**1NC T**

**Our interpretation is that debate is a game which should revolve around the topic. Our interpretation is that the affirmative should defend some type of statutory or judicial restrictions on the war powers authority of the President of the U.S. in one or more of the following areas: targeted killing, indefinite detention, offensive cyber operations, or introduction of armed forces into hostilities.**

**“USFG should” means the debate is about a policy established by governmental means**

Jon M. **ERICSON**, Dean Emeritus of the College of Liberal Arts – California Polytechnic U., et al., **3** [*The Debater’s Guide*, Third Edition, p. 4]

The Proposition of Policy: Urging Future Action

In policy propositions, each topic contains certain key elements, although they have slightly different functions from comparable elements of value-oriented propositions. 1. An agent doing the acting ---“The United States” in “The United States should adopt a policy of free trade.” Like the object of evaluation in a proposition of value, the agent is the subject of the sentence. 2. The verb should—the first part of a verb phrase that urges action. 3. An action verb to follow should in the should-verb combination. For example, should adopt here means to put a program or policy into action though governmental means. 4. A specification of directions or a limitation of the action desired. The phrase free trade, for example, gives direction and limits to the topic, which would, for example, eliminate consideration of increasing tariffs, discussing diplomatic recognition, or discussing interstate commerce. Propositions of policy deal with future action. Nothing has yet occurred. The entire debate is about whether something ought to occur. What you agree to do, then, when you accept the affirmative side in such a debate is to offer sufficient and compelling reasons for an audience to perform the future action that you propose.

**Topical affs must specify that the 1ac is either a statutory or judicial restriction on authority**

**GAZIANO 01** senior fellow in Legal Studies and Director of the Center for Legal Judicial Studies at the Heritage Foundation [Todd Gaziano, 5 Texas Review of Law & Politics 267, Spring, lexis]

Although President Washington's Thanksgiving Proclamation was hortatory, other proclamations or orders that communicate presidential decisions may be legally binding. n31 Ultimately the authority for all presidential orders or directives must come from either the Constitution or from statutory delegations. n32 **The source of authority** (**constitutional versus statutory**) **carries important implications** **for the extent to which that authority may be legitimately exercised or circumscribed**. Regardless of the source of substantive power, however, the authority to use written directives in the exercise of that power need not be set forth in express terms in the Constitution or federal statutes. As is explained further below, the authority to issue directives may be express, implied, or inherent in the substantive power granted to the President. n33 The Constitution expressly mentions certain functions that are to be performed by the President. Congress has augmented the President's power by delegating additional authority within these areas of responsibility. The following are among the more important grants of authority under which the President may issue at least some directives in the exercise of his constitutional and statutorily delegated powers: Commander in Chief, Head of State, Chief Law Enforcement Officer, and Head of the Executive Branch.

**Modest predictability of the resolution is worth potential substantive tradeoff. Topicality creates space for relevant debate.**

Toni M. **MASSARO**, Professor of Law, University of Florida, **89** [August, 1989, “Empathy, Legal Storytelling, and the Rule of Law: New Words, Old Wounds?” *Michigan Law Review*, 87 Mich. L. Rev. 2099, Lexis]

Yet despite their acknowledgment that some ordering and rules are necessary, empathy proponents tend to approach the rule-of-law model as a villain. Moreover, they are hardly alone in their deep skepticism about the rule-of-law model. Most modern legal theorists question the value of procedural regularity when it denies substantive justice.52 Some even question the whole notion of justifying a legal decision by appealing to a rule of law, versus justifying the decision by reference to the facts of the case and the judges' own reason and expe-rience.53 I do not intend to enter this important jurisprudential de-bate, except to the limited extent that the "empathy" writings have suggested that the rule-of-law chills judges' empathic reactions. In this regard, I have several observations.

My first thought is that the rule-of-law model is only a model. If the term means absolute separation of legal decision and "politics," then it surely is both unrealistic and undesirable.54 But our actual statutory and decisional "rules" rarely mandate a particular (unempathetic) response. Most of our rules are fairly open-ended**. "Relevance,"** "the best interests of the child," "undue hardship," "negligence," or "freedom of speech" - to name only a few legal concepts - hardly admit of precise definition or consistent, predictable application. Rather, they represent a weaker, but still constraining sense of the rule-of-law model. Most rules are **guidelines** that **establish** spheres of **relevant** **conversation**, **not** **mathematical** **formulas**.

Moreover, legal training in a common law system emphasizes the indeterminate nature of rules and the significance of even subtle variations in facts. Our legal tradition stresses an inductive method of discovering legal principles. We are taught to distinguish different "stories," to arrive at "law" through experience with many stories, and to revise that law as future experience requires. Much of the effort of most first-year law professors is, I believe, devoted to debunking popular lay myths about "law" as clean-cut answers, and to illuminate law as a dynamic body of policy determinations constrained by certain guiding principles.55

As a practical matter, therefore, our rules often are ambiguous and fluid standards that offer **substantial room for varying interpretations**. The interpreter, usually a judge, may consult several sources to aid in decisionmaking. One important source necessarily will be the judge's own experiences -including the experiences that seem to determine a person's empathic capacity. In fact, much ink has been spilled to illuminate that our stated "rules" often do not dictate or explain our legal results. Some writers even have argued that a rule of law may be, at times, nothing more than a post hoc rationalization or attempted legitimization of results that may be better explained by extralegal (including, but not necessarily limited to, emotional) responses to the facts, the litigants, or the litigants' lawyers,56 all of which may go un-stated. The opportunity for contextual and empathic decisionmaking therefore already is very much a part of our adjudicatory law, despite our commitment to the rule-of-law ideal.

Even when law is clear and relatively inflexible, however, it is not necessarily "unempathetic." The assumed antagonism of legality and empathy is belied by our experience in rape cases, to take one important example. In the past, judges construed the general, open-ended standard of "relevance" to include evidence about the alleged victim's prior sexual conduct, regardless of whether the conduct involved the defendant.57 The solution to this "empathy gap" was legislative action to make the law more specific - more formalized. Rape shield statutes were enacted that controlled judicial discretion and specifically defined relevance to exclude the prior sexual history of the woman, except in limited, justifiable situations.58 In this case, one can make a persuasive argument not only that the rule-of-law model does explain these later rulings, but also that obedience to that model resulted in a triumph for the human voice of the rape survivor. Without the rule, some judges likely would have continued to respond to other inclinations, and admit this testimony about rape survivors. The example thus shows that radical rule skepticism is inconsistent with at least some evidence of actual judicial behavior. It also suggests that the principle of legality is potentially most critical for people who are least understood by the decisionmakers - in this example, women - and hence most vulnerable to unempathetic ad hoc rulings.

A final observation is that the principle of legality reflects a deeply ingrained, perhaps inescapable, cultural instinct. **We value some procedural regularity** - "law for law's sake" - because it lends **stasis and structure** to our often chaotic lives. Even within our most intimate relationships, we both establish "rules," and expect the other party to follow them.59 Breach of these unspoken agreements can destroy the relationship and hurt us deeply, **regardless of the wisdom or "substantive fairness"** of a particular rule. Our agreements create **expectations**, and their consistent application fulfills the expectations. The **modest predictability** that this sort of "formalism" provides actually **may encourage human relationships**.60

**Independently, limits are a voting issue—we don’t need to win an external impact other than their interpretation makes debate an unending nightmare**

**Harris 13**—Scott Harris, Ph.D Communications, Professor at Kansas, Ed Lee’s idol, better than Nick at basketball [April 5, 2013, “This Ballot,” CEDA Forums, http://www.cedadebate.org/forum/index.php?topic=4762.0]

I understand that there has been some criticism of Northwestern’s strategy in this debate round. This criticism is premised on the idea that they ran framework instead of engaging Emporia’s argument about home and the Wiz. I think this criticism is unfair. Northwestern’s framework argument did engage Emporia’s argument. Emporia said that you should vote for the team that performatively and methodologically made debate a home. Northwestern’s argument directly clashed with that contention. My problem in this debate was with aspects of the execution of the argument rather than with the strategy itself. It has always made me angry in debates when people have treated topicality as if it were a less important argument than other arguments in debate. **Topicality is a real argument**. It is a researched strategy. It is an argument that challenges many affirmatives. The fact that other arguments could be run in a debate or are run in a debate does not make topicality somehow a less important argument. In reality, for many of you that go on to law school you will spend much of your life running topicality arguments because you will find that words in the law matter. The rest of us will experience the ways that word choices matter in contracts, in leases, in writing laws and in many aspects of our lives. Kansas ran an affirmative a few years ago about how the location of a comma in a law led a couple of districts to misinterpret the law into allowing individuals to be incarcerated in jail for two days without having any formal charges filed against them. For those individuals the location of the comma in the law had major consequences. Debates about words are not insignificant. Debates about what kinds of arguments we should or should not be making in debates are not insignificant either. The limits debate is an argument that has real pragmatic consequences. I found myself earlier this year judging Harvard’s eco-pedagogy aff and thought to myself—I could stay up tonight and put a strategy together on eco-pedagogy, but then I thought to myself—why should I have to? Yes, I could put together a strategy against any random argument somebody makes employing an energy metaphor but the reality is there are only so many nights to stay up all night researching. I would like to actually spend time playing catch with my children occasionally or maybe even read a book or go to a movie or spend some time with my wife. A world where there are an infinite number of affirmatives is a world where the demand to have a specific strategy and not run framework is a world that says this community doesn’t care whether its participants have a life or do well in school or spend time with their families. I know there is a new call abounding for interpreting this NDT as a mandate for broader more diverse topics. The reality is that will create more work to prepare for the teams that choose to debate the topic but will have little to no effect on the teams that refuse to debate the topic. Broader topics that do not require positive government action or are bidirectional will not make teams that won’t debate the topic choose to debate the topic. I think that is a con job. I am not opposed to broader topics necessarily. I tend to like the way high school topics are written more than the way college topics are written. I just think people who take the meaning of the outcome of this NDT as proof that we need to make it so people get to talk about anything they want to talk about without having to debate against topicality or framework arguments are interested in constructing a world that might **make debate an unending nightmare** and not a very good home in which to live. **Limits, to me, are a real impact because I feel their impact in my everyday existence**.

**This isn’t an argument which attempts to confine their *style* or method of presentation. It is a merely an argument about *content*.**

**1NC PIC – through v. as**

**Brian and I contend that we should substantially increase restrictions on the war powers authority of the President of the United States in the area of indefinite detention by critiquing, as assemblages, the intersection of identities that detain the terrorist.**

**CP is functionally different than the aff – through means that they USE the system – that is exactly what**

**Macmillan Dictionary** http://www.macmillandictionary.com/us/dictionary/american/through

Through can be used in the following ways:

as a preposition (followed by a noun): They were riding through a forest.

as an adverb (without a following noun): There's a hole in the roof where the rain comes through.

as an adjective: a through train

1 from one end or side of something to the other

a.

into one end of a passage, tube, pipe, etc. and along it toward the other end

The train runs through a tunnel.

Some pipes were almost blocked, so that hardly any water was trickling through.

b.

from one side of a window, door, gate, etc. to the other side of it

She was watching him through the kitchen window.

The man at the gate would not let us through.

The men raced the stolen car through an army checkpoint at 100 mph.

You could feel the wind whistling through tiny cracks in the wall.

Thesaurus entry for this meaning of through

c.

making a hole in something, or cutting it into pieces

A workman was drilling through the concrete wall.

The soles of his shoes were nearly worn through in places.

Workers had cut through an electrical cable while they were digging.

d.

across an area or space, or between a group of things

Maynard spent a year traveling through Europe and Asia.

The path climbs steeply through the trees.

A tiny explosion sent sparks flying through the air.

Thesaurus entry for this meaning of through

2 during all of a period of time until the end of it

Only one hotel remained open through the year.

all through: He lay awake all through the night.

the whole day/night/year etc. through: They worked the whole day through.

through to (=all the time until): The training program will continue through to mid-April.

Thesaurus entry for this meaning of through

3 by means of something

a.

by means of a particular method or experience

skills that we can only learn through experience

Through hard work and determination the team has achieved remarkable success.

Thesaurus entry for this meaning of through

b.

using a particular system, service, or person

Concert tickets are being sold through the Internet.

Woods issued a statement through his agent.

c.

if you know or hear of something through another person, they told you about it after hearing it from someone else

I heard through a friend of Caroline's that there's been trouble in the family.

**Instead, we use the word as to indicate that we are part of the movement**

**Macmillan Dictionary** http://www.macmillandictionary.com/us/dictionary/american/as

As can be used in the following ways:

as a conjunction (connecting two clauses): As I was leaving, the phone rang. ♦ The results were not as bad as I had expected.

as a preposition (followed by a noun): He works as a waiter.

as an adverb (followed by an adjective, an adverb, or a word such as "much" or "many"): Nylon is cheaper than leather, and it's just as strong.

1 used for showing comparison

a.

used for comparing one person, thing, or situation with another

as...as: Simon isn't as tall as his brother.

I don't play football as much as I used to.

I can't run as fast as you.

just as: We all need regular exercise, but a healthy diet is just as important.

half/twice/three times etc. as much: A house in San Francisco costs twice as much as a similar house in some nearby cities.

the same as: Barbara's suggestion was almost exactly the same as mine.

Thesaurus entry for this meaning of as

b.

used in particular expressions for emphasizing a quality in someone or something

Her skin was white as snow.

He's as tough as nails.

See also less

2 SPOKEN used for mentioning that something is already known or has already been talked about

As I was saying, we expect next year to be a good year.

As everyone knows, the farming industry is in serious difficulties.

3 used for saying that something happens or is done in the same way

I invested the money as you suggested.

Leave everything just as you found it.

as usual: Judith was late, as usual.

4 used for referring to what someone or something does or how they appear

As chief executive, I am expected to provide effective leadership.

a portrait of the actor as a child

An electric drill can also be used as a screwdriver.

**\*1NC K – State of Exception [Highlight]**

**The 1AC argues that indefinite detention produces a “State of Exception.” Turning state of exception into an *abstract* and *generic* rhetorical gesture denies specificity of experiences and strategies of victims of the Nazi concentration camps.**

Dominick **LaCAPRA** Bryce and Edith M. Bowmar Professor of Humanistic Studies @ Cornell **‘4** *History in Transit: experience, identity, critical theory* p. 162-168

Agamben takes the Muselmann in isolation from his or her context— the historical conditions of emergence, which cannot be seen only in terms of a homogeneous idea of Auschwitz or a few restricted refer­ences to the SS. (This diremption or decontextualization may be nec­essary for the figuration of the Muselmann as a sublime object.) Indeed Agamben almost seems to come upon the Muselmann as one might discover a creature in the wild or on another planet—planet Auschwitz as it has sometimes been called, to distinguish it from anything we have hitherto known on planet Earth. And in Agamben the planets collide and interpenetrate to the point of indistinction. One difficulty in treating the Muselmann as an objet trouve is that Agamben offers no sustained inquiry into the **ideology** **and practice of perpetrators** in the creation of the historical state of affairs that brought the Muselmann into being. One gets almost no sense of the perpetrator-victim dynamic, which was crucial in the emergence of, or the erosive process leading to, the Muselmann. One would think that the perpe­trators and their role in the genesis of the Muselmann would also be among the remnants of Auschwitz that are deserving of contempo­rary understanding and relevance. Indeed Agamben's use of the his­torical for transhistorical purposes postulates the Muselmann as the prototype of the split subject, and in the process Auschwitz itself tends to become a paradoxically **abstract counter** or philosophical Lehrstiick. Agamben has a **general conception** of the modern age as one tending toward or even embodying the combination of sovereignty and mere, bare, or naked life—of unlimited power and the reduction of the human being to a being denuded of possibilities and in a con­dition of ultimate abjection. (One might compare naked life to Hei­degger's conception of the Geste11, or reduction of all things to a standing stock or reserve of raw material, perhaps even to Marx's notion of abstract exchange value.) Auschwitz and the Muselmann are the fullest realization to date of this extreme or excessive state of affairs, which Agamben both severely criticizes and at times seems to approximate or even replicate, at least in part, in his own all-or­-nothing, insistently evacuating, postapocalyptic assumptions or assertions. Indeed in Agamben the immanent sacred is denuded of all traditional dimensions of the sacred (its ambivalence, its attraction- repulsion, its elation or ecstasy, its limit-setting and limit-transgress­ing power).18 It is reduced to bare or naked life. Instead of seeing this reduction as one important effect of recent history (related to devel­opments within religion and to modes of secularization, including capitalism and positivism)—an effect nonetheless countered by other significant forces, he at times seems to postulate it as a **general theory of the sacred in transhistorical terms.** Insofar as this postulation occurs, he discloses, apparently as a belated, posttraumatic effect of Auschwitz, what putatively was the case all along: the sacred pre­sumably always already was bare or naked life.' The begged question is whether, to what extent, and in what specific ways, this is the case even now.20 Elaborating this theory is a basic project in Homo Sacer, where Porn­peius Festus's On the Significance of Words becomes the basis of a con­ception of the "sacred man" as a victim or outsider, subject to being killed at will by anyone but not to being sacrificed (in any traditional sense) or murdered (in any criminal or legal sense of homocide).' The result in that book is a rather reduced understanding of the Holocaust in terms of biology, medicalization, and eugenics, related to a Fou­cauldian notion of biopower and biopolitics. This line of argument continues in Remnants of Auschwitz (see, for example, 82-86), and, as in the earlier book, it leads to an excessively one-sided or analytically reduced understanding of the victim as mere or naked life. Hence the camps are "the site of the production of the Muselmann, the final biopolitical substance to be isolated in the biological continuum. Beyond the Muselmann lies only the gas chamber" (85). Agamben's notion of mere, bare, or naked life may in important ways apply to the reduced state of the Muselmann and to one dimension of other victims insofar as they were considered mere raw material or stock, treated as vermin, or hunted as "mere" game by perpetrators and bystanders. (It may also apply to recent conceptions of the other-than­human animal, for example, in the mass production of foodstuff.)' But, as I shall try to indicate, it eliminates or ignores other aspects of Nazi ideology and practice with regard to victimization. Agamben himself, moreover, sees the Muselmann not as mere life but as a thresh­old figure: he or she "marks the threshold between the human and the inhuman" (55). How the notions of Muselmann as naked life and as marker of a threshold relate to each other is not clear, but in any case, for Agamben, "the sight of Muselmanner is an absolute new phe­nomenon, unbearable to human eyes" (51). In the Muselmann we pre­sumably behold and bear witness to the absolutely, blindingly, even apocalyptically new. And in our relation to Auschwitz and the Musel­mann, we are decidedly within a postapocalyptic condition of exis­tence, a condition of remnants or perhaps of ruins.' Here one may mention the importance for Agamben of Carl Schmitt's notion of the state of exception.24 He does not examine to any significant extent Schmitt's ideas on secularization as the dis­placement of the religious to the secular which, I think, might in certain ways inform a treatment of the sublime, including unthema­tized dimensions of Agamben's own thought, for example, its insis­tence, if not fixation, on the dubious human/nonhuman opposition and its relation to the sublimely apocalyptic and postapocalyptic. In the **runaway state of exception** (which seems close to Schmitt's state of emergency), the exception becomes the rule (hence the distinction between rule and exception becomes blurred or breaks down), and preexisting normative and legal orders are **suspended**. The sovereign is one who declares and decides on the state of exception. Agamben sees this condition as generalized or rampant in the post-Auschwitz world, and this allows him to assert that the camp is the prototype of modern life and that **Auschwitz is now everywhere**. As he puts the point in one of his more resounding declamations: "Behind the pow­erlessness of God peeps the powerlessness of men, who continue to cry 'May that never happen again!' when it is clear that 'that' [Auschwitz] is, by now, everywhere." The postapocalyptic Auschwitz-now-everywhere hyperbole is one insistently repeated and variously reformulated feature of Agamben's account that lends itself to an elated, seemingly radical, breathlessly ecstatic discourse of the sublime. Hence in his chapter "The Witness," after putting forth a pathos-charged, participatory evocation of Levi's discussion of the wordless child Hurbinek (who utters an "obstinately secret" word whose meaning is undecidable—the word mass-kb o or matisklo, which Agamben approximates to "the secret word that Levi discerned in the 'background noise' of Celan's poetry" [381), he ends with these intri­cately straining (unsayable?) words (reminiscent of certain passages in Foucault's Histoire de la folie): "The trace of that to which no one has borne witness, which language believes itself to transcribe, is not the speech of language. The speech of language is born where language is no longer in the beginning, where language falls away from it simply to bear witness: 'It was not light, but was sent to bear witness to the light— (39).25 One might, however, also argue that the hyperbole (even the cryptic prophetic mode) allows for a justifiable sense of urgency and indi­cates the limitations of ethics or politics as usual or indeed of any useful, easy, or even immediately accessible approach to problems. Indeed if one agrees with Agamben, he is not being hyperbolic but lucid in the arresting manner of the child who sees that the emperor has no clothes—that the post-Auschwitz world is itself utterly bereft or bankrupt, irremediably ruined and in dire need of some incon­ceivably new politics and ethics. In any event, one (or at least I) would like to know more than Agamben provides about the usual or con­ventional state of ethics and its relation to traditions. One result of his procedure is that he offers little room for immanent critique or decon­struction based on a careful analysis of the past and the "unre­deemed" possibilities it may offer for action in the present and future (the possibilities that interested Walter Benjamin in his historical and critical dimension—Benjamin's more decidedly apocalyptic-mes­sianic moments are the ones that captivate Agamben). One may well argue that Auschwitz itself provided no such possibilities either in itself or in its aftermath, and this would seem to be Agamben's view. But one may contest this view without going to the other extreme of spiritual uplift or fixation on the moments of resistance (the Warsaw ghetto uprising, for example) or of mutual aid in the most dire of cir­cumstances (some instances of which Levi recounts and which appear in many **survivor testimonies**). One may also contest Agamben's view while recognizing the importance of sustained reflection on the Musel­mann and, more generally, on the question of posttraumatic repetition of the conditions and experience of victimization, including extreme disempowerment and harrowing isolation, even in survivors who have in certain significant respects reconstructed a life "after Auschwitz."'

**Exception-as-norm paradigm detaches life from any historical and social content. Pursuit of whatever being eliminates concern for those parts of life that people actually care about.**

Jef **HUYSMANS** Security Studies @ Open **‘8** “The Jargon of Exception—On Schmitt, Agamben and the Absence of Political Society” *International Political Sociology* 2 p. 173-176

In line with Benjamin’s notion of divine violence, Agamben draws a radical, systemic split between law and politics. Life is no longer politically enacted through a dialectic play between a normative force that seeks to constrain politics by crystallizing a rigid normative system and an anomic political force that seeks to transgress law by applying the force-of-law without norms. Politics and law become both simply living practices that may refer to each other but that are actually not related (Agamben 2003). For Agamben, this condition of the exception-as-the-rule makes debates about suspending rights of due process to address a severe security threat, seeking to reframe the ‘‘balance’’ between liberty and security, and asserting the necessity of executive decision to tackle a severe crisis illusory. They attempt to reproduce a situation in which power remains defined in its relation to law—either constrained by it or transcending it—when in fact the dialectic between anomie and law that makes such references politically significant no longer operates effectively. These ‘‘illusory’’ debates are not without political significance, however. It has an important ideological function, according to Agamben. They nurture the idea that law has still a grip on politics and life, while the practices that are deployed are radically detached from any legal framework. In hiding this radical change in the nature of political power, debates like the one on reconciling liberty and security become an ideological move that reads a radical transformation in the exercise of power back into a familiar framework as if nothing has really changed. In Agamben’s understanding of the current predicament, such a move sustains the direct exercise of political power on life which manifests itself among others in camps but also in the violent interventionist international politics following 9 ⁄ 11 (Agamben 2003:144–148). Agamben’s exception-as-the-rule differs from the idea that law is a political fig leaf. The point is not that law is used to legitimate self-interest but the more radical idea that the relation between law and politics has become an historical ontological irrelevance. Under the exception-as-the-rule, politics does not require law to legitimate itself; political history is beyond the legal ⁄ political dialectic. The idea of legitimacy retains the idea that the relation between law, as a legitimating practice, and political power is an important stake that structures political debate and practice. Defining the new politics of exception-as-the-rule, however, are the practices that radically separate power—and violence—from law (Agamben 2003:148). In the latter condition, politically significant life runs its course without regard for law or legal practice and law becomes a self-referential practice that operates at a great distance from factual life. It is a condition of anomie that is empty of any determination of life (Agamben 2003:89–109). This leads us to the second difference between Schmittean exceptionalism and Agamben’s definition of the exception-as-the-rule. The Specter of Pure Life and the Dissolution of ‘‘Society’’ Despite its critique of Schmitt’s conception of exception, Agamben’s reading of the exception-as-the-rule produces a similar effect to Schmitt’s. It squeezes the societal out of the political diagram. In Agamben’s work, this is not done by focusing sovereignty onto the tension between law and the need for transgressive government and absorbing the people into the political leadership by means of nationalism and a politics of fear, but rather by putting the political significance of ‘‘life’’ as the defining political question. In the exception-being-the-rule, the specter of dictatorship, that was central to the Schmittean problematique of exception, dissolves and is displaced by a new framing of politics: a specter of pure life (Agamben 2003:107). As argued above, the political significance of society was a defining element within which the Schmittean politics of exception sought to delete ‘‘the political capacity of society’’ by writing it out of the very concept of the political and by collapsing the sociality of the people into a Volk brought into existence by fear of the enemy and the Fuhrer. But that also implied that societal categories and mobilizations remained visible in Schmitt’s work as a defining political stake whose politicization and depoliticization is at the heart of the political and intellectual struggle. In Agamben’s reading of the exception-as-the-rule, this stake is redefined. The category of ‘‘life’’ takes precedence over societal categories, like class, socioeconomic exclusions, and pluralism of interests. The latter categories are not deleted but reframed in biopolitical terms in which the distinction between ‘‘anomic life’’ and ‘‘mediated life’’ is central. ‘‘Society’’ referred to a multiplicity of categories of human life, each rendered through specific mediations. Mediations like interests, socio-economic property relations, and nationality constituted life into various political societal subjectivities (for example, class, interest group) and processes (for example, interest competition, polarized struggle over property rights). The notion of ‘‘naked’’ or ‘‘anomic life’’ fades out the importance of these mediations for contemporary politics and asserts that under the exceptionasthe-rule today ‘‘life-as-such’’ has become the defining political stake. For example, when discussing the question ‘‘What is a people?’’ Agamben introduces the people as a split category (Agamben 2000:30–32) that can refer to both the subjects excluded from politics and the politically included citizens. The former are identified as naked life. The important move here is the specific rendition of the split in biopolitical rather than sociopolitical or socioeconomic terms. For Agamben, the key element is that the excluded are identified as naked life. A socioeconomic reading of exclusion would read the split in terms of ownership of the means of production (class) or access to market opportunities (liberal economic exclusion) rather than a mere reduction to naked life. The category of life, thus, does not simply substitute for the category of class but renders the latter in different terms. For Agamben, politics today centers on conceptions of life that are simply factual. Life in biopolitical times becomes pure life. It is a means that presents itself in its own mediality, that is, without deriving its meaning from the ends it seeks to realize (Agamben 2000, 2003:103–105). This conception of life can be called ‘‘anomic’’ because it exists purely in relation to itself. It is defined neither through its relation to external legal, economic, and other ends nor through histories of the constitution and contestation of certain forms of life, like for example legal life, that is both mediated by and mediating law, and contests of universal norms, or class life, that is both constituted by and constituting socioeconomic relations and conflict. To understand the implication of inserting pure life as the defining category of exceptional politics, it is worth recalling Adorno’s critique of Heidegger and other existentialist jargons of authenticity (Adorno 1973 [1964]). The jargon puts the assertion of and search for authentic life at the heart of human being. Authenticity emerges when human being frees itself from the technological, legal, and socioeconomic mediations that alienate human life in the industrialized, modern world. In the ‘‘jargon of authenticity,’’ objective forms, like money, positive law, technology, and instrumental rationality are seen to increasingly dominate individual and social life. These forms ‘‘cage’’ human beings to such an extent that they can only recover their true, natural or original being in exceptional circumstances. The exception is a condition that radically disrupts the instrumental rationality, objective forms, and everyday routine, thus throwing human being onto itself. Life becomes factual rather than mediated. In his The Jargon of Authenticity, Adorno critiques this view from a position that recognizes that the objective forms and mediations are central to human history. They constitute human subjectivities and the spaces and times of social struggle and solidarity. Asserting an undifferentiated factuality of life strips away these socioeconomic forms that constitute life into something social. Existentialist assertions of the very facticity of life suppress what Lowith called the traditional content of life (Lowith 1993:174) and what Adorno refers to as historical consciousness (Adorno 1973 [1964]). When authentic being emerges through destroying public, intersubjectively exchanged criteria that define what kind of content of life, what traditions of life are valuable, it empties history into mere being. History becomes an empty plane upon which anything can happen, but nothing can be finally decided (Weber 1992:14–15). This view of history ‘‘de-societalizes’’ subjectivity. Authentic subjects do not know historical determination. They create their own destiny ex nihilo without being able to argue the validity of the choice, except on the basis that they have authentically chosen it. ‘‘Since it is denied any objective determination, authenticity is determined by the arbitrariness of the subject, which is authentic to itself’’ (Adorno 1973 [1964]:103).9 In making naked, anomic life the defining specter of politics, the form of exceptionalism that Agamben refers to, produces similar political effects to the jargon of authenticity. It is a move that does not simply depoliticize histories of sociopolitical struggles and the locales of these struggles. The metaphysics of pure life seeks to ontologically erase them. The result is an apocalyptic political vision in which not fear of the enemy but the collapse of order into anomic, selfreferential life is the defining principle of politics. Agamben captures this by referring to the emergence of pure life as a ‘‘catastrophe’’ that collapses the juridico-political order and its conception of sovereignty.10 But, as stated above, anomy as pure life is not limited to a lack of legal mediations. It is a collapse of sociality, of instituted mediations that structure human life into a sociopolitical order. These include among others technological processes, traditional institutions as the family, and market mediations that structure human interaction. For human life to become self-referential—that is, naked—it requires the destruction of the very possibility of order understood in terms of a political sociality structured through various processes that mediate between life and collective ends. The politics of exception that emerges here is a political struggle between on the one hand governmental renditions of and acting upon bare life—the sovereign objectification of life as an object of governance without any reference to generalized mediations—and on the other the ‘‘freedom’’ of life as anomie—the fundamentally unmediated, purely contingent, anomic nature of life that ‘‘throws’’ itself into the world. Agamben thus introduces a political choice between camps and embracing anomie as the defining stake in modern conceptions of politics. The choice is between two forms of political power. The camp refers to a form of power that renders and directly acts upon bodies as mere physical life. It is ‘‘a space in which power confronts nothing other than pure biological life without any mediation’’ (Agamben 2000:40). Anomie is the revolutionary matrix of a politics of life, reminiscent of Benjamin’s divine violence, in which life is not an object but a subject of power, an agency that flows, changes, exists. ‘‘Politics is…the sphere of a pure mediality without end intended as the field of human action and of human thought’’ (Agamben 2000:116). To sum up, in his conception of the exception-as-the-rule, Agamben defines the condition which is both the limit of the politics of exception—the condition where the dialectic between the exception (anomie) and the norm (the law) breaks down—and its completion—when the exception autonomously defines the political. What happens here is that the Schmittean politics of exception collapses and at the same time realizes one of its strategic goals, that is, the elimination of the societal as a constitutive part of politics. Agamben’s biopolitical reading of the exception-being-the-rule ontologically erases the problematique of the political capacity and significance of ‘‘the people’’ as a multidimensional differentiated sociality. Schmitt’s ambitions may have been to do something similar by formulating a pure, authentic and autonomous concept of the political but he did not want to let go of the constitutional drive to folding the legal exception ultimately back into a (new) constitutional order. Nor could he escape retaining the societal as a defining stake of the political struggle. In his time, the political significance and constitution of the societal was a defining stake of political battles between conservative and progressive positions in both politics and political theory. As a result, the category of the political significance of the societal could be contested but not ontologically erased from the framing of politics. In Agamben’s conception of exceptionalism, the dialectic between law and politics collapses and ‘‘the problematique of the societal’’ is no longer visible. It has been displaced by the direct exercise of power upon life and the anomic condition of life that exists in its own mediality, that is, without ends.

**Globalizing the state of exception annihilates spatial and temporal difference. This turns the case – compressing different phenomena into a singular coherent logical structure accelerates political activity into a messianic moment.**

Ichiro **TAKAYOSHI** English @ Tufts **’11** “Can philosophy explain Nazi violence? Giorgio Agamben and the problem of the ‘historico-philosophical’ method” *Journal of Genocide Research* 13 p. 60-62

The second lesson is related to the larger problem that frames this case study: Can philosophy explain Nazi violence? The above assessment of Agamben’s treatment of the ‘euthanasia’, the camp system, and Hitler’s law revealed many tendencies characteristic of his ‘historico-philosophical’ method. Among the most important are: (1) literalism; (2) failure to consider partial explanations; (3) **de-contextualization**; and (4) the naturalization of logic (that is, **conflation** of **conceptual reasoning** with the **logic of events**).41 These tactics can be traced to as many corresponding assumptions about the nature of historical investigation and the investigator’s relation to it. The first technique enables the philosopher to contrive a linguistic unity out of diverse phenomena. If one attaches the same label to different objects, the oneness of these objects, no matter how incommensurable in other respects, is established verbally. This explains why Agamben tends to take rhetorical plays of historical documents on faith, when doing so furthers the amalgamation of disparate objects, events, sites, and actors. Also, the verbal unification of objective phenomena—the creation of the verbal ‘zone of indistinction’— reflects another assumption underlying the second shortcoming. As his impatience with partial answers attests, Agamben imagines the causes and goals behind the various instances of Nazi violence as singular. This faith in the single cause and single purpose, when the unity in operation cannot be found, leads the philosopher to supply the missing unity in language. The faith in the unity of phenomena is a progenitor of the unity in discourse; the latter is a methodological necessity for the former. Agamben’s penchant for de-contextualization is quite expected in a thinker who defines ‘historico-philosophical’ method by opposition to historicism. By historicism I mean a pessimistic credo prevalent among researchers that a void in the body of knowledge can be partially filled over the long course of a cumulative process, but because this process is only additive and never transformative the void will remain open forever. It presupposes the imperfectability hard-wired in all research projects, and this presupposition is in turn informed by a secularist view that there will never come the Day of Judgement when humankind is redeemed and all moments in the past become citable.42 This hopelessness contrasts with Agamben’s optimism; he tells us that the truth has eluded his predecessors, including Hannah Arendt and Michel Foucault, the two main sources of inspiration in Homo Sacer, because they chose to occupy a wrong vantage point. The inevitable implication is that an adjustment to the theoretic perspective, not an endless muddling through, opens the **passageway to historical truth.** This **messianic perspectivism** partially explains the unusual proliferation of the ‘only from this perspective can we understand’ type of sentence constructions throughout Homo Sacer. An esoteric truth discloses itself ‘only if’ it is contemplated from a special ‘perspective’ he recommends. Contra historicism, this modality of investigation conceives of **truth as an instantaneous and eternal epiphany** (the two adjectives mean the same thing), a holographic figure that flashes before the eye of the spectator when gazed at from an appropriate angle. The whole secret would remain, Agamben warns the reader, ‘otherwise unintelligible’. And the secret Agamben discovers is often troubling. In one of the most uncertain passages in Homo Sacer, Agamben writes: The stadium in Bari into which the Italian police in 1991 provisionally herded all illegal Albanian immigrants before sending them back to their country, the winter cycle-racing track in which the Vichy authorities gathered the Jews before consigning them to the Germans, the Konzentrationslager fur Auslander in Cottbus-Sielow in which the Weimar Government gathered Jewish refugees from the East, or the zones d’attentes in French international airports in which foreigners asking for refugee status are detained will then all equally be the camps. (174) If we were to believe Agamben, all these dissimilar sites scattered across time and space share one decisive feature: they all exemplify the ‘creation of a space in which bare life and the juridical rule enter into a threshold of indistinction’ (174). But the unity of these objects is perspectival, existing only in the mind of the Knower by virtue of their contiguity and juxtaposition in his experience of knowing, the experience whose psychological reality overrides the reality of physical disjunctions and blockages among these objects of contemplation. This passage can be also read as an illustration of the fourth and last tactic, namely, Agamben’s tendency to naturalize the logic of thinking. The quote conveys a vivid feel of a certain style of thinking that is assured of its unmolested automaticity because it knows that its intellectual life is independent of the world, history, and experience. ‘If this is true, if the essence of the camp consists in the materialization of the state of exception . . . then’, so Agamben reasons. Logic in human thought, however, often deviates from logic in nature and history, even if its starting-point is anchored in a robust referentiality. When one’s premise does not bottom out on historical experience in any meaningful way, as is often the casewith Agamben’s speculations, the best one could hope is to gain historical truth by happenstance.

**Assembling our critique of the intersection of identities used to detain the terrorist should not conceptualize detention as a state of exception**

**Framing executive overreach as globalizing the paradigm of the state of exception precludes effective political responses. Our alternative is a pre-requisite for an effective confrontation with the unitary executive.**

Ernesto **LACLAU** Political Theory @ Essex **‘7** in *Giorgio Agamben: Sovereignty and Life* eds. Matthew Calarco and Steven DeCaroli p. 21-22

Needless to say, we fully reject Agamben's third thesis, according to which the **concentration camp** is the **nomos** or **fundamental biopolitical paradigm** of the West. He asserts: The birth of the camp in our time appears as an event that decisively signals the political space of modernity itself. It is produced at the point at which the politi­cal system of the modern nation-state, which was founded on the functional nexus between a determinate localization (land) and a determinate order (the State) and mediated by automatic rules for the inscription of life (birth or the nation), enters into a lasting crisis, and the State decides to assume directly the care of the nation's biological life as one of its proper tasks. . . . Something can no longer function within the traditional mechanisms that regulated this inscription, and the camp is the new, hidden regulator of the inscription of life in the order—or, rather, the sign of the system's inability to function without being transformed into a lethal machine. (HS, 174-75) This series of wild statements would only hold if the following set of rather dubious premises were accepted: I. That the crisis of the functional nexus between land, State, and the automatic rules for the inscription of life has freed an entity called "biological—or bare—life" That the regulation of that freed entity has been assumed by a single and unified entity called the State That the inner logic of that entity necessarily leads it to treat the freed entities as entirely malleable objects whose archetypical form would be the ban Needless to say, none of these presuppositions can be accepted as they stand. Agamben, who has presented a rather compelling analysis of the way in which an ontology of potentiality should be structured, clos­es his argument, however, with a naïve teleologism, in which **potentiality appears as entirely subordinated to a pre-given actuality**. This teleologism is, as a matter of fact, the symmetrical pendant of the "ethymologism" we have referred to at the beginning of this essay. Their combined effect is to divert Agamben's attention from the really relevant question, which is the system of structural possibilities that each new situation opens. The most summary examination of that system would have revealed that: (1) the crisis of the "automatic rules for the inscription of life" has freed many more entities than "bare life," and that the reduction of the latter to the former takes place only in some extreme circumstances that **cannot** in the least be considered as a **hidden pattern** of modernity; (z) that the pro­cess of social regulation to which the dissolution of the "automatic rules of inscription" opens the way involved a plurality of instances that were far from **unified in a single unity called "the State**"; (3) that the process of State building in modernity has involved a **far more complex** dialec­tic between homogeneity and heterogeneity than the one that Agamben's ‘`**camp-based" paradigm** reflects. By unifying the whole process of mod­ern political construction around the extreme and absurd paradigm of the concentration camp, Agamben does more than present a distorted his­tory: he blo**cks any possible exploration of the emancipatory possibilities opened by our modern heritage.** Let me conclude with a reference to the question of the future as it can be thought from Agamben's perspective. He asserts: "Only if it is pos­sible to think the Being of abandonment beyond every idea of law (even that of the empty form of laws being in force without significance) will we have moved out of the paradox of sovereignty towards a politics freed from every ban. A pure form of law is only the empty form of relation. Yet the empty form of relation is no longer a law but a zone of indistinguishabil­ity between law and life, which is to say, a state of exception" (HS, 59). We are not told anything about what a movement out of the paradox of sover­eignty and "towards a politics freed from every ban" would imply. But we do not need to be told: the formulation of the problem already involves its own answer. To be beyond any ban and any sovereignty means, simply, to be **beyond politics.** The **myth of a fully reconciled society** is what governs the (non-)political discourse of Agamben. And it is also what **allows him to dismiss all political options** in our societies and to unify them in the concentration camp as their secret destiny. Instead of deconstructing the logic of political institutions, showing areas in which forms of struggle and resistance are possible, he closes them beforehand through an essentialist unification. Political nihilism is his ultimate message.

**1NC Case**

**Turn – ending indefinite detention results in catastrophic terrorism and kills hegemony**

**Goldsmith 9**—Jack, Henry L. Shattuck Professor at Harvard Law School [February 4, 2009, “Long-Term Terrorist Detention and Our National Security Court,” http://www.brookings.edu/~/media/research/files/papers/2009/2/09%20detention%20goldsmith/0209\_detention\_goldsmith.pdf]

These three concerns challenge the detention paradigm. They do nothing to eliminate the need for detention to prevent detainees returning to the battlefield. But many believe that we can meet this need by giving trials to everyone we want to detain and then incarcerating them under a theory of conviction rather than of military detention. I disagree. For many reasons, **it is too risky for the U.S. government to deny itself the traditional military detention power altogether**, and to commit itself instead to try or release every suspected terrorist. For one thing, military detention will be necessary in Iraq and Afghanistan for the foreseeable future. For another, **we likely cannot secure convictions of all of the dangerous terrorists at Guantánamo, much less all future dangerous terrorists**, who legitimately qualify for non-criminal military detention. The evidentiary and procedural standards of trials, **civilian and military alike**, are much higher than the analogous standards for detention. With some terrorists too menacing to set free, the standards will prove difficult to satisfy. Key evidence in a given case may come from overseas and verifying it, understanding its provenance, or establishing its chain of custody in the manners required by criminal trials may be difficult. This problem is exacerbated when evidence was gathered on a battlefield or during an armed skirmish. The problem only grows when the evidence is old. And perhaps most importantly, the use of such evidence in a criminal process **may compromise intelligence sources and methods**, requiring the disclosure of the identities of confidential sources or the nature of intelligence-gathering techniques, such as a sophisticated electronic interception capability. Opponents of non-criminal detention observe that despite these considerations, the government has successfully prosecuted some Al Qaeda terrorists—in particular, Zacharias Moussaoui and Jose Padilla. This is true, but it does not follow that prosecutions are achievable in every case in which disabling a terrorist suspect represents a surpassing government interest. Moreover, the Moussaoui and Padilla prosecutions highlight an under-appreciated cost of trials, at least in civilian courts. The Moussaoui and Padilla trials were messy affairs that stretched, and some observers believe broke, our ordinary criminal trial conceptions of conspiracy law and the rights of the accused, among other things. The Moussaoui trial, for example, watered down the important constitutional right of the defendant to confront witnesses against him in court, and the Padilla trial rested on an unprecedentedly broad conception of conspiracy.15 An important but under-appreciated cost of using trials in all cases is that these prosecutions will invariably bend the law in ways unfavorable to civil liberties and due process, and these changes, in turn, will invariably spill over into non-terrorist prosecutions and thus skew the larger criminal justice process.16 A final problem with using **any trial system, civilian or military, as the sole lawful basis for terrorist detention is that the trials can result in short sentences** (as the first military commission trial did) **or even acquittal** of a dangerous terrorist.17 In criminal trials, guilty defendants often go free because of legal technicalities, government inability to introduce probative evidence, and other factors beyond the defendant's innocence. These factors are all exacerbated in terrorist trials by the difficulties of getting information from the place of capture, by classified information restrictions, and by stale or tainted evidence. One way to get around this problem is to assert the authority, as the Bush administration did, to use non-criminal detention for persons acquitted or given sentences too short to neutralize the danger they pose. But **such an authority would undermine the whole purpose of trials and would render them a sham**. As a result, putting a suspect on trial can make it hard to detain terrorists the government deems dangerous. For example, the government would have had little trouble defending the indefinite detention of Salim Hamdan, Osama Bin Laden's driver, under a military detention rationale. Having put him on trial before a military commission, however, it was stuck with the light sentence that Hamdan is completing at home in Yemen. As a result of these considerations, insistence on the exclusive use of criminal trials and the elimination of non-criminal detention would **significantly raise the chances of releasing dangerous terrorists** who would return to kill Americans or others. Since noncriminal military detention is clearly a legally available option—at least if it is expressly authorized by Congress and contains adequate procedural guarantees—this risk should be unacceptable. In past military conflicts, the release of an enemy soldier posed risks. But they were not dramatic risks, for there was only so much damage a lone actor or small group of individuals could do.18 Today, however, **that lone actor can cause far more destruction and mayhem because technological advances are creating ever-smaller and ever-deadlier weapons**. It would be astounding if the American system, before the advent of modern terrorism, struck the balance between security and liberty in a manner that precisely reflected the new threats posed by asymmetric warfare. We face threats from individuals today that are of a different magnitude than threats by individuals in the past; having government authorities that reflect that change makes sense.

**That causes extinction**

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Hundreds of scientific papers and reports have been published on nuclear terrorism. International conferences have been held on this threat with participation of Russian organizations, including IMEMO and the Institute of U.S. and Canadian Studies. Recommendations on how to combat the threat have been issued by the International Luxembourg Forum on Preventing Nuclear Catastrophe, Pugwash Conferences on Science and World Affairs, Russian-American Elbe Group, and other organizations. The UN General Assembly adopted the International Convention for the Suppression of Acts of Nuclear Terrorism in 2005 and cooperation among intelligence services of leading states in this sphere is developing.¶ At the same time, these efforts fall short for a number of reasons, partly because various acts of nuclear terrorism are possible. Dispersal of radioactive material by detonation of conventional explosives (“dirty bombs”) is a method that is most accessible for terrorists. With the wide spread of radioactive sources, raw materials for such attacks have become much more accessible than weapons-useable nuclear material or nuclear weapons. The use of “**dirty bombs**” will not cause many immediate casualties, but it will result into long-term radioactive contamination, contributing to the spread of **panic and socio-economic destabilization**.¶ Severe **consequences can be caused by sabotaging nuclear power plants, research reactors, and radioactive materials storage facilities. Large cities are especially vulnerable to such attacks. A large city may host dozens of research reactors with a nuclear power plant or a couple of spent nuclear fuel storage facilities and dozens of large radioactive materials storage facilities located nearby.** The past few years have seen significant efforts made to enhance organizational and physical aspects of security at facilities, especially at nuclear power plants. Efforts have also been made to improve security culture. But these efforts do not preclude the possibility that **well-trained terrorists may be able to penetrate nuclear facilities**.¶ Some estimates show that sabotage of a research reactor in a metropolis may expose hundreds of thousands to high doses of radiation. A formidable part of the city would become uninhabitable for a long time.¶ Of all the scenarios, it is building an improvised nuclear device by terrorists that poses the maximum risk. **There are no engineering problems that cannot be solved if terrorists decide to build a simple “gun-type” nuclear device.** Information on the design of such devices, as well as implosion-type devices, is available in the public domain. It is the acquisition of weapons-grade uranium that presents the sole serious obstacle. Despite numerous preventive measures taken, we cannot rule out the possibility that such materials can be bought on the black market. **Theft of weapons-grade uranium is also possible**. Research reactor fuel is considered to be particularly vulnerable to theft, as it is scattered at sites in dozens of countries. There are about 100 research reactors in the world that run on weapons-grade uranium fuel, according to the International Atomic Energy Agency (IAEA).¶ A terrorist “gun-type” uranium bomb can have a yield of least 10-15 kt, which is **comparable to the yield of the bomb dropped on Hiroshima**. The explosion of such a bomb in a modern metropolis can kill and wound hundreds of thousands and cause serious economic damage. There will also be long-term sociopsychological and political consequences.¶ The vast majority of states have introduced unprecedented security and surveillance measures at transportation and other large-scale public facilities after the terrorist attacks in the United States, Great Britain, Italy, and other countries. These measures have proved burdensome for the countries’ populations, but the public has accepted them as necessary. A nuclear terrorist attack will make the public accept further measures meant to enhance control even if these measures significantly restrict the democratic liberties they are accustomed to. Authoritarian states could be expected to adopt even more restrictive measures.¶ If a nuclear terrorist act occurs, nations will delegate tens of thousands of their secret services’ best personnel to investigate and attribute the attack. Radical Islamist groups are among those capable of such an act. We can imagine what would happen if they do so, given the anti-Muslim sentiments and resentment that conventional terrorist attacks by Islamists have generated in developed democratic countries. Mass deportation of the non-indigenous population and severe sanctions would follow such an attack in what will cause **violent protests in the Muslim world**. **Series of armed clashing terrorist attacks may follow**. The prediction that Samuel Huntington has made in his book “The Clash of Civilizations and the Remaking of World Order” may come true. Huntington’s book clearly demonstrates that it is not Islamic extremists that are the cause of the Western world’s problems. Rather there is a deep, intractable conflict that is rooted in the fault lines that run between Islam and Christianity. This is especially dangerous for Russia because these fault lines run across its territory. To sum it up, the political leadership of Russia has every reason to revise its list of factors that could undermine strategic stability.  BMD does not deserve to be even last on that list because its effectiveness in repelling massive missile strikes will be extremely low. BMD systems can prove useful only if deployed to defend against launches of individual ballistic missiles or groups of such missiles. Prioritization of other destabilizing factors—that could affect global and regional stability—merits a separate study or studies. But even without them I can conclude that nuclear terrorism should be placed on top of the list. **The threat of nuclear terrorism is real, and a successful nuclear terrorist attack would lead to a radical transformation of the global order**.  All of the threats on the revised list must become a subject of thorough studies by experts. States need to work hard to forge a common understanding of these threats and develop a strategy to combat them.

**Evil and violence are inevitable – critique of the US dominance and violence ensures worse violence**

**Brooks 1** [David Brooks, Senior Editor of the Weekly Standard, “The Age of Conflict; Politics and culture after September 11,” *Weekly Standard*, Volume 7, Number 8, November 5, 2001, Available Online via Lexis-Nexis]

Obviously nobody knows what the future years will feel like, but we do know that the next decade will have a central feature that was lacking in the last one: The next few years will be defined by conflict. And it's possible to speculate about what that means. The institutions that fight for us and defend us against disorder -- the military, the FBI, the CIA -- will seem more important and more admirable. The fundamental arguments won't be over economic or social issues, they will be over how to wield power -- whether to use American power aggressively or circumspectly. We will care a lot more about ends -- winning the war -- than we will about means. We will debate whether it is necessary to torture prisoners who have information about future biological attacks. We will destroy innocent villages by accident, shrug our shoulders, and continue fighting. In an age of conflict, bourgeois virtues like compassion, tolerance, and industriousness are valued less than the classical virtues of courage, steadfastness, and a ruthless desire for victory. Looking back, the striking thing about the 1990s zeitgeist was the presumption of harmony. The era was shaped by the idea that there were no fundamental conflicts anymore. The Cold War was over, and while the ensuing wars -- like those in Bosnia and Rwanda -- were nettle-some, they were restricted to global backwaters. Meanwhile, technology was building bridges across cultures. The Internet, Microsoft ads reminded us, fostered communication and global harmony. All around the world there were people casting off old systems so they could embrace a future of peace and prosperity. Chinese Communists were supposedly being domesticated by the balm of capitalist success. Peace seemed in the offing in Northern Ireland and, thanks to the Oslo process, in the Middle East. Bill Clinton and George W. Bush were elected president of the United States. Neither had performed much in the way of military service. Neither was particularly knowledgeable about foreign affairs. Both promised to be domestic-policy presidents. In that age of peace and prosperity, the top sitcom was Seinfeld, a show about nothing. Books appeared with titles like All Connected Now: Life in the First Global Civilization. Academics analyzed the twilight of national sovereignty. Commerce and communications seemed much more important than politics. Defense spending was drastically cut, by Republicans as well as Democrats, because there didn't seem to be any clear and present danger to justify huge budgets. The army tried to recruit volunteers by emphasizing its educational benefits, with narcissistic slogans like "An Army of One." Conservatives, of all people, felt so safe that they became suspicious of the forces of law and order. Conservative activists were heard referring to police as "bureaucrats with badges"; right-wing talk radio dwelt on the atrocities committed by the FBI, the DEA, and other agencies at places like Ruby Ridge and Waco. Meanwhile, all across the political spectrum, interest in public life waned, along with the percentage of adults who bothered to vote. An easy cynicism settled across the land, as more people came to believe that national politics didn't really matter. What mattered instead, it seemed, were local affairs, community, intimate relations, and the construction of private paradises. When on rare occasions people talked about bitter conflict, they usually meant the fights they were having with their kitchen renovators. Historians who want to grasp the style of morality that prevailed in the 1990s should go back to the work of sociologist Alan Wolfe. In books like One Nation, After All and Moral Freedom, Wolfe called the prevailing ethos "small scale morality." Be moderate in your beliefs, and tolerant toward people who have other beliefs. This is a moral code for people who are not threatened by any hostile belief system, who don't think it is worth it to stir up unpleasantness. "What I heard as I talked to Americans," Wolfe wrote of his research, "was a distaste for conflict, a sense that ideas should never be taken so seriously that they lead people into uncivil, let alone violent, courses of action." But now violence has come calling. Now it is no longer possible to live so comfortably in one's own private paradise. Shocked out of the illusion of self-reliance, most of us realize that we, as individuals, simply cannot protect ourselves. Private life requires public protection. Now it is not possible to ignore foreign affairs, because foreign affairs have not ignored us. It has become clear that we are living in a world in which hundreds of millions of people hate us, and some small percentage of them want to destroy us. That realization is bound to have cultural effects. In the first place, we will probably become more conscious of our American-ness. During the blitz in 1940, George Orwell sat in his bomb shelter and wrote an essay called "England Your England." It opened with this sentence: "As I write, highly civilised human beings are flying overhead, trying to kill me." What struck him at that moment of danger was that it really does matter whether you are English or German. The nation is a nursemaid that breeds certain values and a certain ethos. Orwell went on to describe what it meant to be English. Now Americans are being killed simply because they are Americans. Like Orwell, Americans are once again becoming aware of themselves as a nationality, not just as members of some ethnic community or globalized Internet chat group. Americans have been reminded that, despite what the multiculturalists have been preaching, not all cultures are wonderfully equal hues in the great rainbow of humanity. Some national cultures, the ones that have inherited certain ideas -- about freedom and democracy, the limits of the political claims of religion, the importance of tolerance and dissent -- are more humane than other civilizations, which reject those ideas. As criticism of our war effort grows in Europe, in hostile Arab countries, and in two-faced countries like Egypt and Saudi Arabia, which dislike our principles but love our dollars, Americans will have to articulate a defense of our national principles and practices. That debate in itself will shape American culture. We will begin to see ourselves against the backdrop of the Taliban. During the Cold War, we saw ourselves in contrast to the Soviet Union. Back then, we faced a godless foe; now we are facing a god-crazed foe. As we recoil from the Islamic extremists, we may be less willing to integrate religion into political life. That would mean trouble for faith-based initiatives and religion in the public square. On the other hand, democracies tend to become patriotic during wartime, if history is any guide, and this will drive an even deeper wedge between regular Americans and the intellectual class. Literary critic Paul Fussell, a great student of American culture in times of war, wrote a book, Wartime, on the cultural effects of World War II. Surveying the culture of that period, he endorsed the view of historian Eileen Sullivan, who wrote, "There was no room in this war culture for individual opinions or personalities, no freedom of dissent or approval; the culture was homogeneous, shallow and boring." The earnest conformity that does prevail in wartime drives intellectuals -- who like to think of themselves as witty, skeptical, iconoclastic dissidents -- batty. They grow sour, and alienated from mainstream life. For every regular Joe who follows the Humphrey Bogart path in Casablanca, from cynicism to idealism, there is an intellectual like Fussell, whose war experiences moved him from idealism to lifetime cynicism. There are other cultural effects. For example, commercial life seems less important than public life, and economic reasoning seems less germane than cultural analysis. When life or death fighting is going on, it's hard to think of Bill Gates or Jack Welch as particularly heroic. Moreover, the cost-benefit analysis dear to economists doesn't really explain much in times of war. Osama bin Laden is not motivated by economic self-interest, and neither are our men and women who are risking their lives to defeat him. To understand such actions, you need to study history, religion, and ethics. The people who try to explain events via economic reasoning begin to look silly. Here is the otherwise intelligent economist Steve Hanke, in Forbes, analyzing bin Laden: Don't make the mistake of interpreting the events of Sept. 11 purely in terms of terrorism and murder. . . . The terrorists are a virulent subset of a much larger group of anticapitalists, one that includes many politicians, bureaucrats, writers, media types, academics, entertainers, trade unionists and, at times, church leaders. The barbarians at the gates are more numerous than you thought. But the most important cultural effect of conflict is that it breeds a certain bloody-mindedness or, to put it more grandly, a tragic view of life. Life in times of war and recession reminds us of certain hard truths that were easy to ignore during the decade of peace and prosperity. Evil exists. Difficulties, even tragedies, are inevitable. Human beings are flawed creatures capable of monstrosity. Not all cultures are compatible. To preserve order, good people must exercise power over destructive people. That means that it's no longer sufficient to deconstruct ideas and texts and signifiers. You have to be able to construct hard principles so you can move from one idea to the next, because when you are faced with the problem of repelling evil, you absolutely must be able to reach a conclusion on serious moral issues. This means you need to think in moral terms about force -- and to be tough-minded. During the Cold War, Reinhold Niebuhr was a major intellectual figure. In 1952, he wrote The Irony of American History. The tragedy of the conflict with communism, he argued, was that, "though confident of its virtue, [America] must yet hold atomic bombs ready for use so as to prevent a possible world conflagration." The irony of our history, he continued, is that we are an idealistic nation that dreams of creating a world of pure virtue, yet in defeating our enemies we sometimes have to act in ways that are not pure. "We take, and must continue to take, morally hazardous action to preserve our civilization," Niebuhr wrote. "We must exercise our power." We have to do so while realizing that we will not be capable of perfect disinterestedness when deciding which actions are just. We will be influenced by dark passions. But we still have to act forcefully because our enemies are trying to destroy the basis of civilization: "We are drawn into an historic situation in which the paradise of our domestic security is suspended in a hell of global insecurity." Niebuhr's prescription was humble hawkishness. He believed the United States should forcefully defend freedom and destroy its enemies. But while doing so, it should seek forgiveness for the horrible things it might have to do in a worthy cause. To reach this graduate-school level of sophistication, you have to have passed through elementary courses in moral reasoning. It will be interesting to see whether we Americans, who sometimes seem unsure of even the fundamental moral categories, can educate ourselves sufficiently to engage in the kind of moral reasoning that Niebuhr did. The greatest political effect of this period of conflict will probably be to relegitimize central institutions. Since we can't defend ourselves as individuals against terrorism, we have to rely on the institutions of government: the armed forces, the FBI, the CIA, the CDC, and so on. We are now only beginning to surrender some freedoms, but we will trade in more, and willingly. As Alexander Hamilton wrote in the Federalist Papers, "Safety from external danger is the most powerful director of national conduct. Even the ardent love of liberty will, after a time, give way to its dictates. . . . To be more safe, [people] at length become willing to run the risk of being less free." Moreover, we will see power migrate from the states and Capitol Hill to the White House. "It is of the nature of war to increase the executive at the expense of the legislative authority," Hamilton continued. This creates rifts on both left and right, because both movements contain anti-establishment elements hostile to any effort to relegitimize central authorities. The splits have been most spectacular on the left. Liberals who work in politics -- Democrats on Capitol Hill, liberal activists, academics who are interested in day-to-day politics -- almost all support President Bush and the war effort. But many academic and literary leftists, ranging from Eric Foner to Susan Sontag to Noam Chomsky, have been sour, critical, and contemptuous of America's response to September 11. The central difference is that the political liberals are comfortable with power. They want power themselves and do not object to the central institutions of government, even the military, exercising power on our behalf. Many literary and academic liberals, on the other hand, have built a whole moral system around powerlessness. They champion the outgroups. They stand with the victims of hegemony, patriarchy, colonialism, and all the other manifestations of central authority. Sitting on their campuses, they are powerless themselves, and have embraced a delicious, self-glorifying identity as the out-manned sages who alone can see through the veils of propaganda in which the powerful hide their oppressive schemes. For these thinkers, virtue inheres in the powerless. The weak are sanctified, not least because they are voiceless and allegedly need academics to give them voices. These outgroup leftists dislike the Taliban, but to ally themselves with American power would be to annihilate everything they have stood for and the role they have assigned themselves in society.

**Identifying and preparing for threats is a security requirement of the first order – the alternative is surprise threats and escalation of conflict**

**Doran 99**—Charles F. Doran, Andrew W. Mellon Professor of International Relations at Johns Hopkins University [“Is major war obsolete? An exchange,” *Survival*, Volume 41, Issue 2, Summer, 1999, Proquest]

The conclusion, then, is that the probability of major war declines for some states, but increases for others. And it is very difficult to argue that it has disappeared in any significant or reliable or hopeful sense. Moreover, a problem with arguing a position that might be described as utopian is that such arguments have policy implications. It is worrying that as a thesis about the obsolescence of major war becomes more compelling to more people, including presumably governments, the tendency will be to forget about the underlying problem, which is not war per se, but security. And by neglecting the underlying problem of security, the probability of war perversely increases: as governments fail to provide the kind of defence and security necessary to maintain deterrence, one opens up the possibility of new challenges. In this regard it is worth recalling one of Clauswitz's most important insights: A conqueror is always a lover of peace. He would like to make his entry into our state unopposed. That is the underlying dilemma when one argues that a major war is not likely to occur and, as a consequence, one need not necessarily be so concerned about providing the defences that underlie security itself. History shows that surprise threats emerge and rapid destabilising efforts are made to try to provide that missing defence, and all of this contributes to the spiral of uncertainty that leads in the end to war.

**Extinction first**

**Gelven ’94** (Michael, Prof. Phil. – Northern Illinois U., “War and Existence: A Philosophical Inquiry”, p. 136-137)

The personal pronouns, like "I" and "We," become governed existentially by the possessive pronouns, like "ours," "mine," "theirs"; and this in turn becomes governed by the adjective "own." What is authentic becomes what is our own as a way of existing. The meaning of this term is less the sense of possession than the sense of belonging to. It is a translation of the German eigen, from which the term eigentlich (authentic) is derived. To lose this sense of one's own is to abandon any meaningfulness, and hence to embrace nihilism. To be a nihilist is to deny that there is any way of being that is our own; for the nihilist, what is one's own has no meaning. The threat here is not that what is our own may yield to what is not, but rather that the distinction itself will simply collapse. Unless I can distinguish between what is our own and what is not, no meaningfulness is possible at all. This is the foundation of the we-they principle. The pronouns in the title do not refer to anything; they merely reveal how we think. Like all principles, this existential principle does not determine specific judgments, any more than the principle of cause and effect determines what the cause of any given thing is. The we-they principle is simply a rule that governs the standards by which certain judgments are made. Since it is possible to isolate the existential meanings of an idea from the thinglike referent, the notions of we-ness and they-ness can be articulated philosophically. On the basis of this primary understanding, it is possible to talk about an "existential value," that is, the weight o. rank given to ways of existing in opposition to other kinds of value, such as moral or psychological values. But the principle itself is not, strictly speaking, a principle of value; it is an ontological principle, for its foundation is in the very basic way in which I think about what it means to be. The ground of the we-they principle is, quite simply, the way in which we think about being. Thus, it is more fundamental than any kind of evaluating or judging. One of the things that the authentic I can do, of course, is to concern itself with moral questions. Whether from a deontological sense of obligation or from a utilitarian projection of possible happiness, **an I that considers these matters nevertheless is presupposed by them**. Although authenticity and morality are distinct, a sense of who one is must precede a decision about how to act. Thus, the question of authenticity comes before the question of obligation. And since the worth of the I is generated from the prior worth of the we, it follows there can be no moral judgment that cancels out the worth of the I or the We. This is not to say that anything that benefits the we is therefore more important than what ought to be done. It is merely to say that any proper moral judgment will in fact be consistent with the integrity of the we. Thus, I would be morally prohibited from offending someone else merely for my own advantage, but no moral law would ever require me to forgo my existential integrity. This is true not only for moral questions but for any question of value whatsoever: all legitimate value claims must be consistent with the worth of the I and the We. It is only because my existence matters that I can care about such things as morality, aesthetics, or even happiness. Pleasure, of course, would still be preferable to pain, but to argue that one ought to have pleasure or even that it is good to have pleasure would simply reduce itself to a tautology: if I define pleasure as the satisfaction of my wants, then to say I want pleasure is tautological, for I am merely saying that I want what I want, which may be true but is not very illuminating. The existential worth of existing is therefore fundamental and cannot be outranked by any other consideration. Unless I am first meaningful, I cannot be good; unless I first care about who I am, I cannot genuinely care about anything else, even my conduct. To threaten this ground of all values, the worth of my own being, then becomes the supreme assault against me. To defend it and protect it is simply without peer. It is beyond human appeal or persuasion.

**Our impacts are true – best statistical studies prove**

**Owen 11** John M. Owen Professor of Politics at University of Virginia PhD from Harvard "DON’T DISCOUNT HEGEMONY" Feb 11 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**.¶ The same case can be made, with somewhat more difficulty, concerning the **spread of democracy**. Washington has supported democracy only under certain conditions—the chief one being the absence of a popular anti-American movement in the target state—but those conditions have become much more widespread following the collapse of communism. Thus in the 1980s the Reagan administration—the most anti-communist government America ever had—began to dump America’s old dictator friends, starting in the Philippines. Today Islamists tend to be anti-American, and so the Obama administration is skittish about democracy in Egypt and other authoritarian Muslim countries. But general U.S. material and moral support for liberal democracy remains strong.

# \*\*\*2NC T\*\*\*

# 2NC Can’t use the stable identity

#### Debate’s a process which solves their K’s of telos—only their model of debate causes ideological calcification

Morson 4—Northwestern prof (Greg, Bakhtinian Perspectives on Language, Literacy, and Learning, 330-1)

Nothing Conclusive A belief in truly dialogic ideological becoming would lead to schools that were quite different. In such schools, the mind would be populated with a complexity of voices and perspectives it had not known, and the student would learn to think with those voices, to test ideas and experiences against them, and to shape convictions that are innerly persuasive in response. This very process would be central. Students would sense that whatever word they believed to be innerly persuasive was only tentatively so: the process of dialogue continues. We must keep the conversation going, and formal education only initiates the process. The innerly persuasive discourse would not be final, but would be, like experience itself, ever incomplete and growing. As Bakhtin observes of the innerly persuasive word: Its creativity and productiveness consist precisely in the fact that such a word awakens new and independent words, that it organizes masses of our words from within, and does not remain in an isolated and static condition. It is not so much interpreted by us as it is further, that is, freely, developed, applied to new material, new conditions; it enters into interanimating relationships with new contexts. . . . The semantic structure of an innerly persuasive discourse is not finite,itis open; in each of the new contexts that dialogize it, this discourse is able to reveal ever newer ways to mean. (DI, 345– 6) We not only learn, we also learn to learn, and we learn to learn best when we engage in a dialogue with others and ourselves. We appropriate the world of difference, and ourselves develop new potentials. Those potentials allow us to appropriate yet more voices. Becoming becomes endless becoming. We talk, we listen, and we achieve an open-ended wisdom. Difference becomes an opportunity (see Freedman and Ball, this volume). Our world manifests the spirit that Bakhtin attributed to Dostoevsky: “nothing conclusive has yet taken place in the world, the ultimate word of the world and about the world has not yet been spoken, the world is open and free, everything is in the future and will always be in the future.” 3 Such a world becomes our world within, its dialogue lives within us, and we develop the potentials of our ever-learning selves. Let me draw some inconclusive conclusions, which may provoke dialogue. Section I of this volume, “Ideologies in Dialogue: Theoretical Considerations” and Bakhtin’s thought in general suggest that we learn best when we are actually learning to learn. We engage in dialogue with ourselves and others, and the most important thing is the value of the open-ended process itself.

Section II, “Voiced, Double Voiced, and Multivoiced Discourses in Our Schools” suggests that a belief in truly dialogic ideological becoming would lead to schools that were quite different. In such schools, the mind would be populated with a complexity of voices and perspectives it had not known, and the student would learn to think with those voices, to test ideas and experiences against them, and to shape convictions that are innerly persuasive in response. Teachers would not be trying to get students to hold the right opinions but to sense the world from perspectives they would not have encountered or dismissed out of hand. Students would develop the habit of getting inside the perspectives of other groups and other people. Literature in particular is especially good at fostering such dialogic habits. Section III, “Heteroglossia in a Changing World” may invite us to learn that dialogue involves really listening to others, hearing them not as our perspective would categorize what they say, but as they themselves would categorize what they say, and only then to bring our own perspective to bear. We talk, we listen, and we achieve an open-ended wisdom. The chapters in this volume seem to suggest that we view learning as a perpetual process. That was perhaps Bakhtin’s favorite idea: that to appreciate life, or dialogue, we must see value not only in achieving this or that result, but also in recognizing that honest and open striving in a world of uncertainty and difference is itself the most important thing. What we must do is keep the conversation going.

#### Debate is the best educational technique to promote openness and prevent ideological calcification

Lundberg 10—Christian O. Lundberg, Professor of Communications at University of North Carolina, Chapel Hill [“Tradition of Debate in North Carolina,” *Navigating Opportunity: Policy Debate in the 21st Century*, By Allan D. Louden, p. 307-8]

Debate provides a critical and perhaps unparalleled tool for building democratic capacities because it creates incentives to listen to opposing arguments, and, more important, to think them through on their own terms, if only, at first, for the sake of strategic due diligence. Kennedy’s compilation of studies substantiates the claim that debate creates better listening skills, and further, that the empirical effect of increased listening in the context of debate is a significantly increased possibility for opinion change compared to other pedagogical strategies (Kennedy 2007, 184, 185). Kennedy’s study is worth quoting at length here because of the strength and breadth of empirical evidence that she marshals:

opponents believe that participation in a debate merely reinforces a student's existing beliefs rather than promoting an objective analysis of an issue. However, Simonneaux (2001) reports that in all of his studies, the only time the students in his biotechnology classes…have changed their opinions has been when they participated in a role play or debate. In Budesheim and Lundquist's (2000) research study of 72 students in three psychology courses at Creighton University, the students who defended a position they already supported almost always maintained their original viewpoint, whereas the students who argued a position inconsistent with their initial opinion were more likely to change their opinion. The response of the audience proved to be unpredictable, as only 52% maintained their original positions. Green and Klug (1990) reported similar results in that the sociology students who defended their initial viewpoint did not change their view, whereas those who were initially neutral or initially opposed the view they defended often changed their view in support of the side they debated. Johnson and Johnson (1985) found that 11 and 12 year old students who studied controversial issues independently were less likely to change their opinions than those who engaged in debate with others. (Kennedy 2007, 186)

This potential for opinion change, especially when compared to other pedagogical methods, makes it difficult to sustain the thesis that debate engenders inflexible antagonism. One explanation for these results is found in Goodwin's study, which validates the idea that debate creates a framework for cooperative group learning around contested issues. Goodwin concludes that her “results point to the value of debate-across-the-curriculum for promoting small group communication and for fostering divergent perspectives on course topics” (Goodwin 2003, 157). In her accounting, practice in structured debate is ultimately the core determinant of whether students learn to see debate as cooperative democratic problem solving, ultimately subsuming debate's antagonistic impulses within a broader sense of openness to opposing viewpoints, or whether students will parrot already culturally available and, frankly, bad models of debate that circulate in mass

.

But the ideological openness and opinion flexibility produced by debate are not simply reducible to listening or to better group-communication processes, though these are significant benefits in and of themselves. One of the primary reasons why debate processes promote managed antagonism and a cooperatively open-minded ethos for democratic education is debate's unique capacity to inculcate argumentatively based role-playing. Ostensibly, one of the significant drivers of the intense antagonistic impasses in contemporary American public deliberation is that often times such impasses are underwritten by a fundamental inattention to the best merits of the other side of a democratic dispute's arguments and motivations. Mitchell (2000) argues that debate provides a pitch-perfect antidote to this problem by inviting students to inhabit the argumentative frame of those with whom they might not agree. The result of this practice is that students are more able to productively interrogate their preexisting opinions in the light of public argument, and simultaneously are called to engage in an evaluative reformation of their stances on the issue at hand.

Cumulatively, the incentives that in-class debate creates for evaluating all sides of an issue, strategic innovation in addressing the resolution, openness to differing points of view, listening, opinion change, and role-playing make debate a democratic technology par excellence. Debate is a deliberative technology that extends democratic discourse by providing capacity for better-informed and more clearly articulated positions on contested issues, while simultaneously (and even perhaps paradoxically) producing a citizen who is more likely to listen to, engage, and even be changed by the opinions of others. The crucial question here is not whether the debate process has drawbacks. Rather, the crucial question is whether or not debate is the best alternative among the available alternatives for democratic discourse. Democratic discourse is, by its nature, contingent, imperfect, and only undertaken under conditions where competing interests are at stake and where there is no unassailable normative claim to decide a dispute. In this light, the paradoxical ability of debate to both clarify and strengthen convictions while cultivating openness to a diversity of opinions and social positions makes it perhaps the best alternative among necessarily imperfect modes of democratic talk.

# 2NC AT: Topic Sucks

**Still creates good debate**

**Bricker 10**, Brett July 3, at 7:05 PM, comment on the 3NR “T Combat Troops”, <http://www.the3nr.com/2010/07/03/t-combat-troops/> BK

\*This evidence is from a debate coach commenting on a 3nr article. I Emailed Brett Bricker to ask him if we could read this evidence and he replied “I have no problem with you reading this evidence. I have made it publicly available because it represents how I feel about the issue.” BK

Fourth, empirically denied. The topic committees have boned it to a much larger degree in the past, but debate was still awesome. Lebanon and Afghanistan should not have been included on the Middle East topic, rice shouldn't have been included on the ag topic, CTBT should have been included on the nuclear weapons topic, but the fact that the topic committee may have had an oversight does not mean that debating ABOUT that oversight doesn't still entail good research and good debates.

# AT: State Bad

#### Playing devil’s advocate combats dogmatism and leads to better convictions.

Galloway 7 — Ryan Galloway, Assistant Professor and Director of Debate at Samford University, 2007 (“Dinner and Conversation at the Argumentative Table: Re-Conceptualizing Debate As An Argumentative Dialogue,” *Contemporary Argumentation & Debate*, Volume 28, September, Available Online to Subscribing Institutions via Academic Search Premier, p. 8-9)

Willingness to argue against what one believes helps the advocate understand the strengths and weaknesses of their own position. It opens the potential for a new synthesis of material that is superior to the first (Dybvig & Iverson, 2000). Serving as a devil’s advocate encourages an appreciation for middle ground and nuance (Dell, 1958). Failure to see both sides can lead to high levels of ego involvement and dogmatism (Hicks & Greene, 2000). [end page 8] Survey data confirms these conclusions. Star Muir found that debaters become **more tolerant** after learning to debate both sides of an issue (Muir, 1993).

Such tolerance is predi

ctable since debate is firmly grounded in respect for the other through the creation of a fair dialogue. Ironically, opponents of a debate as dialogue risk falling prey to dogmatism and the requisite failure to respect potential middle grounds. Perceiving the world through the lens of contingency and probability can be beneficial to real-world activism when its goal is creating consensus out of competing interests. The anti-oppression messages of critical teams would benefit from a thorough investigation of such claims, and not merely an untested axiological assumption.

# 2NC AT: No Impact to Fairness

**Research proves, lack of limits kills education – this is will follow us outside of the debate**

**Richtel 10** Matt Richtel 2010, B.A. degree in rhetoric from the University of California at Berkeley in 1989 and an M.S. degree in journalism from Columbia University in 1990. YOUR BRAIN ON COMPUTERS Attached to Technology and Paying a Price <http://www.nytimes.com/2010/06/07/technology/07brain.html?_r=1&pagewanted=all> BK

Scientists say juggling e-mail, phone calls and other incoming information can change how people think and behave. They say our ability to focus is being undermined by bursts of information. These play to a primitive impulse to respond to immediate opportunities and threats. The stimulation provokes excitement — a dopamine squirt — that researchers say can be addictive. In its absence, people feel bored. The resulting distractions can have deadly consequences, as when cellphone-wielding drivers and train engineers cause wrecks. And for millions of people like Mr. Campbell, these urges can inflict nicks and cuts on creativity and deep thought, interrupting work and family life. While many people say multitasking makes them more productive, research shows otherwise. Heavy multitaskers actually have more trouble focusing and shutting out irrelevant information, scientists say, and they experience more stress. And scientists are discovering that **even after the multitasking ends, fractured thinking and lack of focus persist**. In other words, this is also your brain off computers.

#### Open debate is key to truth testing—you can’t know if the affirmative is right or wrong absent predictable limits. This is crucial for advocacy skills

Steinberg and Freeley 8—\*David L. Steinberg, a lecturer in Communication Studies at the University of Miami, holds a Master's Degree in Communication from The University of Tennessee and has completed significant post-graduate work in Communication Studies, Education, and Human Resource Development from The Pennsylvania State University and from Florida International University. \*\*Austin J. Freeley is a Boston based attorney who focuses on criminal, personal injury and civil rights law [February 13, 2008, *Argumentation and Debate: Critical Thinking for Reasoned Decision Making*, Twelfth Edition, Wadsworth Publishing, pg. 6-7]

\*\*\*Gender modified—Sigalos

Debate is the process of inquiry and advocacy, a way of arriving at a reasoned judgment on a proposition. Individuals may use debate to reach a decision in their own minds; alternatively, individuals or groups may use it to bring others around to their way of thinking.

Debate provides reasoned arguments for and against a proposition. It requires two competitive sides engaging in a bipolar clash of support for and against that proposition. Because it requires that listeners and opposing advocates comparatively evaluate competing choices, debate demands critical thinking. Society, like individuals, must have an effective method of making decisions. A free society is structured in such a way that many of its decisions are arrived at through debate. For example, law courts and legislative bodies are designed to utilize debate as their means of reaching decisions. In fact, any organization that conducts its business according to parliamentary procedures has selected debate as its method. Debate pervades our society at decision-making levels.

The ancient Greeks were among the first to recognize the importance of debate for both the individual and society. Plato, whose dialogues were an early form of cross-examination debate, defined rhetoric as “a universal art of winning the mind by arguments, which means not merely arguments in the courts of justice, and all other sorts of public councils, but in private conference as well.”8

Aristotle listed four functions for rhetoric.9 First, it prevents the triumph of fraud and injustice. Aristotle argued that truth and justice are by nature more powerful than their opposites, so when poor decisions are made, speakers with right on their side have only themselves to blame. Thus, it is not enough to know the right decision ourselves; we also must be able to argue for that decision before others.

Second, rhetoric is a method of instruction for the public. Aristotle pointed out that in some situations scientific arguments are useless; a speaker has to “educate” the audience by framing arguments with the help of common knowledge and commonly accepted opinions. Congressional debates on health care or tax policies are examples of this. The gene

ral public, and for that matter the majority of Congress, is unable to follow highly sophisticated technical arguments. Skilled partisans who have the expertise to understand the technical data must reformulate their reasons in ways that both Congress and the public can grasp.

Third, rhetoric makes us see both sides of a case. By arguing both sides, we become aware of all aspects of the case, and we will be prepared to refute our opponents’ arguments.

Fourth, rhetoric is a means of defense. Often knowledge of argumentation and debate will be necessary to protect ourselves and our interests. As Aristotle stated: “If it is a disgrace to a man when he cannot defend himself in a bodily way, it would be odd not to think him disgraced when he cannot defend himself with reason. Reason is more distinctive of man than is bodily effort.” Similarly, in the nineteenth century, John Stuart Mill placed great emphasis on the value of debate:

If even the Newtonian philosophy were not permitted to be questioned, (hu)mankind could not feel as complete assurance of its truth as they now [in 1858] do. The beliefs which we have the most warrant for, have no safeguard to rest on, but a standing invitation to the whole world to prove them unfounded. If the challenge is not accepted, or is accepted and the attempt fails, we are far enough from certainty still; but we have done the best that the existing state of human reason admits of; we have neglected nothing that could give the truth the chance of reaching us; if the lists are kept open, we may hope that if there be a better truth, it will be found when the human mind is capable of receiving it; and in the meantime we may rely on having attained such approach to truth as is possible in our day. This is the amount of certainty attainable by a fallible being, and this is the sole way of attaining it.10

# 2NC AT: Exclusion

#### Stable clash key to solve exclusion—they shouldn’t win just because they talked about something important before we did

Galloway 7 — Ryan Galloway, Assistant Professor and Director of Debate at Samford University, 2007 (“Dinner and Conversation at the Argumentative Table: Re-Conceptualizing Debate As An Argumentative Dialogue,” *Contemporary Argumentation & Debate*, Volume 28, September, Available Online to Subscribing Institutions via Academic Search Premier, p. 12)

While affirmative teams often accuse the negative of using a juridical rule to exclude them, the affirmative also relies upon an unstated rule to exclude the negative response. This unstated but understood rule is that the negative speech act must serve to negate the affirmative act. Thus, affirmative teams often exclude an entire range of negative arguments, including arguments designed to challenge the hegemony, domination, and oppression inherent in topical approaches to the resolution. Becoming more than just a ritualistic tag-line of “fairness, education, time skew, voting issue,” fairness exists in the implicit right to be heard in a meaningful way. Ground is just that—a ground to stand on, a ground to speak from, a ground by which to meaningfully contribute to an ongoing conversation.

# 2NC AT: Creativity

#### Challenging ourselves to innovate within the confines of rules creates far more creative responses than starting with a blank slate

Mayer 6—Marissa Ann Mayer, vice-president for search products and user experience at Google [February 13, “Creativity Loves Constraints,” http://www.businessweek.com/print/magazine/content/06\_07/b3971144.htm?chan=gl]

When people think about creativity, they think about artistic work -- unbridled, unguided effort that leads to beautiful effect. But if you look deeper, you'll find that some of the most inspiring art forms, such as haikus, sonatas, and religious paintings, are fraught with constraints. They are beautiful because creativity triumphed over the “rules.” Constraints shape and focus problems and provide clear challenges to overcome. Creativity thrives best when constrained.

But constraints must be balanced with a healthy disregard for the impossible. Too many curbs can lead to pessimism and despair. Disregarding the bounds of what we know or accept gives rise to ideas that are non-obvious, unconventional, or unexplored. The creativity realized in this balance between constraint and disregard for the impossible is fueled by passion and leads to revolutionary change.

A few years ago, I met Paul Beckett, a talented designer who makes sculptural clocks. When I asked him why not do just sculptures, Paul said he liked the challenge of making something artistically beautiful that also had to perform as a clock. Framing the task in that way freed his creative force. Paul reflected that he also found it easier to paint on a canvas that had a mark on it rather than starting with one that was entirely clean and white. This resonated with me. It is often easier to direct your energy when you start with constrained challenges (a sculpture that must be a clock) or constrained possibilities (a canvas that is marked).

# \*\*\*1NR K\*\*\*

#### Conceptualizing politics in terms of exception-as-norm depoliticizes all important social questions – bare life can’t become political.

Jef **HUYSMANS** Security Studies @ Open **‘8** “The Jargon of Exception—On Schmitt, Agamben and the Absence of Political Society” *International Political Sociology* 2 p. 177

There are grounds for such a reading of Agamben but his work on the exception-as-the-rule is more than a simple diagnosis of a form of biopolitical domination. It also introduces a particular conception of the political; it sets parameters within which the nature of politics and political stakes of the time are to be framed. As indicated earlier, the exception-as-the-rule seems to open up a new political dialectic or at least a tension that animates and constitutes politics for Agamben. The defining relation of modern politics is for Agamben a tension between the power of biopolitical sovereignty—imagined through the matrix of the camp—and the power of anomic life that challenges it—imagined through the matrix of anomie, that is, life that is means without end. Deploying the jargon of exception and especially Agamben’s conception of the exception-being-the-rule for reconfiguring conceptions of politics in a biopolitical age comes at a serious cost, though. It inserts both a diagnosis of our time and a conceptual apparatus for rethinking politics that has no place for the category that has been central to the modern democratic tradition: the political significance of people as a multiplicity of social relations that condition politics and that are constituted by the mediations of various objectified forms and processes (for example, scientific knowledge, technologies, property relations, legal institutions…). Even if one would argue that Agamben’s framing of the current political conditions are valuable for understanding important changes that have taken place in the twentieth century and that are continuing in the twenty first, they also are to a considerable extent depoliticizing. Agamben’s work tends to guide the analysis to unmediated, factual life. For example, some draw on Agamben to highlight the importance of bodily strategies of resistance. One of the key examples is individual refugees protesting against their detention by sewing up lips and eyes. They exemplify how individualized naked life resists by deploying their bodily, biological condition against sovereign biopolitical powers (for example, Edkins and Pin-Fat 2004:15–17). I follow Adorno and others, however, that such a conception of bodily, naked life is not political. It ignores how this life only exists and takes on political form through various socioeconomic, technological, scientific, legal, and other mediations. For example, the images of the sewed-up eyelids and lips of the individualized and biologized refugees have no political significance without being mediated by public media, intense mobilizations on refugee and asylum questions, contestations of human rights in the courts, etc. It is these mediations that are the object and structuring devices of political struggle. Reading the politics of exception as the central lens onto modern conceptions of politics, as both Agamben and Schmitt do, erases from the concept of politics a rich and constitutive history of sociopolitical struggles, traditions of thought linked to this history, and key sites and temporalities of politics as well as the central processes through which individualized bodily resistances gain their sociopolitical significance.

#### The War on Terror is about the production of legality – not the state of exception. Their paradigm de-historicizes the relationship between the law and executive power.

Rebecca **SANDERS** Int’l Affairs @ Cincinnati **’12** *Exceptional Security Practices, Human Rights Abuses, and the Politics of Legal Legitimation in the American “Global War on Terror”* p. 342-347

According to Giorgio Agamben, America’s post-9/11 policy reproduces the legal form of concentration camp: [T]he prisoners in Guantánamo, and their situation is legally-speaking actually comparable with those in the Nazi camps. The detainees of Guantanamo do not have the status of Prisoners of War, they have absolutely no legal status. They are subject now only to raw power; they have no legal existence. In the Nazi camps, the Jews had to be first fully “denationalised” and stripped of all the citizenship rights remaining after Nuremberg, after which they were also erased as legal subjects.17 The radical erasure of rights subjects prisoners to “pure de facto rule, of a detention that is indefinite not only in its temporal sense but in its very nature as well, since it is entirely removed from the law and from judicial oversight…in the detainee at Guantanamo, bare life reaches its maximum indeterminacy.”18 The theme of racialized exclusion is emphasized by Sherene Razack, who argues that security practices based on “race thinking” cast out Muslims from humanity, and hence the law: [T]he eviction of Muslims from political community is a racial process that begins with Muslims being marked as a different level of humanity and being assigned a separate and unequal place in the law…Race thinking structures the exception since it is invoked as a measure of self-defence against those whose inherent difference threatens the nation…whenever the exception is invoked, we can expect to see that it is undergirded by the notion that there are two levels of humanity…when the notion of two levels of humanity is invoked, the legal exception is not far behind.19 This process takes place through the construction of “monster terrorists,” but also through more ordinary bureaucratic immigration proceedings and cultural discourses about secularism and women’s rights. From the perspective of the decisionistic reading, law does not disappear in the exception. Rather law is invoked in its own suspension. As Cox et al. note, “law is used to suspend and weaken itself…rather than law imposing constraints on sovereignty, the law increasingly operates as its instrument or its weapon…the exception is both inside and outside the law simultaneously.”20 Derek Gregory further suggests, “the law is not outside violence...the “war on terror” twists their embrace into ever more frenzied and furtive coupling.”21 According to Judith Butler, “The law is not that to which the state is subject nor that which distinguishes between lawful state action and unlawful, but is now expressly understood as an instrument, an instrumentality of power, one that can be applied and suspended at will. Sovereignty consists now in the variable application, contortion, and suspension of the law; it is, in its current form, a relation to law: exploitative, instrumental, disdainful, preemptory, arbitrary.”22 Yet, for all the similarities between the realist/exceptional reading and post-9/11 move to legalize abuse, there are also anomalies. For starters, the shear number of and detail contained within the torture memos and related legal rationalizations seem to suggest a more extensive concern with legality than realists would predict. Lawyers were far more involved in constructing the parameters of security policy than realpolitik would normally dictate. Realism, moreover, provides few tools to explain the novelty of the post-9/11 legalization of abuse. During the Cold War, American intelligence agents engaged in all sorts of shady practices, without, as far as we know, the need for thousands of pages of justificatory memoranda. Why the sudden preoccupation with legal rationalizations or legal lies? While realists recognize the useful rhetoric of law, they do not necessarily anticipate a close link between law and practice. “Cheap talk” has little practical effect. American policy makers, on the other hand, designed practices that mirrored limitations contained in Office of Legal Counsel and other government lawyer directives. The Schmittian reading also has intuitive appeal, but risks giving too much weight to the decisionistic pronouncements of Bush administration ideologues. Although they may have truly believed that the President had authority to do whatever he wanted in the name of national security, lawyers took pains to construct a variety of other exculpatory rationales to justify abusive policies. They did not suspend the Constitution, reject the entire corpus of international law, dismiss court rulings, endorse open racism, or cast domestic minorities as existential enemies. Instead, they selectively reinterpreted constraining provisions to facilitate controversial policies. In this sense, it appears the administration was not eager to openly declare a state of exception or justify a turn to emergency powers. Memos recast rather than embraced human rights abuses. Rules did not disappear, but proliferated. This is not to say that targets of GWOT policy have not suffered gross human rights violations or been placed in situations where they lacked substantive protections. However, these exceptions to the rules cannot be understood through a straightforward process of sovereign decisionism. The decisionistic perspective does not adequately acknowledge the extensive role of legal arguments in structuring policy. As Frédéric Mégret notes, in denying prisoner of war status, “the US authorities’ case is often not a case to simply violate or do away with the law, as much as it is a characteristically strict, almost legalistic interpretation of the law.”23 Similarly, Fleur Johns argues that Guantánamo is “less an outcome of law’s suspension or evisceration than of elaborate regulatory efforts by a range of legal authorities. The detention camps at Guantánamo are above all works of legal representation and classification. They are spaces where law and legal institutionalism speak and operate in excess.”24 Far from a lawless void, Guantánamo is a highly regulated, procedural space “dedicated to producing experiences of having no option, no doubt, and no responsibility.”25 Instead of pure “black holes” in the rule of law (although black holes are clearly present in regard to practices such as extraordinary rendition), policy makers created a series of “grey holes.”26 In these grey holes, people have no doubt been subject to terrible abuses, but not anything is possible. What is possible, in the interrogation chamber for instance, has been listed in detail, described in minutiae and rationalized in reference to law. How long a prisoner can be left standing, deprived of sleep, denied food, etc. have been painstakingly defined. That is not to say grey holes are an improvement on black holes. Indeed, as David Dyzenhaus notes, they can be “in effect worse because they give to official lawlessness the façade of legality.”27 Rather than an extralegal void, the GWOT has been a period of prolific law making. Ranging from the introduction of the PATRIOT Act to the Military Commissions Act to changing immigration regulations, legalism has abounded, not receded. To understand the exceptional dimension of this “jurisgenerative” period, Kim Lane Scheppele argues for attention to legal content.28 Instead of “hard emergency,” clearly and openly declared, American policy has been characterized by “soft emergency.” This creeping, partial state of exception is found in the substance of legislation rather than the form of decision-making. “If we think about law not as a purely legitimating force or as the sincerely believed normative order of a state,” she argues, “but simply as the way the state talks to itself, it is not surprising that emergencies are accompanied by a tremendous proliferation of law that pays careful attention to its own warrant, its own authority, its own pedigrees.”29 From this optic, law and emergency are necessarily intertwined for practical, functional reasons. “Law does not just express moral positions, or public values, or the basic working structures of the state. Public law, in particular, provides direction to state officials, who need to be told what to do equally in times of normalcy and times of crisis.”30 This reading helps fill the gap between theoretical models of exception and real world practice, but remains skeptical of law as a substantive constraint. However one understands the immediate functions of the strategy of plausible legality, it calls into question the decisionistic reading. As Nasser Hussein writes: It is empirically the case that what one witnesses in contemporary emergency is a proliferation of new laws and regulations passed in an ad hoc or tactical manner, administrative procedures, and the use of older laws and cases tweaked and transformed for newer purposes. But given this almost hyperlegality, does it then make any sense to continue to use the analytic idiom of the state of exception? After all, that category invokes a very specific idiom and imagery: one of exclusion or outsideness, abeyance or suspension, and of course decision. It is at the very least inadequate to explain the use of bureaucratic regulations and administrative classifications…When the mechanisms that produced Guantánamo and justified the practices that occur there are used abundantly in the immigration service or correctional agencies, when the rationale of these mechanisms seems of a different degree rather than of a different kind, it is not clear what it could mean to say they are not quite law… Notice how difficult it is to reconcile the “spitting on the sidewalk” strategy with the state of exception. That is because such a strategy does not rely on any extraordinary measure, which could be identified as belonging to an exception/emergency regime, but rather accelerates the application of preexisting, often mundane regulations.31 This process has been deeply troubling, but it is not the logic of the camp.32