studies Program at Northwestern University, ‘94

[Mary, “’THE SLOW BORING OF HARD BOARDS’: METHODICAL THINKING AND THE WORK OF POLITICS”, American Political Science Review, Vol. 88, No. 4 December 1994, <http://www.jstor.org/stable/pdfplus/2082713.pdf>]

Earlier, in considering the means-end category in politics, I suggested that everything hinges upon the action context within which this mode of thinking takes place. I now want to suggest that there is a richer conceptual context-beyond utilitarian objectification, rational capitalist accumulation, and/or Leninism-within which to think about the category of means and ends. Weil offers this alternative in her account of methodical thinking as (1) problem- oriented, (2) directed toward enacting a plan or method (solutions) in response to problems identified, (3) attuned to intelligent mastery (not domination), and (4) purposeful but not driven by a single end or success. Although Weil did not even come close to doing this herself, we might derive from her account of methodical thinking an action concept of politics. Methodical politics is equally opposed to the ideological politics Hannah Arendt deplores, but it is also distinct in important respects from the theatrical politics she defends. Identifying a problem-or what the philosopher David Wiggins calls "the search for the **best specification** of what would honor or answer to relevant concerns" (1978, 145)-is where methodical politics begins.26 It continues (to extrapolate from Weil's image of the methodical builders) in the determination of a means-end sequel, or method, directed toward a political aim. It reaches its full realization in the actual undertaking of the plan of action, or method, itself. To read any of these action aspects as falling under technical rules or blueprints (as Arendt tends to do when dealing with means and ends) is to confuse problem solving with object making and something methodical with something ideological. By designating a problem orientation to political activity, methodical politics assigns value to the activity of constantly deploying "knowing and doing" on new situations or on new understandings of old ones. This is neither an ideological exercise in repetition nor the insistent redeployment of the same pattern onto shifting circumstances and events. The problem orientation that defines methodical politics rests upon a recognition of the political domain as a matrix of obstacles where it is impossible to secure an ideological fix or a single focus. In general, then, methodical politics is best under- stood from the perspective of "the fisherman battling 880 American Political Science Review Vol. 88, No. 4 against wind and waves in his little boat" (Weil 1973, 101) or perhaps as Michael Oakeshott puts it: "In political activity . . . men sail a boundless and bottomless sea; there is neither harbour for shelter nor floor for anchorage, neither starting-place nor ap- pointed destination" (1962, 127).27 Neither Weil's nor Oakeshott's is the perspective of the Platonist, who values chiefly the modeller who constructs his ship after pre-existing Forms or the pilot-philosopher who steers his craft to port by the light of immutable Forms fixed in a starry night. In both of the Platonic images (where the polis is either an artifact for use or a conveyance to safe harbor), a single and predictable end is already to hand. Neither Weil's nor Oakeshott's images admit any equivalent finality. The same is true of methodical politics, where political phenomena present to citizens-as the high sea presents to the sailor-challenges to be identified, demands to be met, and a context of circumstances to be engaged (without blueprints). Neither the assurance of finality nor the security of certainty attends this worldly activity. In his adamantly instrumental reading of politics in the ancient world, M.I. Finley makes a similar point and distinguishes between a problem orientation and patterned predictability by remarking upon the "iron compulsion" the Greeks and Romans were under "to be continuously inventive, as new and often unantic- ipated problems or difficulties arose that had to be resolved without the aid of precedents or models" (1983, 53). With this in mind, we might appreciate methodical politics as a mode of action oriented toward problems and solutions within a context of adventure and unfamiliarity. In this sense, it is compatible with Arendt's emancipatory concept of natality (or "new beginnings") and her appreciation of openness and unpredictability in the realm of human affairs. There are other neighborly affinities between methodical and theatrical politics as well. Both share a view of political actors as finite and fragile creatures who face an infinite range of possibilities, with only limited powers of control and imagination over the situations in which they are called upon to act. From both a methodical and a theatrical vantage point, this perpetual struggle that is politics, whatever its indeterminacy and flux, acquires meaning only when "knowing what to do and doing it" are united in the same performance (Arendt, 1958a, 223). Freedom, in other words, is realized when Plato's brilliant and devious conceptual maneuver is outwitted by a politics that opposes "the escape from action into rule" and reasserts human self-realization as the unification of thought-action in the world (pp. 223-25). In theatrical politics, however, the actual action content of citizen "knowing and doing" is **upstaged** by the spectacular appearance of personal identities courageously revealed in the public realm. Thus Plato's maneuver is outwitted in a bounded space where knowing what to do and doing it are disclosed in speech acts and deeds of self-revelation in the company of one's-fellow citizens. In contrast, methodical politics doggedly reminds us that **purposes themselves are what matter** in the end, and that citizen action is as much about obstinately pursuing them as it is about the courage to speak in performance. So, in methodical politics, the Platonic split between knowing and doing is overcome in a kind of boundless navigation that is realized in purposeful acts of collective self-determination. Spaces of appearances are indispensable in this context, but these spaces are not exactly akin to "islands in a sea or as oases in a desert" (Arendt 1970, 279). The parameters of methodical politics are more fluid than this, set less by identifiable boundaries than by the very activity through which citizens "let realities work upon" them with "inner concentration and calmness" (Weber 1946, 115). In this respect, methodical politics is not a context wherein courage takes eloquent respite from the face of life, danger (the sea, the desert), or death: it is a daily confrontation wherein obstacles or dangers (including the ultimate danger of death) are transformed into prob- lems, problems are rendered amenable to possible action, and action is undertaken with an aim toward solution. Indeed, in these very activities, or what Arendt sometimes pejoratively calls the in order to, we might find the perpetuation of what she praises as the for the sake of which, or the perpetuation of politics itself (1958a, 154). To appreciate the **emancipatory dimension** of this action concept of politics as methodical, we might now briefly return to the problem that Arendt and Weil think most vexes the modern world-the deformation of human beings and human affairs by forces of automatism. This is the complex manipulation of modern life that Havel describes as the situation in which everything "must be cossetted together as firmly as possible, **predetermined, regulated and controlled**" and "every aberration from the prescribed course of life is **treated as error, license and anarchy**" (1985, 83). Constructed against this symbolic animal laborans, Arendt's space of appearances is the agonistic opposite of the distorted counterfeit reality of automatism. The space of appearances is where individuality and personal identity are **snatched from the jaws of automatic processes** and recuperated in "the merciless glare" of the public realm (Arendt 1969, 86). Refigured in this fashion, Arendtian citizens counter reductive technological complexes in acts of individual speech revelation that powerfully proclaim, in collective effect, "This is who we are!" A politics in this key does indeed dramatically defy the objectifying processes of modern life-and perhaps even narratively transcends them by delivering up what is necessary for the reification of human remembrance in the "storybook of mankind" (Arendt 1958a, 95). But these are also its limits. For whatever else it involves, Arendtian politics cannot entail the practical confrontation of the situation that threatens the human condition most. Within the space of appearances, Arendt's citizens can neither search for the best specification of the problem before them nor, it seems, pursue solutions to the problem once it is identified, for such activities involve "the pursuit of a definite aim which can be set by practical considerations," and that is homo faber's prerogative and so in the province of "fabrication," well outside the space of appearances where means and ends are left behind (pp. 170-71). Consequently, automatism can be conceptualized as a "danger sign" in Arendt's theory, but it cannot be designated as a problem in Arendt's politics, a problem that citizens could cognitively counter and purposefully attempt to resolve or transform (p. 322). From the perspective of methodical politics, which begins with a **problem orientation, automatism can be specified and encountered within the particular spaces** or circumstances (schools, universities, hospitals, factories, corporations, prisons, laboratories, houses of finance, the home, public arenas, public agencies) upon which its technological processes intrude. Surely something like this is what Weil has in mind when she calls for "a sequence of mental efforts" in the drawing up of "an inventory of modern civilization" that begins by "**refusing** **to subordinate one's own destiny to the course of history**" (1973, 123-24). Freedom is immanent in such moments of cognitive inventory, in the **collective citizen-work** of "taking stock"-identifying problems and originating methods-and in the shared pursuit of purposes and objectives. This is simply what it means to think and act methodically in spaces of appearances. Nothing less, as Wiggins puts it, "can rescue and preserve civilization from the mounting irrationality of the public province, . . . from Oppression exercised in the name of Management (to borrow Simone Weil's prescient phrase)" (1978, 146).

#### Individual connection to congressional action and separation of powers is the only way to challenge executive authority

Kleinerman, Ph.D. in Political Science from Michigan State University, 2009 [Benjamin, The Discretionary President: The Promise and Peril of Executive Power, p. 12-13]

In fact, many of the disputes of the past administration revolve around the rightful place of a wide variety of powers. For instance, to some, the president's authorization of the NSA wiretaps was an egregious violation because he seemed to be literally making new law without any input from the branch whose responsibility it is to make the law. Benjamin Wittes, in a much-lauded book called Law and the Long War, argues that much of the problem in the post-9/11 world is that the Bush administration relied all too much on its inherent executive power and failed to place the U.S. response to terrorism on a proper legal footing. Wittes seeks to begin the steps toward a "viable permanent legal architecture for the struggle."46 The goal, he suggests, should be a "legal architecture that grants the president the powers he needs yet also generates the sort of accountability for the use of those powers that might sustain them with long-term public confidence."47 Wittes's argument is both timely and important. To ground the confrontation with terrorism, a president needs more than merely discretionary executive power. Given the permanent and thus nonextraordinary character of a meaningful "war on terror," U.S. citizens cannot and should not simply call on the powers of a discretionary executive. Wittes writes, "Broad presidential war powers are only defensible insofar as they represent a temporary aggrandizement of executive power to handle a crisis." But this "crisis" seems as though it will be a permanent feature of the modern world. To rely on the description of this war as a crisis "is really to describe a permanent state of emergency with a corresponding growth of executive power and a diminution of checks upon it."48¶ But to remain constitutional in this new ordinary, where vast and unthinkable destruction remains a constant possibility, one should not simply seek to place all foreseeable powers that might be necessary on the kind of legal footing Wittes envisions. Again, although one can imagine scenarios in which torture might be necessary, this does not mean that the United States should legalize torture. Instead, its citizens must think through both what powers they should legalize, and by doing so routinize, and what powers they should leave either outside the laws or simply make illegal, thus forcing the executive power, if it wants to so act, to justify the necessity of its action to Congress and the public. But the public can only do this when it has a proper understanding of discretionary executive power and its relation to the legislature.¶ Much of our problem, as I will suggest in later chapters, is that we no longer have an understanding of the separation of powers model that would be so helpful to us in thinking through the proper governmental arrangements in this confrontation with terrorism. For this reason, Wittes's suggestions, depending as they do on an understanding of the difference between the legislative, executive, and judicial functions, end up falling on deaf ears. Wittes suggests, for instance, "If the goal is a long-term, stable set of legal structures for a conflict of indefinite duration against a novel adversary, neither the judiciary nor the executive can ultimately deliver." He continues, "Only Congress can remove the conflict from the paralyzing war-versus-law-enforcement divide and craft for terrorism new legal rules tailored to terrorism's own peculiarities."44 The problem is that public reception of this argument depends on an understanding of the important functional differences in the separation of powers model between the executive, the legislature, and the judiciary.¶ But this notion of the separation of powers, as the founders understood it, tends to elude us. Describing the founders' understanding, Jeffrey Tulis writes, "The term separation of owers has perhaps obstructed understanding of the extent to which afferent structures were designed to give each branch the special quality needed to secure its governmental objectives."5° Each branch has different objectives. The executive aims, first and foremost, at security, or, as Tulis puts it, "self-preservation." Congress aims, first and foremost, at representing the popular will. The courts aim, first and foremost, at protecting rights. Because of each branch's objective, it is structured so as to achieve the virtue most conducive to achieving this function. The legislature requires deliberation. The executive requires energy, And the judiciary requires judgment. Having lost this perspective is a problem not simply or even primarily because we have lost the founders' original intent. As Tulis shows so well in his book The Rhetorical Presidency, the Constitution remains structured so as to achieve, for each branch, its main objective. And, at the same time, the Constitution stands in the way of each branch achieving functions beyond that to which it is assigned. So, in the case of the presidency, the Constitution is structured so that the president can achieve the energy required to preserve security, but it is also structured to prevent what the founders would have viewed as the type of demagogic leadership envisioned by Woodrow Wilson's transformation of the presidency into a rhetorical mouthpiece for the people. Thus, the new expectations for the presidency constantly grind against its constitutional places. Or, as Wittes unwittingly shows, we have not looked to Congress to provide a legal structure for this confrontation with terrorism because we no longer conceive of Congress as the home of deliberation in the regime.52

## 2AC

### Terrorism

#### EFFORTS TO FIND A RADICAL THIRD OPTION TO THE WAR ON TERRORISM GENERATES A PATERNALISTIC UNDERSTANDING OF THE OTHER AND TIES THE HANDS OF THE UNITED STATES PREVENTING ACTION TO STOP GENOCIDE, TERRORISM, SEXISM AND OTHER ATROCITIES—THE CHOICES ARE HARDLINE OR ANNIHILATION

Hanson 4 (Professor of Classical Studies at CSU Fresno, City Journal, Spring, City Journal, Spring, http://www.city-journal.org/html/14\_2\_the\_fruits.html)

Rather than springing from realpolitik, sloth, or fear of oil cutoffs, much of our appeasement of Middle Eastern terrorists derived from a new sort of anti-Americanism that thrived in the growing therapeutic society of the 1980s and 1990s. Though the abrupt collapse of communism was a dilemma for the Left, it opened as many doors as it shut. To be sure, after the fall of the Berlin Wall, few Marxists could argue for a state-controlled economy or mouth the old romance about a workers’ paradise—not with scenes of East German families crammed into smoking clunkers lumbering over potholed roads, like American pioneers of old on their way west. But if the creed of the socialist republics was impossible to take seriously in either economic or political terms, such a collapse of doctrinaire statism did not discredit the gospel of forced egalitarianism and resentment against prosperous capitalists. Far from it. If Marx receded from economics departments, his spirit reemerged among our intelligentsia in the novel guises of post-structuralism, new historicism, multiculturalism, and all the other dogmas whose fundamental tenet was that white male capitalists had systematically oppressed women, minorities, and Third World people in countless insidious ways. The font of that collective oppression, both at home and abroad, was the rich, corporate, Republican, and white United States. The fall of the Soviet Union enhanced these newer post-colonial and liberation fields of study by immunizing their promulgators from charges of fellow-traveling or being dupes of Russian expansionism. Communism’s demise likewise freed these trendy ideologies from having to offer some wooden, unworkable Marxist alternative to the West; thus they could happily remain entirely critical, sarcastic, and cynical without any obligation to suggest something better, as witness the nihilist signs at recent protest marches proclaiming: “I Love Iraq, Bomb Texas.” From writers like Arundhati Roy and Michel Foucault (who anointed Khomeini “a kind of mystic saint” who would usher in a new “political spirituality” that would “transfigure” the world) and from old standbys like Frantz Fanon and Jean-Paul Sartre (“to shoot down a European is to kill two birds with one stone, to destroy an oppressor and the man he oppresses at the same time”), there filtered down a vague notion that the United States and the West in general were responsible for Third World misery in ways that transcended the dull old class struggle. Endemic racism and the legacy of colonialism, the oppressive multinational corporation and the humiliation and erosion of indigenous culture brought on by globalization and a smug, self-important cultural condescension—all this and more explained poverty and despair, whether in Damascus, Teheran, or Beirut. There was victim status for everybody, from gender, race, and class at home to colonialism, imperialism, and hegemony abroad. Anyone could play in these “area studies” that cobbled together the barrio, the West Bank, and the “freedom fighter” into some sloppy global union of the oppressed—a far hipper enterprise than rehashing Das Kapital or listening to a six-hour harangue from Fidel. Of course, pampered Western intellectuals since Diderot have always dreamed up a “noble savage,” who lived in harmony with nature precisely because of his distance from the corruption of Western civilization. But now this fuzzy romanticism had an updated, political edge: the bearded killer and wild-eyed savage were not merely better than we because they lived apart in a pre-modern landscape. No: they had a right to strike back and kill modernizing Westerners who had intruded into and disrupted their better world—whether Jews on Temple Mount, women in Westernized dress in Teheran, Christian missionaries in Kabul, capitalist profiteers in Islamabad, whiskey-drinking oilmen in Riyadh, or miniskirted tourists in Cairo. An Ayatollah Khomeini who turned back the clock on female emancipation in Iran, who murdered non-Muslims, and who refashioned Iranian state policy to hunt down, torture, and kill liberals nevertheless seemed to liberal Western eyes as preferable to the Shah—a Western-supported anti-communist, after all, who was engaged in the messy, often corrupt task of bringing Iran from the tenth to the twentieth century, down the arduous, dangerous path that, as in Taiwan or South Korea, might eventually lead to a consensual, capitalist society like our own. Yet in the new world of utopian multiculturalism and knee-jerk anti-Americanism, in which a Noam Chomsky could proclaim Khomeini’s gulag to be “independent nationalism,” reasoned argument was futile. Indeed, how could critical debate arise for those “committed to social change,” when no universal standards were to be applied to those outside the West? Thanks to the doctrine of cultural relativism, “oppressed” peoples either could not be judged by our biased and “constructed” values (“false universals,” in Edward Said’s infamous term) or were seen as more pristine than ourselves, uncorrupted by the evils of Western capitalism.¶ Who were we to gainsay Khomeini’s butchery and oppression? We had no way of understanding the nuances of his new liberationist and “nationalist” Islam. Now back in the hands of indigenous peoples, Iran might offer the world an alternate path, a different “discourse” about how to organize a society that emphasized native values (of some sort) over mere profit. So at precisely the time of these increasingly frequent terrorist attacks, the silly gospel of multiculturalism insisted that Westerners have neither earned the right to censure others, nor do they possess the intellectual tools to make judgments about the relative value of different cultures. And if the initial wave of multiculturalist relativism among the elites—coupled with the age-old romantic forbearance for Third World roguery—explained tolerance for early unpunished attacks on Americans, its spread to our popular culture only encouraged more.¶ This nonjudgmentalism—essentially a form of nihilism—deemed everything from Sudanese female circumcision to honor killings on the West Bank merely “different” rather than odious. Anyone who has taught freshmen at a state university can sense the fuzzy thinking of our undergraduates: most come to us prepped in high schools not to make “value judgments” about “other” peoples who are often “victims” of American “oppression.” Thus, before female-hating psychopath Mohamed Atta piloted a jet into the World Trade Center, neither Western intellectuals nor their students would have taken him to task for what he said or condemned him as hypocritical for his parasitical existence on Western society. Instead, without logic but with plenty of romance, they would more likely have excused him as a victim of globalization or of the biases of American foreign policy. They would have deconstructed Atta’s promotion of anti-Semitic, misogynist, Western-hating thought, as well as his conspiracies with Third World criminals, as anything but a danger and a pathology to be remedied by deportation or incarceration

### Kappeler

#### Our argument is comparative --- reformism is empirically more successful than revolutionary withdrawal.

Kazin, Professor of History at Georgetown University, ‘11

[Michael, Has the US Left Made a Difference, Dissent Spring p. 52-54]

But when political radicals made a big difference, they generally did so as decidedly junior partners in a coalition driven by establishment reformers. Abolitionists did not achieve their goal until midway through the Civil War, when Abraham Lincoln and his fellow Republicans realized that the promise of emancipation could speed victory for the North. Militant unionists were not able to gain a measure of power in mines, factories, and on the waterfront until Franklin Roosevelt needed labor votes during the New Deal. Only when Lyndon Johnson and other liberal Democrats conquered their fears of disorder and gave up on the white South could the black freedom movement celebrate passage of the civil rights and voting rights acts. For a political movement to gain any major goal, it needs to win over a section of the governing elite (it doesn’t hurt to gain support from some wealthy philanthropists as well). Only on a handful of occasions has the Left achieved such a victory, and never under its own name. The divergence between political marginality and cultural influence stems, in part, from the kinds of people who have been the mainstays of the American Left. During just one period of about four decades—from the late 1870s to the end of the First World War— could radicals authentically claim to represent more than a tiny number of Americans who belonged to what was, and remains, the majority of the population: white Christians from the working and lower-middle class. At the time, this group included Americans from various trades and regions who condemned growing corporations for controlling the marketplace, corrupting politicians, and degrading civic morality. But this period ended after the First World War—due partly to the epochal split in the international socialist movement. Radicals lost most of the constituency they had gained among ordinary white Christians and have never been able to regain it. Thus, the wageearning masses who voted for Socialist, Communist, and Labor parties elsewhere in the industrial world were almost entirely lost to the American Left—and deeply skeptical about the vision of solidarity that inspired the great welfare states of Europe. Both before and after this period, the public face and voice of the Left emanated from an uneasy alliance: between men and women from elite backgrounds and those from such groups as Jewish immigrant workers and plebeian blacks whom most Americans viewed as dangerous outsiders. This was true in the abolitionist movement—when such New England brahmins as Wendell Phillips and Maria Weston Chapman fought alongside Frederick Douglass and Sojourner Truth. And it was also the case in the New Left of the 1960s, an unsustainable alliance of white students from elite colleges and black people like Fannie Lou Hamer and Huey Newton from the ranks of the working poor. It has always been difficult for these top and- bottom insurgencies to present themselves as plausible alternatives to the major parties, to convince more than a small minority of voters to embrace their program for sweeping change. Radicals did help to catalyze mass movements. But furious internal conflicts, a penchant for dogmatism, and hostility toward both nationalism and organized religion helped make the political Left a taste few Americans cared to acquire. However, some of the same qualities that alienated leftists from the electorate made them pioneers in generating an alluringly rebellious culture. Talented orators, writers, artists, and academics associated with the Left put forth new ideas and lifestyles that stirred the imagination of many Americans, particularly young ones, who felt stifled by orthodox values and social hierarchies. These ideological pioneers also influenced forces around the world that adapted the culture of the U.S. Left to their own purposes—from the early sprouts of socialism and feminism in the1830s to the subcultures of black power, radical feminism, and gay liberation in the 1960s and 1970s. Radical ideas about race, gender, sexuality, and social justice did not need to win votes to become popular. They just required an audience. And leftists who were able to articulate or represent their views in creative ways often found one. Arts created to serve political ends are always vulnerable to criticism. Indeed, some radicals deliberately gave up their search for the sublime to concentrate on the merely persuasive. But as George Orwell, no aesthetic slouch, observed, “the opinion that art should have nothing to do with politics is itself a political attitude.” In a sense, the radicals who made the most difference in U.S. history were not that radical at all. What most demanded, in essence, was the fulfillment of two ideals their fellow Americans already cherished: individual freedom and communal responsibility. In 1875, Robert Schilling, a German immigrant who was an official in the coopers, or caskmakers, union, reflected on why socialists were making so little headway among the hard-working citizenry: ….everything that smacks in the least of a curtailment of personal or individual liberty is most obnoxious to [Americans]. They believe that every individual should be permitted to do what and how it pleases, as long as the rights and liberties of others are not injured or infringed upon. [But] this personal liberty must be surrendered and placed under the control of the State, under a government such as proposed by the social Democracy. Most American radicals grasped this simple truth. They demanded that the promise of individual rights be realized in everyday life and encouraged suspicion of the words and power of all manner of authorities—political, economic, and religious. Abolitionists, feminists, savvy Marxists all quoted the words of the Declaration of Independence, the most popular document in the national canon. Of course, leftists did not champion self-reliance, the notion that an individual is entirely responsible for his or her own fortunes. But they did uphold the modernist vision that Americans should be free to pursue happiness unfettered by inherited hierarchies and identities. At the same time, the U.S. Left—like its counterparts around the world—struggled to establish a new order animated by a desire for social fraternity. The labor motto “An injury to one is an injury to all” rippled far beyond picket lines and marches of the unemployed. But American leftists who articulated this credo successfully did so in a patriotic and often religious key, rather than by preaching the grim inevitability of class struggle. Such radical social gospelers as Harriet Beecher Stowe, Edward Bellamy, and Martin Luther King, Jr., gained more influence than did those organizers who espoused secular, Marxian views. Particularly during times of economic hardship and war, radicals promoted collectivist ends by appealing to the wisdom of “the people” at large. To gain a sympathetic hearing, the Left always had to demand that the national faith apply equally to everyone and oppose those who wanted to reserve its use for privileged groups and undemocratic causes. But it was not always possible to wrap a movement’s destiny in the flag. “America is a trap,” writes the critic Greil Marcus, “its promises and dreams…are too much to live up to and too much to escape.”

#### Only individual citizens rejecting executive power can revitalize liberalism and democracy

Kleinerman, Ph.D. in Political Science from Michigan State University, 2009 [Benjamin, The Discretionary President: The Promise and Peril of Executive Power, p. 8-9]

As citizens of a modern constitutional republic, we should not view our responsibility as judges of discretion as a burden. Modern liberalism, which exists in a close, although not intrinsic, partnership with modern constitutionalism, forecloses many of our political judgments when it changes the political question from the ends toward which politics should aim to the means by which to achieve previously settled ends. Beginning with Hobbes, political power no longer involves contestations over fundamental political ends; instead, political peace and prosperity are taken to be the only legitimate aims of politics. Given this change, as Hobbes knew so well and to which he looked forward hopefully, a liberal people can become quite apolitical. As we become more apolitical, we become more accepting of the claims of strong executive power. To some degree, modern constitutionalism aims to solve this problem by inviting us to become political again through making judgments about the proper scope of discretionary executive power. This judgment is good not only because it controls executive power; it also invigorates our political selves in a way that liberalism otherwise does not. Douglas Casson puts this point nicely: "To prove that we are rational and free persons and not Filmerian slaves, we must reclaim what is naturally ours. We must take up the difficult task of making determinations about the proper exercise of political power under conditions of uncertainty."38 Making political judgments about the use of discretionary executive power is not merely something we are forced to take up because of the incompleteness of constitutionalism; it is instead a component part of the modern constitutional project. It supplies the essential politics that is otherwise all too lacking in the liberal project. But, again, this judgment is only possible if we view discretionary executive power as inherently extralegal and as initially extraconstitutional. To bring it into the constitution, we must judge it as necessary to the preservation of the laws and the Constitution for which it must be exercised.

#### Tying our individual objections to congressional action is the only way to check presidential tyranny

Kleinerman, Ph.D. in Political Science from Michigan State University, 2009 [Benjamin, The Discretionary President: The Promise and Peril of Executive Power, p. 10-11]

If the people were sufficiently vigilant against the abuse of executive discretion, it would not be as dangerous to constitutionalism. Although there would always be danger that presidents would exercise their discretionary power arbitrarily, sufficient popular vigilance about remaining within the rule of law would, in the first place, discourage presidents from risking it unless the necessity were manifest and indisputable, and, in the second place, allow the constitutional system to respond to presidents if, they were abusing their power. Much of the problem, as I will explore in this book, stems not from the fact that discretionary executive power can be arbitrary but from the fact that the people do not naturally care whether it is. Because of popular apathy, the control of executive discretion requires a certain degree of what might be called elite cueing. The constitutionalization of discretionary executive power must be enforced by oppositional legislative elites who constantly seek to expose to citizens the executive's breach of their original Constitution. The check against the abuse of executive power comes not directly from the people themselves but from the opposition's constitutional authority to contest the constitutionality of any given discretionary action taken by the executive.

To defend its constitutionality, the president must now show the absolute necessity of executive discretion. In doing so, this power that originates outside the Constitution comes into the Constitution; it becomes constitutionalized. Stating this position, Lincoln writes, "I felt that measures, otherwise unconstitutional, might become lawful, by becoming indispensable to the preservation of the Constitution, through the preservation of the nation" (The Collected Works of Abraham Lincoln, hereafter cited in the text as CWAL followed by the volume number and page number) 41 Because these measures begin outside the Constitution, neither their necessity nor their constitutionality is assumed. Instead, the executive must prove, or at least attempt to prove, that they were in fact necessary to the preservation of the nation. The politics of constitutional necessity tame the danger executive discretion poses to the constitutional order. Moreover, citizens become more constitutional and more political as they are invited to judge. The people's natural state must be counteracted by auxiliary precautions, oppositional legislators who have a written constitution by which they can cue and signal citizens regarding executive malfeasance and abuse. Oppositional legislators might insist, for instance, that executives do not have the right simply to take the country to war without a declaration of war from Congress. Absent congressional opposition to presidential wars, the people might tend not to be opposed to them. But the Constitution specifically gives Congress the power to declare war so as to allow the president's opposition in Congress the ability to cue the public regarding the executive usurpation of a power that is rightfully that of Congress. If some emergency required a president to take the nation to war without prior congressional approval, then the constitutionality of those actions could be immediately called into question. The president must prove to Congress and by extension to the people that there really was such an emergency. In giving Congress the power to declare war, the Constitution forces presidents to make the case strongly if they decide to ignore the Constitution's dictate.

#### Citizens advocating for constitutional limits are the only way to check executive authority

Kleinerman, Ph.D. in Political Science from Michigan State University, 2009 [Benjamin, The Discretionary President: The Promise and Peril of Executive Power, p. 16-17]

Instead, my book aims, by recovering the proper notion of executive discretion, to rearticulate the proper notion of the Constitution's structure in maintaining constitutional boundaries. Describing that structure, Tulis writes, "Both the legalists' view of power as 'parchment distinction' and the political scientists' view of `separate institutions sharing power' provide inadequate guides to what happens and what was thought ought to happen when powers collided. The Founders urged that 'line drawing' among spheres of authority be the product of political conflict among the branches, not the result of dispassionate legal analysis ."66 As I will argue, Locke shows us that the control of executive discretion requires active legislative elites who have at their disposal an original constitution with which they can signal the people regarding executive malfeasance and usurpation. The Constitution structures this political conflict but does not predetermine its outcome. The so-called line in the sand between these legislative elites and the executive emerges through political conflict and constitutional contestation.¶ This constitutional contestation, as we will also see, however, depends on a public that is seriously attached to its constitution. This attachment makes citizens demand that their politicians ground and justify their authority to exercise the power that they do through reference to it. And returning to Boumediene-type decisions, the danger is that as the Supreme Court articulates its final constitutional authority on these issues, the public will feel less as though the U.S. Constitution is theirs to maintain and more that it is the Court's. Line-drawing will not emerge between the branches in political contestations over constitutional authority because there will be no political incentive to assert constitutional authority. In the vacuum created, the executive, given the capacity to act singularly, the far greater field of ambition, and the worries about national security, will almost inevitably expand. One might go so far as to assert that, given the Constitution's expectation that power be controlled by constitutional contestation, the Supreme Court's assertion of judicial supremacy could paradoxically lead to executive supremacy. So long as the Court is understood as possessing supreme constitutional power,¶ Congress has no political incentive to assert itself against the executive aggrandizement of power. The people will not hold Congress responsible for that aggrandizement and, if Locke is right, they may not even notice when the elite legislative signaling has disappeared.¶ Part of the argument of this book, then, is that controlling executive discretion requires the recovery of a different understanding of the Constitution and of citizens' relation to it. The politics of constitutional necessity cannot take place unless there is active contestation between the political branches of government about the scope of executive authority and, for that matter, the scope of congressional authority. To maintain constitutionalism in the face of executive prerogative, the executive must be forced to show the necessity of extralegal and illegal actions. This is partially because the people are naturally too prone to accept that prerogative. Their acceptance of prerogative then must be conditioned by a love of the limiting aims of the Constitution. If citizens love the Constitution, first and foremost, then Congress is more likely to find it politically advantageous to cite the Constitution as it calls on the president to justify extralegal or illegal activities. As a political matter, this is also why it is so essential that executive discretion be understood as initially outside the Constitution and requiring justification for its exercise. If presidents can do as Bush did and claim the inherent constitutionality of executive actions, then it is that much more difficult for Congress to assert itself politically against them. By placing the president's discretionary power initially outside the Constitution until justified, the constitutional order gives Congress a political advantage it sorely needs.

#### Kappelers alt can’t solve and destroys personal agency

Gelber 95 [Kath Gelber, Lecturer in Australian Politics and Human Rights at the University of New South Wales, 1995, “The Will To Oversimplify,” Green Left Weekly, Issue 198, August 16, Available Online at http://www.greenleft.org.au/back/1995/198/198p26b.htm]

The Will to Violence presents a powerful and one-sided critique of the forces which enable violence between individuals to occur. Violence between individuals is taken in this context to mean all forms of violence, from personal experiences of assault to war. Kappeler's thesis is that violence in all these cases is caused in the final instance by one overriding factor — the individual choice to commit a violent act. Of course, in one sense that is true. Acknowledging alternative models of human behaviour and analyses of the social causes of violence, Kappeler dismisses these as outside her subject matter and exhorts her readers not to ignore the "agent's decision to act as he [sic] did", but to explore "the personal decision in favour of violence". Having established this framework, she goes on to explore various aspects of personal decisions to commit violence. Ensuing chapters cover topics such as love of the "other", psychotherapy, ego-philosophy and the legitimation of dominance. However, it is the introduction which is most interesting. Already on the third page, Kappeler is dismissive of social or structural analyses of the multiple causes of alienation, violence and war. She dismisses such analyses for their inability to deal with the personal decision to commit violence. For example, "some left groups have tried to explain men's sexual violence as the result of class oppression, while some Black theoreticians have explained the violence of Black men as a result of racist oppression". She continues, "The ostensible aim of these arguments may be to draw attention to the pervasive and structural violence of classism and racism, yet they not only fail to combat such inequality, they actively contribute to it" [my emphasis]. Kappeler goes on to argue that, "although such oppression is a very real part of an agent's life context, these 'explanations' ignore the fact that not everyone experiencing the same oppression uses violence", i.e. the perpetrator has decided to violate. Kappeler's aim of course was to establish a framework for her particular project: a focus on the individual and the psychological to "find" a cause for violence. However, her rejection of alternative analyses not only as of little use, but as actively contributing to the problem, frames her own thesis extremely narrowly. Her argument suffers from both her inability, or unwillingness, to discuss the bigger picture and a wilful distortion of what she sees as her opponents' views. The result is less than satisfactory. Kappeler's book reads more as a passionate plea than a coherent argument. Her overwhelming focus on the individual, rather than providing a means with which to combat violence, in the end leaves the reader feeling disempowered. After all, there must be huge numbers of screwed up and vengeful people in the world to have chosen to litter history with war, environmental destruction and rape. Where do we go from here? Those lucky enough to have read Kappeler's book are supposed to "decide not to use violence ourselves". A worthy endeavour, but hardly sufficient to change the world.

### Colonialism

#### **Extinction outweighs – it’s irreversible.**

Anissimov 4

[Michael Anissimov, science and technology writer focusing specializing in futurism, founding director of the Immortality Institute—a non-profit organization focused on the abolition of nonconsensual death, member of the World Transhumanist Association, associate of the Institute for Accelerating Change, member of the Center for Responsible Nanotechnology's Global Task Force, 2004, “Immortalist Utilitarianism,” *Accelerating Future*, May, Available Online at http://www.acceleratingfuture.com/michael/works/immethics.htm, Accessed 09-09-2011]

They fear social ostracization if they focus on "Doomsday scenarios" rather than traditional extension.¶ Those are my guesses. Immortalists with objections are free to send in their arguments, and I will post them here if they are especially strong. As far as I can tell however, the predicted utility of lowering the likelihood of existential risk outclasses any life extension effort I can imagine.¶ I cannot emphasize this enough. If a existential disaster occurs, not only will the possibilities of extreme life extension, sophisticated nanotechnology, intelligence enhancement, and space expansion never bear fruit, but everyone will be dead, never to come back. Because the we have so much to lose, existential risk is worth worrying about even if our estimated probability of occurrence is extremely low.¶ It is not the funding of life extension research projects that immortalists should be focusing on. It should be projects that decrease the risk of existential risk. By default, once the probability of existential risk is minimized, life extension technologies can be developed and applied. There are powerful economic and social imperatives in that direction, but few towards risk management. Existential risk creates a "loafer problem" — we always expect someone else to take care of it. I assert that this is a dangerous strategy and should be discarded in favor of making prevention of such risks a central focus.

#### Their description of international law is the status quo. Law that we are going to comply with ALREADY EXIST and were founded by Western countries. Already being triggered.

#### Our description of IR is true and good.

Recchia and Doyle, ‘11

[Stefano (Assistant Professor in International Relations at the University of Cambridge) and Michael (Harold Brown Professor of International Affairs, Law and Political Science at Columbia University), “Liberalism in International Relations”, In: Bertrand Badie, Dirk Berg-Schlosser, and Leonardo Morlino, eds., International Encyclopedia of Political Science (Sage, 2011), pp. 1434-1439, RSR]

Relying on new insights from game theory, ¶ scholars during the 1980s and 1990s emphasized ¶ that so-called international regimes, consisting of ¶ agreed-on international norms, rules, and decision-making procedures, can help states effectively coordinate their policies and collaborate in ¶ the production of international public goods, such ¶ as free trade, arms control, and environmental ¶ protection. Especially, if embedded in formal multilateral institutions, such as the World Trade ¶ Organization (WTO) or North American Free ¶ Trade Agreement (NAFT A), regimes crucially ¶ improve the availability of information among ¶ states in a given issue area, thereby promoting ¶ reciprocity and enhancing the reputational costs ¶ of noncompliance. As noted by Robert Keohane, ¶ institutionalized multilateralism also reduces strategic competition over relative gains and thus ¶ further advances international cooperation. ¶ Most international regime theorists accepted ¶ Kenneth Waltz's (1979) neorealist assurription of ¶ states as black boxes-that is, unitary and rational ¶ actors with given interests. Little or no attention ¶ was paid to the impact on international cooperation of domestic political processes and dynamics. ¶ Likewise, regime scholarship largely disregarded ¶ the arguably crucial question of whether prolonged interaction in an institutionalized international setting can fundamentally change states' ¶ interests or preferences over outcomes (as opposed ¶ to preferences over strategies), thus engendering ¶ positive feedback loops of increased overall cooperation. For these reasons, international regime ¶ theory is not, properly speaking, liberal, and the ¶ term neoliberal institutionalism frequently used to ¶ identify it is somewhat misleading. ¶ It is only over the past decade or so that liberal ¶ international relations theorists have begun to systematically study the relationship between domestic politics and institutionalized international cooperation or global governance. This new scholarship ¶ seeks to explain in particular the close interna tional ¶ cooperation among liberal democracies as well as ¶ higher-than-average levels of delegation b)' democracies to complex multilateral bodies, such as the ¶ \ ¶ Liberalism in International Relations 1437 ¶ European Union (EU), North Atlantic Treaty ¶ Organization (NATO), NAFTA, and the WTO ¶ (see, e.g., John Ikenberry, 2001; Helen Milner & ¶ Andrew Moravcsik, 2009). The reasons that make ¶ liberal democracies particularly enthusiastic about ¶ international cooperation are manifold: First, ¶ transnational actors such as nongovernmental ¶ organizations and private corporations thrive in ¶ liberal democracies, and they frequently advocate ¶ increased international cooperation; second, ¶ elected democratic officials rely on delegation to ¶ multilateral bodies such as the WTO or the EU to ¶ commit to a stable policy line and to internationally lock in fragile domestic policies and constitutional arrangements; and finally, powerful liberal ¶ democracies, such as the United States and its ¶ allies, voluntarily bind themselves into complex ¶ global governance arrangements to demonstrate ¶ strategic restraint and create incentives for other ¶ states to cooperate, thereby reducing the costs for ¶ maintaining international order. ¶ Recent scholarship, such as that of Charles ¶ Boehmer and colleagues, has also confirmed the ¶ classical liberal intuition that formal international ¶ institutions, such as the United Nations (UN) or ¶ NATO, independently contribute to peace, especially when they are endowed with sophisticated ¶ administrative structures and information-gathering ¶ capacities. In short, research on global governance ¶ and especially on the relationship between democracy and international cooperation is thriving, and ¶ it usefully complements liberal scholarship on the ¶ democratic peace.

#### Self-determination movements cause cycles of “minoritization” that culminate in the Otherization and exclusion of additional minority groups.

Linda Bishai, London School of Economics, “Tales of Difference and Self-Determination,” 1999, http://www.essex.ac.uk/ECPR/EVENTS/JOINTSESSIONS/PAPERARCHIVE/MANNHEIM/W22/BISHAI.PDF

The tragedy of Yugoslavia, as Hayden explains, was that the chauvinist politics of the seceding republics were accepted as democratic by Europe and the United States on the basis of the principle of self-determination. **But** **failing to recognise the inherent contradiction between democracy and national self-determination as a political ideology can only lead to the continued agitation of separatist groups with exclusionist (cleansing) tendencies.** Self-determination in the constitutional nationalism sense is not the neutral guarantee of political freedom referred to in United Nations declarations and covenants. **It "establishes and attempts to protect the construction of a nation as a bounded unity: a sovereign being with its own defining language, culture and perhaps 'biological essence,' the uniqueness of which must be defended at any cost.**5 **This kind of uniqueness is not the harmless neutrality** of open citizenship, **but** rather **the harbinger of institutionalised** **racism and the repression of free expression of identity**. As one example, Hayden points to the citizenship laws enacted in the former Yugoslav republics which grant special rights to ethnic members of the nation who are non-resident, effectively giving them citizenship by virtue of ethnic heritage alone. These laws are accompanied by exceptionally rigid naturalisation laws for non-national residents (some of whom have long resided in the country) who wish to become citizens.6 Furthermore, the cloak of democratic rhetoric undercuts any protest by minority groups since their grievances will be viewed as traitorous in an institutional setting where all are purported to be equal. The result is that "Constitutional nationalism therefore builds a massive structural flaw into the polity that it is meant to define, since the permanent exclusion of minorities will likely make them at best indifferent and at worst hostile to the state. i7Ironically, the states which are founded by national secessionist groups are likely to engender further secessionist agitation from their own minorities who have been defined outside of the sovereign nation. Thus, **secessionist activities are very likely to engender further political separatism since they are based on** two incompatible principles of international law: **the concepts of national self-determination and the sanctity of state territorial boundaries**. Because **national self-determination involves a continual process of discrimination between members and non-members, it always contains within itself the seeds of its own destruction. By defining its territorial sovereignty on the basis of the sovereignty of the people who are members of a specific nation, constitutional nationalism—and, by definition, secessionist movements—deny equality to people who are not members of the sovereign nation. The results can only be further unrest by groups who have been "minoritised" by this excluding process**. Also, since the international political model remains one in which territorial states are the only legitimate actors, any organised alienated groups will logically seek the goal of an independent territorial state for themselves. It is no simple coincidence, then, that each of the secessionist cases analysed below contains the germ of further agitation from groups within which will become *minoritised* if the movements succeed.

#### Their representations of the West fails – leads to pity that takes out the aff.

Bruckner 1986 [Pascal, Tears of the White Man, p. 49-50]

The result is a terrible paradox. The more widespread hunger is, the greater is our indifference to its ravages. Pathetic appeals to our conscience and manipulation by shock are reiterated by the tireless television. The phrase "You are all murderers" does not mobilize people, it makes them yawn. What remains is a guilty conscience that has no strength and no will. We have passed from being tragically ignorant of the Third World to being tragically inured to it. When it was not normally mentioned, famine was deeply touching whenever it was. What is remarkable today is that it is too well known, too much a part of the norm. Rather than a blackout there is a welter of studies, statistics, and calls to alarm on these burning topics. Our emotional appetites are beset from all sides, and rather than being misled by propaganda, we are being told far too much. When catastrophe becomes an everyday thing, it ceases to be catastrophe.

## 1AR

### Case

#### Short-term big impacts come before critiques of epistemology – even if there’s only a very small chance we’re right, it’s worth trying to prevent short-term catastrophes

Cowen, GMU, 2006

[Tyler, December 2006, “The Epistemic Problem Does Not Refute Consequentialism,” Utilitas, 18:4, p. 386-387]

**Let us start with** a simple example, namely **a suicide bomber who seeks to detonate a nuclear device in midtown Manhattan.** Obviously we would seek to stop the bomber, or at least try to reduce the probability of a detonation. We can think of this example as standing in more generally for choices, decisions, and policies that affect the long-term prospects of our civilization.¶ If we stop the bomber, we know that in the short run we will save millions of lives, avoid a massive tragedy, and protect the long-term strength, prosperity, and freedom of the United States. **Reasonable moral people, regardless of the details of their meta-ethical stances, should not argue against stopping the bomber**.¶ **No matter how hard we try to stop the bomber, we are not, a priori, committed to a very definite view of how the long run will play out**. After all, stopping the bomber will reshuffle future genetic identities, and may bring about the birth of a future Hitler. We can of course imagine possible scenarios where such destruction works out for the better ex post. Perhaps, for instance, the explosion leads to a subsequent disarmament or anti-proliferation advances. But we would not breathe a sigh of relief on hearing the news of the destruction for the first time. **Stopping the bomber brings a significant net welfare improvement in the short run, while we face radical generic uncertainty about the future** in any case.¶ **Furthermore, if we can stop the bomber, our long-run welfare estimates will likely show some improvement as well**. The bomb going off could lead to subsequent attacks on other major cities, the emboldening of terrorists, or perhaps broader panics. **There would be a new and very real doorway toward the general collapse of the world**. **While the more distant future is remixed radically, we should not rationally believe that some new positive option has been created to counterbalance the current destruction and its radically negative potential implications.** To put it simply, it is difficult to see the violent destruction of Manhattan as on net - in ex ante terms - favoring either the short-term or long-term prospects of the world.¶ Even if the long-run expected value is impossible to estimate, **we need only some probability that the relevant time horizon is indeed short** (perhaps a destructive asteroid will strike the earth). **This will tip the consequentialist balance against a nuclear attack on Manhattan.** Now it is not a legitimate response simply to assume away the epistemic problem by considering only the short time horizon. But **if the future is truly radically uncertain, as the epistemic argument suggests, we cannot rule out some chance of a short time horizon**. **And if everything else were truly incalculable and impossible to estimate, we should be led to assign decisive weight to this short time horizon scenario**. **We again should stop the bomber**.¶ If the Manhattan example does not convince you, consider the value of stopping a terrorist attack that would decimate the entire United States. Or consider an attack that would devastate all of Western civilization, or the entire world. At some point we can find a set of consequences so significant that we would be spurred to action, again in open recognition of broader long-run uncertainties. Surely at some point the upfront change must be large enough to provide a persuasive reason for or against it. What if a cosmological disaster destroyed 99.9999 percent of all intelligent life across the universe? Yes, it is possible that subsequent cosmological events could lead to an even greater blossoming of wonders, but at some point of comparison this point is simply fatuous. Most of the life in the universe is being destroyed and more likely than not this is a horrible catastrophe even in the much longer run. So **we can argue 'how large' an upfront event is needed to sway us toward an evaluative judgment, but** a sufficiently large upfront event **should do the trick**.