# 2AC

## Terror

### A2: Calculability

#### Rejecting calculative thought reproduces it

Buckley 2 (R. Philip, Professor of Philosophy – University of McGill, [Phenomenological Approaches to Moral Philosophy: A Handbook](http://www.google.com/url?sa=t&ct=res&cd=1&url=http%3A%2F%2Fbooks.google.com%2Fbooks%3Fid%3DQpxYqdhvIdIC%26pg%3DPA221%26lpg%3DPA221%26dq%3D%2522contemplative%2Bthought%2Bis%2Bextremely%2Bdifficult%2522%26source%3Dweb%26ots%3DFnTvlJGT28%26sig%3DPPuCoTVH8vJ6e87WEY3D2Qo4Rl8%26hl%3Den&ei=MUkJSLvAHZzSggSnuK2sAQ&usg=AFQjCNGKWhPcZZW1R3qqyD_QfsVkp9djUw&sig2=NN6Yn1vdnX7ovCDabTdK3A), , p. 220-221

To what does this “opposition” between calculative and contemplative thinking amount to? First, it is crucial to note that the thinking which Heidegger describes as taking place in science is not a “lesser” form that could be “upgraded” to a contemplative form of thought. The calculative thought of science is constitutionally incapable of being contemplative thought, and hence Heidegger’s oft-quoted assentation that “science does not think.”34 Certainly scientists can reflect on their own field, on its methods, procedures and so forth. But this sort of self-interrogation aimed at improvement is *part* of calculative thinking in the first place. Calculative thought turn in on itself remains calculative thought. This implies a “distance” between the calculative and contemplative forms of thought, or an unbridgeable “gap” (Klugt) (WHD, 4—5; WCT, 8). The difference between these two types of thinking is one of king and not degree. This “gap” does not mean that calculative thought is somehow “bad,” or that contemplative thinking is “better.” To **judge** contemplative thought as **superior** to calculative thought **is to think calculatively**, and hence cannot be the task of authentic philosophy. Neither is Heidegger claiming that the nature of modern science as calculative is to be viewed as negative. It is the good “fortune” of science that it cannot “think” in the contemplative, deliberative, or recollective sense.7 The problem, it seems, occurs when calculative thought pushes aside other forms of thinking. Heidegger wants to undermine the exclusivity of calculative thinking without denigrating it. He desires to open a space for other forms of thinking. A first step away from the domination of calculative thinking consists in uncovering the presuppositions which underlie it, in seeing that calculation is not the only possibility of human “thought.” It may well be that the realm of contemplative thought can only be approached by means of this method which ultimately might be characterized as *avia negative*. Nonetheless, the description of calculative thought and its representational character does tell us something about the nature of contemplative thought. Contemplative thought is **extremely difficult to attain** because, by its very nature, it cannot be “attained.” To want to have a contemplative style of thought is to remain in the clutch of the basically possessive calculative style of thinking. 35 Contemplative thought is hence marked by a fundamental “passivity,” 36 it consists of a certain “letting-go” of all “attitudes,” of any “picturing” of the world. Put in terms which are even more expressive of passivity, contemplative thought is a “releasement” from the dominating style of calculative thought. Both “letting-go” and “releasement” are plausible translations of Heidegger’s basic characterization of thought as *Gelassenheit*.

#### Calculations stop the zero-point by increasing diversity and social limitation. Rejecting it increases violence and exclusion

Williams 5 (Michael, Professor of International Politics – University of Wales-Aberystwyth, The Realist Tradition and the Limits of International Relations, p. 165-166)

Yet it is my claim that the willful Realist tradition does not lack an understanding of the contingency of practice or a vision of responsibility to otherness. On the contrary, its strategy of objectification is precisely an attempt to bring together a responsibility to otherness and a responsibility to act within a willfully liberal vision. The construction of a realm of objectivity and calculation is not just a consequence of a need to act — the framing of an epistemic context for successful calculation. It is a form of responsibility to otherness, an attempt to allow for diversity and irreconcilability precisely by — at least initially — reducing the self and the other to a structure of material calculation in order to allow a structure of mutual intelligibility, mediation, and stability. It is, in short, a strategy of limitation: a willful attempt to construct a subject and a social world limited — both epistemically and politically — in the name of a politics of toleration: a liberal strategy that John Gray has recently characterised as one of modus vivendi. If this is the case, then the deconstructive move that gains some of its weight by contrasting itself to a non- or apolitical objectivism must engage with the more complex contrast to a sceptical Realist tradition that is itself a constructed, ethical practice. This issue becomes even more acute if one considers Iver Neumann’s incisive questions concerning postmodern constructions of identity. action, and responsibility. As Neumann points out, the insight that identities are inescapably contingent and relationally constructed, and even the claim that identities are inescapably indebted to otherness, do not in themselves provide a foundation for practice, particularly in situations where identities are ‘sedimented’ and conflictually defined. In these cases, deconstruction alone will not suffice unless it can demonstrate a capacity to counter in practice (and not just in philosophic practice) the essentialist dynamics it confronts. Here, a responsibility to act must go beyond deconstruction to consider viable alternatives and counter-practices. To take this critique seriously is not necessarily to be subject yet again to the straightforward ‘blackmail of the Enlightenment’ and a narrow ‘modernist’ vision of responsibility.85 While an unwillingness to move beyond a deconstructive ethic of responsibility to otherness for fear that an essentialist stance is the only (or most likely) alternative expresses a legitimate concern, it should not license a retreat from such questions or their practical demands. Rather, such situations demand also an evaluation of the structures (of identity and institutions) that might viably be mobilised in order to offset the worst implications of violently exclusionary identities. It requires, as Neumann nicely puts it, the generation of compelling ‘as if’ stories around which counter-subjectivities and political practices can coalesce. Wilful Realism, I submit, arises out of an appreciation of these issues, and comprises an attempt to craft precisely such ‘stories’ within a broader intellectual and sociological analysis of their conditions of production, possibilities of success, and likely consequences. The question is, to what extent are these limits capable of success, and to what extent might they be limits upon their own aspirations toward responsibility? These are crucial questions, but they will not be addressed by retreating yet again into further reversals of the same old dichotomies.

### A2: Complexity

**Doesn’t turn or take out the aff – even if our knowledge is incomplete, it is based off of interactions that are patterned and predictable.**

**No link – we don’t establish a mono-causal analysis of the world. Our advantages both rely on multi-variable analysis to offer the best path forward.**

**No alternative – even if it’s complex and uncertainty, our form of social science is the only game in town.**

**Miller 2002** (Katherine Miller – Professor of Communication at Texas A & M, Communication theories: Perspectives, processes, and contexts, p. 35-36)

Epistemology and Axiology Post-positivist assumptions about the grounds of social knowledge and the role of values in the production of social knowledge are also based largely on the objectivist tenets we discussed in Chapter 2. These assumptions include the three interlinked notions that (a) knowledge can best be gained through a search for **regularities** and **causal relationships** among components of the social world, (b) regularities and causal relationships can best be discovered if there is a complete separation between the investigator and the subject of the investigation, and (c) this separation can be guaranteed through the use of the scientific method. As they have done with ontological assumptions of realism, however, most post-positivist scholars in communication today have tempered these epistemological and axiological bases to what Guba (1990a) has termed modified objectivist. Post-positivist theorists generally hold to the first assumption mentioned in the preceding paragraph. That is, the search for knowledge remains centered on causal explanations for **regularities observed in the physical and social world**. This is clearly consistent with the ontological position outlined previously. It should be noted, though, that the regularities and causal relationships studied by post-positivist scholars today are rarely simplistic and often involve a multiplicity of factors and over-time relationships (see K. I. Miller, 2001, for examples in organizational communication). Beyond this first assumption, however, post-positivists have largely rejected the second assumption, regarding the necessary distinction between knower and known. Instead, many post-positivists have concluded that "the hope for a formal method, capable of being isolated from actual human judgment about the content of science (that is, about the nature of the world), and from human values seems to have evaporated" (H. Putnam, 1981, p. 192). Because this assumption of value-free inquiry is rejected, post-positivists have similarly rejected blind obedience to the scientific method. Instead, objectivity is seen as a regulatory ideal. In other words, a post-positivist will use methods that strive to be as unbiased as possible and will attempt to be aware of any values that might compromise neutrality However, because the possible fallabilities of the scientific method are recognized, the post-positivist will also rely on the critical scrutiny of a community of scholars in order to safeguard objectivity and maximize the growth of social scientific knowledge. Thus, though **no claims to absolute truth** and value-free inquiry are made, the belief exists that progress can be made if researchers exercise care in their theorizing and research and are critical of theoretical assertions and empirical justifications. As Phillips (1990) summarizes, The ideal that is embraced seems to be this: Seekers after enlightenment in any field **do the best that they can**; they honestly seek evidence, they critically scrutinize it, they are (relatively) open to alternative viewpoints, they take criticism (fairly) seriously and try to profit from it, they play their hunches, they stick to their guns, but they also have a sense of when it is time to quit. It may be a **dirty and hard and uncertain game**, but with no fixed algorithms to determine progress, **it is the only game in town**.

**Complexity theory leads to paralysis**
**Hendrick 9** (Diane; Department of Peace Studies – University of Bradford, “Complexity Theory and Conflict Transformation: An Exploration of Potential and Implications,” June, [http://143.53.238.22/acad/confres/papers/pdfs/CCR17.pdf)](http://143.53.238.22/acad/confres/papers/pdfs/CCR17.pdf%29)
It is still **relatively early days in the application of complexity theory** to social sciences and there are doubts and criticisms, either about the applicability of the ideas or about the expectations generated for them. It is true that the translation of terms from natural science to social science is sometimes contested due to the significant differences in these domains, and that there are concerns that the meanings of terms may be distorted, thus making their use arbitrary or even misleading. Developing new, relevant definitions for the new domain applications, where the terms indicate a new idea or a new synthesis that takes our understanding forward, are required. In some cases, particular aspects of complexity theory are seen as of **only limited applicability**, for example, self-organisation (see Rosenau‘s argument above that it is only relevant in systems in which authority does not play a role). There are those who argue that much that is being touted as new is actually already known, whether from systems theory or from experience, and so **complexity theory cannot be seen as adding value in that way**. There are also concerns that the theory has not been worked out in sufficient detail,or with sufficient rigour, to make itself useful yet. Even that **it encourages woolly thinking and imprecision.** In terms of application in the field, it could be argued that it may **lead to paralysis**, in fear of all the unexpected things that could happen, and all the unintended consequences that could result, from a particular intervention. The proposed adaptability and sensitivity to emerging new situations may lead to difficulties in planning or, better expressed, must lead to a different conception of what constitutes planning, which is, in itself, **challenging (or even threatening) for many fields.** The criteria for funding projects or research may not fit comfortably with a complexity approach, and evaluation, already difficult especially in the field of conflict transformation, would require a re-conceptualisation. Pressure for results could act as a disincentive to change project design in the light of emergent processes. There may be the desire to maintain the illusion of control in order to retain the confidence of funders. On the other hand, there are fears that complexity may be used as **an excuse for poor planning, and implementation**, which is a valid concern for funders. In addition, there may be scepticism that the co-operation and co-ordination between different researchers or interveners, (let alone transdisciplinary undertakings) appropriate to working on complex problem domains, will not work due to differing mental models, competing interests and aims, competition for funding, prestige, etc. Such attempts appear, therefore, unrealistic or unfeasible.

#### Scenario planning is possible and key to making effective decisions

**Kurasawa 4** (Fuyuki, Professor of Sociology – York University of Toronto, “Cautionary Tales: The Global Culture of Prevention and the Work of Foresight”, Constellations, 11(4))

A radically postmodern line of thinking, for instance, would lead us to believe that it is pointless, perhaps even harmful, to strive for farsightedness in light of the aforementioned crisis of conventional paradigms of historical analysis. If, contra teleological models, history has no intrinsic meaning, direction, or endpoint to be discovered through human reason, and if, contra scientistic futurism, prospective trends cannot be predicted without error, then the abyss of chronological inscrutability supposedly opens up at our feet. The future appears to be unknowable, an outcome of chance. Therefore, rather than embarking upon grandiose speculation about what may occur, we should adopt a pragmatism that abandons itself to the twists and turns of history; let us be content to formulate ad hoc responses to emergencies as they arise. While this argument has the merit of underscoring the fallibilistic nature of all predictive schemes, it conflates the necessary recognition of the contingency of history with unwarranted assertions about the latter’s total opacity and indeterminacy. Acknowledging the fact that the future cannot be known with absolute certainty **does not imply abandoning the task** of trying to understand what is brewing on the horizon and to prepare for crises already coming into their own. In fact, the incorporation of the principle of fallibility into the work of prevention means that we must be ever more vigilant for warning signs of disaster and for responses that provoke unintended or unexpected consequences (a point to which I will return in the final section of this paper). In addition, from a normative point of view, the acceptance of historical contingency and of the self-limiting character of farsightedness places the duty of preventing catastrophe squarely on the shoulders of present generations. The future no longer appears to be a metaphysical creature of destiny or of the cunning of reason, nor can it be sloughed off to pure randomness. It becomes, instead, a result of human action shaped by decisions in the present – including, of course, trying to anticipate and prepare for possible and avoidable sources of harm to our successors. Combining a sense of analytical contingency toward the future and ethical responsibility for it, the idea of early warning is making its way into preventive action on the global stage.

## Venez

#### Heg is good-

#### A) We control uniqueness- Heg has been here for a while and intervention is inevitable- that’s kagan - means their impact turns are empirically denied

#### B) We solve all their impact turns- Thayer evidence indicates that the only way to uphold stability is to maintain the status quo military and leadership structure- that allows for deterrence, bandwagonin

There will be a short term transition war

 Posen and Ross 97

[Barry Posen, Professor of Political Science in the Defense and Arms Control Studies Program at MIT, Andrew Ross, Professor of National Security Studies at the Naval War College, International Security, Winter 1997]

The United States can, more easily than most, go it alone. Yet we do not find the arguments of the neo-isolationists compelling. Their strategy serves U.S. interests only if they are narrowly construed. First, though the neo-isolationists have a strong case in their argument that the United States is currently quite secure, disengagement is unlikely to make the United States more secure, and would probably make it less secure. The disappearance of the United States from the world stage would likely precipitate a good deal of competition abroad for security. Without a U.S. presence, aspiring regional hegemons would see more opportunities. States formerly defended by the United States would have to look to their own military power; local arms competitions are to be expected. Proliferation of nuclear weapons would intensify if the U.S. nuclear guarantee were withdrawn. Some states would seek weapons of mass destruction because they were simply unable to compete conventionally with their neighbors. This new flurry of competitive behavior would probably energize many hypothesized immediate causes of war, including preemptive motives, preventive motives, economic motives, and the propensity for miscalculation**. There would** like **be more war. W**eapons of **m**ass **d**estruction **might be used in** some of **the wars**, with unpleasant effects even for those not directly involved.

#### US hegemony prevents global oppression and prevents more war than it causes – all their impacts assume occasional missteps

Jacoby 11 (Jeff – Boston Globe, graduate of George Washington University and the Boston University School of Law, “The world's best policeman”, 6/22, Washington Post, Factiva)

America may be the world's "indispensable nation," as Bill Clinton said in his second inaugural address, but most Americans, most of the time, are uncomfortable with the idea of US global hegemony. John Quincy Adams wrote long ago that America "goes not abroad in search of monsters to destroy." As the polls consistently suggest, that isolationist sentiment still resonates. But in Adams's day America was not the mightiest, wealthiest, and most influential nation on the face of the earth. Today it is. The United States is the world's only superpower, and if we shirk the role of global policeman, no one else will fill it. By nature Americans are not warmongering empire-builders; their uneasiness about dominating other countries reflects a national modesty that in many ways is admirable - and that belies the caricature of Uncle Sam as arrogant bully or "great Satan." Nevertheless, with great power come great responsibilities, and sometimes one of those responsibilities is to destroy monsters: to take down tyrants who victimize the innocent and flout the rules of civilization. If neighborhoods and cities need policing, it stands to reason the world does too. And just as local criminals thrive when cops look the other way, so do criminals on the world stage. Nazi Germany had conquered half of Europe and Japan was brutalizing much of Asia by the time America finally entered World War II. If America hadn't rescued Kuwait from Saddam Hussein in 1990, no one else would have, either. If America hadn't led NATO in halting Serbia's ethnic cleansing in Kosovo, no one else would have, either. If America hadn't faced down the Soviet Union during the long years of the Cold War, no one else would have, either - and hundreds of millions of human beings might still be trapped behind the Iron Curtain. There is no realistic alternative to America as the world's policeman. It clearly isn't a job the United Nations can do. Can an organization that makes no distinction between tyranny and democracy rein in the world's monsters? As the UN's bloody trail of failure from Bosnia to Somalia to Rwanda makes clear, UN "peacekeeping" offers no protection against predators. None of this is to say that America-as-Globocop is a perfect solution to the world's ills, nor that the United States hasn't made many grievous mistakes in its actions abroad. But as the historian Max Boot argues, "America's occasional missteps should not lead us to abdicate our indispensable role, any more than the NYPD should stop doing its vital work, simply because cops occasionally do the wrong thing. On balance, the NYPD still does far more good than harm, and so does the United States

 of America." To say that America must be the world's policeman is not to call for waging endless wars against all the world's bad actors. Police officers carry weapons, but they fire them only infrequently. The cops' main function is not to gun down criminals, but to suppress crime and reduce fear by patrolling the streets and maintaining a visible presence in the community. Similarly, a well-policed world is one with less combat, not more. The purpose of America's nuclear umbrella and its global network of military bases is not to foment war on all fronts, but to prevent it - **by deterring aggression, maintaining the flow of commerce, and upholding human rights**. We don't do it perfectly, not by a long shot. We don't always live up to our own standards, we sometimes confuse police work with social work, and we are often rewarded not with thanks but resentment. A policeman's lot is not a happy one. It is, however, essential. Our world needs a policeman. And whether most Americans like it or not, only their indispensable nation is fit for the job.

## S

#### Executive circumvention isn’t possible on detention policy – judicial review creates powerful incentives for compliance

Martin 5 (David, professor of law at the University of Virginia, 25 B.C. Third World L.J. 125, Winter, lexis)

For administrative officers, including both those in charge of initial detention decisions and those who serve on the review tribunals, the single most important fact is that the federal courts have a review role at all -- whatever the precise formal constraints on that role may be. Such [\*155] a role is now solidly entrenched for detainees at Guantanamo, and apparently for U.S. citizen detainees anywhere in the world; I argue here for extending that entrenchment to longer-term alien detainees at other overseas facilities. In such a setting, anything the administering authorities do is at least potentially subject to being called into question before a federal judge. This exposure provides significant inducements for greater rigor in the internal processes that lead to initial detention decisions, and in decisions to continue detention -- especially when compared to a situation where the administrators know that they cannot be called to explain their actions in any external forum. The pattern of Defense Department responses to the Supreme Court's "enemy combatant" cases illustrates this point. The press reported an accelerated pace of releases from Guantanamo shortly after certiorari was granted in Rasul. 124 More concretely, as noted, within two weeks of the actual decision in Rasul, the Defense Department began to establish combatant status review tribunals at Guantanamo, along lines generally consistent with Hamdi (even though that latter decision was technically distinguishable). 125 Internal review and quality control mechanisms doubtless existed before, but the prospect of court review gives them new urgency, polish, and force. Significantly, the mere prospect of court review greatly enhances the bargaining position of those within the agency who wish to adopt tighter standards, closer supervision, or more protective procedures. The real-world operation of such review magnifies this effect. As a realistic matter, federal judges, even within the confines of a highly deferential standard, can increase the pressure on the agency in any case where they sense that the panel has acted questionably or reached a ruling deeply inconsistent with the evidence presented -- even if there is enough, when it comes time to announce a final decision in the case, to sustain the final agency determination under the [\*156] "some evidence" standard. A judge suspecting such a misfire of decision-making can, for example, minutely scrutinize the procedures employed, or find fault with some element of the description of the legal standard employed. In short, at least some judges will yield to the undertow about which Judge Wilkinson wrote, and find ways to put administrative officers through extra hoops while not overtly transgressing the boundaries of the governing deferential standard -- at least until an appellate court calls them back into line. Most courts, to be sure, will not undertake such a covertly interventionist role and will honor the prescribed limits on their powers. But here is the key to understanding administrative reactions to the presence of review: the administrators cannot know when they make an initial decision to put someone into longer-term detention, or when they conduct a formal review proceeding before a military tribunal, exactly which cases might run into a judicial buzz saw. This ineluctable uncertainty provides an ongoing external incentive for the administrators to set up the administrative system in as professional and careful a manner as possible, and to conduct each case with close attention to fairness, in order to avoid tempting a court into quietly pressing the boundaries of judicial deference and adopting, de facto, a more intrusive review process. Even a deferential standard of review, then, creates an external force for serious internal checks and balances, an outside factor that also strengthens the hand of the inside players who push for better individual protections and closer internal review and monitoring. This dynamic significantly increases the odds of avoiding factually erroneous outcomes, as compared with a system that has no such external spur. Undeniably, it still falls short of guaranteeing against individual injustice worked by a biased or lazy or inattentive decisionmaker. It must be acknowledged, of course, that arming the reviewing court with a highly demanding standard of review would catch and correct a few more wrongful outcomes that evade the internal checks and balances than does a deferential standard. But the point here is that a deferential standard moves us a good deal further in the direction of accuracy than is ordinarily credited, precisely because of the interplay that will regularly occur between judges and the military. We may need to accept the remaining divergences as the price of assuring that the system does not intrude too far on military effectiveness in the struggle against terrorist forces.

#### Will comply – even if they disagree

Bradley and Morrison 13

[Curtis, William Van Alstyne Professor of Law, Duke Law School. and Trevor, Liviu Librescu Professor of Law, Columbia Law School, Presidential Power, Historical Practice, And Legal Constraint, 2013 Directors of The Columbia Law Review Association, Inc. Columbia Law Review May, 2013, L/N]

Insisting on a sharp distinction between the law governing presidential authority that is subject to judicial review and the law that is not also takes for granted a phenomenon that merits attention - that Presidents follow judicial decisions. n118 That assumption is generally accurate in the United States today. To take one relatively recent example, despite disagreeing with the Supreme Court's determination in Hamdan v. Rumsfeld that Common Article 3 of the Geneva Conventions applies to the war on terror, the Bush Administration quickly accepted it. n119 But the reason why Presidents abide by court decisions has a connection to the broader issue [\*1131] of the constraining effect of law. An executive obligation to comply with judicial decisions is itself part of the practice-based constitutional law of the United States, so presidential compliance with this obligation may demonstrate that such law can in fact constrain the President. This is true, as we explain further in Part III, even if the effect on presidential behavior is motivated by concerns about external political perceptions rather than an internal sense of fidelity to law (or judicial review). n120

#### Detainee rulings emphasize squo confusion in the doctrine – plan solves

Sparrow 11 (Tyler, JD @ Suffolk Univ. + Associate @ Wilmer Hale, "Indefinite Detention After Boumediene: Judicial Trailblazing in Uncharted and Unfamiliar Territory," 44 Suffolk U. L. Rev. 261, lexis)

As this Note goes to print, the Supreme Court has yet to consider another Guantanamo detainee habeas corpus case since Boumediene. The judges of the United States District Court for the District of Columbia continue to rule on habeas petitions in the absence of clear guidance. Detainees and their attorneys have little ability to predict the outcome of their petitions in the face of such uncertainty. Because the outcome of these petitions will ultimately decide the freedom of these men, it is imperative that the Court delineate the standards for detention more clearly. The Supreme Court will have the ability to rule on a broad range of issues pertaining to Guantanamo detainees should it choose to grant certiorari to any of the detainee habeas corpus cases currently being appealed. By ruling on issues such as the required burden of proof, the weight afforded to hearsay evidence, the scope of detention authority, and the vitiation of a relationship, the Court would take great steps towards clarifying detainee case law, and shoring up disparate results in cases bearing largely similar facts. The United States of America was built around the values of liberty and the rule of law. It is now incumbent upon the Supreme Court to ensure these values are uniformly upheld so no person shall be detained outside the clear rule of law.

#### external checks are effective

Aziz Z. Huq 12, Assistant Professor of Law, University of Chicago Law School, "Binding the Executive (by Law or by Politics)", May 25, www.law.uchicago.edu/files/file/400-ah-binding.pdf

Paulson ’ s genuflection and Obama ’ s reticence, I will contend here, are symptomatic of our political system ’ s operation rather than being aberration al . It is generally the case that even in the heart of crisis, and even on matters where executive competence is supposedly at an acme , legislators employ formal institutional powers not only to delay executive initiatives but also affirmatively to end presidential policies. 20 Numerous examples from recent events illustrate the point. Congressional adversaries of Obama, for instance, cut off his policy of emptying Guantánamo Bay via appropriations riders. 21 Deficit hawks spent 2011 resisting the President’s solutions to federal debt, while the President declined to short - circuit negotiations with unilateral action. 22 Even in military matters, a growing body of empirical research suggests Congress often successfully influences the course of overseas engagements to a greater degree than legal scholars have discerned or acknowledged. 23¶ That work suggests that the failure of absolute congressional control over military matters cannot be taken as evidence of “the inability of law to constrain the executive ” in more subtle ways (p 5). The conventional narrative of executive dominance , in other words, is at best incomplete and demands supplementing .¶ This Review uses The Executive Unbound as a platform to explore how the boundaries of discretionary executive action are established. As the controversial national security policies of the Bush administration recede in time, the issue of executive power becomes ripe for reconsideration. Arguments for or against binding the executive are starting to lose their partisan coloration. There is more room to investigate the dynamics of executive power in a purely positive fashion without the impinging taint of ideological coloration.¶ Notwithstanding this emerging space for analys i s, t here is still surprising inattention to evidence of whether the executive is constrained and to the positive question of how constraint works. The Executive Unbound is a significant advance because it takes seriously this second “ mechanism question. ” Future studies of the executive branch will ignore its i mportant and trenchant analysis at their peril. 24 Following PV ’ s lead, I focus on the descriptive , positive question of how the executive is constrained . I do speak briefly and in concluding to normative matters . B ut f irst and foremost, my arguments should be understood as positive and not normative in nature unless otherwise noted.¶ Articulating and answering the question “ W hat binds the executive ?” , The Executive Unbound draws a sharp line between legal and political constraints on discretion — a distinction between laws and institutions on the one hand, and the incentives created by political competition on the other hand . While legal constraints usually fail, it argues, political constraints can prevail. PV thus postulate what I call a “strong law/ politics dichotomy. ” My central claim in this Review is that this strong law/politics dichotomy cannot withstand scrutiny. While doctrinal scholars exaggerate law ’s autonomy, I contend, the realists PV underestimate the extent to which legal rules and institutions play a pivotal role in the production of executive constraint. Further, the political mechanisms they identify as substitutes for legal checks cannot alone do the work of regulating executive discretion. Diverging from both legalist and realist positions, I suggest that law and politics do not operate as substitutes in the regulation of executive authority. 25 They instead work as interlocking complements. An account of the borders of executive discretion must focus on the interaction of partisan and electoral forces on the one hand and legal rules. It must specify the conditions under which the interaction of political actors’ exertions and legal rules will prove effective in limiting such discretion.

## K

### Generic Legalism K – 2AC

#### 1 – Case outweighs

#### A – terrorists are gaining strength and attacks are coming now – this is the evans evidence and status quo technology means these attacks would be disastrous – that’s Dvorkin – alt doesn’t solve because isn’t doesn’t do away with this technology

#### B – dependence on middle eastern oil creates situations for US draw in and international conflict – it destroys US hegemony which will win net increases stability even if it links to their arguments – that was on case – that’s Miller and Kagan

#### C – Is Russia-US war over the arctic – these conflicts are *inevitable* in the status quo – it’s not an issue of threat construction but one of fighting over the same land areas – their k doesn’t disprove the thesis of these arguments – extinction is categorically different from all other impacts and should be evaluated as such – that’s Bostrum

#### D. Extinction outweighs

Bok 88

(Sissela, Professor of Philosophy at Brandeis, Applied Ethics and Ethical Theory, Rosenthal and Shehadi, Ed.)

The same argument can be made for Kant’s other formulations of the Categorical Imperative: “So act as to use humanity, both in your own person and in the person of every other, always at the same time as an end, never simply as a means”; and “So act as if you were always through your actions a law-making member in a universal Kingdom of Ends.” No one with a concern for humanity could consistently will to risk eliminating humanity in the person of himself and every other or to risk the death of all members in a universal Kingdom of Ends for the sake of justice. To risk their collective death for the sake of following one’s conscience would be, as Rawls said, “irrational, crazy.” And to say that one did not intend such a catastrophe, but that one merely failed to stop other persons from bringing it about would be beside the point when the end of the world was at stake. For although it is true that we cannot be held responsible for most of the wrongs that others commit, the Latin maxim presents a case where we would have to take such responsibility seriously – perhaps to the point of deceiving, bribing, even killing an innocent person, in order that the world not perish. To avoid self-contradiction, the Categorical Imperative would, therefore, have to rule against the Latin maxim on account of its cavalier attitude toward the survival of mankind. But the ruling would then produce a rift in the application of the Categorical Imperative. Most often the Imperative would ask us to disregard all unintended but foreseeable consequences, such as the death of innocent persons, whenever concern for such consequences conflicts with concern for acting according to duty. But, in the extreme case, we might have to go against even the strictest moral duty precisely because of the consequences. Acknowledging such a rift would post a strong challenge to the unity and simplicity of Kant’s moral theory.

#### 4. Perm do both

#### 2. K doesn’t come first

**Owens 2002** (David – professor of social and political philosophy at the University of Southampton, Re-orienting International Relations: On Pragmatism, Pluralism and Practical Reasoning, Millenium, p. 655-657)

Commenting on the ‘philosophical turn’ in IR, Wæver remarks that ‘[a] frenzy for words like “epistemology” and “ontology” often signals this philosophical turn’, although he goes on to comment that these terms are often used loosely.4 However, loosely deployed or not, it is clear that debates concerning ontology and epistemology play a central role in the contemporary IR theory wars. In one respect, this is unsurprising since it is a characteristic feature of the social sciences that periods of disciplinary disorientation involve recourse to reflection on the philosophical commitments of different theoretical approaches, and there is no doubt that such reflection can play a valuable role in making explicit the commitments that characterise (and help individuate) diverse theoretical positions. Yet, such a philosophical turn is not without its dangers and I will briefly mention three before turning to consider a confusion that has, I will suggest, helped to promote the IR theory wars by motivating this philosophical turn. The first danger with the philosophical turn is that it has an inbuilt tendency to prioritise issues of ontology and epistemology **over explanatory** and/or interpretive **power** as if the latter two were merely a **simple function** of the former. But while the explanatory and/or interpretive power of a theoretical account is not wholly independent of its ontological and/or epistemological commitments (otherwise criticism of these features would not be a criticism that had any value), **it is by no means clear that it is**, in contrast, wholly dependent **on these philosophical commitments**. Thus, for example, one need not be sympathetic to rational choice theory to recognise that it can provide powerful accounts of certain kinds of problems, such as the tragedy of the commons in which dilemmas of collective action are foregrounded. It may, of course, be the case that the advocates of rational choice theory cannot give a good account of why this type of theory is powerful in accounting for this class of problems (i.e., how it is that the relevant actors come to exhibit features in these circumstances that approximate the assumptions of rational choice theory) and, if this is the case, it is a philosophical weakness—but **this does not undermine** the point that, for a certain class of problems, rational choice theory may provide the best account available to us. In other words, while the critical judgement of theoretical accounts in terms of their ontological and/or epistemological sophistication is one kind of critical judgement, **it is not the only or even necessarily the** most important kind. The second danger run by the philosophical turn is that because prioritisation of ontology and epistemology promotes theory-construction from philosophical first principles, it cultivates a theory-driven rather than problem-driven approach to IR. Paraphrasing Ian Shapiro, the point can be put like this: since it is the case that there is always a plurality of possible true descriptions of a given action, event or phenomenon, the challenge is to decide which is the most apt in terms of getting a perspicuous grip on the action, event or phenomenon in question given the purposes of the inquiry; yet, from this standpoint, ‘theory-driven work is part of a reductionist program’ in that it ‘dictates always opting for the description that calls for the explanation that flows from the preferred model or theory’.5 The justification offered for this strategy rests on the mistaken belief that it is necessary for social science because general explanations are required to characterise the classes of phenomena studied in similar terms. However, as Shapiro points out, this is to misunderstand the enterprise of science since ‘whether there are general explanations for classes of phenomena is a **question for social-scientific inquiry**, not to be prejudged before conducting that inquiry’.6 Moreover, this strategy easily slips into the promotion of the pursuit of generality over that of empirical validity. The third danger is that the preceding two combine to encourage the formation of a particular image of disciplinary debate in IR—what might be called (only slightly tongue in cheek) ‘the Highlander view’—namely, an image of warring theoretical approaches with each, despite occasional temporary tactical alliances, dedicated to the strategic achievement of sovereignty over the disciplinary field. It encourages this view because the turn to, and prioritisation of, ontology and epistemology stimulates the idea that there can only be one **theoretical approach which gets things right**, namely, the theoretical approach that gets its ontology and epistemology right. This image feeds back into IR exacerbating the first and second dangers, and so a potentially vicious circle arises.

#### 1. Framework- the role of the ballot is to weigh the plan against a competitive policy option

#### First- Fairness- they moot the entirety of the 1ac, makes it impossible to be affirmative

#### Second – Education- Policy education is good- it teaches future decisionmaking

(alt alone doesn’t solve – perm is best, because their argument is that says that focus on only normative means we never institute durable policies)

#### 11. Alt Can’t solve --Appeals for institutional restrain are a crucial supplement to political resistance to executive power.

David COLE Law @ Georgetown ’12 “The Politics of the Rule of Law: The Role of Civil Society in the Surprising Resilience of Human Rights in the Decade after 9/11” http://www.law.uchicago.edu/files/files/Cole%201.12.12.pdf p. 51-53

As I have shown above, **while political forces played a significant role in checking** President **Bush**, what was significant was the particular substantive content of that politics; **it was not just any political pressure**, **but pressure to maintain** fidelity to **the rule of law**. **Politics standing alone is as likely to fuel as to deter executive abuse; consider the lynch mob, the Nazi Party** in Germany, or **xenophobia** more generally. **What we need if we are to check abuses of executive power is a politics that champions the rule of law.** Unlike the politics Posner and Vermeule imagine, **this** type of **politics cannot be segregated neatly from the law**. On the contrary, **it will often coalesce around a distinctly legal challenge, objecting to departures from distinctly legal norms**, heard in a court case, as we saw with Guantanamo. **Congress’s actions make clear that had Guantanamo been left to the political process, there would have been few if any advances**. **The litigation generated and concentrated political pressure on claims for a restoration of the values of legality,** and, as discussed above, **that pressure then played a critical role in the litigation’s outcome, which in turn affected the political pressure for reform. T**here is, to be sure, something paradoxical about this assessment. The rule of law, the separation of powers, and human rights are designed to discipline and constrain politics, out of a concern that pure majoritarian politics, focused on the short term, is likely to discount the long-term values of these principles. Yet without a critical mass of political support for these legal principles, they are unlikely to be effective checks on abuse, for many of the reasons Posner andVermeule identify. **The answer, however, is not to abandon the rule of law for politics, but to develop and nurture a political culture that values the rule of law itself.** **Civil society organizations devoted to such values**, **such as Human Rights Watch, the Center for Constitutional Rights, and the American Civil Liberties Union, play a central role in facilitating, informing, and generating that politics**. Indeed, **they have no alternative.** Unlike governmental institutions, civil society groups have no formal authority to impose the limits of law themselves. Their recourse to the law’s limits is necessarily indirect: they can file lawsuits seeking judicial enforcement, lobby Congress for statutory reform or other legislative responses, or seek to influence the executive branch. **But they necessarily and simultaneously pursue these goals through political avenues – by appealing to the public for support, educating the public, exposing abuses, and engaging in public advocacy around rule-of-law values**. Unlike ordinary politics, which tends to focus on the preferences of the moment, **the politics of the rule of law is committed to a set of long-term principles.** **Civil society organizations are uniquely situated to bring these long-term interests to bear on the public debate.** Much like a constitution itself, civil society groups are institutionally designed to emphasize and reinforce our long-term interests. When the ordinary political process is consumed by the heat of a crisis, organizations like the ACLU, Human Rights First, and the Center for Constitutional Rights, designed to protect the rule of law, are therefore especially important. While Congress and the courts were at best compromised and at worst complicit in the abuses of the post-9/11 period, civil society performed admirably. The Center for Constitutional Rights brought the first lawsuit seeking habeas review at Guantanamo, and went on to coordinate a nationwide network of volunteer attorneys who represented Guantanamo habeas petitioners. The ACLU filed important lawsuits challenging secrecy and government excesses, and succeeded in disclosing many details about the government’s illegal interrogation program. Both the ACLU and CCR filed lawsuits and engaged in public advocacy on behalf of torture and rendition victims, and challenging warrantless wiretapping. Human Rights Watch and Human Rights First wrote important reports on detention, torture, and Guantanamo, and Human Rights First organized former military generals and admirals to speak out in defense of humanitarian law and human rights. These efforts are but a small subset of the broader activities of civil society, at home and abroad, that helped to bring to public attention the Bush administration’s most questionable initiatives, and to portray the initiatives as contrary to the rule of law. At their best, civil society organizations help forge a politics of the rule of law, in which **there is a symbiotic relationship between politics and law**: **the appeal to law informs a particular politics, and that politics reinforces the law’s appeal, in a mutually reinforcing relation**. **Posner and Vermeule understand the importance of politics as a checking force in the modern world, but fail to see the critical qualification that the politics must be organized around a commitment to fundamental principles of liberty, equality, due process, and the separation of powers** – in short, the rule of law. Margulies and Metcalf recognize that politics as much as law determines the reality of rights protections, but fail to identify the unique role that civil society organizations play in that process**. It is not that the “rule of politics” has replaced the “rule of law,” but that, properly understood, a politics of law is a critical supplement to the rule of law.** We cannot survive as a constitutional democracy true to our principles without both. And our survival turns, not only on a vibrant constitution, but on a vibrant civil society dedicated to reinforcing and defending constitutional values.

#### 5. True constraints are possible – court rulings are binding – past decisions prove

#### 6. External checks are effective

Aziz Z. Huq 12, Assistant Professor of Law, University of Chicago Law School, "Binding the Executive (by Law or by Politics)", May 25, www.law.uchicago.edu/files/file/400-ah-binding.pdf

Paulson ’ s genuflection and Obama ’ s reticence, I will contend here, are symptomatic of our political system ’ s operation rather than being aberration al . It is generally the case that even in the heart of crisis, and even on matters where executive competence is supposedly at an acme , legislators employ formal institutional powers not only to delay executive initiatives but also affirmatively to end presidential policies. 20 Numerous examples from recent events illustrate the point. Congressional adversaries of Obama, for instance, cut off his policy of emptying Guantánamo Bay via appropriations riders. 21 Deficit hawks spent 2011 resisting the President’s solutions to federal debt, while the President declined to short - circuit negotiations with unilateral action. 22 Even in military matters, a growing body of empirical research suggests Congress often successfully influences the course of overseas engagements to a greater degree than legal scholars have discerned or acknowledged. 23¶ That work suggests that the failure of absolute congressional control over military matters cannot be taken as evidence of “the inability of law to constrain the executive ” in more subtle ways (p 5). The conventional narrative of executive dominance , in other words, is at best incomplete and demands supplementing .¶ This Review uses The Executive Unbound as a platform to explore how the boundaries of discretionary executive action are established. As the controversial national security policies of the Bush administration recede in time, the issue of executive power becomes ripe for reconsideration. Arguments for or against binding the executive are starting to lose their partisan coloration. There is more room to investigate the dynamics of executive power in a purely positive fashion without the impinging taint of ideological coloration.¶ Notwithstanding this emerging space for analys i s, t here is still surprising inattention to evidence of whether the executive is constrained and to the positive question of how constraint works. The Executive Unbound is a significant advance because it takes seriously this second “ mechanism question. ” Future studies of the executive branch will ignore its i mportant and trenchant analysis at their peril. 24 Following PV ’ s lead, I focus on the descriptive , positive question of how the executive is constrained . I do speak briefly and in concluding to normative matters . B ut f irst and foremost, my arguments should be understood as positive and not normative in nature unless otherwise noted.¶ Articulating and answering the question “ W hat binds the executive ?” , The Executive Unbound draws a sharp line between legal and political constraints on discretion — a distinction between laws and institutions on the one hand, and the incentives created by political competition on the other hand . While legal constraints usually fail, it argues, political constraints can prevail. PV thus postulate what I call a “strong law/ politics dichotomy. ” My central claim in this Review is that this strong law/politics dichotomy cannot withstand scrutiny. While doctrinal scholars exaggerate law ’s autonomy, I contend, the realists PV underestimate the extent to which legal rules and institutions play a pivotal role in the production of executive constraint. Further, the political mechanisms they identify as substitutes for legal checks cannot alone do the work of regulating executive discretion. Diverging from both legalist and realist positions, I suggest that law and politics do not operate as substitutes in the regulation of executive authority. 25 They instead work as interlocking complements. An account of the borders of executive discretion must focus on the interaction of partisan and electoral forces on the one hand and legal rules. It must specify the conditions under which the interaction of political actors’ exertions and legal rules will prove effective in limiting such discretion.

#### **7.** Even if they aren’t – the president will go along with them anyway – takes out the impact

Bradley and Morrison 13

[Curtis, William Van Alstyne Professor of Law, Duke Law School. and Trevor, Liviu Librescu Professor of Law, Columbia Law School, Presidential Power, Historical Practice, And Legal Constraint, 2013 Directors of The Columbia Law Review Association, Inc. Columbia Law Review May, 2013, L/N]

Insisting on a sharp distinction between the law governing presidential authority that is subject to judicial review and the law that is not also takes for granted a phenomenon that merits attention - that Presidents follow judicial decisions. n118 That assumption is generally accurate in the United States today. To take one relatively recent example, despite disagreeing with the Supreme Court's determination in Hamdan v. Rumsfeld that Common Article 3 of the Geneva Conventions applies to the war on terror, the Bush Administration quickly accepted it. n119 But the reason why Presidents abide by court decisions has a connection to the broader issue [\*1131] of the constraining effect of law. An executive obligation to comply with judicial decisions is itself part of the practice-based constitutional law of the United States, so presidential compliance with this obligation may demonstrate that such law can in fact constrain the President. This is true, as we explain further in Part III, even if the effect on presidential behavior is motivated by concerns about external political perceptions rather than an internal sense of fidelity to law (or judicial review). n120

#### 8. No impact

 **Dickinson 4** (Dr. Edward Ross, Professor of History – University of Cincinnati, “Biopolitics, Fascism, Democracy: Some Reflections on Our Discourse About ‘Modernity’”, Central European History, 37(1), p. 18-19)

In an important programmatic statement of 1996 Geoff Eley celebrated the fact that Foucault’s ideas have “fundamentally directed attention away from institutionally centered conceptions of government and the state . . . and toward a dispersed and decentered notion of power and its ‘microphysics.’”48 The “broader, deeper, and less visible ideological consensus” on “technocratic reason and the ethical unboundedness of science” was the focus of his interest.49 But the “power-producing effects in Foucault’s ‘microphysical’ sense” (Eley) of the construction of social bureaucracies and social knowledge, of “an entire institutional apparatus and system of practice” ( Jean Quataert), simply do not explain Nazi policy.50 The destructive dynamic of Nazism was a product not so much of a particular modern set of ideas as of a particular modern political structure, one that could realize the disastrous potential of those ideas. What was critical was not the expansion of the instruments and disciplines of biopolitics, which occurred everywhere in Europe. Instead, it was the principles that guided how those instruments and disciplines were organized and used, and the external constraints on them. In National Socialism, biopolitics was shaped by a totalitarian conception of social management focused on the power and ubiquity of the völkisch state. In democratic societies, biopolitics has historically been **constrained** by a rights-based strategy of social management. This is a point to which I will return shortly. For now, the point is that what was decisive was actually politics at the level of the state. A comparative framework can help us to clarify this point. Other states passed compulsory sterilization laws in the 1930s — indeed, individual states in the United States had already begun doing so in 1907. Yet they **did not proceed** tothe next steps adopted by National Socialism — mass sterilization, mass “eugenic” abortion and murder of the “defective.” Individual figures in, for example, the U.S. did make such suggestions. But **neither** the **political structures** of democratic states **nor** their **legal and political principles** **permitted** such policies actually being enacted. Nor did the scale of forcible sterilization in other countries match that of the Nazi program. I do not mean to suggest that such programs were not horrible; but in a **democratic** political **context** they did not develop the dynamic of constant radicalization and escalation that characterized Nazi policies.

#### 9. Venezuela advantage – legalism is necessary to spur action – that’s Yammamoto

#### 10. Liberalism is inevitable

Sparer ‘84

[Ed, Prof. Law and Soc Welfare @ Pennsylvania, “Fundamental Human Rights, Legal Entitlements, and the Social Struggle: A Friendly Critique of the Critical Legal Studies Movement,” 36 Stan. L. Rev. 509, January, ln//uwyo-ajl]

The thrust of CLS critique is devoted, in turn, to the exposure of the contradictions in liberal philosophy and law. This strand of the Critical legal critique is quite powerful and makes a much-needed contribution. In my view, however, it suffers from two general problems. First, the critique lends itself to exaggeration. This observation may be appreciated by considering what happens when Critical legal theorists themselves make tentative gestures at the social direction in which we should move. Such gestures, even from the most vigorous critics of liberalism, do not escape from liberalism and, indeed, liberal rights theory. Nevertheless, those gestures have great merit, particularly because of their use of liberal rights. For example, Frug, while expounding his vision of the city as a site of localized power and participatory democracy, attacks liberal theory and its dualities as an obstacle to his vision. n19 At the same time, without [\*518] acknowledging the significance of what he is doing, Frug relies on the liberal image of law and rights to defend the potential of his vision. He writes: It should be emphasized that participatory democracy on the local level need not mean the tyranny of the majority over the minority. Cities are units within states, not the state itself; cities, like all individuals and entities within the state, could be subject to state-created legal restraints that protect individual rights. Nor does participatory democracy necessitate the frustration of national political objectives by local protectionism; participatory institutions, like others in society, could still remain subject to general regulation to achieve national goals. The liberal image of law as mediating between the need to protect the individual from communal coercion and the need to achieve communal goals could thus be retained even in the model of participatory democracy. n20

#### Disenchantment is never total – a rational approach is crucial to confront the logic of technological destruction and recover possibilities for connection with the world within technology.

Feenberg 7

(Andrew, Canada Research Chair in the Philosophy of Technology in the School of Communication at Simon Fraser University, Danish Yearbook of Philosophy, Volume 42, “Between Reason and Experience,” p. 19-21, http://www.sfu.ca/~andrewf/books/Between\_Reason\_and\_Experience\_DYP42.pdf)

What has proven fatal to Marcuse’s reputation is his hopeful argument for radical social and technical transformation. Yet this aspect of his work is relevant in a new period of crisis and protest largely focused around technical issues such as environmental pollution, energy politics, and the globalization of industrialization and disease. In this and the concluding parts, therefore, I will consider some starting points for continuing the general line of argument Marcuse developed under the contradictory influences of Heidegger, Marxism and the New Left. Heidegger and Marcuse argued that the understanding of beings in general, what we would normally call “culture,” is rooted in the form of the instrumental relation to reality. That form evolves historically and in its latest incarnation takes on a particularly destructive aspect. The danger is not merely physical but concerns the substitution of technological rationality for every other type of thought. The subject in a “one-dimensional society” neither understands its own essential involvement in its world nor the potentialities with which that world is fraught. Understanding this “second” dimension requires a thought freed from narrow instrumental purposes and capable of addressing lived experience in all its complexity. These thinkers appear to postulate the existence of a culture – modern technological culture – that evacuates the second dimension. In this technological culture, abstract aspects of social processes are isolated and privileged as the ends of action. The pursuit of ends with means, preferably technically efficient means, replaces an understanding of the structure of meaning in which experienced worlds consist. The focus on the means leads to a forgetfulness of meaning and eventually to the lopping off of whole dimensions of the original experience that appear functionally irrelevant. From within technological culture it seems that all that has been lost in the disenchantment of the world is arbitrary prejudices and myths. According to this view modern scientific-technical rationality supplies all the truth human beings can possibly require. The lifeworld is a poor source of knowledge until its givens have been refined to remove illusory subjective elements. Everything, including human beings, belongs to the technical system. Both Heidegger and Marcuse were tempted at least rhetorically to accept such a reductionist vision as accomplished fact while giving it a dystopian twist: the triumph of Brave New World. Yet ultimately neither believed the experiential realm could be wholly eliminated. Heidegger claimed that behind the functional appearances of modern technology there lies a mysterious revealing of new meanings which are still hidden to us but which may someday be revealed. Marcuse concluded that the very meaninglessness of modern technology situates it within the project of a ruling class. The destruction of all traditional meaning, which is the condition of capitalist technical and economic advance, is simply the other side of the coin of the reinterpretation of meaning in the degraded form of consumer goods. In his later work, Marcuse, as we have seen, argued for transforming technology itself. He did not share Heidegger’s belief that the relationship to technology could be independent of its design. The particular examples Marcuse cites are the assembly line and advanced weaponry. If these technologies remain at the core of modern life, no change in our relation to them can save us. The movement would thus have to overcome not just the cultural, economic and political orders but the underlying technology of destruction, indifferent to nature, human life and the development of human capacities. But Marcuse could only hint very generally at how this would come about and what the new technology might entail. Because both thinkers faced a world in which no alternative appeared at the technical level proper, they sought sources of resistance in other domains such as Nazi politics or New Left protest. But this is a departure from the ontologically fundamental role technical practice holds in their own philosophies which they did not adequately explain or justify. These thinkers ended up with such unsatisfactory conclusions because they could find no way to return to the realm of everyday technical experience to discover there the enactment of new meanings that cannot be treated as merely arbitrary, that appeal precisely to a modern ground while pointing beyond the current limitations of modern societies. If we can find a closer connection between politics and technology, a more convincing alternative may appear.

#### Doing nothing and focusing on ontology is useless for confronting the practical dangers of technology – their detached attitude is more calculative.

Davison 1

(Aidan, Geography and Environmental Studies @ Tasmania, Technology and the Contested Meanings of Sustainability p. 132-136)

Heidegger says that the question that can free us from technology is this: How must we think? To ask What shall we do? is, apparently, to be prey to instrumentalism. It is to seek solutions, rather than to understand ever more deeply our plight and the saving power that grows within it. According to Hubert Dreyfus, an influential interpreter of Heidcgger and one who defends much that I find disturbing in Heidegger’s account, the supreme danger Heidegger describes is one beyond all practical concerns. But, because "Heidegger has not always been clear about what distinguishes his approach from a romantic reaction to the domination of narure,' and because his approach confounds our instrumentalist epistemology,, Dreyfus contends that "we are tempted to translate it into conventional platitudes. Thus. Heidegger ontological concerns are mistakenly assimilated to ecologically minded worries about the devastation of nature Dreyfus emphatically rebukes those who would get caught up in everyday problems: Heidegger’s concern is the human distress caused by the technological understanding of being, rather than the destruction caused by specific technologies. Consequently, he distinguishes the current problem caused by technology¬--ecological destruction, nuclear danger, consumerism, and so on -from the destruction that would result should technology solve all of our problems.' What I find unacceptable here is the absolute disjunction Dreyfus identifies in Heidegger's account between our ontological distress in adopting a technological understanding of being and our embodied distress at the degradation of our ecological and social relationships. By defining our distress at the destruction of nature as "worry" and further labelling this worry a "conventional platitude:' we see clearly the lurking danger of intellectual elitism within the philosopher's elevated gaze on the essential issues, The line between opposing our calculative orientation to thinking and disregarding Dreyfus's conclusion that concerns about the devastation of nature verge on platitudinous is drawn all too easily from within the comfort of secure professorial life amidst technological affluence. Just as the ancient Greek thinkers were insulated (sum practical everyday matters by the normalized tyranny of slavery, so too are many modern thinkers insulated from the submerged tyranny perpetrated through modern technosystems' Take. for instance, Drevfus’ assessment of the role of technology in contemporary Japanese life: "The television set and the household gods share the same shelf the styrofoam cup coexists with the porcelain teacup. We thus see that the Japanese, at least, can enjoy technology without taking over the technological understanding of being"" In a more recent paper, he takes this point further. I cannot accept this proposition. Technological ontology is so rapidly becoming ubiquitous in most societies precisely because of modern technology's surface of plurality adaptability and cultural flexibility. We live in the midst of the hyper real illusion of having gained television sets while not having lost our gods as, all the while, our world is em more flattened towards the one dimension of technological cornmodification. No doubt many Japanese visitors to Caucasian technological society arc as impressed by exotic medieval cathedrals Looming alongside the gleaming arches of McDonalds, as was Dreyfus amidst the exotic a of Japanese living rooms. Yet behind these surfaces, the technosystems of hegemonic oppression thrive. In turning on their light switches to better see their altar to divinity and TV Japanese citizens activate, as surely as do those of France, the technosystems of nuclear energy. The shelf itself is likely, as it is in Australia, to be an unacknowledged memorial to the ancient rainforests of Borneo. In eating their traditional sushi, this culture now stimulates the technosysterns of drift netting. chemical intensive aquaculture, and genetic engineering In importing rice, they encourage cash crops rather than self sufficiency in Africa. In prudently saving to purchase a new Buddhist statue, they contribute, through their gigantic banks, to the technosysterns of finance that power global capitalism. In the face of the neo Heideggerian appeal to higher concerns, I think it important to emphasize that the destruction of nature is for vast numbers of people not an abstract worry but an immediate and direct threat to livelihoods. Cultural practices and routinely to human and nonhuman life itself The suggestion that deep thinking lies in the turn away from the technological world toward the study of ancient Creek philosophy or meditation on eighteenth¬century poetry seems pretentious and politically fraught. We are cautioned by Heidegger not to rush headlong into action aimed at solving an evident but. he assures us, nonetheless inessential problem such as the destruction of a river valley through the construction of a hydroelectric dam. Heidegger insists that in our urgent hurry we will miss the real threat, which is not to the valley or even its displaced human residents, but to the possibilities for human thinking itself. Yet there can be no doubt that our decision to sit quietly meditating on our breath or poetry involves many difficult practical choices. To sit still in the midst of the restlessness of the technological world is as much indeed, is more deliberate action than rushing out the door brandishing a placard. Simply sitting and reading Hcidcger implies a host of practical judgments. To put aside books on integrated business management and be bothered with Heideggers ontological questions at all runs counter to the self assuredness and instrumentalism of the latemodern world. And remaining open to these questions, if we choose to be so bothered, is difficult amid the burly burly of technological life?r Contrary to Dreyfus. I consider that "ecological destruction, inextricably ontological and corporeal.The literature of radical ecophilosophy attests to this being so. My concern about the accumulation of carcinogenic pesticides and heavy metals in the tissues of my children is at once a concern with the technological diminishment of human pocsibilities and a concern with the practical task of living in more sane, more careful ways. Certainly my preoccupation with the well being of my children could be narrowly construed as a mere instrumentalizing concern with the survival of my genes Similarly ambivalent are alternatives to harmful, unsustainable practices offered via the ecomodernist drive for ecoefficiency. If I can afford them. I can choose from alternatives such as genetically engineered pest resistance, the substitution of timber in my house, and of lead in petrol and paints, by more sophisticated synthetic products of industrial laboratories. However, history has shown the propensity of such solutions to create new sets of problems, for which new sets of technological solutions are soon required. This is, after all, the dynamic of technological profligacy that defines modernity There is thus much weight to Dreyfus' argument that to attempt to solve our problems in this way is to move another step further clown the path to fully technologized forms of life that obliterate the possibility of our encountering our relational selfhood. But where does this leave us as we negotiate the ambiguities of daily life? If I choose to reduce toxicity in my family's diet by the collection of rain water, by turning my backyard and local public land over to organic forms of food production, by adopting simple passive design methods to reduce the risk of termite damage, by cycling to avoid the combustion of fuel, or by bartering for the vegetable based paints made by a neighbor, am I necessarily falling prey to a death defying desire for control? Conversely, are philosophers who spend long hours meditating on Hólderlin or the term in their everyday practices, thereby released from the oppressive ontological grasp of technology! I think not. GENUINE PRACTICE AND OUR INNER AND REAL CORE The problematic distinction that Dreyfus makes between our primary ontological distress and its secondary material symptoms derives, in my view, from the distinction that Heidegger drew, after the war, between our essential nature, our “inner and real core' and our everyday latemodern lives: We can use technical devices, and yet with proper use keep ounelves free of them, so that e can let go of them any time. We can use technical devices as they ought to be used, and also let them alone as something which does not affect our inner and real core. We can affirm the unavoidable use of technical devices, and also deny them the right to dominate us, and so to warp, confine, and lay ware our nature." This remarkable passage from his 1955 Memorial Address effectively draws Heidegger's explanation of technology full circle. Beginning with his critique of instrumentalism, through his description of technological ontology and the destining of being, this passage returns us to the instrumentalist promise of technology in the form of the comportment of releasetnent and openness. Of course, Heidegger would present this movement as a spiralling upwards towards the heights of essential questioning. And I do not seek to deny that there is considerable merit in seeing reflection as a spiral movement that returns in to places t have not been before. Nonetheless, his argument is that by adopting our place as artful and meditative dwellers, technologies become instruments once again: we can set them aside at any point This is nothing less than a restatement of the instrumentalist assertion that although technologies define the material form of our lives. Our minds are free to define the moral and ontological form of our lives. In asserting that, provided we preserve our core, the receptiveness of our thinking., we can live in the world of technology yet stay always beyond it, Heidegger elides the simple fact that modem technosysteins are designed precisely so that we cannot put them aside at any point. Just how do we "let go at any time" of the technosystems of money? Just how do academics refuse to let computers dominate and lay waste the practices of educa tion now that students born in the computer age are unable to conceive sentences without keyboards and university bureaucrats have restructured campus life along digital lines in an effort to maximize the production of competitive educational product?

#### 12. Can’t result in the aff – 1AC Hathaway and Economist says legal checks are key – alt action is insufficient

#### A2: Slave Morality – not a reason not to vote for the aff – even if our justification for ending indefinite detention is less than perfect, it is on face bad

#### Indefinite detention negates the legal identity of human beings – reduces them to bare life, replicates the logic of Nazi extermination camps

Schatz and Horst 7 (Christopher and Noah, Assistant Federal Public Defender in the Federal Public Defender’s Office for the District of Oregon + a Law Clerk in the Federal Public Defender’s Office for the District of Oregon, "WILL JUSTICE DELAYED BE JUSTICE DENIED? CRISIS JURISPRUDENCE, THE GUANTÁNAMO DETAINEES, AND THE IMPERILED ROLE OF HABEAS CORPUS IN CURBING ABUSIVE GOVERNMENT DETENTION," http://law.lclark.edu/live/files/9557-lcb113art1schatzpdf)

Beginning in 2002, as a result of military and intelligence activities ¶ conducted in Afghanistan and elsewhere against the perpetrators of the ¶ September 11 attack and their supporters, American military personnel began ¶ to take custody of individuals, both on and off the battlefield, who were ¶ subsequently classified as enemy combatants. Many of these detainees were ¶ soon transported out of the military’s theater of operation to a hastily ¶ constructed detention facility located at the Guantánamo Bay Naval Base in ¶ Cuba.4¶ Jettisoning jus in bello principles of international humanitarian law ¶ governing the treatment of people captured during an armed conflict, the Bush ¶ Administration declared that the war on terror required a “new paradigm,” and ¶ that individuals detained at Guantánamo Bay and other so called “black sites” ¶ were “unlawful combatants” who would not be treated as prisoners of war ¶ under the Third Geneva Convention.5¶ Nor, in the Bush Administration’s view, ¶ did the detainees qualify for the minimum humanitarian requirements ¶ established by Common Article Three of the Geneva Conventions.6¶ Furthermore, in addition to concocting legal rationalizations for legitimating ¶ torture on a scale and to a degree never before countenanced by United States¶ government policy,7¶ Justice Department lawyers also theorized that habeas ¶ corpus would not be available to the Guantánamo Bay detainees because they ¶ are aliens held outside of the sovereign territory of the United States.8¶ As Commander in Chief, the Bush Administration continues to assert that ¶ the President has a constitutionally based entitlement to wield total power over ¶ the Guantánamo Bay detainees—a use of sovereign power for which the ¶ President is not accountable to any other governing body or agency, domestic ¶ or international. If the Bush Administration’s position prevails, the detainees ¶ will be barred from claiming a right to relief under any body of law. In effect, ¶ the detainees will be reduced to an ontological state of human being that has ¶ not been present in the West since the Nazi extermination camps of the ¶ holocaust—they will have been rendered completely devoid of legal identity. ¶ Like the occupants of the Nazi concentration camps, although biologically ¶ alive, the Guantánamo Bay detainees will be legally dead.9¶ 9¶ Concerning the normalization of the state of exception that the Nazi concentration ¶ camps represented, Giorgio Agamben writes: ¶ Whoever entered the camp moved in a zone of indistinction between outside and inside, ¶ exception and rule, licit and illicit, in which the very concepts of subjective right and ¶ juridical protection no longer made any sense. What is more, if the person entering the ¶ camp was a Jew, he had already been deprived of his rights as a citizen by the ¶ Nuremberg laws and was subsequently completely denationalized at the time of the ¶ Final Solution. Insofar as its inhabitants were stripped of every political status and ¶ wholly reduced to bare life, the camp was also the most absolute biopolitical space ever ¶ to have been realized, in which power confronts nothing but pure life, without any ¶ mediation. ¶ GIORGIO AGAMBEN, HOMO SACER 170–71 (Daniel Heller-Roazen trans., Stanford Univ. ¶ Press 1998). The space of the concentration camp is one in which the juridico-political ¶ identity of a certain group of people is reduced solely to that of being “the Other.” The ¶ Guantánamo Bay facility where the detainees are held cannot be characterized as either a ¶ penal or a detention facility, because in those custodial environments the inmates retain some ¶ modicum of rights. The only nomination for that facility which accurately describes the ¶ political-legal status of the Guantánamo Bay detainees is that of “concentration camp.”

#### Indefinite detention negates the legal identify of human beings

Schatz and Horst 7 (Christopher and Noah, Assistant Federal Public Defender in the Federal Public Defender’s Office for the District of Oregon + a Law Clerk in the Federal Public Defender’s Office for the District of Oregon, "WILL JUSTICE DELAYED BE JUSTICE DENIED? CRISIS JURISPRUDENCE, THE GUANTÁNAMO DETAINEES, AND THE IMPERILED ROLE OF HABEAS CORPUS IN CURBING ABUSIVE GOVERNMENT DETENTION," http://law.lclark.edu/law\_reviews/lewis\_and\_clark\_law\_review/past\_issues/volume\_11/number\_3.php)

In June of 2007, the Supreme Court abruptly reversed its earlier decision and granted certiorari in the GuantÃ¡namo Bay detainee case, Boumediene v. Bush. Legal scholars anticipate the Court will now address the issue that has been lurking in the background of the detainee litigation since the Court’s decision in Rasul v. Bush: does the Constitution mandate that the writ of habeas corpus is available to aliens held in military detention facilities outside the territorial boundaries of the United States, but nevertheless within its sovereign jurisdiction and control?¶ In this Article, the authors contend that the Constitution requires that federal court jurisdiction exist with respect to habeas claims of unlawful detention raised by the GuantÃ¡namo Bay detainees, notwithstanding their classification by the Executive Branch as unlawful enemy alien combatants. The authors support their contention with a number of propositions drawn from the text and history of the Constitution. First, the power to grant a writ of habeas corpus is an essential and inherent incident of the judicial power of the United States that cannot be impaired, except in times of rebellion or invasion, without violating the Suspension Clause contained in Article I, Section 9, clause 2 of the Constitution. Second, because sovereignty is manifested by the exercise of power within a legal and political space, and not simply by the boundaries of a physical or territorial place, the GuantÃ¡namo Bay Navel Station is subject to the limitations imposed by Due Process on Executive Branch detentions. Third, the Constitution and binding jus cogens principles of international law protect the legal identity of all individuals by, in part, prohibiting indefinite detention without an independent judicial determination of cause. Fourth, insofar as the tripartite structure of government established by the Constitution contemplates habeas corpus as a critical judicial check on unitary Executive Branch detention activity, impairment of that function violates the separation of powers doctrine.¶ Invoking these propositions, the authors argue that the Detainee Treatment Act of 2005 and the Military Commissions Act of 2006 are unconstitutional to the extent they abrogate the jurisdiction of the federal courts to entertain the habeas petitions of the GuantÃ¡namo Bay detainees. These Acts permit indefinite detention—an action unparalleled in American history, and contrary to the rule of law and values of this Nation. Because indefinite detention destroys the legal identity of human beings, the authors urge the Supreme Court to restore the writ of habeas corpus to its intended function in the Constitutional scheme established by the Founders.

#### Judge Choice – you can vote for any representation that we present, but none of them are necessarily tied to the plan – just reject the bad representations and vote for the good ones – this is justified by the fact that they get to kick their representations because of conditionality.

**Judicial Review is key to preventing torture**

**Amnesty International** USA, Guantanamo, and Beyond: The Continuing Pursuit of Unchecked Executive Power, May 13, 20**05**, http://web.amnesty.org/library/Index/ENGAMR510632005

Judicial review of the lawfulness of detentions is a fundamental safeguard against arbitrary detention, torture and ill-treatment, and "disappearance". Unsurprisingly, then, with the US courts having been kept out of reviewing the cases for more than three years, there is evidence that all these categories of abuse have occurred at the hands of US authorities in the "war on terror". Indeed, Amnesty International believes that abuses have been the result of official policies and policy failures and linked to the executive decision to leave detainees unprotected by not only the courts, but also by the prohibition on torture and other cruel, inhuman or degrading treatment as defined under international humanitarian and human rights treaties binding on the USA. The US administration still does not believe itself legally bound by the Geneva Conventions in relation to the detainees in Guantánamo, Afghanistan and in secret locations, by customary international law, or by the human rights treaty prohibition on the use of cruel, inhuman or degrading treatment in the case of foreign detainees in US custody held outside of US sovereign territory. Nor has it expressly abandoned the notion that the President may in times of war ignore all the USA’s international legal obligations and order torture, or that torturers may be exempted from criminal liability by entering a plea of "necessity" or "self-defence" (see below).

#### Torture is a deontological evil that must be rejected

Oren **Gross,** Professor, Law, University of Minnesota, MINNESOTA LAW REVIEW, June 20**04**, p. 1492-1493.

Absolutists - those who believe that an unconditional ban on torture ought to apply without exception regardless of circumstances - often base their position on deontological grounds. For adherents of the absolutist view of morality, torture is intrinsically wrong. It violates the physical and mental integrity of the person subjected to it, negates her autonomy, and deprives her of human dignity. It reduces her to a mere object, a body from which information is to be extracted; it coerces her to act in a manner that may be contrary to her most fundamental beliefs, values, and interests, depriving her of any choice and controlling her voice. Torture is also wrong because of its depraving and corrupting effects on individual torturers and society at large. Moreover, torture is an evil that can never be justified or excused. Under no circumstances should the resort to torture be morally acceptable or legally permissible. It is a reprehensible action whose wrongfulness may never be assuaged or rectified morally even if the consequences of taking such action in any particular case are deemed to be, on the whole, good. Indeed, one may argue that the inherent wrongfulness of torture and possible good consequences are incommensurable, i.e., they cannot be measured by any common currency and therefore cannot be compared, or balanced, one against the other. The conclusion drawn from such a claim is that "the wrong of torture can be taken as a trump or side constraint on welfare maximization in all possible cases."

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

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

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

#### Methodologies are always imperfect – endorsing multiple epistemological frameworks can correct the blindspots of each

Stern and Druckman 00 (Paul, National Research Council and Daniel, Institute for Conflict Analysis and Resolution – George Mason University, International Studies Review, Spring, p. 62-63)

Using several distinct research approaches or sources of information in conjunction is a valuable strategy for developing generic knowledge. This strategy is particularly useful for meeting the challenges of measurement and inference. The nature of historical phenomena makes controlled experimentation—the analytic technique best suited to making strong inferences about causes and effects—practically impossible with real-life situations. Making inferences requires using experimentation in simulated conditions and various other methods, each of which has its own advantages and limitations, but none of which can alone provide the level of certainty desired about what works and under what conditions. We conclude that debates between advocates of different research methods (for example, the quantitative-qualitative debate) are unproductive except in the context of a search for ways in which different methods can complement each other. Because there is no single best way to develop knowledge, the search for generic knowledge about international conflict resolution should adopt an epistemological strategy of triangulation, sometimes called “**critical** **multiplism**.”53 That is, it should use multiple perspectives, sources of data, constructs, interpretive frameworks, and modes of analysis to address specific questions on the presumption that research approaches that rely on certain perspectives can act as **partial correctives** for the limitations of approaches that rely on different ones. An underlying assumption is that robust findings (those that hold across studies that vary along several dimensions) engender more confidence than replicated findings (a traditional scientific ideal, but not practicable in international relations research outside the laboratory). When different data sources or methods converge on a single answer, one can have increased confidence in the result. When they do not converge, one can interpret and take into account the known biases in each research approach. A continuing critical dialogue among analysts using different perspectives, methods, and data could lead to an understanding that better approximates international relations than the results coming from any single study, method, or data source.

#### Turn – disengagement – reducing suffering doesn’t consume all existence – it can be balanced and is an extension of life and human will – only the alt enables complete self-denial

Conway 99 (David, Middlesex University, “Nietzsche's Revaluation of Schopenhauer as Educator”, http://www.bu.edu/wcp/Papers/MPsy/MPsyConw.htm)

Nonetheless, Nietzsche was mistaken in supposing that it was contrary to the interests of an individual who is otherwise free from suffering to feel sympathy and pity for those who do suffer (through no fault of their own). Pity is not the baneful emotion which Nietzsche claims it to be. This verdict leaves unresolved the ultimate issue. In a world which does as a matter of fact contain the enormous amount of suffering that ours contains, is not an individual who is open through sympathetic identification to this suffering bound like Schopenhauer says to be revolted by the world to the point of revulsion with it? Nietzsche, of course, thought the strong can and should disengage their sympathies from the suffering of the weak. I think this is a mistake. One's world is impoverished by such disengagement of sympathies. Yet how can one continue to affirm the will when one feels with all the suffering there is? Nietzsche is correct that existence could only be tolerable if we were able to live without being constantly affected by the suffering of others. However, it was wrong to think that in order to achieve this enviable state, pity should be condemned and avoided. No, on this matter I think we are entitled to place more trust in life itself than did Nietzsche. The fact is that there are strict psychological limits on our susceptibility to feel pity. Pity is in part a function of our attention. To what we attend is a function of our will. Our sentiments very largely determine to what we attend. Consequently, it is only where people have disengaged themselves from pursuit of personal projects, like appreciating and producing art or caring for loved ones, and so on , that there can be scope for a degree of pity of the sort that alone can give rise to denial of will. Where denial of will becomes psychologically possible, therefore, it can hardly be thought of as unwarranted. Nietzsche himself spoke approvingly of taking leave of life at the time before one became a burden and life lost its point. Surely, he would not have wished to frown on Sannyasis who give up all attachments at that stage in life after they have made their way through it. In conclusion, therefore, I wish to say that their are elements of truth and error in both Schopenhauer and Nietzsche on the matter of greatest divide between them. Schopenhauer is right to see denial of will where it occurs in such figures as religious recluses as a legitimate response to the suffering of the world. Nietzsche is right to see denial of the will as not always a legitimate response to the world's suffering. Nietzsche is right that life need not contain suffering of the magnitude Schopenhauer claims is integral to it. Schopenhauer is right that an attitude of sympathy for all suffering creatures is a benefit and not a bane to the person who has the attitude.

#### -- “Value to life” impact is trash –

#### A) Always exists – many things make living valuable – people can enjoy life even if slaves

#### B) “Denying” value isn’t the same as no value – incremental reduction isn’t total

#### C) Existence is a pre-requisite – have to be alive to value it – so the case impact of extinction turns this

#### doesn’t cause war – it allows for emancipation that creates surival

Ken Booth, visiting researcher - US Naval War College, 2005, Critical Security Studies and World Politics, p. 22

The best starting point for conceptualizing security lies in the real conditions of insecurity suffered by people and collectivities. Look around. What is immediately striking is thatsome degree of insecurity, as a life-determining condition, is universal. To the extent an individualor groupis insecure, to the extent their life choices and changes are taken away; thisis because of the resources and energy they need to invest in seeking safety from domineering threats–whether these are the lack of food for one’s children, or organizing to resist a foreign aggressor.The corollary of the relationship between insecurity and a determined life is that a degree of security creates life possibilities. Security might therefore be conceived as synonymous with opening up space in people’s lives. This allows for individual and collective human becoming–the capacity to have some choice about living differently–consistent with the same but different search by others.Two interrelated conclusion follow from this. First, security can be understood as an instrumental value; it frees its possessors to a greater or lesser extent from life-determining constraints and so allows different life possibilities to be explored. Second,security is not synonymous simply with survival. One can survive without being secure (the experience of refugees in long-term camps in war-torn parts of the world, for example). Security is therefore more than mere animal survival(basic animal existence). It is survival-plus, the plus being the possibility to explore human becoming. As an instrumental value, security is sought because it free people(s)to some degree to do other than deal with threats to their human being. The achievementof a levelof security–and security is always relative –gives to individuals and groups some time, energy, and scope to choose to beor become,other than merely survivingas human biological organisms. Security is an important dimension of the process by which the human species can reinvent itselfbeyond the merely biological.

#### No link – we’re detaining terrorists in the status quo because we think that they’re a threat to our security – that devalues their lives and causes human rights abuses \*globally\* - the aff is a net decrease in security

#### The alternative is a goal - not a mechanism to create that goal – their repoliticization never moves beyond the seminar room

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

Because emancipatory political practice is central to the claims of critical theory, one might expect that proponents of a critical approach to the study of international relations would be reflexive about the relationship between theory and practice. Yet their thinking on this issue thus far does not seem to have progressed much beyond **grandiose statements of intent**. § Marked 18:59 § There have been no systematic considerations of how critical international theory can help generate, support, or sustain emancipatory politics beyond the seminar room or conference hotel. Robert Cox, for example, has described the task of critical theorists as providing “a guide to strategic action for bringing about an alternative order” (R. Cox 1981: 130). Although he has also gone on to identify possible agents for change and has outlined the nature and structure of some feasible alternative orders, he has not explicitly indicated whom he regards as the addressee of critical theory (i.e., who is being guided) and thus how the theory can hope to become a part of the political process (see R. Cox 1981, 1983, 1996). Similarly, Andrew Linklater has argued that “a critical theory of international relations must regard the practical project of extending community beyond the nation–state as its most important problem” (Linklater 1990b: 171). However, he has little to say about the role of theory in the realization of this “practical project.” Indeed, his main point is to suggest that the role of critical theory “is not to offer instructions on how to act but to reveal the existence of unrealised possibilities” (Linklater 1990b: 172). But the question still remains, reveal to whom? Is the audience enlightened politicians? Particular social classes? Particular social movements? Or particular (and presumably particularized) communities? In light of Linklater’s primary concern with emancipation, one might expect more guidance as to whom he believes might do the emancipating and how critical theory can impinge upon the emancipatory process. There is, likewise, little enlightenment to be gleaned from Mark Hoffman’s otherwise important contribution. He argues that critical international theory seeks not simply to reproduce society via description, but to understand society and change it. It is both descriptive and constructive in its theoretical intent: it is both an intellectual and a social act. It is not merely an expression of the concrete realities of the historical situation, but also a force for change within those conditions. (M. Hoffman 1987: 233) Despite this very ambitious declaration, once again, Hoffman gives no suggestion as to how this “force for change” should be operationalized and what concrete role critical theorizing might play in changing society. Thus, although the critical international theorists’ critique of the role that more conventional approaches to the study of world politics play in reproducing the contemporary world order may be persuasive, their account of the relationship between their own work and emancipatory political practice is unconvincing. Given the centrality of practice to the claims of critical theory, this is a very significant weakness. Without some plausible account of the **mechanisms** by which they hope to aid in the achievement of their emancipatory goals, proponents of critical international theory are hardly in a position to justify the assertion that “it represents the next stage in the development of International Relations theory” (M. Hoffman 1987: 244). Indeed, without a more convincing conceptualization of the theory–practice nexus, one can argue that critical international theory, by its own terms, has no way of redeeming some of its central epistemological and methodological claims and thus that it is a **fatally flawed** enterprise.

# 1AR

### Circumvention

#### Obama would comply with the court – costs of circumvention too high

Vladeck 9 (Stephen I.. Professor of Law and Associate Dean for Scholarship at American University Washington College of Law, senior editor of the peer-reviewed Journal of National Security Law and Policy, Supreme Court Fellow at the Constitution Project, and fellow at the Center on National Security at Fordham University School of Law, JD from Yale Law School, 3-1-2009, “The Long War, the Federal Courts, and the Necessity / Legality Paradox,” <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1002&context=facsch_bkrev>)

Moreover, even if one believes that suspensions are unreviewable, there is a critical difference between the Suspension Clause and the issue here: at least with regard to the former, there is a colorable claim that the Constitution itself ousts the courts from reviewing whether there is a “Case[ ] of Rebellion or Invasion [where] the public Safety may require” suspension––and even then, only for the duration of the suspension.179 In contrast, Jackson’s argument sounds purely in pragmatism—courts should not review whether military necessity exists because such review will lead either to the courts affirming an unlawful policy, or to the potential that the political branches will simply ignore a judicial decision invalidating such a policy.180 Like Jackson before him, Wittes seems to believe that the threat to liberty posed by judicial deference in that situation pales in comparison to the threat posed by judicial review. ¶ The problem is that such a belief is based on a series of assumptions that Wittes does not attempt to prove. First, he assumes that the executive branch would ignore a judicial decision invalidating action that might be justified by military necessity.181 While Jackson may arguably have had credible reason to fear such conduct (given his experience with both the Gold Clause Cases182 and the “switch in time”),183 **a lot has changed in the past six-and-a-half decades**, to the point where I, at least, **cannot imagine** a contemporary President possessing the **political capital** to squarely refuse to comply with a Supreme Court decision. But perhaps I am naïve.184

### AT: Agency

**their agency arguments are utopian and can’t do anything about violence**

 (Terry , lecturer in the school of International Relations at the University of South Australia, International Relations and the third debate, ed: Jarvis, 2002, p. 79-80)

Moving beyond realism, for George, also suggests the possibility of moving beyond conflict, into a new postmodern era that transcends the dialectic of opposition and confrontation. For George, thinking is a constructivist phenomenon that constitutes our reality: thinking makes it so. If the outcome of realism has been the transmutation of reality into a war system, then it follows that postmodern thinking, with its emphasis on tolerance, emancipation, and equality, would help to transform this system into one that is dignified, peaceful, and substantially "less dangerous." But whatever one says about radical human agency and of its prospects for liberation, in practice emancipation will involve some degree of social engineering: inequalities have to be corrected, wrongs made right, and injustices corrected. The agents of global change, whoever they might be, will have to force some individuals and groups to do their bidding. In the end, legislative reform and the forced direction of groups and individuals are unavoidable realities. (George, 1994:219). Moreover, in situations where entrenched cultural and historical values collide, and this is a likely possibility from a theory that seeks to "help others speak for themselves," we might reasonably expect some degree of violence and have to tolerate it. George, however, refuses to explore these probabilities. Do the advocates of postmodern values, for example, take up arms against those who are unwilling to let "others" speak for themselves? If they do not, then their case has no real teeth. But if they do, they must, at some stage, sanction the use of force. This is a conundrum endemic to the theoretical architecture of postmodernism, and one George fails to tackle, indeed is reticent even to acknowledge. Clearly, however, George wants to defend the proposition that his "new world order" will be less than the new/old one of George Bush senior, the Clinton or of George Bush junior and the realists. But, again, he fails to demonstrate how his version of postmodernism can prevent the intrusion and corruption of its schema by violence or else justify the use of violence in pursuit of those ends he otherwise champions. He does neither.

### Torture

**even devalued lives are worth saving**

**Belliotti 3** – Professor of Philosophy, SUNY (Raymond, Happiness is Overrated, p 84)

Consider the following analysis of human lives. A life is minimally meaningful it embodies enough freely chosen interests, projects, purposes, and commitments to engage the bearer and animate his or her faith in life. Even a minimally meaningful life has a narrative structure as a person organizes her energies and resources around her interests and projects. A minimally meaningful life is minimally worthwhile. A minimally worthwhile life is one worth living, a life such that one would not be better off dead or never having been born. The activities that bring minimal meaning must be appropriate to the experience, they must be real not simulated, not induced through external agency, nor merely hallucinations. The bar of a meaningful life is quite low. Minimal meaning produces enough satisfaction of desires and interests to block suicide or voluntary euthanasia. Lives are worth continuing and minimally meaningful where great achievement is lacking. Some lives are more meaningful than other lives. Robustly meaningful lives, the ones to which we aspire, embody interests, projects, purposes, and commitments that produce significance. A robustly meaningful life is significant, sometimes important, occasionally even exemplary. We, typically, hope not merely to maintain our lives, but to strive for our vision of a good life. To be significant, a life must influence the lives of others in uncommon ways. A significant life leaves historical footprints. To be important, a life must be significant enough to make a relatively enduring difference in the world. These historical footprints express, thereby making more public, the importance of the life. To be exemplary, a life must be meaningful, significant, important, and valuable enough to serve as a model or ideal. The distinction between minimally meaningful and robustly meaningful lives allows us to include, as we should, both a disabled, slightly retarded person and Leonardo da Vinci into the pantheon of lives worth living. Thus, meaningful lives need not be significant, important, or valuable lives. Most of us do not have stunningly significant and important lives, although almost all of us do affect the lives of others. Most of our lives fall somewhere between minimally meaningful and robustly meaningful lives. The degree and manner of influence is crucial. To be valuable, lives must be linked to and support value. Some of the more important types of value are moral, cognitive, aesthetic, and religious. Hitler had a meaningful, significant, and important life. He did not have a valuable life nor an exemplary life. A valuable life is always meaningful, but a meaningful life may not be valuable. Hitler's life was meaningful but it is reasonable to view it as valueless in the sense that his collective deeds were stunningly immoral.