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**1AC: Blowback**

**Contention 1 is Blowback:**

**US legitimacy has been severely damaged by detention—plan is key to reverse negative perceptions**

David **Welsh 11**, J.D. from the University of Utah, “Procedural Justice Post-9/11: The Effects of Procedurally Unfair Treatment of Detainees on Perceptions of Global Legitimacy”, http://law.unh.edu/assets/images/uploads/publications/unh-law-review-vol-09-no2-welsh.pdf

**The Global War on Terror** 1 **has been** ideologically **framed as a struggle between** the principles of **freedom** and democracy on the one hand **and tyranny** and extremism on the other. 2 **Although this war has arguably led to a short-term disruption of** terrorist threats such as **al-Qaeda, it has also damaged America’s image both at home and abroad**. 3 **Throughout the world, there is a growing consensus that America has “a lack of credibility as a fair and just world leader**.” 4 **The perceived legitimacy of the U**nited **S**tates **in the War on Terror is critical because terrorism is not a conventional threat that** can surrender or **can be defeated** in the traditional sense. Instead, **this battle can only be won through legitimizing the rule of law and undermining** the use of **terror as a means of** political **influence**. 5 ¶ **Although a variety of political, economic, and security policies have negatively impacted** the perceived **legitimacy of the U**nited **S**tates, one of **the most damaging has been the detention**, treatment, and trial (or in many cases the lack thereof) **of suspected terrorists**. While many scholars have raised constitutional questions about the legality of U.S. detention procedures, 6 this article offers a psychological perspective of legitimacy in the context of detention.

**Legitimacy is crucial to sustainable and effective US hegemony—judicial review is key**

**Knowles 9** [Spring, 2009, Robert Knowles is a Acting Assistant Professor, New York University School of Law, “American Hegemony and the Foreign Affairs Constitution”, ARIZONA STATE LAW JOURNAL, 41 Ariz. St. L.J. 87]

**American unipolarity has created a challenge for realists. Unipolarity was thought to be inherently unstable because other nations, seeking to protect their own security**, form alliances to counter-balance the leading state. n322 **But no nation or group of nations has yet attempted to challenge America's military predominance**. n323 Although some realists predict that [\*140] counter-balancing will occur or is already in some ways occurring, n324 William Wohlforth has offered a compelling explanation for why true counter-balancing, in the traditional realist sense, will probably not happen for decades. n325 American unipolarity is unprecedented. n326 First, **the United States is geographically isolated from other potential rivals**, who are located near one another in Eurasia. n327 **This mutes the security threat that the U.S. seems to pose while increasing the threats that potential rivals seem to pose to one another**. n328 Second, **the U.S. far exceeds the capabilities of all other states in every aspect of power** - military, economic, technological, and in terms of what is known as "soft power." **This advantage "is larger now than any analogous gap in the history of the modern state system."** n329 Third, **unipolarity is entrenched as the status quo** for the first time since the seventeenth century, multiplying free rider problems for potential rivals and rendering less relevant all modern previous experience with balancing. n330 Finally, the potential rivals' possession of nuclear weapons makes the concentration of power in the United States appear less threatening. A war between great powers in today's world is very unlikely. n331 These factors make the current system much more stable, peaceful and durable than the past multi-polar and bipolar systems in which the United States operated for all of its history until 1991. **The lack of balancing means that the U**nited **S**tates, **and by extension the executive branch, faces** much **weaker external constraints on its exercise of power** than in the past. n332 Therefore, **the internal processes of the U.S. matter now more than any other nations' have in history**. n333 And **it is these internal processes**, as much as external developments, **that will determine the durability of American unipolarity. As one realist scholar has argued, the U.S. can best ensure the [\*141] stability of this unipolar order by ensuring that its predominance appears legitimate**. n334 **Hegemonic orders take on hierarchical characteristics**, with the preeminent power having denser political ties with other nations than in a unipolar order. n335 **Stability in hegemonic orders is maintained in part through security guarantees and trade relationships that result in economic specialization** among nations. n336 For example, if Nation X's security is supplied by Hegemon Y, Nation X can de-emphasize military power and focus on economic power. In a hegemonic system, **the preeminent state has "the power to shape the rules of international politics according to its own interests."** n337 **The hegemon**, in return, **provides public goods for the system as a whole**. n338 **The hegemon possesses** not only superior command of military and economic resources but "**soft" power, the ability to guide other states' preferences and interests.** n339 **The durability and stability of hegemonic orders depends on other states' acceptance of the hegemon's role. The hegemon's leadership must be seen as legitimate.** n340 [\*142] **The U**nited **S**tates **qualifies as a global hegemon**. In many ways, **the U.S. acts as a world government**. n341 **It provides public goods for the world**, such as security guarantees, the protection of sea lanes, and support for open markets. n342 After World War II, the U.S. forged a system of military alliances and transnational economic and political institutions - such as the United Nations, NATO, the International Monetary Fund, and the World Bank - that remain in place today. The U.S. provides security for allies such as Japan and Germany by maintaining a strong military presence in Asia and Europe. n343 Because of its overwhelming military might, the U.S. possesses what amounts to a "quasi-monopoly" on the use of force. n344 This prevents other nations from launching wars that would tend to be truly destabilizing. Similarly, **the United States provides a public good through its efforts to combat terrorism** and confront - even through regime change - rogue states. n345 **The U**nited **S**tates also **provides a public good through its promulgation and enforcement of international norms. It exercises a dominant influence on the definition of international law because it is the largest "consumer" of such law and the only nation capable of enforcing it on a global scale.** n346 The U.S. was the primary driver behind the establishment of the United Nations system and the development of contemporary treaties and institutional regimes to effectuate those treaties in both public and private international law. n347

Moreover, **controlling international norms are** [\*143] sometimes **embodied in the U.S. Constitution and domestic law rather than in treaties or customary international law.** For example, **whether terrorist threats will be countered effectively depends "in large part on U.S. law regarding armed conflict, from rules that define the circumstances under which the President can use force to those that define the proper treatment of enemy combatants.**" n348 **These public goods provided by the United States stabilize the system by legitimizing it and decreasing resistance to it.** **The transnational** political and economic **institutions created by the U**nited **S**tates **provide other countries with informal access to policymaking and tend to reduce resistance to American hegemony, encouraging others to "bandwagon"** with the U.S. rather than seek to create alternative centers of power. n349 American hegemony also coincided with the rise of globalization - the increasing integration and standardization of markets and cultures - which tends to stabilize the global system and reduce conflict. n350 **The legitimacy of American hegemony is strengthened and sustained by the democratic and accessible nature of the U.S. government. The American constitutional separation of powers is an international public good. The risk that it will hinder the ability of the U.S. to act swiftly, coherently or decisively** in foreign affairs **is counter-balanced by the benefits it provides in permitting foreigners multiple points of access to the government**. n351 Foreign nations and citizens lobby Congress and executive branch agencies in the State, Treasury, Defense, and Commerce Departments, where foreign policy is made. n352 They use the media to broadcast their point of view in an effort to influence the opinion of decision-makers. n353 Because the United States is a nation of immigrants, many American citizens have a specific interest in the fates of particular countries and form "ethnic lobbies" for the purpose of affecting foreign policy. n354 **The courts,** too, **are accessible to foreign nations and non-citizens. The Alien Tort Statute is emerging as an** [\*144] **important vehicle for adjudicating tort claims among non-citizens in U.S. courts.** n355 Empires are more complex than unipolar or hegemonic systems. Empires consist of a "rimless-hub-and-spoke structure," with an imperial core - the preeminent state - ruling the periphery through intermediaries. n356 The core institutionalizes its control through distinct, asymmetrical bargains (heterogeneous contracting) with each part of the periphery. n357 Ties among peripheries (the spokes) are thin, creating firewalls against the spread of resistance to imperial rule from one part of the empire to the other. n358 The success of imperial governance depends on the lack of a "rim." n359 Stability in imperial orders is maintained through "divide and rule," preventing the formation of countervailing alliances in the periphery by exploiting differences among potential challengers. n360 Divide-and-rule strategies include using resources from one part of the empire against challengers in another part and multi-vocal communication - legitimating imperial rule by signaling "different identities ... to different audiences." n361 Although the U.S. has often been labeled an empire, the term applies only in limited respects and in certain situations. Many foreign relations scholars question the comparison. n362 However, the U.S. does exercise informal imperial rule when it has routine and consistent influence over the foreign policies of other nations, who risk losing "crucial military, economic, or political support" if they refuse to comply. n363 The "Status of Force Agreements" ("SOFAs") that govern legal rights and responsibilities of U.S. military personnel and others on U.S. bases throughout the world are typically one-sided. n364 And the U.S. occupations in Iraq and Afghanistan had a strong imperial dynamic because those regimes depended on American support. n365 [\*145] But the management of empire is increasingly difficult in the era of globalization. Heterogeneous contracting and divide-and-rule strategies tend to fail when peripheries can communicate with one another. The U.S. is less able control "the flow of information ... about its bargains and activities around the world." n366 In late 2008, negotiations on the Status of Force Agreement between the U.S. and Iraq were the subject of intense media scrutiny and became an issue in the presidential campaign. n367 Another classic imperial tactic - the use of brutal, overwhelming force to eliminate resistance to imperial rule - is also unlikely to be effective today. The success of counterinsurgency operations depends on winning a battle of ideas, and collateral damage is used by violent extremists, through the Internet and satellite media, to "create widespread sympathy for their cause." n368 The abuses at Abu Ghraib, once public, harmed America's "brand" and diminished support for U.S. policy abroad. n369 Imperial rule, like hegemony, depends on maintaining legitimacy.B. Constructing a Hegemonic Model International relations scholars are still struggling to define the current era. The U.S.-led international order is unipolar, hegemonic, and, in some instances, imperial. In any event, this order diverges from traditional realist assumptions in important respects. It is unipolar, but stable. It is more hierarchical. The U.S. is not the same as other states; it performs unique functions in the world and has a government open and accessible to foreigners. And the stability and legitimacy of the system depends more on successful functioning of the U.S. government as a whole than it does on balancing alliances crafted by elite statesmen practicing realpolitik. "World power politics are shaped primarily not by the structure created by interstate anarchy but by the foreign policy developed in Washington." n370 These differences require a new model for assessing the institutional competences of the executive and judicial branches in foreign affairs. [\*146] One approach would be to adapt an institutional competence model using insights from a major alternative theory of international relations - liberalism. Liberal IR theory generally holds that internal characteristics of states - in particular, the form of government - dictate states' behavior, and that democracies do not go to war against one another. n371 Liberalists also regard economic interdependence and international institutions as important for maintaining peace and stability in the world. n372 Dean Anne-Marie Slaughter has proposed a binary model that distinguishes between liberal, democratic states and non-democratic states. n373 Because domestic and foreign issues are "most convergent" among liberal democracies, Slaughter reasons, the courts should decide issues concerning the scope of the political branches' powers. n374 With respect to non-liberal states, the position of the U.S. is more "realist," and courts should deploy a high level of deference. n375 One strength of this binary approach is that it would tend to reduce the uncertainty in foreign affairs adjudication. Professor Nzelibe has observed that it would put courts in the difficult position of determining which countries are liberal democracies. n376 But even if courts are capable of making these determinations, they would still face the same dilemmas adjudicating controversies regarding non-liberal states. Where is the appropriate boundary between foreign affairs and domestic matters? How much discretion should be afforded the executive when individual rights and accountability values are at stake? To resolve these dilemmas, an institutional competence model should be applicable to foreign affairs adjudication across the board. In constructing a new realist model, it is worth recalling that the functional justifications for special deference are aimed at addressing problems of a particular sort of role effectiveness - which allocation of power among the branches will best achieve general governmental effectiveness in foreign affairs. In the twenty-first century, **America's global role has changed, and the best means of achieving effectiveness in foreign affairs have changed as well. The international realm remains highly political** - if not as much as in the past - but **it is American politics that matters most.** If the U.S. is truly an empire - [\*147] and in some respects it is - the problems of imperial management will be far different from the problems of managing relations with one other great power or many great powers. Similarly, **the management of hegemony or unipolarity requires a different set of competences.** Although American predominance is recognized as a salient fact, there is no consensus among realists about the precise nature of the current international order. n377 The hegemonic model I offer here adopts common insights from the three IR frameworks - unipolar, hegemonic, and imperial - described above. First, the "hybrid" hegemonic model assumes that the goal of U.S. foreign affairs should be the preservation of American hegemony, which is more stable, more peaceful, and better for America's security and prosperity, than the alternatives. If the United States were to withdraw **from its global leadership role, no other nation would be capable of taking its place. n378 The result would be radical instability and a** greater risk of major war. n379 In addition, the United States would no longer benefit from the public goods it had formerly produced; as the largest consumer, it would suffer the most. Second, the hegemonic model assumes that **American hegemony is unusually stable and durable**. n380 As noted above, **other nations have many incentives to continue to tolerate the current order**. n381 And although other nations or groups of nations - China, the European Union, and India are often mentioned - may eventually overtake the United States in certain areas, such as manufacturing, **the U.S. will remain dominant in most measures of capability for decades.** According to 2007 estimates, the U.S. economy was projected to be twice the size of China's in 2025. n382 **The U.S. accounted for half of the world's military spending in 2007 and holds enormous advantages in defense technology that far outstrip would-be competitors. n383 Predictions of American decline are not new, and they have thus far proved premature.** n384 [\*148] Third, **the hegemonic model assumes that preservation of American hegemony depends not just on power, but legitimacy. n385 All three IR frameworks for describing predominant states - although unipolarity less than hegemony or empire - suggest that legitimacy is crucial to the stability and durability of the system.** **Although empires and predominant states in unipolar systems can conceivably maintain their position through the use of force, this is much more likely to exhaust the resources of the predominant state and to lead to counter-balancing or the loss of control. n386 Legitimacy as a method of maintaining predominance is far more efficient.** The hegemonic model generally values courts' institutional competences more than the anarchic realist model. **The courts' strengths in offering a stable interpretation of the law, relative insulation from political pressure, and power to bestow legitimacy are important for realizing the functional constitutional goal of effective U.S. foreign policy.** This means that courts' treatment of deference in foreign affairs will, in most respects, resemble its treatment of domestic affairs. Given the amorphous quality of foreign affairs deference, this "domestication" reduces uncertainty. **The increasing boundary problems caused by the proliferation of treaties and the infiltration of domestic law by foreign affairs issues are lessened by reducing the deference gap**. And **the dilemma caused by the need to weigh different functional considerations** - liberty, accountability, and effectiveness - **against one another is made less intractable because it becomes part of the same project that the courts constantly grapple with in adjudicating domestic disputes.**

**Legitimacy is the only way to ensure an effective hegemony – perceived illegitimacy causes great power war**

Martha **Finnemore 9**, professor of political science and international affairs at George Washington University, January 2009, “Legitimacy, Hypocrisy, and the Social Structure of Unipolarity: Why Being a Unipole Isn’t All It’s Cracked Up to Be,” World Politics, Volume 61, Number 1

**Legitimacy is**, by its nature, a **social and relational** phenomenon. **One’s position or power cannot be legitimate in a vacuum.** The concept only has meaning in a particular social context. Actors, even **unipoles, cannot create legitimacy unilaterally**. Legitimacy can only be given by others. It is conferred either by peers, as when great powers accept or reject the actions of another power, or by those upon whom power is exercised. Reasons to confer legitimacy have varied throughout history. Tradition, blood, and claims of divine right have all provided reasons to confer legitimacy, although in contemporary politics conformity with [End Page 61] international norms and law is more influential in determining which actors and actions will be accepted as legitimate. 9¶ Recognizing the legitimacy of power does not mean these others necessarily like the powerful or their policies, but it implies at least tacit acceptance of the social structure in which power is exercised. One may not like the inequalities of global capitalism but still believe that markets are the only realistic or likely way to organize successful economic growth. One may not like the P5 vetoes of the Security Council but still understand that the United Nations cannot exist without this concession to power asymmetries. **We can see the importance of legitimacy by thinking about its absence. Active rejection of social structures and the withdrawal of recognition of their legitimacy create a crisis.** In domestic politics, regimes suffering legitimacy crises face resistance, whether passive or active and armed. **Internationally, systems suffering legitimacy crises tend to be violent and noncooperative.** Post-Reformation Europe might be an example of such a system. **Without at least tacit acceptance of power’s legitimacy, the wheels of international social life get derailed. Material force alone remains to impose order, and order creation or maintenance by that means is difficult, even under unipolarity**. Successful and stable orders require the grease of some legitimation structure to persist and prosper.10¶ **The social and relational character of legitimacy thus strongly colors the nature of any unipolar order and the kinds of orders a unipole can construct. Yes, unipoles can impose their will, but only to an extent. The willingness of others to recognize the legitimacy of a unipole’s actions and defer to its wishes or judgment shapes the character of the order that will emerge. Unipolar power without any underlying legitimacy** will have a very particular character. The unipole’s policies **will meet with resistance, either active or passive, at every turn.** Cooperation will be induced only through material quid pro quo payoffs. Trust will be thin to nonexistent. This is obviously an expensive system to run and few unipoles have tried to do so.

**U.S. leadership is key to global stability and preventing great power wars**

Yuhan Zhang, Carnegie Endowment for International Peace, and Lin Shi, Columbia University, “America’s Decline: A Harbinger of Conflcit and Rivalry,” EAST ASIA FORUM, 1—22—11, <http://www.eastasiaforum.org/2011/01/22/americas-decline-a-harbinger-of-conflict-and-rivalry/>

This does not necessarily mean that the US is in systemic decline, but it encompasses a trend that appears to be negative and perhaps alarming. Although the US still possesses incomparable military prowess and its economy remains the world’s largest, the once seemingly indomitable chasm that separated America from anyone else is narrowing. Thus, the global distribution of power is shifting, and the inevitable result will be a world that is less peaceful, liberal and prosperous, burdened by a dearth of effective conflict regulation. Over the past two decades, no other state has had the ability to seriously challenge the US military. Under these circumstances, motivated by both opportunity and fear,many actors have bandwagoned with US hegemony and accepted a subordinate role. Canada, most of Western Europe, India, Japan, South Korea, Australia, Singapore and the Philippines have all joined the US, creating a status quo that has tended to mute great power conflicts. However,asthehegemonythat drew these powers together withers,so will the pulling power behind the US alliance.The result will be aninternationalorder where power is more diffuse, American interests and influence can be more readily challenged, and conflicts or wars may be harder to avoid. As history attests, power decline and redistribution result in military confrontation. For example, in the late 19th century America’s emergence as a regional power saw it launch its first overseas war of conquest towards Spain. By the turn of the 20th century, accompanying the increase in US power and waning of British power, the American Navy had begun to challenge the notion that Britain ‘rules the waves.’ Such a notion would eventually see the US attain the status of sole guardians of the Western Hemisphere’s security to become the order-creating Leviathan shaping the international system with democracy and rule of law. Defining this US-centred system are three key characteristics: enforcement of property rights, constraints on the actions of powerful individuals and groups and some degree of equal opportunities for broad segments of society. As a result of such political stability, free markets, liberal trade and flexible financial mechanisms have appeared. And, with this, many countries have sought opportunities to enter this system, proliferating stable and cooperative relations. However, what will happen to these advances as America’s influence declines? Given that America’s authority, although sullied at times, has benefited people across much of Latin America, Central and Eastern Europe, the Balkans, as well as parts of Africa and, quite extensively, Asia, the answer to this question could affect global society in a profoundly detrimental way. Public imagination and academia have anticipated that a post-hegemonic world would return tothe problems of the 1930s:regional blocs, trade conflicts and strategic rivalry.Furthermore, multilateral institutions such as the IMF, the World Bank or the WTO might give way to regional organisations. For example, Europe and East Asia would each step forward to fill the vacuum left by Washington’s withering leadership to pursue their own visions of regional political and economic orders. Free markets would become more politicised — and, well, less free — and major powers would compete for supremacy. Additionally, such power plays have historically possessed a zero-sum element. In the late 1960s and 1970s, US economic power declined relative to the rise of the Japanese and Western European economies, with the US dollar also becoming less attractive. And, as American power eroded, so did international regimes (such as the Bretton Woods System in 1973). A world without American hegemony is one where great power wars re-emerge, the liberal international system is supplanted by an authoritarian one, and trade protectionism devolves into restrictive, anti-globalisation barriers. This, at least, is one possibility we can forecast in a future that will inevitably be devoid of unrivalled US primacy.

**Hegemony solves conflicts that cause extinction**

Thomas P.M. **Barnett,** chief analyst, Wikistrat, “The New Rules: Leadership Fatigue Puts U.S. and Globalization, at Crossroads,” WORLD POLITICS REVIEW, 3—7—**11**, www.worldpoliticsreview.com/articles/8099/the-new-rules-leadership-fatigue-puts-u-s-and-globalization-at-crossroads

Events in Libya are a further reminder for **Americans** that we **stand at a crossroads in our continuing evolution as the** world's sole full-service **superpower.** Unfortunately, we are increasingly seeking change without cost, and shirking from risk because we are tired of the responsibility. We don't know who we are anymore, and our president is a big part of that problem. Instead of leading us, he explains to us. Barack Obama would have us believe that he is practicing strategic patience. But many experts and ordinary citizens alike have concluded that he is actually beset by strategic incoherence -- in effect, a man overmatched by the job. It is worth first examining the larger picture: We live in a time of arguably the greatest structural change in the global order yet endured, with this historical moment's most amazing feature being its relative and absolute lack of mass violence. That is something to consider when Americans contemplate military intervention in Libya, because if we do take the step to prevent larger-scale killing by engaging in some killing of our own, we will not be adding to some fantastically imagined global death count stemming from the ongoing "megalomania" and "evil" of American "empire." We'll be engaging in the same sort of system-administering activity that has marked our stunningly successful stewardship of global order since World War II. Let me be more blunt: **As the guardian of globalization,** the U.S. military has been the greatest force for peace the world has ever known. **Had America been removed from the global dynamics** that governed the 20th century, the mass murder never would have ended. Indeed, it's entirely conceivable **there would now be no** identifiable **human civilization left, once nuclear weapons entered** **the killing equation. But the world did not keep sliding down** that path of **perpetual war**. Instead**, America** stepped up and **changed everything by ushering in** our now-perpetual **great-power peace. We introduced** the international liberal trade order known as **globalization** and played loyal Leviathan over its spread. What resulted was **the collapse of empires, an explosion of** **democracy**, the **persistent spread of** **human rights, the liberation of women, the doubling of life expectancy, a roughly 10-fold increase in adjusted global GDP and a profound and persistent reduction in battle deaths from state-based conflicts.** That is what American "hubris" actually delivgered. Please remember that the next time some TV pundit sells you the image of "unbridled" American military power as the cause of global disorder instead of its cure. With self-deprecation bordering on self-loathing, we now imagine a post-American world that is anything but. Just watch who scatters and who steps up as the Facebook revolutions erupt across the Arab world. While we might imagine ourselves the status quo power, we remain the world's most vigorously revisionist force. As for the sheer "evil" that is our military-industrial complex, again, let's examine what the world looked like before that establishment reared its ugly head. The last great period of global structural change was the first half of the 20th century, a period that saw a death toll of about 100 million across two world wars. That comes to an average of 2 million deaths a year in a world of approximately 2 billion souls. Today, with far more comprehensive worldwide reporting, researchers report an average of less than 100,000 battle deaths annually in a world fast approaching 7 billion people. Though admittedly crude, these **calculations suggest a 90 percent absolute drop and a 99 percent relative drop in deaths due to war**. We are clearly headed for a world order characterized by multipolarity, something the American-birthed system was designed to both encourage and accommodate. But given how things turned out the last time we collectively faced such a fluid structure, we would do well to keep U.S. power, in all of its forms, deeply embedded in the geometry to come. To continue the historical survey, after salvaging Western Europe from its half-century of civil war, the U.S. emerged as the progenitor of a new, far more just form of globalization -- one based on actual free trade rather than colonialism. America then successfully replicated globalization further in East Asia over the second half of the 20th century, setting the stage for the Pacific Century now unfolding.

**Two-thousand years of history prove**

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Despite increasingly compelling findings concerning the importance of status seeking in human behavior, research on its connection to war waned some three decades ago.38 Yet **empirical studies of the relationship between** both systemic and dyadic **capabilities distributions and war have continued to cumulate. If the relationships implied by the status theory run afoul** of well-established patterns or general historical findings, **then there is little reason to continue investigating them. The clearest empirical implication** of the theory **is that** status **competition is unlikely to cause great power military conflict in unipolar systems. If status competition is an important contributory cause of great power war, then,** ceteris paribus, **unipolar systems should be markedly less war-prone** than bipolar or multipolar systems. And this appears to be the case. As Daniel Geller notes **in a review of the empirical literature: "The only polar structure that appears to influence conflict probability is unipolarity."**39 In addition, a larger number of studies at the dyadic level support the related expectation that narrow capabilities gaps and ambiguous or unstable capabilities hierarchies increase the probability of war.40 These studies are based entirely on post-sixteenth-century European history, and most are limited to the post-1815 period covered by the standard data sets. Though the systems coded as unipolar, near-unipolar, and hegemonic are all marked by a high concentration of capabilities in a single state, these studies operationalize unipolarity in a variety of ways, often very differently from the definition adopted here. **An ongoing collaborative project looking at ancient interstate systems over** the course of **two thousand years suggests** **that** **historical systems** **that come closest to** the definition of unipolarity used here **exhibit precisely the** **behavioral** **properties implied by the theory**. 41 As David C. Kang's research shows, the **East Asian system between 1300 and 1900 was** an unusually stratified **unipolar** structure, **with** an economic and militarily dominant **China interacting with** a small number of geographically proximate, clearly weaker East Asian **states**.42 Status politics existed, but actors were channeled by elaborate cultural understandings and interstate practices into clearly recognized ranks. **Warfare was exceedingly rare, and the major outbreaks occurred precisely when the theory would predict: when China's capabilities waned**, reducing the clarity of the underlying material hierarchy and increasing status dissonance for lesser powers. Much more research is needed, but initial exploration of other arguably unipolar systems-for example, Rome, Assyria, the Amarna system-appears consistent with the hypothesis.43 Status Competition and Causal Mechanisms **Both theory and evidence demonstrate convincingly that competition for status is a driver of human behavior, and social** identity **theory** and related literatures **suggest** the **conditions under which it might come to the fore in great power relations.** Both the systemic and dyadic findings presented in large-N studies are broadly consistent with the theory, but they are also consistent with power transition and other rationalist theories of hegemonic war.

**Heg decreases structural violence---any alt dooms humanity to deprivation**

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First the absurdity: A few of the most **over-the-top Bush-Cheney neocons did** indeed **promote a vision of U.S. primacy by which America shouldn't be afraid to wage war to keep other rising powers at bay. It was a nutty concept then, and it remains a nutty concept today.** But since it feeds a lot of major military weapons system purchases, especially for the China-centric Air Force and Navy, don't expect it to disappear so long as the Pentagon's internal budget fights are growing in intensity. ¶ **Meanwhile**, the Chinese do their stupid best to fuel this outdated logic by building a force designed to keep America out of East Asia just as their nation's dependency on resources flowing from unstable developing regions skyrockets. **With America's fiscal constraints now abundantly clear, the world's primary policing force is pulling back, while that force's implied successor is nowhere close to being able to field a similar power-projection capacity -- and never will be.** So with NATO clearly stretched to its limits by the combination of Afghanistan and Libya, **a lot of future fires in developing regions will likely be left to burn on their own**. We'll just have to wait and see how much foreign commentators delight in that G-Zero dynamic in the years ahead. ¶ That gets us to the original "insult": **the U.S. did not lord it over the world in the 1990s. Yes, it did argue for and promote the most rapid spread of globalization possible. But the "evil" of the Washington Consensus only yielded the most rapid growth of a truly global middle class that the world has ever seen**. Yes, we can, in our current economic funk, somehow cast that development as the "loss of U.S. hegemony," in that the American consumer is no longer the demand-center of globalization's universe. But this is without a doubt the most amazing achievement of U.S. foreign policy, surpassing even our role in World War II. ¶ **Numerous world powers served as global or regional hegemons before we came along, and their record on economic development was painfully transparent: Elites got richer, and the masses got poorer. Then America showed up after World War II and engineered an international liberal trade order**, one that was at first admittedly limited to the West. But **within four decades it went virally global, and now for the first time in history, more than half of our planet's population lives in conditions of modest-to-mounting abundance -- after millennia of mere sustenance**. ¶ You may choose to interpret this as some sort of cosmic coincidence, but **the historical sequence is undeniable: With its unrivaled power, America made the world a far better place**. ¶ That spreading wave of global abundance has reformatted all sorts of traditional societies that lay in its path. Some, like the Chinese, have adapted to it magnificently in an economic and social sense, with the political adaptation sure to follow eventually. Others, being already democracies, have done far better across the board, like Turkey, Indonesia and India. But there are also numerous traditional societies where that reformatting impulse from below has been met by both harsh repression from above and violent attempts by religious extremists to effect a "counterreformation" that firewalls the "faithful" from an "evil" outside world.¶ Does this violent blowback constitute the great threat of our age? Not really. As I've long argued, this "friction" from globalization's tectonic advance is merely what's left over now that great-power war has gone dormant for 66 years and counting, with interstate wars now so infrequent and so less lethal as to be dwarfed by the civil strife that plagues those developing regions still suffering weak connectivity to the global economy. ¶ **Let's remember what the U.S. actually did across the 1990s** after the Soviet threat disappeared. **It went out of its way to police the world's poorly governed spaces, battling rogue regimes and answering the 9-1-1 call repeatedly when disaster and/or civil strife struck vulnerable societies. Yes, playing globalization's bodyguard made America public enemy No. 1 in the eyes of its most violent rejectionist movements**, including al-Qaida, **but we made the effort because**, in our heart of hearts, **we knew that this is what blessed powers are supposed to do**. ¶ Some, like the Bush-Cheney neocons, were driven by more than that sense of moral responsibility. They saw a chance to remake the world so as to assure U.S. primacy deep into the future. The timing of their dream was cruelly ironic, for it blossomed just as America's decades-in-the-making grand strategy reached its apogee in the peaceful rise of so many great powers at once. Had Sept. 11 not intervened, the neocons would likely have eventually targeted rising China for strategic demonization. Instead, they locked in on Osama bin Laden. The rest, as they say, is history. ¶ The follow-on irony of **the War on Terror** is that its operational requirements **actually revolutionized a major portion of the U.S. military -- specifically the Army, Marines and Special Forces -- in such a way as to redirect their strategic ethos from big wars to small ones**. It also forged a new operational bond between the military's irregular elements and that portion of the Central Intelligence Agency that pursues direct action against transnational bad actors. The up-front costs of this transformation were far too high, largely because the Bush White House stubbornly refused to embrace counterinsurgency tactics until after the popular repudiation signaled by the 2006 midterm election. But **the end result is clear: We now have the force we actually need to manage this global era.¶ But,** of course, **that can all be tossed into the dumpster if we convince ourselves that our "loss" of hegemony was somehow the result of our own misdeed, instead of being our most profound gift to world history. Again, we grabbed the reins of global leadership and patiently engineered not only the greatest redistribution -- and expansion -- of global wealth ever seen, but also the greatest consolidation of global peace ever seen. ¶ Now, if we can sensibly realign our strategic relationship with the one rising great power, China,** whose growing strength upsets us so much, **then in combination with the rest of the world's rising great powers we can collectively wield enough global policing power to manage what's yet to come.** ¶ As always, **the choice is ours.**

**The world is getting better now because heg is peaceful**

Josh **Busby 12**, Assistant Professor of Public Affairs and a fellow in the RGK Center for Philanthropy and Community Service as well as a Crook Distinguished Scholar at the Robert S. Strauss Center for International Security and Law, <http://duckofminerva.blogspot.com/2012/01/get-real-chicago-ir-guys-out-in-force.html>

**Is Unipolarity Peaceful?** As evidence, **Monteiro provides metrics of the number of years during which great powers have been at war.** For the unipolar era since the end of the Cold War, the United States has been at war 13 of those 22 years or 59% (see his Table 2 below). Now, **I've been following** some of **the discussion by** and about Steven **Pinker** and Joshua Goldstein's [work](http://www.nytimes.com/2011/12/18/opinion/sunday/war-really-is-going-out-of-style.html?pagewanted=all) **that suggests the world is becoming more peaceful** **with** interstate wars and intrastate **wars becoming more rare**. I was struck by the graphic that Pinker used in a Wall Street Journal [piece](http://online.wsj.com/article/SB10001424053111904106704576583203589408180.html) back in September that drew on the Uppsala Conflict Data, which shows a steep decline in the number of deaths per 100,000 people. **How do we square this account by Monteiro of a unipolar world that is not peaceful** (**with the U.S. at war during this period in Iraq twice, Afghanistan, Kosovo**) **and** **Pinker's account which suggests declining violence in the contemporary period**? **Where Pinker is focused on systemic outcomes, Monteiro's measure merely reflect years during which the great powers are at war**. Under unipolarity, there is only one great power so the measure is partial and not systemic. However, Monteiro's theory aims to be systemic rather than partial. In critiquing Wohlforth's early work on unipolarity stability, Monteiro notes: Wohlforth’s argument does not exclude all kinds of war. Although power preponderance allows the unipole to manage conflicts globally, this argument is not meant to apply to relations between major and minor powers, or among the latter (17). So presumably, **a more adequate test of the peacefulness or not of unipolarity** (at least for Monteiro) **is not the number of years the great power has been at** **war but whether the system as a whole is becoming more peaceful under unipolarity compared** to previous eras, including wars between major and minor powers or wars between minor powers and whether the wars that do happen are as violent as the ones that came before. Now, as Ross Douthat pointed [out](http://douthat.blogs.nytimes.com/2011/10/17/steven-pinkers-history-of-violence/), Pinker's argument isn't based on a logic of benign hegemony. It could be that even if the present era is more peaceful, unipolarity has nothing to do with it. Moreover, **Pinker may be wrong**. Maybe the world isn't all that peaceful. I keep thinking about the places I don't want to go to anymore because they are violent (Mexico, Honduras, El Salvador, Nigeria, Pakistan, etc.) As Tyler Cowen [noted](http://marginalrevolution.com/marginalrevolution/2011/10/steven-pinker-on-violence.html), the measure Pinker uses to suggest violence is a per capita one, which doesn't get at the absolute level of violence perpetrated in an era of a greater world population. **But, if my read of other** [**reports**](http://www.hsrgroup.org/human-security-reports/20092010/graphs-and-tables.aspx) **based on Uppsala data is right, war is becoming more rare and less deadly** (though later [data](http://www.pcr.uu.se/research/ucdp/charts_and_graphs/) suggests lower level armed conflict may be increasing again since the mid-2000s). The apparent violence of the contemporary era may be something of a presentist bias and reflect our own lived experience and the ubiquity of news media **.Even if the U.S. has been at war for the better part of unipolarity, the deadliness is declining, even compared with Vietnam, let alone World War II.** Does Unipolarity Drive Conflict? So**, I** kind of took **issue with the Monteiro's premise that unipolarity is not peaceful**. What about his argument that unipolarity drives conflict? Monteiro suggests that the unipole has three available strategies - defensive dominance, offensive dominance and disengagement - though is less likely to use the third. Like Rosato and Schuessler, Monteiro suggests because other states cannot trust the intentions of other states, namely the unipole, that minor states won't merely bandwagon with the unipole. Some "recalcitrant" minor powers will attempt to see what they can get away with and try to build up their capabilities. As an aside, in Rosato and Schuessler world, unless these are located in strategically important areas (i.e. places where there is oil), then the unipole (the United States) should disengage. **In Monteiro's world**, **disengagement would inexorably lead to instability and draw in the U.S. again** (though I'm not sure this necessarily follows), but neither defensive or offensive dominance offer much possibility for peace either since it is U.S. power in and of itself that makes other states insecure, even though they can't balance against it.

**US pursuit of hegemony inevitable**

**Kagan**, 1/24/20**11**, (Robert Kagan, [American](http://en.wikipedia.org/wiki/United_States)historian, author and foreign policy commentator at the[Brookings Institution](http://en.wikipedia.org/wiki/Brookings_Institution)) ‘The Price of Power: The benefits of U.S. defense spending far outweigh the costs’, VOL. 16, NO. 18, <http://www.weeklystandard.com/articles/price-power_533696.html?page=3>

In theory, the United States could refrain from intervening abroad. But, in practice, will it? Many assume today that the American public has had it with interventions, and Alice Rivlin certainly reflects a strong current of opinion when she says that “much of the public does not believe that we need to go in and take over other people’s countries.” That sentiment has often been heard after interventions, especially those with mixed or dubious results. It was heard after the four-year-long war in the Philippines, which cost 4,000 American lives and untold Filipino casualties. It was heard after Korea and after Vietnam. It was heard after Somalia. Yet **the reality has been that after each intervention, the sentiment against foreign involvement has faded, and the United States has intervened again. Depending on how one chooses to count, the United States has undertaken roughly 25 overseas interventions since 1898**:Cuba, 1898The Philippines, 1898-1902China, 1900Cuba, 1906Nicaragua, 1910 & 1912Mexico, 1914Haiti, 1915Dominican Republic, 1916Mexico, 1917World War I, 1917-1918Nicaragua, 1927World War II, 1941-1945Korea, 1950-1953Lebanon, 1958Vietnam, 1963-1973Dominican Republic, 1965Grenada, 1983Panama, 1989First Persian Gulf war, 1991Somalia, 1992Haiti, 1994Bosnia, 1995Kosovo, 1999Afghanistan, 2001-presentIraq, 2003-presentThat is one intervention every 4.5 years on average. Overall, **the United States has intervened or been engaged in combat somewhere in 52 out of the last 112 years, or roughly 47 percent of the time. Since the end of the Cold War**, it is true, **the rate of U.S. interventions has increased, with an intervention roughly once every 2.5 years and American troops intervening or engaged in combat in 16 out of 22 years, or over 70 percent of the time**, since the fall of the Berlin Wall.The argument for returning to “normal” begs the question: What is normal for the United States? The historical record of the last century suggests that it is not a policy of nonintervention. This record ought to raise doubts about the theory that American behavior these past two decades is the product of certain unique ideological or doctrinal movements, whether “liberal imperialism” or “neoconservatism.” **Allegedly “realist” presidents in this era have been just as likely to order interventions as their more idealistic colleagues**. George H.W. Bush was as profligate an intervener as Bill Clinton. He invaded Panama in 1989, intervened in Somalia in 1992—both on primarily idealistic and humanitarian grounds—which along with the first Persian Gulf war in 1991 made for three interventions in a single four-year term. Since 1898 the list of presidents who ordered armed interventions abroad has included William McKinley, Theodore Roose-velt, William Howard Taft, Woodrow Wilson, Franklin Roosevelt, Harry Truman, Dwight Eisenhower, John F. Kennedy, Ronald Reagan, George H.W. Bush, Bill Clinton, and George W. Bush. **One would be hard-pressed to find a common ideological or doctrinal thread among them—unless it is the doctrine and ideology of a mainstream American foreign policy that leans more toward intervention than many imagine or would care to admit**.Many don’t want to admit it, and **the only thing as consistent as this pattern of American behavior has been the claim by contemporary critics that it is abnormal and a departure from American traditions.** The anti-imperialists of the late 1890s, the isolationists of the 1920s and 1930s, the critics of Korea and Vietnam, and the critics of the first Persian Gulf war, the interventions in the Balkans, and the more recent wars of the Bush years have all insisted that the nation had in those instances behaved unusually or irrationally. And yet the behavior has continued.To note this consistency is not the same as justifying it. The United States may have been wrong for much of the past 112 years. Some critics would endorse the sentiment expressed by the historian Howard K. Beale in the 1950s, that “the men of 1900” had steered the United States onto a disastrous course of world power which for the subsequent half-century had done the United States and the world no end of harm. But **whether one lauds or condemns this past century of American foreign policy—and one can find reasons to do both—the fact of this consistency remains.It would require not just a modest reshaping of American foreign policy priorities but a sharp departure from this tradition to bring about the kinds of changes that would allow the United States to make do with a substantially smaller force structure.**Is such a sharp departure in the offing? It is no doubt true that many Americans are unhappy with the on-going warfare in Afghanistan and to a lesser extent in Iraq, and that, if asked, a majority would say the United States should intervene less frequently in foreign nations, or perhaps not at **all. It may also be true that the effect of long military involvements in Iraq and Afghanistan may cause Americans and their leaders to shun further interventions at least for a few years—as they did for nine years after World War I, five years after World War II, and a decade after Vietnam. This may be further reinforced by the difficult economic times in which Americans are currently suffering. The longest period of nonintervention in the past century was during the 1930s, when unhappy memories of World War I combined with the economic catastrophe of the Great Depression to constrain American interventionism to an unusual degree and produce the first and perhaps only genuinely isolationist period in American history**.So are we back to the mentality of the 1930s? It wouldn’t appear so. There is no great wave of isolationism sweeping the country. There is not even the equivalent of a Patrick Buchanan, who received 3 million votes in the 1992 Republican primaries. Any isolationist tendencies that might exist are severely tempered by continuing fears of terrorist attacks that might be launched from overseas. Nor are the vast majority of Americans suffering from economic calamity to nearly the degree that they did in the Great Depression.Even if we were to repeat the policies of the 1930s, however, **it is worth recalling that the unusual restraint of those years was not sufficient to keep the United States out of war. On the contrary, the United States took actions which ultimately led to the greatest and most costly foreign intervention in its history. Even the most determined and in those years powerful isolationists could not prevent it**.Today there are a number of obvious possible contingencies that might lead the United States to substantial interventions overseas, notwithstanding the preference of the public and its political leaders to avoid them. **Few Americans want a war with Iran, for instance. But it is not implausible that a president—indeed, this president—might find himself in a situation where military conflict at some level is hard to avoid.** The continued success of the international sanctions regime that the Obama administration has so skillfully put into place, for instance, might eventually cause the Iranian government to lash out in some way—perhaps by attempting to close the Strait of Hormuz. Recall that Japan launched its attack on Pearl Harbor in no small part as a response to oil sanctions imposed by a Roosevelt administration that had not the slightest interest or intention of fighting a war against Japan but was merely expressing moral outrage at Japanese behavior on the Chinese mainland. Perhaps in an Iranian contingency, the military actions would stay limited. But perhaps, too, they would escalate. One could well imagine an American public, now so eager to avoid intervention, suddenly demanding that their president retaliate. Then there is the possibility that a military exchange between Israel and Iran, initiated by Israel, could drag the United States into conflict with Iran. Are such scenarios so farfetched that they can be ruled out by Pentagon planners?Other possible contingencies include a war on the Korean Peninsula, where the United States is bound by treaty to come to the aid of its South Korean ally; and possible interventions in Yemen or Somalia, should those states fail even more than they already have and become even more fertile ground for al Qaeda and other terrorist groups. And what about those “humanitarian” interventions that are first on everyone’s list to be avoided? Should another earthquake or some other natural or man-made catastrophe strike, say, Haiti and present the looming prospect of mass starvation and disease and political anarchy just a few hundred miles off U.S. shores, with the possibility of thousands if not hundreds of thousands of refugees, can anyone be confident that an American president will not feel compelled to send an intervention force to help?Some may hope that a smaller U.S. military, compelled by the necessity of budget constraints, would prevent a president from intervening. More likely, however, it would simply prevent a president from intervening effectively. This, after all, was the experience of the Bush administration in Iraq and Afghanistan. Both because of constraints and as a conscious strategic choice, the Bush administration sent too few troops to both countries. The results were lengthy, unsuccessful conflicts, burgeoning counterinsurgencies, and loss of confidence in American will and capacity, as well as large annual expenditures. Would it not have been better, and also cheaper, to have sent larger numbers of forces initially to both places and brought about a more rapid conclusion to the fighting? The point is, it may prove cheaper in the long run to have larger forces that can fight wars quickly and conclusively, as Colin Powell long ago suggested, than to have smaller forces that can’t. Would a defense planner trying to anticipate future American actions be wise to base planned force structure on the assumption that the United States is out of the intervention business? Or would that be the kind of penny-wise, pound-foolish calculation that, in matters of national security, can prove so unfortunate?The debates over whether and how the United States should respond to the world’s strategic challenges will and should continue. Armed interventions overseas should be weighed carefully, as always, with an eye to whether the risk of inaction is greater than the risks of action. And as always, these judgments will be merely that: judgments, made with inadequate information and intelligence and no certainty about the outcomes. No foreign policy doctrine can avoid errors of omission and commission. But **history has provided some lessons, and for the United States the lesson has been fairly clear: The world is better off, and the United States is better off, in the kind of international system that American power has built and defended.**

**Indefinite detention increases terrorism—multiple mechanisms**

Martin **Scheinin**, Professor, International Law, “Should Human Rights Take a Back Seat in Wartime?” REAL CLEAR WORLD, interviewed by Casey L. Coombs, 1—11—**12**, [www.realclearworld.com/articles/2012/01/11/national\_defense\_authorization\_act\_scheinin\_interview-full.html](http://www.realclearworld.com/articles/2012/01/11/national_defense_authorization_act_scheinin_interview-full.html), accessed 8-21-13.

CLC: As a world leader and active promoter of universal human rights, **the practice of indefinite detention without charge would** seem to **clash with U.S. ideals**. Could you comment on this contradiction? MS: **One of the main lessons learned in the** international **fight against terrorism is that counter-terrorism professionals** have gradually **come to learn and admit that human rights violations are not an acceptable shortcut** in an effective fight against terrorism. **Such measures** tend to **backfire in multiple ways**. **They** result in legal problems by **hamper**ing **prosecution, trial and punishment**. **The use of torture is a clear example** here. **They** also tend to **alienate** the **communities with which authorities should be working** in order **to** detect and **prevent terrorism**. And **they add to causes of terrorism,** both **by perpetuating "root causes" that involve the alienation of communities and by providing "triggering causes" through which bitter individuals** make the morally inexcusable decision to **turn to** methods of **terrorism.** The NDAA is just one more step in the wrong direction, by aggravating the counterproductive effects of human rights violating measures put in place in the name of countering terrorism. CLC: Does the NDAA afford the U.S. a practical advantage in the fight against terrorism? Or might the law undermine its global credibility? MS: **It is hard to see any practical advantage gained through the NDAA**. It is just another form of what I call symbolic legislation, enacted because the legislators want to be seen as being "tough" or as "doing something." The law is written as just affirming existing powers and practices and hence not providing any meaningful new tools in the combat of terrorism. By constraining the choices by the executive, **it** nevertheless **hampers e**ffective counter-terrorism work, including criminal investigation and prosecution, as well as **international counter-terrorism cooperation**, markedly in the issue of closing the Guantanamo Bay detention facility. Hence, **it carries the risk of distancing** the **U**nited **S**tates **from its closest allies and the international community generally**. And of course **these kinds of** legal **provisions are** always **open for bad faith copying by repressive governments that will use them for their own political purposes**.

**Detention is a major terrorist recruitment tool**

**Postel 13** (Therese, policy associate in international affairs at The Century Foundation, 5-12-13, "How Guantanamo Bay's Existence Helps Al-Qaeda Recruit More Terrorists" The Atlantic) www.theatlantic.com/international/archive/2013/04/how-guantanamo-bays-existence-helps-al-qaeda-recruit-more-terrorists/274956/

While these human rights issues are egregious in their own right, and a vigilant minority continues to pressure the Obama administration on the situation, in the bigger picture, **the continued existence of Guantanamo Bay is damaging our national security on a daily basis. Guantanamo Bay has often been the focus of jihadist media and propaganda. Just recently, the Islamic Emirate of Afghanistan--the mouthpiece of the Taliban-- put out a statement calling attention to the ongoing hunger strike at Guantanamo** Bay. The brief message claims that the hunger strike at the prison has been going on for forty days (as of March 24) and calls for international rights organizations to "spread awareness about the plight of the destitute inmates." **Guantanamo** Bay **has become a salient issue used in jihadist propaganda. In 2010**, Al-Qaeda in the Arabian Peninsula (**AQAP**) **released the first issue of Inspire** , their English language recruitment magazine. To date, AQAP has released 10 issues of Inspire, and **the plight of prisoners at Guantanamo Bay has been featured prominently in several issues.** In the 2010 inaugural issue of Inspire, an essay by Osama bin Laden mentions "the crimes at Abu Ghraib and Guantanamo . . . which shook the conscience of humanity." Tellingly, bin Laden points out that "there has been no mentionable change" at Guantanamo and the prison is noted again later in the issue. Gitmo features even more prominently in Issue 2 of Inspire. The essays of Abu Sufyan al-Azdi and Uthman al-Gamidi, two former detainees who returned to AQAP upon their release, call new individuals to join the jihad, whether at home or abroad. In Issue 7, Yahya Ibrahim notes that Guantanamo Bay "exposed the West for what it really is" and "showed the world the American understanding of human rights." Most troubling, **in the latest issue of Inspire released early this month, AQAP mentions Guantanamo Bay several times.** In a prelude to the attention that the hunger strikers have been paid lately, Abu Musab al-Suri notes that Guantanamo is not only "filled with . . . mujahedeen" but also with "hundreds of innocent civilians." While it is quite rich to hear AQAP's concern for the plight of innocent civilians, given the high number of Yemenis cleared for release still at Guantanamo, this is a very salient message for AQAP's base in Yemen. **The constant refrain about Guantanamo Bay may be inspiring jihadist action. Anwar al-Awlaki issued a lecture discussing the plight of prisoners in Guantanamo Bay before his death by drone strike in 2011. Awlaki's lectures still play an important role in recruiting impressionable individuals to jihad.** As we know, Fort Hood shooter Nidal Hassan was impressed by Awlaki's message and was encouraged (although not directed) to carry out an attack on the states by the cleric himself. **The ramifications of the indefinite nature of Guantanamo have not been lost on American military and policy-makers, either. Air Force Officer Matthew Alexander, who was in charge of an interrogation team in Iraq, states that many of his subjects mentioned Guantanamo in their discussions and that it remains a strong recruitment tool**. Not only does it aid recruitment, but in Alexander's words, **"the longer it stays open the more cost it will have in U.S. lives."** John Brennan, now director of the Central Intelligence Agency, echoed Alexander's words just less than two years ago: "The prison at Guantánamo Bay undermines our national security, and our nation will be more secure the day when that prison is finally and responsibly closed." General Colin Powel underlined U.S. awareness of this perception in 2010. **Powell said unless Guantanamo is closed, it gives "radicals an opportunity to say, you see, this is what America is all about. They're all about torture and detention centers."** In Powell's words, the continuation of Guantanamo reinforces Al-Qaeda's "own positions." General David Petraeus' own words on Guantanamo Bay now seem prophetic. Just a year into Obama's first term Petraeus stated, I've been on the record on that for well over a year as well, saying that it [Guantanamo] should be closed. . . . And I think that whenever we have, perhaps, taken expedient measures, they have turned around and bitten us in the backside. . . . Abu Ghraib and other situations like that are nonbiodegradables. They don't go away. The enemy continues to beat you with them like a stick. **As the ongoing hunger strike intensifies at Guantanamo Bay, this issue and the facility itself continues to undermine our national security. Joe Biden called Guantanamo the "greatest propaganda tool that exists for recruiting of terrorists around the world" in 2005. Eight years later, if human rights and budgetary concerns are not enough to end this intractable problem, maybe national security will be.**

**Al Qaeda is still a major threat—predictions of decline are premature and false**

**Sinai 13** (Joshua, JINSA Fellow, Washington, DC-based consultant on national security studies, focusing primarily on terrorism, counterterrorism, and homeland security, 3-11-13, “Al Qaeda Threat to U.S. Not Diminished, Data Indicates” The Jewish Institute for National Security Affairs) http://www.jinsa.org/fellowship-program/joshua-sinai/al-qaeda-threat-us-not-diminished-data-indicates#.UbaiWvmsiSo

**Conventional wisdom holds that the threat** to America **posed by al Qaeda** and its affiliates **is greatly diminished** compared to 9/11. Today, it is claimed, al Qaeda is less well organized, with many of its top leaders eliminated, and is so broken into geographically disparate franchises that it is unable to recruit, train, and deploy a specialized cell to carry out a comparable catastrophic attack against America. The fact that no al Qaeda terrorist attacks have been carried out in America over the last two years, while some 20 individuals have plotted to carry out attacks but were arrested and convicted during the pre-incident phases, is seen as evidence that this terrorist threat is decreasing domestically. Therefore, according to this thesis, security authorities should prepare for more numerous and frequently occurring but low casualty attacks mounted by less well-trained and capable homegrown operatives, particularly by what are termed "lone wolves." **When a more complete compilation of all the components** involved in terrorism **are taken into account, however, the magnitude of the threat becomes much clearer and includes a higher likelihood of attempts to carry out catastrophic attacks as well as evidence that al Qaeda continues to recruit and prepare terrorist operatives in the United States.** Downplaying the terrorist threat posed by al Qaeda and its affiliates also has significant political implications due in part to the more than $70 billion that is spent annually on America's domestic counterterrorism programs (with larger amounts expended for overseas operations), all of which need to be continuously justified as cost effective by Administration planners and Congressional appropriators. Such **purported decline in al Qaeda attacks domestically**, however, **is** now **being seized upon by those who favor reduced government funding for counterterrorism programs, including weakening the USA PATRIOT Act**, to support their position that a reduced threat requires reduced funding and resources. **When the trajectory of attacks by al Qaeda and its associates over the years are carefully studied,** however, **certain patterns recur.** Specifically, **every time the threat is underplayed, it is invariably followed by a major attack. In the months leading up to the November 2012 elections, the media was filled with pronouncements that al Qaeda's threat had greatly diminished** as a result of the elimination of its leadership and the reduced operational role over attacks by what is termed "al Qaeda Central" in Pakistan's tribal areas. **While accurate on one level, this did not stop al Qaeda and its affiliates from continuing to launch major terrorist attacks, including** that by its Libyan affiliate against the U.S. consulate in **Benghazi** on September 11, 2012, which led to severe political repercussions for the Administration for its unpreparedness to anticipate such an attack. **This was followed by** the launching of **the devastating cross-border attack against the natural gas facility in eastern Algeria** in mid-January by another al Qaeda affiliate in Mali. **Thirty-six foreign workers were murdered in that attack, which, again, was unanticipated.** Moreover, **the fact that a catastrophic attack against America comparable to 9/11 has not occurred over the past 11 years should not suggest that a future one is not being planned. In summer 2006, al Qaeda-linked operatives in London plotted to detonate liquid explosives on board 10 transatlantic airliners flying from the UK to America and Canada. In** September **2009**, Najibullah **Zazi and his associates were arrested for plotting to conduct a suicide bombing attack against the New York City subway system. On Christmas Day, 2009,** Umar Farouk **Abdulmutallab failed to detonate plastic explosives while on board an airliner heading to Detroit.** Anwar al Awlaki, a former American extremist cleric, reportedly masterminded Abdulmutallab's operation. Awlaki was killed in a drone attack in Yemen on September 30, 2011. The killings of al Awlaki and Samir Khan, another American extremist who had made his way to Yemen in 2009, could well trigger a catastrophic attack by al Qaeda to avenge their deaths. **The recent capture of** Osama **Bin Laden's son-in-law**, Sulaiman abu Ghaith, and the decision to try him in New York City, **is also likely to trigger a major revenge attack against America.** Finally, **organizing catastrophic terrorist attacks requires** extensive **planning, funding and preparation. A terrorist group that feels** itself **strong will take its time to carefully plan a few but devastating attacks**, while a group that regards itself as weak may feel compelled to carry out frequent, but low-casualty attacks to demonstrate its continued relevancy. Some **incident databases, such as** a recent compilation of **data about American al Qaeda terrorists by the UK-based Henry Jackson Society, only account for completed attacks** and convictions of those arrested. **If such counting is expanded to include other factors**, however, then **the overall threat becomes much more severe. Other factors**, therefore, **should include** the **potential consequences of** the **thwarted attacks** had they not been prevented, **the number of radicalized Americans** who travel overseas to join al Qaeda-affiliated insurgencies, and the extent of radicalized activity by al Qaeda's American sympathizers in jihadi website forums and chatrooms. **A more complete accounting of the threat will** now **reveal that the supportive extremist infrastructure for al Qaeda in America is actually not diminishing and that the purported "lone wolf" actors have actual ties to al Qaeda operatives overseas. We should not,** therefore, also **be misled into complacency if catastrophic attacks by al Qaeda do not occur for lengthy periods. Nor so by the comforting but false sense of security that comes with believing that "lone wolf" attacks** in the United States **are not a product of al Qaeda** recruitment and support. It is also possible, nevertheless, that **al Qaeda's terrorist planners are considering both types of attacks, infrequent catastrophic and frequent low casualty. This may explain why al Qaeda's propaganda organs are calling on its radicalized followers in the West to take matters into their own hands and embark on any sort of attacks that may be feasible at the moment, but with further surprise attacks of a catastrophic nature still ahead.**

**Terrorists will obtain nuclear weapons—multiple potential sources**

**Neely 13** (Meggaen, research intern for the Project on Nuclear Issues, 3-21-13, "Doubting Deterrence of Nuclear Terrorism" Center for Strategic and International Studies) csis.org/blog/doubting-deterrence-nuclear-terrorism

**The risk that terrorists will set off a nuclear weapon on U.S. soil is disconcertingly high.** While a terrorist organization may experience difficulty constructing nuclear weapons facilities, **there is significant concern that terrorists can obtain a nuclear weapon or nuclear materials.** The fear that **an actor could steal a nuclear weapon** or fissile material **and transport it to the U**nited **S**tates has long-existed. It takes a great amount of time and resources (including territory) to construct centrifuges and reactors to build a nuclear weapon from scratch. **Relatively easily-transportable nuclear weapons**, however, **present one opportunity to terrorists.** For example, **exercises similar to the recent Russian movement of nuclear weapons from munitions depots to storage sites may prove attractive targets. Loose nuclear materials pose a second opportunity. Terrorists could use them to create a crude nuclear weapon similar to the gun-type design of Little Boy. Its simplicity** – two subcritical masses of highly-enriched uranium – **may make it attractive to terrorists.** While such a weapon might not produce the immediate destruction seen at Hiroshima, the radioactive fall-out and psychological effects would still be damaging. These two opportunities for terrorists differ from concerns about a “dirty bomb,” which mixes radioactive material with conventional explosives.

**Nuke terror causes extinction—equals a full-scale nuclear war**

Owen B. **Toon 7**, chair of the Department of Atmospheric and Oceanic Sciences at CU-Boulder, et al., April 19, 2007, “Atmospheric effects and societal consequences of regional scale nuclear conflicts and acts of individual nuclear terrorism,” online: http://climate.envsci.rutgers.edu/pdf/acp-7-1973-2007.pdf

To an increasing extent, **people are congregating in the world’s great urban centers, creating megacities with populations exceeding 10 million individuals**. At the same time, **advanced technology has designed nuclear explosives of such small size they can be easily transported in a car**, small plane or boat **to the heart of a city**. We demonstrate here that **a single detonation in the 15 kiloton range can produce urban fatalities approaching one million** in some cases, **and casualties exceeding one million**. Thousands of small weapons still exist in the arsenals of the U.S. and Russia, and there are at least six other countries with substantial nuclear weapons inventories. In all, thirty-three countries control sufficient amounts of highly enriched uranium or plutonium to assemble nuclear explosives. A conflict between any of these countries involving 50-100 weapons with yields of 15 kt has the potential to create fatalities rivaling those of the Second World War. Moreover, **even a single surface nuclear explosion**, or an air burst in rainy conditions, **in a city center is likely to cause the entire metropolitan area to be abandoned at least for decades** owing to infrastructure damage and radioactive contamination. As the aftermath of hurricane Katrina in Louisiana suggests, **the economic consequences of even a localized nuclear catastrophe would most likely have severe national and international economic consequences**. Striking effects result even from relatively small nuclear attacks because low yield detonations are most effective against city centers where business and social activity as well as population are concentrated. Rogue nations and **terrorists would be most likely to strike there**. Accordingly, an organized **attack on the U.S. by a small nuclear state, or terrorists** supported by such a state, **could generate casualties comparable to those** once **predicted for a full-scale nuclear “counterforce” exchange in a superpower conflict**. Remarkably, the **estimated quantities of smoke generated by attacks totaling about one megaton of nuclear explosives could lead to significant global climate perturbations** (Robock et al., 2007). While we did not extend our casualty and damage predictions to include potential medical, social or economic impacts following the initial explosions, such analyses have been performed in the past for large-scale nuclear war scenarios (Harwell and Hutchinson, 1985). Such a study should be carried out as well for the present scenarios and physical outcomes.

### 1AC: Judiciary

#### Boumediene upheld the deference doctrine—by failing to specify a remedy, the courts have cemented executive power

Scheppele 12 (Kim, Professor of Sociology and Public Affairs in the Woodrow Wilson School, Director of the Program in Law and Public Affairs, Princeton University, January 2012, "The New Judicial Deference" Boston University Law Review, Lexis)

The majority in Boumediene had indeed found that the political branches had designed a system that violated the Constitution. The majority in Boumediene hardly looked deferential, at least when one examines the reasoning. But the signature element of the new judicial deference is that the Court does not defer in principle; it defers in practice. The petitioners won the right to have a regular court hear their habeas petitions. But what should such a court say about the Guantanamo detentions after this case? The majority frankly admitted that "our opinion does not address the content of the law that governs petitioners' detention. That is a matter yet to be determined." n294 So, while the Court appeared to take seriously the years of delay in granting the petitioners any independent review of the bases for their detention, the Court would still not explain when and by what evidentiary standard detention would be permissible. That required more litigation. And that process would require more time, which would in turn allow the executive to detain the petitioners longer.

#### Judicial deference justifies military medical and bioweapons research

Parasidis 12 (Efthimios, Assistant Professor of Law, Center for Health Law Studies, Saint Louis University School of Law, 2012, "Justice and Beneficence in Military Medicine and Research" Ohio State Law School, Lexis)

The military has long nurtured a culture and identity that is fundamentally distinct from civil society, n522 and the U.S. government has a history of bending [\*792] and breaking the law during times of war. n523 While the military has traditionally enjoyed great deference from civilian courts in the United States, n524 military discipline and national security interests should not grant government officials carte blanche to violate fundamental human rights. n525 To the contrary, Congress and the courts should work to ensure that military and intelligence agencies remain subordinate to the democratic rule of law. n526 The motto of the American military physician is "to conserve the fighting force," yet the last decade has seen a notable shift in emphasis to enhancing the fighting force through novel applications of biomedical enhancements. n527 The nefarious conduct of military officials during the course of the mustard gas, radiation, biological warfare, and psychotropic drug experiments provides ample evidence of the "lies and half-truths" that the DoD has utilized in the name of national security. n528 Indeed, the Army Inspector General has acknowledged the "inadequacy of the Army's institutional memory" regarding experimental research. n529 When one considers socio-economic dimensions of the armed forces, this history of neglect has served to further societal inequalities. n530 As a judge on the Sixth Circuit, and former Commander in Chief [\*793] of the Ohio National Guard explains, "in a democracy we have far more to fear from the lack of military accountability than from the lack of military discipline or aggressiveness." n531

#### That risks bioweapons use—theft, arms racing, tradeoff

H. Patricia Hynes, retired Professor, Environmental Health, Boston University, “Biological Weapons: Bargaining with the Devil,” TRUTHOUT, 8—18—11, http://www.truth-out.org/news/item/2693:biological-weapons-bargaining-with-the-devil

The bullish climate of the "war on terrorism" set off a massive flow of federal funding for research on live, virulent bioweapons' organisms (also referred to as biodefense, bioterrorism and biosafety organisms) to federal, university and private laboratories in rural, suburban and urban areas. Among the federal agencies building or expanding biodefense laboratories are the Departments of Defense (DoD), Homeland Security, State and Agriculture; the Environmental Protection Agency; and the National Institutes of Health (NIH). A new network, comprised of two large national biowarfare laboratories at BU and University of Texas, Galveston medical centers, more than a dozen small regional laboratories and ten Regional Centers of Excellence for Biodefense and Emerging Infectious Diseases Research, was designed for funding by the National Institute for Allergy and Infectious Diseases, a division of NIH. The validation offered by the federal health research agency for ramped-up biological warfare research is the dual use of the research results: "better vaccines, diagnostics and therapeutics against bioterrorist agents but also for coping with naturally occurring disease." Today, in dozens of newly sprung laboratories, research on the most lethal bacteria and viruses with no known cure is being conducted in an atmosphere of secrecy, with hand-picked internal review boards and little, if any, public oversight or accountability. Fort Detrick, Maryland, a longstanding military base and major government research facility, is the site of the largest biodefense lab being built in the United States. Here, biowarfare pathogens will be created, including new genetically engineered viruses and bacteria, in order to simulate potential bioweapons attacks by terrorist groups. Novel, lethal organisms and methods of delivery in biowarfare will be tested, all rationalized by the national security need to study them and develop a figurative bioshield against them. In fact, Fort Detrick's research agenda - modifying and dispersing lethal and genetically modified organisms - has "unmistakable hallmarks of an offensive weapons program" ... "in essence creating new threats that we're going to have to defend ourselves against" - threats from accidents, theft of organisms and stimulus of a bioarms race.(3) Between 2002 and 2009, approximately 400 facilities and 15,000 people were handling biological weapons agents in sites throughout the country, in many cases unbeknownst to the local community. The marathon to spend nearly $60 billion since 2002 on biological weapons research has raised serious concerns for numerous scientists and informed public critics. Among these are: runaway biodefense research without an assessment of biowarfare threat and the need for this research; (See the Sunshine Project web site for the most comprehensive map of biodefense research sites through 2008 in the United States ) militarization of biological research and the risk of provoking a biological arms race; neglect of vital public health research as a tradeoff for enhanced biodefense research; lack of standardized safety and security procedures for high-risk laboratories; increased risk of accident and intentional release of lethal organisms with the proliferation of facilities and researchers in residential communities; lack of transparency and citizen participation in the decision-making process; and vulnerability of environmental justice (i.e., low income and minority) communities to being selected for the location of these high-risk facilities. Is this federal research agenda "the biological equivalent of our misadventure in Iraq?" An expert on biological weapons at the University of California Davis, Mark Wheelis, contends that a "mass-casualty bioterrorist attack" is unlikely and that "plastering the country" with bioweapons laboratories leaves the country with a weakened public health research infrastructure and, thus, less secure. The Government Accounting Office (GAO) and many others have drawn the same conclusion. In May 2009, a study of security in DoD biodefense laboratories determined that the security systems of high biocontainment laboratories cannot protect against theft of bioweapons agents. Soon after, a Washington Post story revealed that an inventory of potentially deadly pathogens at the government's premier bioweapons research laboratory at Fort Detrick, Maryland, uncovered that more than 9,000 vials were missing. In testimony to a House Committee hearing on the proliferation of bioweapons laboratories, Nancy Kingsbury of the GAO revealed that expansion of bioweapons laboratories has been "so uncoordinated that no federal agency knows how many exist"; nor, she added, is there any sense among federal agencies of how many are needed, of their operational safety and of the cumulative risks they pose to the public. Keith Rhodes, the GAO's chief technologist, testified in the same October 2007 Congressional hearing "'we are at greater risk today' of an infectious disease epidemic because of the great increase in biolaboratories and the absence of oversight they receive." As many have gravely observed, the biodefense build-up means a huge number of people has access to extremely lethal material.

#### Bioweapons cause extinction

Anders **Sandberg** et al., James Martin Research Fellow, Future of Humanity Institute, Oxford University, "How Can We Reduce the Risk of Human Extinction?" BULLETIN OF THE ATOMIC SCIENTISTS, 9-9-**08**, http://www.thebulletin.org/web-edition/features/how-can-we-reduce-the-risk-of-human-extinction, accessed 5-2-10.

The risks from anthropogenic hazards appear at present larger than those from natural ones. Although great progress has been made in reducing the number of nuclear weapons in the world, humanity is still threatened by the possibility of a global thermonuclear war and a resulting nuclear winter. We may face even greater risks from emerging technologies. Advances in synthetic biology might make it possible to engineer pathogens capable of extinction-level pandemics. The knowledge, equipment, and materials needed to engineer pathogens are more accessible than those needed to build nuclear weapons. And unlike other weapons, pathogens are self-replicating, allowing a small arsenal to become exponentially destructive. Pathogens have been implicated in the extinctions of many wild species. Although most pandemics "fade out" by reducing the density of susceptible populations, pathogens with wide host ranges in multiple species can reach even isolated individuals. The intentional or unintentional release of engineered pathogens with high transmissibility, latency, and lethality might be capable of causing human extinction. While such an event seems unlikely today, the likelihood may increase as biotechnologies continue to improve at a rate rivaling Moore's Law.

#### Court involvement key to setting precedent that checks abuses

Pearlstein 03 [Deborah N., Deputy Director of the U.S. Law and Security Program at the Lawyers Committee for Human Rights, and a Visiting Fellow at the Stanford University Center for Democracy, Development and the Rule of Law, “The Role of the Courts in Protecting Civil Liberties and Human Rights for the Post-9/11 United States”, 2nd Pugwash Workshop on Terrorism: External and Domestic Consequences of the War on Terrorism, http://www.pugwash.org/reports/nw/terrorism2003-pearlstein.htm]

In each of the historical examples just given, the judiciary ultimately played a critical role in evaluating the legality of executive action. In the Civil War case, Lambdin Milligan, who had led armed uprisings against Union forces in Indiana, appealed his military tribunal prosecution to the U.S. Supreme Court. In Ex Parte Milligan (1865), the U.S. Supreme Court held Milligan's military prosecution unconstitutional, holding that as long as the civilian "courts are open and their process unobstructed, . . . they can never be applied to civilians in states which have upheld the authority of the government." In Ex Parte Quirin (1942), the Supreme Court reviewed the military prosecution of the German army spies for violations of the laws of war and concluded that it was within the executive's power. Unlike the civilian subject to military justice in Ex Parte Milligan, the Quirin defendants were members of the army of a nation with which the United States was in declared war. And critically, Congress had expressly authorized military commission trials for the offenses for which they were accused. The Supreme Court likewise upheld the exclusion of Japanese-Americans from their homes in Korematsu v. United States (1944), explaining: "Korematsu was not excluded from the military area because of hostility to him or his race. He was excluded because we are at war with the Japanese Empire, because the properly constituted military authorities feared an invasion of our West Coast and felt constrained to take proper security measures, and finally, because Congress, reposing its confidence in this time of war in our military leaders - as inevitably it must - determined that they should have the power to do just this." As these examples demonstrate, the U.S. Supreme Court has not always acted to enforce positive legal protections in favor of the individual against the government's exercise of 'wartime' power. Nonetheless, the Court's structural involvement conveyed a critical political message that executive power remained subject to the rule of law. In addition, the Court's published majority opinions clarified the nature of the executive action taken in response to perceived wartime threats, providing a basis for comparative analysis of subsequent executive conduct. In vigorous and public dissenting opinions accompanying each decision, minority justices gave expression to the strong opposing arguments on the resolution of the legal questions presented. Perhaps most important, the judicial decisions provided Congress, legal scholars, and the American public a means for understanding and, in the relative calm of post-war decision-making, for reevaluating the political wisdom of the challenged actions. Thus, for example, a federal court eventually granted a writ of coram nobis in Mr. Korematsu's case as a result of executive misrepresentations. (Korematsu v. United States (N.D. Cal. 1984)). In 1971, to rein in what was by then broadly recognized as executive excesses, Congress passed 18 U.S.C. § 4001(a), providing: "No citizen shall be . . . detained by the United States except pursuant to an Act of Congress." And in 1988, Congress awarded reparations to the remaining survivors and descendants of those interned during World War II as a result of the military exclusion order.

**Court action on detention is key to reverse deference**

**Masur 05** (Jonathan, Law clerk for Posner, JD from Harvard, "A Hard Look or a Blind Eye: Administrative Law and Military Deference" Hastings Law Journal, Lexis)

In evidence is a court that instinctively views military action as judicially incomprehensible and legally untouchable. To the Fourth Circuit, law cannot bend the exigent realities of war to its constraining will because it cannot extract necessary factual clarity from amidst the "murkiness and chaos"; courts would thus be well-advised to remain outside the fray. n320 It is this judicial predilection that necessitates firm proof of dissimilitude between military and criminal detention. **When military operations assume the form and function of typical law enforcement acts, courts become hard-pressed to justify their abstention** from the rule-of-law constitutional questions that form the core of their juridical task. Despitea body of Supreme Court administrative law doctrine counseling judicial intervention into areas of executive expertise, and despite the principle that courts must act to vindicate the rule of law even [\*519] in fields of overwhelming executive or legislative authority, **Article III courts have come to view military questions as a taxonomic grouping they are simply incapable of navigating. Yet in this legal area** (as in most others), **doctrinal facts ought to drive psychological attitudes. Military cases do not always hold the threat of substantially greater national peril, nor offer more pressing exigencies, nor present more intractable** fact or policy **questions** than do typical administrative law adjudications. **Courts that remain unafraid to pass on the factual rationality of highway safety regulations** that may affect tens of thousands of lives each year **should hold no** particular impressionistic **aversion towards inquiring into the legality of detentions** or secretive hearings. There, the danger of a judicial misstep remains speculative precisely because courts have refused to put the Administration to its proofs. Moreover, **courts** themselves **possess responsibility for enforcing the legal limitations that exist to bind administrative actors. To leave wartime cases exclusively in the hands of the Executive Branch in the name of** "comity" or "**deference" would be to reduce fundamental constitutional guarantees to mere precatory language,** slaves to the vicissitudes of the executive expediency they were meant to curb. Lower courts need not shrink from validating the rule of law in cases that bear such resemblance to the administrative law doctrines with which they are familiar. If they continue to do so, **the Supreme Court must act to reconstitute wartime doctrine** along existing precedential lines, **lest the U**nited **S**tates **reap the consequences of this** unfortunate, self-conscious **judicial hand-washing.** Conclusion **Over the past three years, the "War on Terror" has become as much a legal strategy as a military operation.** Incursions abroad have been matched by informational blackouts at home. International manhunts for suspected terrorists are coupled with detention of American citizens. Constitutional rights have been eroded by a torrent of ostensibly security-enhancing measures, and aggrieved individuals have turned to the courts for redress, just as they did six decades ago when the Japanese population of the West Coast was interned in the name of national defense. Yet **courts have behaved solicitously** not towards claims of constitutional deprivations, but rather **towards governmental declarations of necessity and authority** over the lives and rights of the citizenry in wartime. In particular, **courts have overwhelmingly deferred to the executive branch** regarding the assertions of fact that form the factual predicates for governmental actions. Deference has come according to two rationales: first, the President's unique constitutional role as guarantor of national security, and second, the Executive's [\*520] superior institutional expertise in wartime matters. **In awarding deference** on these grounds, **the judiciary has ignored the operation of the Constitution** and laws as contemporaneous structural constraints on executive military action. The President and the military hold only the authority vested in them by the Constitution or by law. Action outside of those legal boundaries is by definition unconstitutional and unauthorized. Similarly, the Bill of Rights enshrines individual freedoms that executive action, even if otherwise lawful, cannot infringe. Moreover, **many cases implicating national security turn on issues of individual statutory and constitutional rights - such as the lawfulness of detention** or free speech rights such as access to information - that form the archetypal bailiwick of civilian tribunals. Thus, **even in wartime circumstances there is often constitutional and statutory law to apply, law to which courts must hold the Executive** and the legislature. As courts have nearly unanimously recognized, **it is emphatically the province of the judiciary to vindicate the rule of law by demanding that government bodies remain within circumscribed boundaries.** It is in this respect that administrative law can usefully inform the adjudication of wartime cases. Administrative law jurisprudence developed to address the particular problems presented by executive branch agencies possessing tremendous institutional expertise and resources and specially empowered by Congress to manage technically difficult subject matter. So-called "military" cases come to Article III courts within precisely the same jurisprudential framework as civilian administrative ones: courts must determine the degree to which they should defer to the legal or factual allegations of an expert, empowered executive branch organization. Despite the obvious considerations favoring substantial administrative deference, the Supreme Court's modern administrative law jurisprudence stands for the principle that adherence to the rule of law demands that courts meaningfully scrutinize administrative determinations of fact. The Court has recognized that enforcement of a legal stricture is toothless without a concomitant inquiry into that stricture's factual predicate. It has therefore insisted upon "substantial evidence" in support of agency judgments before affirming them and required courts to perform "rationality review" of agency policy decisions to ensure that agencies have considered all available alternatives and reached logical conclusions from available information. The rule-of-law principles that motivate judicial scrutiny of administrative determinations compel similar treatment for the claims of fact proffered by the military in the interest of surmounting constitutional restraints. The reasons that courts advance in defense of their acquiescence in wartime circumstances are logically unconvincing. [\*521] **The military matters that have come before the judiciary are neither more judicially inscrutable nor more legally intractable than the administrative issues upon which hard look and substantial evidence review were founded. If military cases present greater national dangers - a question that can hardly be answered accurately without judicial review in the first instance - than their civilian counterparts, they also threaten more dramatic erosions of civil and constitutional rights**. Courts cannot continue to invoke "national security" as a shibboleth absolving them from their responsibility, exemplified within the principles of administrative law, to examine especially those actions taken by broadly empowered, highly experienced executive bodies. On September 22, 2004, almost three years after Yaser Esam Hamdi was taken into custody by American forces in Afghanistan, and nearly three months after the Supreme Court had ruled that he could not be held indefinitely without some nature of adjudicative process, the United States Department of Justice decided that Hamdi's "intelligence value had been exhausted" and agreed to release him, provided he never again set foot in the United States. n321 Nineteen days later, Hamdi was placed on a flight bound for Saudi Arabia. n322 What justification the United States military believed it possessed for holding Hamdi may never be known; one can only presume that it would not have withstood even the limited scrutiny the Supreme Court had prescribed. Hamdi's release completed the military's circular narrative: it was the executive branch that chose to incarcerate Hamdi; it was the executive branch that unilaterally chose to release him; and it appears that the executive branch never ceased believing that it alone held the authority to make these decisions. Yaser **Hamdi**, Jose **Padilla, and** all American **citizens** bearing constitutional rights **are entitled to a government that operates by law and logic, not by executive fiat. Courts must act to vindicate the rule of law if such a government is to persevere.**

#### Judicial review key to stop torture

Mukul **Sharma**, "Bagram, the Other Guantanamo," THE HINDU, 1--6--**10**, http://beta.thehindu.com/opinion/op-ed/article76282.ece, accessed 8-15-13.

As at Guantanamo, in the absence of judicial oversight the detentions in Bagram have been marked by torture and other kinds of ill-treatment of detenus. Agents of the Federal Bureau of Investigation (FBI) deployed in Afghanistan between late-2001 and the end of 2004 reported personally having observed military interrogators in Bagram and elsewhere employing stripping , sleep deprivation, threats of death or pain, threats against detenus’ family members, prolonged use of shackles, stress positions, hooding and blindfolding other than for transportation, use of loud music, use of strobe lights or darkness, extended isolation, forced cell extractions, use of and threats of use of dogs to induce fear, forcible shaving of hair for the purpose of humiliating detenus, holding detenus in an unregistered manner, sending them to other countries for “more aggressive” interrogation and threatening to take such action.

#### Torture should be rejected

Amnesty International, Response to the Proposed “Interrogations Procedures Act,” 2--16--05, http://web.amnesty.org/library/Index/ENGAMR510392005

What should matter even more is that the absolute duty to treat all prisoners with dignity without exception is a moral value reflecting fundament principles of humanity, as well as part of the bedrock of international law. The proposed legislation threatens to destroy all that and replace it by a legalized, regularized, supervised, and officially approved form of cruelty. The act of one individual terrorizing another serves only to destroy the values it claims to be protecting.

**Liberalism is true and promotes peace**

**Recchia and Doyle 11**

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

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

### 1AC: Plan

**Plan: The United States federal judiciary should rule that all persons detained under the War Powers Authority of the President of the United States be afforded due process protections and that such individuals who have won their habeas corpus hearing or trial be released.**

### 1AC: Solvency

**Contention 3 is Solvency:**

**Working through the courts is necessary to solve Gitmo—popular activism can’t solve**

**Cole 2011** - Professor, Georgetown University Law Center (Winter, David, “WHERE LIBERTY LIES: CIVIL SOCIETY AND INDIVIDUAL RIGHTS AFTER 9/11,” 57 Wayne L. Rev. 1203, Lexis)

Unlike the majoritarian electoral politics Posner and Vermeule imagine, the work of **civil society cannot be segregated neatly from the law**. On the contrary, **it will often coalesce around a distinctly legal challenge,** objecting to departures from specific legal norms, **often** but not always heard **in** a **court** case, **as with civil society's challenge to the treatment of detainees at Guantanamo. Congress's actions** on that subject **make clear that had Guantánamo been left to the majoritarian political process, there would have been few if any advances**. The **litigation generated** and concentrated **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 contributed to** a broader impetus for **reform**.

**Boumediene failed provide detainees legal recourse—Court clarification is key**

**Reprieve 12** (Anti-detention advocacy group based in London, 7-10-12, "Why can't cleared prisoners leave Guantánamo Bay? Reprieve) www.reprieve.org.uk/publiceducation/2012\_07\_10\_Guantanamo\_public\_education/

**Guantánamo detainees can appeal to federal judges to compel the Department of Defense to release them; a federal court order would circumvent the NDAA restrictions. Under this method, detainees challenge their detention by seeking a court order of habeas corpus – essentially asking the court to declare their detention illegal.** In 2008, **the U**nited **S**tates **Supreme Court ruled in Boumediene v. Bush that US courts can make habeas corpus orders** for non-US citizens detained at Guantánamo. (The Court specifically ruled that a Congressional Act prohibiting such orders was unconstitutional.) Following Boumediene, **a number of Guantánamo detainees challenged their detention in court. Some of these habeas petitions were granted,** meaning that the detainee had indeed been held illegally. The release of some of these habeas winners was not contested by the government and such prisoners returned home or to a third country willing to take them. **However, since 2010, the D.C. Circuit Court has consistently decided against the detainee on appeal[1], meaning the US courts have become effectively worthless to Guantánamo prisoners. The problem was that the Supreme Court’s Boumediene opinion lacked clear guidance on the standards and procedures for Guantánamo habeas corpus review. This allowed lower** (and possibly more hostile) **courts to narrow and misinterpret the meaning of the Boumediene decision to a point where it became worthless. For example, the D.C. Circuit Court set the standard of evidence required of the government to oppose a release as a “preponderance of evidence”** - extremely low and vague. **The Court has also allowed hearsay evidence, and has even accepted the existence of simply “some evidence" as sufficient for continued detention**. Furthermore, th**e courts now side with the government whenever it presents a 'plausible' allegation about the prisoner.** In reality, **this shifts the burden of proof onto the prisoner**, as he must actively disprove the allegations about him, while the government may simply present them as fact. In sum, **while detainees can challenge their detention in court they now have no chance of winning.** **As the ultimate judicial decision-maker, the US Supreme Court could clarify its Boumediene opinion, overriding the D.C. Circuit Court’s apparent resolution to block Guantánamo releases**. However, **the Supreme Court has since refused to hear Guantánamo-related cases. This has effectively ended all hopes of judicially-ordered releases for detainees.** Eleven years after the island prison opened, the Supreme Court does not seem interested in delivering justice at Guantanamo Bay.

**Granting detainees immediate court access for prosecution solves**

Kenneth **Roth**, Executive Director, Human Rights Watch, "Why the Current Approach to Fighting Terrorism is Making Us Less Safe," CREIGHTON LAW REVIEW v. 41, 6--**08**, p. 592.

Let me conclude just by saying what concretely should the next President do, and along with him or her, what should the next Congress do. It's not going to be enough just to be a fresh face in the White House. **There are going to have to be real changes in practice.** **Among those changes will be the need to close Guantanamo**, **to close its equivalents** around the world: Bagram Air Base in Afghanistan, certainly the CIA secret detention facilities and the like. **People** there **should be prosecuted or released. It's that simple. There should not be a preventive detention option**. We should not just move Guantanamo onshore. The Army rules for interrogation should be extended to the CIA, initially by executive order and as quickly possible by legislation to make it harder for the next President to introduce another one of these exceptions. **Habeas corpus should be immediately restored** **so that anyone detained by the U.S. has immediate access to the courts to challenge the legality of their detention**. **We should abolish altogether the military commissions**. **We do not need a justice system designed to introduce into evidence coerced testimony. People can be brought before the civilian courts.** If they are captured in a battlefield, they can be brought before a regular court martial but none of these dumbed-down substandard military commissions. Apart from these concrete changes, **we also need a real repudiation. It is not enough to simply stop doing it**, I think **there is a need to disown the theories that led to this**, including I should say the concept of the global war against terrorism: The view that the Bush Administration or any administration on its own unilaterally can identify anybody any place in the world that is a combatant and therefore remove them from the criminal justice system and simply detain them as a combatant.

**Obama will comply—the Court has the final word**

Joe **Meacham,** executive editor, Random House, “Why Obama Shouldn’t Declare War on Supreme Court,” TIME, 4—2—**12**, http://ideas.time.com/2012/04/02/why-obama-shouldnt-declare-war-on-the-supreme-court/

With the Supreme Court weighing the constitutionality of a central element of President Obama’s comprehensive health care reform, there’s a lot of talk (in the places where people talk about such things, usually unburdened by responsibility or firsthand knowledge) of making the court an issue in the campaign if it were to rule against the White House. But here is a pretty good rule of thumb for Democratic Presidents: if it didn’t work for Franklin D. Roosevelt, who won four terms and a World War, it probably won’t work for you either. In one of the rare political debacles of his long life, FDR overreached after his landslide win against Alf Landon in 1936. (Roosevelt carried every state, save for Maine and Vermont.) A largely conservative Supreme Court had already struck down key parts of New Deal legislation, and there was the threat of more anti-Roosevelt decisions to come. And so FDR proposed a plan that would have enabled him to appoint additional justices in an attempt to shift the court’s political orientation. The effort failed, miserably. Justified or not, **the Supreme Court has** a kind of **sacred status in American life**. For whatever reason, **Presidents can safely run against Congress**, and vice versa, **but** I think **there is an inherent popular aversion to assaults on the court itself**. Perhaps **it has to do with an instinctive belief that life needs umpires**, even ones who blow calls now and then. Ironies abound. One of the great partisans of the early republic, John Marshall, created an ethos around the court that has largely protected it (even from itself) from successful partisan attack. **Even when it makes bad law (Bush v. Gore), it has the last word**. **Even when it makes decisions that enrage vast swaths of** politically, culturally and religiously motivated **citizens** (Roe v. Wade), **it** basically **has the last word**. (If you disagree with this example, ask yourself how successful pro-lifers have been in amending the Constitution over the past 40 years.) It has had the grimmest of hours (Dred Scott v. Sandford) and the finest (Brown v. Board of Education). The court is, of course, a political institution. In no way is it a clinically impartial tribunal, for virtually every decision requires an application of values and an assessment in light of experience. “Activist judges” tend to be judges who make decisions with which you disagree. Wise Presidents have learned that taking the court on directly rarely turns out well. Thomas Jefferson cordially hated his cousin Marshall, but even Jefferson trod carefully as he repealed John Adams’ extension of Federalist judicial power. “John Marshall has made his decision,” Andrew Jackson is alleged to have said after a Cherokee case. “Now let him enforce it.” The showdown between Marshall and Jackson over the fate of Native Americans, however, was much more subtle on both sides, with Marshall characteristically taking care not to force an existential crisis with the executive branch. Segregationist Southerners may have put up billboards urging the impeachment of Earl Warren in the 1950s, but the chief justice’s job — and his place in history — was never in actual jeopardy. On a human level, Presidents who have to fight and claw their way to shape public opinion, pass legislation and then try to implement their policies must be mightily tempted to make a hostile Supreme Court a target to energize the base. But history shows that Obama should resist the temptation. There are subtle ways to make the point about a given court’s seeming hostility to your agenda and still win over highly informed independents in swing states who tend to decide elections. The big thing experience shows is that you should not declare war on the court. More in sadness than in anger, just mention the issues on which you feel stymied by the justices. From health care to campaign finance, those independent voters will get the message without being frightened off by an unsettling rhetorical attack on the judiciary. That’s what FDR got wrong. Obama may well have a chance to get it right.

**Prosecution in federal courts solves best—multiple reasons, experts agree**

Oona **Hathaway**, Professor, International Law, Yale Law School, Samuel Adelsberg, Spencer Amdur, Philip Levitz, Freya Pitts and Sirine Shebaya, “The Power to Detain: Detention of Terrorism Suspects after 9/11,” YALE JOURNAL OF INTERNATIONAL LAW v. 38, Winter 20**13**, p. 161-167.

The United States is still actively engaged in hostilities with global terrorist organizations, but there are indications that "we're within reach of strategically defeating al-Qaeda." n227 This development, combined with the growing distance from the national trauma of September 11, has reinvigorated the debate surrounding the detention and prosecution of suspected terrorists both outside of and within the United States. Even though Congress has recently expanded military detention and prosecution, n228 **prosecution in federal court offers several key advantages over law-of-war detention, including predictability, legitimacy, greater cooperation** by defendants and international partners, **and flexibility**. n229 These advantages have led a diverse set of actors - from current Department of Defense and counterterrorism officials, n230 to [\*162] former Bush Administration officials, n231 to the Washington Post editorial board n232 - to support the prosecution and detention of individuals through the federal courts, despite Congress's recently expressed preference for law-of-war detention. **In some cases, prosecution in federal court is the only available option for prosecuting an accused terrorist. Federal antiterrorism statutes are extensive and provide statutory authority to prosecute individuals who are** part of or **supporting terrorist groups without direct ties to** forces associated with **al-Qaeda or the Taliban** (and therefore outside the scope of the 2001 AUMF or the NDAA), n233 **and independently operating terrorists** who are inspired by, but are not part of or associated with, al-Qaeda or the Taliban. **n234 These** **statutes also reach persons** or citizens **who, because they are apprehended in the U**nited **S**tates, **cannot be tried under the MCA**. The following sections discuss the contours and limitations of such criminal prosecution and detention in the terrorism context. Even where detention under the law of war is available, **the criminal justice system offers** some **key advantages** **for** the **detention and prosecution of suspected terrorists.** We thus aim here to offer a correction to the recent trend toward favoring law-of-war detention over criminal prosecution and detention. **In the vast majority of cases, criminal prosecution** and detention **is the most effective and legitimate way to address the terrorist threat.** A. The Advantages of Criminal Prosecution and Detention The least contested bases for detention authority in any context are post-conviction criminal detention and pre-verdict detention for those who pose a risk of flight. It is often assumed that such criminal detention is ill-suited to terrorists. However, with very little fanfare, **federal district court dockets have been flush with terrorism cases over the past decade. Strikingly, efforts to measure the conviction rate in these cases place it between 86 and 91 percent.** n235 Far from being ineffective, then, **trying suspected terrorists in criminal courts is remarkably effective. It also offers** the **advantages** of predictability, legitimacy, and strategic benefits in the fight against terrorism. **1. Predictability Post-conviction detention of terrorists after prosecution in federal court provides predictability that is currently absent in the military commission system. Federal** district **courts have years of experience trying complex cases and convicting dangerous criminals, including international terrorists, and the rules are well established and understood. The current military commission system**, on the other hand, **is** a **comparatively untested** adjudicatory regime. n236 As already noted, **conviction rates in terrorism trials have been close to ninety percent** since 2001, and those rates have remained steady in the face of large increases in the number of prosecutions. **The military commissions,** by contrast, **have** - as of this writing - **convicted seven people** since 2001, five of whom pled guilty. n237 Charges have been dropped against several defendants, n238 [\*164] and other defendants have been charged but not tried. n239 The commission procedures have been challenged at every stage, and it is unclear what final form they will ultimately take. Even their substantive jurisdiction remains unsettled. In October 2012, the Court of Appeals for the D.C. Circuit overturned Salim Hamdan's military commission conviction for providing material support to terrorism. n240 The Court held that the Military Commissions Act of 2006, which made material support for terrorism a war crime that could be prosecuted in the commissions, was not retroactively applicable to Hamdan's conduct prior to enactment of the statute. n241 Moreover, the Court explained that material support for terrorism was not a recognized war crime under international law. n242 As a result, his conviction for material support for terrorism in the commission could not stand. n243 It is uncertain how this will affect other trials of detainees, but this decision clearly illustrates the unsettled nature of the commissions. n244 **2. Legitimacy** **Federal courts are** also generally **considered more legitimate than military commissions. The stringent procedural protections reduce the risk of error and generate trust and legitimacy**. n245 **The federal courts**, for example, **provide** more **robust hearsay protections** than the commissions. n246 In addition, **jurors are** [\*165] **ordinary citizens, not U.S. military personnel**. Indeed, **some of the weakest procedural protections in the military commission system have been successfully challenged as unconstitutiona**l. n247 **Congress and the Executive have responded to these legal challenges - and to criticism of the commissions from around the globe - by significantly strengthening the commissions' procedural protections. Yet the remaining gaps - along with** what many regard as **a tainted history - continue to raise doubts about the fairness and legitimacy of the commissions.** The current commissions, moreover, have been active for only a short period - too brief a period for doubts to be confirmed or put to rest. n248 **Federal criminal procedure**, on the other hand, **is well-established and widely regarded as legitimate. Legitimacy of the trial process is important** not only to the individuals charged but also **to the fight against terrorism.** As several successful habeas corpus petitions have demonstrated, **insufficient procedural protections create a real danger of erroneous imprisonment** for extended periods. n249 **Such errors can generate resentment and distrust of the U**nited **S**tates **that undermine** the **effectiveness of counterterrorism efforts.** Indeed, evidence suggests that **populations are more likely to cooperate in policing when they believe they have been treated fairly.** n250 The understanding that a more legitimate detention regime will be a more effective one is reflected in recent statements from the Department of Defense and the White House. n251 **3. Strategic Advantages There is clear evidence that other countries recognize and respond to the difference in legitimacy between civilian and military courts and that they are**, indeed, **more willing to cooperate with U.S. counterterrorism efforts when terrorism suspects are tried in the criminal justice system. Increased international cooperation is** therefore **another advantage of criminal prosecution.** Many **key U.S. allies have been unwilling to cooperate in cases involving law-of-war detention** or prosecution **but have cooperated in criminal** [\*166] **prosecutions.** In fact, **many U.S. extradition treaties, including those with allies such as India and Germany, forbid extradition when the defendant will not be tried in a criminal court.** n252 This issue has played out in practice several times. An al-Shabaab operative was extradited from the Netherlands only after assurances from the United States that he would be prosecuted in criminal court. n253 Two similar cases arose in 2007. n254 In perhaps the most striking example, five terrorism suspects - including Abu Hamza al-Masr, who is accused of providing material support to al-Qaeda by trying to set up a training camp in Oregon and of organizing support for the Taliban in Afghanistan - were extradited to the United States by the United Kingdom in October 2012. n255 The extradition was made on the express condition that they would be tried in civilian federal criminal courts rather than in the military commissions. n256 And, indeed, both the European Court of Human Rights and the British courts allowed the extradition to proceed after assessing the protections offered by the U.S. federal criminal justice system and finding they fully met all relevant standards. n257 An insistence on using military commissions may thus hinder extradition and other kinds of international prosecutorial cooperation, such as the sharing of testimony and evidence. Finally, **the criminal justice system is simply a more agile and versatile prosecution forum. Federal jurisdiction offers an extensive variety of antiterrorism statutes that can be marshaled to prosecute terrorist activity committed outside the U**nited **S**tates, **and subsequently to detain those who are convicted.** n258 **This greater variety of offenses** - military commissions can only [\*167] punish an increasingly narrow set of traditional offenses against the laws of war n259 - **offers prosecutors important flexibility.** For instance, **it might be very difficult to prove al-Qaeda membership in an MCA prosecution or a law-of-war habeas proceeding; but if the defendant has received training at a terrorist camp** or participated in a specific terrorist act, **federal prosecutors may convict under various statutes tailored to more specific criminal behavior.** n260 In addition, military commissions can no longer hear prosecutions for material support committed before 2006. n261 Due in part to the established track record of the federal courts, **the federal criminal justice system also allows for more flexible interactions between prosecutors and defendants. Proffer and plea agreements are powerful incentives for defendants to cooperate, and often lead to valuable intelligence-gathering, producing more intelligence over the course of prosecution**. n262

**Statistics prove**

**Owen ‘11**

John M. Owen Professor of Politics at University of Virginia PhD from Harvard "DON’T DISCOUNT HEGEMONY" Feb 11 [www.cato-unbound.org/2011/02/11/john-owen/dont-discount-hegemony/](http://www.cato-unbound.org/2011/02/11/john-owen/dont-discount-hegemony/)

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

# \*\*2AC\*\*

**Heg K: 2AC**

**Mignolo’s criticism ignores the liberatory potential of western thought. The perm solves best by allowing strategic movement in and out of western thought-Latin America proves.**

**Alcoff 07**

(Linda Martín Alcoff, Syracuse University, CR: The New Centennial Review, Volume 7, Number 3, Winter 2007, Mignolo’s Epistemology of Coloniality, Project Muse)

But I would press Mignolo on two points. The first concerns his notion of truth. **Mignolo rejects the project of reclaiming epistemology and advocates for the shift to gnoseology, because he sees epistemology as fundamentally a project that is pursuant of truth, and because he sees truth as necessarily imperial, territorial, and denotative. But it is difficult to interpret Mignolo’s own project in any way other than as a project concerned with truth and with** [End Page 97] **the way in which the colonial systems of knowing inhibited and precluded both the understanding and the identification of truth.** The denotative approach might have limited application to the shift he has in mind, but there is still an epistemically based normative distinction operating in his critique of the coloniality of power.¶ Take for example Mignolo’s use of Glissant’s concept of diversality, a concept he contrasts to universality but also to plurality in which alternatives are not in active integration or interaction. Diversality maps differences as coconstitutive and as potentially integrated, in the way that a bicultural identity can shift between multiple frames of reference without collapsing the differences but also without organizing them into hierarchies. As opposed to imperial resolutions, Glissant wants to maintain the fundamental ambiguity of colonial identity, that doubled reality that is alive to more than one “here and now.” This is not merely an ethically or politically motivated alternative to universality, I want to suggest, but a metaphysically motivated one. It is an alternative model for conceptualizing subjectivity and knowledge that might make sense of the existence of many worlds as well as to make visible their interrelationality and connectedness. This surely has political advantages, but it also can make possible an advance in descriptive adequacy for pluritopic horizons.¶ Thus I would **contest Mignolo’s claim that truth is out of the picture. And I would argue against the shift from epistemology to gnoseology** (rather than redefining epistemology) if it is mainly motivated by a desire to dispense with truth. However, what is important here is not the word we use for the project so much as retaining the normative epistemic content to the project of critique and reconstruction that Mignolo and other postcolonialists want to pursue. If gnoseology can retain the critical and normative dimensions that aim to improve our understanding of truth, as well as the more inclusive aims in regard to forms of knowing, then I am on board.¶ I think **there is a similar issue with regard to Mignolo’s treatment of identity and difference, and which relates to the question I raised earlier concerning the metaphysical status of the colonial difference.** On the one hand, Mignolo resists the reification of difference and thus emphasizes how difference is constituted by coloniality. This could lead a reader to imagine [End Page 98] that for Mignolo, difference a mere epiphenomenon of coloniality. But this is not his view. The colonial difference is for him a source of critical knowledge because its content conflicts with dominant knowledges. Thus, difference is constituted only in part by colonialism: its value and meaning is interpretively constitutued by colonialism, but this is not all there is to the colonial difference. In other words, it has metaphysical status.¶ Mignolo’s ambivalence about making this explicit is related to his ambivalence about identity. On the one hand he shies away from identity politics, but then again he articulates a form of it when he makes such claims as “for those whom colonial legacies are real (i.e. they hurt), that they are more (logically, historically, and emotionally) inclined than others to theorize the past in terms of coloniality” (2000b, 115). The concepts of identity and of identity politics are also assumed in the ongoing project that he defines as “shifting the geography of reason,” that is, both to motivate the shift and demarcate its direction. So I would like to see Mignolo work through more precisely and clearly how he is understanding the concepts of truth and of identity.¶ Let me end with a point that underscores the significance of Mignolo’s overall project. **The discourse of national independence in Latin America, much more so than of African liberation discourses, was marked in no small measure by its acceptance of a Eurocentric frame. Leading thinkers such as Sarmiento and Alberdi did not contest the modernist macro-narrative except to the extent it excluded them.** The significance of Mignolo’s work, for me, is the extent of his commitment to contest the status of Eurocentric metanarratives and refuse the gambit that might work for white male elites in Latin America but not for anyone else. In attempting to think beyond the house of modernity, Mignolo has truly built a house of many rooms.

**We control uniqueness—violence is decreasing due to the unipolar system**

**Drezner 05** (Daniel, 5-25-05, "GREGG EASTERBROOK, WAR, AND THE DANGERS OF EXTRAPOLATION" www.danieldrezner.com/archives/002087.html

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

**Your alt can’t solve-misplaced focus**

Elva Fabiola **Orozco-Mendoza**, Masters in Political Science, 20**08**. “Borderlands Theory: Producing Border Epistemologies with Gloria Anzaldua” p. 68-70

While criticizing Anzaldúa’s mestiza consciousness, Maria Lugones argues that **Anzaldúa fails to link the psychology of oppression and resistance to collective resistance, therefore, weakening the sociality that Anzaldúa herself documents in resistance.** For Lugones, “**Unless resistance is a social activity, the resistor is doomed** to failure in the creation of a new universe of meaning, a new identity, a rata mestiza. Meaning that is not in response to and looking for response fails as meaning” (Lugones, 2005: 97). While I agree with Lugones’ critique of Anzaldúa’s failure to see resistance as a collective activity, I do it for different reasons since, in my view, resistance at the individual level is still resistance. As it is well known, both Michel de Certeau and James C. Scott theorized about the practice of everyday life and resistance in everyday life respectively. Michel de Certeau for instance considered that the “weak” employs “innumerable practices through which users re-appropriate the space organized by techniques of socio cultural production” (de Certeau, 1984: xiv). de Certeau contends that common people have at hand numerous tactics, which are used to accommodate the oppressor system according to one’s convenience. Similarly, Scott states that “weak” individuals do not passively submit themselves to the commands of dominant groups but rather they engage in ordinary, individual practices to mitigate or dissent impositions from those who hold power (Scott, 1985). But contrary to Lugones, both de Certeau and Scott do not consider that individual means practiced by a single individual, but rather, “that **the decision to resist is engaged self-motivated, selfinterested, and seeking primarily personal gains**. It is manifested through acts of insubordination, evasion, offensive defiance, and defensive disobedience (Scott, 1985; Dunaway, 2003). At the same time, “this is a unique species of collective action because **none of this resistance could achieve its purposes unless it is acted as a generalized, unspoken complicity**” (Scott, 1985: 447, enphasis added). My own interpretation is that **by making the struggle inner, Anzaldúa is trying to force the colonized to believe that the de-colonial shift is possible and change can actually happen** since in her view, “nothing happens in the ’real’ world unless it first happens in the images in our heads” (Anzaldúa, 1987: 87). The logic that Anzaldúa follows in the above quote, is that in order for people to seek freedom, they need to believe that freedom exists in the first place and have a notion of what that freedom looks like, otherwise, they can lose the point of the struggle not knowing why they are fighting. In this logic, if freedom is first experienced at the inner level, then it is possible to have an idea of what freedom in society is, yet, as Lugones argues: As I understand the liberatory project, **the inner and the collective struggles are not separable; they are “moments” or “sides” of the liberatory process a dismissal of the “inner struggle” dismisses liberatory subjectivity. A dismissal of the collective “moment” robs the struggle of the self-in-between of any liberatory meaning** (Lugones, 2005: 97) Lugones considers that the inner and the collectivity are forcibly linked since **the lack of one of the two moments would tear apart the whole project of liberation**. In this regard, if the inner transformation does not occur, meaningful change would be misleading, and **if this inner transformation is not linked to a collectivity, the struggle will also fail because it lacks the support of a bigger entity** and, besides that, if liberation does not reach all it is not liberation at all. Here, Lugones still considers that **the “number” makes the difference and that liberation is more likely to occur if liberation is sought**, for instance, by a social movement. While I do not follow Lugones on her argument, I do consider that theorizing the Borderlands as an inner struggle is problematic since, as Hannah Arendt states, **it is a mistake to take freedom to be primarily an inner, contemplative or private phenomenon, for it is in fact active, worldly and public** (Arendt, 1998). In Arendt’s terms, **freedom is experienced in our interaction with others**, by seeing ourselves being directed towards a specific end or by being able to make up choices free from any constraint or imposition. In consequence, while we may feel free or liberated when dealing with the self, in our social interactions this freedom may not be there at all since many human actions are guided by any type of necessity. Interestingly both Anzaldúa and Arendt consider action as one of the most empowering tools at the hands of humans since both consider that the moment of empowerment comes with action. For Anzaldúa, action means taking the initiative, to propose, which is also the opposite of to react, while for Arendt action means to begin or not being constrained and bounded by others. But despite differences, the authors resemblance in the relevance of action for human freedom, in what is of concern in the treatment of the public and private spheres, Arendt has no tolerance for the private realm (the inner) when it comes to political aims, since for Arendt, action is a public category, a worldly practice that is experienced in our daily interaction with one another and as such it is a practice exercised in public spaces or the city (Arendt, 1998). The key point here is that **people do not live isolated from one another, but rather we live in society. We live our experiences and give them meaning in society; in relation to those with whom we share plans and that is the reason why freedom does not work so well at the inner level**. In addition, as Henri Lefebvre argues, an critical assessment the social life “ought ‘by a process of rational integration… to pass from the individual to the social’ –and, ultimately materialize itself in collective action toward social justice” (Lefebvre 1992: 148, as quoted in Bartolovich and Lazarus, 2002: 6). While we would like to think of our souls as being free from any influence, we cannot escape the fact that we live in society and it is there where freedom is relevant.

**THEIR CLAIM TO LISTEN OR OPEN SPACE IGNORES THEIR POSITION IN THE WESTERN ACADEMY AND REPRODUCES THE COLONIAL GAZE THAT THEY CRITICIZE**

John **Beverley**, Professor of Spanish and Latin American Literature and Cultural Studies, University of Pittsburgh SUBALTERNITY AND REPRESENTATION: ARGUMENTS IN CRITICAL THEORY, 19**99**, p. 69-70

Despite all the misunderstandings her essay has provoked, this was surely Spivak's point in answering the question "Can the Subaltern Speak?" in the negative. She was trying to show that **behind the good faith of the liberal academic** or the committed ethnographer **or solidarity activist in allowing or enabling the subaltern to speak lies the trace of the colonial construction of an other—an other who is conveniently available to speak to us** (with whom we can speak or feel comfortable speaking with). **This neutralizes the force of the reality of difference and antagonism our own relatively privileged position** in the global system might give rise to. Elzbieta Sklodowska has in mind something similar when she argues that, **despite its appeal to the authority of an actual subaltern voice, testimonio is in fact a staging of the subaltern by someone who is not subaltern**, as in Lyotard's notion of the differend (where a dispute is carried out according to the terms and language of one of the parties to the dispute). In particular, testimonio is not, in Sklodowska's words, "a genuine and spontaneous reaction of a 'multiform-popular subject' in conditions of postcoloniality, but rather continues to be a discourse of elites committed to the cause of democratization."" **The appeal to authenticity** and victimization in the critical validation of testimonio **stops the semiotic play of the text**, Sklodowska implies**, fixing the subject in a unidirectional gaze that deprives it of its reality**. Fixes the testimonial narrator as a subject, that is, but **also fixes us as subjects in** what Althusser would have called **a** **relation of double specularity created by the idealization or sublimation of subaltern otherness, which in the end also isolates us from our reality.**

**Heg: A2 “Sustainability”**

**Hegemony is sustainable**

-econ/military dominance

-trade measures

-diffusion of tech

Michael **Beckley**, PhD, “The Unipolar Era: Why American Power Persists and China’s Rise Is Limited,” Dissertation, Columbia University, 20**12**, p. 4-6.

In the pages that follow, I argue that such **declinist beliefs are exaggerated** and that **the alternative perspective more accurately captures the dynamics of the current unipolar era**. First, I show that **the United States is not in decline. Across most indicators of national power, the United States has maintained, and** in some areas **increased, its lead** over other countries since 1991. **Declinists often characterize the expansion of globalization and U.S. hegemonic burdens as** sufficient **conditions for U.S.** relative **decline. Yet, over the last two decades American economic and military dominance endured while globalization and U.S. hegemony increased significantly.** Second, I find that **U.S. hegemony is profitable** in certain areas. **The U**nited **S**tates **delegates part of the burden of maintaining international security to others while channeling** its own **resources**, and some of its allies resources, **into** enhancing **its** own **military dominance. It imposes punitive trade measures against others while deterring such measures against its own industries. And it manipulates global technology flows** in ways that enhance the technological and military capabilities of itself and allies. Such a privileged position has not provoked significant opposition from other countries. In fact, **balancing against the United States has declined steadily since the end of the Cold War.** Third, I conclude that **globalization benefits the United States more than other countries. Globalization causes innovative activity to concentrate in areas where it is done most efficiently**. Because the United States is already wealthy and innovative, it sucks up capital, technology, and people from the rest of the world. Paradoxically, therefore, **the diffusion of technology around the globe helps sustain a concentration of technological and military capabilities in the U**nited **S**tates.Taken together, **these results suggest that unipolarity will be an enduring feature of international relations, not a passing moment in time, but a deeply embedded material condition that will persist for the foreseeable future**. The United States may decline because of some unforeseen disaster, bad policies, or from domestic decay. But the two chief features of the current international system – **American hegemony and globalization – both reinforce unipolarity.** For scholars, this conclusion implies that the study of unipolarity should become a major research agenda, at least on par with the study of power transitions and hegemonic decline. For policymakers, the results of this study suggest that the United States should not retrench from the world, but rather continue to integrate with the world economy and sustain a significant diplomatic and military presence abroad.

**Imperialism**

**Other imperial powers are worse—turns the alt**

Victor Davis **Hanson 2**, Ph. D. in Classics, Senior Fellow at the Hoover Institution, Stanford University, a Professor Emeritus at California University, Fresno, “A Funny Sort of Empire: Are Americans really so imperial?” National Review Online, November 27, 2002, http://www.victorhanson.com/articles/hanson112702.html,

It is popular now to talk of the American "empire." In Europe particularly there are comparisons of Mr. Bush to Caesar — and worse — and invocations all sorts of pretentious poli-sci jargon like "hegemon," "imperium," and "subject states," along with neologisms like "hyperpower" and "overdogs." But **if we really are imperial, we rule over a very funny sort of empire.** We do not send out proconsuls to reside over client states, which in turn impose taxes on coerced subjects to pay for the legions. Instead, American bases are predicated on contractual obligations — costly to us and profitable to their hosts. We do not see any profits in Korea, but instead accept the risk of losing almost 40,000 of our youth to ensure that Kias can flood our shores and that shaggy students can protest outside our embassy in Seoul. **Athenians, Romans, Ottomans, and the British wanted land and treasure and grabbed all they could ge**t when they could. **The United States hasn't annexed anyone's soil since the Spanish-American War** — a checkered period in American history that still makes us, not them, out as villains in our own history books. Most Americans are far more interested in carving up the Nevada desert for monster homes than in getting their hands on Karachi or the Amazon basin. **Puerto Ricans are free to vote themselves independence anytime they wish. Imperial powers order and subjects obey. But in our case, we offer the Turks strategic guarantees, political support** — and money — for their allegiance. France and Russia go along in the U.N. — but only after we ensure them the traffic of oil and security for outstanding accounts. **Pakistan gets debt relief that ruined dot-coms could only dream of; Jordan reels in more aid than our own bankrupt municipalities. If acrimony and invective arise, it's usually one-way: the Europeans, the Arabs, and the South Americans all say worse things about us than we do about them, not privately and in hurt, but publicly and proudly**. Boasting that you hate Americans — or calling our supposed imperator "moron" or "Hitler" — won't get you censured by our Senate or earn a tongue-lashing from our president, but is more likely to get you ten minutes on CNN. We are considered haughty by Berlin not because we send a Germanicus with four legions across the Rhine, but because Mr. Bush snubs Mr. Schroeder by not phoning him as frequently as the German press would like. **Empires usually have contenders that check their power and through rivalry drive their ambitions.** Athens worried about Sparta and Persia. Rome found its limits when it butted up against Germany and Parthia. The Ottomans never could bully too well the Venetians or the Spanish. Britain worried about France and Spain at sea and the Germanic peoples by land. In contrast, **the restraint on American power is not China, Russia, or the European Union, but rather the American electorate itself — whose reluctant worries are chronicled weekly by polls that are eyed with fear by our politicians. We**, not them, **stop us from becoming what we could.** The Athenian ekklesia, the Roman senate, and the British Parliament alike were eager for empire and reflected the energy of their people. In contrast, America went to war late and reluctantly in World Wars I and II, and never finished the job in either Korea or Vietnam. We were likely to sigh in relief when we were kicked out of the Philippines, and really have no desire to return. Should the Greeks tell us to leave Crete — promises, promises — we would be more likely to count the money saved than the influence lost. Take away all our troops from Germany and polls would show relief, not anger, among Americans. **Isolationism, parochialism, and self-absorption are far stronger in the American character than desire for overseas adventurism. Our critics may slur us for "overreaching," but our elites in the military and government worry that they have to coax a reluctant populace, not constrain a blood-drunk rabble.**

**Their anti-imperialist struggle props up dictators and obscures violence**

Fred **Halliday** (Middle East Report) **99** “The Middle East at the Millennial Turn” http://www.merip.org/mer/mer213/213\_hallliday.html

Recent developments in the Middle East and the onset of new global trends and uncertainties pose a challenge not only to those who live in the region but also to those who engage it from outside. Here, too, previously-established patterns of thought and commitment are now open to question. The context of the l960s, in which journals such as MERIP Reports (the precursor of this publication) and the Journal of the North American Committee on Latin America (NACLA) were founded, was one of solidarity with the struggles of Third World peoples and opposition to external, imperialist intervention. That agenda remains valid: Gross inequalities of wealth, power and access to rights–a.k.a. imperialism–persist. This agenda has been enhanced by political and ethical developments in subsequent decades. Those who struggle include not only the national groups (Palestinians and Kurds) oppressed by chauvinist regimes and the workers and peasants (remember them?) whose labor sustains these states, but now also includes analyses of gender oppression, press and academic suppression and the denial of ecological security. The agenda has also elaborated a more explicit stress on individual rights in tandem with the defense of collective rights. History itself and the changing intellectual context of the West have, however, challenged this emancipatory agenda in some key respects. On the one hand, oppression, denial of rights and military intervention are not the prerogative of external states alone: **An anti-imperialism that cannot recognize**–and denounce–**indigenous forms of dictatorship and aggression, or that seeks**, with varying degrees of exaggeration, **to blame all oppression and injustice on imperialism, is deficient. The Iranian Revolution**, Ba‘thist Iraq, confessional **militias in Lebanon**, armed guerrilla groups in a range of countries, **not to mention the Taliban** in Afghanistan, often **represent a much greater** immediate **threat to human rights** and the principles in whose name solidarity was originally formulated **than** does **Western imperialism**. Islamist movements from below meet repressive states from above in their conduct. What **many people in the region want** is not less external involvement but a **greater commitment by the outside world**, official and non-governmental, to protecting and realizing rights that are universally proclaimed but seldom respected. At the same time, in a congruence between relativist renunciation from the region and critiques of "foundationalist" and Enlightenment thinking in the West, doubt has been cast on the very ethical foundation of solidarity: a belief in universal human rights and the possibility of a solidarity based on such rights. Critical engagement with the region is now often caught between a denunciation of the West's failure actively to pursue the democratic and human rights principles it proclaims and a rejection of the validity of these principles as well as the possibility of any external encouragement of them. This brings the argument back to the critique of Western policy, and of the relation of that critique to the policy process itself. On human rights and democratization, official Washington and its European friends continue to speak in euphemism and evasion. But **the issue here is not to see all US involvement as inherently negative, let alone to denounce all international standards of rights as imperialist** or ethnocentric, but rather, to hold the US and its European allies accountable to the universal principles they proclaim elsewhere. **An anti-imperialism of disengagement serves only to reinforce the hold of authoritarian regimes and oppressive social practices** within the Middle East.

**Framework**

**Even if we can’t 100% prove our knowledge claims, we should act based on the best possible information**

Friedrich **Kratochwil**, 200**7**, Political Sciences @ European University Inst., “Of False Promises and Good Bets: a Plea for a Pragmatic Approach to Theory Building”, Journal of International Relations and Development

Here **pragmatism seems to hold some promise for several reasons. First, as its most basic level it does not begin with ‘things’ or with ‘reason’ or thought, but with ‘acting’** (prattein), **thereby preventing some false starts. Even if the most rigorous and secure system of thought turns out not to be contradiction free, this revolutionary realization does not prevent mathematicians from going on to solve problems and most of us have to act most of the time without having the privilege of basing our decisions on secure universally valid knowledge.** Thus, **the cure of the anxiety induced by radical doubt consists not of the discovery of absolute certainty, which is a phantasmagorical undertaking that is engendered by its equally fantastic starting point, since nobody begins with universal doubt** (e.g. Pierce 1868/1997)! **Rather, the remedy for this anxiety consists of the recognition of the unproductive nature of universal doubt. Letting go of unrealizable plans and notions that lead us down the road to delusional projects and acquiring instead the ability to ‘go on’ in spite of uncertainties and the unknown is probably the most valuable lesson to learn. Second, by giving up on the idea that warranted knowledge is generated through either logical demonstration or the representation of the world ‘out there’, a pragmatic starting point not § Marked 18:59 § only takes the always preliminary character of scientific knowledge seriously but it also accounts for cumulative knowledge in a more coherent fashion. If the world ‘out there’ were ready made only to be discovered, then scientific knowledge would have to be a simple accumulation of more and more true facts, leading us virtually automatically closer and closer to ‘the Truth’ conceived as the totality of all true statements.** Here Popper’s (1972) ‘Third World’ comes to mind and his first interpretation of scientific progress as the self-correcting process of conjectures and refutations. But as the history of science has suggested, scientific progress was characterized by conceptual revolutions and not only ‘normal’ science, quite aside from the embarrassing problem of what to do with all those parts of the ‘third world’ that turned out to be false after all, such as the indivisibility of atoms, ether, phlogiston, or what have you. Similarly misleading is the imagery of scientific progress as an ever closer approximation to ‘the Truth’ without, however, ever reaching it, thereby foxing the problem of revision. Obviously the image of approximation in Popper’s (1963: Chapter 10) verisimilitude argument draws its persuasiveness from the successive approximation of polygons in approaching the perimeter of a circle, when determining the enclosed area. But **if we have learned anything from the studies of various disciplines, then it is the fact that progress consists of being able to formulate new questions that could not even be asked previously**. Thus, whatever we think of Kuhn’s argument about ‘paradigms’, we have to recognize that in times of revolutionary change the bounds of sense are being revolutionized and we donot simply now know some more of the encircled area!9 **Third, pragmatism recognizes that science as a process of knowledge production is a social practice determined by rules in which scientists are not only constitutive for the definitions of problems (rather than simply lifting a veil over nature), they also debate questions that seem ‘undecidable’ and they have to ‘weigh’ the evidence, instead of being able to rely on the bi-valence principle of logic as an automatic truth finder** (Kratochwil 2007). To that extent, the critical element of the epistemological project is retained, only that the ‘court’ which Kant believed to be reason itself, consists of the practitioners themselves. Instead of applying the standards as suggested by the epistemological project and the unity of science position, each science provides its own court and judges the appropriateness of its own methods and practices

**Western Method Good**

**Western knowledge production is universally applicable**

**Windschuttle, ’02** [Keith, Writer, Historian, and editor of Quadrant Magazine, January, “The Cultural War on Western Civilization,” *The New Criterion*, http://www.discoverthenetworks.org/guideDesc.asp?catid=127&type=issue]

Western knowledge is culturally relative: Despite the overwhelming success of the scientific methods developed in Europe from the sixteenth to the eighteenth centuries, the critics of Western culture still insist that truth is relative. Western knowledge is only one kind of knowledge and Western methodologies are only one of the "ways of knowing". There are a number of sources of this cognitive relativism but the most popular is that of the French Nietzschean theorist, Michael Foucault, who argues that truth and objectivity are Western conceits. All knowledge is bound by culture, he claims. Within each culture, knowledge is generated for political purposes. Hence, Western knowledge is politically beholden to the powerful. To signify this interconnectivity, Foucault calls it "power/knowledge". This is a congenial argument for postcolonial historians. They believe that Western empirical methods were among the forces that subjugated the Orient, so they regard empiricism and its quest for objective knowledge as a form of imperialism. This is why they are so enamoured of the subjective hermeneutics, or literary interpretations, that prevail in postmodernism and cultural studies. Objectivity equals domination; subjectivism equals intercultural equality and respect. If taken seriously, this means that science can no longer be regarded as a universal method for discovering truths. Moreover, it means that any reasonably coherent doctrine or body of beliefs can produce "truths" of its own. Science is thus reduced to one belief system among many. This view is especially popular within the fields of cultural studies and the sociology of knowledge where science is invariably termed "Western science", in order to differentiate it from its ostensible competitors.... The truth is that **the scientific method developed by the West is a universal method and its success is sufficient to refute any theory about the relativism of truth. Western science makes genuine discoveries. Western knowledge works, and none of the others do with remotely the same effectiveness. To say this, however, is not to be ethnocentric. Western knowledge has nothing whatever to do with racism, or the elevation of one segment of humanity over another. It endorses a style of knowledge and its implementation, not any particular race of people or ethnic group. This style of knowledge** did, of course, have to emerge somewhere and at some time, and to this extent it certainly has links with the Western intellectual tradition. It **emerged in this social context, but it is clearly accessible to people of any background. Far from being bound by Western culture, Western science belongs to the whole of humanity**.

**FW: A2 “State = Racist”**

**1. The proper response to state racism is protective measures—only legal reform can embed bulwarks against historical injustice**

**Delgado 98** (Richard, Jean N. Lindsley Professor of Law at the University of Colorado Law School, “Is American Law Inherently Racist”, Debate w/ Prof. Farber, Berkeley Law Scholarship Repository, http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1211&context=facpubs)

AUDIENCE: **If we accept the premise that American law is inherently racist, what can be done** about it? Where do we start? And related to that, **how can an inherently racist law be made unracist, or are we just doomed to a perpetual battle to decrease the level of racism** in our laws? PROFESSOR DELGADO: No. I don't think that it is a dispiriting or an overly pessimistic view, **if one accepts the position**-as I do, **that American law is recurrently, inherently racist any more than, it is enervating to accept the proposition that the human body**, let's say, **is inherently frail**. From which **it follows then that one ought to take reasonable measures**. **One ought to wear safety belts**, one ought to vaccinate children, and one does not simply give up from there cognition that something is inherently a difficulty or a problem. **Vigilance is what is called for, not giving up**. So no, **I do not take the position that the inherent racism that seems to inflict our society requires any sort of surrender**. Quite the contrary, **it requires all of our efforts if we are to be the society that we can be** and that we are in other respects. I will address this point later in my talk.

**Restrictions K: 2AC**

**Reality shapes language—focus on discourse distracts from solving the problem**

Matthew **Roskoski** and Joe **Peabody**, Florida State University, “A Linguistic and Philosophical Critique of Language Arguments”, 1991, http://debate.uvm.edu/Library/DebateTheoryLibrary/Roskoski&Peabody-LangCritiques.

Previously, we have argued that the language advocates have erroneously reversed the causal relationship between language and reality. We have defended the thesis that reality shapes language, rather than the obverse. Now we will also contend that to attempt to solve a problem by editing the language which is symptomatic of that problem will generally trade off with solving the reality which is the source of the problem. There are several reasons why this is true. The first, and most obvious, is that we may often be fooled into thinking that language "arguments" have generated real change. As Graddol and Swan observe, "**when compared with larger social and ideological struggles, linguistic reform may seem quite a trivial concern," further noting "there is also the danger that effective change at this level is mistaken for real social change"** (Graddol & Swan 195). The second reason is that the **language we find objectionable can serve as a signal** or an indicator **of the corresponding objectionable reality.**  The third reason is that **restricting language only limits the overt expressions of any objectionable reality, while leaving subtle and** hence **more dangerous expressions unregulated.** Once we drive the objectionable idea underground it will be more difficult to identify, more difficult to root out, more difficult to counteract, and more likely to have its undesirable effect. The fourth reason is that **objectionable speech can create a "backlash" effect that raises the consciousness of people exposed to the speech.**  Strossen observes that "ugly and abominable as these expressions are, they undoubtably have had the beneficial result of raising social consciousness about the underlying societal problem..." (560).

**Focus on representations sanitizes power structures and doesn’t solve**

Doug **Stokes**, University of Bristol Politics Department, “Gluing the Hats On: Power, Agency, and Reagan’s Office of Public Diplomacy,” PAPER PRESENTED FOR THE BRITISH INTERNATIONAL STUDIES ASSOCIATION, 20**01**, http://web.archive.org/web/20060221025303/http://www.aqnt98.dsl.pipex.com/hats.htm.

In her discursive practices approach, Doty argues that more poststructurally inclined questions as to “how” foreign policy is made possible (that is, an examination of the prior conditions of possibility) provides a more nuanced account of foreign policy formation than questions which ask “why” (that is, why a particular decision or policy was pursued). She rightly argues that “why” questions pre-suppose a discursive matrix, a mode of being and a background of social practices. Furthermore, these “why” questions fail to account for “how these meanings, subjects, and interpretative dispositions are constructed”.66 However, in arguing for the superiority of analyses of possibility conditions, she misses a crucial point and simplifies the very nature of the “how” of foreign policy practice. **Whilst it is important to analyse the discursive conditions of possibility of policy formation, in failing to account for how various discourses were employed and through what institutional mechanisms, how some discourses gained ascendancy and not others, and how social actors intervene in hegemonic struggles to maintain various discourses**, Doty seriously compromises the critical potential of her analysis. By working with a notion of power free from any institutional basis and rejecting a notion of power that “social actors possess and use”,67 **she produces a narrative of foreign policy whereby the differential role of social actors is erased from foreign policy processes and decision making.** For Doty it seems, power resides in discourses themselves and their endless production of and play on meaning, not in the ability on the part of those who own and control the means of social reproduction to manipulate dominant social and political discourses and deploy them institutionally and strategically. **The ability to analyse the use of discourses by foreign policy elites for purposeful ends and their ability to deploy hegemonic discourses within foreign policy processes is lost through a delinking of those elites and discursive production (her “dispersed” notion of power).** Furthermore, Doty assumes that the “kind of power that works through social agents, a power that social actors posses and use” is somehow in opposition to a “power that is productive of meanings, subject identities, their interrelationships and a range of imaginable conduct”. But these forms of power are not mutually exclusive. **Social agents can be both subject to discourse and act in instrumental ways to effect discourse precisely through producing meanings and subject identities, and delineating the range of policy options.** Through her erasure of the link between foreign policy processes and purposeful social agents, **she ends up producing an account of hegemonic foreign policy narratives free from any narrator.**68 **This is particularly problematic because the power inherent within representational practices does not necessarily operate independently from the power to deploy those representations. The power to represent, in turn, does not operate independently from differential access to the principal conduits of discursive production, sedimentation and transmission** (for example, the news media).69 **Thus, Doty’s account fails to provide an adequate analysis of the socially constructed interests that constitute the discursive construction of reality.** As Stuart Hall argues “there are centers that operate directly on the formation and constitution of discourse. The media are in that business. Political parties are in that business. When you set the terms in which the debate proceeds, that is an exercise of symbolic power [which] circulates between constituted points of condensation.”**70 The overall critical thrust of poststructurally inclined IR theorists is blunted by both the refusal to examine or even acknowledge the limits and constraints on social discourses and the denial of any linkage** between identity representations and the interests that may infuse these representations.

**Legal norms don’t cause wars and the alt can’t effect liberalism**

David **Luban 10**, law prof at Georgetown, Beyond Traditional Concepts of Lawfare: Carl Schmitt and the Critique of Lawfare, 43 Case W. Res. J. Int'l L. 457

Among these associations is **the positive, constructive side of politics**, the very foundation of Aristotle's conception of politics, which **Schmitt completely ignores. Politics**, we often say, is the art of the possible. It **is the medium for organizing** all human **cooperation. Peaceable civilization, civil institutions, and elemental tasks such as collecting the garbage and delivering food to hungry mouths all depend on politics**. Of course, peering into the sausage factory of even such mundane municipal institutions as the town mayor's office will reveal plenty of nasty politicking, jockeying for position and patronage, and downright corruption. Schmitt sneers at these as "banal forms of politics, . . . all sorts of tactics and practices, competitions and intrigues" and dismisses them contemptuously as "parasite- and caricature-like formations." n55 **The fact is that Schmitt has nothing whatever to say about the constructive side of politics, and his entire theory focuses on enemies, not friends. In my small community, political meetings debate issues as trivial as whether to close a street and divert the traffic to another street. It is hard to see mortal combat as even a remote possibility in such disputes,** and so, in Schmitt's view, they would not count as politics, but merely administration. **Yet issues like these are the stuff of peaceable human politics**. Schmitt, I have said, uses the word "political" polemically--in his sense, politically. I have suggested that his very choice of the word "political" to describe mortal enmity is tendentious, attaching to mortal enmity Aristotelian and republican associations quite foreign to it. But the more basic point is that Schmitt's critique of humanitarianism as political and polemical is itself political and polemical. In a word, **the critique of lawfare is** itself **lawfare**. It is self-undermining because to the extent that it succeeds in showing that lawfare is illegitimate, it de-legitimizes itself. What about the merits of Schmitt's critique of humanitarianism? His argument is straightforward: either humanitarianism is toothless and [\*471] apolitical, in which case ruthless political actors will destroy the humanitarians; or else humanitarianism is a fighting faith, in which case it has succumbed to the political but made matters worse, because wars on behalf of humanity are the most inhuman wars of all. Liberal humanitarianism is either too weak or too savage. The argument has obvious merit. When Schmitt wrote in 1932 that wars against "outlaws of humanity" would be the most horrible of all, it is hard not to salute him as a prophet of Hiroshima. The same is true when Schmitt writes about the League of Nations' resolution to use "economic sanctions and severance of the food supply," n56 which he calls "imperialism based on pure economic power." n57 Schmitt is no warmonger--he calls the killing of human beings for any reason other than warding off an existential threat "sinister and crazy" n58 --nor is he indifferent to human suffering. But **international humanitarian law and criminal law are not the same thing as wars to end all war or humanitarian military interventions, so Schmitt's important moral** **warning** **against ultimate military self-righteousness** **does not** **really** **apply**. n59 **Nor does "bracketing" war by humanitarian constraints on war-fighting presuppose a vanished order of European public law.** The fact is that in nine years of conventional war, the United States has significantly bracketed war-fighting, even against enemies who do not recognize duties of reciprocity. n60 This may frustrate current lawfare critics who complain that American soldiers in Afghanistan are being forced to put down their guns. **Bracketing warfare is a decision**--Schmitt might call it an existential decision--**that rests in part on values that** **transcend the friend-enemy distinction.** **Liberal values are not alien extrusions into politics** **or evasions of politics;** **they are part of politics, and,** **as Stephen Holmes argued against Schmitt,** **liberalism has proven remarkably strong, not weak**. n61 **We could choose to abandon liberal humanitarianism, and that would be a political decision. It would simply be a bad one.**

**Political euphemisms are inevitable**

**Schuler 13** (Dave, 7-15-13, "Euphemisms" The Glittering Eye) theglitteringeye.com/?p=20362

I think there’s something that people should keep in mind. **Our political vocabulary is chock-full of euphemisms. What used to be known**, with brutal accuracy, **as “the War Department” is now** called **“the Department of Defense”.** The unmanageable agglomeration of government functions that includes **the Border Patrol**, the **Customs Service**, the **Coast Guard**, the **Secret Service, and many other components** that were originally parts of the Treasury, the Department of Justice, the Department of Agriculture, and just about every other major government agency **now has the Orwellian-sounding name “the Department of Homeland Security”. We do not have a justice system. We have a legal system.** We believe, in an article of faith as mystical as transubstantiation, that our legal system is the best way of administering justice. Maybe it is. Maybe justice is an accident (in Aristotelian terms) of the legal system. But it’s not a justice system and we shouldn’t expect justice from it.

**“Terrorism” is a critical uniting term –alt silences these voices, leaving the term to be utilized violently**

**Gunning 7**, Jeroen Gunning, deputy director of the Centre for the Study of Radicalisation and Contemporary Political Violence at the University of Wales, “A Case for Critical Terrorism Studies?, Government and Opposition, Vol. 42, No. 3, pp. 363–393, 2007 http://onlinelibrary.wiley.com/doi/10.1111/j.1477-7053.2007.00228.x/pdf

**Without a central concept like ‘terrorism’, many** of these disparate **voices are unlikely to converge**. Yet without an explicit acknowledgement of the difficulties of this concept, and of the effects of ‘problem-solving’ approaches on the study of ‘terrorism’, many of those same voices are unlikely to converge under a ‘traditional terrorism studies’ umbrella. It is for this reason that it is necessary to instigate an explicitly ‘critical turn’ in ‘terrorism studies’ since only a field that explicitly problematizes some of the key aspects of ‘traditional terrorism studies’ is likely to facilitate the coming together of all these disparate voices. It is for the same reason that **any critically constituted field may have to maintain the term ‘terrorism’ as the central unifying concept, despite its many drawbacks** and the lack of an agreed definition, since without it there would be little reason for these fragmented voices to converge. In my own work on Hamas and Hizbollah, most of what I want to understand or explain can be said without reference to the term ‘terrorism’ (unless it concerns the way ‘terrorism’ discourse is used to demonize Hamas and Hizbollah).83 The decision of these organizations to target civilians can be explained without the term ‘terrorism’, and this is only one aspect of a much larger picture. Where ‘terrorism’ does come into its own is as a delineation of research dealing with similar issues. Without ‘terrorism’ as a conceptual umbrella, it is unlikely that I would have been aware of the model Ross and Gurr developed to explain the demise of political violence in North America, or of the similarities between the dynamics between massmovement, violent organization and state forces in 1970s Italy and 1990s Israel/Palestine.84 Thus, **as a comparative conceptual category, ‘terrorism’ and the research that has been carried out into it is useful.**  Besides offering a central, organizing concept under which these fragmented voices can converge, **there are two further reasons for retaining the term ‘terrorism’. One of the key tasks of a critically constituted field is to investigate the political usage of this term.** For that reason alone, **it should be retained as a central marker**. But, even more compellingly, **the term ‘terrorism’ is currently so dominant that a critically constituted field cannot afford to abandon it. Academia does not exist outside the power structures of its day. However problematic the term, it dominates public discourse and as such needs to be engaged with, deconstructed and challenged, rather than abandoned and left to those who use it without problematization or purely for political ends. Using the term also increases the currency and relevance of one's research in both funding and policy circles, as well as among the wider public. It is because of this particular constellation of power structures that a ‘critical’ field cannot afford,** either morally or pragmatically, **to abandon the term ‘terrorism’.**

**Terrorist discourse prevents devolution into moral nihilism**

Jean Berthke **Elshtain**, Professor, Social and Political Ethics, University of Chicago,THINKING ABOUT SEPTEMBER 11: DEFINING TERRORISM AND TERRORISTS, 200**3**, p. 19-20.

This line of reasoning pertains directly to how we talk about terror and terrorists. Just as the words martyr and martyrdom are distorted, whether in the Western or the Islamic tradition, when applied not to those prepared to die as witnesses to their faith but instead to those who commit suicide while killing as many civilians as possible. So terrorist is twisted beyond recognition if it is used to designate anyone anywhere fighting for a cause. Terrorists are those who kill people they consider their "objective enemy," no matter what those people may or may not have done. **Terrorist and terrorism entered ordinary language to designate a specific phenomenon: killing directed against all ideological enemies indiscriminately** and outside the context of a war between combatants. According to the logic of terrorism, **enemies can legitimately be killed no matter what they are doing**, where they are, or how old they are. The word terror first entered the political vocabulary of the West during the French Revolution. Those who guillotined thousands in the Place de la Concorde in Paris were pleased to speak of revolutionary terror as a form of justice. Since the era of the French Revolution, **a complex, subtle, and generally accepted international language has emerged to make critical distinctions between different kinds of violent acts.** **Combatants are distinguished from noncombatants**. A massacre is different from a battle. An ambush is different from a firefight. **When Americans look back with sadness and even shame at the Vietnam War, it is horrors like the My Lai massacre they have in mind**. Those who called the slaughter of more than 400 unarmed men, women, and children a battle were regarded as having taken leave of their senses, perhaps because they were so determined to justify anything that Americans did in the Vietnam War that they had lost their moral moorings.2 A terrorist is one who sows terror. **Terror subjects its victims** or would-be victims **to paralyzing fear**. In the words of the political theorist Michael Walzer, terrorism’s "purpose is to destroy the morale of a nation or a class, to undercut its solidarity; [terrorism’s] method is the random murder of innocent people. Randomness is the crucial feature of terrorist activity. If one wishes fear to spread and intensify over time, it is not desirable to kill specific people identified in some particular way with a regime, a party, or a policy. Death must come by chance."3 Terrorism is "the random murder of innocent people." **The reference is not to moral innocence**, for none among us are innocent in that way, **but to our inability to defend ourselves from murderous attacks as we go to work**, take a trip, shop, or ride a bus. In other words, civilians are not combatants. The designation of terrorism becomes contested because terrorists and their apologists would prefer not to be depicted accurately. It is important to distinguish between two cases here. In some hotly contested political situations, it may be in the interest of one side to try to label its opponents as "terrorists" rather than "combatants" or "soldiers" or "fighters." We must ask who such men (and women) are attacking. Do they target soldiers at outposts or in the field? Do they try to disable military equipment, killing soldiers in the process? As they carry out such operations, are they open to negotiation and diplomacy? If so, it seems reasonable to resist a blanket label of "terrorism" for what they are up to. In a situation in which noncombatants are deliberately targeted and the murder of the maximum number of noncombatants is the explicit aim, **using terms like "fighter**" or "soldier" or "noble warrior" is not only beside the point but pernicious. Such language **collapses the distance between those who plant bombs in cafés or fly civilian aircraft into office buildings and those who fight other combatants**, taking the risks attendant upon military forms of fighting. There is a nihilistic edge to terrorism: It aims to destroy, most often in the service of wild and utopian goals that make no sense at all in the usual political ways. The distinction between terrorism, domestic criminality, and what we might call "normal" or "legitimate" war is vital to observe. It helps us to assess what is happening when force is used. This distinction, marked in historic, moral, and political discourses about war and in the norms of international law, seems lost on those who call the attacks of September 11 acts of "mass murder" rather than terrorism and an act of war under international law. It is thus both strange and disheartening to read the words of those distinction-obliterators for whom, crudely, a dead body is a dead body and never mind how it got that way. Many of these same individuals would, of course, protest vehemently, and correctly, were commentators, critics, and political actors to fail to distinguish between the great world religion that is Islam and the terrorists who perpetrated the events of September 11. One cannot have it both ways, however, by insisting on the distinctions one likes and heaping scorn on those who put pressure on one’s own ideological and political commitments. If we could not distinguish between a death resulting from a car accident and an intentional murder, our criminal justice system would fall apart. And **if we cannot distinguish the killing of combatants from the intended targeting of peaceable civilians and the deliberate and indiscriminate sowing of terror among civilians, we live in a world of moral nihilism.** In such a world, everything reduces to the same shade of gray and we cannot make distinctions that help us take our political and moral bearings. The victims of September 11 deserve more from us.

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**All lives are valuable – means you should prefer util**

**Cummisky 96** (David, professor of philosophy at Bates, “Kantian Consequentialism”, p. 131)

Finally, **even if one grants that saving two persons with dignity cannot outweigh and compensate for killing one—because dignity cannot be** added and **summed in this way—this** point **still does not justify deontological constraints**. On the extreme interpretation, **why would not killing one person be a stronger obligation than saving two persons? If I am concerned with the priceless dignity of each, it would seem that I may still save two**; it is just that my reason cannot be that the two compensate for the loss of the one. Consider Hill's example of a priceless object: If I can save two of three priceless statutes only by destroying one, then I cannot claim that saving two makes up for the loss of the one. But similarly, the loss of the two is not outweighed by the one that was not destroyed. Indeed, **even if dignity cannot be simply summed up**, how is the extreme interpretation inconsistent with the idea **that I should save as many priceless objects as possible**? Even if two do not simply outweigh and thus compensate for the loss of the one, **each is priceless; thus, I have good reason to save as many as I can**. In short, it is not clear how the extreme interpretation justifies the ordinary killing/letting-die distinction or even how it conflicts with the conclusion that the more persons with dignity who are saved, the better.8

**Empiricism is the only objective method for the evaluation of truth-claims—other methodologies are non-falsifiable and should be rejected**

**Benson 06**, Ophelia, editor of the website Butterflies and Wheels and deputy editor of The Philosophers' Magazine “Why Truth Matters,” p 63-64, KHaze

**The basic claim** of Strange Weather **is that science’s authority, status, prestige, and position** at the top of the knowledge hierarchy, and the political-cultural-rhetorical hierarchy as well, **are both arbitrary and anti-democratic**. ‘How can metaphysical life theories and explanations taken seriously by millions be ignored or excluded by a small group of powerful people called “scientists”? **This claim is not actually argued**, as we have seen; **it is merely asserted and reiterated throughout via rhetoric: science and rationality,** realism and truth **are associated with the police, border-patrols, authority, and other such categories**. But **Ross ignores the obvious crucial facts that (1) some authority is better justified than others as are some forms of expertise,** some exercises of control or power, and so on, **and (2) there is a reason for the authority and prestige of science,** a reason that goes beyond mere habits of deference. To put it bluntly, the reason is that **the right answer has more authority than the wrong** one. Ross neglects to address this rather important aspect of the question. **Science and other forms of empirical enquiry such a history and forensic investigation do have legitimate authority because the truth-claims they make are based on evidence and are subject to change if new evidence is discovered**. **Other systems of ideas that make truth-claims that are not based on evidence, that rely** instead **on revelation, sacred books, dreams, visions, myths, subjective inner experience, and the like, lack legitimate authority because over many centuries it has gradually become understood that those are not reliable sources**. They can be useful starting-points for theory formation, as has often been pointed out. Theories can begin anywhere, even in dreams. But **when it comes to justification, more reliable evidence is required.** This is quite a large difference between science and pseudoscience, genuine enquiry and fake enquiry, but it is one that Ross does not take into account. **The implication seems to be that for the sake of a ‘more democratic culture’ it is worth deciding that the wrong answer ought to have as much authority as the right one**. And yet of course it is unlikely that Ross really believes that. Surely, if he did, he would not have written this book- **he would not be able to claim that a more democratic culture is preferable to a less democratic one, or anything else that he claims in his work**. However playful or quasi-ironic Strange Weather may be, it does lapse into seriousness at times, it does make claims that Ross clearly wants us to accept- because he think they are right as opposed to wrong. **The intention of Strange Weather is to correct mistaken views of science and pseudoscience, to replace them with other, truer views.** **Ross cannot very well argue that his views are wrong and therefore we should believe them. He is in fact claiming authority for his own views, he is attempting to seek the higher part of a truth-hierarchy. The self-refuting problem we always see in epistemic relativism is here in its most obvious form.**