## 2AC

### AT Circumvention

#### No circumvention by the executive

Stimson 9

[09/25/09, Cully Stimson is a senior legal fellow at the Heritage Foundation and an instructor at the Naval Justice School former American career appointee at the Pentagon. Stimson was the Deputy Assistant Secretary of Defense for Detainee Affairs, “Punting National Security To The Judiciary”, http://blog.heritage.org/2009/09/25/punting-national-security-to-the-judiciary/]

So what is really going on here? To those of us who have either served in senior policy posts and dealt with these issues on a daily basis, or followed them closely from the outside, it is becoming increasingly clear that this administration is trying to create the appearance of a tough national-security policy regarding the detention of terrorists at Guantanamo, yet allow the courts to make the tough calls on releasing the bad guys. Letting the courts do the dirty work would give the administration plausible cover and distance from the decision-making process. The numbers speak for themselves. Of the 38 detainees whose cases have been adjudicated through the habeas process in federal court in Washington, 30 have been ordered released by civilian judges. That is close to an 80 percent loss rate for the government, which argued for continued detention. Yet, how many of these decisions has this administration appealed, knowing full well that many of those 30 detainees should not in good conscience be let go? The answer: one. Letting the courts do it for him gives the president distance from the unsavory release decisions. It also allows him to state with a straight face, as he did at the Archives speech, “We are not going to release anyone if it would endanger our national security, nor will we release detainees within the United States who endanger the American people.” No, the president won’t release detainees; he’ll sit back and let the courts to do it for him. And the president won’t seek congressional authorization for prolonged detention of the enemy, as he promised, because it will anger his political base on the Left. The ultra-liberals aren’t about to relinquish their “try them or set them free” mantra, even though such a policy threatens to put terrorists back on the battlefield. Moreover, the president would have to spend political capital to win congressional authorization for a prolonged detention policy. Obviously, he would rather spend that capital on other policy priorities. Politically speaking, it is easier to maintain the status quo and let the detainees seek release from federal judges. The passive approach also helps the administration close Gitmo without taking the heat for actually releasing detainees themselves.

### AT Democracy Link

#### No basis for the claim that democracy is western – their link arguments are based on defenders of oppressive practices.

Thomas M. Franck, Professor of Law and Director of the Center for International Studies at New York University's School of Law, January/February 2001, Foreign Affairs, Lexis Academic

First, the matter of exceptionalist legitimacy -- or the lack thereof. Many prominent voices in non-Western societies reject the claims of exceptionalists who supposedly speak for them. Sri Lanka's president, Chandrika Kumaratunga, points out that "the free market has become universal, and it implies democracy and human rights." She dismisses talk about "a conflict of values" as "an excuse that can be used to cover a multitude of sins." Dato' Param Cumaraswamy, the former chair of the Malaysian Bar Council and a U.N. special rapporteur on the independence of judges, points to widespread non-Western ratification of human rights treaties as proof of their "universal acceptance." Former U.N. Secretary-General Boutros Boutros-Ghali bluntly states that there "is no one set of European rights, and another of African rights. . . . They belong inherently to each person, each individual." How, then, does one explain the increasing frequency and vehemence of exceptionalist claims made on behalf of culturally specific "values?" It often turns out that oppressive practices defended by leaders of a culture, far from being pedigreed, are little more than the current self-interested preferences of a power elite. If Afghan women were given a chance at equality, would they freely choose subordination as an expression of unique community values? We are unlikely to find out. Some guidance can be drawn, however, from the parallel case of Sandra Lovelace, a Maliseet Indian from New Brunswick. Under Canadian law, which incorporates Indian customary law, she lost her right to live on tribal land when she "married out" of the tribe. When Lovelace took her complaint to the ICCPR'S Human Rights Committee, she pointed out that no similar penalty applied to men. The global group of experts upheld her claim. Pushed to conform to its international human rights obligations, the Canadian government then repealed the gender-discriminatory Indian law. Although that change disturbed some traditionalist leaders, they were soon repudiated in monitored tribal elections. As with much that passes for authentic custom, the rules turned out to have been imposed, quite recently, by those who stood to benefit. Discrimination against women by the Maliseet, far from being a traditional requisite of group survival, was shown by recent anthropological research to have been copied from male-dominated Victorian society. In a similar fashion, many of the exceptionalist claims made in the name of cultural diversity have been challenged by others in the non-Western world. Radhika Coomaraswami, the U.N. special rapporteur on violence against women, says that practices such as female genital mutilation, flogging, stoning, and amputation of limbs, as well as laws restricting women's rights to marriage, divorce, maintenance, and custody, are all inauthentic perversions of various religious dogmas. Moreover, she insists that "cultural diversity should be celebrated only if those enjoying their cultural attributes are doing so voluntarily." In her landmark study of Islam and human rights, Professor Ann Elizabeth Mayer concludes that much of the pedigree claimed by fundamentalists does "not represent the result of rigorous, scholarly analysis of Islamic sources or a coherent approach to Islamic jurisprudence." The Egyptian art historian Professor Nasr Abu-Zaid puts it simply: "It is the militants who are . . . hijacking Islam." Just as many of the idiosyncratic customs that alienate non-Western traditionalists from the human rights system are inauthentic, so too are the attempts to portray these rights as aspects of Western cultural imperialism. The human rights canon is full of rules that, far from being deeply rooted in Western culture, are actually the products of recent developments -- industrialization, urbanization, the communications and information revolutions -- that are replicable anywhere, even if they have not occurred everywhere at once. They are hardly Western; if examined historically, traditional Western culture comes to look more like everyone else's zealous fundamentalism. Look closely through this lens, and even the Taliban begin to seem "Western" in their practices. Alcibiades, a commander of the Athenian army, was condemned to death for impiety in 415 B.C., as was Socrates years later. And remember that stoning for blasphemy is recommended by the Old Testament (Leviticus 24:16).

### Hegemony Inevitable

#### Pursuit of hegemony’s locked-in – the only question is effectiveness

Dorfman 12, Assistant editor of Ethics and International Affairs

(Zach What We Talk About When We Talk About Isolationism, <http://dissentmagazine.org/online.php?id=605>)

The rise of China notwithstanding, the United States remains the world’s sole superpower. Its military (and, to a considerable extent, political) hegemony extends not just over North America or even the Western hemisphere, but also Europe, large swaths of Asia, and Africa. Its interests are global; nothing is outside its potential sphere of influence. There are an estimated 660 to 900 American military bases in roughly forty countries worldwide, although figures on the matter are notoriously difficult to ascertain, largely because of subterfuge on the part of the military. According to official data there are active-duty U.S. military personnel in 148 countries, or over 75 percent of the world’s states. The United States checks Russian power in Europe and Chinese power in South Korea and Japan and Iranian power in Iraq, Afghanistan, and Turkey. In order to maintain a frigid peace between Israel and Egypt, the American government hands the former $2.7 billion in military aid every year, and the latter $1.3 billion. It also gives Pakistan more than $400 million dollars in military aid annually (not including counterinsurgency operations, which would drive the total far higher), Jordan roughly $200 million, and Colombia over $55 million. U.S. long-term military commitments are also manifold. It is one of the five permanent members of the UN Security Council, the only institution legally permitted to sanction the use of force to combat “threats to international peace and security.” In 1949 the United States helped found NATO, the first peacetime military alliance extending beyond North and South America in U.S. history, which now has twenty-eight member states. The United States also has a trilateral defense treaty with Australia and New Zealand, and bilateral mutual defense treaties with Japan, Taiwan, the Philippines, and South Korea. It is this sort of reach that led Madeleine Albright to call the United States the sole “indispensible power” on the world stage. The idea that global military dominance and political hegemony is in the U.S. national interest—and the world’s interest—is generally taken for granted domestically. Opposition to it is limited to the libertarian Right and anti-imperialist Left, both groups on the margins of mainstream political discourse. Today, American supremacy is assumed rather than argued for: in an age of tremendous political division, it is a bipartisan first principle of foreign policy, a presupposition. In this area at least, one wishes for a little less agreement. In Promise and Peril: America at the Dawn of a Global Age, Christopher McKnight Nichols provides an erudite account of a period before such a consensus existed, when ideas about America’s role on the world stage were fundamentally contested. As this year’s presidential election approaches, each side will portray the difference between the candidates’ positions on foreign policy as immense. Revisiting Promise and Peril shows us just how narrow the American worldview has become, and how our public discourse has become narrower still. Nichols focuses on the years between 1890 and 1940, during America’s initial ascent as a global power. He gives special attention to the formative debates surrounding the Spanish-American War, U.S. entry into the First World War, and potential U.S. membership in the League of Nations—debates that were constitutive of larger battles over the nature of American society and its fragile political institutions and freedoms. During this period, foreign and domestic policy were often linked as part of a cohesive political vision for the country. Nichols illustrates this through intellectual profiles of some of the period’s most influential figures, including senators Henry Cabot Lodge and William Borah, socialist leader Eugene Debs, philosopher and psychologist William James, journalist Randolph Bourne, and the peace activist Emily Balch. Each of them interpreted isolationism and internationalism in distinct ways, sometimes deploying the concepts more for rhetorical purposes than as cornerstones of a particular worldview. Today, isolationism is often portrayed as intellectually bankrupt, a redoubt for idealists, nationalists, xenophobes, and fools. Yet the term now used as a political epithet has deep roots in American political culture. Isolationist principles can be traced back to George Washington’s farewell address, during which he urged his countrymen to steer clear of “foreign entanglements” while actively seeking nonbinding commercial ties. (Whether economic commitments do in fact entail political commitments is another matter.) Thomas Jefferson echoed this sentiment when he urged for “commerce with all nations, [and] alliance with none.” Even the Monroe Doctrine, in which the United States declared itself the regional hegemon and demanded noninterference from European states in the Western hemisphere, was often viewed as a means of isolating the United States from Europe and its messy alliance system. In Nichols’s telling, however, modern isolationism was born from the debates surrounding the Spanish-American War and the U.S. annexation of the Philippines. Here isolationism began to take on a much more explicitly anti-imperialist bent. Progressive isolationists such as William James found U.S. policy in the Philippines—which it had “liberated” from Spanish rule just to fight a bloody counterinsurgency against Philippine nationalists—anathema to American democratic traditions and ideas about national self-determination. As Promise and Peril shows, however, “cosmopolitan isolationists” like James never called for “cultural, economic, or complete political separation from the rest of the world.” Rather, they wanted the United States to engage with other nations peacefully and without pretensions of domination. They saw the United States as a potential force for good in the world, but they also placed great value on neutrality and non-entanglement, and wanted America to focus on creating a more just domestic order. James’s anti-imperialism was directly related to his fear of the effects of “bigness.” He argued forcefully against all concentrations of power, especially those between business, political, and military interests. He knew that such vested interests would grow larger and more difficult to control if America became an overseas empire. Others, such as “isolationist imperialist” Henry Cabot Lodge, the powerful senator from Massachusetts, argued that fighting the Spanish-American War and annexing the Philippines were isolationist actions to their core. First, banishing the Spanish from the Caribbean comported with the Monroe Doctrine; second, adding colonies such as the Philippines would lead to greater economic growth without exposing the United States to the vicissitudes of outside trade. Prior to the Spanish-American War, many feared that the American economy’s rapid growth would lead to a surplus of domestic goods and cause an economic disaster. New markets needed to be opened, and the best way to do so was to dominate a given market—that is, a country—politically. Lodge’s defense of this “large policy” was public and, by today’s standards, quite bald. Other proponents of this policy included Teddy Roosevelt (who also believed that war was good for the national character) and a significant portion of the business class. For Lodge and Roosevelt, “isolationism” meant what is commonly referred to today as “unilateralism”: the ability for the United States to do what it wants, when it wants. Other “isolationists” espoused principles that we would today call internationalist. Randolph Bourne, a precocious journalist working for the New Republic, passionately opposed American entry into the First World War, much to the detriment of his writing career. He argued that hypernationalism would cause lasting damage to the American social fabric. He was especially repulsed by wartime campaigns to Americanize immigrants. Bourne instead envisioned a “transnational America”: a place that, because of its distinct cultural and political traditions and ethnic diversity, could become an example to the rest of the world. Its respect for plurality at home could influence other countries by example, but also by allowing it to mediate international disputes without becoming a party to them. Bourne wanted an America fully engaged with the world, but not embroiled in military conflicts or alliances. This was also the case for William Borah, the progressive Republican senator from Idaho. Borah was an agrarian populist and something of a Jeffersonian: he believed axiomatically in local democracy and rejected many forms of federal encroachment. He was opposed to extensive immigration, but not “anti-immigrant.” Borah thought that America was strengthened by its complex ethnic makeup and that an imbalance tilted toward one group or another would have deleterious effects. But it is his famously isolationist foreign policy views for which Borah is best known. As Nichols writes: He was consistent in an anti-imperialist stance against U.S. domination abroad; yet he was ambivalent in cases involving what he saw as involving obvious national interest….He also without fail argued that any open-ended military alliances were to be avoided at all costs, while arguing that to minimize war abroad as well as conflict at home should always be a top priority for American politicians. Borah thus cautiously supported entry into the First World War on national interest grounds, but also led a group of senators known as “the irreconcilables” in their successful effort to prevent U.S. entry into the League of Nations. His paramount concern was the collective security agreement in the organization’s charter: he would not assent to a treaty that stipulated that the United States would be obligated to intervene in wars between distant powers where the country had no serious interest at stake. Borah possessed an alternative vision for a more just and pacific international order. Less than a decade after he helped scuttle American accession to the League, he helped pass the Kellogg-Briand Pact (1928) in a nearly unanimous Senate vote. More than sixty states eventually became party to the pact, which outlawed war between its signatories and required them to settle their disputes through peaceful means. Today, realists sneer at the idealism of Kellogg-Briand, but the Senate was aware of the pact’s limitations and carved out clear exceptions for cases of national defense. Some supporters believed that, if nothing else, the law would help strengthen an emerging international norm against war. (Given what followed, this seems like a sad exercise in wish-fulfillment.) Unlike the League of Nations charter, the treaty faced almost no opposition from the isolationist bloc in the Senate, since it did not require the United States to enter into a collective security agreement or abrogate its sovereignty. This was a kind of internationalism Borah and his irreconcilables could proudly support. The United States today looks very different from the country in which Borah, let alone William James, lived, both domestically (where political and civil freedoms have been extended to women, African Americans, and gays and lesbians) and internationally (with its leading role in many global institutions). But different strains of isolationism persist. Newt Gingrich has argued for a policy of total “energy independence” (in other words, domestic drilling) while fulminating against President Obama for “bowing” to the Saudi king. While recently driving through an agricultural region of rural Colorado, I saw a giant roadside billboard calling for American withdrawal from the UN. Yet in the last decade, the Republican Party, with the partial exception of its Ron Paul/libertarian faction, has veered into such a belligerent unilateralism that its graybeards—one of whom, Senator Richard Lugar of Indiana, just lost a primary to a far-right challenger partly because of his reasonableness on foreign affairs—were barely able to ensure Senate ratification of a key nuclear arms reduction treaty with Russia. Many of these same people desire a unilateral war with Iran. And it isn’t just Republicans. Drone attacks have intensified in Yemen, Pakistan, and elsewhere under the Obama administration. Massive troop deployments continue unabated. We spend over $600 billion dollars a year on our military budget; the next largest is China’s, at “only” around $100 billion. Administrations come and go, but the national security state appears here to stay.

#### Heg is key to decease excess American interventionism

**Kagan and Kristol, 2k** (Robert and William, “Present Dangers”, Kagan is a Senior Associate at the Carnegie Endowment for International Peace, and Kristol is the editor of The Weekly Standard, and a political analyst and commentator, page 13-14 )

http://www2.uhv.edu/fairlambh/asian/present\_dangers.htm

It is worth pointing out, though, that a foreign policy premised on American hegemony, and on the blending of principle with material interest, may in fact mean fewer, not more, overseas interventions than under the "vital interest" standard. (13). The question, then, is not whether the US should intervene everywhere or nowhere. The decision Americans need to make is whether the US should generally lean forward, as it were, or sit back. A strategy aimed at preserving American hegemony should embrace the former stance, being more rather than less inclined to weigh in when crises erupt, and preferably before they erupt. This is the standard of a global superpower that intends to shape the international environment to its own advantage. By contrast, the vital interest standard is that of a "normal" power that awaits a dramatic challenge before it rouses itself into action.

### Hegemony Good

#### Empirics go aff – hegemony has made war obsolete\*\*

Owen, Professor Politics U of Virginia, ’11 (John, February 11, “Don’t Discount Hegemony” Cato, [www.cato-unbound.org/2011/02/11/john-owen/dont-discount-hegemony/](http://www.cato-unbound.org/2011/02/11/john-owen/dont-discount-hegemony/))

Andrew Mack and his colleagues at the Human Security Report Project are to be congratulated. Not only do they present a study with a striking conclusion, driven by data, free of theoretical or ideological bias, but they also do something quite unfashionable: they bear good news. Social scientists really are not supposed to do that. Our job is, if not to be Malthusians, then at least to point out disturbing trends, looming catastrophes, and the imbecility and mendacity of policy makers. And then it is to say why, if people listen to us, things will get better. We do this as if our careers depended upon it, and perhaps they do; for if all is going to be well, what need then for us? Our colleagues at Simon Fraser University are brave indeed. That may sound like a setup, but it is not. I shall challenge neither the data nor the general conclusion that violent conflict around the world has been decreasing in fits and starts since the Second World War. When it comes to violent conflict among and within countries, things have been getting better. (The trends have not been linear—Figure 1.1 actually shows that the frequency of interstate wars peaked in the 1980s—but the 65-year movement is clear.) Instead I shall accept that Mack et al. are correct on the macro-trends, and focus on their explanations they advance for these remarkable trends. With apologies to any readers of this forum who recoil from academic debates, this might get mildly theoretical and even more mildly methodological. Concerning international wars, one version of the “nuclear-peace” theory is not in fact laid to rest by the data. It is certainly true that nuclear-armed states have been involved in many wars. They have even been attacked (think of Israel), which falsifies the simple claim of “assured destruction”—that any nuclear country A will deter any kind of attack by any country B because B fears a retaliatory nuclear strike from A. But the most important “nuclear-peace” claim has been about mutually assured destruction, which obtains between two robustly nuclear-armed states. The claim is that (1) rational states having second-strike capabilities—enough deliverable nuclear weaponry to survive a nuclear first strike by an enemy—will have an overwhelming incentive not to attack one another; and (2) we can safely assume that nuclear-armed states are rational. It follows that states with a second-strike capability will not fight one another. Their colossal atomic arsenals neither kept the United States at peace with North Vietnam during the Cold War nor the Soviet Union at peace with Afghanistan. But the argument remains strong that those arsenals did help keep the United States and Soviet Union at peace with each other. Why non-nuclear states are not deterred from fighting nuclear states is an important and open question. But in a time when calls to ban the Bomb are being heard from more and more quarters, we must be clear about precisely what the broad trends toward peace can and cannot tell us. They may tell us nothing about why we have had no World War III, and little about the wisdom of banning the Bomb now. Regarding the downward trend in international war, Professor Mack is friendlier to more palatable theories such as the “democratic peace” (democracies do not fight one another, and the proportion of democracies has increased, hence less war);the interdependence or “commercial peace” (states with extensive economic ties find it irrational to fight one another, and interdependence has increased, hence less war); and the notion that people around the world are more anti-war than their forebears were. Concerning the downward trend in civil wars, he favors theories of economic growth (where commerce is enriching enough people, violence is less appealing—a logic similar to that of the “commercial peace” thesis that applies among nations) and the end of the Cold War (which end reduced superpower support for rival rebel factions in so many Third-World countries). These are all plausible mechanisms for peace. What is more, none of them excludes any other; all could be working toward the same end. That would be somewhat puzzling, however. Is the world just lucky these days? How is it that an array of peace-inducing factors happens to be working coincidentally in our time, when such a magical array was absent in the past? The answer may be that one or more of these mechanisms reinforces some of the others, or perhaps some of them are mutually reinforcing. Some scholars, for example, have been focusing on whether economic growth might support democracy and vice versa, and whether both might support international cooperation, including to end civil wars. We would still need to explain how this charmed circle of causes got started, however. And here let me raise another factor, perhaps even less appealing than the “nuclear peace” thesis, at least outside of the United States. That factor is what international relations scholars call hegemony—specifically American hegemony. A theory that many regard as discredited, but that refuses to go away, is called hegemonic stability theory. The theory emerged in the 1970s in the realm of international political economy. It asserts that for the global economy to remain open—for countries to keep barriers to trade and investment low—one powerful country must take the lead. Depending on the theorist we consult, “taking the lead” entails paying for global public goods (keeping the sea lanes open, providing liquidity to the international economy), coercion (threatening to raise trade barriers or withdraw military protection from countries that cheat on the rules), or both. The theory is skeptical that international cooperation in economic matters can emerge or endure absent a hegemon. The distastefulness of such claims is self-evident: they imply that it is good for everyone the world over if one country has more wealth and power than others. More precisely, they imply that it has been good for the world that the United States has been so predominant. There is no obvious reason why hegemonic stability theory could not apply to other areas of international cooperation, including in security affairs, human rights, international law, peacekeeping (UN or otherwise), and so on. What I want to suggest here—suggest, not test—is that American hegemony might just be a deep cause of the steady decline of political deaths in the world. How could that be? After all, the report states that United States is the third most war-prone country since 1945. Many of the deaths depicted in Figure 10.4 were in wars that involved the United States (the Vietnam War being the leading one). Notwithstanding politicians’ claims to the contrary, a candid look at U.S. foreign policy reveals that the country is as ruthlessly self-interested as any other great power in history. The answer is that U.S. hegemony might just be a deeper cause of the proximate causes outlined by Professor Mack. Consider economic growth and openness to foreign trade and investment, which (so say some theories) render violence irrational. American power and policies may be responsible for these in two related ways. First, at least since the 1940s Washington has prodded other countries to embrace the market capitalism that entails economic openness and produces sustainable economic growth. The United States promotes capitalism for selfish reasons, of course: its own domestic system depends upon growth, which in turn depends upon the efficiency gains from economic interaction with foreign countries, and the more the better. During the Cold War most of its allies accepted some degree of market-driven growth. Second, the U.S.-led western victory in the Cold War damaged the credibility of alternative paths to development—communism and import-substituting industrialization being the two leading ones—and left market capitalism the best model. The end of the Cold War also involved an end to the billions of rubles in Soviet material support for regimes that tried to make these alternative models work. (It also, as Professor Mack notes, eliminated the superpowers’ incentives to feed civil violence in the Third World.) What we call globalization is caused in part by the emergence of the United States as the global hegemon.

#### Studies prove conflicts have been decreasing – primacy is THE reason.

Drezner, 2005 [Daniel, Gregg Easterbrook, Associate Professor of International Politics at the Fletcher School of Law and Diplomacy at Tufts University, “War, and the dangers of extrapolation,” may 25]

Daily explosions in Iraq, massacres in Sudan, the Koreas smakestaring at each other through artillery barrels, a Hobbesian war of all against all in eastern Congo--combat plagues human society as it has, perhaps, since our distant forebears realized that a tree limb could be used as a club. But here is something you would never guess from watching the news: War has entered a cycle of decline. Combat in Iraq and in a few other places is an exception to a significant global trend that has gone nearly unnoticed--namely that, for about 15 years, there have been steadily fewer armed conflicts worldwide. In fact, it is possible that a person's chance of dying because of war has, in the last decade or more, become the lowest in human history.  Is Easterbrook right? He has a few more paragraphs on the numbers:  The University of Maryland studies find the number of wars and armed conflicts worldwide peaked in 1991 at 51, which may represent the most wars happening simultaneously at any point in history. Since 1991, the number has fallen steadily. There were 26 armed conflicts in 2000 and 25 in 2002, even after the Al Qaeda attack on the United States and the U.S. counterattack against Afghanistan. By 2004, Marshall and Gurr's latest study shows, the number of armed conflicts in the world had declined to 20, even after the invasion of Iraq. All told, there were less than half as many wars in 2004 as there were in 1991.  Marshall and Gurr also have a second ranking, gauging the magnitude of fighting. This section of the report is more subjective. Everyone agrees that the worst moment for human conflict was World War II; but how to rank, say, the current separatist fighting in Indonesia versus, say, the Algerian war of independence is more speculative. Nevertheless, the Peace and Conflict studies name 1991 as the peak post-World War II year for totality of global fighting, giving that year a ranking of 179 on a scale that rates the extent and destructiveness of combat. By 2000, in spite of war in the Balkans and genocide in Rwanda, the number had fallen to 97; by 2002 to 81; and, at the end of 2004, it stood at 65. This suggests the extent andintensity of global combat is now less than half what it was 15 years ago.  Easterbrook spends the rest of the essay postulating the causes of this -- the decline in great power war, the spread of democracies, the growth of economic interdependence, and even the peacekeeping capabilities of the United Nations.  Easterbrook makes a lot of good points -- most people are genuinely shocked when they are told that even in a post-9/11 climate, there has been a steady and persistent decline in wars and deaths from wars. That said, what bothers me in the piece is what Easterbrook leaves out.  First, he neglects to mention the biggest reason for why war is on the decline -- there's a global hegemon called the United States right now. Easterbrook acknowledges that "the most powerful factor must be the end of the cold war" but he doesn't understand why it's the most powerful factor. Elsewhere in the piece he talks about the growing comity among the great powers, without discussing the elephant in the room: the reason the "great powers" get along is that the United States is much, much more powerful than anyone else. If you quantify power only by relative military capabilities, the U.S. is a great power, there are maybe ten or so middle powers, and then there are a lot of mosquitoes.[If the U.S. is so powerful, why can't it subdue the Iraqi insurgency?--ed. Power is a relative measure -- the U.S. might be having difficulties, but no other country in the world would have fewer problems.] Joshua Goldstein, who knows a thing or two about this phenomenon, made this clear in a Christian Science Monitor op-ed three years ago:  We probably owe this lull to the end of the cold war, and to a unipolar world order with a single superpower to impose its will in places like Kuwait, Serbia, and Afghanistan. The emerging world order is not exactly benign – Sept. 11 comes to mind – and Pax Americana delivers neither justice nor harmony to the corners of the earth. But a unipolar world is inherently more peaceful than the bipolar one where two superpowers fueled rival armies around the world. The long-delayed "peace dividend" has arrived, like a tax refund check long lost in the mail. The difference in language between Goldstein and Easterbrook highlights my second problem with "The End of War?" Goldstein rightly refers to the past fifteen years as a "lull" -- a temporary reduction in war and war-related death. The flip side of U.S. hegemony being responsible for the reduction of armed conflict is what would happen if U.S. hegemony were to ever fade away. Easterbrook focuses on the trends that suggest an ever-decreasing amount of armed conflict -- and I hope he's right. But I'm enough of a realist to know that if the U.S. should find its primacy challenged by, say, a really populous non-democratic country on the other side of the Pacific Ocean, all best about the utility of economic interdependence, U.N. peacekeeping, and the spread ofdemocracy are right out the window.  UPDATE: To respond to a few thoughts posted by the commenters:  1) To spell things out a bit more clearly -- U.S. hegemony important to the reduction of conflict in two ways. First, U.S. power can act as a powerful if imperfectconstraint on pairs of enduring rivals (Greece-Turkey, India-Pakistan) that contemplate war on a regular basis. It can't stop every conflict, but it can blunt a lot of them. Second, and more important to Easterbrook's thesis, U.S. supremacy in conventional military affairs prevents other middle-range states -- China, Russia, India, Great Britain, France, etc. -- from challenging theU.S. or each other in a war. It would be suicide for anyone to fight a war with the U.S., and if any of thesecountries waged a war with each other, the prospect of U.S. intervention would be equally daunting.

### 2AC T

#### We meet—release means they are NO LONGER INDEFINITELY DETAINED—the aff says that a category of people “people who have won their habeas hearing” must be released which means that we restrict the president’s authority to keep detaining anyone who wins their habeas corpus hearing

#### **Your interp is unprecedented in Supreme Court interpretation**

Vaughns 13, University of Maryland School of Law professor

(Katherine L, “Of Civil Wrongs and Rights: Kiyemba v. Obama and the Meaning of Freedom, Separation of Powers, and the Rule of Law Ten Years After 9/11,” 20 Asian Am. L.J. 7 (2013) http://scholarship.law.berkeley.edu/aalj/vol20/iss1/2)

As stated in the Uighurs’ certiorari petition, as a constitutional matter, “the President’s discretionary release of a prisoner is no different from his discretionary imprisonment: each proceeds from unchecked power.”245 Toview the question of release as based on sovereign prerogative in the administration of immigration law, while viewing the question of imprisonment as based on constitutional authority is, put simply, senseless and without precedent. It cannot be that the two inquiries are unrelated; they both undoubtedly implicate individual constitutional rights and the separation of powers. Having refused to resolve this matter, the Supreme Court has left the separation of powers out of balance and tilting dangerously toward unilateralism.

#### C/I—War powers authority of indefinite detention is keeping people without being charges filed—the aff means he can no longer do that for a CATEGORY OF PEOPLE

The Committee on Federal Courts 4 [2004, The Committee on Federal Courts, “THE INDEFINITE DETENTION OF "ENEMY COMBATANTS": BALANCING DUE PROCESS AND NATIONAL SECURITY IN THE CONTEXT OF THE WAR ON TERROR \*”, 59 The Record 41, The Record of The Association of The Bar of the City of New York]

The President, assertedly acting under his "war power" in prosecuting the "war on terror," has claimed the authority to detain indefinitely, and without access to counsel, persons he designates as "enemy combatants," an as yet undefined term that embraces selected suspected terrorists or their accomplices.

Two cases, each addressing a habeas corpus petition brought by an American citizen, have reviewed the constitutionality of detaining "enemy combatants" pursuant to the President's determination:

- Hamdi v. Rumsfeld, 316 F.3d 450 (4th Cir. 2003), cert. granted, 124 S. Ct. 981 (Jan. 9, 2004) (No. 03-6696), concerns a citizen seized with Taliban military forces in a zone of armed combat in Afghanistan;

 - Padilla ex. rel. Newman v. Bush, 233 F. Supp. 2d 564 (S.D.N.Y. 2002), rev'd sub nom., Padilla ex. rel. Newman v. Rumsfeld, 352 F.3d 695 (2d Cir. 2003), cert. granted, 124 S. Ct. 1353 (Feb. 20, [\*42] 2004) (No. 03-1027), concerns a citizen seized in Chicago, and suspected of planning a terrorist attack in league with al Qaeda.

Padilla and Hamdi have been held by the Department of Defense, without any access to legal counsel, for well over a year. No criminal charges have been filed against either one. Rather, the government asserts its right to detain them without charges to incapacitate them and to facilitate their interrogation. Specifically, the President claims the authority, in the exercise of his war power as "Commander in Chief" under the Constitution (Art. II, § 2), to detain persons he classifies as "enemy combatants":

- indefinitely, for the duration of the "war on terror";

 - without any charges being filed, and thus not triggering any rights attaching to criminal prosecutions;

 - incommunicado from the outside world;

 - specifically, with no right of access to an attorney;

 - with only limited access to the federal courts on habeas corpus, and with no right to rebut the government's showing that the detainee is an enemy combatant.

#### Restriction includes a limitation

STATE OF ARIZONA, Appellee, v. JEREMY RAY WAGNER, April 10, 2008, Filed, Appellant., 1 CA-CR 06-0167, 2008 Ariz. App. Unpub. LEXIS 613, opinion by Judge G. MURRAY SNOW

P10 The term "restriction" is not defined by the Legislature for the purposes of the DUI statutes. See generally A.R.S. § 28-1301 (2004) (providing the "[d]efinitions" section of the DUI statutes). In the absence of a statutory definition of a term, we look to ordinary dictionary definitions and do not construe the word as being a term of art. Lee v. State, 215 Ariz. 540, 544, ¶ 15, 161 P.3d 583, 587 (App. 2007) ("When a statutory term is not explicitly defined, we assume, unless otherwise stated, that the Legislature intended to accord the word its natural and obvious meaning, which may be discerned from its dictionary definition."). P11 The dictionary definition of "restriction" is "[a] limitation or qualification." Black's Law Dictionary 1341 (8th ed. 1999). In fact, "limited" and "restricted" are considered synonyms. See Webster's II New Collegiate Dictionary 946 (2001). Under these commonly accepted definitions, Wagner's driving privileges were "restrict[ed]" when they were "limited" by the ignition interlock requirement. Wagner was not only [\*7] statutorily required to install an ignition interlock device on all of the vehicles he operated, A.R.S. § 28-1461(A)(1)(b), but he was also prohibited from driving any vehicle that was not equipped with such a device, regardless whether he owned the vehicle or was under the influence of intoxicants, A.R.S. § 28-1464(H). These limitations constituted a restriction on Wagner's privilege to drive, for he was unable to drive in circumstances which were otherwise available to the general driving population. Thus, the rules of statutory construction dictate that the term "restriction" includes the ignition interlock device limitation.

#### Prefer—

#### Precision—our ev cites the committee on federal courts and a court case—limits are meaningless if they’re not predictable

#### Aff ground—every aff in their interpretation would lose to the circumvention—aff ground outweighs cuz it sets the direction of the debate

#### Not bidirectional—has to be released no matter what

#### Good is good enough—competing interpretations leads to a race to the bottom and a substance crowdout

### 2AC K

#### Floating piks bad

#### Framework—the primary purpose of debate should be to improve our skills as decisionmakers through a discussion of public policy

#### Decisionmaking skills are necessary to decide between individual courses of action that affect us on a daily basis—flexing our muscles in the high-stakes games of public policymaking is necessary to make those individual decisions easier

#### The neg must connect their alternative to policy concerns and institutional practices—absent these questions shifts in knowledge production are useless – governments’ obey institutional logics that exist independently of individuals and constrain decisionmaking

Wight – Professor of IR @ University of Sydney – 6

(Colin, Agents, Structures and International Relations: Politics as Ontology, pgs. 48-50

One important aspect of this relational ontology is that these relations constitute our identity as social actors. According to this relational model of societies, one is what one is, by virtue of the relations within which one is embedded. A worker is only a worker by virtue of his/her relationship to his/her employer and vice versa. ‘Our social being is constituted by relations and our social acts presuppose them.’ At any particular moment in time an individual may be implicated in all manner of relations, each exerting its own peculiar causal effects. This ‘lattice-work’ of relations constitutes the structure of particular societies and endures despite changes in the individuals occupying them. Thus, the relations, the structures, are ontologically distinct from the individuals who enter into them. At a minimum, the social sciences are concerned with two distinct, although mutually interdependent, strata. There is an ontological difference between people and structures: ‘people are not relations, societies are not conscious agents’. Any attempt to explain one in terms of the other should be rejected. If there is an ontological difference between society and people, however, we need to elaborate on the relationship between them. Bhaskar argues that we need a system of mediating concepts, encompassing both aspects of the duality of praxis into which active subjects must fit in order to reproduce it: that is, a system of concepts designating the ‘point of contact’ between human agency and social structures. This is known as a ‘positioned practice’ system. In many respects, the idea of ‘positioned practice’ is very similar to Pierre Bourdieu’s notion of habitus. Bourdieu is primarily concerned with what individuals do in their daily lives. He is keen to refute the idea that social activity can be understood solely in terms of individual decision-making, or as determined by surpa-individual objective structures. Bourdieu’s notion of the habitus can be viewed as a bridge-building exercise across the explanatory gap between two extremes. Importantly, the notion of a habitus can only be understood in relation to the concept of a ‘social field’. According to Bourdieu, a social field is ‘a network, or a configuration, of objective relations between positions objectively defined’. A social field, then, refers to a structured system of social positions occupied by individuals and/or institutions – the nature of which defines the situation for their occupants. This is a social field whose form is constituted in terms of the relations which define it as a field of a certain type. A habitus (positioned practices) is a mediating link between individuals’ subjective worlds and the socio-cultural world into which they are born and which they share with others. The power of the habitus derives from the thoughtlessness of habit and habituation, rather than consciously learned rules. The habitus is imprinted and encoded in a socializing process that commences during early childhood. It is inculcated more by experience than by explicit teaching. Socially competent performances are produced as a matter of routine, without explicit reference to a body of codified knowledge, and without the actors necessarily knowing what they are doing (in the sense of being able adequately to explain what they are doing). As such, the habitus can be seen as the site of ‘internalization of reality and the externalization of internality.’ Thus social practices are produced in, and by, the encounter between: (1) the habitus and its dispositions; (2) the constraints and demands of the socio-cultural field to which the habitus is appropriate or within; and (3) the dispositions of the individual agents located within both the socio-cultural field and the habitus. When placed within Bhaskar’s stratified complex social ontology the model we have is as depicted in Figure 1. The explanation of practices will require all three levels. Society, as field of relations, exists prior to, and is independent of, individual and collective understandings at any particular moment in time; that is, social action requires the conditions for action. Likewise, given that behavior is seemingly recurrent, patterned, ordered, institutionalised, and displays a degree of stability over time, there must be sets of relations and rules that govern it. Contrary to individualist theory, these relations, rules and roles are not dependent upon either knowledge of them by particular individuals, or the existence of actions by particular individuals; that is, their explanation cannot be reduced to consciousness or to the attributes of individuals. These emergent social forms must possess emergent powers. This leads on to arguments for the reality of society based on a causal criterion. Society, as opposed to the individuals that constitute it, is, as Foucault has put it, ‘a complex and independent reality that has its own laws and mechanisms of reaction, its regulations as well as its possibility of disturbance. This new reality is society…It becomes necessary to reflect upon it, upon its specific characteristics, its constants and its variables’.

#### Discussions of structure should precede substance—second generation Guantanamo issues require a more detailed focus on the legal system—student advocacy enables us to make change

Marguiles 11, Professor of Law

[February 9, 2011, Peter Margulies is Professor of Law, Roger Williams University., “The Ivory Tower at Ground Zero: Conflict and Convergence in Legal Education’s Responses to Terrorism”Journal of Legal Education, Vol. 60, p. 373, 2011, Roger Williams Univ. Legal Studies Paper No. 100]

If timidity in the face of government overreaching is the academy’s overarching historical narrative,1 responses to September 11 broke the mold. In what I will call the first generation of Guantánamo issues, members of the legal academy mounted a vigorous campaign against the unilateralism of Bush Administration policies.2 However, the landscape has changed in Guantánamo’s second generation, which started with the Supreme Court’s landmark decision in Boumediene v. Bush,3 affirming detainees’ access to habeas corpus, and continued with the election of Barack Obama. Second generation Guantánamo issues are murkier, without the clarion calls that marked first generation fights. This Article identifies points of substantive and methodological convergence4 in the wake of Boumediene and President Obama’s election. It then addresses the risks in the latter form of convergence. Substantive points of convergence that have emerged include a consensus on the lawfulness of detention of suspected terrorists subject to judicial review5 and a more fragile meeting of the minds on the salutary role of constraints generally and international law in particular. However, the promise of substantive consensus is marred by the peril of a methodological convergence that I call dominant doctrinalism. Too often, law school pedagogy and scholarship squint through the lens of doctrine, inattentive to the way that law works in practice.6 Novel doctrinal developments, such as the president’s power to detain United States citizens or persons apprehended in the United States, get disproportionate attention in casebooks and scholarship. In contrast, developments such as an expansion in criminal and immigration law enforcement that build on settled doctrine get short shrift, even though they have equal or greater real-world consequences. Consumers of pedagogy and scholarship are ill-equipped to make informed assessments or push for necessary changes. If legal academia is to respond adequately to second generation Guantánamo issues, as well as issues raised by any future attacks, it must transcend the fascination with doctrine displayed by both left and right, and bolster its commitment to understanding and changing how law works “on the ground.” To combat dominant doctrinalism and promote positive change, this Article asks for greater attention in three areas. First, law schools should do even more to promote clinical and other courses that give students first-hand experience in advocacy for vulnerable and sometimes unpopular clients, including the need for affirming their clients’ humanity and expanding the venue of advocacy into the court of public opinion.7 Clinical students also often discover with their clients that legal rights matter, although chastened veterans of rights battles like Joe Margulies and Hope Metcalf are correct that victories are provisional and sometimes pyrrhic.8 Second, legal scholarship and education should encourage the study of social phenomena like path dependence—the notion that past choices frame current advocacy strategies, so that lawyers recommending an option must consider the consequences of push-back from that choice. Aggressive Bush Administration lawyers unduly discounted risks flagged by more reflective colleagues on the consequences of push-back from the courts. Similarly, both the new Obama Administration and advocates trying to cope with Guantánamo’s post-Boumediene second generation failed to gauge the probability of push-back from the administration’s early announcement of plans to close the facility within a year. In each case, unexpected but reasonably foreseeable reactions skewed the implementation of legal and policy choices. Students should learn more about these dynamics before they enter the legal arena. Third, teachers need to focus more on ways in which bureaucratic structures affect policy choices. For example, terrorism fears gave conservative politicians like John Ashcroft an opportunity to decimate asylum adjudication, harming many victims of persecution who have been unable to press meritorious claims for refugee status and other forms of relief. Similarly, creation of the Department of Homeland Security turned a vital governmental function like disaster relief into a bureaucratic orphan, thereby paving the way for the inadequate response to Hurricane Katrina. Students need more uidance on what to look for when structure shapes substance.

#### Illogical causality—no end point to when we have to start

#### Permutation—do the plan and the alternative—the starting point of military detention allows an interrogation of US notions of punishment

Brown 5

[Michelle Brown, “"Setting the Conditions" for Abu Ghraib: The Prison Nation Abroad”, American Quarterly 57.3 (2005) 973-997, <http://muse.jhu.edu/journals/american_quarterly/v057/57.3brown.html>]

As a site of unseemly conjunctures between various kinds of competing law, Abu Ghraib is an unusually complex instance of American imprisonment. Its gates mark encounters with United States, Islamic, military, criminal, and international human rights law. Its walls mark not simply the contours of sovereignty and the boundaries of the nation/state but, more significantly, their violation as an immense superpower engages in a preemptive strike, invasion, occupation, and torture. Within this configuration of power, transnational exportations of punishment materialize in a variety of manifestations: (1) in the sociopolitical contexts that define the lives of the primary actors caught up in the prison/military-industrial complex and its increasingly global economies; (2) through the international implementation of U.S. penal technologies with unprecedented exclusionary capabilities, epitomized in President Bush's desire to raze Abu Ghraib and build a "state of the art" supermax prison in its place; and (3) in the unregulated use of force outside of the boundaries of law, a violence juxtaposed and conflated with the memory and backdrop of penal horror under the regime of Saddam Hussein. Abu Ghraib, then, is the kind of place always caught in a double gesture. Regimes and governments attempt to deny and erase the prison's existence. Yet we are simultaneously unable to turn away from its grotesqueness, a site that demands investigation and thus constitutes, as ordered by military judicial ruling, "the scene of the crime."6 Prisons have long served as liminal spaces both inside and outside the boundaries of constitutional law, belonging to (in fact, invented by) but not of the United States. The birth of the penitentiary, a form of punishment defined [End Page 974] entirely upon the denial of freedom, is culturally grounded in democratic values. As historian David Rothman points out, incarceration emerged "at the very moment when Americans began to pride themselves on the openness of their society, when the boundless frontier became the symbol of opportunity and equality . . . as principles of freedom became more celebrated in the outside society."7 Sociolegal scholar David Garland depicts the penitentiary as a regime constructed upon notably American value systems, including "the targeting of 'liberty' as the object of punishment" and the "intensive focusing upon the individual in prison cells."8 However, as an institution fundamentally constructed through the inverse of these values, the American penitentiary rests upon a crucial cultural contradiction, the removal of liberty in a nation that would seek to preserve it, the use of violence to counter violence. As Michael Ignatieff writes: "Outside was a scrambling and competitive egalitarianism; inside, an unprecedented carceral totalitarianism."9 The prison is built upon an interior secret, a union of antithetical ideas and values. Its invocation always risks disclosing the weakness not simply of the sovereign state but of American democracy, founded in distinctly penal terms, including genocide and slavery. Prisons, then, are strategic research sites, from which we may always uncover the contradictions of American power. For these reasons, special attention must be given to how recent assertions of sovereignty by the United States, coded in penal terms, set the conditions for what Judith Butler refers to as the "new war prison," where "the current configuration of state power, in relation both to the management of populations (the hallmark of governmentality) and the exercise of sovereignty in the acts that suspend and limit the jurisdiction of law itself, are reconfigured," a context rife with possibilities for the violation of human rights.10 This corruptibility is, in part, an intrinsic property of punishment. To borrow Ignatieff's terminology, prisons are inherently "lesser evil" institutions. Even as democratic defense, such institutions always risk, in any invocation, the violation of foundational commitments to democracy. Even when applied in the context of legislative deliberation, judicial review, and adversarial constraint, they remain necessarily tragic and ultimately evil.11 However, events at Abu Ghraib and other contemporary domestic and war prisons prove most disconcerting not simply because of the absence of open, adversarial justification, but because of the larger absence of any perceived need for justification. As evidence emerges that Abu Ghraib was simply one site of detainee abuse among many in the war against terror,12 we realize the fear, as expressed by Amy Kaplan in her 2003 presidential address to the American Studies Association, that Guantánamo would become a story of our future, a world where "this floating [End Page 975] colony will become the norm rather than an anomaly, that homeland security will increasingly depend on proliferating these mobile, ambiguous spaces between the domestic and foreign."13 Abu Ghraib is, consequently, the kind of "unanticipated event," dramatic, poignant, and ugly all at once, in which the "normality of the abnormal is shown for what it is"—terror as usual. For these reasons, it also marks a critical site from which to consider how what it means to do American studies is irrevocably bound up with the practice and conjugation of U.S. punishment, not simply at home but abroad, and especially in those "mobile, ambiguous spaces" lost somewhere in between in a time of empire.

#### Debate should be a space of political contestation in which arguments about who we are and what we ought to do are to be examined and debated without trump cards—the content of our arguments should be evaluated not without identity, but without identity as a trump card over its merits

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(Wendy, States of Injury, p. 47-51)

The postmodern exposure of the imposed and created rather than discovered character of all knowledges—of the power-structured, struggle-¶48¶produced quality of all truths, including reigning political and scientific ones—simultaneously exposes the groundlessness of discovered norms or visions. It also reveals the exclusionary and regulatory function of these norms: white women who cannot locate themselves in Nancy Hartsock’s account of women’s experience or women s desires, African American women who do not identify with Patricia Hill Collins’ account of black women’s ways of knowing, are once again excluded from the Party of Humanism—this time in its feminist variant. ¶Our alternative to reliance upon such normative claims would seem to be engagement in political struggles in which there are no trump cards such as “morality” or “truth." Our alternative, in other words, is to struggle within an amoral political habitat for temporally bound and fully contestable visions of who we are and how we ought to live. Put still another way, postmodernity unnerves feminist theory not merely because it deprives us of uncomplicated subject standing, as Christine Di Stefano suggests, or of settled ground for knowledge and norms, as Nancy Hartsock argues, or of "centered selves and “emancipatory knowledge," as Seyla Bcnhabib avers. Postmodernity unsettles feminism because it erodes the moral ground that the subject, truth, and normativity coproduce in modernity. When contemporary feminist political theorists or analysts complain about the antipolitical or unpolitical nature of postmodern thought—thought that apprehends and responds to this erosion—they are protesting, inter' aha, a Nietzschean analysis of truth and morality as fully implicated in and by power, and thereby delegitimated qua Truth and Morality Politics, including politics with passion- ate purpose and vision, can thrive without a strong theory of the subject, without Truth, and without scientifically derived norms—one only need reread Machiavelli, Gramsci, or Emma Goldman to see such a politics flourish without these things. The question is whether feminist politics can prosper without a moral apparatus, whether feminist theorists and activists will give up substituting Truth and Morality for politics. Are we willing to engage in struggle rather than recrimination, to develop our faculties rather than avenge our subordination with moral and epistemological gestures, to fight for a world rather than conduct process on the existing one? Nietzsche insisted that extraordinary strengths of character and mind would be necessary to operate in the domain of epistemological and religious nakedness he heralded. But in this he excessively individualized a challenge that more importantly requires the deliberate development of post-moral and anti-relativist political spaces, practices of deliberation, and modes of adjudication.¶49¶The only way through a crisis of space is to invent a new space —Fredric Jameson. “Postmodernism"¶Precisely because of its incessant revelation of settled practices and identities as contingent, its acceleration of the tendency to melt all that is solid into air, what is called postmodernity poses the opportunity to radically sever the problem of the good from the problem of the true, to decide “what we want” rather than derive it from assumptions or arguments about “who we are.” Our capacity to exploit this opportunity positively will be hinged to our success in developing new modes and criteria for political judgment. It will also depend upon our willingness to break certain modernist radical attachments, particularly to Marxism’s promise (however failed) of meticulously articulated connections between a comprehensive critique of the present and norms for a transformed future—a science of revolution rather than a politics of one. Resistance, the practice most widely associated with postmodern political discourse, responds to without fully meeting the normativity challenge of postmodernity. A vital tactic in much political work as well as for mere survival, resistance by itself does not contain a critique, a vision, or grounds for organized collective efforts to enact either. Contemporary affection for the politics of resistance issues from postmodern criticism’s perennial authority problem: our heightened consciousness of the will to power in all political “positions” and our wariness about totalizing analyses and visions. Insofar as it eschews rather than revises these problematic practices, resistance-as-politics does not raise the dilemmas of responsibility and justification entailed in “affirming” political projects and norms. In this respect, like identity politics, and indeed sharing with identity politics an excessively local viewpoint and tendency toward positioning without mapping, the contemporary vogue of resistance is more a symptom of postmodernity’s crisis of political space than a coherent response to it. Resistance goes nowhere in particular, has no inherent attachments, and hails no particular vision; as Foucault makes clear, resistance is an effect of and reaction to power, not an arrogation of it.¶What postmodernity disperses and postmodern feminist politics requires are cultivated political spaces for posing and questioning feminist political norms, for discussing the nature of “the good” for women. Democratic political space is quite undertheorized in contemporary feminist thinking, as it is everywhere in late-twentieth-century political theory, primarily because it is so little in evidence. Dissipated by the increasing technologizing of would-be political conversations and processes, by the erosion of boundaries around specifically political domains¶50¶and activities, and by the decline of movement politics, political spaces are scarcer and thinner today than even in most immediately prior epochs of Western history. In this regard, their condition mirrors the splayed and centrifuged characteristics of postmodern political power. Yet precisely because of postmodernity’s disarming tendencies toward political disorientation, fragmentation, and technologizing, the creation of spaces where political analyses and norms can be proffered and contested is supremely important.¶Political space is an old theme in Western political theory, incarnated by the polis practices of Socrates, harshly opposed by Plato in the Republic, redeemed and elaborated as metaphysics by Aristotle, resuscitated as salvation for modernity by Hannah Arendt. And given contemporary spin in Jurgen Habermas's theories of ideal speech situations and communicative rationality. The project of developing feminist postmodern political spaces, while enriched by pieces of this tradition, necessarily also departs from it. In contrast with Aristotle’s formulation, feminist political spaces cannot define themselves against the private sphere, bodies, reproduction and production, mortality, and all the populations and is- sues implicated in these categories. Unlike Arendt’s, these spaces cannot be pristine, ratified, and policed at their boundaries but are necessarily cluttered, attuned to earthly concerns and visions, incessantly disrupted, invaded, and reconfigured. Unlike Habermas, we can harbor no dreams of non-distorted communication unsullied by power, or even of a ‘common language,’\* but we recognize as a permanent political condition partiality of understanding and expression, cultural chasms whose nature may be vigilantly identified but rarely “resolved,” and the powers of words and images that evoke, suggest, and connote rather than transmit meanings.42 Our spaces, while requiring some definition and protection, cannot be clean, sharply bounded, disembodied, or permanent: to engage postmodern modes of power and honor specifically feminist knowledges, they must be heterogeneous, roving, relatively non-institutionalized, and democratic to the point of exhaustion.¶Such spaces are crucial for developing the skills and practices of post- modern judgment, addressing the problem of “how to produce a discourse on justice . . . when one no longer relies on ontology or epistemology.”43 Postmodemity’s dismantling of metaphysical foundations for justice renders us quite vulnerable to domination by technical reason ¶51¶unless we seize the opportunity this erosion also creates to develop democratic processes for formulating post-epistemological and post-ontological judgments. Such judgments require learning how to have public conversations with each other, arguing from a vision about the common (“what I want for us") rather than from identity (“who I am”), and from explicitly postulated norms and potential common values rather than false essentialism or unreconstructed private interest.44 Paradoxically, such public and comparatively impersonal arguments carry potential for greater accountability than arguments from identity or interest. While the former may be interrogated to the ground by others, the latter are insulated from such inquiry with the mantle of truth worn by identity-based speech. Moreover, post-identity political positions and conversations potentially replace a politics of difference with a politics of diversity—differences grasped from a perspective larger than simply one point in an ensemble. Post-identity public positioning requires an outlook that discerns structures of dominance within diffused and disorienting orders of power, thereby stretching toward a more politically potent analysis than that which our individuated and fragmented existences can generate. In contrast to Di Stefano's claim that 'shared identity” may constitute a more psychologically and politically reliable basis for “attachment and motivation on the part of potential activists,” I am suggesting that political conversation oriented toward diversity and the common, toward world rather than self, and involving a conversion of ones knowledge of the world from a situated (subject) position into a public idiom, offers us the greatest possibility of countering postmodern social fragmentations and political disintegrations.¶Feminists have learned well to identify and articulate our "subject positions —we have become experts at politicizing the “I” that is produced through multiple sites of power and subordination. But the very practice so crucial to making these elements of power visible and subjectivity political may be partly at odds with the requisites for developing political conversation among a complex and diverse “we.” We may need to learn public speaking and the pleasures of public argument not to overcome our situatedness, but in order to assume responsibility for our situations and to mobilize a collective discourse that will expand them. For the political making of a feminist future that does not reproach the history on which it is borne, we may need to loosen our attachments to subjectivity, identity, and morality and to redress our underdeveloped taste for political argument.

#### Forcing specific policy analysis is key – allows state institutions to be reclaimed and generates debater education necessary to create a left governmentality – necessary to create a public sphere

Ferguson, Professor of Anthropology at Stanford, 11

(The Uses of Neoliberalism, Antipode, Vol. 41, No. S1, pp 166–184)

If we are seeking, as this special issue of Antipode aspires to do, to link our critical analyses to the world of grounded political struggle—not only to interpret the world in various ways, but also to change it—then there is much to be said for focusing, as I have here, on mundane, real- world debates around policy and politics, even if doing so inevitably puts us on the compromised and reformist terrain of the possible, rather than the seductive high ground of revolutionary ideals and utopian desires. But I would also insist that there is more at stake in the examples I have discussed here than simply a slightly better way to ameliorate the miseries of the chronically poor, or a technically superior method for relieving the suffering of famine victims.¶ My point in discussing the South African BIG campaign, for instance, is not really to argue for its implementation. There is much in the campaign that is appealing, to be sure. But one can just as easily identify a series of worries that would bring the whole proposal into doubt. Does not, for instance, the decoupling of the question of assistance from the issue of labor, and the associated valorization of the “informal”, help provide a kind of alibi for the failures of the South African regime to pursue policies that would do more to create jobs? Would not the creation of a basic income benefit tied to national citizenship simply exacerbate the vicious xenophobia that already divides the South African poor,¶ in a context where many of the poorest are not citizens, and would thus not be eligible for the BIG? Perhaps even more fundamentally, is the idea of basic income really capable of commanding the mass support that alone could make it a central pillar of a new approach to distribution? The record to date gives powerful reasons to doubt it. So far, the technocrats’ dreams of relieving poverty through efficient cash transfers have attracted little support from actual poor people, who seem to find that vision a bit pale and washed out, compared with the vivid (if vague) populist promises of jobs and personalistic social inclusion long offered by the ANC patronage machine, and lately personified by Jacob Zuma (Ferguson forthcoming).¶ My real interest in the policy proposals discussed here, in fact, has little to do with the narrow policy questions to which they seek to provide answers. For what is most significant, for my purposes, is not whether or not these are good policies, but the way that they illustrate a process through which specific governmental devices and modes of reasoning that we have become used to associating with a very particular (and conservative) political agenda (“neoliberalism”) may be in the process of being peeled away from that agenda, and put to very different uses. Any progressive who takes seriously the challenge I pointed to at the start of this essay, the challenge of developing new progressive arts of government, ought to find this turn of events of considerable interest.¶ As Steven Collier (2005) has recently pointed out, it is important to question the assumption that there is, or must be, a neat or automatic fit between a hegemonic “neoliberal” political-economic project (however that might be characterized), on the one hand, and specific “neoliberal” techniques, on the other. Close attention to particular techniques (such as the use of quantitative calculation, free choice, and price driven by supply and demand) in particular settings (in Collier’s case, fiscal and budgetary reform in post-Soviet Russia) shows that the relationship between the technical and the political-economic “is much more polymorphous and unstable than is assumed in much critical geographical work”, and that neoliberal technical mechanisms are in fact “deployed in relation to diverse political projects and social norms” (2005:2).¶ As I suggested in referencing the role of statistics and techniques for pooling risk in the creation of social democratic welfare states, social technologies need not have any essential or eternal loyalty to the political formations within which they were first developed. Insurance rationality at the end of the nineteenth century had no essential vocation to provide security and solidarity to the working class; it was turned to that purpose (in some substantial measure) because it was available, in the right place at the right time, to be appropriated for that use. Specific ways of solving or posing governmental problems, specific institutional and intellectual mechanisms, can be combined in an almost infinite variety of ways, to accomplish different social ends. With social, as with any other sort of technology, it is not the machines or the mechanisms that decide what they will be used to do.¶ Foucault (2008:94) concluded his discussion of socialist government- ality by insisting that the answers to the Left’s governmental problems require not yet another search through our sacred texts, but a process of conceptual and institutional innovation. “[I]f there is a really socialist governmentality, then it is not hidden within socialism and its texts. It cannot be deduced from them. It must be invented”. But invention in the domain of governmental technique is rarely something worked up out of whole cloth. More often, it involves a kind of bricolage (Le ́vi- Strauss 1966), a piecing together of something new out of scavenged parts originally intended for some other purpose. As we pursue such a process of improvisatory invention, we might begin by making an inventory of the parts available for such tinkering, keeping all the while an open mind about how different mechanisms might be put to work, and what kinds of purposes they might serve. If we can go beyond seeing in “neoliberalism” an evil essence or an automatic unity, and instead learn to see a field of specific governmental techniques, we may be surprised to find that some of them can be repurposed, and put to work in the service of political projects very different from those usually associated with that word. If so, we may find that the cabinet of governmental arts available to us is a bit less bare than first appeared, and that some rather useful little mechanisms may be nearer to hand than we thought.

#### To claim that domestic racism should proceed the “international” violence the US commits against foreign bodies is unethical—their overly broad focus on white supremacy cannot explain particulars of interethnic conflicts and undermines effective racial politics—star this card

Sunstrom 8, Associate Professor of Philosophy

[2008, Ronald R. Sunstrom is a black Associate Professor of Philosophy at the University of San Francisco; additionally, he teaches for USF's African American Studies program and the Master of Public Affairs program for the Leo T. McCarthy Center of Public Service and the Common Good. He was awarded the 2008 Sankofa Faculty Award from USF's Multicultural Student Services, USF's 2009 Ignatian Service Award, and was a co-winner of the 2010 USF Distinguished Teaching Award. His areas of research include political theory, critical social and race theory, and African American and Asian American philosophy, “The Browning of America and the Evasion of Social Justice”, pp. 65-92]

It would be odd and troubling for the nation to merrily work toward justice at “home,” all the while neglecting the demands of those whom the nation regarded as perpetual foreigners (and not really being at “home” in the nation) and the demands of global justice. Such a vision of justice is self-serving and morally hollow. Long-existing civil rights claims should not delimit the nation’s moral boundaries and its conception of civil rights, thus ipso facto severing them from internationally determined human rights. The reactions of some citizens to the browning of America, unfortunately, open up this possibility, which is yet another evasion of social justice.7 When I broach these issues, or any of the particular issues discussed in this book, the response I frequently receive is that these issues are red herrings that divert our attention away from the real enemy, that of white supremacy.8 I am dubious about this complaint; after all, focusing on “white supremacy” does not directly address the particulars of the interethnic confl icts that arise from the browning of America. Perhaps, though, these critics mean that we should focus on how “white supremacy,” in the form of institutionalized racism or white power, divides minority groups, so as to conquer them and leave them to fi ght over a limited set of resources. Alternatively, these critiques would have us focus on how Latinos, Asian Americans, Americans who identify as multiracial, and immigrants adopt anti-black racism and the privileges of whiteness as they assimilate into American society. I think the latter argument is bogus, and chapter 3 is devoted in part to explaining why. As for the former, I think “white supremacy” is too broad and vague a category to be helpful, and that focusing on such a fl awed category of power can be positively harmful. Such moves simply sidestep the particular issues that are raised in interethnic confl icts and may even contribute to the evasions I outlined earlier. The people of the United States, as they experience and participate in the browning of America, should resist both types of evasions. The Browning of America and the Evasion of Social Justice argues, in contrast, that the people of the United States should see in its demographic change the transformation of social justice. They should welcome that transformation and view it as an opportunity to satisfy old debts and expand in a cosmopolitan direction the very idea of social justice.

#### We’ll impact turn their link—a unique focus on military detention is critical—military detention establishes an unprecedented and new manifestation of prison systems characterized by no end or bounds—the fixture of military prisons in a space of lawlessness demands an exposition otherwise the stories are forgotten

Brown 5

[Michelle Brown, “"Setting the Conditions" for Abu Ghraib: The Prison Nation Abroad”, American Quarterly 57.3 (2005) 973-997, <http://muse.jhu.edu/journals/american_quarterly/v057/57.3brown.html>]

Abu Ghraib, like Guantánamo and other U.S. military prisons, marks the kind of penal expansion that takes place in the context of wars with no end: wars on drugs, crime, and terror. In the U.S., we imprison more than anyone in the world and more than any other society has ever imprisoned for the purposes of crime control, and we do so in a manner that is defined by race.57 This unprecedented use of imprisonment has largely taken place outside of democratic checks or public interest, in disregard of decades of work by penal scholars and activists who have introduced a vocabulary of warning through terms such as "penological crisis," "incarceration binge," "prison-industrial complex," and the "warehousing" of offenders. Such massive expansion has direct effects upon the private lives of prisoners, prison workers, their families, [End Page 990] and their communities. I have tried, at least, to point to the ways in which these effects may extend far beyond their immediate contexts into a potential reconfiguration of public life. Such unprecedented penal expenditures mark the global emergence of a new discourse of punishment, one whose racial divisions and abusive practices are revised into a technical, legal language of acceptability, one in which Americans are conveniently further distanced from the social realities of punishment through strategies of isolation and exclusion, all conducted in a manner and on a scale that exacerbates the fundamental class, race, and gender contradictions and divisions of democracy. In this respect, the "new war prison" is constituted by both material practices and a discursive language whose expansion and intensification need recognize no limits, no borders, no bounds. I have used punishment and torture interchangeably across this piece, not because I believe they are without distinction or difference, but because I believe, as history and social theory teach us, that they are grounded in the same fundamental practice: the infliction of pain. Because punishment carries pain, rupture, and trauma with it, its implementation will always be fundamentally tragic. Torture, then, is not incidental to punishment. It is at its core. Instead of accepting this reality, the history of the practice and study of punishment is marred by an assumption that intention matters, that explanations and justifications define punishment and its appropriate use, and that the law can control its violence. However, these kinds of assumptions conceal the presence of the law itself. When punishment is invoked, it is always intended to remind the people of the power and presence of the state. However, this is an invocation that is precisely meant to be avoided in democratic contexts, as strong governments have no need to rely upon force. According to both Nietzsche and Durkheim, it is a weak state that will resort to a display of force and violence. Any regime that decides to inflict pain and harm will inevitably find itself caught up in a unique social institution whose essence is violence and whose justifications are inherently problematic. Punishment is, thus, always most usefully understood at its most elemental level: as a bloodlust for revenge, one whose essence is passion, unreason, anger, and emotion, whose invocation is highly individualized, subjective, and personal, an insatiable urge that knows no limits. In such a setting, as sociolegal scholar Austin Sarat argues, a "wildness" is introduced into the "house of law," wherein "private becomes public and public becomes private; passion is introduced into the temple of reason, and yet passion itself is subject to the discipline of reason. Every effort to distinguish revenge and retribution nevertheless reveals that 'vengeance arrives among us in a judicious disguise.'"58 The vengeance that underlies [End Page 991] the implied calm reason of systematic, procedural, proportional retribution cannot be repressed and is evidenced in contemporary patterns of punishment in the United States that often defy a rational logic of any kind. Any solidarity or sociality gained at the price of such punishment, then, speaks not only to the end of democracy but of humanity as well. And so we went from September 11 to a war on terror, from Abu Ghraib to the summer of beheadings in an endless repetition whose limits are defined currently only in the possibility of sheer exhaustion. For American studies, this means that Abu Ghraib operates at a series of intersections and borders that have rendered the fundamental contradictions of imprisonment in a democratic context acutely visible, if only temporarily. As the impossible case for democracy, the "scandal" at Abu Ghraib reveals how an unmarked proliferation of penal discourses, technologies, and institutions not only "set the conditions" for the grossest violations of democratic values but revealed the normalcy and acceptability of these kinds of practices in spaces beyond and between the law. Consequently, Abu Ghraib falls within a distinct category of legal and territorial borders, those spaces that sociolegal scholar Susan Bibler Coutin observes "defy categories and paradigms, that 'don't fit,' and that therefore reveal the criteria that determine fittedness, spaces whose very existence is simultaneously denied and demanded by the socially powerful." Capturing the sense of doubleness that characterizes Abu Ghraib, she describes these "targets of repression and zones of militarization" as contradictory spaces that "are marginalized yet strategic, inviolate yet continually violated, forgotten yet significant."59 Many peoples exist at these borders, and all stories may be told there. But, and this is of crucial significance, there is no guarantee that these stories will be told. So much of the writing and thought surrounding the borderlands has been directed at the development of a new social vision, derived from the pain of history and experience, but grounded in the celebratory justice of the inevitable, vindicating arrival of the hybrid. As Gloria Anzaldúa insists, "En unas pocas centurias, the future will belong to the mestiza."60 Yet Abu Ghraib falls squarely into the kind of border zone that cannot be celebrated, a subaltern site where many stories and voices will never be told or heard, no matter how we reconstruct its history and its events. Judith Butler observes that the subject outside of the law "is neither alive nor dead, neither fully constituted as a subject nor fully deconstituted in death."61 Under Saddam Hussein's rule, numberless thousands were lost in the prison. Under American occupation, "ghost detainees" were a prevalent problem, unidentified, vanished inside the institution's own lost accountability. As Žižek points out, these individuals constitute the "living dead," those missed [End Page 992] by bombs in the battlefield, "their right to life forfeited by their having been the legitimate targets of murderous bombings." This positioning has direct impact upon the legal privilege of their captors: "And just as the Guantánamo prisoners are located, like homo sacer, in the space 'between two deaths,' but biologically are still alive, the U.S. authorities that treat them in this way also have an indeterminate legal status. They set themselves up as a legal power, but their acts are no longer covered and constrained by the law: they operate in an empty space which is, nevertheless, within the domain of the law."62 The spectacle of abuse at Abu Ghraib makes plain the consequences of putting prisoners and custodians in this space "between two deaths," a legal borderland filled with spectral violence, a space packed with people and yet profoundly empty of its humanity. Bibler Coutin writes, "I cannot celebrate the space of nonexistence. Even if this space is in some ways subversive, even if its boundaries are permeable, and even if it is sometimes irrelevant to individuals' everyday lives, nonexistence can be deadly."63 When writing of Abu Ghraib, I find myself in a similar space, peering in at a border whose history, purpose, and foundations prevent it from being redeemed or reclaimed, its terrorized inhabitants the essence of Anzaldúa's "zero, nothing, no one."64 Abu Ghraib reminds us then of the pains we had hoped to transcend, of the "intimate terrorism" we had hoped to end, of the bloody sovereignty we had hoped to eclipse in a postnational context.65 As Anzaldúa observed of "life in the borderlands" nearly two decades ago: The world is not a safe place to live in. We shiver in separate cells in enclosed cities, shoulders hunched, barely keeping the panic below the surface of the skin, daily drinking shock along with our morning coffee, fearing the torches being set to our buildings, the attacks in the street. Shutting down . . . The ability to respond is what is meant by responsibility, yet our cultures take away our ability to act—shackle us in the name of protection. Blocked, immobilized, we can't move forward, we can't move backwards. That writhing serpent movement, the very movement of life, swifter than lightning. Frozen.66 In the working vocabulary and memory of a penal culture, Abu Ghraib remains a border lost to us, accessible only through the fixed and frozen images that remind us of its irrevocableness. We find ourselves, in a sense, at a new border that is very old, caught at the crossroads, left alone with America, asking, and with considerable trepidation, what will our futures be?67

## 1AR

#### Moral equality means even a small risk of preventing extinction outweighs structural violence—this answers their probability argument

\*\*\*people shouldn’t be valued more just because they exist close to us in time

Bostrom, 2012 (Mar 6, Nick, director of the Future of Humanity Institute at Oxford, recipient of the 2009 Gannon Award, “We're Underestimating the Risk of Human Extinction,” interview with Ross Andersen, freelance writer in D.C., <http://www.theatlantic.com/technology/archive/2012/03/were-underestimating-the-risk-of-human-extinction/253821/>)

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